
SUBSTITUTE HOUSE BILL 2566

State of Washington

57th Legislature

2002 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville, Pflug, Cooper, Barlean, Roach, Berkey, Wood, Reardon, Hunt, Delvin, Sullivan, Lysen, Anderson, Morris, Crouse, Upthegrove, Miloscia, Morell, Chase, Rockefeller, Simpson, Darneille, Conway, McIntire, Santos and Edwards)

Read first time 02/01/2002. Referred to Committee on .

1 AN ACT Relating to providing incentives to reduce air pollution
2 through the use of clean alternative fuel vehicles; amending RCW
3 70.94.030; adding new sections to chapter 70.94 RCW; adding new
4 sections to chapter 82.04 RCW; providing effective dates; and providing
5 an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.94 RCW
8 to read as follows:

9 The legislature finds that the use of motor vehicles has
10 significant impacts on the environment, public health, and the economy
11 of the state of Washington. Motor vehicle emissions account for more
12 than half of all air pollutants and almost sixty percent of total
13 carbon dioxide emissions in Washington. Motor vehicles also account
14 for the largest percentage of oil consumption in the United States.
15 The legislature finds it is important to begin addressing the negative
16 impacts of gasoline and diesel fuels. Addressing motor vehicle
17 emissions is further needed because of the expected increases in
18 population and vehicle miles traveled, which threaten to erode air
19 quality gains made over the last decade. To make net progress in

1 improving air quality, reducing the threat of climate change,
2 protecting public health and the environment, and improving energy
3 security, the legislature finds it is necessary to encourage the use of
4 clean alternative fuel vehicles.

5 **Sec. 2.** RCW 70.94.030 and 1993 c 252 s 2 are each amended to read
6 as follows:

7 Unless a different meaning is plainly required by the context, the
8 following words and phrases as hereinafter used in this chapter shall
9 have the following meanings:

10 (1) "Air contaminant" means dust, fumes, mist, smoke, other
11 particulate matter, vapor, gas, odorous substance, or any combination
12 thereof.

13 (2) "Air pollution" is presence in the outdoor atmosphere of one or
14 more air contaminants in sufficient quantities and of such
15 characteristics and duration as is, or is likely to be, injurious to
16 human health, plant or animal life, or property, or which unreasonably
17 interfere with enjoyment of life and property. For the purpose of this
18 chapter, air pollution shall not include air contaminants emitted in
19 compliance with chapter 17.21 RCW.

20 (3) "Air quality standard" means an established concentration,
21 exposure time, and frequency of occurrence of an air contaminant or
22 multiple contaminants in the ambient air which shall not be exceeded.

23 (4) "Ambient air" means the surrounding outside air.

24 (5) "Authority" means any air pollution control agency whose
25 jurisdictional boundaries are coextensive with the boundaries of one or
26 more counties.

27 (6) "Best available control technology" (BACT) means an emission
28 limitation based on the maximum degree of reduction for each air
29 pollutant subject to regulation under this chapter emitted from or that
30 results from any new or modified stationary source, that the permitting
31 authority, on a case-by-case basis, taking into account energy,
32 environmental, and economic impacts and other costs, determines is
33 achievable for such a source or modification through application of
34 production processes and available methods, systems, and techniques,
35 including fuel cleaning, clean fuels, or treatment or innovative fuel
36 combustion techniques for control of each such a pollutant. In no
37 event shall application of "best available control technology" result
38 in emissions of any pollutants that will exceed the emissions allowed

1 by any applicable standard under 40 C.F.R. Part 60 and Part 61, as they
2 exist on July 25, 1993, or their later enactments as adopted by
3 reference by the director by rule. Emissions from any source utilizing
4 clean fuels, or any other means, to comply with this subsection shall
5 not be allowed to increase above levels that would have been required
6 under the definition of BACT as it existed prior to enactment of the
7 (~~{federal}~~) federal clean air act amendments of 1990.

8 (7) "Best available retrofit technology" (BART) means an emission
9 limitation based on the degree of reduction achievable through the
10 application of the best system of continuous emission reduction for
11 each pollutant that is emitted by an existing stationary facility. The
12 emission limitation must be established, on a case-by-case basis,
13 taking into consideration the technology available, the costs of
14 compliance, the energy and nonair quality environmental impacts of
15 compliance, any pollution control equipment in use or in existence at
16 the source, the remaining useful life of the source, and the degree of
17 improvement in visibility that might reasonably be anticipated to
18 result from the use of the technology.

19 (8) "Board" means the board of directors of an authority.

