

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

ADOPTED AND ENGROSSED 04/08/2021

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

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

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

29 (3) The legislature finds that the clean fuel standard created in
30 this chapter will create jobs in Washington state in the production
31 and distribution of sustainable fuels like biofuels from agricultural
32 feedstocks and forest residuals, hydrogen produced from renewable
33 feedstocks, and more. In order to maximize the benefits of this

1 policy to Washington workers while also protecting the environment
2 for current and future generations, it is necessary to uphold and
3 improve upon the state's siting policies. By identifying priority
4 areas of the state for development and by developing methods to
5 further avoid, minimize, and mitigate environmental impacts
6 consistent with statute, rules, and guidance, Washington can protect
7 its environment, contribute to the global fight against climate
8 change, and support broadly shared prosperity.

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

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

15 (b) Reduce greenhouse gas emissions associated with
16 transportation fuels, which are the state's largest source of
17 greenhouse gas emissions; and

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

20 NEW SECTION. **Sec. 2.** The definitions in this section apply
21 throughout this chapter unless the context clearly indicates
22 otherwise.

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

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

28 (3) "Clean fuels program" means the requirements established
29 under this chapter.

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

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

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

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

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

10 (9) "Greenhouse gas" has the same meaning as defined in RCW
11 70A.45.010.

12 (10) "Military tactical vehicle" means a motor vehicle owned by
13 the United States department of defense or the United States military
14 services and that is used in combat, combat support, combat service
15 support, tactical or relief operations, or training for such
16 operations.

17 (11) "Motor vehicle" has the same meaning as defined in RCW
18 46.04.320.

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

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

25 (14)(a) "Tactical support equipment" means equipment using a
26 portable engine, including turbines, that meets military
27 specifications, owned by the United States military services or its
28 allies, and that is used in combat, combat support, combat service
29 support, tactical or relief operations, or training for such
30 operations.

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

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

38 NEW SECTION. **Sec. 3.** (1) The department shall adopt rules that
39 establish standards that reduce carbon intensity in transportation

1 fuels used in Washington. The standards established by the rules must
2 be based on the carbon intensity of gasoline and gasoline substitutes
3 and the carbon intensity of diesel and diesel substitutes. The
4 standards:

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

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

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

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

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

21 (a) Regulated parties generate deficits and may reconcile the
22 deficits, and thus comply with the clean fuels program standards for
23 a compliance period, by obtaining and retiring credits. This point of
24 compliance for motor vehicle fuel is the same as described in chapter
25 82.38 RCW;

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

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

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

32 (3) The department shall, throughout a compliance period,
33 regularly monitor the availability of fuels needed for compliance
34 with the clean fuels program.

35 (4)(a) Under the clean fuels program, the department shall
36 monthly calculate the volume-weighted average price of credits and,
37 no later than the last day of the month immediately following the
38 month for which the calculation is completed, post the formula and
39 the nonaggregated data the department used for the calculation and
40 the results of the calculation on the department's website.

1 (b) In completing the calculation required by this subsection,
2 the department may exclude from the data set credit transfers without
3 a price or other credit transfers made for a price that falls two
4 standard deviations outside of the mean credit price for the month.
5 Data posted on the department's website under this section may not
6 include any individually identifiable information or information that
7 would constitute a trade secret.

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

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

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

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

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

19 (b) The rules adopted under this section must not establish a
20 reduction level beyond 10 percent of greenhouse gas emissions
21 attributable to each unit of the fuels without explicit legislative
22 authorization enacted subsequent to January 1, 2029. By December 1,
23 2028, the department must submit agency request legislation that if
24 subsequently enacted would provide this authorization.

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

28 (6)(a) In order to coordinate and synchronize the clean fuels
29 program with other transportation-related investments, the department
30 must not assign compliance obligations under this act or allow for
31 any actual credit generation until a separate additive transportation
32 funding act becomes law, at which time the department of licensing
33 must provide written notice to the chief clerk of the house of
34 representatives, the secretary of the senate, and the office of the
35 code reviser.

