

E3SHB 1091 - S COMM AMD
By Committee on Ways & Means

ADOPTED AS AMENDED 04/08/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that rapid
4 innovations in low carbon transportation technologies, including
5 electric vehicles and clean transportation fuels, are at the
6 threshold of widespread commercial deployment. In order to help
7 prompt the use of clean fuels, other states have successfully
8 implemented programs that reduce the carbon intensity of their
9 transportation fuels. California and Oregon have both implemented low
10 carbon fuel standards that are similar to the program created in this
11 act, and both states have experienced biofuel sector growth and have
12 successfully sited large biofuel projects that had originally been
13 planned for Washington. Washington state has extensively studied the
14 potential impact of a clean fuels program, and most projections show
15 that a low carbon fuel standard would decrease greenhouse gas and
16 conventional air pollutant emissions, while positively impacting the
17 state's economy.

18 (2) The legislature further finds that the health and welfare of
19 the people of the state of Washington is threatened by the prospect
20 of crumbling or swamped coastlines, rising water, and more intense
21 forest fires caused by higher temperatures and related droughts, all
22 of which are intensified and made more frequent by the volume of
23 greenhouse gas emissions. As of 2017, the transportation sector
24 contributes 45 percent of Washington's greenhouse gas emissions, and
25 the legislature's interest in the life cycle of the fuels used in the
26 state arises from a concern for the effects of the production and use
27 of these fuels on Washington's environment and public health,
28 including its air quality, snowpack, and coastline.

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

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

3 (b) Reduce greenhouse gas emissions associated with
4 transportation fuels, which are the state's largest source of
5 greenhouse gas emissions; and

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

8 NEW SECTION. **Sec. 2.** The definitions in this section apply
9 throughout this chapter unless the context clearly indicates
10 otherwise.

11 (1) "Carbon dioxide equivalents" has the same meaning as defined
12 in RCW 70A.45.010.

13 (2) "Carbon intensity" means the quantity of life-cycle
14 greenhouse gas emissions, per unit of fuel energy, expressed in grams
15 of carbon dioxide equivalent per megajoule (gCO₂e/MJ).

16 (3) "Clean fuels program" means the requirements established
17 under this chapter.

18 (4) "Cost" means an expense connected to the manufacture,
19 distribution, or other aspects of the provision of a transportation
20 fuel product.

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

27 (6) "Deficit" means a unit of measure generated when a
28 transportation fuel with a carbon intensity that is greater than the
29 applicable standard adopted by the department under section 3 of this
30 act is produced, imported, or dispensed for use in Washington, such
31 that one deficit is equal to one metric ton of carbon dioxide
32 equivalents.

33 (7) "Department" means the department of ecology.

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

36 (9) "Greenhouse gas" has the same meaning as defined in RCW
37 70A.45.010.

38 (10) "Military tactical vehicle" means a motor vehicle owned by
39 the United States department of defense or the United States military

1 services and that is used in combat, combat support, combat service
2 support, tactical or relief operations, or training for such
3 operations.

4 (11) "Motor vehicle" has the same meaning as defined in RCW
5 46.04.320.

6 (12) "Price" means the amount of payment or compensation provided
7 as consideration for a specified quantity of transportation fuel by a
8 consumer or end user of the transportation fuel.

9 (13) "Regulated party" means a producer or importer of any amount
10 of a transportation fuel that is ineligible to generate credits under
11 this act.

12 (14)(a) "Tactical support equipment" means equipment using a
13 portable engine, including turbines, that meets military
14 specifications, owned by the United States military services or its
15 allies, and that is used in combat, combat support, combat service
16 support, tactical or relief operations, or training for such
17 operations.

18 (b) "Tactical support equipment" includes, but is not limited to,
19 engines associated with portable generators, aircraft start carts,
20 heaters, and lighting carts.

21 (15) "Transportation fuel" means electricity and any liquid or
22 gaseous fuel sold, supplied, offered for sale, or used for the
23 propulsion of a motor vehicle or that is intended for use for
24 transportation purposes.

25 NEW SECTION. **Sec. 3.** (1) The department shall adopt rules that
26 establish standards that reduce carbon intensity in transportation
27 fuels used in Washington. The standards established by the rules must
28 be based on the carbon intensity of gasoline and gasoline substitutes
29 and the carbon intensity of diesel and diesel substitutes. The
30 standards:

31 (a) Must reduce the overall, aggregate carbon intensity of
32 transportation fuels used in Washington;

33 (b) May only require carbon intensity reductions at the aggregate
34 level of all transportation fuels and may not require a reduction in
35 carbon intensity to be achieved by any individual type of
36 transportation fuel;

37 (c) Must assign a compliance obligation to fuels whose carbon
38 intensity exceeds the standards adopted by the department, consistent
39 with the requirements of section 4 of this act; and

1 (d) Must assign credits that can be used to satisfy or offset
2 compliance obligations to fuels whose carbon intensity is below the
3 standards adopted by the department and that elect to participate in
4 the program, consistent with the requirements of section 4 of this
5 act.

6 (2) The clean fuels program adopted by the department must be
7 designed such that:

8 (a) Regulated parties generate deficits and may reconcile the
9 deficits, and thus comply with the clean fuels program standards for
10 a compliance period, by obtaining and retiring credits. This point of
11 compliance for motor vehicle fuel is the same as described in chapter
12 82.38 RCW;

13 (b) Regulated parties and credit generators may generate credits
14 for fuels used as substitutes or alternatives for gasoline or diesel;

15 (c) Regulated parties, credit generators, and credit aggregators
16 shall have opportunities to trade credits; and

17 (d) Regulated parties shall be allowed to carry over to the next
18 compliance period a small deficit without penalty.

19 (3) The department shall, throughout a compliance period,
20 regularly monitor the availability of fuels needed for compliance
21 with the clean fuels program.

22 (4)(a) Under the clean fuels program, the department shall
23 monthly calculate the volume-weighted average price of credits and,
24 no later than the last day of the month immediately following the
25 month for which the calculation is completed, post the formula and
26 the nonaggregated data the department used for the calculation and
27 the results of the calculation on the department's website.

28 (b) In completing the calculation required by this subsection,
29 the department may exclude from the data set credit transfers without
30 a price or other credit transfers made for a price that falls two
31 standard deviations outside of the mean credit price for the month.
32 Data posted on the department's website under this section may not
33 include any individually identifiable information or information that
34 would constitute a trade secret.

35 (5)(a) Except as provided in this section, the rules adopted
36 under this section must reduce the greenhouse gas emissions
37 attributable to each unit of the fuels to 20 percent below 2017
38 levels by 2035 based on the following schedule:

39 (i) No more than 0.5 percent each year in 2023 and 2024;

1 (ii) No more than an additional 1.0 percent each year beginning
2 in 2025 through 2027;

3 (iii) No more than an additional 1.5 percent each year beginning
4 in 2028 through 2031; and

5 (iv) No more than an additional 2.5 percent each year beginning
6 in 2032 through 2034.

7 (b) The rules adopted under this section must not establish a
8 reduction level beyond 10 percent of greenhouse gas emissions
9 attributable to each unit of the fuels without explicit legislative
10 authorization enacted subsequent to January 1, 2029. By December 1,
11 2028, the department must submit agency request legislation that if
12 subsequently enacted would provide this authorization.

13 (c) The rules must establish a start date for the clean fuels
14 program of no later than January 1, 2023, except as provided in
15 subsection (6) of this section.

16 (6)(a) In order to coordinate and synchronize the clean fuels
17 program with other transportation-related investments, the department
18 must not assign compliance obligations under this act or allow for
19 any actual credit generation until a separate additive transportation
20 funding act becomes law, at which time the department of licensing
21 must provide written notice to the chief clerk of the house of
22 representatives, the secretary of the senate, and the office of the
23 code reviser.