20 (9) "Clean alternative fuel vehicle" means a motor vehicle, as
21 defined in RCW 46.04.320, originally designed and equipped by the
22 manufacturer to operate: (a) Exclusively on alternative fuels; (b) as
23 a hybrid vehicle powered by a combination of an electric motor and an
24 engine powered by gasoline, diesel, or an alternative fuel, weighing
25 less than ten thousand pounds gross vehicle weight, that has an average
26 estimated fuel economy rating, as determined by the environmental
27 protection agency's national vehicle and fuel emissions laboratory, of
28 at least forty miles per gallon; (c) as a hybrid vehicle powered by a
29 combination of an electric motor and an engine powered by gasoline,
30 diesel, or an alternate fuel, weighing at least ten thousand pounds
31 gross vehicle weight, where the electric motor or battery system
32 provides a percentage of maximum available power of at least forty
33 percent, relative to the internal combustion engine; or (d) as a fuel
34 cell vehicle powered by gasoline or an alternative fuel. Vehicles less
35 than twelve thousand pounds gross vehicle weight must also meet or
36 exceed the federal emission standards for ultra-low emission vehicles.
37 For purposes of this subsection, "alternative fuels" are defined as
38 natural gas, propane, hydrogen, and electricity. For the purposes of
39 this subsection only, the term "maximum available power" means the

1 maximum power available for the battery or other electrical storage
2 device during a standard ten-second pulse power test, divided by the
3 vehicle's total traction power, and the term "total traction power"
4 means the sum of the electric motor peak power and the heat engine peak
5 power of the vehicle, except that if the electric motor is the sole
6 means by which the vehicle can be driven, the total traction power is
7 the peak electric motor power.

8 (10) "Control officer" means the air pollution control officer of
9 any authority.

10 (~~(10)~~) (11) "Department" or "ecology" means the department of
11 ecology.

12 (~~(11)~~) (12) "Emission" means a release of air contaminants into
13 the ambient air.

14 (~~(12)~~) (13) "Emission standard" and "emission limitation" mean a
15 requirement established under the federal clean air act or this chapter
16 that limits the quantity, rate, or concentration of emissions of air
17 contaminants on a continuous basis, including any requirement relating
18 to the operation or maintenance of a source to assure continuous
19 emission reduction, and any design, equipment, work practice, or
20 operational standard adopted under the federal clean air act or this
21 chapter.

22 (~~(13)~~) (14) "Lowest achievable emission rate" (LAER) means for
23 any source that rate of emissions that reflects:

24 (a) The most stringent emission limitation that is contained in the
25 implementation plan of any state for such class or category of source,
26 unless the owner or operator of the proposed source demonstrates that
27 such limitations are not achievable; or

28 (b) The most stringent emission limitation that is achieved in
29 practice by such class or category of source, whichever is more
30 stringent.

31 In no event shall the application of this term permit a proposed
32 new or modified source to emit any pollutant in excess of the amount
33 allowable under applicable new source performance standards.

34 (~~(14)~~) (15) "Modification" means any physical change in, or
35 change in the method of operation of, a stationary source that
36 increases the amount of any air contaminant emitted by such source or
37 that results in the emission of any air contaminant not previously
38 emitted. The term modification shall be construed consistent with the

1 definition of modification in Section 7411, Title 42, United States
2 Code, and with rules implementing that section.

3 ~~((15))~~ (16) "Multicounty authority" means an authority which
4 consists of two or more counties.

5 ~~((16))~~ (17) "New source" means (a) the construction or
6 modification of a stationary source that increases the amount of any
7 air contaminant emitted by such source or that results in the emission
8 of any air contaminant not previously emitted, and (b) any other
9 project that constitutes a new source under the federal clean air act.

10 ~~((17))~~ (18) "Permit program source" means a source required to
11 apply for or to maintain an operating permit under RCW 70.94.161.

12 ~~((18))~~ (19) "Person" means an individual, firm, public or private
13 corporation, association, partnership, political subdivision of the
14 state, municipality, or governmental agency.

15 ~~((19))~~ (20) "Reasonably available control technology" (RACT)
16 means the lowest emission limit that a particular source or source
17 category is capable of meeting by the application of control technology
18 that is reasonably available considering technological and economic
19 feasibility. RACT is determined on a case-by-case basis for an
20 individual source or source category taking into account the impact of
21 the source upon air quality, the availability of additional controls,
22 the emission reduction to be achieved by additional controls, the
23 impact of additional controls on air quality, and the capital and
24 operating costs of the additional controls. RACT requirements for a
25 source or source category shall be adopted only after notice and
26 opportunity for comment are afforded.

27 ~~((20))~~ (21) "Silvicultural burning" means burning of wood fiber
28 on forest land consistent with the provisions of RCW 70.94.660.

