

SENATE BILL 5326

State of Washington 52nd Legislature 1991 Regular Session

By Senators Patterson and Talmadge; by request of Governor Gardner.

Read first time January 28, 1991. Referred to Committee on Environment & Natural Resources.

1 AN ACT Relating to reducing air contaminant emissions and improving
2 air quality; amending RCW 70.94.011, 70.94.030, 70.120.010, 70.120.020,
3 70.120.070, 70.120.080, 70.120.120, 70.120.150, 70.120.170, 46.16.015,
4 70.94.152, 70.94.155, 70.94.181, 70.94.205, 70.94.211, 70.94.430,
5 70.94.431, 70.94.860, 70.94.875, 70.94.745, 70.94.660, 70.94.670,
6 70.94.690, 70.94.650, 70.94.654, 70.94.775, 70.94.780, 70.94.750,
7 70.94.457, 70.94.470, 70.94.473, 70.94.483, 70.94.041, 70.94.055,
8 70.94.092, 70.94.100, 70.94.130, 70.94.170, 70.94.231, 70.94.240,
9 70.94.331, 70.94.332, 70.94.385, 70.94.395, 70.94.405, 70.94.410,
10 70.94.420, and 70.146.080; reenacting and amending RCW 70.94.053;
11 adding new sections to chapter 70.94 RCW; adding a new section to
12 chapter 82.44 RCW; adding a new section to chapter 70.120 RCW; adding
13 a new chapter to Title 82 RCW; adding a new chapter to Title 70 RCW;
14 creating new sections; repealing RCW 70.120.110, 70.120.140,
15 70.120.900, 70.94.232, 70.94.656, 70.94.680, 70.94.740, 70.94.810,
16 70.94.815, 70.94.825, and 70.94.870; providing penalties; providing
17 effective dates; and declaring an emergency.

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

2 I.

3 PUBLIC POLICY, FINDINGS, AND INTENT

4 NEW SECTION. **Sec. 101.** The legislature finds that ambient air
5 pollution is the most serious environmental threat in Washington state.
6 Air pollution causes significant harm to public health; damages the
7 environment, including trees, crops, and animals; causes deterioration
8 of equipment and materials; contributes to water pollution; and
9 degrades the quality of life.

10 Over three million residents of Washington state live where air
11 pollution levels are considered unhealthy. Of all toxic chemicals
12 released into the environment more than half enter our breathing air.
13 Citizens of Washington state spend hundreds of millions of dollars
14 annually to offset health, environmental, and material damage caused by
15 air pollution. The legislature considers such air pollution levels,
16 costs, and damages to be unacceptable.

17 **Sec. 102.** RCW 70.94.011 and 1973 1st ex.s. c 193 s 1 are each
18 amended to read as follows:

19 It is declared to be the public policy ~~((of the state))~~ to
20 preserve, protect, and enhance the air quality for current and future
21 generations. Air is an essential resource that must be protected from
22 harmful levels of pollution. Maintaining and improving air quality is
23 a matter of state-wide concern and is in the public interest. It is
24 the intent of this chapter to secure and maintain ~~((such))~~ levels of
25 air quality ~~((as will))~~ that protect human health and safety ~~((and)),~~
26 including the most sensitive members of the population, to comply with

1 the requirements of the federal clean air act, ~~((and,))~~ to ~~((the~~
2 ~~greatest degree practicable,))~~ prevent injury to plant ~~((and)),~~ animal
3 life, and property, to foster the comfort and convenience of ~~((its))~~
4 Washington's inhabitants, to promote the economic and social
5 development of the state, and to facilitate the enjoyment of the
6 natural attractions of the state. ~~((The problems and effects of air~~
7 ~~pollution are frequently regional and interjurisdictional in nature,~~
8 ~~and are dependent upon the existence of urbanization and~~
9 ~~industrialization in areas having common topography and recurring~~
10 ~~weather conditions conducive to the buildup of air contaminants))~~

11 It is further the intent of this chapter to protect the public
12 welfare, to preserve visibility, to protect scenic, aesthetic,
13 historic, and cultural values, to prevent air pollution problems that
14 interfere with the enjoyment of life, property, or natural attractions,
15 and to promote energy efficiency and energy conservation.

16 Because of the extent of the air pollution problem the legislature
17 finds it necessary to return areas with poor air quality to levels
18 adequate to protect health and welfare as expeditiously as possible but
19 no later than December 31, 1995. Further, it is the intent of this
20 chapter to prevent any areas of the state with acceptable air quality
21 from reaching air contaminant levels that are not protective of public
22 health and welfare.

23 The legislature recognizes that air pollution control projects may
24 affect other environmental media. In selecting air pollution control
25 strategies state and local agencies shall support those strategies that
26 minimize the negative environmental impact of the project on all
27 environmental media, including air, water, and land.

28 It is the policy of the state that the costs of protecting the air
29 resource and operating state and local air pollution control programs
30 shall be shared among all sources whose emissions cause air pollution.

1 It is also declared as public policy that regional air pollution
2 control programs are to be encouraged and supported to the extent
3 practicable as essential instruments for the securing and maintenance
4 of appropriate levels of air quality.