24 (b) For the purposes of this subsection, "additive transportation
25 funding act" means an act in which the combined total of new state
26 revenues deposited into the motor vehicle fund and multimodal
27 transportation account exceed \$500,000,000 per biennium attributable
28 solely to an increase in revenue from the enactment of the act.

29 (7) Transportation fuels exported from Washington are not subject
30 to the greenhouse gas emissions reduction requirements in this
31 section.

32 (8) To the extent the requirements of this chapter conflict with
33 the requirements of chapter 19.112 RCW, the requirements of this
34 chapter prevail.

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

1 (1) Standards for greenhouse gas emissions attributable to the
2 transportation fuels throughout their life cycles, including but not
3 limited to emissions from the production, storage, transportation,
4 and combustion of transportation fuels and from changes in land use
5 associated with transportation fuels and any permanent greenhouse gas
6 sequestration activities.

7 (a) The rules adopted by the department under this subsection (1)
8 may:

9 (i) Include provisions to address the efficiency of a fuel as
10 used in a powertrain as compared to a reference fuel;

11 (ii) Consider carbon intensity calculations for transportation
12 fuels developed by national laboratories or used by similar programs
13 in other states; and

14 (iii) Consider changes in land use and any permanent greenhouse
15 gas sequestration activities associated with the production of any
16 type of transportation fuel.

17 (b) The rules adopted by the department under this subsection (1)
18 must:

19 (i) Neutrally consider the life-cycle emissions associated with
20 transportation fuels with respect to the political jurisdiction in
21 which the fuels originated and may not discriminate against fuels on
22 the basis of having originated in another state or jurisdiction.
23 Nothing in this subsection may be construed to prohibit inclusion or
24 assessment of emissions related to fuel production, storage,
25 transportation, or combustion or associated changes in land use in
26 determining the carbon intensity of a fuel;

27 (ii) Measure greenhouse gas emissions associated with electricity
28 and hydrogen based on a mix of generation resources specific to each
29 electric utility participating in the clean fuels program. The
30 department may apply an asset-controlling supplier emission factor
31 certified or approved by a similar program to reduce the greenhouse
32 gas emissions associated with transportation fuels in another state;

33 (iii) Include mechanisms for certifying electricity that has a
34 carbon intensity of zero. This electricity must include, at minimum,
35 electricity:

36 (A) For which a renewable energy credit or other environmental
37 attribute has been retired or used; and

38 (B) Produced using a zero emission resource including, but not
39 limited to, solar, wind, geothermal, or the industrial combustion of
40 biomass consistent with RCW 70A.45.020(3), that is directly supplied

1 as a transportation fuel by the generator of the electricity to a
2 metered customer for electric vehicle charging or refueling;

3 (iv) Allow the generation of credits associated with electricity
4 with a carbon intensity lower than that of standard adopted by the
5 department. The department may not require electricity to have a
6 carbon intensity of zero in order to be eligible to generate credits
7 from use as a transportation fuel; and

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

11 (c) If the department determines that it is necessary for
12 purposes of accurately measuring greenhouse gas emissions associated
13 with transportation fuels, the department may require transportation
14 fuel suppliers to submit data or information to be used for purposes
15 of calculating greenhouse gas emissions that is different from or
16 additional to the greenhouse gas emissions data reported under RCW
17 70A.15.2200(5)(a)(iii).

18 (d) If the department determines that it is necessary for
19 purposes of accurately measuring greenhouse gas emissions associated
20 with electricity supplied to retail customers or hydrogen production
21 facilities by an electric utility, the department may require
22 electric utilities participating in the clean fuels program to submit
23 data or information to be used for purposes of calculating greenhouse
24 gas emissions that is different from or additional to the fuel mix
25 disclosure information submitted under chapter 19.29A RCW. To the
26 extent practicable, rules adopted by the department may allow data
27 requested of utilities to be submitted in a form and manner
28 consistent with other required state or federal data submissions;

29 (2) Provisions allowing for the achievement of limits on the
30 greenhouse gas emissions intensity of transportation fuels in section
31 3 of this act to be achieved by any combination of credit generating
32 activities capable of meeting such standards. Where such provisions
33 would not produce results counter to the emission reduction goals of
34 the program or prove administratively burdensome for the department,
35 the rules should provide each participant in the clean fuels program
36 with the opportunity to demonstrate appropriate carbon intensity
37 values taking into account both emissions from production facilities
38 and elsewhere in the production cycle, including changes in land use
39 and permanent greenhouse gas sequestration activities;

1 (3) (a) Methods for assigning compliance obligations and methods
2 for tracking tradable credits. The department may assign the
3 generation of a credit when a fuel with associated life-cycle
4 greenhouse gas emissions that are lower than the applicable per-unit
5 standard adopted by the department under section 3 of this act is
6 produced, imported, or dispensed for use in Washington, or when
7 specified activities are undertaken that support the reduction of
8 greenhouse gas emissions associated with transportation in
9 Washington;

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

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

14 (4) Mechanisms to elect to participate in the clean fuels program
15 for persons associated with the supply chains of transportation fuels
16 that are eligible to generate credits consistent with subsection (3)
17 of this section, including producers, importers, distributors, users,
18 or retailers of such fuels, and electric vehicle manufacturers;

19 (5) Mechanisms for persons associated with the supply chains of
20 transportation fuels that are used for purposes that are exempt from
21 the clean fuels program compliance obligations including, but not
22 limited to, fuels used by aircraft, vessels, railroad locomotives,
23 and other exempt fuels specified in section 5 of this act, to elect
24 to participate in the clean fuels program by earning credits for the
25 production, import, distribution, use, or retail of exempt fuels with
26 associated life-cycle greenhouse gas emissions lower than the per-
27 unit standard established in section 3 of this act;

28 (6) Mechanisms that allow for the assignment of credits to an
29 electric utility for electricity used within its utility service
30 area, at minimum, for residential electric vehicle charging or
31 fueling;

32 (7) Cost containment mechanisms;

33 (8) (a) (i) A credit clearance market for any compliance period in
34 which at least one regulated party reports that the regulated party
35 has a net deficit balance at the end of the compliance period, after
36 retirement of all credits held by the regulated party, that is
37 greater than a small deficit. A regulated party described by this
38 subsection is required to participate in the credit clearance market.

39 (ii) If a regulated party has a small deficit at the end of a
40 compliance period, the regulated party shall notify the department

1 that it will achieve compliance with the clean fuels program during
2 the compliance period by either: (A) Participating in a credit
3 clearance market; or (B) carrying forward the small deficit.

4 (b) For the purposes of administering a credit clearance market
5 required by this section, the department shall:

6 (i) Allow any regulated party, credit generator, or credit
7 aggregator to hold excess credits at the end of the compliance period
8 to voluntarily participate in the credit clearance market as a seller
9 by pledging a specified number of credits for sale in the market;

10 (ii) Require each regulated party participating in the credit
11 clearance market as purchaser of credits to:

12 (A) Have retired all credits in the regulated party's possession
13 prior to participating in the credit clearance market; and

14 (B) Purchase the specified number of the total pledged credits
15 that the department has determined are that regulated party's pro
16 rata share of the pledged credits;

17 (iii) Require all sellers to:

18 (A) Agree to sell pledged credits at a price no higher than a
19 maximum price for credits;

20 (B) Accept all offers to purchase pledged credits at the maximum
21 price for credits; and

22 (C) Agree to withhold any pledged credits at the maximum price
23 for credits.

24 (c) (i) The department shall set the maximum price for credits in
25 a credit clearance market, which may not exceed \$200 for 2028.

