
SENATE BILL 5412

State of Washington

66th Legislature

2019 Regular Session

By Senators Saldaña, Carlyle, Palumbo, Das, Nguyen, McCoy, Darneille, Frockt, Hunt, Keiser, Kuderer, Lias, Pedersen, and Rolfes

Read first time 01/21/19. Referred to Committee on Environment, Energy & Technology.

1 AN ACT Relating to reducing the greenhouse gas emissions
2 associated with transportation fuels; amending RCW 46.17.365,
3 46.25.100, 46.20.202, 46.25.052, 46.25.060, and 70.94.431; adding new
4 sections to chapter 70.94 RCW; creating a new section; prescribing
5 penalties; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that rapid
8 innovations in low-carbon transportation technologies, including
9 electric vehicles and clean transportation fuels, are at the
10 threshold of widespread commercial deployment. In order to help
11 prompt the use of clean fuels, other states have successfully
12 implemented programs that reduce the carbon intensity of their
13 transportation fuels. Without disruptions to fuel markets or
14 significant impacts to the costs of transportation fuels, California
15 and Oregon have both implemented low carbon fuel standards that are
16 similar to the program created in this act. Washington state has
17 extensively studied the potential impact of a clean fuels program,
18 and most projections show that a low carbon fuel standard would
19 decrease greenhouse gas and conventional air pollutant emissions,
20 while positively impacting the state's economy.

1 (2) Therefore, it is the intent of the legislature to support the
2 deployment of clean transportation fuel technologies through a
3 carefully designed program that reduces the carbon intensity of fuel
4 used in Washington, in order to:

5 (a) Reduce levels of conventional air pollutants from diesel and
6 gasoline that are harmful to public health;

7 (b) Reduce greenhouse gas emissions associated with
8 transportation fuels, which are the state's largest source of
9 greenhouse gas emissions; and

10 (c) Create jobs and spur economic development based on innovative
11 clean fuel technologies.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout this section and sections 3 through 12 of this act unless
14 the context clearly indicates otherwise.

15 (1) "Carbon dioxide equivalents" has the same meaning as defined
16 in RCW 70.235.010.

17 (2) "Clean fuels program" means the requirements established by
18 this act.

19 (3) "Credit" means a unit of measure equal to one metric ton of
20 carbon dioxide equivalents.

21 (4) "Deficit" means a unit of measure generated when a fuel with
22 a carbon intensity that is greater than the applicable standard
23 adopted by the department under section 3 of this act is produced,
24 imported, or dispensed for use in Washington, such that one deficit
25 is equal to one metric ton of carbon dioxide equivalents.

26 (5) "Electric utility" means a consumer-owned utility or
27 investor-owned utility, as those terms are defined in RCW 19.29A.010.

28 (6) "Greenhouse gas" has the same meaning as defined in RCW
29 70.235.010.

30 (7) "Motor vehicle" has the same meaning as defined in RCW
31 46.04.320.

32 (8) "Transportation fuel" means electricity and any liquid or
33 gaseous fuel sold, supplied, offered for sale, or used for the
34 propulsion of a motor vehicle or that is intended for use for
35 transportation purposes.

36 NEW SECTION. **Sec. 3.** (1) The department shall adopt rules that
37 establish standards that reduce the greenhouse gas emissions per unit
38 of fuel energy (carbon intensity) in transportation fuels used in

1 Washington. The rules adopted under this section must reduce the
2 greenhouse gas emissions attributable to each unit of the fuels to
3 ten percent below 2017 levels by 2028 and twenty percent below 2017
4 levels by 2035. Transportation fuels exported from Washington are not
5 subject to these greenhouse gas emissions reduction requirements. The
6 rules must establish a start date for the clean fuels program of no
7 later than January 1, 2021. To the extent the requirements of this
8 act conflict with the requirements of chapter 19.112 RCW, the
9 requirements of this act prevail.

10 (2) The direction to the department to adopt rules under this
11 section is not an acknowledgment, denial, or limitation of any
12 authority of the department that existed prior to the effective date
13 of this section to adopt rules related to the greenhouse gas
14 emissions intensity of fuel under other provisions of this chapter
15 including, but not limited to, RCW 70.94.151 and 70.94.331.

16 NEW SECTION. **Sec. 4.** The rules adopted by the department to
17 achieve the greenhouse gas emissions reductions per unit of fuel
18 energy specified in section 3 of this act must include, but are not
19 limited to, the following:

20 (1) Standards for greenhouse gas emissions attributable to the
21 transportation fuels throughout their life cycles, including but not
22 limited to emissions from the production, storage, transportation,
23 and combustion of transportation fuels and from changes in land use
24 associated with transportation fuels.

25 (a) The rules adopted by the department under this subsection (1)
26 may:

27 (i) Address the efficiency of a fuel as used in a powertrain as
28 compared to a reference fuel; and

29 (ii) Consider carbon intensity calculations for transportation
30 fuels developed by national laboratories or used by similar programs
31 in other states.

32 (b) The rules adopted by the department under this subsection (1)
33 must:

34 (i) Neutrally consider the life-cycle emissions associated with
35 transportation fuels with respect to the political jurisdiction in
36 which the fuels originated and may not discriminate against fuels on
37 the basis of having originated in another state or jurisdiction.
38 Nothing in this subsection may be construed to prohibit inclusion or
39 assessment of emissions related to fuel production, storage,

1 transportation, or combustion in determining the carbon intensity of
2 a fuel;

3 (ii) Measure greenhouse gas emissions associated with electricity
4 based on a mix of generation resources specific to each electric
5 utility participating in the clean fuels program; and

6 (iii) Include procedures for setting and adjusting the amounts of
7 greenhouse gas emissions per unit of fuel energy that is assigned to
8 transportation fuels under this subsection.