5 ~~((It is also declared to be the public policy of the state to
6 provide for the people of the populous metropolitan regions in the
7 state the means of obtaining air pollution control not adequately
8 provided by existing agencies of local government. For reasons of the
9 present and potential dramatic growth in population, urbanization, and
10 industrialization, the special problem of air resource management,
11 encompassing both corrective and preventive measures for the control of
12 air pollution cannot be adequately met by the individual towns, cities,
13 and counties of many metropolitan regions.~~

14 ~~In addition, the state is divided into two major areas, each having
15 unique characteristics as to natural climatic and topographic features
16 which may result in the different potentials for the accumulation and
17 buildup of air contaminant concentrations. These two major areas are
18 the area lying west of the Cascade Mountain crest and the area lying
19 east of the Cascade Mountain crest. Within each of these major areas
20 are regions which, because of the climate and topography and present
21 and potential urbanization and industrial development may, through
22 definitive evaluation be classed as regional air pollution areas.)~~

23 To these ends it is the purpose of this chapter to ~~((provide for
24 a))~~ safeguard the public interest through an intensive, progressive,
25 and coordinated state-wide program of air pollution prevention and
26 control, to provide for an appropriate distribution of
27 responsibilities, and to encourage coordination and cooperation between
28 the state, regional, and local units of government, ((and for
29 cooperation across jurisdictional lines in dealing with problems of air
30 pollution)) to improve cooperation between state and federal

1 government, public and private organizations, and the concerned
2 individual, as well as to provide for the use of all known, available,
3 and reasonable methods to reduce, prevent, and control air pollution.

4 The legislature recognizes that the problems and effects of air
5 pollution cross political boundaries, are frequently regional or
6 interjurisdictional in nature, and are dependent upon the existence of
7 human activity in areas having common topography and weather conditions
8 conducive to the buildup of air contaminants. In addition, the
9 legislature recognizes that air pollution is aggravated and compounded
10 by increased population, motor vehicle use, industrial and commercial
11 development, and urbanization. These changes often result in
12 increasingly serious problems for the public and the environment.

13 The legislature further recognizes that air emissions from
14 thousands of small sources such as automobiles and home heating devices
15 are major contributors to air pollution in many regions of the state.
16 As the population of a region grows, small sources may contribute an
17 increasing proportion of that region's total air emissions. It is
18 declared to be the policy of the state to achieve significant
19 reductions in emissions from those small sources whose aggregate
20 emissions constitute a significant contribution to air pollution in a
21 particular region.

22 It is the intent of the legislature that air pollution goals be
23 incorporated in the missions and actions of state agencies.

24 **Sec. 103.** RCW 70.94.030 and 1987 c 109 s 33 are each amended to
25 read as follows:

26 Unless a different meaning is plainly required by the context, the
27 following words and phrases as hereinafter used in this chapter shall
28 have the following meanings:

1 (1) "Air contaminant" means dust, fumes, mist, smoke, other
2 particulate matter, vapor, gas, odorous substance, or any combination
3 thereof.

4 (2) "Air pollution" is presence in the outdoor atmosphere of one or
5 more air contaminants in sufficient quantities and of such
6 characteristics and duration as is, or is likely to be, injurious to
7 human health, plant or animal life, or property, or which unreasonably
8 interfere with enjoyment of life and property.

9 (~~(3) ("Person" means and includes an individual, firm, public or~~
10 ~~private corporation, association, partnership, political subdivision,~~
11 ~~municipality or government agency))~~ "Air quality standard" means an
12 established concentration, exposure time, and frequency of occurrence
13 of a contaminant or multiple contaminants in the ambient air which
14 shall not be exceeded.

15 (4) "Ambient air" means the surrounding outside air.

16 (5) "Authority" means any air pollution control agency whose
17 jurisdictional boundaries are coextensive with the boundaries of one or
18 more counties.

19 (~~(5)~~) (6) "Board" means the board of directors of an authority.

20 (~~(6)~~) (7) "Control officer" means the air pollution control
21 officer of any authority.

22 (~~(7)~~) (8) "Department" means the department of ecology.

23 (9) "Emission" means a release into the outdoor atmosphere of air
24 contaminants.

25 (~~(8) "Department" means the state department of ecology.~~

26 ~~(9) "Ambient air" means the surrounding outside air.))~~

27 (10) "Emission standard" means a limitation on the release of a
28 contaminant or multiple contaminants into the ambient air.

29 (11) "Multicounty authority" means an authority which consists of
30 two or more counties.

1 (~~((11)) "Emission standard" means a limitation on the release of a~~
2 ~~contaminant or multiple contaminants into the ambient air.~~

3 (~~(12) "Air quality standard" means an established concentration,~~
4 ~~exposure time and frequency of occurrence of a contaminant or multiple~~
5 ~~contaminants in the ambient air which shall not be exceeded.~~

6 (~~(13) "Air quality objective" means the concentration and exposure~~
7 ~~time of a contaminant or multiple contaminants in the ambient air below~~
8 ~~which undesirable effects will not occur.))~~

9 (12) "Person" means and includes an individual, firm, public or
10 private corporation, association, partnership, political subdivision of
11 the state, municipality, or governmental agency.

12 II.

13 MOTOR VEHICLES AND FUELS

14 **Sec. 201.** RCW 70.120.010 and 1979 ex.s. c 163 s 1 are each amended
15 to read as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout this chapter.

18 (1) "Department" means the department of ecology.

