

E3SHB 1091 - S COMM AMD

By Committee on Environment, Energy & Technology

OUT OF ORDER 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; after enacting their programs, neither state has experienced
12 disruptions to fuel markets or significant impacts to the costs of
13 transportation fuels, and both states have experienced biofuel sector
14 growth and have successfully sited large biofuel projects that had
15 originally been planned for Washington. Washington state has
16 extensively studied the potential impact of a clean fuels program,
17 and most projections show that a low carbon fuel standard would
18 decrease greenhouse gas and conventional air pollutant emissions,
19 while positively impacting the state's economy.

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

31 (3) Therefore, it is the intent of the legislature to support the
32 deployment of clean transportation fuel technologies through a

1 carefully designed program that reduces the carbon intensity of fuel
2 used in Washington, in order to:

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

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

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

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

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

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

18 (3) "Clean fuels program" means the requirements established
19 under this chapter.

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

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

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

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

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

38 (9) "Greenhouse gas" has the same meaning as defined in RCW
39 70A.45.010.

1 (10) "Military tactical vehicle" means a motor vehicle owned by
2 the United States department of defense or the United States military
3 services and that is used in combat, combat support, combat service
4 support, tactical or relief operations, or training for such
5 operations.

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

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

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

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

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

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

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

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

36 (c) Must assign a compliance obligation to fuels whose carbon
37 intensity exceeds the standards adopted by the department, consistent
38 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) (a) The rules adopted under this section must reduce the
7 greenhouse gas emissions attributable to each unit of the fuels to 10
8 percent below 2017 levels by 2028 and 20 percent below 2017 levels by
9 2035.

10 (b) The rules must establish a start date for the clean fuels
11 program of no later than January 1, 2023.

12 (c) By December 31, 2031, the department must adopt updated rules
13 that reduce the greenhouse gas emissions attributable to each unit of
14 transportation fuels applicable to each year through 2050. The
15 department must adopt rules that set the greenhouse gas emissions
16 attributable to each unit of transportation fuel in the year 2050 so
17 that total emissions from transportation sources in 2050 are
18 consistent with the state achieving the emissions limits established
19 in RCW 70A.45.020.

20 (3) Transportation fuels exported from Washington are not subject
21 to the greenhouse gas emissions reduction requirements in this
22 section.

23 (4) To the extent the requirements of this chapter conflict with
24 the requirements of chapter 19.112 RCW, the requirements of this
25 chapter prevail.

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

30 (1) Standards for greenhouse gas emissions attributable to the
31 transportation fuels throughout their life cycles, including but not
32 limited to emissions from the production, storage, transportation,
33 and combustion of transportation fuels and from changes in land use
34 associated with transportation fuels and any permanent greenhouse gas
35 sequestration activities.

36 (a) The rules adopted by the department under this subsection (1)
37 may:

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

1 (ii) Consider carbon intensity calculations for transportation
2 fuels developed by national laboratories or used by similar programs
3 in other states; and

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

7 (b) The rules adopted by the department under this subsection (1)
8 must:

9 (i) Neutrally consider the life-cycle emissions associated with
10 transportation fuels with respect to the political jurisdiction in
11 which the fuels originated and may not discriminate against fuels on
12 the basis of having originated in another state or jurisdiction.
13 Nothing in this subsection may be construed to prohibit inclusion or
14 assessment of emissions related to fuel production, storage,
15 transportation, or combustion or associated changes in land use in
16 determining the carbon intensity of a fuel;

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

23 (iii) Include mechanisms for certifying electricity that has a
24 carbon intensity of zero. This electricity must include, at minimum,
25 electricity:

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

28 (B) Produced using a zero emission resource including, but not
29 limited to, solar, wind, geothermal, or the industrial combustion of
30 biomass consistent with RCW 70A.45.020(3), that is directly supplied
31 as a transportation fuel by the generator of the electricity to a
32 metered customer for electric vehicle charging or refueling;

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

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

1 (c) If the department determines that it is necessary for
2 purposes of accurately measuring greenhouse gas emissions associated
3 with transportation fuels, the department may require transportation
4 fuel suppliers to submit data or information to be used for purposes
5 of calculating greenhouse gas emissions that is different from or
6 additional to the greenhouse gas emissions data reported under RCW
7 70A.15.2200(5)(a)(iii).

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

19 (2) Provisions allowing for the achievement of limits on the
20 greenhouse gas emissions intensity of transportation fuels in section
21 3 of this act to be achieved by any combination of credit generating
22 activities capable of meeting such standards. Where such provisions
23 would not produce results counter to the emission reduction goals of
24 the program or prove administratively burdensome for the department,
25 the rules should provide each participant in the clean fuels program
26 with the opportunity to demonstrate appropriate carbon intensity
27 values taking into account both emissions from production facilities
28 and elsewhere in the production cycle, including changes in land use
29 and permanent greenhouse gas sequestration activities;

30 (3)(a) Methods for assigning compliance obligations and methods
31 for tracking tradable credits. The department may assign the
32 generation of a credit when a fuel with associated life-cycle
33 greenhouse gas emissions that are lower than the applicable per-unit
34 standard adopted by the department under section 3 of this act is
35 produced, imported, or dispensed for use in Washington, or when
36 specified activities are undertaken that support the reduction of
37 greenhouse gas emissions associated with transportation in
38 Washington;

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

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

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

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

17 (6) Mechanisms that allow for the assignment of credits to an
18 electric utility for electricity used within its utility service
19 area, at minimum, for residential electric vehicle charging or
20 fueling;

21 (7) Cost containment mechanisms.