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

1 (7) Beginning January 1, 2026, the department may not increase
2 the applicable clean fuels program standard adopted by the department
3 under subsection (5) of this section until the department can
4 demonstrate the following have occurred:

5 (a) At least a 25 percent net increase in the volume of in-state
6 liquid biofuel production and the use of agricultural feedstocks
7 grown within the state relative to the start of the program; and

8 (b) At least one new biofuels production facility producing in
9 excess of 60,000,000 gallons of biofuels per year has received all
10 necessary siting, operating, and environmental permits post all
11 applicable appeals.

12 (8) Beginning January 1, 2028, the department shall not increase
13 the applicable clean fuels program standard adopted by the department
14 under subsection (5) of this section until the department can
15 demonstrate that at least one new biofuel production facility
16 producing in excess of 60,000,000 gallons of biofuels per year has
17 received all necessary siting, operating, and environmental permits
18 post all applicable appeals.

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

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

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

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

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

37 (i) Include provisions to address the efficiency of a fuel as
38 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 (8) (a) (i) A credit clearance market for any compliance period in
23 which at least one regulated party reports that the regulated party
24 has a net deficit balance at the end of the compliance period, after
25 retirement of all credits held by the regulated party, that is
26 greater than a small deficit. A regulated party described by this
27 subsection is required to participate in the credit clearance market.

28 (ii) If a regulated party has a small deficit at the end of a
29 compliance period, the regulated party shall notify the department
30 that it will achieve compliance with the clean fuels program during
31 the compliance period by either: (A) Participating in a credit
32 clearance market; or (B) carrying forward the small deficit.

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

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

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

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

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

6 (iii) Require all sellers to:

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

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

11 (C) Agree to withhold any pledged credits at the maximum price
12 for credits.

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

15 (ii) For 2029 and subsequent years, the maximum price may exceed
16 \$200, but only to the extent that a greater maximum price for credits
17 is necessary to annually adjust for inflation, beginning on January
18 1, 2025, pursuant to the increase, if any, from the preceding
19 calendar year in the consumer price index for all urban consumers,
20 west region (all items), as published by the bureau of labor
21 statistics of the United States department of labor.

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

24 (i) Must carry over the remaining deficits into the next
25 compliance period; and

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

29 (e) If a regulated party has been required under (a) of this
30 subsection to participate as a purchaser in two consecutive credit
31 clearance markets and continues to have a net deficit balance after
32 the close of the second consecutive credit clearance market, the
33 department shall complete, no later than two months after the close
34 of the second credit clearance market, an analysis of the root cause
35 of an inability of the regulated party to retire the remaining
36 deficits. The department may recommend and implement any remedy that
37 the department determines is necessary to address the root cause
38 identified in the analysis, including but not limited to issuing a
39 deferral, provided that the remedy implemented does not:

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

4 (ii) Compel a person to sell credits.

5 (f) If credits sold in a credit clearance market are subsequently
6 invalidated as a result of fraud or any other form of noncompliance
7 on the part of the generator of the credit, the department may not
8 pursue civil penalties against, or require credit replacement by, the
9 regulated party that purchased the credits unless the regulated party
10 was a party to the fraud or other form of noncompliance.

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

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

18 (10)(a) The legislature intends to promote a growing and
19 sustainable economy and to avoid leakage of emissions from low carbon
20 fuel production to other locations. The legislature further intends
21 to see innovative new businesses locate and grow in Washington that
22 contribute to Washington's prosperity and environmental objectives.
23 Consistent with the intent of the legislature to avoid the leakage of
24 emissions to other jurisdictions, in achieving the state's greenhouse
25 gas limits in RCW 70A.45.020, the state intends to pursue the limits
26 in a manner that recognizes that the siting and placement of new best
27 in class low carbon fuel production facilities that provide for the
28 displacement of more carbon-intensive processes is in the economic
29 and environmental interests of the state of Washington.

30 (b) For new or expanded low carbon fuel production facilities
31 that require review under chapter 43.21C RCW, the department must
32 evaluate the net cumulative greenhouse gas emissions of the facility.
33 In evaluating the greenhouse gas emissions from a low carbon fuel
34 production facility, the department shall net its direct greenhouse
35 gas emissions with reductions associated with its fuel product
36 compared to the carbon intensity requirements established under this
37 chapter.