19 (2) "Director" means the director of the department of ecology.

20 (3) "Fleet" means (~~(a group of twenty five or))~~ more than one motor
21 vehicle(~~(s))~~ owned or leased concurrently by one person for nonprivate
22 use.

23 (4) "Motor vehicle" means any self-propelled vehicle required to be
24 licensed pursuant to chapter 46.16 RCW.

25 (5) "Motor vehicle dealer" means a motor vehicle dealer, as defined
26 in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.

1 (6) "Person" means an individual, firm, public or private
2 corporation, association, partnership, political subdivision of the
3 state, municipality, or governmental agency.

4 (7) The terms "air contaminant," "air pollution," "air quality
5 standard," "ambient air," "emission," and "emission standard" have the
6 meanings given them in RCW 70.94.030.

7 **Sec. 202.** RCW 70.120.020 and 1989 c 240 s 5 are each amended to
8 read as follows:

9 (1) The department shall conduct ~~((the following programs in a
10 manner that will enhance the successful implementation of the air
11 pollution control system established for motor vehicles by this
12 chapter:~~

13 ~~(a) A voluntary motor vehicle emissions inspection program;~~

14 ~~(b)) a public educational program regarding the health effects of
15 air pollution emitted by motor vehicles; the purpose, operation, and
16 effect of emission control devices and systems; and the effect that
17 proper maintenance of motor vehicle engines has on fuel economy and air
18 pollution emission(~~(; and~~~~

19 ~~(e)) and a public notification program identifying the geographic
20 areas of the state that are designated as being noncompliance areas and
21 emission contributing areas and describing the requirements imposed
22 under this chapter for those areas.~~

23 (2)(a) The department(~~(, the superintendent of public instruction,
24 and the state board for community college education shall develop
25 cooperatively, after consultation with automotive trades joint
26 apprenticeship committees approved in accordance with RCW 49.04.040, a
27 program for granting)) shall grant certificates of instruction to
28 persons who successfully complete a course of study, under general
29 requirements established by the director, in the maintenance of motor~~

1 vehicle engines, the use of engine and exhaust analysis equipment, and
2 the repair and maintenance of emission control devices. The director
3 may establish and implement procedures for granting certification to
4 persons who successfully complete other training programs or who have
5 received certification from private organizations which meet the
6 requirements established in this subsection.

7 (b) The department shall make available to the public a list of
8 those persons who have received certificates of instruction under
9 subsection (2)(a) of this section.

10 **Sec. 203.** RCW 70.120.070 and 1989 c 240 c 6 are each amended to
11 read as follows:

12 (1) Any person:

13 (a) Whose motor vehicle is tested pursuant to this chapter and
14 fails to comply with the emission standards established for the
15 vehicle; and

16 (b) Who, following such a test, expends more than four hundred
17 fifty dollars on a (~~(1980 or earlier model year motor vehicle or~~
18 ~~expends more than one hundred fifty dollars on a 1981 or later model~~
19 ~~year)) motor vehicle for repairs solely devoted to meeting the emission
20 standards and that are performed by a certified emission specialist
21 authorized by RCW 70.120.020(2)(a); and~~

22 (c) Whose vehicle fails a retest, may be issued a certificate of
23 acceptance if (i) the vehicle has been in use for more than five years
24 or fifty thousand miles, and (ii) any component of the vehicle
25 installed by the manufacturer for the purpose of reducing emissions, or
26 its appropriate replacement, is installed and operative.

27 (d) To receive the certificate, the person must document compliance
28 with (b) and (c) of this subsection to the satisfaction of the
29 department.

1 (2) Persons who fail the initial tests shall be provided with
2 information regarding the availability of federal warranties and
3 certified emission specialists.

4 **Sec. 204.** RCW 70.120.080 and 1979 ex.s. c 163 s 8 are each amended
5 to read as follows:

6 The director may authorize an owner or lessee of a fleet of motor
7 vehicles, or the owner's or lessee's agent, to inspect the vehicles in
8 the fleet and issue certificates of compliance for the vehicles ((in
9 the fleet if the director determines that: (1) The director's emission
10 and inspection standards will be complied with; and (2) certificates
11 will be issued only to vehicles in the fleet and only when
12 appropriate)).

13 **Sec. 205.** RCW 70.120.120 and 1989 c 240 s 8 are each amended to
14 read as follows:

15 The director shall adopt rules implementing and enforcing this
16 chapter ((and RCW 46.16.015(2)(g))) in accordance with chapter 34.05
17 RCW. Notwithstanding the provisions of chapter 34.05 RCW, any rule
18 implementing and enforcing RCW 70.120.150(5) may not be adopted until
19 it has been submitted to the standing committees on ecology of the
20 house of representatives and senate for review and approval. The
21 standing committees shall take into account when considering proposed
22 modifications of emission contributing boundaries, as provided for in
23 RCW 70.120.150(5), alternative ((plans for traffic rerouting and
24 traffic bans)) transportation control and motor vehicle emission
25 reduction measures that ((may have been prepared)) are required by
26 local municipal corporations for the purpose of satisfying federal
27 emission guidelines.

1 **Sec. 206.** RCW 70.120.150 and 1989 c 240 s 2 are each amended to
2 read as follows:

3 The director:

4 (1) Shall adopt motor vehicle emission and equipment standards to:
5 Ensure that no less than seventy percent of the vehicles tested comply
6 with the standards on the first inspection conducted, meet federal
7 clean air act requirements, and protect public health and welfare.