22 (a) Cost containment mechanisms may include, but are not limited
23 to:

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

27 (ii) Similar procedures that provide a means of compliance with
28 the clean fuels program requirements in the event that a regulated
29 person has not been able to acquire sufficient volumes of credits at
30 the end of a compliance period; or

31 (iii) Similar procedures that ensure that credit prices do not
32 significantly exceed credit prices in other jurisdictions that have
33 adopted similar programs to reduce the carbon intensity of
34 transportation fuels.

35 (b) Any cost containment mechanisms must be designed to provide
36 financial disincentive for regulated persons to rely on the cost
37 containment mechanism for purposes of program compliance instead of
38 seeking to generate or acquire sufficient credits under the program.

1 (c) The department shall harmonize the program's cost containment
2 mechanisms with the cost containment rules in the states specified in
3 section 7(1) of this act.

4 (d) The department shall consider mechanisms such as the
5 establishment of a credit price cap or other alternative cost
6 containment measures if deemed necessary to harmonize market credit
7 costs with those in the states specified in section 7(1) of this act;

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

12 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and
13 4 of this act must include exemptions for, at minimum, the following
14 transportation fuels:

15 (a) Fuels used in volumes below thresholds adopted by the
16 department;

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

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

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

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

26 (ii) Dyed special fuel used in vehicles that are not designed
27 primarily to transport persons or property, that are not designed to
28 be primarily operated on highways, and that are used primarily for
29 construction work including, but not limited to, mining and timber
30 harvest operations; and

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

33 (b) Prior to January 1, 2028, fuels identified in this subsection
34 (2) are eligible to generate credits, consistent with subsection (5)
35 of this section. Beginning January 1, 2028, the fuels identified in
36 this subsection (2) are subject to the greenhouse gas emission
37 intensity reduction requirements applicable to transportation fuels
38 specified in section 3 of this act.

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

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

12 (a) Mismatched incentives across programs;

13 (b) Fuel shifting between markets; or

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

15 (5) Nothing in this chapter precludes the department from
16 adopting rules under sections 3 and 4 of this act that allow the
17 generation of credits associated with electric or alternative
18 transportation infrastructure that existed prior to the effective
19 date of this section or to the start date of program requirements.
20 The department must apply the same baseline years to credits
21 associated with electric or alternative transportation infrastructure
22 that apply to gasoline and diesel liquid fuels in any market-based
23 program enacted by the legislature that establishes a cap on
24 greenhouse gas emissions.

25 NEW SECTION. **Sec. 6.** (1) The rules adopted under sections 3 and
26 4 of this act may allow the generation of credits from activities
27 that support the reduction of greenhouse gas emissions associated
28 with transportation in Washington, including but not limited to:

29 (a) Carbon capture and sequestration projects, including but not
30 limited to:

31 (i) Innovative crude oil production projects that include carbon
32 capture and sequestration;

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

36 (iii) Direct air capture projects;

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

1 (c) Infrastructure investments in broadband access associated
2 with facilitating remote work and therefore reducing transportation
3 emissions, consistent with the 2021 state energy strategy
4 recommendation. The department may establish a metric for the
5 allocation of credits per foot of installed broadband infrastructure
6 that varies by technology type including, but not limited to, cable,
7 digital subscriber line, and fiber broadband;

8 (d) The fueling of battery or fuel cell electric vehicles by a
9 commercial, nonprofit, or public entity that is not an electric
10 utility, which may include, but is not limited to, the fueling of
11 vehicles using electricity certified by the department to have a
12 carbon intensity of zero; and

13 (e) The use of smart vehicle charging technology that results in
14 the fueling of an electric vehicle during times when the carbon
15 intensity of grid electricity is comparatively low.

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

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

23 (3) The rules adopted by the department may establish limits for
24 the number of credits that may be earned each year by persons
25 participating in the program for some or all of the activities
26 specified in subsections (1) and (2) of this section. Any limits
27 established under this subsection must take into consideration the
28 return on investment required in order for an activity specified in
29 subsection (2) of this section to be financially viable.

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

35 (a) Have adopted low carbon fuel standards or similar greenhouse
36 gas emissions requirements applicable specifically to transportation
37 fuels; and

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

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

3 (2) The department must establish and periodically consult a
4 stakeholder advisory panel, including representatives of forestland
5 and agricultural landowners, for purposes of soliciting input on how
6 to best incentivize and allot credits for the sequestration of
7 greenhouse gases through activities on agricultural and forestlands
8 in a manner that is consistent with the goals and requirements of
9 this chapter.