26 (ii) For 2029 and subsequent years, the maximum price may exceed
27 \$200, but only to the extent that a greater maximum price for credits
28 is necessary to annually adjust for inflation, beginning on January
29 1, 2025, pursuant to the increase, if any, from the preceding
30 calendar year in the consumer price index for all urban consumers,
31 west region (all items), as published by the bureau of labor
32 statistics of the United States department of labor.

33 (d) A regulated party that has a net deficit balance after the
34 close of a credit clearance market:

35 (i) Must carry over the remaining deficits into the next
36 compliance period; and

37 (ii) May not be subject to interest greater than five percent,
38 penalties, or assertions of noncompliance that accrue based on the
39 carryover of deficits under this subsection.

1 (e) If a regulated party has been required under (a) of this
2 subsection to participate as a purchaser in two consecutive credit
3 clearance markets and continues to have a net deficit balance after
4 the close of the second consecutive credit clearance market, the
5 department shall complete, no later than two months after the close
6 of the second credit clearance market, an analysis of the root cause
7 of an inability of the regulated party to retire the remaining
8 deficits. The department may recommend and implement any remedy that
9 the department determines is necessary to address the root cause
10 identified in the analysis, including but not limited to issuing a
11 deferral, provided that the remedy implemented does not:

12 (i) Require a regulated party to purchase credits for an amount
13 that exceeds the maximum price for credits in the most recent credit
14 clearance market; or

15 (ii) Compel a person to sell credits.

16 (f) If credits sold in a credit clearance market are subsequently
17 invalidated as a result of fraud or any other form of noncompliance
18 on the part of the generator of the credit, the department may not
19 pursue civil penalties against, or require credit replacement by, the
20 regulated party that purchased the credits unless the regulated party
21 was a party to the fraud or other form of noncompliance.

22 (g) The department may not disclose the deficit balances or pro
23 rata share purchase requirements of a regulated party that
24 participates in the credit clearance market.

25 (9) Authority for the department to designate an entity to
26 aggregate and use unclaimed credits associated with persons that
27 elect not to participate in the clean fuels program under subsection
28 (4) of this section.

29 (10)(a) The legislature intends to promote a growing and
30 sustainable economy and to avoid leakage of emissions from low carbon
31 fuel production to other locations. The legislature further intends
32 to see innovative new businesses locate and grow in Washington that
33 contribute to Washington's prosperity and environmental objectives.
34 Consistent with the intent of the legislature to avoid the leakage of
35 emissions to other jurisdictions, in achieving the state's greenhouse
36 gas limits in RCW 70A.45.020, the state intends to pursue the limits
37 in a manner that recognizes that the siting and placement of new best
38 in class low carbon fuel production facilities that provide for the
39 displacement of more carbon-intensive processes is in the economic
40 and environmental interests of the state of Washington.

1 (b) For new or expanded low carbon fuel production facilities
2 that require review under chapter 43.21C RCW, the department must
3 evaluate the net cumulative greenhouse gas emissions of the facility.
4 In evaluating the greenhouse gas emissions from a low carbon fuel
5 production facility, the department shall net its direct greenhouse
6 gas emissions with reductions associated with its fuel product
7 compared to the carbon intensity requirements established under this
8 chapter.

9 (c) The limits in RCW 70A.45.020 may not be the basis for denial
10 of a permit application or for judicial review of the grant of a
11 permit for a new or expanded facility.

12 (11) By January 1, 2026, if the department determines under
13 section 11 of this act that in-state production of feedstocks
14 available for compliance with the program is less than 25 percent of
15 the feedstocks needed for program compliance, the standard adopted by
16 the department from the previous compliance year will apply. If this
17 occurs, the department shall increase the clean fuels standard for
18 the following compliance period when it determines that 25 percent or
19 more of the feedstocks available for compliance with the program are
20 grown in Washington state.

21 (12) By January 1, 2028, if the department determines under
22 section 11 of this act that in-state manufacturing of feedstocks
23 available for compliance with the program is less than 25 percent of
24 the feedstocks needed for program compliance, the program standard
25 will comply with the clean fuels standard applicable in the previous
26 compliance year. If this occurs, the department shall increase the
27 clean fuels standard for the following compliance period when it
28 determines that 25 percent or more of the feedstocks are manufactured
29 in Washington state.

30 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and
31 4 of this act must include exemptions for, at minimum, the following
32 transportation fuels:

33 (a) Fuels used in volumes below thresholds adopted by the
34 department;

35 (b) Fuels used for the propulsion of all aircraft, vessels, and
36 railroad locomotives; and

37 (c) Fuels used for the operation of military tactical vehicles
38 and tactical support equipment.

1 (2) (a) The rules adopted under sections 3 and 4 of this act must
2 exempt the following transportation fuels from greenhouse gas
3 emission intensity reduction requirements until January 1, 2028:

4 (i) Special fuel used off-road in vehicles used primarily to
5 transport logs;

6 (ii) Dyed special fuel used in vehicles that are not designed
7 primarily to transport persons or property, that are not designed to
8 be primarily operated on highways, and that are used primarily for
9 construction work including, but not limited to, mining and timber
10 harvest operations; and

11 (iii) Dyed special fuel used for agricultural purposes exempt
12 from chapter 82.38 RCW.

13 (b) Prior to January 1, 2028, fuels identified in this subsection
14 (2) are eligible to generate credits, consistent with subsection (5)
15 of this section. Beginning January 1, 2028, the fuels identified in
16 this subsection (2) are subject to the greenhouse gas emission
17 intensity reduction requirements applicable to transportation fuels
18 specified in section 3 of this act.

19 (3) The department may adopt rules to specify the standards for
20 persons to qualify for the exemptions provided in this section. The
21 department may implement the exemptions under subsection (2) of this
22 section to align with the implementation of exemptions for similar
23 fuels exempt from chapter 82.38 RCW.

24 (4) The rules adopted under sections 3 and 4 of this act may
25 include exemptions in addition to those described in subsections (1)
26 and (2) of this section, but only if such exemptions are necessary,
27 with respect to the relationship between the program and similar
28 greenhouse gas emissions requirements or low carbon fuel standards,
29 in order to avoid:

30 (a) Mismatched incentives across programs;

31 (b) Fuel shifting between markets; or

32 (c) Other results that are counter to the intent of this chapter.

33 (5) Nothing in this chapter precludes the department from
34 adopting rules under sections 3 and 4 of this act that allow the
35 generation of credits associated with electric or alternative
36 transportation infrastructure that existed prior to the effective
37 date of this section or to the start date of program requirements.
38 The department must apply the same baseline years to credits
39 associated with electric or alternative transportation infrastructure
40 that apply to gasoline and diesel liquid fuels in any market-based

1 program enacted by the legislature that establishes a cap on
2 greenhouse gas emissions.

3 NEW SECTION. **Sec. 6.** (1) The rules adopted under sections 3 and
4 of this act may allow the generation of credits from activities
5 that support the reduction of greenhouse gas emissions associated
6 with transportation in Washington, including but not limited to:

7 (a) Carbon capture and sequestration projects, including but not
8 limited to:

9 (i) Innovative crude oil production projects that include carbon
10 capture and sequestration;

11 (ii) Project-based refinery greenhouse gas mitigation including,
12 but not limited to, process improvements, renewable hydrogen use, and
13 carbon capture and sequestration; or

14 (iii) Direct air capture projects;

15 (b) Investments and activities that support deployment of
16 machinery and equipment used to produce gaseous and liquid fuels from
17 nonfossil feedstocks, and derivatives thereof;

18 (c) The fueling of battery or fuel cell electric vehicles by a
19 commercial, nonprofit, or public entity that is not an electric
20 utility, which may include, but is not limited to, the fueling of
21 vehicles using electricity certified by the department to have a
22 carbon intensity of zero; and

23 (d) The use of smart vehicle charging technology that results in
24 the fueling of an electric vehicle during times when the carbon
25 intensity of grid electricity is comparatively low.