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

1 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and
2 4 of this act must include exemptions for, at minimum, the following
3 transportation fuels:

4 (a) Fuels used in volumes below thresholds adopted by the
5 department;

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

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

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

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

15 (ii) Dyed special fuel used in vehicles that are not designed
16 primarily to transport persons or property, that are not designed to
17 be primarily operated on highways, and that are used primarily for
18 construction work including, but not limited to, mining and timber
19 harvest operations; and

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

22 (b) Prior to January 1, 2028, fuels identified in this subsection
23 (2) are eligible to generate credits, consistent with subsection (5)
24 of this section. Beginning January 1, 2028, the fuels identified in
25 this subsection (2) are subject to the greenhouse gas emission
26 intensity reduction requirements applicable to transportation fuels
27 specified in section 3 of this act.

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

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

39 (a) Mismatched incentives across programs;

40 (b) Fuel shifting between markets; or

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

2 (5) Nothing in this chapter precludes the department from
3 adopting rules under sections 3 and 4 of this act that allow the
4 generation of credits associated with electric or alternative
5 transportation infrastructure that existed prior to the effective
6 date of this section or to the start date of program requirements.
7 The department must apply the same baseline years to credits
8 associated with electric or alternative transportation infrastructure
9 that apply to gasoline and diesel liquid fuels in any market-based
10 program enacted by the legislature that establishes a cap on
11 greenhouse gas emissions.

12 NEW SECTION. **Sec. 6.** (1) The rules adopted under sections 3 and
13 4 of this act may allow the generation of credits from activities
14 that support the reduction of greenhouse gas emissions associated
15 with transportation in Washington, including but not limited to:

16 (a) Carbon capture and sequestration projects, including but not
17 limited to:

18 (i) Innovative crude oil production projects that include carbon
19 capture and sequestration;

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

23 (iii) Direct air capture projects;

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

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

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

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

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

4 (3) The rules adopted under sections 3 and 4 of this act must
5 allow the generation of credits from state transportation investments
6 funded in an omnibus transportation appropriations act for activities
7 and projects that reduce greenhouse gas emissions and decarbonize the
8 transportation sector. These include, but are not limited to: (a)
9 Electrical grid and hydrogen fueling infrastructure investments; (b)
10 ferry operating and capital investments; (c) electrification of the
11 state ferry fleet; (d) alternative fuel vehicle rebate programs; (e)
12 transit grants; (f) infrastructure and other costs associated with
13 the adoption of alternative fuel use by transit agencies; (g) bike
14 and pedestrian grant programs and other activities; (h) complete
15 streets and safe walking grants and allocations; (i) rail funding;
16 and (j) multimodal investments.

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

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

29 (a) Have adopted low carbon fuel standards or similar greenhouse
30 gas emissions requirements applicable specifically to transportation
31 fuels; and

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

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

36 (2) The department must establish and periodically consult a
37 stakeholder advisory panel, including representatives of forestland
38 and agricultural landowners, for purposes of soliciting input on how
39 to best incentivize and allot credits for the sequestration of

1 greenhouse gases through activities on agricultural and forestlands
2 in a manner that is consistent with the goals and requirements of
3 this chapter.

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

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

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

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

26 (c) Other persons must register with the department to generate
27 credits from other activities that support the reduction of
28 greenhouse gas emissions associated with transportation in
29 Washington.

30 (2) Each transaction transferring ownership of transportation
31 fuels for which clean fuels program participation is mandated must be
32 accompanied by documentation, in a format approved by the department,
33 that assigns the clean fuels program compliance responsibility
34 associated with the fuels, including the assignment of associated
35 credits. The department may also require documentation assigning
36 clean fuels program compliance responsibility associated with fuels
37 for which program participation has been elected.

38 (3) The department may adopt rules requiring the periodic
39 reporting of information to the department by persons associated with

1 the supply chains of transportation fuels participating in the clean
2 fuels program. To the extent practicable, the rules must establish
3 reporting procedures and timelines that are consistent with similar
4 programs in other states that reduce the greenhouse gas emission
5 intensity of transportation fuel and with procedures and timelines of
6 state programs requiring similar information to be reported by
7 regulated parties, including electric utilities.