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

14 (4) In any reports to the legislature under section 10 of this
15 act, on the department's website, or in other public documents or
16 communications that refer to assumed public health benefits
17 associated with the program created in this chapter, the department
18 must distinguish between public health benefits from small
19 particulate matter and other conventional pollutant reductions
20 achieved primarily as a result of vehicle emission standards
21 established under chapter 70A.30 RCW, and the incremental benefits to
22 air pollution attributable to the program created under this chapter.

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

27 (b) Electric vehicle manufacturers and producers, importers,
28 distributors, users, and retailers of transportation fuels that are
29 eligible to generate credits consistent with section 4(3) of this act
30 must register with the department if they elect to participate in the
31 clean fuels program.

32 (c) Other persons must register with the department to generate
33 credits from other activities that support the reduction of
34 greenhouse gas emissions associated with transportation in
35 Washington.

36 (2) Each transaction transferring ownership of transportation
37 fuels for which clean fuels program participation is mandated must be
38 accompanied by documentation, in a format approved by the department,
39 that assigns the clean fuels program compliance responsibility

1 associated with the fuels, including the assignment of associated
2 credits. The department may also require documentation assigning
3 clean fuels program compliance responsibility associated with fuels
4 for which program participation has been elected.

5 (3) The department may adopt rules requiring the periodic
6 reporting of information to the department by persons associated with
7 the supply chains of transportation fuels participating in the clean
8 fuels program. To the extent practicable, the rules must establish
9 reporting procedures and timelines that are consistent with similar
10 programs in other states that reduce the greenhouse gas emission
11 intensity of transportation fuel and with procedures and timelines of
12 state programs requiring similar information to be reported by
13 regulated parties, including electric utilities.

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

16 NEW SECTION. **Sec. 9.** (1)(a) Fifty percent of the revenues
17 generated by an electric utility from credits earned from the
18 electricity supplied to retail customers by an electric utility under
19 the clean fuels program must be expended by the electric utility on
20 transportation electrification projects, which may include projects
21 to support the production and provision of hydrogen and other gaseous
22 fuels produced from nonfossil feedstocks, and derivatives thereof as
23 a transportation fuel.

24 (b) Sixty percent of the revenues described in (a) of this
25 subsection, or 30 percent of the revenues generated by an electric
26 utility from credits earned from the electricity supplied to retail
27 customers by an electric utility under the clean fuels program, must
28 be expended by the electric utility on transportation electrification
29 projects, which may include projects to support the production and
30 provision of hydrogen and other gaseous fuels produced from nonfossil
31 feedstocks, and derivatives thereof as a transportation fuel, located
32 within or directly benefiting a federally designated nonattainment or
33 maintenance area, a federally designated nonattainment or maintenance
34 area that existed as of January 1, 2021, a disproportionately
35 impacted community identified by the department of health, or an area
36 designated by the department as being at risk of nonattainment, if
37 such a nonattainment or maintenance area or disproportionately
38 impacted community is within the service area of the utility.

1 (2) For the 50 percent of revenues not subject to the
2 requirements of subsection (1) of this section, the department, in
3 consultation with the utilities and transportation commission, must
4 adopt requirements for the expenditure of revenues from credits
5 earned from the electricity supplied to retail customers by an
6 electric utility under the clean fuels program. The department must
7 provide for the establishment and funding of a statewide clean fuel
8 reward program to provide light duty vehicle consumers with
9 reasonable purchase incentives and require that at least some portion
10 of the 50 percent of revenues subject to this subsection be
11 contributed by each electric utility to such a program. The clean
12 fuel reward program must provide a price reduction to vehicle
13 purchasers or leasers at the time of purchase or lease on electric
14 vehicle purchases or leases in Washington. Any requirements for the
15 expenditure of revenues from credits earned from the electricity
16 supplied to retail customers by an electric utility under the clean
17 fuels program must be developed in consultation with electric
18 utilities, automobile manufacturers, and car dealers.

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

23 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2025, and each May
24 1st thereafter, the department must post a report on the department's
25 website that includes the following information regarding the
26 previous calendar year of clean fuels program activities:

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

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

32 (c) The best estimate or range in probable costs or cost savings
33 attributable to the clean fuels program per gallon of gasoline and
34 per gallon of diesel, as determined by an independent consultant
35 whose services the department has contracted. The estimate or range
36 in probable costs or cost savings from the independent consultant
37 must be announced in a press release to the news media at the time
38 that the report under this subsection (1) is posted to the
39 department's website, and must be simultaneously reported to the

1 transportation committees of the house of representatives and the
2 senate;

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

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

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

12 (3) By May 1, 2025, and each May 1st thereafter, the department
13 must submit the report required under subsection (1) of this section
14 to the appropriate committees of the house of representatives and
15 senate.

16 (4) The department must contract for a one-time ex ante
17 independent analysis of the information specified in subsection
18 (1)(c) of this section covering each year of the program through
19 2035. The analysis must be informed by input from stakeholders,
20 including regulated industries, and informed by experience from other
21 jurisdictions. The analysis must impute price impacts using multiple
22 analytical methodologies and must make clear how the assumptions or
23 factors considered differed in each methodology used and price impact
24 imputed. The analysis required in this subsection must be completed
25 and submitted to the appropriate committees of the legislature by
26 July 1, 2022.