9 (c) If the department determines that it is necessary for
10 purposes of accurately measuring greenhouse gas emissions associated
11 with transportation fuels, the department may require transportation
12 fuel suppliers to submit greenhouse gas emissions data that is
13 different from or additional to the greenhouse gas emissions data
14 reported under RCW 70.94.151(5)(a)(iii).

15 (d) If the department determines that it is necessary for
16 purposes of accurately measuring greenhouse gas emissions associated
17 with electricity supplied by an electric utility, the department may
18 require electric utilities participating in the clean fuels program
19 to submit greenhouse gas emissions data that is different from or
20 additional to the fuel mix disclosure information submitted under
21 chapter 19.29A RCW;

22 (2) Provisions allowing for the achievement of limits on the
23 greenhouse gas emissions intensity of transportation fuels in section
24 3 of this act to be achieved by any combination of credit generating
25 activities capable of meeting such standards, consistent with the
26 limitations of subsection (3)(a) of this section;

27 (3)(a) Methods for assigning compliance obligations and methods
28 for tracking tradable credits. The department may assign the
29 generation of a credit when a fuel with associated life-cycle
30 greenhouse gas emissions that are lower than the applicable per-unit
31 standard adopted by the department under section 3 of this act is
32 produced, imported, or dispensed for use in Washington, or when
33 specified activities are undertaken that support the reduction of
34 greenhouse gas emissions associated with transportation in
35 Washington. Transportation fuels with associated greenhouse gas
36 emissions exceeding eighty percent of the standard established in
37 section 3 of this act are not eligible to generate credits under the
38 clean fuels program;

39 (b) Mechanisms that allow credits to be traded and to be banked
40 for future compliance periods; and

1 (c) Procedures for verifying the validity of credits and deficits
2 generated under the clean fuels program;

3 (4) Mechanisms to elect to participate in the clean fuels program
4 for persons associated with the supply chains of transportation fuels
5 with associated life-cycle greenhouse gas emissions lower than the
6 per-unit standard established in section 3 of this act, including
7 producers, importers, distributors, users, or retailers of such
8 fuels;

9 (5) Mechanisms for persons associated with the supply chains of
10 transportation fuels that are used for purposes that are exempt from
11 the clean fuels program compliance obligations under section 5 of
12 this act, including but not limited to fuels used by aircraft,
13 vessels, and railroad locomotives, to elect to participate in the
14 clean fuels program by earning credits for the production, import,
15 distribution, use, or retail of exempt fuels with associated life-
16 cycle greenhouse gas emissions lower than the per-unit standard
17 established in section 3 of this act;

18 (6) Cost containment mechanisms.

19 (a) Cost containment mechanisms may include, but are not limited
20 to:

21 (i) A credit clearance market designed to make credits available
22 for sale to regulated persons after the conclusion of a compliance
23 period at a department-determined price; or

24 (ii) Similar procedures that provide a means of compliance with
25 the clean fuels program requirements in the event that a regulated
26 person has not been able to acquire sufficient volumes of credits at
27 the end of a compliance period.

28 (b) Any cost containment mechanisms must be designed to provide
29 financial disincentive for regulated persons to rely on the cost
30 containment mechanism for purposes of program compliance instead of
31 seeking to generate or acquire sufficient credits under the program;

32 (7) Authority for the department to designate an entity to
33 aggregate and use unclaimed credits associated with persons that
34 elect not to participate in the clean fuels program under subsection
35 4 of this section.

36 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and
37 4 of this act must include exemptions for, at minimum, the following
38 transportation fuels:

1 (a) Fuels used in volumes below thresholds adopted by the
2 department; and

3 (b) Fuels used for the propulsion of all aircraft, vessels, and
4 railroad locomotives.

5 (2) The rules adopted under sections 3 and 4 of this act may
6 include exemptions in addition to those described in subsection (1)
7 of this section, but only if such exemptions are necessary, with
8 respect to the relationship between the program and similar
9 greenhouse gas emissions requirements or low carbon fuel standards,
10 in order to avoid:

11 (a) Mismatched incentives across programs;

12 (b) Fuel shifting between markets; or

13 (c) Other results that are counter to the intent of this act.

14 (3) Nothing in this chapter precludes the department from
15 adopting rules under sections 3 and 4 of this act that allow the
16 generation of credits associated with electric or alternative
17 transportation infrastructure that existed prior to the effective
18 date of this section or to the start date of program requirements.

19 NEW SECTION. **Sec. 6.** (1) Except where otherwise provided in
20 sections 2 through 10 of this act, the department should seek to
21 adopt rules that are harmonized with the regulatory standards,
22 exemptions, reporting obligations, and other clean fuels program
23 compliance requirements of other states that:

24 (a) Have adopted low carbon fuel standards or similar greenhouse
25 gas emissions requirements applicable specifically to transportation
26 fuels; and

27 (b)(i) Supply, or have the potential to supply, significant
28 quantities of transportation fuel to Washington markets; or

29 (ii) To which Washington supplies, or has the potential to
30 supply, significant quantities of transportation fuel.

