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## Environment & Energy Committee

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### HB 1112

**Brief Description:** Reducing greenhouse gas emissions from hydrofluorocarbons.

**Sponsors:** Representatives Fitzgibbon, Kloba, Peterson, Tharinger, Jinkins, Macri, Goodman, Bergquist, Doglio, Robinson, Pollet, Stanford and Frame.

#### Brief Summary of Bill

- Restricts hydrofluorocarbons (HFCs) and other substitutes for ozone-depleting substances (ODS) in uses, products, and equipment covered by a court-vacated 2015 United States Environmental Protection Agency regulation, and authorizes the Department of Ecology to adopt related rules.
- Directs the Department of Enterprise Services to establish a purchasing and procurement policy for products that do not use or were not manufactured using ODS substitutes or HFCs.
- Directs the State Building Code Council to adopt codes that do not require the use of restricted ODS substitutes.
- Directs the Department of Ecology to consult with other agencies and submit a study and report to the Legislature by December 2020 addressing certain uses of HFCs.

**Hearing Date:** 1/17/19

**Staff:** Jacob Lipson (786-7196).

#### **Background:**

##### Hydrofluorocarbons and Greenhouse Gas Emissions.

Hydrofluorocarbons (HFCs) are a category of gases used primarily as refrigerants in a variety of commercial and industrial applications. HFCs are among the greenhouse gases (GHGs) identified by the United States Environmental Protection Agency (EPA) and the Department of Ecology (ECY) as a result of their capacity to trap heat in the Earth's atmosphere. According to the EPA, the global warming potential (GWP) of HFCs and other GHGs is measured as a

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function of how much of the gas is concentrated in the atmosphere, how long the gas stays in the atmosphere, and how strongly the particular gas affects global atmospheric temperatures. Under state law, the GWP of GHGs are measured in terms of their equivalence to the emission of an identical volume of carbon dioxide a 100-year timeframe (carbon dioxide equivalent or CO<sub>2</sub>e). In rules adopted by the ECY for purposes of measuring GHG emissions, the GWP of HFCs ranges from 12 to 14,800.

The ECY must report to the Governor and Legislature by December 31 of even-numbered years regarding total GHG emissions and GHG emissions by source sector in Washington. According to the most recent report to the Legislature in December 2018, HFCs and other ozone-depleting substance (ODS) substitutes accounted for 3.76 million tons of CO<sub>2</sub>e emissions in 2015, out of the state's total reported GHG emissions of 97.4 million tons of CO<sub>2</sub>e that year.

#### Federal Regulation of Ozone-Depleting Substances.

In 1987 the United States and other members of the United Nations committed, in an agreement known as the Montreal Protocol, to phase out the use of certain ODS. The United States Congress subsequently amended the federal Clean Air Act in 1990 to provide authority to the United States Environmental Protection Agency (EPA) to restrict the use of ODS and to require manufactures to use non-ozone depleting substitutes. In 1994 the EPA promulgated regulations authorizing the use of certain HFCs as a substitute for ODS in specified products. However, in 2015, the EPA promulgated new regulations that entirely prohibited certain HFCs and other ODS substitutes or restricted their use to specified circumstances. Products and uses covered by the HFC restrictions in the EPA's 2015 regulations include aerosol propellants, motor vehicle air conditioning systems, retail food refrigeration and vending machines, and foams. In August, 2017, the District of Columbia Circuit Court of Appeals vacated the portion of EPA's 2015 regulations that applied to HFCs, on the basis that the EPA had exceeded the statutory authority granted to it in 1990 to regulate substitutes of ODS.

In 2018 the state of California enacted a law to restrict the ODS substitutes covered by the 2015 EPA rule.

#### State Clean Air Act.

The ECY and seven local air pollution control authorities (local air authorities) have each received approval from the EPA to administer aspects of the federal Clean Air Act in Washington. The Air Pollution Control Account is used to fund the ECY's responsibilities in developing and implementing the state Clean Air Act. Violations of Clean Air Act requirements are punishable by a variety of criminal and civil penalties. Civil penalties of up to \$10,000 per violation are authorized by the state Clean Air Act.