26 (2)(a) The rules adopted under sections 3 and 4 of this act must
27 allow the generation of credits based on capacity for zero emission
28 vehicle refueling infrastructure, including DC fast charging
29 infrastructure and hydrogen refueling infrastructure.

30 (b) The rules adopted under sections 3 and 4 of this act may
31 allow the generation of credits from the provision of low carbon fuel
32 infrastructure not specified in (a) of this subsection.

33 (3) The rules adopted by the department may establish limits for
34 the number of credits that may be earned each year by persons
35 participating in the program for some or all of the activities
36 specified in subsections (1) and (2) of this section. Any limits
37 established under this subsection must take into consideration the
38 return on investment required in order for an activity specified in
39 subsection (2) of this section to be financially viable.

1 NEW SECTION. **Sec. 7.** (1) Except where otherwise provided in
2 this chapter, the department shall seek to adopt rules that are
3 harmonized with the regulatory standards, exemptions, reporting
4 obligations, and other clean fuels program compliance requirements
5 and methods for credit generation of other states that:

6 (a) Have adopted low carbon fuel standards or similar greenhouse
7 gas emissions requirements applicable specifically to transportation
8 fuels; and

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

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

13 (2) The department must establish and periodically consult a
14 stakeholder advisory panel, including representatives of forestland
15 and agricultural landowners, for purposes of soliciting input on how
16 to best incentivize and allot credits for the sequestration of
17 greenhouse gases through activities on agricultural and forestlands
18 in a manner that is consistent with the goals and requirements of
19 this chapter.

20 (3) The department must conduct a biennial review of innovative
21 technologies and pathways that reduce carbon and increase credit
22 generation opportunities and must modify rules or guidance as needed
23 to maintain stable credit markets.

24 (4) In any reports to the legislature under section 10 of this
25 act, on the department's website, or in other public documents or
26 communications that refer to assumed public health benefits
27 associated with the program created in this chapter, the department
28 must distinguish between public health benefits from small
29 particulate matter and other conventional pollutant reductions
30 achieved primarily as a result of vehicle emission standards
31 established under chapter 70A.30 RCW, and the incremental benefits to
32 air pollution attributable to the program created under this chapter.

33 NEW SECTION. **Sec. 8.** (1)(a) Each producer or importer of any
34 amount of a transportation fuel that is ineligible to generate
35 credits consistent with the requirements of section 4(3) of this act
36 must register with the department.

37 (b) Electric vehicle manufacturers and producers, importers,
38 distributors, users, and retailers of transportation fuels that are
39 eligible to generate credits consistent with section 4(3) of this act

1 must register with the department if they elect to participate in the
2 clean fuels program.

3 (c) Other persons must register with the department to generate
4 credits from other activities that support the reduction of
5 greenhouse gas emissions associated with transportation in
6 Washington.

7 (2) Each transaction transferring ownership of transportation
8 fuels for which clean fuels program participation is mandated must be
9 accompanied by documentation, in a format approved by the department,
10 that assigns the clean fuels program compliance responsibility
11 associated with the fuels, including the assignment of associated
12 credits. The department may also require documentation assigning
13 clean fuels program compliance responsibility associated with fuels
14 for which program participation has been elected.

15 (3) The department may adopt rules requiring the periodic
16 reporting of information to the department by persons associated with
17 the supply chains of transportation fuels participating in the clean
18 fuels program. To the extent practicable, the rules must establish
19 reporting procedures and timelines that are consistent with similar
20 programs in other states that reduce the greenhouse gas emission
21 intensity of transportation fuel and with procedures and timelines of
22 state programs requiring similar information to be reported by
23 regulated parties, including electric utilities.

24 (4) RCW 70A.15.2510 applies to records or information submitted
25 to the department under this chapter.

26 NEW SECTION. **Sec. 9.** (1)(a) Fifty percent of the revenues
27 generated by an electric utility from credits earned from the
28 electricity supplied to retail customers by an electric utility under
29 the clean fuels program must be expended by the electric utility on
30 transportation electrification projects, which may include projects
31 to support the production and provision of hydrogen and other gaseous
32 fuels produced from nonfossil feedstocks, and derivatives thereof as
33 a transportation fuel.

34 (b) Sixty percent of the revenues described in (a) of this
35 subsection, or 30 percent of the revenues generated by an electric
36 utility from credits earned from the electricity supplied to retail
37 customers by an electric utility under the clean fuels program, must
38 be expended by the electric utility on transportation electrification
39 projects, which may include projects to support the production and

1 provision of hydrogen and other gaseous fuels produced from nonfossil
2 feedstocks, and derivatives thereof as a transportation fuel, located
3 within or directly benefiting a federally designated nonattainment or
4 maintenance area, a federally designated nonattainment or maintenance
5 area that existed as of January 1, 2021, a disproportionately
6 impacted community identified by the department of health, or an area
7 designated by the department as being at risk of nonattainment, if
8 such a nonattainment or maintenance area or disproportionately
9 impacted community is within the service area of the utility.

10 (2) The 50 percent of revenues not subject to the requirements of
11 subsection (1) of this section must be used for activities and
12 projects jointly determined by the department and the Washington
13 state department of transportation based on those with the highest
14 impact on reducing greenhouse gas emissions and decarbonizing the
15 transportation sector. These include, but are not limited to: (a)
16 Electrical grid and hydrogen fueling infrastructure investments; (b)
17 electrification of the state ferry fleet; (c) alternative fuel
18 vehicle rebate programs; and (d) infrastructure and other costs
19 associated with the adoption of alternative fuel use by transit
20 agencies.

21 (3) Electric utilities that participate in the clean fuels
22 program must annually provide information to the department
23 accounting for and briefly describing all expenditures of revenues
24 generated from credits earned under the clean fuels program.

25 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2025, and each May
26 1st thereafter, the department must post a report on the department's
27 website that includes the following information regarding the
28 previous calendar year of clean fuels program activities:

29 (a) The program-wide number of credits and deficits generated by
30 entities participating in the clean fuels program;

31 (b) The volumes of each transportation fuel and average price per
32 credit used to comply with the requirements of the clean fuels
33 program;

34 (c) The best estimate or range in probable costs or cost savings
35 attributable to the clean fuels program per gallon of gasoline and
36 per gallon of diesel, as determined by an independent consultant
37 whose services the department has contracted. The estimate or range
38 in probable costs or cost savings from the independent consultant
39 must be announced in a press release to the news media at the time

1 that the report under this subsection (1) is posted to the
2 department's website, and must be simultaneously reported to the
3 transportation committees of the house of representatives and the
4 senate;

5 (d) The total greenhouse gas emissions reductions attributable to
6 the clean fuels program isolated from the greenhouse gas emissions
7 reductions attributable to other state and national programs on the
8 same fuels; and

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

13 (2) Nothing in this section prohibits the department from posting
14 information described in subsection (1) of this section on a more
15 frequent basis than once per year.

16 (3) By May 1, 2025, and each May 1st thereafter, the department
17 must submit the report required under subsection (1) of this section
18 to the appropriate committees of the house of representatives and
19 senate.

20 (4) The department must contract for a one-time ex ante
21 independent analysis of the information specified in subsection
22 (1)(c) of this section covering each year of the program through
23 2035. The analysis must be informed by input from stakeholders,
24 including regulated industries, and informed by experience from other
25 jurisdictions. The analysis must impute price impacts using multiple
26 analytical methodologies and must make clear how the assumptions or
27 factors considered differed in each methodology used and price impact
28 imputed. The analysis required in this subsection must be completed
29 and submitted to the appropriate committees of the legislature by
30 July 1, 2022.