31 (2) In adopting rules under sections 3 and 4 of this act, the
32 department must consider whether actions taken or credits generated
33 under the clean fuels program are eligible for purposes of compliance
34 with the clean air rule, chapter 173-442 WAC as it existed as of
35 October 16, 2016, and whether actions taken or emissions reduction
36 units generated under the clean air rule may be used for purposes of
37 compliance with this section.

1 NEW SECTION. **Sec. 7.** (1)(a) Each producer or importer of any
2 amount of a transportation fuel that is ineligible to generate
3 credits consistent with the requirements of section 4(3) of this act
4 must register with the department.

5 (b) Producers, importers, distributors, users, and retailers of
6 transportation fuels that are eligible to generate credits consistent
7 with section 4(3) of this act must register with the department if
8 they elect to participate in the clean fuels program.

9 (c) Other persons must register with the department to generate
10 credits from other activities that support the reduction of
11 greenhouse gas emissions associated with transportation in
12 Washington.

13 (2) Each transaction transferring ownership of transportation
14 fuels for which clean fuels program participation is mandated or has
15 been chosen must be accompanied by documentation, in a format
16 approved by the department, that assigns the clean fuels program
17 compliance responsibility associated with the fuels, including the
18 assignment of associated credits.

19 (3) The department may adopt rules requiring the periodic
20 reporting of information to the department by producers and importers
21 of transportation fuels participating in the clean fuels program.

22 (4) RCW 70.94.205 applies to records or information submitted to
23 the department under sections 2 through 12 of this act.

24 NEW SECTION. **Sec. 8.** (1)(a) Fifty percent of the revenues
25 generated by an electric utility from credits earned under the clean
26 fuels program must be expended by the electric utility on
27 transportation electrification projects.

28 (b) Sixty percent of the revenues described in (a) of this
29 subsection, or thirty percent of the revenues generated by an
30 electric utility from credits earned under the clean fuels program,
31 must be expended by the electric utility on transportation
32 electrification projects located within a federally designated
33 nonattainment or maintenance area, a federally designated
34 nonattainment or maintenance area that existed as of the effective
35 date of this section, or an area designated by the department as
36 being at risk of nonattainment, if such a nonattainment or
37 maintenance area is within the service area of the utility.

38 (2) The department may adopt requirements for the expenditure of
39 revenues from credits earned under the clean fuels program that are

1 applicable to the fifty percent of revenues not subject to the
2 requirements of subsection (1) of this section. Any requirements for
3 the expenditure of revenues from credits earned under the clean fuels
4 program must be developed in consultation with electric utilities.

5 (3) Electric utilities that elect to participate in the clean
6 fuels program must annually provide information to the department
7 accounting for and briefly describing all expenditures of revenues
8 generated from credits earned under the clean fuels program.

9 NEW SECTION. **Sec. 9.** (1) Beginning May 1, 2023, and each May
10 1st thereafter, the department must post a report on the department's
11 web site that includes the following information regarding the
12 previous calendar year of clean fuels program activities:

13 (a) The number of credits and deficits generated by entities
14 participating in the clean fuels program;

15 (b) The volumes, and mean prices per unit of energy, of each
16 transportation fuel used to comply with the requirements of the clean
17 fuels program;

18 (c) The best estimate or range in probable costs or cost savings
19 attributable to the clean fuels program per gallon of gasoline and
20 per gallon of diesel;

21 (d) The total greenhouse gas emissions reductions attributable to
22 the clean fuels program; and

23 (e) The range in the probable cost per ton of greenhouse gas
24 emissions reductions attributable to fuels supported by the clean
25 fuels program, taking into account the information in (c) and (d) of
26 this subsection.

27 (2) By December 1, 2022, and each December 1st thereafter, the
28 department must submit recommendations to the appropriate committees
29 of the house of representatives and senate, in the form of draft
30 legislation, for any changes to sections 2 through 12 of this act
31 that are needed in order to more efficiently achieve the greenhouse
32 gas emissions reduction goals of the clean fuels program.

33 NEW SECTION. **Sec. 10.** (1) In consultation with the department
34 and the department of agriculture, the department of commerce must
35 develop a periodic fuel supply forecast to project the availability
36 of fuels necessary for compliance with clean fuels program
37 requirements.

1 (2) Based upon the estimates in subsection (3) of this section,
2 the fuel supply forecast must include a prediction by the department
3 of commerce regarding whether sufficient credits will be available to
4 comply with clean fuels program requirements.

5 (3) The fuel supply forecast for each upcoming compliance period
6 must include, but is not limited to, the following:

7 (a) An estimate of the volume of each transportation fuel
8 available in Washington;

9 (b) An estimate of the total banked credits and deficits from
10 previous compliance periods; and

11 (c) An estimate of the number of credits needed to meet the
12 applicable clean fuels program requirements during the forecasted
13 compliance period.

14 (4) The department of commerce must finalize a fuel supply
15 forecast for an upcoming compliance period by no later than ninety
16 days prior to the start of the compliance period.

17 NEW SECTION. **Sec. 11.** (1) The department may require that
18 persons that are required or elect to register or report under
19 sections 2 through 12 of this act pay a fee. The department shall,
20 after an opportunity for public review and comment, adopt rules to
21 establish a process to determine the payment schedule and the amount
22 of the fee charged. The amount of the fee must be set so as to equal
23 but not exceed the projected direct and indirect costs to the
24 department for developing and implementing the program.