8 (2) Shall designate a geographic area as being a "noncompliance
9 area" for motor vehicle emissions if (a) the department's analysis of
10 ~~((the))~~ emission and air quality data, ~~((recorded for))~~ covering a
11 period of no less than one year, ~~((at the monitoring sites))~~ indicates
12 that the standard has or will probably be exceeded, and (b) the
13 department determines that the primary source of the contaminant
14 ~~((being monitored at the sites))~~ is motor vehicle emissions.

15 (3) Shall reevaluate noncompliance areas if the United States
16 environmental protection agency modifies the relevant air quality
17 standards, and shall discontinue the program if compliance is indicated
18 and if the department determines that the area would continue to be in
19 compliance after the program is discontinued. The director shall
20 notify persons residing in noncompliance areas of the reevaluation.

21 (4) Shall analyze information regarding the motor vehicle traffic
22 in a noncompliance area to determine the smallest land area within
23 whose boundaries are present registered motor vehicles that contribute
24 significantly to the violation of motor vehicle-related air quality
25 standards in the noncompliance area. The director shall declare the
26 area to be an "emission contributing area." An emission contributing
27 area established for a carbon monoxide or oxides of nitrogen
28 noncompliance area must contain the noncompliance area within its
29 boundaries. An emission contributing area established for an ozone
30 noncompliance area located in this state need not contain the ozone

1 noncompliance area within its boundaries if it can be proven that
2 vehicles registered in the area contribute significantly to violations
3 of the ozone air quality standard in the noncompliance area. An
4 emission contributing area may be established in this state for
5 violations of federal air quality standards for ozone in an adjacent
6 state if (a) the United States environmental protection agency
7 designates an area to be a "nonattainment area for ozone" under the
8 provisions of the federal Clean Air Act (42 U.S.C. 7401 et. seq.), and
9 (b) ~~((the nonattainment area encompasses portions of both Washington~~
10 ~~and the adjacent state, and (c))~~) it can be proven that vehicles
11 registered in this state contribute significantly to the violation of
12 the federal air quality standards for ozone in the adjacent state's
13 ~~((portion of the))~~ nonattainment area.

14 (5) Shall designate areas as being noncompliance areas or emission
15 contributing areas, and shall establish the boundaries of such areas by
16 rule. The director may also modify boundaries. In establishing the
17 external boundaries of an emission contributing area, the director
18 shall use the boundaries established for ZIP code service areas by the
19 United States postal service.

20 (6) May make grants to units of government in support of planning
21 efforts to reduce motor vehicle emissions ~~((in areas where emission~~
22 ~~control inspections are not required))~~.

23 **Sec. 207.** RCW 70.120.170 and 1989 c 240 s 4 are each amended to
24 read as follows:

25 (1) The department shall administer a system for ~~((biennial))~~
26 emission inspections ~~((of emissions))~~ of all motor vehicles registered
27 within the boundaries of each emission contributing area. ~~((Persons~~
28 ~~residing within the boundaries of an emission contributing area shall~~
29 ~~register their motor vehicle within that area, unless business reasons~~

1 ~~require registration outside the area. Requests for exemption from~~
2 ~~inspection for business reasons shall be reviewed and approved by the~~
3 ~~director))~~ Under such system a motor vehicle shall be inspected
4 biennially and at each change of registered owner except where an
5 annual program would be required to meet federal law and prevent
6 federal sanctions.

7 (2) The director shall:

8 (a) Adopt procedures for conducting emission ~~((tests for))~~
9 inspections of motor vehicles. ~~The ((tests shall))~~ inspections may
10 include idle and high revolution per minute emission tests. The
11 emission test for diesel vehicles with a gross vehicle weight in excess
12 of fourteen thousand pounds shall consist solely of a smoke opacity
13 test.

14 (b) Adopt criteria for calibrating emission testing equipment.
15 Electronic equipment used to test for emissions standards provided for
16 in this chapter shall be properly calibrated. The department shall
17 examine frequently the calibration of the emission testing equipment
18 used at the stations.

19 (c) ~~Authorize((, through contracts,))~~ the establishment and
20 operation of inspection stations for conducting ~~((the))~~ vehicle
21 emission ~~((tests))~~ inspections authorized in this chapter. ~~((No person~~
22 ~~contracted to inspect motor vehicles may perform for compensation~~
23 ~~repairs on any vehicles.))~~ No public body may establish or operate
24 contracted inspection stations. Any contracts must be let in
25 accordance with the procedures established for competitive bids in
26 chapter 43.19 RCW.

27 (3) Subsection (2)(c) of this section does not apply to volunteer
28 motor vehicle inspections under RCW 70.120.020(1)(a) if the inspections
29 are conducted for the following purposes:

30 (a) Auditing;

1 (b) Contractor evaluation;

2 (c) Collection of data for establishing calibration and performance
3 standards; or

4 (d) Public information and education.