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

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

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

38 (a) An estimate of the potential volumes of gasoline, gasoline
39 substitutes, and gasoline alternatives, and diesel, diesel

1 substitutes, and diesel alternatives available to Washington. In
2 developing this estimate, the department of commerce must consider,
3 but is not limited to considering:

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

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

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

13 (c) An estimate of the number of credits needed to meet the
14 applicable clean fuels program requirements during the forecasted
15 compliance period; and

16 (d) A comparison in the estimates of (a) and (b) of this
17 subsection with the estimate in (c) of this subsection, for the
18 purpose of indicating the availability of fuels needed for compliance
19 with the requirements of this chapter.

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

26 NEW SECTION. **Sec. 12.** (1) The director of the department may
27 issue an order declaring an emergency deferral of compliance with the
28 carbon intensity standard established under section 3 of this act no
29 later than 15 calendar days after the date the department determines,
30 in consultation with the governor's office and the department of
31 commerce, that:

32 (a) Extreme and unusual circumstances exist that prevent the
33 distribution of an adequate supply of renewable fuels needed for
34 regulated parties to comply with the clean fuels program taking into
35 consideration all available methods of obtaining sufficient credits
36 to comply with the standard;

37 (b) The extreme and unusual circumstances are the result of a
38 natural disaster, an act of God, a significant supply chain
39 disruption or production facility equipment failure, or another event

1 that could not reasonably have been foreseen or prevented and not the
2 lack of prudent planning on the part of the suppliers of the fuels to
3 the state; and

4 (c) It is in the public interest to grant the deferral such as
5 when a deferral is necessary to meet projected temporary shortfalls
6 in the supply of the renewable fuel in the state and that other
7 methods of obtaining compliance credits are unavailable to compensate
8 for the shortage of renewable fuel supply.

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

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

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

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

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

20 (a) The duration of the emergency deferral;

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

22 (c) Which of the following methods the department has selected
23 for deferring compliance with the clean fuels program during the
24 emergency deferral:

25 (i) Temporarily adjusting the scheduled applicable carbon
26 intensity standard to a standard identified in the order that better
27 reflects the availability of credits during the emergency deferral
28 and requiring regulated parties to comply with the temporary
29 standard;

30 (ii) Allowing for the carryover of deficits accrued during the
31 emergency deferral into the next compliance period without penalty;
32 or

33 (iii) Suspending deficit accrual during the emergency deferral
34 period.

35 (4) An emergency deferral may be terminated prior to the
36 expiration date of the emergency deferral if new information becomes
37 available indicating that the shortage that provided the basis for
38 the emergency deferral has ended. The director of the department
39 shall consult with the department of commerce and the governor's
40 office in making an early termination decision. Termination of an

1 emergency deferral is effective 15 calendar days after the date that
2 the order declaring the termination is adopted.

3 (5) (a) In addition to the emergency deferral specified in
4 subsection (1) of this section, the department may issue a full or
5 partial deferral for one calendar quarter of a person's obligation to
6 furnish credits for compliance under section 4 of this act if it
7 finds that the person is unable to comply with the requirements of
8 this chapter due to reasons beyond the person's reasonable control.
9 The department may initiate a deferral under this subsection at its
10 own discretion or at the request of a person regulated under this
11 chapter. The department may renew issued deferrals. In evaluating
12 whether to issue a deferral under this subsection, the department may
13 consider the results of the fuel supply forecast in section 11 of
14 this act, but is not bound in its decision-making discretion by the
15 results of the forecast.

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

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

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

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

27 NEW SECTION. **Sec. 13.** (1) The department may require that
28 persons that are required or elect to register or report under this
29 chapter pay a fee. If the department elects to require program
30 participants to pay a fee, the department must, after an opportunity
31 for public review and comment, adopt rules to establish a process to
32 determine the payment schedule and the amount of the fee charged. The
33 amount of the fee must be set so as to equal but not exceed the
34 projected direct and indirect costs to the department for developing
35 and implementing the program and the projected direct and indirect
36 costs to the department of commerce to carry out its responsibilities
37 under section 11 of this act. The department and the department of
38 commerce must prepare a biennial workload analysis and provide an
39 opportunity for public review of and comment on the workload

1 analysis. The department shall enter into an interagency agreement
2 with the department of commerce to implement this section.

3 (2) The clean fuels program account is created in the state
4 treasury. All receipts from fees and penalties received under the
5 program created in this chapter must be deposited into the account.
6 Moneys in the account may be spent only after appropriation. The
7 department may only use expenditures from the account for carrying
8 out the program created in this chapter.