25 (2) The clean fuels program account is created in the state
26 treasury. All receipts from fees and penalties received under the
27 program created in this section and sections 2 through 10 of this act
28 must be deposited into the account. Moneys in the account may be
29 spent only after appropriation. The department may only use
30 expenditures from the account for carrying out the program created in
31 this section and sections 2 through 10 of this act.

32 NEW SECTION. **Sec. 12.** (1) By December 1, 2027, the joint
33 legislative audit and review committee must analyze the impacts of
34 the initial five years of clean fuels program implementation and must
35 submit a report summarizing the analysis to the legislature. The
36 analysis must include, at minimum, the following components:

37 (a) Costs and benefits, including environmental and public health
38 costs and benefits, associated with this act for categories of

1 persons participating in the clean fuels program or that are most
2 impacted by air pollution, as defined in consultation with the
3 departments of ecology and health and as measured on a census tract
4 scale. This component of the analysis must, at minimum, assess the
5 costs and benefits of changes in the following metrics since the
6 start of the program:

7 (i) Levels of greenhouse gas emissions and criteria air
8 pollutants for which the United States environmental protection
9 agency has established national ambient air quality standards;

10 (ii) Fuel prices; and

11 (iii) Total employment in categories of industries generating
12 credits or deficits. The categories of industries assessed must
13 include but are not limited to electric utilities, oil refineries,
14 and other industries involved in the production of high carbon fuels,
15 industries involved in the delivery and sale of high carbon fuels,
16 biofuel refineries, and industries involved in the delivery and sale
17 of low carbon fuels;

18 (b) An evaluation of the information calculated and provided by
19 the department under section 9(1) of this act; and

20 (c) A summary of the estimated total statewide costs and benefits
21 attributable to the clean fuels program, including state agency
22 administrative costs and regulated entity compliance costs. For
23 purposes of calculating the benefits of the program, the summary may
24 rely, in part, on a constant value of the social costs attributable
25 to greenhouse gas emissions, as identified in contemporary
26 internationally accepted estimates of such global social cost. This
27 summary must include an estimate of the total statewide costs of the
28 program per ton of greenhouse gas emissions reductions achieved by
29 the clean fuels program.

30 (2) This section expires June 30, 2028.

31 **Sec. 13.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each
32 amended to read as follows:

33 (1) A person applying for a motor vehicle registration and paying
34 the vehicle license fee required in RCW 46.17.350(1) (a), (d), (e),
35 (h), (j), (n), and (o) shall pay a motor vehicle weight fee in
36 addition to all other fees and taxes required by law.

37 (a) For vehicle registrations that are due or become due before
38 July 1, 2016, the motor vehicle weight fee:

39 (i) Must be based on the motor vehicle scale weight;

1 (ii) Is the difference determined by subtracting the vehicle
2 license fee required in RCW 46.17.350 from the license fee in
3 Schedule B of RCW 46.17.355, plus two dollars; and

4 (iii) Must be distributed under RCW 46.68.415.

5 (b) For vehicle registrations that are due or become due on or
6 after July 1, 2016, the motor vehicle weight fee:

7 (i) Must be based on the motor vehicle scale weight as follows:

8	WEIGHT	FEE
9	4,000 pounds	\$ 25.00
10	6,000 pounds	\$ 45.00
11	8,000 pounds	\$ 65.00
12	16,000 pounds and over	\$ 72.00;

13 (ii) If the resultant motor vehicle scale weight is not listed in
14 the table provided in (b) (i) of this subsection, must be increased to
15 the next highest weight; and

16 (iii) Must be distributed under RCW 46.68.415 unless prior to
17 July 1, 2023, the actions described in (b) (iii) (A) or (B) of this
18 subsection occur, in which case the portion of the revenue that is
19 the result of the fee increased in this subsection must be
20 distributed to the connecting Washington account created under RCW
21 46.68.395.

22 (A) Any state agency files a notice of rule making under chapter
23 34.05 RCW, absent explicit legislative authorization enacted
24 subsequent to July 1, 2015, for a rule regarding a fuel standard
25 based upon or defined by the carbon intensity of fuel, including a
26 low carbon fuel standard or clean fuel standard.

27 (B) Any state agency otherwise enacts, adopts, orders, or in any
28 way implements a fuel standard based upon or defined by the carbon
29 intensity of fuel, including a low carbon fuel standard or clean fuel
30 standard, without explicit legislative authorization enacted
31 subsequent to July 1, 2015.

32 (C) Nothing in this subsection acknowledges, establishes, or
33 creates legal authority for the department of ecology or any other
34 state agency to enact, adopt, order, or in any way implement a fuel
35 standard based upon or defined by the carbon intensity of fuel,
36 including a low carbon fuel standard or clean fuel standard.

37 (2) A person applying for a motor home vehicle registration
38 shall, in lieu of the motor vehicle weight fee required in subsection

1 (1) of this section, pay a motor home vehicle weight fee of seventy-
2 five dollars in addition to all other fees and taxes required by law.
3 The motor home vehicle weight fee must be distributed under RCW
4 46.68.415.

5 (3) Beginning July 1, 2022, in addition to the motor vehicle
6 weight fee as provided in subsection (1) of this section, the
7 department, county auditor or other agent, or subagent appointed by
8 the director must require an applicant to pay an additional weight
9 fee of ten dollars, which must be distributed to the multimodal
10 transportation account under RCW 47.66.070 unless prior to July 1,
11 2023, the actions described in (a) or (b) of this subsection occur,
12 in which case the portion of the revenue that is the result of the
13 fee increased in this subsection must be distributed to the
14 connecting Washington account created under RCW 46.68.395.