31 NEW SECTION. **Sec. 11.** (1) In consultation with the department,
32 the utilities and transportation commission, and the department of
33 agriculture, the department of commerce must develop a periodic fuel
34 supply forecast to project the availability of fuels to Washington
35 necessary for compliance with clean fuels program requirements.

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

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

3 (a) An estimate of the potential volumes of gasoline, gasoline
4 substitutes, and gasoline alternatives, and diesel, diesel
5 substitutes, and diesel alternatives available to Washington. In
6 developing this estimate, the department of commerce must consider,
7 but is not limited to considering:

8 (i) The existing and future vehicle fleet in Washington; and

9 (ii) Any constraints that might be preventing access to available
10 and cost-effective low carbon fuels by Washington, such as geographic
11 and logistical factors, and alleviating factors to the constraints;

12 (b) An estimate of the total banked credits and carried over
13 deficits held by regulated parties, credit generators, and credit
14 aggregators at the beginning of the compliance period, and an
15 estimate of the total credits attributable to fuels described in (a)
16 of this subsection;

17 (c) An estimate of the number of credits needed to meet the
18 applicable clean fuels program requirements during the forecasted
19 compliance period; and

20 (d) A comparison in the estimates of (a) and (b) of this
21 subsection with the estimate in (c) of this subsection, for the
22 purpose of indicating the availability of fuels needed for compliance
23 with the requirements of this chapter.

24 (4) The department of commerce, in coordination with the
25 department, may appoint a forecast review team of relevant experts to
26 participate in the fuel supply forecast or examination of data
27 required by this section. The department of commerce must finalize a
28 fuel supply forecast for an upcoming compliance period by no later
29 than 90 days prior to the start of the compliance period.

30 NEW SECTION. **Sec. 12.** (1) No later than 30 calendar days before
31 the commencement of a compliance period, the department shall issue
32 an order declaring a forecast deferral if the fuel supply forecast
33 under section 10 of this act projects that the amount of credits that
34 will be available during the forecast compliance period will be less
35 than 100 percent of the credits projected to be necessary for
36 regulated parties to comply with the scheduled applicable clean fuels
37 program standard adopted by the department for the forecast
38 compliance period.

1 (2) An order declaring a forecast deferral under this section
2 must set forth:

3 (a) The duration of the forecast deferral;

4 (b) The types of fuel to which the forecast deferral applies; and

5 (c) Which of the following methods the department has selected
6 for deferring compliance with the scheduled applicable clean fuels
7 program standard during the forecast deferral:

8 (i) Temporarily adjusting the scheduled applicable clean fuels
9 program standard to a standard identified in the order that better
10 reflects the forecast availability of credits during the forecast
11 compliance period and requiring regulated parties to comply with the
12 temporary standard;

13 (ii) Requiring regulated parties to comply only with the clean
14 fuels program standard applicable during the compliance period prior
15 to the forecast compliance period; or

16 (iii) Suspending deficit accrual for part or all of the forecast
17 deferral period.

18 (3)(a) In implementing a forecast deferral, the department may
19 take an action for deferring compliance with the clean fuels program
20 standard other than, or in addition to, selecting a method under
21 subsection (2)(c) of this section only if the department determines
22 that none of the methods under subsection (2)(c) of this section will
23 provide a sufficient mechanism for containing the costs of compliance
24 with the clean fuels program standards during the forecast deferral.

25 (b) If the department makes the determination specified in (a) of
26 this subsection, the department shall:

27 (i) Include in the order declaring a forecast deferral the
28 determination and the action to be taken; and

29 (ii) Provide written notification and justification of the
30 determination and the action to:

31 (A) The governor;

32 (B) The president of the senate;

33 (C) The speaker of the house of representatives;

34 (D) The majority and minority leaders of the senate; and

35 (E) The majority and minority leaders of the house of
36 representatives.

37 (4) The duration of a forecast deferral may not be less than one
38 calendar quarter or longer than one compliance period. Only the
39 department may terminate, by order, a forecast deferral before the
40 expiration date of the forecast deferral. Termination of a forecast

1 deferral is effective on the first day of the next calendar quarter
2 after the date that the order declaring the termination is adopted.

3 NEW SECTION. **Sec. 13.** (1) The director of the department may
4 issue an order declaring an emergency deferral of compliance with the
5 carbon intensity standard established under section 3 of this act no
6 later than 15 calendar days after the date the department determines,
7 in consultation with the governor's office and the department of
8 commerce, that:

9 (a) Extreme and unusual circumstances exist that prevent the
10 distribution of an adequate supply of renewable fuels needed for
11 regulated parties to comply with the clean fuels program taking into
12 consideration all available methods of obtaining sufficient credits
13 to comply with the standard;

14 (b) The extreme and unusual circumstances are the result of a
15 natural disaster, an act of God, a significant supply chain
16 disruption or production facility equipment failure, or another event
17 that could not reasonably have been foreseen or prevented and not the
18 lack of prudent planning on the part of the suppliers of the fuels to
19 the state; and

20 (c) It is in the public interest to grant the deferral such as
21 when a deferral is necessary to meet projected temporary shortfalls
22 in the supply of the renewable fuel in the state and that other
23 methods of obtaining compliance credits are unavailable to compensate
24 for the shortage of renewable fuel supply.

25 (2) If the director of the department makes the determination
26 required under subsection (1) of this section, such a temporary
27 extreme and unusual deferral is permitted only if:

28 (a) The deferral applies only for the shortest time necessary to
29 address the extreme and unusual circumstances;

30 (b) The deferral is effective for the shortest practicable time
31 period the director of the department determines necessary to permit
32 the correction of the extreme and unusual circumstances; and

33 (c) The director has given public notice of a proposed deferral.

34 (3) An order declaring an emergency deferral under this section
35 must set forth:

36 (a) The duration of the emergency deferral;

37 (b) The types of fuel to which the emergency deferral applies;

1 (c) Which of the following methods the department has selected
2 for deferring compliance with the clean fuels program during the
3 emergency deferral:

4 (i) Temporarily adjusting the scheduled applicable carbon
5 intensity standard to a standard identified in the order that better
6 reflects the availability of credits during the emergency deferral
7 and requiring regulated parties to comply with the temporary
8 standard;

9 (ii) Allowing for the carryover of deficits accrued during the
10 emergency deferral into the next compliance period without penalty;
11 or

12 (iii) Suspending deficit accrual during the emergency deferral
13 period.

14 (4) An emergency deferral may be terminated prior to the
15 expiration date of the emergency deferral if new information becomes
16 available indicating that the shortage that provided the basis for
17 the emergency deferral has ended. The director of the department
18 shall consult with the department of commerce and the governor's
19 office in making an early termination decision. Termination of an
20 emergency deferral is effective 15 calendar days after the date that
21 the order declaring the termination is adopted.

22 (5)(a) In addition to the emergency deferral specified in
23 subsection (1) of this section, the department may issue a full or
24 partial deferral for one calendar quarter of a person's obligation to
25 furnish credits for compliance under section 4 of this act if it
26 finds that the person is unable to comply with the requirements of
27 this chapter due to reasons beyond the person's reasonable control.
28 The department may initiate a deferral under this subsection at its
29 own discretion or at the request of a person regulated under this
30 chapter. The department may renew issued deferrals. In evaluating
31 whether to issue a deferral under this subsection, the department may
32 consider the results of the fuel supply forecast in section 11 of
33 this act, but is not bound in its decision-making discretion by the
34 results of the forecast.