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

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

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

33 (2) The 50 percent of revenues not subject to the requirements of
34 subsection (1) of this section must be used for activities and
35 projects jointly determined by the department and the Washington
36 state department of transportation based on those with the highest
37 impact on reducing greenhouse gas emissions and decarbonizing the
38 transportation sector. These include, but are not limited to: (a)
39 Electrical grid and hydrogen fueling infrastructure investments; (b)

1 electrification of the state ferry fleet; (c) alternative fuel
2 vehicle rebate programs; and (d) infrastructure and other costs
3 associated with the adoption of alternative fuel use by transit
4 agencies.

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

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

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

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

18 (c) The best estimate or range in probable costs or cost savings
19 attributable to the clean fuels program per gallon of gasoline and
20 per gallon of diesel, as determined by an independent consultant
21 whose services the department has contracted. The estimate or range
22 in probable costs or cost savings from the independent consultant
23 must be announced in a press release to the news media at the time
24 that the report under this subsection (1) is posted to the
25 department's website, and must be simultaneously reported to the
26 transportation committees of the house of representatives and the
27 senate;

28 (d) The total greenhouse gas emissions reductions attributable to
29 the clean fuels program isolated from the greenhouse gas emissions
30 reductions attributable to other state and national programs on the
31 same fuels; and

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

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

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

5 (4) The department must contract for a one-time ex ante
6 independent analysis of the information specified in subsection
7 (1)(c) of this section covering each year of the program through
8 2035. The analysis must be informed by input from stakeholders,
9 including regulated industries, and informed by experience from other
10 jurisdictions. The analysis must impute price impacts using multiple
11 analytical methodologies and must make clear how the assumptions or
12 factors considered differed in each methodology used and price impact
13 imputed. The analysis required in this subsection must be completed
14 and submitted to the appropriate committees of the legislature by
15 July 1, 2022.

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

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

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

27 (a) An estimate of the potential volumes of gasoline, gasoline
28 substitutes, and gasoline alternatives, and diesel, diesel
29 substitutes, and diesel alternatives available to Washington. In
30 developing this estimate, the department of commerce must consider,
31 but is not limited to considering:

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

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

36 (b) An estimate of the total banked credits and carried over
37 deficits held by regulated parties, credit generators, and credit
38 aggregators at the beginning of the compliance period, and an

1 estimate of the total credits attributable to fuels described in (a)
2 of this subsection;

3 (c) An estimate of the number of credits needed to meet the
4 applicable clean fuels program requirements during the forecasted
5 compliance period; and

6 (d) A comparison in the estimates of (a) and (b) of this
7 subsection with the estimate in (c) of this subsection, for the
8 purpose of indicating the availability of fuels needed for compliance
9 with the requirements of this chapter.

10 (4) The department of commerce, in coordination with the
11 department, may appoint a forecast review team of relevant experts to
12 participate in the fuel supply forecast or examination of data
13 required by this section. The department of commerce must finalize a
14 fuel supply forecast for an upcoming compliance period by no later
15 than 90 days prior to the start of the compliance period.

16 NEW SECTION. **Sec. 12.** (1) No later than 30 calendar days before
17 the commencement of a compliance period, the department shall issue
18 an order declaring a forecast deferral if the fuel supply forecast
19 under section 10 of this act projects that the amount of credits that
20 will be available during the forecast compliance period will be less
21 than 100 percent of the credits projected to be necessary for
22 regulated parties to comply with the scheduled applicable clean fuels
23 program standard adopted by the department for the forecast
24 compliance period.

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

27 (a) The duration of the forecast deferral;

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

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

32 (i) Temporarily adjusting the scheduled applicable clean fuels
33 program standard to a standard identified in the order that better
34 reflects the forecast availability of credits during the forecast
35 compliance period and requiring regulated parties to comply with the
36 temporary standard;

37 (ii) Requiring regulated parties to comply only with the clean
38 fuels program standard applicable during the compliance period prior
39 to the forecast compliance period; or

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

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

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

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

14 (ii) Provide written notification and justification of the
15 determination and the action to:

16 (A) The governor;

17 (B) The president of the senate;

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

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

20 (E) The majority and minority leaders of the house of
21 representatives.

22 (4) The duration of a forecast deferral may not be less than one
23 calendar quarter or longer than one compliance period. Only the
24 department may terminate, by order, a forecast deferral before the
25 expiration date of the forecast deferral. Termination of a forecast
26 deferral is effective on the first day of the next calendar quarter
27 after the date that the order declaring the termination is adopted.