15 (a) Any state agency files a notice of rule making under chapter
16 34.05 RCW, absent explicit legislative authorization enacted
17 subsequent to July 1, 2015, for a rule regarding a fuel standard
18 based upon or defined by the carbon intensity of fuel, including a
19 low carbon fuel standard or clean fuel standard.

20 (b) Any state agency otherwise enacts, adopts, orders, or in any
21 way implements a fuel standard based upon or defined by the carbon
22 intensity of fuel, including a low carbon fuel standard or clean fuel
23 standard, without explicit legislative authorization enacted
24 subsequent to July 1, 2015.

25 (c) Nothing in this subsection acknowledges, establishes, or
26 creates legal authority for the department of ecology or any other
27 state agency to enact, adopt, order, or in any way implement a fuel
28 standard based upon or defined by the carbon intensity of fuel,
29 including a low carbon fuel standard or clean fuel standard.

30 (4) The department shall:

31 (a) Rely on motor vehicle empty scale weights provided by vehicle
32 manufacturers, or other sources defined by the department, to
33 determine the weight of each motor vehicle; and

34 (b) Adopt rules for determining weight for vehicles without
35 manufacturer empty scale weights.

36 **Sec. 14.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each
37 amended to read as follows:

38 (1) When a person has been disqualified from operating a
39 commercial motor vehicle, the person is not entitled to have the

1 commercial driver's license or commercial learner's permit restored
2 until after the expiration of the appropriate disqualification period
3 required under RCW 46.25.090 or until the department has received a
4 drug and alcohol assessment and evidence is presented of satisfactory
5 participation in or completion of any required drug or alcohol
6 treatment program for ending the disqualification under RCW
7 46.25.090(7). After expiration of the appropriate period and upon
8 payment of a requalification fee of twenty dollars until June 30,
9 2016, and thirty-five dollars beginning July 1, 2016, or one hundred
10 fifty dollars if the person has been disqualified under RCW
11 46.25.090(7), the person may apply for a new, duplicate, or renewal
12 commercial driver's license or commercial learner's permit as
13 provided by law. If the person has been disqualified for a period of
14 one year or more, the person shall demonstrate that he or she meets
15 the commercial driver's license or commercial learner's permit
16 qualification standards specified in RCW 46.25.060.

17 (2) The fees under this section must be deposited into the
18 highway safety fund unless prior to July 1, 2023, the actions
19 described in (a) or (b) of this subsection occur, in which case the
20 portion of the revenue that is the result of the fee increased in
21 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be
22 distributed to the connecting Washington account created under RCW
23 46.68.395.

24 (a) Any state agency files a notice of rule making under chapter
25 34.05 RCW, absent explicit legislative authorization enacted
26 subsequent to July 1, 2015, for a rule regarding a fuel standard
27 based upon or defined by the carbon intensity of fuel, including a
28 low carbon fuel standard or clean fuel standard.

29 (b) Any state agency otherwise enacts, adopts, orders, or in any
30 way implements a fuel standard based upon or defined by the carbon
31 intensity of fuel, including a low carbon fuel standard or clean fuel
32 standard, without explicit legislative authorization enacted
33 subsequent to July 1, 2015.

34 (c) Nothing in this subsection acknowledges, establishes, or
35 creates legal authority for the department of ecology or any other
36 state agency to enact, adopt, order, or in any way implement a fuel
37 standard based upon or defined by the carbon intensity of fuel,
38 including a low carbon fuel standard or clean fuel standard.

1 **Sec. 15.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to
2 read as follows:

3 (1) The department may enter into a memorandum of understanding
4 with any federal agency for the purposes of facilitating the crossing
5 of the border between the state of Washington and the Canadian
6 province of British Columbia.

7 (2) The department may enter into an agreement with the Canadian
8 province of British Columbia for the purposes of implementing a
9 border-crossing initiative.

10 (3)(a) The department may issue an enhanced driver's license or
11 identicard for the purposes of crossing the border between the state
12 of Washington and the Canadian province of British Columbia to an
13 applicant who provides the department with proof of: United States
14 citizenship, identity, and state residency. The department shall
15 continue to offer a standard driver's license and identicard. If the
16 department chooses to issue an enhanced driver's license, the
17 department must allow each applicant to choose between a standard
18 driver's license or identicard, or an enhanced driver's license or
19 identicard.

20 (b) The department shall implement a one-to-many biometric
21 matching system for the enhanced driver's license or identicard. An
22 applicant for an enhanced driver's license or identicard shall submit
23 a biometric identifier as designated by the department. The biometric
24 identifier must be used solely for the purpose of verifying the
25 identity of the holders and for any purpose set out in RCW 46.20.037.
26 Applicants are required to sign a declaration acknowledging their
27 understanding of the one-to-many biometric match.

28 (c) The enhanced driver's license or identicard must include
29 reasonable security measures to protect the privacy of Washington
30 state residents, including reasonable safeguards to protect against
31 unauthorized disclosure of data about Washington state residents. If
32 the enhanced driver's license or identicard includes a radio
33 frequency identification chip, or similar technology, the department
34 shall ensure that the technology is encrypted or otherwise secure
35 from unauthorized data access.