35 (b) If the department issues a deferral pursuant to this
36 subsection, the department may:

37 (i) Direct the person subject to the deferral to file a progress
38 report on achieving full compliance with the requirements of this
39 chapter within an amount of time determined to be reasonable by the
40 department; and

1 (ii) Direct the person to take specific actions to achieve full
2 compliance with the requirements of this chapter.

3 (c) The issuance of a deferral under this subsection does not
4 permanently relieve the deferral recipient of the obligation to
5 comply with the requirements of this chapter.

6 NEW SECTION. **Sec. 14.** (1) The department may require that
7 persons that are required or elect to register or report under this
8 chapter pay a fee. If the department elects to require program
9 participants to pay a fee, the department must, after an opportunity
10 for public review and comment, adopt rules to establish a process to
11 determine the payment schedule and the amount of the fee charged. The
12 amount of the fee must be set so as to equal but not exceed the
13 projected direct and indirect costs to the department for developing
14 and implementing the program and the projected direct and indirect
15 costs to the department of commerce to carry out its responsibilities
16 under section 11 of this act. The department and the department of
17 commerce must prepare a biennial workload analysis and provide an
18 opportunity for public review of and comment on the workload
19 analysis. The department shall enter into an interagency agreement
20 with the department of commerce to implement this section.

21 (2) The clean fuels program account is created in the state
22 treasury. All receipts from fees and penalties received under the
23 program created in this chapter must be deposited into the account.
24 Moneys in the account may be spent only after appropriation. The
25 department may only use expenditures from the account for carrying
26 out the program created in this chapter.

27 NEW SECTION. **Sec. 15.** (1) By December 1, 2029, the joint
28 legislative audit and review committee must analyze the impacts of
29 the initial five years of clean fuels program implementation and must
30 submit a report summarizing the analysis to the legislature. The
31 analysis must include, at minimum, the following components:

32 (a) Costs and benefits, including environmental and public health
33 costs and benefits, associated with this chapter for categories of
34 persons participating in the clean fuels program or that are most
35 impacted by air pollution, as defined in consultation with the
36 departments of ecology and health and as measured on a census tract
37 scale. This component of the analysis must, at minimum, assess the

1 costs and benefits of changes in the following metrics since the
2 start of the program:

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

6 (ii) Fuel prices; and

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

14 (b) An evaluation of the information calculated and provided by
15 the department under section 10(1) of this act; and

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

26 (2) This section expires June 30, 2030.

27 NEW SECTION. **Sec. 16.** A new section is added to chapter 82.04
28 RCW to read as follows:

29 (1) This chapter does not apply to amounts received from the
30 generation, purchase, sale, transfer, or retirement of credits under
31 chapter 70A.--- RCW (the new chapter created in section 26 of this
32 act).

33 (2) The provisions of RCW 82.32.805 and 82.32.808 do not apply to
34 subsection (1) of this section.

35 **Sec. 17.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each
36 amended to read as follows:

37 (1) A person applying for a motor vehicle registration and paying
38 the vehicle license fee required in RCW 46.17.350(1) (a), (d), (e),

1 (h), (j), (n), and (o) shall pay a motor vehicle weight fee in
2 addition to all other fees and taxes required by law.

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

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

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

9 (iii) Must be distributed under RCW 46.68.415.

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

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

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

13
14
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17
18 (ii) If the resultant motor vehicle scale weight is not listed in
19 the table provided in (b)(i) of this subsection, must be increased to
20 the next highest weight; and

21 (iii) Must be distributed under RCW 46.68.415 unless prior to
22 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this
23 subsection occur, in which case the portion of the revenue that is
24 the result of the fee increased in this subsection must be
25 distributed to the connecting Washington account created under RCW
26 46.68.395.

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

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

37 (C) Nothing in this subsection acknowledges, establishes, or
38 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 (2) A person applying for a motor home vehicle registration
5 shall, in lieu of the motor vehicle weight fee required in subsection
6 (1) of this section, pay a motor home vehicle weight fee of seventy-
7 five dollars in addition to all other fees and taxes required by law.
8 The motor home vehicle weight fee must be distributed under RCW
9 46.68.415.

10 (3) Beginning July 1, 2022, in addition to the motor vehicle
11 weight fee as provided in subsection (1) of this section, the
12 department, county auditor or other agent, or subagent appointed by
13 the director must require an applicant to pay an additional weight
14 fee of ten dollars, which must be distributed to the multimodal
15 transportation account under RCW 47.66.070 unless prior to July 1,
16 2023, the actions described in (a) or (b) of this subsection occur,
17 in which case the portion of the revenue that is the result of the
18 fee increased in this subsection must be distributed to the
19 connecting Washington account created under RCW 46.68.395.

20 (a) Any state agency files a notice of rule making under chapter
21 34.05 RCW, absent explicit legislative authorization enacted
22 subsequent to July 1, 2015, for a rule regarding a fuel standard
23 based upon or defined by the carbon intensity of fuel, including a
24 low carbon fuel standard or clean fuel standard.

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

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

35 (4) The department shall:

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

39 (b) Adopt rules for determining weight for vehicles without
40 manufacturer empty scale weights.

1 **Sec. 18.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each
2 amended to read as follows:

3 (1) When a person has been disqualified from operating a
4 commercial motor vehicle, the person is not entitled to have the
5 commercial driver's license or commercial learner's permit restored
6 until after the expiration of the appropriate disqualification period
7 required under RCW 46.25.090 or until the department has received a
8 drug and alcohol assessment and evidence is presented of satisfactory
9 participation in or completion of any required drug or alcohol
10 treatment program for ending the disqualification under RCW
11 46.25.090(7). After expiration of the appropriate period and upon
12 payment of a requalification fee of twenty dollars until June 30,
13 2016, and thirty-five dollars beginning July 1, 2016, or one hundred
14 fifty dollars if the person has been disqualified under RCW
15 46.25.090(7), the person may apply for a new, duplicate, or renewal
16 commercial driver's license or commercial learner's permit as
17 provided by law. If the person has been disqualified for a period of
18 one year or more, the person shall demonstrate that he or she meets
19 the commercial driver's license or commercial learner's permit
20 qualification standards specified in RCW 46.25.060.

21 (2) The fees under this section must be deposited into the
22 highway safety fund unless prior to July 1, 2023, the actions
23 described in (a) or (b) of this subsection occur, in which case the
24 portion of the revenue that is the result of the fee increased in
25 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be
26 distributed to the connecting Washington account created under RCW
27 46.68.395.

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

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

38 (c) Nothing in this subsection acknowledges, establishes, or
39 creates legal authority for the department of ecology or any other
40 state agency to enact, adopt, order, or in any way implement a fuel

1 standard based upon or defined by the carbon intensity of fuel,
2 including a low carbon fuel standard or clean fuel standard.

3 **Sec. 19.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to
4 read as follows:

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

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

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

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

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

38 (d) The requirements of this subsection are in addition to the
39 requirements otherwise imposed on applicants for a driver's license

1 or identicard. The department shall adopt such rules as necessary to
2 meet the requirements of this subsection. From time to time the
3 department shall review technological innovations related to the
4 security of identity cards and amend the rules related to enhanced
5 driver's licenses and identicards as the director deems consistent
6 with this section and appropriate to protect the privacy of
7 Washington state residents.

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

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

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

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

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

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

1 **Sec. 20.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each
2 amended to read as follows:

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

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

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

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

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

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

28 (4) A CLP may be classified in the same manner as a CDL under RCW
29 46.25.080(2)(a).

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

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

1 (b) The holder of a CLP with an S endorsement must have taken and
2 passed the S endorsement knowledge examination. The holder of a CLP
3 with an S endorsement is prohibited from operating a school bus with
4 passengers other than authorized employees or representatives of the
5 department and the federal motor carrier safety administration,
6 examiners, other trainees, and the CDL holder accompanying the CLP
7 holder as required under subsection (2) of this section.