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

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

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

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

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

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

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

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

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

23 (a) The duration of the emergency deferral;

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

25 (c) Which of the following methods the department has selected
26 for deferring compliance with the clean fuels program during the
27 emergency deferral:

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

33 (ii) Allowing for the carryover of deficits accrued during the
34 emergency deferral into the next compliance period without penalty;
35 or

36 (iii) Suspending deficit accrual during the emergency deferral
37 period.

38 (4) An emergency deferral may be terminated prior to the
39 expiration date of the emergency deferral if new information becomes
40 available indicating that the shortage that provided the basis for

1 the emergency deferral has ended. The director of the department
2 shall consult with the department of commerce and the governor's
3 office in making an early termination decision. Termination of an
4 emergency deferral is effective 15 calendar days after the date that
5 the order declaring the termination is adopted.

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

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

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

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

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

30 NEW SECTION. **Sec. 14.** (1) The department may require that
31 persons that are required or elect to register or report under this
32 chapter pay a fee. If the department elects to require program
33 participants to pay a fee, the department must, after an opportunity
34 for public review and comment, adopt rules to establish a process to
35 determine the payment schedule and the amount of the fee charged. The
36 amount of the fee must be set so as to equal but not exceed the
37 projected direct and indirect costs to the department for developing
38 and implementing the program and the projected direct and indirect
39 costs to the department of commerce to carry out its responsibilities

1 under section 11 of this act. The department and the department of
2 commerce must prepare a biennial workload analysis and provide an
3 opportunity for public review of and comment on the workload
4 analysis. The department shall enter into an interagency agreement
5 with the department of commerce to implement this section.

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

12 (3) All rule making authorized under this act must be conducted
13 according to the standards for significant legislative rules provided
14 in RCW 34.05.328.

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

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

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

31 (ii) Fuel prices; and

32 (iii) Total employment in categories of industries generating
33 credits or deficits. The categories of industries assessed must
34 include but are not limited to electric utilities, oil refineries,
35 and other industries involved in the production of high carbon fuels,
36 industries involved in the delivery and sale of high carbon fuels,
37 biofuel refineries, and industries involved in the delivery and sale
38 of low carbon fuels;

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

3 (c) A summary of the estimated total statewide costs and benefits
4 attributable to the clean fuels program, including state agency
5 administrative costs and regulated entity compliance costs. For
6 purposes of calculating the benefits of the program, the summary may
7 rely, in part, on a constant value of the social costs attributable
8 to greenhouse gas emissions, as identified in contemporary
9 internationally accepted estimates of such global social cost. This
10 summary must include an estimate of the total statewide costs of the
11 program per ton of greenhouse gas emissions reductions achieved by
12 the clean fuels program.

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

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

16 (1) This chapter does not apply to amounts received from the
17 generation, purchase, sale, transfer, or retirement of credits under
18 chapter 70A.--- RCW (the new chapter created in section 28 of this
19 act).

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

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

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

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

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

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

34 (iii) Must be distributed under RCW 46.68.415.

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

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

	WEIGHT	FEE
1		
2	4,000 pounds	\$ 25.00
3	6,000 pounds	\$ 45.00
4	8,000 pounds	\$ 65.00
5	16,000 pounds and over	\$ 72.00;

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

9 (iii) Must be distributed under RCW 46.68.415 unless prior to
10 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this
11 subsection occur, in which case the portion of the revenue that is
12 the result of the fee increased in this subsection must be
13 distributed to the connecting Washington account created under RCW
14 46.68.395.

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

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

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

30 (2) A person applying for a motor home vehicle registration
31 shall, in lieu of the motor vehicle weight fee required in subsection
32 (1) of this section, pay a motor home vehicle weight fee of seventy-
33 five dollars in addition to all other fees and taxes required by law.
34 The motor home vehicle weight fee must be distributed under RCW
35 46.68.415.