36 (d) The requirements of this subsection are in addition to the
37 requirements otherwise imposed on applicants for a driver's license
38 or identicard. The department shall adopt such rules as necessary to
39 meet the requirements of this subsection. From time to time the
40 department shall review technological innovations related to the

1 security of identity cards and amend the rules related to enhanced
2 driver's licenses and identicards as the director deems consistent
3 with this section and appropriate to protect the privacy of
4 Washington state residents.

5 (e) Notwithstanding RCW 46.20.118, the department may make images
6 associated with enhanced drivers' licenses or identicards from the
7 negative file available to United States customs and border agents
8 for the purposes of verifying identity.

9 (4) Beginning on July 23, 2017, the fee for an enhanced driver's
10 license or enhanced identicard is twenty-four dollars, which is in
11 addition to the fees for any regular driver's license or identicard.
12 If the enhanced driver's license or enhanced identicard is issued,
13 renewed, or extended for a period other than six years, the fee for
14 each class is four dollars for each year that the enhanced driver's
15 license or enhanced identicard is issued, renewed, or extended.

16 (5) The enhanced driver's license and enhanced identicard fee
17 under this section must be deposited into the highway safety fund
18 unless prior to July 1, 2023, the actions described in (a) or (b) of
19 this subsection occur, in which case the portion of the revenue that
20 is the result of the fee increased in section 209, chapter 44, Laws
21 of 2015 3rd sp. sess. must be distributed to the connecting
22 Washington account created under RCW 46.68.395.

23 (a) Any state agency files a notice of rule making under chapter
24 34.05 RCW, absent explicit legislative authorization enacted
25 subsequent to July 1, 2015, for a rule regarding a fuel standard
26 based upon or defined by the carbon intensity of fuel, including a
27 low carbon fuel standard or clean fuel standard.

28 (b) Any state agency otherwise enacts, adopts, orders, or in any
29 way implements a fuel standard based upon or defined by the carbon
30 intensity of fuel, including a low carbon fuel standard or clean fuel
31 standard, without explicit legislative authorization enacted
32 subsequent to July 1, 2015.

33 (c) Nothing in this subsection acknowledges, establishes, or
34 creates legal authority for the department of ecology or any other
35 state agency to enact, adopt, order, or in any way implement a fuel
36 standard based upon or defined by the carbon intensity of fuel,
37 including a low carbon fuel standard or clean fuel standard.

38 **Sec. 16.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each
39 amended to read as follows:

1 (1) The department may issue a CLP to an applicant who is at
2 least eighteen years of age and holds a valid Washington state
3 driver's license and who has:

4 (a) Submitted an application on a form or in a format provided by
5 the department;

6 (b) Passed the general knowledge examination required for
7 issuance of a CDL under RCW 46.25.060 for the commercial motor
8 vehicle classification in which the applicant operates or expects to
9 operate; and

10 (c) Paid the appropriate examination fee or fees and an
11 application fee of ten dollars until June 30, 2016, and forty dollars
12 beginning July 1, 2016.

13 (2) A CLP must be marked "commercial learner's permit" or "CLP,"
14 and must be, to the maximum extent practicable, tamperproof. Other
15 than a photograph of the applicant, it must include, but not be
16 limited to, the information required on a CDL under RCW 46.25.080(1).

17 (3) The holder of a CLP may drive a commercial motor vehicle on a
18 highway only when in possession of a valid driver's license and
19 accompanied by the holder of a valid CDL who has the proper CDL
20 classification and endorsement or endorsements necessary to operate
21 the commercial motor vehicle. The CDL holder must at all times be
22 physically present in the front seat of the vehicle next to the CLP
23 holder or, in the case of a passenger vehicle, directly behind or in
24 the first row behind the driver and must have the CLP holder under
25 observation and direct supervision.

26 (4) A CLP may be classified in the same manner as a CDL under RCW
27 46.25.080(2)(a).

28 (5) CLPs may be issued with only P, S, or N endorsements as
29 described in RCW 46.25.080(2)(b).

30 (a) The holder of a CLP with a P endorsement must have taken and
31 passed the P endorsement knowledge examination. The holder of a CLP
32 with a P endorsement is prohibited from operating a commercial motor
33 vehicle carrying passengers other than authorized employees or
34 representatives of the department and the federal motor carrier
35 safety administration, examiners, other trainees, and the CDL holder
36 accompanying the CLP holder as required under subsection (2) of this
37 section. The P endorsement must be class specific.

38 (b) The holder of a CLP with an S endorsement must have taken and
39 passed the S endorsement knowledge examination. The holder of a CLP
40 with an S endorsement is prohibited from operating a school bus with

1 passengers other than authorized employees or representatives of the
2 department and the federal motor carrier safety administration,
3 examiners, other trainees, and the CDL holder accompanying the CLP
4 holder as required under subsection (2) of this section.

5 (c) The holder of a CLP with an N endorsement must have taken and
6 passed the N endorsement knowledge examination. The holder of a CLP
7 with an N endorsement may only operate an empty tank vehicle and is
8 prohibited from operating any tank vehicle that previously contained
9 hazardous materials and has not been purged of any residue.

10 (6) A CLP may be issued with appropriate restrictions as
11 described in RCW 46.25.080(2)(c). In addition, a CLP may be issued
12 with the following restrictions:

13 (a) "P" restricts the driver from operating a bus with
14 passengers;

15 (b) "X" restricts the driver from operating a tank vehicle that
16 contains cargo; and

17 (c) Any restriction as established by rule of the department.

18 (7) The holder of a CLP is not authorized to operate a commercial
19 motor vehicle transporting hazardous materials.