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

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

16 (a) "P" restricts the driver from operating a bus with
17 passengers;

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

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

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

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

27 (9) The department must transmit the fees collected for CLPs to
28 the state treasurer for deposit in the highway safety fund unless
29 prior to July 1, 2023, the actions described in (a) or (b) of this
30 subsection occur, in which case the portion of the revenue that is
31 the result of the fee increased in section 206, chapter 44, Laws of
32 2015 3rd sp. sess. must be distributed to the connecting Washington
33 account created under RCW 46.68.395.

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

39 (b) Any state agency otherwise enacts, adopts, orders, or in any
40 way implements a fuel standard based upon or defined by the carbon

1 intensity of fuel, including a low carbon fuel standard or clean fuel
2 standard, without explicit legislative authorization enacted
3 subsequent to July 1, 2015.

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

9 **Sec. 21.** RCW 46.25.060 and 2020 c 78 s 2 are each amended to
10 read as follows:

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

13 (i) Is a resident of this state;

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

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

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

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

1 (c) The department may authorize a person, including an agency of
2 this or another state, an employer, a private driver training
3 facility, or other private institution, or a department, agency, or
4 instrumentality of local government, to administer the skills
5 examination specified by this section under the following conditions:

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

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

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

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

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

22 (ii) Public benefit not-for-profit corporations that support
23 early childhood education and assistance programs as described in RCW
24 43.216.505.

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

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

33 (2)(a) The department may waive the skills examination and the
34 requirement for completion of a course of instruction in the
35 operation of a commercial motor vehicle specified in this section for
36 a commercial driver's license applicant who meets the requirements of
37 49 C.F.R. Sec. 383.77. For current or former military service members
38 that meet the requirements of 49 C.F.R. Sec. 383.77, the department
39 may also waive the requirements for a knowledge test for commercial
40 driver's license applicants. Beginning December 1, 2021, the

1 department shall provide an annual report to the house and senate
2 transportation committees and the joint committee on veterans' and
3 military affairs of the legislature on the number and types of
4 waivers granted pursuant to this subsection.

5 (b) An applicant who operates a commercial motor vehicle for
6 agribusiness purposes is exempt from the course of instruction
7 completion and employer skills and training certification
8 requirements under this section. By January 1, 2010, the department
9 shall submit recommendations regarding the continuance of this
10 exemption to the transportation committees of the legislature. For
11 purposes of this subsection (2)(b), "agribusiness" means a private
12 carrier who in the normal course of business primarily transports:

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

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

17 (iii) Unprocessed agricultural commodities, as defined in RCW
18 17.21.020, where such commodities are produced by farmers, ranchers,
19 vineyardists, or orchardists; or

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

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

24 (3) A commercial driver's license or commercial learner's permit
25 may not be issued to a person while the person is subject to a
26 disqualification from driving a commercial motor vehicle, or while
27 the person's driver's license is suspended, revoked, or canceled in
28 any state, nor may a commercial driver's license be issued to a
29 person who has a commercial driver's license issued by any other
30 state unless the person first surrenders all such licenses, which
31 must be returned to the issuing state for cancellation.

32 (4) The fees under this section must be deposited into the
33 highway safety fund unless prior to July 1, 2023, the actions
34 described in (a) or (b) of this subsection occur, in which case the
35 portion of the revenue that is the result of the fee increased in
36 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be
37 distributed to the connecting Washington account created under RCW
38 46.68.395.

39 (a) Any state agency files a notice of rule making under chapter
40 34.05 RCW, absent explicit legislative authorization enacted

1 subsequent to July 1, 2015, for a rule regarding a fuel standard
2 based upon or defined by the carbon intensity of fuel, including a
3 low carbon fuel standard or clean fuel standard.

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

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

14 **Sec. 22.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended
15 to read as follows:

16 (1) Any person who knowingly violates any of the provisions of
17 this chapter (~~($\text{\textcircled{e}}$)~~), chapter 70A.25 or 70A.--- (the new chapter
18 created in section 26 of this act) RCW, RCW 70A.45.080, or any
19 ordinance, resolution, or regulation in force pursuant thereto is
20 guilty of a gross misdemeanor and upon conviction thereof shall be
21 punished by a fine of not more than ten thousand dollars, or by
22 imprisonment in the county jail for up to three hundred sixty-four
23 days, or by both for each separate violation.

24 (2) Any person who negligently releases into the ambient air any
25 substance listed by the department of ecology as a hazardous air
26 pollutant, other than in compliance with the terms of an applicable
27 permit or emission limit, and who at the time negligently places
28 another person in imminent danger of death or substantial bodily harm
29 is guilty of a gross misdemeanor and shall, upon conviction, be
30 punished by a fine of not more than ten thousand dollars, or by
31 imprisonment for up to three hundred sixty-four days, or both.

32 (3) Any person who knowingly releases into the ambient air any
33 substance listed by the department of ecology as a hazardous air
34 pollutant, other than in compliance with the terms of an applicable
35 permit or emission limit, and who knows at the time that he or she
36 thereby places another person in imminent danger of death or
37 substantial bodily harm, is guilty of a class C felony and shall,
38 upon conviction, be punished by a fine of not less than fifty

1 thousand dollars, or by imprisonment for not more than five years, or
2 both.

3 (4) Any person who knowingly fails to disclose a potential
4 conflict of interest under RCW 70A.15.2000 is guilty of a gross
5 misdemeanor, and upon conviction thereof shall be punished by a fine
6 of not more than five thousand dollars.

7 **Sec. 23.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended
8 to read as follows:

9 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and
10 43.05.150, and in addition to or as an alternate to any other penalty
11 provided by law, any person who violates any of the provisions of
12 this chapter, chapter 70A.25 (~~(of)~~), 70A.450, or 70A.--- (the new
13 chapter created in section 26 of this act) RCW, RCW 70A.45.080, or
14 any of the rules in force under such chapters or section may incur a
15 civil penalty in an amount not to exceed ten thousand dollars per day
16 for each violation. Each such violation shall be a separate and
17 distinct offense, and in case of a continuing violation, each day's
18 continuance shall be a separate and distinct violation.

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

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

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

32 (3) Each act of commission or omission which procures, aids or
33 abets in the violation shall be considered a violation under the
34 provisions of this section and subject to the same penalty. The
35 penalties provided in this section shall be imposed pursuant to RCW
36 43.21B.300.

37 (4) All penalties recovered under this section by the department
38 shall be paid into the state treasury and credited to the air
39 pollution control account established in RCW 70A.15.1010 or, if

1 recovered by the authority, shall be paid into the treasury of the
2 authority and credited to its funds. If a prior penalty for the same
3 violation has been paid to a local authority, the penalty imposed by
4 the department under subsection (1) of this section shall be reduced
5 by the amount of the payment.

6 (5) To secure the penalty incurred under this section, the state
7 or the authority shall have a lien on any vessel used or operated in
8 violation of this chapter which shall be enforced as provided in RCW
9 60.36.050.

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

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

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

25 **Sec. 24.** RCW 19.112.110 and 2013 c 225 s 601 are each amended to
26 read as follows:

27 (1) Special fuel licensees under chapter 82.38 RCW, as determined
28 by the department of licensing, must provide evidence to the
29 department of licensing that at least two percent of the total annual
30 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,
31 following the earlier of: (a) November 30, 2008; or (b) when a
32 determination is made by the director, published in the Washington
33 State Register, that feedstock grown in Washington state can satisfy
34 a two-percent requirement.

35 (2) Special fuel licensees under chapter 82.38 RCW, as determined
36 by the department of licensing, must provide evidence to the
37 department of licensing that at least five percent of total annual
38 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,
39 when the director determines, and publishes this determination in the

1 Washington State Register, that both in-state oil seed crushing
2 capacity and feedstock grown in Washington state can satisfy a
3 three-percent requirement.