36 (3) Beginning July 1, 2022, in addition to the motor vehicle
37 weight fee as provided in subsection (1) of this section, the
38 department, county auditor or other agent, or subagent appointed by

1 the director must require an applicant to pay an additional weight
2 fee of ten dollars, which must be distributed to the multimodal
3 transportation account under RCW 47.66.070 unless prior to July 1,
4 2023, the actions described in (a) or (b) of this subsection occur,
5 in which case the portion of the revenue that is the result of the
6 fee increased in this subsection must be distributed to the
7 connecting 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 (4) The department shall:

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

27 (b) Adopt rules for determining weight for vehicles without
28 manufacturer empty scale weights.

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

31 (1) When a person has been disqualified from operating a
32 commercial motor vehicle, the person is not entitled to have the
33 commercial driver's license or commercial learner's permit restored
34 until after the expiration of the appropriate disqualification period
35 required under RCW 46.25.090 or until the department has received a
36 drug and alcohol assessment and evidence is presented of satisfactory
37 participation in or completion of any required drug or alcohol
38 treatment program for ending the disqualification under RCW
39 46.25.090(7). After expiration of the appropriate period and upon

1 payment of a requalification fee of twenty dollars until June 30,
2 2016, and thirty-five dollars beginning July 1, 2016, or one hundred
3 fifty dollars if the person has been disqualified under RCW
4 46.25.090(7), the person may apply for a new, duplicate, or renewal
5 commercial driver's license or commercial learner's permit as
6 provided by law. If the person has been disqualified for a period of
7 one year or more, the person shall demonstrate that he or she meets
8 the commercial driver's license or commercial learner's permit
9 qualification standards specified in RCW 46.25.060.

10 (2) The fees under this section must be deposited into the
11 highway safety fund unless prior to July 1, 2023, the actions
12 described in (a) or (b) of this subsection occur, in which case the
13 portion of the revenue that is the result of the fee increased in
14 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be
15 distributed to the connecting Washington account created under RCW
16 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. 19.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to
33 read as follows:

34 (1) The department may enter into a memorandum of understanding
35 with any federal agency for the purposes of facilitating the crossing
36 of the border between the state of Washington and the Canadian
37 province of British Columbia.

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

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

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

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

30 (d) The requirements of this subsection are in addition to the
31 requirements otherwise imposed on applicants for a driver's license
32 or identicard. The department shall adopt such rules as necessary to
33 meet the requirements of this subsection. From time to time the
34 department shall review technological innovations related to the
35 security of identity cards and amend the rules related to enhanced
36 driver's licenses and identicards as the director deems consistent
37 with this section and appropriate to protect the privacy of
38 Washington state residents.

39 (e) Notwithstanding RCW 46.20.118, the department may make images
40 associated with enhanced drivers' licenses or identicards from the

1 negative file available to United States customs and border agents
2 for the purposes of verifying identity.

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

10 (5) The enhanced driver's license and enhanced identicard fee
11 under this section must be deposited into the highway safety fund
12 unless prior to July 1, 2023, the actions described in (a) or (b) of
13 this subsection occur, in which case the portion of the revenue that
14 is the result of the fee increased in section 209, chapter 44, Laws
15 of 2015 3rd sp. sess. must be distributed to the connecting
16 Washington 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 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each
33 amended to read as follows:

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

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

1 (b) Passed the general knowledge examination required for
2 issuance of a CDL under RCW 46.25.060 for the commercial motor
3 vehicle classification in which the applicant operates or expects to
4 operate; and

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

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

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

21 (4) A CLP may be classified in the same manner as a CDL under RCW
22 46.25.080(2)(a).

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

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

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

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

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

9 (a) "P" restricts the driver from operating a bus with
10 passengers;

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

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

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

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

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

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

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

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

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

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

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

7 (i) Is a resident of this state;

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

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

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

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

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

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

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

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

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

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

15 (ii) Public benefit not-for-profit corporations that support
16 early childhood education and assistance programs as described in RCW
17 43.216.505.

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

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

26 (2)(a) The department may waive the skills examination and the
27 requirement for completion of a course of instruction in the
28 operation of a commercial motor vehicle specified in this section for
29 a commercial driver's license applicant who meets the requirements of
30 49 C.F.R. Sec. 383.77. For current or former military service members
31 that meet the requirements of 49 C.F.R. Sec. 383.77, the department
32 may also waive the requirements for a knowledge test for commercial
33 driver's license applicants. Beginning December 1, 2021, the
34 department shall provide an annual report to the house and senate
35 transportation committees and the joint committee on veterans' and
36 military affairs of the legislature on the number and types of
37 waivers granted pursuant to this subsection.