20 (8) A CLP may not be issued for a period to exceed one hundred
21 eighty days. The department may renew the CLP for one additional one
22 hundred eighty-day period without requiring the CLP holder to retake
23 the general and endorsement knowledge examinations.

24 (9) The department must transmit the fees collected for CLPs to
25 the state treasurer for deposit in the highway safety fund unless
26 prior to July 1, 2023, the actions described in (a) or (b) of this
27 subsection occur, in which case the portion of the revenue that is
28 the result of the fee increased in section 206, chapter 44, Laws of
29 2015 3rd sp. sess. must be distributed to the connecting Washington
30 account created under RCW 46.68.395.

31 (a) Any state agency files a notice of rule making under chapter
32 34.05 RCW, absent explicit legislative authorization enacted
33 subsequent to July 1, 2015, for a rule regarding a fuel standard
34 based upon or defined by the carbon intensity of fuel, including a
35 low carbon fuel standard or clean fuel standard.

36 (b) Any state agency otherwise enacts, adopts, orders, or in any
37 way implements a fuel standard based upon or defined by the carbon
38 intensity of fuel, including a low carbon fuel standard or clean fuel
39 standard, without explicit legislative authorization enacted
40 subsequent to July 1, 2015.

1 (c) Nothing in this subsection acknowledges, establishes, or
2 creates legal authority for the department of ecology or any other
3 state agency to enact, adopt, order, or in any way implement a fuel
4 standard based upon or defined by the carbon intensity of fuel,
5 including a low carbon fuel standard or clean fuel standard.

6 **Sec. 17.** RCW 46.25.060 and 2015 3rd sp.s. c 44 s 207 are each
7 amended to read as follows:

8 (1)(a) No person may be issued a commercial driver's license
9 unless that person:

10 (i) Is a resident of this state;

11 (ii) Has successfully completed a course of instruction in the
12 operation of a commercial motor vehicle that has been approved by the
13 director or has been certified by an employer as having the skills
14 and training necessary to operate a commercial motor vehicle safely;

15 (iii) If he or she does not hold a valid commercial driver's
16 license of the appropriate classification, has been issued a
17 commercial learner's permit under RCW 46.25.052; and

18 (iv) Has passed a knowledge and skills examination for driving a
19 commercial motor vehicle that complies with minimum federal standards
20 established by federal regulation enumerated in 49 C.F.R. Part 383,
21 subparts F, G, and H, in addition to other requirements imposed by
22 state law or federal regulation. The department may not allow the
23 person to take the skills examination during the first fourteen days
24 after initial issuance of the person's commercial learner's permit.
25 The examinations must be prescribed and conducted by the department.

26 (b) In addition to the fee charged for issuance or renewal of any
27 license, the applicant shall pay a fee of no more than ten dollars
28 until June 30, 2016, and thirty-five dollars beginning July 1, 2016,
29 for the classified knowledge examination, classified endorsement
30 knowledge examination, or any combination of classified license and
31 endorsement knowledge examinations. The applicant shall pay a fee of
32 no more than one hundred dollars until June 30, 2016, and two hundred
33 fifty dollars beginning July 1, 2016, for each classified skill
34 examination or combination of classified skill examinations conducted
35 by the department.

36 (c) The department may authorize a person, including an agency of
37 this or another state, an employer, a private driver training
38 facility, or other private institution, or a department, agency, or

1 instrumentality of local government, to administer the skills
2 examination specified by this section under the following conditions:

3 (i) The examination is the same which would otherwise be
4 administered by the state;

5 (ii) The third party has entered into an agreement with the state
6 that complies with the requirements of 49 C.F.R. Sec. 383.75; and

7 (iii) The director has adopted rules as to the third party
8 testing program and the development and justification for fees
9 charged by any third party.

10 (d) If the applicant's primary use of a commercial driver's
11 license is for any of the following, then the applicant shall pay a
12 fee of no more than seventy-five dollars until June 30, 2016, and two
13 hundred twenty-five dollars beginning July 1, 2016, for the
14 classified skill examination or combination of classified skill
15 examinations whether conducted by the department or a third-party
16 tester:

17 (i) Public benefit not-for-profit corporations that are federally
18 supported head start programs; or

19 (ii) Public benefit not-for-profit corporations that support
20 early childhood education and assistance programs as described in RCW
21 (~~43.215.405(2)~~) 43.216.505(2).

22 (e) Beginning July 1, 2016, if the applicant's primary use of a
23 commercial driver's license is to drive a school bus, the applicant
24 shall pay a fee of no more than one hundred dollars for the
25 classified skill examination or combination of classified skill
26 examinations conducted by the department.

27 (f) Beginning July 1, 2016, payment of the examination fees under
28 this subsection entitles the applicant to take the examination up to
29 two times in order to pass.

30 (2)(a) The department may waive the skills examination and the
31 requirement for completion of a course of instruction in the
32 operation of a commercial motor vehicle specified in this section for
33 a commercial driver's license applicant who meets the requirements of
34 49 C.F.R. Sec. 383.77.

35 (b) An applicant who operates a commercial motor vehicle for
36 agribusiness purposes is exempt from the course of instruction
37 completion and employer skills and training certification
38 requirements under this section. By January 1, 2010, the department
39 shall submit recommendations regarding the continuance of this
40 exemption to the transportation committees of the legislature. For

1 purposes of this subsection (2)(b), "agribusiness" means a private
2 carrier who in the normal course of business primarily transports:

3 (i) Farm machinery, farm equipment, implements of husbandry, farm
4 supplies, and materials used in farming;

5 (ii) Agricultural inputs, such as seed, feed, fertilizer, and
6 crop protection products;

7 (iii) Unprocessed agricultural commodities, as defined in RCW
8 17.21.020, where such commodities are produced by farmers, ranchers,
9 vineyardists, or orchardists; or

10 (iv) Any combination of (b)(i) through (iii) of this subsection.