9 NEW SECTION. **Sec. 14.** (1) By December 1, 2029, the joint
10 legislative audit and review committee must analyze the impacts of
11 the initial five years of clean fuels program implementation and must
12 submit a report summarizing the analysis to the legislature. The
13 analysis must include, at minimum, the following components:

14 (a) Costs and benefits, including environmental and public health
15 costs and benefits, associated with this chapter for categories of
16 persons participating in the clean fuels program or that are most
17 impacted by air pollution, as defined in consultation with the
18 departments of ecology and health and as measured on a census tract
19 scale. This component of the analysis must, at minimum, assess the
20 costs and benefits of changes in the following metrics since the
21 start of the program:

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

25 (ii) Fuel prices; and

26 (iii) Total employment in categories of industries generating
27 credits or deficits. The categories of industries assessed must
28 include but are not limited to electric utilities, oil refineries,
29 and other industries involved in the production of high carbon fuels,
30 industries involved in the delivery and sale of high carbon fuels,
31 biofuel refineries, and industries involved in the delivery and sale
32 of low carbon fuels;

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

35 (c) A summary of the estimated total statewide costs and benefits
36 attributable to the clean fuels program, including state agency
37 administrative costs and regulated entity compliance costs. For
38 purposes of calculating the benefits of the program, the summary may
39 rely, in part, on a constant value of the social costs attributable

1 to greenhouse gas emissions, as identified in contemporary
2 internationally accepted estimates of such global social cost. This
3 summary must include an estimate of the total statewide costs of the
4 program per ton of greenhouse gas emissions reductions achieved by
5 the clean fuels program.

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

7 NEW SECTION. **Sec. 15.** A new section is added to chapter 82.04
8 RCW to read as follows:

9 (1) This chapter does not apply to amounts received from the
10 generation, purchase, sale, transfer, or retirement of credits under
11 chapter 70A.--- RCW (the new chapter created in section 25 of this
12 act).

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

15 **Sec. 16.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each
16 amended to read as follows:

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

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

- 23 (i) Must be based on the motor vehicle scale weight;
- 24 (ii) Is the difference determined by subtracting the vehicle
25 license fee required in RCW 46.17.350 from the license fee in
26 Schedule B of RCW 46.17.355, plus two dollars; and
- 27 (iii) Must be distributed under RCW 46.68.415.

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

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

31	WEIGHT	FEE
32	4,000 pounds	\$ 25.00
33	6,000 pounds	\$ 45.00
34	8,000 pounds	\$ 65.00
35	16,000 pounds and over	\$ 72.00;

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

4 (iii) Must be distributed under RCW 46.68.415 unless prior to
5 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this
6 subsection occur, in which case the portion of the revenue that is
7 the result of the fee increased in this subsection must be
8 distributed to the connecting Washington account created under RCW
9 46.68.395.

10 (A) Any state agency files a notice of rule making under chapter
11 34.05 RCW, absent explicit legislative authorization enacted
12 subsequent to July 1, 2015, for a rule regarding a fuel standard
13 based upon or defined by the carbon intensity of fuel, including a
14 low carbon fuel standard or clean fuel standard.

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

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

25 (2) A person applying for a motor home vehicle registration
26 shall, in lieu of the motor vehicle weight fee required in subsection
27 (1) of this section, pay a motor home vehicle weight fee of seventy-
28 five dollars in addition to all other fees and taxes required by law.
29 The motor home vehicle weight fee must be distributed under RCW
30 46.68.415.

31 (3) Beginning July 1, 2022, in addition to the motor vehicle
32 weight fee as provided in subsection (1) of this section, the
33 department, county auditor or other agent, or subagent appointed by
34 the director must require an applicant to pay an additional weight
35 fee of ten dollars, which must be distributed to the multimodal
36 transportation account under RCW 47.66.070 unless prior to July 1,
37 2023, the actions described in (a) or (b) of this subsection occur,
38 in which case the portion of the revenue that is the result of the
39 fee increased in this subsection must be distributed to the
40 connecting Washington account created under RCW 46.68.395.

1 (a) Any state agency files a notice of rule making under chapter
2 34.05 RCW, absent explicit legislative authorization enacted
3 subsequent to July 1, 2015, for a rule regarding a fuel standard
4 based upon or defined by the carbon intensity of fuel, including a
5 low carbon fuel standard or clean fuel standard.

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

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

16 (4) The department shall:

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

20 (b) Adopt rules for determining weight for vehicles without
21 manufacturer empty scale weights.

22 **Sec. 17.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each
23 amended to read as follows:

24 (1) When a person has been disqualified from operating a
25 commercial motor vehicle, the person is not entitled to have the
26 commercial driver's license or commercial learner's permit restored
27 until after the expiration of the appropriate disqualification period
28 required under RCW 46.25.090 or until the department has received a
29 drug and alcohol assessment and evidence is presented of satisfactory
30 participation in or completion of any required drug or alcohol
31 treatment program for ending the disqualification under RCW
32 46.25.090(7). After expiration of the appropriate period and upon
33 payment of a requalification fee of twenty dollars until June 30,
34 2016, and thirty-five dollars beginning July 1, 2016, or one hundred
35 fifty dollars if the person has been disqualified under RCW
36 46.25.090(7), the person may apply for a new, duplicate, or renewal
37 commercial driver's license or commercial learner's permit as
38 provided by law. If the person has been disqualified for a period of
39 one year or more, the person shall demonstrate that he or she meets

1 the commercial driver's license or commercial learner's permit
2 qualification standards specified in RCW 46.25.060.