29 ~~((21))~~ (22) "Source" means all of the emissions units including
30 quantifiable fugitive emissions, that are located on one or more
31 contiguous or adjacent properties, and are under the control of the
32 same person, or persons under common control, whose activities are
33 ancillary to the production of a single product or functionally related
34 group of products.

35 ~~((22))~~ (23) "Stationary source" means any building, structure,
36 facility, or installation that emits or may emit any air contaminant.

37 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW
38 to read as follows:

1 (1) Persons who are taxable under this chapter may take a credit
2 for the purchase, or the lease for a period of at least three years, of
3 new clean alternative fuel vehicles as defined in RCW 70.94.030(9) (a),
4 (b), (c), or (d), if the vehicles are exclusively used in business
5 operations. The credit is based upon the following schedule:

6	VEHICLE TONNAGE	CREDIT
7	Less than 12,000 pounds gross	25 percent of the base cost
8	vehicle weight	or \$5,000, whichever is less
9	12,000 pounds or more gross	25 percent of the base cost
10	vehicle weight	or \$20,000, whichever is less

11 (2) The credit may not exceed the amount of tax that would
12 otherwise be due under this chapter. The credit may be accrued and
13 carried over until it is used. Refunds shall not be granted in place
14 of credits. The maximum amount of credit under this section that may
15 be claimed, by each person, for any calendar year shall not exceed two
16 hundred thousand dollars.

17 (3) Tax credit may not be claimed for expenditures that occurred
18 before the effective date of this section or expenditures that occur
19 after the date specified in section 6 of this act.

20 (4) The tax credit for vehicles defined under RCW 70.94.030(9)(b)
21 expires June 30, 2004.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.04 RCW
23 to read as follows:

24 (1) Persons who are taxable under this chapter and provide
25 financial assistance for the purchase, or the lease for a period of at
26 least three years, of new clean alternative fuel vehicles as defined in
27 RCW 70.94.030 to school districts, transit agencies, and local
28 governments may take a credit for amounts paid, if the vehicles are
29 used for public transit. School buses are considered public transit
30 for purposes of this section.

31 (2) The credit may not exceed the amount of tax that would
32 otherwise be due under this chapter. The credit may be accrued and
33 carried over until it is used. Refunds shall not be granted in place
34 of credits. The maximum amount of credit under this section that may
35 be claimed, by each person, for any calendar year shall not exceed two
36 hundred thousand dollars.

1 (3) Tax credit may not be claimed for financial assistance that
2 occurred before the effective date of this section or financial
3 assistance that occurs after the date specified in section 6 of this
4 act.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.04 RCW
6 to read as follows:

7 (1) Persons who are taxable under this chapter may take a credit
8 for the costs expended for acquiring and installing alternative fuel
9 and electric vehicle recharging equipment, including alternative fuel
10 storage tanks. "Alternative fuel" means natural gas, propane,
11 hydrogen, fuel containing a minimum of eighty-five percent ethanol, and
12 fuel containing a minimum of twenty percent biodiesel. The credit is
13 based upon the following schedule:

14 (a) Fifty percent of the costs incurred at facilities open to the
15 public not to exceed two hundred thousand dollars; and

16 (b) Twenty-five percent of the costs incurred at facilities not
17 open to the public not to exceed one hundred thousand dollars.

18 (2) The credit may not exceed the amount of tax that would
19 otherwise be due under this chapter. The credit may be accrued and
20 carried over until it is used. Refunds shall not be granted in place
21 of credits. The maximum amount of credit under this section that may
22 be claimed, by each person, for any calendar year shall not exceed one
23 million dollars.

24 (3) Tax credit may not be claimed for expenditures that occurred
25 before the effective date of this section or expenditures that occur
26 after the date specified in section 6 of this act.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.04 RCW
28 to read as follows:

29 Tax credits under sections 3 through 5 of this act are not allowed
30 for expenditures that occur after December 31, 2010.

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.94 RCW
32 to read as follows:

33 The Washington State University energy program, in consultation
34 with the departments of ecology, revenue, and licensing; local
35 governments; vehicle manufacturers and suppliers; and other interested
36 parties shall collect and review the relevant data associated with the

1 provisions of chapter . . ., Laws of 2002 (this act) and evaluate the
2 effectiveness of these incentives in improving air quality and
3 increasing the use of clean alternative fuel vehicles. The Washington
4 State University energy program shall present its findings and make
5 recommendations as appropriate to the legislature biennially on or
6 before November 30th, beginning in 2005.

7 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act take effect
8 August 1, 2002.

9 NEW SECTION. **Sec. 9.** Section 7 of this act takes effect January
10 1, 2003.

11 NEW SECTION. **Sec. 10.** Section 7 of this act expires December 31,
12 2010.

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