38 (b) An applicant who operates a commercial motor vehicle for
39 agribusiness purposes is exempt from the course of instruction
40 completion and employer skills and training certification

1 requirements under this section. By January 1, 2010, the department
2 shall submit recommendations regarding the continuance of this
3 exemption to the transportation committees of the legislature. For
4 purposes of this subsection (2)(b), "agribusiness" means a private
5 carrier who in the normal course of business primarily transports:

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

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

10 (iii) Unprocessed agricultural commodities, as defined in RCW
11 17.21.020, where such commodities are produced by farmers, ranchers,
12 vineyardists, or orchardists; or

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

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

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

25 (4) The fees under this section must be deposited into the
26 highway safety fund unless prior to July 1, 2023, the actions
27 described in (a) or (b) of this subsection occur, in which case the
28 portion of the revenue that is the result of the fee increased in
29 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be
30 distributed to the connecting Washington account created under RCW
31 46.68.395.

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

37 (b) Any state agency otherwise enacts, adopts, orders, or in any
38 way implements a fuel standard based upon or defined by the carbon
39 intensity of fuel, including a low carbon fuel standard or clean fuel

1 standard, without explicit legislative authorization enacted
2 subsequent to July 1, 2015.

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

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

10 (1) Any person who knowingly violates any of the provisions of
11 this chapter (~~($\text{\textcircled{R}}$)~~), chapter 70A.25 or 70A.--- (the new chapter
12 created in section 28 of this act) RCW, RCW 70A.45.080, or any
13 ordinance, resolution, or regulation in force pursuant thereto is
14 guilty of a gross misdemeanor and upon conviction thereof shall be
15 punished by a fine of not more than ten thousand dollars, or by
16 imprisonment in the county jail for up to three hundred sixty-four
17 days, or by both for each separate violation.

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

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

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

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

3 (1) (a) Except as provided in RCW 43.05.060 through 43.05.080 and
4 43.05.150, and in addition to or as an alternate to any other penalty
5 provided by law, any person who violates any of the provisions of
6 this chapter, chapter 70A.25 (~~(\oplus)~~), 70A.450, or 70A.--- (the new
7 chapter created in section 28 of this act) RCW, RCW 70A.45.080, or
8 any of the rules in force under such chapters or section may incur a
9 civil penalty in an amount not to exceed ten thousand dollars per day
10 for each violation. Each such violation shall be a separate and
11 distinct offense, and in case of a continuing violation, each day's
12 continuance shall be a separate and distinct violation.

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

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

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

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

31 (4) All penalties recovered under this section by the department
32 shall be paid into the state treasury and credited to the air
33 pollution control account established in RCW 70A.15.1010 or, if
34 recovered by the authority, shall be paid into the treasury of the
35 authority and credited to its funds. If a prior penalty for the same
36 violation has been paid to a local authority, the penalty imposed by
37 the department under subsection (1) of this section shall be reduced
38 by the amount of the payment.

39 (5) To secure the penalty incurred under this section, the state
40 or the authority shall have a lien on any vessel used or operated in

1 violation of this chapter which shall be enforced as provided in RCW
2 60.36.050.

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

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

12 (8) The department shall develop rules for excusing excess
13 emissions from enforcement action if such excess emissions are
14 unavoidable. The rules shall specify the criteria and procedures for
15 the department and local air authorities to determine whether a
16 period of excess emissions is excusable in accordance with the state
17 implementation plan.

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

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

28 (2) Special fuel licensees under chapter 82.38 RCW, as determined
29 by the department of licensing, must provide evidence to the
30 department of licensing that at least five percent of total annual
31 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,
32 when the director determines, and publishes this determination in the
33 Washington State Register, that both in-state oil seed crushing
34 capacity and feedstock grown in Washington state can satisfy a
35 three-percent requirement.

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

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

4 (5) To the extent that the requirements of this section conflict
5 with the requirements of chapter 70A.--- (the new chapter created in
6 section 28 of this act) RCW, the requirements of chapter 70A.--- (the
7 new chapter created in section 28 of this act) RCW prevail.