3 (2) The fees under this section must be deposited into the
4 highway safety fund unless prior to July 1, 2023, the actions
5 described in (a) or (b) of this subsection occur, in which case the
6 portion of the revenue that is the result of the fee increased in
7 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be
8 distributed to the connecting Washington account created under RCW
9 46.68.395.

10 (a) Any state agency files a notice of rule making under chapter
11 34.05 RCW, absent explicit legislative authorization enacted
12 subsequent to July 1, 2015, for a rule regarding a fuel standard
13 based upon or defined by the carbon intensity of fuel, including a
14 low carbon fuel standard or clean fuel standard.

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

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

25 **Sec. 18.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to
26 read as follows:

27 (1) The department may enter into a memorandum of understanding
28 with any federal agency for the purposes of facilitating the crossing
29 of the border between the state of Washington and the Canadian
30 province of British Columbia.

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

34 (3)(a) The department may issue an enhanced driver's license or
35 identicard for the purposes of crossing the border between the state
36 of Washington and the Canadian province of British Columbia to an
37 applicant who provides the department with proof of: United States
38 citizenship, identity, and state residency. The department shall
39 continue to offer a standard driver's license and identicard. If the

1 department chooses to issue an enhanced driver's license, the
2 department must allow each applicant to choose between a standard
3 driver's license or identicard, or an enhanced driver's license or
4 identicard.

5 (b) The department shall implement a one-to-many biometric
6 matching system for the enhanced driver's license or identicard. An
7 applicant for an enhanced driver's license or identicard shall submit
8 a biometric identifier as designated by the department. The biometric
9 identifier must be used solely for the purpose of verifying the
10 identity of the holders and for any purpose set out in RCW 46.20.037.
11 Applicants are required to sign a declaration acknowledging their
12 understanding of the one-to-many biometric match.

13 (c) The enhanced driver's license or identicard must include
14 reasonable security measures to protect the privacy of Washington
15 state residents, including reasonable safeguards to protect against
16 unauthorized disclosure of data about Washington state residents. If
17 the enhanced driver's license or identicard includes a radio
18 frequency identification chip, or similar technology, the department
19 shall ensure that the technology is encrypted or otherwise secure
20 from unauthorized data access.

21 (d) The requirements of this subsection are in addition to the
22 requirements otherwise imposed on applicants for a driver's license
23 or identicard. The department shall adopt such rules as necessary to
24 meet the requirements of this subsection. From time to time the
25 department shall review technological innovations related to the
26 security of identity cards and amend the rules related to enhanced
27 driver's licenses and identicards as the director deems consistent
28 with this section and appropriate to protect the privacy of
29 Washington state residents.

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

34 (4) Beginning on July 23, 2017, the fee for an enhanced driver's
35 license or enhanced identicard is twenty-four dollars, which is in
36 addition to the fees for any regular driver's license or identicard.
37 If the enhanced driver's license or enhanced identicard is issued,
38 renewed, or extended for a period other than six years, the fee for
39 each class is four dollars for each year that the enhanced driver's
40 license or enhanced identicard is issued, renewed, or extended.

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

8 (a) Any state agency files a notice of rule making under chapter
9 34.05 RCW, absent explicit legislative authorization enacted
10 subsequent to July 1, 2015, for a rule regarding a fuel standard
11 based upon or defined by the carbon intensity of fuel, including a
12 low carbon fuel standard or clean fuel standard.

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

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

23 **Sec. 19.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each
24 amended to read as follows:

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

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

30 (b) Passed the general knowledge examination required for
31 issuance of a CDL under RCW 46.25.060 for the commercial motor
32 vehicle classification in which the applicant operates or expects to
33 operate; and

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

37 (2) A CLP must be marked "commercial learner's permit" or "CLP,"
38 and must be, to the maximum extent practicable, tamperproof. Other

1 than a photograph of the applicant, it must include, but not be
2 limited to, the information required on a CDL under RCW 46.25.080(1).

3 (3) The holder of a CLP may drive a commercial motor vehicle on a
4 highway only when in possession of a valid driver's license and
5 accompanied by the holder of a valid CDL who has the proper CDL
6 classification and endorsement or endorsements necessary to operate
7 the commercial motor vehicle. The CDL holder must at all times be
8 physically present in the front seat of the vehicle next to the CLP
9 holder or, in the case of a passenger vehicle, directly behind or in
10 the first row behind the driver and must have the CLP holder under
11 observation and direct supervision.

12 (4) A CLP may be classified in the same manner as a CDL under RCW
13 46.25.080(2)(a).

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

16 (a) The holder of a CLP with a P endorsement must have taken and
17 passed the P endorsement knowledge examination. The holder of a CLP
18 with a P endorsement is prohibited from operating a commercial motor
19 vehicle carrying passengers other than authorized employees or
20 representatives of the department and the federal motor carrier
21 safety administration, examiners, other trainees, and the CDL holder
22 accompanying the CLP holder as required under subsection (2) of this
23 section. The P endorsement must be class specific.