5 (4)((+a)) The director shall establish by rule the fee to be
6 charged for emission inspections. The inspection fee shall be a
7 standard fee applicable state-wide or throughout an emission
8 contributing area and shall be no greater than eighteen dollars.
9 (~~Surplus moneys collected from fees over the amount due the contractor~~
10 ~~shall be paid to the state and deposited in the general fund.~~) The
11 inspection fee for the initial inspection, including one free
12 reinspection, shall be collected by the department of licensing or its
13 agents when a motor vehicle required to be inspected is issued a
14 license or when the license is renewed. The department of licensing or
15 its agents may charge a one dollar fee to waive the inspection fee for
16 a vehicle if the vehicle was not required to be inspected and if the
17 department of licensing could not have reasonably foreseen at the time
18 of license renewal notification that the vehicle would be exempt from
19 the inspection requirement. If more than two inspections are conducted
20 on a vehicle, the additional inspection fee or fees shall be collected
21 by the inspection station. Fees shall be set at the minimum whole
22 dollar amount required to (i) compensate the contractor or inspection
23 facility owner, and (ii) offset the general fund appropriation to the
24 department to cover the administrative costs of the motor vehicle
25 emission inspection program.

26 (~~(b) Before each inspection, a person whose motor vehicle is to be~~
27 ~~inspected shall pay to the inspection station the fee established under~~
28 ~~this section.~~) The person whose motor vehicle is inspected shall
29 receive the results of the inspection ((test)). If the inspected
30 (~~vehicle's emissions comply~~) vehicle complies with the standards

1 established by the director, the person shall receive a dated
2 certificate of compliance. If the inspected (~~(vehicle's emissions do)~~)
3 vehicle does not comply with those standards, one (~~retest of the~~
4 vehicle's emission) reinspection of the vehicle shall be afforded
5 without charge. All fee proceeds shall be deposited into the emission
6 inspection fee fund, which is hereby created in the custody of the
7 state treasurer. Expenditures from the fund may be used only for
8 contractor reimbursement. Only the director of ecology or the
9 director's designee may authorize expenditures from the fund.
10 Quarterly the director shall transfer to the general fund that portion
11 of the fund that is not needed for contractor reimbursement.

12 (5) All units of local government and agencies of the state with
13 motor vehicles garaged or regularly operated in an emissions
14 contributing area shall test the emissions of those vehicles
15 (~~(biennially)~~) annually to ensure that the vehicle's emissions comply
16 with the emission standards established by the director. All state
17 agencies outside of emission contributing areas with fleets of more
18 than twenty motor vehicles housed at a single facility or contiguous
19 facilities shall test the emissions of those vehicles annually to
20 ensure that the vehicles' emissions comply with standards established
21 by the director. A report of the results of the tests shall be
22 submitted to the department.

23 **Sec. 208.** RCW 46.16.015 and 1990 c 42 s 318 are each amended to
24 read as follows:

25 (1) Neither the department of licensing nor its agents may issue or
26 renew a motor vehicle license for any vehicle (~~(registered in an~~
27 ~~emission contributing area, as that area is established under chapter~~
28 ~~70.120 RCW)~~) or change the registered owner, for any (~~year in which~~
29 the)) vehicle that is required to be (~~tested~~) inspected under chapter

1 70.120 RCW, unless the application for issuance or renewal is: (a)
2 Accompanied by a valid certificate of compliance or a valid certificate
3 of acceptance issued pursuant to chapter 70.120 RCW; or (b) exempted
4 from this requirement pursuant to subsection (2) of this section. The
5 certificates must have a date of validation which is within ninety days
6 of the date of application for the vehicle license or license renewal.
7 Certificates for fleet vehicles may have a date of validation which is
8 within twelve months of the assigned license renewal date.

9 (2) Subsection (1) of this section does not apply to the following
10 vehicles:

11 (a) New motor vehicles whose equitable or legal title has never
12 been transferred to a person who in good faith purchases the vehicle
13 for purposes other than resale;

14 (b) Motor vehicles with a model year of 1967 or earlier;

15 (c) Motor vehicles that use propulsion units powered exclusively by
16 electricity;

17 (d) Motor vehicles fueled exclusively by propane, compressed
18 natural gas, or liquid petroleum gas, unless it is determined that
19 federal sanctions will be imposed as a result of this exemption;

20 (e) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles
21 as defined in RCW 46.04.332;

22 ~~(f) ((Motor vehicles powered by diesel engines;~~

23 ~~(g)))~~ Farm vehicles as defined in RCW 46.04.181; or

24 ~~((h) Used vehicles which are offered for sale by a motor vehicle
25 dealer licensed under chapter 46.70 RCW; or~~

26 ~~(i)))~~ (g) Motor vehicles exempted by the director of the department
27 of ecology.

28 The provisions of subparagraph (a) of this subsection may not be
29 construed as exempting from the provisions of subsection (1) of this

1 section applications for the renewal of licenses for motor vehicles
2 that are or have been leased.