#### State Purchasing and Procurement.

The Department of Enterprise Services (DES) is responsible for providing products and services to support state agencies, and sets policies and procedures for the state's purchases. State agencies covered by the DES's procurement policies include all executive and judicial branches of state government including: offices; divisions; boards; commissions; higher education institutions; and correctional and other institutions. The DES may enter into agreements with other state agencies that delegate certain authority to those agencies to purchase their own goods and services.

State law establishes certain preferences for the procurement of goods or services that meet a variety of criteria, including goods and services through inmate work programs administered by the Department of Corrections, minority and women-owned businesses, goods that contain recycled content, electronic products that meet environmental performance standards, and products that do not contain polychlorinated biphenyls (PCBs).

#### State Building Codes.

The State Building Code Council is a state agency that adopts and triennially updates the State Building Code. The code adopted by the council establishes the minimum building, mechanical, fire, plumbing, and energy code requirements applicable to the construction of buildings.

#### **Summary of Bill:**

#### Regulation of Hydrofluorocarbons (HFCs).

The hydrofluorocarbons (HFCs) and ozone-depleting substance (ODS) substitutes specified in the court-vacated 2015 United States Environmental Protection Agency (EPA) regulations are restricted for the products and uses specified in the EPA regulations. Persons may not use, sell, install, offer for lease, rent, otherwise cause restricted equipment or products to enter commerce in Washington. The following effective dates for restrictions applicable to products and equipment are established:

- January 1, 2020, for propellants, foam blowing agents such as polyurethane or spray foam, and supermarket systems, stand-alone systems, remote condensing units, and vending machines;
- Model Year 2021 for light duty motor vehicles;
- January 1, 2021, for refrigerated food processing and dispensing equipment;
- January 1, 2022, for residential consumer refrigeration products, except built-in residential consumer refrigeration products;
- January 1, 2023, for built-in consumer refrigeration products and cold storage warehouses; and
- January 1, 2024, for centrifugal chillers and positive displacement chillers.

For any restricted uses covered in the 2015 EPA rule but not covered by the above list, the effective date of the restrictions is the latter of January 1, 2020, or the effective date of the EPA regulation.

The Department of Ecology (ECY) may, by rule:

- modify the effective date of prohibitions if it determines that doing so reduces overall risk to human health and the environment and reflects the earliest date that an ODS substitute is available;
- prohibit ODS substitutes if the prohibition reduces overall risk to human health and the environment and lower-risk ODS substitutes are available; and
- add or remove ODS substitutes, use conditions, or use limits on approved substitutes, provided that doing so reduces overall risk to human health and the environment.

Persons that offer products of a category for which ODS substitutes are restricted must:

- retain records relevant to their compliance;
- submit information to the ECY about the use of substitutes upon ECY request; and
- disclose information about the use of substitutes on the label of the product or equipment, if required by the ECY.

The ECY may adopt rules, and in doing so should seek to be consistent with the regulations adopted by other states that have adopted restrictions on HFCs and other ODS substitutes.

Violations of restrictions on ODS substitutes are subject to criminal and civil penalties under the state Clean Air Act. The Air Pollution Control Account may be used for purposes of developing and implementing the ODS substitute restrictions.

Other Provisions.

The Department of Enterprise Services must establish a purchasing a procurement policy favoring HFC-free products, or products with low amounts of HFCs associated with the products' manufacture or use if HFC-free products are not available. Every two years beginning December 1, 2020, the Department of Enterprise Services must submit status reports to the Legislature regarding their implementation of this policy.

The State Building Code Council must adopt rules that permit the use of allowed ODS substitutes and that do not require the use of restricted ODS substitutes.

The ECY, in consultation with the Utilities and Transportation Commission and the Department of Commerce, must complete a study on how to increase the use of low global warming potential HFCs in mobile sources, utility equipment, and consumer appliances, and how to reduce the use of other HFCs. The ECY must submit a report to the Legislature by December 1, 2020, that includes recommendations for incentivizing or providing grants to eliminate legacy uses of restricted HFCs or uses of unrestricted HFCs.

A severability clause is included.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.