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

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

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

39 (a) "P" restricts the driver from operating a bus with
40 passengers;

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

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

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

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

10 (9) The department must transmit the fees collected for CLPs to
11 the state treasurer for deposit in the highway safety fund unless
12 prior to July 1, 2023, the actions described in (a) or (b) of this
13 subsection occur, in which case the portion of the revenue that is
14 the result of the fee increased in section 206, chapter 44, Laws of
15 2015 3rd sp. sess. must be distributed to the connecting Washington
16 account created under RCW 46.68.395.

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

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

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

32 **Sec. 20.** RCW 46.25.060 and 2020 c 78 s 2 are each amended to
33 read as follows:

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

36 (i) Is a resident of this state;

37 (ii) Has successfully completed a course of instruction in the
38 operation of a commercial motor vehicle that has been approved by the

1 director or has been certified by an employer as having the skills
2 and training necessary to operate a commercial motor vehicle safely;

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

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

14 (b) In addition to the fee charged for issuance or renewal of any
15 license, the applicant shall pay a fee of no more than ten dollars
16 until June 30, 2016, and thirty-five dollars beginning July 1, 2016,
17 for the classified knowledge examination, classified endorsement
18 knowledge examination, or any combination of classified license and
19 endorsement knowledge examinations. The applicant shall pay a fee of
20 no more than one hundred dollars until June 30, 2016, and two hundred
21 fifty dollars beginning July 1, 2016, for each classified skill
22 examination or combination of classified skill examinations conducted
23 by the department.

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

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

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

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

36 (d) If the applicant's primary use of a commercial driver's
37 license is for any of the following, then the applicant shall pay a
38 fee of no more than seventy-five dollars until June 30, 2016, and two
39 hundred twenty-five dollars beginning July 1, 2016, for the
40 classified skill examination or combination of classified skill

1 examinations whether conducted by the department or a third-party
2 tester:

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

5 (ii) Public benefit not-for-profit corporations that support
6 early childhood education and assistance programs as described in RCW
7 43.216.505.

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

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

16 (2)(a) The department may waive the skills examination and the
17 requirement for completion of a course of instruction in the
18 operation of a commercial motor vehicle specified in this section for
19 a commercial driver's license applicant who meets the requirements of
20 49 C.F.R. Sec. 383.77. For current or former military service members
21 that meet the requirements of 49 C.F.R. Sec. 383.77, the department
22 may also waive the requirements for a knowledge test for commercial
23 driver's license applicants. Beginning December 1, 2021, the
24 department shall provide an annual report to the house and senate
25 transportation committees and the joint committee on veterans' and
26 military affairs of the legislature on the number and types of
27 waivers granted pursuant to this subsection.

28 (b) An applicant who operates a commercial motor vehicle for
29 agribusiness purposes is exempt from the course of instruction
30 completion and employer skills and training certification
31 requirements under this section. By January 1, 2010, the department
32 shall submit recommendations regarding the continuance of this
33 exemption to the transportation committees of the legislature. For
34 purposes of this subsection (2)(b), "agribusiness" means a private
35 carrier who in the normal course of business primarily transports:

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

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

1 (iii) Unprocessed agricultural commodities, as defined in RCW
2 17.21.020, where such commodities are produced by farmers, ranchers,
3 vineyardists, or orchardists; or

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

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

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

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

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

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

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

38 **Sec. 21.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended
39 to read as follows:

1 (1) Any person who knowingly violates any of the provisions of
2 this chapter ((~~the~~)), chapter 70A.25 or 70A.--- (the new chapter
3 created in section 25 of this act) RCW, RCW 70A.45.080, or any
4 ordinance, resolution, or regulation in force pursuant thereto is
5 guilty of a gross misdemeanor and upon conviction thereof shall be
6 punished by a fine of not more than ten thousand dollars, or by
7 imprisonment in the county jail for up to three hundred sixty-four
8 days, or by both for each separate violation.

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

17 (3) Any person who knowingly releases into the ambient air any
18 substance listed by the department of ecology as a hazardous air
19 pollutant, other than in compliance with the terms of an applicable
20 permit or emission limit, and who knows at the time that he or she
21 thereby places another person in imminent danger of death or
22 substantial bodily harm, is guilty of a class C felony and shall,
23 upon conviction, be punished by a fine of not less than fifty
24 thousand dollars, or by imprisonment for not more than five years, or
25 both.

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

30 **Sec. 22.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended
31 to read as follows:

32 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and
33 43.05.150, and in addition to or as an alternate to any other penalty
34 provided by law, any person who violates any of the provisions of
35 this chapter, chapter 70A.25 ((~~the~~)), 70A.450, or 70A.--- (the new
36 chapter created in section 25 of this act) RCW, RCW 70A.45.080, or
37 any of the rules in force under such chapters or section may incur a
38 civil penalty in an amount not to exceed ten thousand dollars per day
39 for each violation. Each such violation shall be a separate and

1 distinct offense, and in case of a continuing violation, each day's
2 continuance shall be a separate and distinct violation.