3 (3) (~~The department of licensing shall mail to each owner of a~~
4 ~~vehicle registered within an emission contributing area a notice~~
5 ~~regarding the boundaries of the area and restrictions established under~~
6 ~~this section that apply to vehicles registered in such areas. The~~
7 ~~information for the notice shall be supplied to the department of~~
8 ~~licensing by the department of ecology.)) The department of ecology
9 shall provide information to motor vehicle owners regarding the
10 boundaries of emission contributing areas and restrictions established
11 under this section that apply to vehicles registered in such areas. In
12 addition the department of ecology shall provide information to motor
13 vehicle owners on the relationship between motor vehicles and air
14 pollution and steps motor vehicle owners should take to reduce motor
15 vehicle related air pollution. The department of licensing shall send
16 to all registered motor vehicle owners (~~who reside within the~~
17 ~~emissions area)) affected by the emission testing program notice that
18 they must have an emission test to renew their registration.~~~~

19 NEW SECTION. Sec. 209. A new section is added to chapter 82.44
20 RCW to read as follows:

21 (1) The annual excise tax specified in RCW 82.44.020 shall be
22 waived for any vehicle certified by the United States environmental
23 protection agency as a "clean-fuel vehicle."

24 (2) At any time within twenty-four months following the date any
25 vehicle certified by the United States environmental protection agency
26 or the department as provided in subsection (4) of this section as a
27 "clean-fuel vehicle" is available for delivery, but no later than the
28 next invitation to bid, and more than one vehicle manufacturer has
29 obtained certification in the same weight class, at least thirty

1 percent of new vehicles in that weight class ordered through a state
2 contract for motor vehicles shall be "clean-fuel vehicles." The
3 percentage of such vehicles purchased shall increase at the rate of
4 five percent every two years.

5 (a) Weight classes are established by the following motor vehicle
6 types:

7 (i) Passenger cars;

8 (ii) Light duty trucks, trucks with a gross vehicle weight rating
9 by the vehicle manufacturer of less than eight thousand five hundred
10 pounds.

11 (iii) Heavy duty trucks, trucks with a gross vehicle weight rating
12 by the vehicle manufacturer of eight thousand five hundred pounds or
13 more.

14 (b) This subsection does not place an obligation upon the state or
15 its political subdivisions to purchase vehicles in any number or weight
16 class other than to meet the thirty percent requirement.

17 (3) No later than twelve months or, if sooner, at the issuance of
18 the next invitation to bid following certification of a "clean fuel" by
19 the environmental protection agency, all invitations to bid issued by
20 agencies of the state shall require that the purchased fuel meet the
21 specifications of the "clean fuel" when vehicles operated by that
22 agency or unit of local government are capable of operating on such
23 "clean fuel."

24 (4) In addition to or in lieu of "clean fuel" or "clean-fuel
25 vehicles" certified by the environmental protection agency, the
26 department may develop in cooperation with the departments of general
27 administration and transportation, and the state energy office, clean
28 fuel performance and clean-fuel vehicle emissions specifications. When
29 developing such specifications the department shall consider the
30 requirements of the clean air act and the findings of the environmental

1 protection agency, other states, the American Petroleum Institute and
2 the Motor Vehicles Manufacturers Association. These specifications
3 shall be included in future invitations to bid for vehicle and fuel
4 purchases to promote lower automotive emissions or the use of
5 alternative fuel technology.

6 (5) The department, in cooperation with the departments of general
7 administration and transportation, and the state energy office, shall
8 biennially prepare a report to the legislature starting July 1, 1992,
9 on (a) the progress of clean fuel and clean-fuel vehicle programs
10 toward reducing automotive emissions, (b) the efforts of the state,
11 units of local government, and the private sector to evaluate and
12 utilize "clean fuel" or "clean-fuel vehicles," and (c) recommendations
13 for changes in the existing program to make it more effective and
14 recommendations, if warranted, for expansion of the program.

15 (6) The department may disburse matching grants from funds provided
16 by the legislature from the air pollution control account, created in
17 section 227 of this act, to units of local government to partially
18 offset the additional cost of purchasing "clean fuel" and/or operating
19 "clean-fuel vehicles" and provide for initiation of clean fuel and
20 clean-fuel vehicle programs or for other programs that promote lower
21 emissions from the operation of motor vehicles.

22 NEW SECTION. **Sec. 210.** A new section is added to chapter 70.94
23 RCW to read as follows:

24 No state agency, metropolitan planning organization, or local
25 government shall approve or fund a transportation plan, program, or
26 project unless a determination has been made that the plan, program, or
27 project conforms with the state implementation plan for air quality.

28 (1) "Conformity to the state implementation plan" means:

1 (a) Conformity to the state implementation plan's purpose of
2 eliminating or reducing the severity and number of violations of the
3 national ambient air quality standards and achieving expeditious
4 attainment of such standards; and

5 (b) Ensuring that a proposed transportation plan, program, or
6 project will not:

7 (i) Cause or contribute to any new violation of any standard in any
8 area;

9 (ii) Increase the frequency or severity of any existing violation
10 of any standard in any area; or

11 (iii) Delay timely attainment of any standard or any required
12 interim emission reductions or other milestones in any area.

13 Conformity determination shall be made by the state or local
14 government or metropolitan planning organization administering or
15 developing the plan, program, or project. The determination of
16 conformity shall be based on the most recent estimates of emissions,
17 and such estimates shall be determined from the most recent
18 population, employment, travel, and congestion estimates as determined
19 by the metropolitan planning organization or other agency authorized to
20 make such estimates.

21 (2) Plans and programs conform if:

22 (a) Emissions resulting from such plans and programs are consistent
23 with baseline emission inventories and emission reduction projections
24 and schedules assigned to those plans and programs in the state
25 implementation plan; and

26 (b) The plans and programs provide for the timely implementation of
27 the transportation provisions in the approved or promulgated state
28 implementation plan.