11 The department shall notify the transportation committees of the
12 legislature if the federal government takes action affecting the
13 exemption provided in this subsection (2)(b).

14 (3) A commercial driver's license or commercial learner's permit
15 may not be issued to a person while the person is subject to a
16 disqualification from driving a commercial motor vehicle, or while
17 the person's driver's license is suspended, revoked, or canceled in
18 any state, nor may a commercial driver's license be issued to a
19 person who has a commercial driver's license issued by any other
20 state unless the person first surrenders all such licenses, which
21 must be returned to the issuing state for cancellation.

22 (4) The fees under this section must be deposited into the
23 highway safety fund unless prior to July 1, 2023, the actions
24 described in (a) or (b) of this subsection occur, in which case the
25 portion of the revenue that is the result of the fee increased in
26 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be
27 distributed to the connecting Washington account created under RCW
28 46.68.395.

29 (a) Any state agency files a notice of rule making under chapter
30 34.05 RCW, absent explicit legislative authorization enacted
31 subsequent to July 1, 2015, for a rule regarding a fuel standard
32 based upon or defined by the carbon intensity of fuel, including a
33 low carbon fuel standard or clean fuel standard.

34 (b) Any state agency otherwise enacts, adopts, orders, or in any
35 way implements a fuel standard based upon or defined by the carbon
36 intensity of fuel, including a low carbon fuel standard or clean fuel
37 standard, without explicit legislative authorization enacted
38 subsequent to July 1, 2015.

39 (c) Nothing in this subsection acknowledges, establishes, or
40 creates legal authority for the department of ecology or any other

1 state agency to enact, adopt, order, or in any way implement a fuel
2 standard based upon or defined by the carbon intensity of fuel,
3 including a low carbon fuel standard or clean fuel standard.

4 **Sec. 18.** RCW 70.94.431 and 2013 c 51 s 6 are each amended to
5 read as follows:

6 (1) (a) Except as provided in RCW 43.05.060 through 43.05.080 and
7 43.05.150, and in addition to or as an alternate to any other penalty
8 provided by law, any person who violates any of the provisions of
9 this chapter, chapter 70.120 RCW, chapter 70.310 RCW, or any of the
10 rules in force under such chapters may incur a civil penalty in an
11 amount not to exceed ten thousand dollars per day for each violation.
12 Each such violation shall be a separate and distinct offense, and in
13 case of a continuing violation, each day's continuance shall be a
14 separate and distinct violation.

15 (b) Any person who fails to take action as specified by an order
16 issued pursuant to this chapter shall be liable for a civil penalty
17 of not more than ten thousand dollars for each day of continued
18 noncompliance.

19 (2) (a) Penalties incurred but not paid shall accrue interest,
20 beginning on the ninety-first day following the date that the penalty
21 becomes due and payable, at the highest rate allowed by RCW 19.52.020
22 on the date that the penalty becomes due and payable. If violations
23 or penalties are appealed, interest shall not begin to accrue until
24 the thirty-first day following final resolution of the appeal.

25 (b) The maximum penalty amounts established in this section may
26 be increased annually to account for inflation as determined by the
27 state office of the economic and revenue forecast council.

28 (3) Each act of commission or omission which procures, aids or
29 abets in the violation shall be considered a violation under the
30 provisions of this section and subject to the same penalty. The
31 penalties provided in this section shall be imposed pursuant to RCW
32 43.21B.300.

33 (4) Except as provided in section 11 of this act, all penalties
34 recovered under this section by the department shall be paid into the
35 state treasury and credited to the air pollution control account
36 established in RCW 70.94.015 or, if recovered by the authority, shall
37 be paid into the treasury of the authority and credited to its funds.
38 If a prior penalty for the same violation has been paid to a local

1 authority, the penalty imposed by the department under subsection (1)
2 of this section shall be reduced by the amount of the payment.

3 (5) To secure the penalty incurred under this section, the state
4 or the authority shall have a lien on any vessel used or operated in
5 violation of this chapter which shall be enforced as provided in RCW
6 60.36.050.

7 (6) Public or private entities that are recipients or potential
8 recipients of department grants, whether for air quality related
9 activities or not, may have such grants rescinded or withheld by the
10 department for failure to comply with provisions of this chapter.

11 (7) In addition to other penalties provided by this chapter,
12 persons knowingly under-reporting emissions or other information used
13 to set fees, or persons required to pay emission or permit fees who
14 are more than ninety days late with such payments may be subject to a
15 penalty equal to three times the amount of the original fee owed.

16 (8) By January 1, 1992, the department shall develop rules for
17 excusing excess emissions from enforcement action if such excess
18 emissions are unavoidable. The rules shall specify the criteria and
19 procedures for the department and local air authorities to determine
20 whether a period of excess emissions is excusable in accordance with
21 the state implementation plan.

22 NEW SECTION. **Sec. 19.** Sections 2 through 12 of this act are
23 each added to chapter 70.94 RCW and codified with the subchapter
24 heading of "clean fuels."

25 NEW SECTION. **Sec. 20.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

--- END ---