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

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

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

16 (3) Each act of commission or omission which procures, aids or
17 abets in the violation shall be considered a violation under the
18 provisions of this section and subject to the same penalty. The
19 penalties provided in this section shall be imposed pursuant to RCW
20 43.21B.300.

21 (4) All penalties recovered under this section by the department
22 shall be paid into the state treasury and credited to the air
23 pollution control account established in RCW 70A.15.1010 or, if
24 recovered by the authority, shall be paid into the treasury of the
25 authority and credited to its funds. If a prior penalty for the same
26 violation has been paid to a local authority, the penalty imposed by
27 the department under subsection (1) of this section shall be reduced
28 by the amount of the payment.

29 (5) To secure the penalty incurred under this section, the state
30 or the authority shall have a lien on any vessel used or operated in
31 violation of this chapter which shall be enforced as provided in RCW
32 60.36.050.

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

37 (7) In addition to other penalties provided by this chapter,
38 persons knowingly under-reporting emissions or other information used
39 to set fees, or persons required to pay emission or permit fees who

1 are more than ninety days late with such payments may be subject to a
2 penalty equal to three times the amount of the original fee owed.

3 (8) The department shall develop rules for excusing excess
4 emissions from enforcement action if such excess emissions are
5 unavoidable. The rules shall specify the criteria and procedures for
6 the department and local air authorities to determine whether a
7 period of excess emissions is excusable in accordance with the state
8 implementation plan.

9 **Sec. 23.** RCW 19.112.110 and 2013 c 225 s 601 are each amended to
10 read as follows:

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

19 (2) Special fuel licensees under chapter 82.38 RCW, as determined
20 by the department of licensing, must provide evidence to the
21 department of licensing that at least five percent of total annual
22 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,
23 when the director determines, and publishes this determination in the
24 Washington State Register, that both in-state oil seed crushing
25 capacity and feedstock grown in Washington state can satisfy a
26 three-percent requirement.

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

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

33 (5) To the extent that the requirements of this section conflict
34 with the requirements of chapter 70A.--- (the new chapter created in
35 section 25 of this act) RCW, the requirements of chapter 70A.--- (the
36 new chapter created in section 25 of this act) RCW prevail.

37 **Sec. 24.** RCW 19.112.120 and 2013 c 225 s 602 are each amended to
38 read as follows:

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

6 (2) If the director of ecology determines that ethanol content
7 greater than two percent of the total gasoline sold in Washington
8 will not jeopardize continued attainment of the federal clean air
9 act's national ambient air quality standard for ozone pollution in
10 Washington and the director of agriculture determines and publishes
11 this determination in the Washington State Register that sufficient
12 raw materials are available within Washington to support economical
13 production of ethanol at higher levels, the director of agriculture
14 may require by rule that licensees provide evidence to the department
15 of licensing that denatured ethanol comprises between two percent and
16 at least ten percent of total gasoline sold in Washington, measured
17 on a quarterly basis.

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

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

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

29 (6) To the extent that the requirements of this section conflict
30 with the requirements of chapter 70A.--- (the new chapter created in
31 section 25 of this act) RCW, the requirements of chapter 70A.--- (the
32 new chapter created in section 25 of this act) RCW prevail.

33 NEW SECTION. Sec. 25. Sections 1 through 14 of this act
34 constitute a new chapter in Title 70A RCW.

35 NEW SECTION. Sec. 26. If specific funding for the purposes of
36 this act, referencing this act by bill or chapter number, is not
37 provided by June 30, 2021, in the omnibus appropriations act, this
38 act is null and void.

1 NEW SECTION. **Sec. 27.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected."

E3SHB 1091 - S COMM AMD

By Committee on Environment, Energy & Technology

OUT OF ORDER 04/08/2021

5 On page 1, line 2 of the title, after "fuel;" strike the
6 remainder of the title and insert "amending RCW 46.17.365, 46.25.100,
7 46.20.202, 46.25.052, 46.25.060, 70A.15.3150, 70A.15.3160,
8 19.112.110, and 19.112.120; adding a new section to chapter 82.04
9 RCW; adding a new chapter to Title 70A RCW; creating a new section;
10 prescribing penalties; and providing an expiration date."

EFFECT: Adds that the periodic fuel supply forecast report must consider existing and future vehicle fleets in Washington; any constraints that might be preventing access to available and cost-effective low carbon fuels; and a comparison in the estimates of potential volumes of fuels, the total banked credits and carried over deficits, and the number of credits needed to meet clean fuels program requirements.

Allows the department of commerce to appoint a forecast review team of relevant experts to participate in the fuel supply forecast of examination of data.

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.

Allows, rather than requires, the department of ecology to establish a metric for the allocation of credits per foot of installed broadband infrastructure.

Clarifies that the ex ante independent analysis of probable costs or cost savings per gallon of gasoline and diesel attributable to the clean fuels program is a one-time report.

Connects zero emission resources that are supplied as a transportation fuel by the generator of electricity to a metered customer for electric vehicle charging or refueling.

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