29 (3) A project conforms if:

30 (a) It is a control measure from the state implementation plan; or

1 (b) It comes from a conforming plan and program, and the design and
2 scope of such project has not changed significantly since the plan and
3 program from which the project derived was found to conform.

4 (c) A project other than one referred to in (a) and (b) of this
5 subsection conforms if it is demonstrated that the project either does
6 not contribute to increased emissions in the nonattainment area, or
7 that offsetting emission reductions for the project are specifically
8 provided for in the transportation plan and program, or are otherwise
9 enforceable through the state implementation plan, before the project
10 is approved.

11 (d) No later than eighteen months after the effective date of this
12 section, the director of the department of ecology and the secretary of
13 transportation, in consultation with other state, regional, and local
14 agencies as appropriate, shall adopt by rule criteria and guidance for
15 demonstrating and assuring conformity of plans, programs, and projects.

16 (4) A project with a scope that is limited to preservation or
17 maintenance, or both, shall be exempted from a conformity determination
18 requirement.

19 NEW SECTION. **Sec. 211.** The legislature finds that automotive
20 traffic in Washington's metropolitan areas is the major source of
21 emissions of air contaminants. This air pollution causes significant
22 harm to public health, causes damage to trees, plants, and materials
23 and degrades the quality of the environment.

24 Increasing automotive traffic is also aggravating traffic
25 congestion in Washington's metropolitan areas. This traffic congestion
26 imposes significant costs on Washington's businesses, governmental
27 agencies, and cities in terms of lost working hours and delays in the
28 delivery of goods and services. Traffic congestion worsens automobile-
29 related air pollution and increases the consumption of fuel. This same

1 traffic congestion also degrades the livability of many of Washington's
2 cities and suburban areas. The capital and environmental costs of
3 fully accommodating the existing and projected automobile traffic on
4 roads and highways are prohibitive.

5 The legislature also finds that increasing automotive
6 transportation is a major factor in increasing consumption of gasoline
7 and, thereby, increasing reliance on imported sources of petroleum.
8 Moderating the growth in automotive travel is essential to stabilizing
9 and reducing dependence on imported petroleum and improving the
10 nation's energy security.

11 The legislature further finds that reducing the number of trips to
12 work made via single occupant cars and light trucks is an effective way
13 of reducing automobile-related air pollution, traffic congestion, and
14 energy use. Major employers have significant opportunities to
15 encourage and facilitate reducing single occupant vehicle commuting by
16 employees.

17 The intent of this chapter is to require local governments in those
18 counties experiencing the greatest automobile-related air pollution and
19 traffic congestion to develop and implement plans to reduce single
20 occupant vehicle commute trips. Such plans shall require major
21 employers and the owners of major work sites to implement programs to
22 reduce single occupant vehicle commuting by employees at major work
23 sites. Local governments in counties experiencing significant but less
24 severe automobile-related air pollution and traffic congestion may
25 implement such plans. State agencies shall implement programs to
26 reduce single occupant vehicle commuting at all major work sites
27 throughout the state.

1 NEW SECTION. **Sec. 212.** Unless the context clearly requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) "Major employer" means a private or public employer that
5 employs one hundred or more full-time equivalent employees at a single
6 work site during a twenty-four hour period for at least six contiguous
7 months during a year.

8 (2) "Major work site" means a building or group of buildings that
9 are on physically contiguous parcels of land or on parcels separated
10 solely by private or public roadways or rights of way, and at which
11 there are one hundred or more full-time equivalent employees of one or
12 more employers during a twenty-four hour period for at least six
13 contiguous months.

14 (3) "Commute trip reduction zones" mean areas within a jurisdiction
15 that are characterized by similar employment density, population
16 density, level of transit service, parking availability, access to high
17 occupancy vehicle facilities, and other factors that are determined to
18 affect the level of single occupancy vehicle commuting.

19 (4) "Commute trip" means trips made from a worker's home to a work
20 site during the peak period of 6 a.m. to 10 a.m. on week days.

21 (5) "Proportion of single occupant vehicle commute trips" means the
22 number of commute trips made by single occupant automobiles divided by
23 the number of full-time equivalent employees.

24 (6) "Commute trip vehicle miles traveled per employee" means the
25 sum of the undivided vehicle commute trip lengths in miles divided by
26 the number of full-time equivalent employees. Commute trips made by
27 transit shall not be counted as a vehicle commute trip.

28 (7) "Base year" means the year January 1, 1992, through December
29 31, 1992.

1 NEW SECTION. **Sec. 213.**

2 (1) Each county with a population over
3 two hundred twenty-five thousand, and each city or town within those
4 counties containing a major employer shall, by July 1, 1992, adopt by
5 ordinance and shall implement a commute trip reduction plan. The plan
6 shall be developed in cooperation with local transit agencies, regional
7 transportation planning organizations as established in RCW 47.80.020,
8 major employers, and the owners of major work sites. The plan shall be
9 designed to achieve reductions in the proportion of single occupant
10 vehicle commute trips and the commute trip vehicle miles traveled per
11 employee by employees of major public and private sector employers in
12 the jurisdiction.

13 (2) All other counties, and cities and towns in those counties, may
14 adopt and implement a commute trip reduction plan.