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

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

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

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) Nothing in this section is intended to prohibit the
34 production, sale, or use of motor fuel for use in federally
35 designated flexibly fueled vehicles capable of using E85 motor fuel.
36 Nothing in this section is intended to limit the use of high octane
37 gasoline not blended with ethanol for use in aircraft.

38 (6) To the extent that the requirements of this section conflict
39 with the requirements of chapter 70A.--- (the new chapter created in

1 section 28 of this act) RCW, the requirements of chapter 70A.--- (the
2 new chapter created in section 28 of this act) RCW prevail.

3 NEW SECTION. **Sec. 26.** A new section is added to chapter 28B.30
4 RCW to read as follows:

5 (1) Subject to the availability of amounts appropriated for this
6 specific purpose, Washington State University's energy program must
7 initiate a least conflict priority clean energy project siting
8 program in coordination with the energy facility site evaluation
9 council, the department of ecology, the department of commerce, the
10 department of fish and wildlife, local governments, clean energy
11 stakeholders, conservation stakeholders, and Indian tribes. This
12 program must engage all relevant agencies, stakeholders, and Indian
13 tribes to identify priority areas in Washington state with the least
14 amount of potential environmental impact and other conflict over
15 competing land uses in the siting of major clean energy projects with
16 the potential to produce significant volumes of transportation fuel
17 with a low carbon intensity, or that support the production of such
18 transportation fuel. Washington State University's energy program may
19 identify different priority areas for different types of industrial
20 or manufacturing clean energy projects with the potential to produce
21 significant volumes of transportation fuel with a low carbon
22 intensity in sectors including, but not limited to, biofuels,
23 agricultural and forest biomass, hydrogen produced via electrolysis
24 of water, and renewable natural gas.

25 (2) A project proposed in an area designated under subsection (1)
26 of this section does not receive a guarantee or assurance of being
27 permitted and is subject to review consistent with chapter 43.21C RCW
28 and applicable environmental permit processes. Project proponents are
29 not limited to proposing projects in identified least conflict zones.

30 (3) The identification of priority areas completed in subsection
31 (1) of this section must be updated at least once every six years.

32 NEW SECTION. **Sec. 27.** A new section is added to chapter 43.21A
33 RCW to read as follows:

34 Subject to the availability of amounts appropriated for this
35 specific purpose, the department, in consultation with the department
36 of commerce, must periodically convene stakeholders, including all of
37 those identified in section 26 of this act, Indian tribes, and the
38 member agencies of the energy facility site evaluation council to

1 identify and discuss avoidance, minimization, and mitigation of
2 significant likely environmental impacts of clean energy projects
3 specified in section 26 of this act. The environmental impacts
4 identified and discussed must include, but are not limited to, air
5 quality impacts, impacts to land and aquatic habitats, and wildlife
6 impacts that may result from clean energy projects. The department
7 must periodically provide a report to the appropriate committees of
8 the house of representatives and the senate identifying mitigation
9 resources, funding needs, and potential policies and programs to
10 modify permitting and environmental review necessary for construction
11 of clean energy projects with the potential to produce significant
12 volumes of transportation fuel with a low carbon intensity, or that
13 support the production of such transportation fuel, in Washington
14 state.

15 NEW SECTION. **Sec. 28.** Sections 1 through 15 of this act
16 constitute a new chapter in Title 70A RCW.

17 NEW SECTION. **Sec. 29.** If specific funding for the purposes of
18 this act, referencing this act by bill or chapter number, is not
19 provided by June 30, 2021, in the omnibus appropriations act, this
20 act is null and void.

21 NEW SECTION. **Sec. 30.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected."

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

ADOPTED AND ENGROSSED 04/08/2021

25 On page 1, line 2 of the title, after "fuel;" strike the
26 remainder of the title and insert "amending RCW 46.17.365, 46.25.100,
27 46.20.202, 46.25.052, 46.25.060, 70A.15.3150, 70A.15.3160,
28 19.112.110, and 19.112.120; adding a new section to chapter 82.04
29 RCW; adding a new section to chapter 28B.30 RCW; adding a new section
30 to chapter 43.21A RCW; adding a new chapter to Title 70A RCW;

1 creating a new section; prescribing penalties; providing a contingent
2 effective date; and providing an expiration date."

--- **END** ---