FINAL BILL REPORT
E2SHB 1112

C 284 L 19
Synopsis as Enacted

Brief Description: Reducing greenhouse gas emissions from hydrofluorocarbons.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Fitzgibbon, Kloba, Peterson, Tharinger, Jinkins, Macri, Goodman, Bergquist, Doglio, Robinson, Pollet, Stanford and Frame).

House Committee on Environment & Energy
House Committee on Appropriations
Senate Committee on Environment, Energy & Technology
Senate Committee on Ways & Means

Background:

Hydrofluorocarbons and Greenhouse Gas Emissions.
Hydrofluorocarbons (HFCs) are a category of gases used primarily as refrigerants in a variety of commercial and industrial applications. Hydrofluorocarbons are among the greenhouse gases (GHGs) identified by the United States Environmental Protection Agency (EPA) and the Department of Ecology (ECY) as a result of their capacity to trap heat in the Earth's atmosphere. According to the EPA, the global warming potential (GWP) of HFCs and other GHGs is measured as a function of how much of the gas is concentrated in the atmosphere, how long the gas stays in the atmosphere, and how strongly the particular gas affects global atmospheric temperatures. Under state law, the GWP of GHGs are measured in terms of their equivalence to the emission of an identical volume of carbon dioxide over a 100-year timeframe (carbon dioxide equivalent or CO2e). In rules adopted by the ECY for purposes of measuring GHG emissions, the GWP of HFCs ranges from 12 to 14,800.

The ECY must report to the Governor and Legislature by December 31 of even-numbered years regarding total GHG emissions and GHG emissions by source sector in Washington. According to the most recent report to the Legislature in December 2018, HFCs and other ozone-depleting substance (ODS) substitutes accounted for 3.76 million tons of CO2e out of the state's total reported GHG emissions of 97.4 million tons of CO2e in 2015.

Regulation of Ozone-Depleting Substances.
In 1987 the United States and other members of the United Nations committed, in an agreement known as the Montreal Protocol, to phase out the use of certain ODSs. The

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

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

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

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

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

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

Summary:

Regulation of Hydrofluorocarbons.

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

- January 1, 2020, for propellants, foam blowing agents such as polyurethane or spray foam, and supermarket systems, stand-alone systems, remote condensing units, and vending machines;
- January 1, 2021, for refrigerated food processing and dispensing equipment, compact residential consumer refrigeration products, polystyrene extruded boardstock and billet, and rigid polyurethane low-pressure two component spray foam;
- January 1, 2022, for residential consumer refrigeration products, except compact and built-in residential consumer refrigeration products;
- January 1, 2023, for built-in consumer refrigeration products and cold storage warehouses; and
- January 1, 2024, for centrifugal chillers and positive displacement chillers.

For any restricted uses covered in the 2015 EPA regulation but not covered by the above list, the effective date of the restrictions is the latter of January 1, 2020, or the effective date of the EPA regulation. Products manufactured prior to the effective date of a restriction may be sold, imported, exported, distributed, installed, and used after the effective date of the restriction, and persons that acquired products or equipment, including commercial refrigeration equipment, prior to the effective date are not required to cease use of restricted types of products or equipment. However, when products are retrofit from using one refrigerant to another, the products may not use a restricted HFC.

For restrictions in the EPA regulation on motor vehicle air conditioning, the Department of Ecology (ECY) may adopt rules restricting the uses addressed by the EPA regulation within 12 months of another state's enactment or adoption of such restrictions. These restrictions may address the manufacture, sale, lease, or other introduction into commerce by vehicle manufacturers. Restrictions on the use of ODS substitutes in motor vehicle air conditioning may not take effect prior to the effective date of the restrictions of at least one other state.

The ECY must expeditiously propose a draft rule to conform with any future EPA approval of certain previously prohibited HFC blends for foam blowing and spray foam.

The ECY may, by rule:

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

Manufacturers of products that contain or use ODS substitutes must disclose the use of the ODS substitutes in the form of:

- a label on the product or equipment that meets requirements established by the ECY by rule. The ECY must recognize existing labeling requirements to the extent feasible, must consider labeling requirements of other state building codes and other safety standards, and may not require labeling of aircraft or aircraft components;
- submitting information to the ECY about the use of ODS substitutes by December 2019, within 120 days of a restriction taking effect, and within 120 days of new products or equipment being introduced that are of a product class that use HFCs.

The ECY may adopt rules, and in doing so must seek to be consistent with or the same as the regulations adopted by the federal government or with other states that have adopted restrictions on HFCs and other ODS substitutes. Prior to adopting a rule, the ECY must cite the sources of information that it relied upon, including peer-reviewed science.

Acceptable uses for ODS substitutes for aircraft maintenance under the vacated EPA regulation must be interpreted by the ECY to apply to the production, manufacture, or repair of aircraft, aircraft parts, or aerospace vehicles and components. 2-BTP or other compounds being used in aerospace fire extinguishing systems are not considered ODS substitutes subject to state restrictions.

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

Other Provisions.
The Department of Enterprise Services (DES) must establish a purchasing procurement policy favoring HFC-free products, or products that use ODS substitutes with comparatively low global warming potential. Every two years beginning December, 1, 2020, the DES must submit status reports to the Legislature regarding their implementation of this policy.

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

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

A severability clause is included.

Votes on Final Passage:

House	55	39	
Senate	35	13	(Senate amended)
House			(House refused to concur)

Senate 30 19 (Senate receded)

Effective: July 28, 2019