4 (3) The requirements of subsections (1) and (2) of this section
5 may take effect no sooner than one hundred eighty days after the
6 determination has been published in the Washington State Register.

7 (4) The director and the director of licensing must each adopt
8 rules, in coordination with each other, for enforcing and carrying
9 out the purposes of this section.

10 (5) To the extent that the requirements of this section conflict
11 with the requirements of chapter 70A.--- (the new chapter created in
12 section 26 of this act) RCW, the requirements of chapter 70A.--- (the
13 new chapter created in section 26 of this act) RCW prevail.

14 **Sec. 25.** RCW 19.112.120 and 2013 c 225 s 602 are each amended to
15 read as follows:

16 (1) By December 1, 2008, motor vehicle fuel licensees under
17 chapter 82.38 RCW, as determined by the department of licensing, must
18 provide evidence to the department of licensing that at least two
19 percent of total gasoline sold in Washington, measured on a quarterly
20 basis, is denatured ethanol.

21 (2) If the director of ecology determines that ethanol content
22 greater than two percent of the total gasoline sold in Washington
23 will not jeopardize continued attainment of the federal clean air
24 act's national ambient air quality standard for ozone pollution in
25 Washington and the director of agriculture determines and publishes
26 this determination in the Washington State Register that sufficient
27 raw materials are available within Washington to support economical
28 production of ethanol at higher levels, the director of agriculture
29 may require by rule that licensees provide evidence to the department
30 of licensing that denatured ethanol comprises between two percent and
31 at least ten percent of total gasoline sold in Washington, measured
32 on a quarterly basis.

33 (3) The requirements of subsections (1) and (2) of this section
34 may take effect no sooner than one hundred eighty days after the
35 determination has been published in the Washington State Register.

36 (4) The director and the director of licensing must each adopt
37 rules, in coordination with each other, for enforcing and carrying
38 out the purposes of this section.

1 (5) Nothing in this section is intended to prohibit the
2 production, sale, or use of motor fuel for use in federally
3 designated flexibly fueled vehicles capable of using E85 motor fuel.
4 Nothing in this section is intended to limit the use of high octane
5 gasoline not blended with ethanol for use in aircraft.

6 (6) To the extent that the requirements of this section conflict
7 with the requirements of chapter 70A.--- (the new chapter created in
8 section 26 of this act) RCW, the requirements of chapter 70A.--- (the
9 new chapter created in section 26 of this act) RCW prevail.

10 NEW SECTION. Sec. 26. Sections 1 through 15 of this act
11 constitute a new chapter in Title 70A RCW.

12 NEW SECTION. Sec. 27. If specific funding for the purposes of
13 this act, referencing this act by bill or chapter number, is not
14 provided by June 30, 2021, in the omnibus appropriations act, this
15 act is null and void.

16 NEW SECTION. Sec. 28. If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected."

E3SHB 1091 - S COMM AMD
By Committee on Ways & Means

ADOPTED AS AMENDED 04/08/2021

20 On page 1, line 2 of the title, after "fuel;" strike the
21 remainder of the title and insert "amending RCW 46.17.365, 46.25.100,
22 46.20.202, 46.25.052, 46.25.060, 70A.15.3150, 70A.15.3160,
23 19.112.110, and 19.112.120; adding a new section to chapter 82.04
24 RCW; adding a new chapter to Title 70A RCW; creating a new section;
25 prescribing penalties; providing a contingent effective date; and
26 providing an expiration date."

EFFECT: Removes the emergency deferral in the event of a low carbon fuel shortage of at least 5 percent of the amount of forecasted to be available or upon the issuance of a Governor's declaration of an energy emergency, and instead provides that the emergency deferral may be issued in extreme and unusual circumstances which prevent the distribution of an adequate supply of renewable

fuels needed to comply with the program and are the result of a natural disaster, act of God, a significant supply chain disruption, or another event that could not reasonably have been foreseen or prevented, and is in the public interest to grant the deferral.

Adds that in addition to the emergency deferral, the department of ecology may also issue a full or partial deferral for one calendar quarter if it finds that the person is unable to comply with the requirements due to reasons beyond the person's reasonable control. Allows the department to require the person seek a deferral to provide a progress report or take specific action to achieve full compliance.

Removes the requirements for (1) the Washington State University Energy Program to initiate a program to identify least-conflict priority sites for low carbon transportation fuel projects and (2) requires Ecology to periodically convene specified stakeholders to discuss mitigation of significant likely environmental impacts associated with low carbon transportation fuel projects.

Removes the 2028 standard of 10 percent below 2017 levels and instead provides that the rules adopted by the Department of Ecology (Ecology) phase-in carbon intensity reduction not to exceed .5 percent a year in 2023 and 2024, 1 percent a year beginning in 2025 through 2027, 1.5 percent a year in 2028 through 2031, and 2.5 percent a year beginning in 2032 through 2034.

Removes the requirement that Ecology must update, prior to 2032, CFP rules to further reduce GHG emissions from each unit of transportation fuel for each year through 2050, consistent with statutory state emission reduction limits.

Adds that the rules must not establish a reduction level beyond 10 percent of greenhouse gas emissions attributable to each unit of the fuels without explicit legislative authorization enacted subsequent to January 1, 2029. Ecology must submit agency request legislation that if enacted would provide this authorization.

Requires the passage of a separate additive transportation funding act generating more than \$500 million per biennium in revenue before Ecology may assign compliance obligations or allow for actual credit generation in order to coordinate and synchronize the CFP with other transportation-related investments.

Adds program design provisions and directs Ecology to regularly monitor the availability of fuels needed for compliance and calculate the volume-weighted average price of credits monthly and post this on its website.

Removes the examples of cost containment mechanisms and instead directs Ecology to hold a credit clearance market for any compliance period where at least one regulated party reports it has a net deficit balance.

Directs Ecology to set the maximum price for credits in a credit clearance market, which may not exceed \$200 for 2028, and for 2029 and subsequent years may exceed \$200 as annually adjusted for inflation.

Requires Ecology to evaluate the net cumulative greenhouse gas emissions, for new or expanded low carbon fuel production facilities that would require a SEPA review. In evaluating the GHG emissions from a low carbon fuel production facility, the department shall net its direct greenhouse gas emissions with reductions associated with its fuel product compared to the carbon intensity requirements established under this act.

Removes infrastructure investments in broadband as one of the activities that may generate credits under the CFP.

Requires 50 percent of revenues earned by an electric utility from generating credits under the CFP to be used for activities and

projects jointly determined by Ecology and the Washington state department of transportation that have the highest impact on reducing greenhouse gas emissions and decarbonizing the transportation sector.

Adds a new section requiring Ecology to issue an order declaring a forecast deferral if the fuel supply forecast projects that the amount of credits available during the compliance period will be less than 100 percent of the credits projected to be necessary to comply with the CFP.

Directs that by January 1, 2026, if Ecology determines based on the periodic fuel supply forecast that in-state production of feedstocks available for compliance with the program is less than 25 percent needed for program compliance, the standard adopted by Ecology from the previous compliance period will apply. If this occurs, the department must increase the clean fuels standard for the following compliance period when Ecology determines that 25 percent or more of the feedstocks available for compliance with the program are grown in Washington.

Directs that by January 1, 2028, if Ecology determines based on the fuel supply forecast that in-state manufacturing of feedstocks is less than 25 percent needed for the program, the standard from the previous compliance period will apply. If this occurs, Ecology must increase the standard for the following compliance period when it determines that 25 percent or more of the feedstocks available for compliance are manufactured in Washington.

--- END ---