15 (3) The department of ecology may, after consultation with the
16 state energy office, as part of the state implementation plan for areas
17 that do not attain the national ambient air quality standards for
18 carbon monoxide or ozone, require municipalities to adopt and implement
19 commute trip reduction plans if the department determines that such
20 plans are necessary for attainment of said standards.

21 (4) A commute trip reduction plan shall be consistent with the
22 guidelines established under section 216 of this act and shall include
23 but is not limited to (a) goals for reductions in the proportion of
24 single occupant vehicle commute trips and the commute trip vehicle
25 miles traveled per employee; (b) designation of commute trip reduction
26 zones; (c) requirements for major public and private sector employers
27 to implement commute trip reduction programs; (d) a commute trip
28 reduction program for employees of the county, city, or town; (e) a
29 review of local parking policies and ordinances as they relate to
30 employers and major work sites and any revisions necessary to comply
31 with commute trip reduction goals and guidelines; and (f) means for

1 determining base year values of the proportion of single occupant
2 vehicle commute trips and the commute trip vehicle miles travelled per
3 employee and progress toward meeting commute trip reduction plan goals
4 on an annual basis. In establishing goals for reductions in single
5 occupant vehicle trip proportion and vehicle miles traveled per
6 employee, the county, city, or town shall take into account the
7 considerations of RCW 81.100.040. The goals shall not be less than a
8 ten percent reduction from the base year values for all major employers
9 in a work trip reduction zone by January 1, 1995, and twenty percent
10 reduction from the base year values by January 1, 1997.

11 (5) A county, city, or town may, as part of its commute trip
12 reduction plan, require commute trip reduction programs for other than
13 major employers for major work sites if the county, city, or town
14 determines such programs are necessary to address local transportation
15 or air quality problems.

16 (6) The commute trip reduction plans adopted by counties, cities,
17 and towns under this chapter shall be consistent with and may be
18 incorporated in applicable state or regional transportation plans and
19 local comprehensive plans and shall be coordinated, and consistent
20 with, the commute trip reduction plans of counties, cities, or towns
21 with which the county, city, or town has, in part, common borders or
22 related regional issues. Counties, cities, or towns adopting commute
23 trip reduction plans may enter into agreements through the interlocal
24 cooperation act with other jurisdictions, local transit agencies, or
25 regional transportation planning organizations to coordinate the
26 development and implementation of such plans. Counties, cities, or
27 towns adopting a commute trip reduction plan shall review it annually
28 and revise it as necessary to be consistent with applicable plans
29 developed under RCW 36.70A.070.

1 (7) Each county, city, or town implementing a commute trip
2 reduction program shall, by July 15, 1992, submit a summary of its plan
3 along with certification of adoption to the commute trip reduction task
4 force established under section 216 of this act.

5 (8) Each county, city, or town implementing a commute trip
6 reduction program shall submit an annual progress report to the commute
7 trip reduction task force established under section 216 of this act.
8 The report shall be due July 1, 1993, and each July 1 thereafter
9 through July 1, 1996. The report shall describe progress in attaining
10 the applicable commute trip reduction goals for each commute trip
11 reduction zone and shall highlight any problems being encountered in
12 achieving the goals. The information shall be reported in a form
13 established by the commute trip reduction task force.

14 NEW SECTION. **Sec. 214.** (1) Not more than six months after the
15 adoption of the commute trip reduction plan by a jurisdiction, each
16 major employer in that jurisdiction shall develop a commute trip
17 reduction program and shall submit a description of that program to the
18 jurisdiction for review. The program shall be implemented not more
19 than three months after submission to the jurisdiction.

20 (2) A commute trip reduction program shall consist of (a)
21 designation of an on-site transportation coordinator; (b) regular
22 distribution of information to employees regarding alternatives to
23 single occupant vehicle commuting; (c) an annual survey of employee
24 commuting and reporting of progress toward meeting the single occupant
25 vehicle reduction goals to the county, city, or town consistent with
26 the method established in the commute trip reduction plan; and (d)
27 implementation of a set of measures designed to achieve the applicable
28 commute trip reduction goals adopted by the jurisdiction. Such
29 measures may include but are not limited to:

1 (i) Provision of preferential parking or reduced parking charges,
2 or both, for high occupancy vehicles;

3 (ii) Instituting or increasing parking charges for single occupant
4 vehicles;

5 (iii) Provision of commuter ride matching services to facilitate
6 employee ridesharing for commute trips;

7 (iv) Provision of subsidies for transit fares;

8 (v) Provision of vans for van pools;

9 (vi) Provision of subsidies for car pooling or van pooling;

10 (vii) Permitting the use of the employer's vehicles for car pooling
11 or van pooling;

12 (viii) Permitting flexible work schedules to facilitate employees'
13 use of transit, car pools, or van pools;

14 (ix) Cooperation with transportation providers to provide
15 additional regular or express service to the work site;

16 (x) Construction of special loading and unloading facilities for
17 transit, car pool, and van pool users;

18 (xi) Provision of bicycle parking facilities, lockers, changing
19 areas, and showers for employees who bicycle or walk to work;

20 (xii) Provision of a program of parking incentives such as a rebate
21 for employees who do not use the parking facility;

22 (xiii) Establishment of a program to permit employees to work part
23 or full time at home or at an alternative work site closer to their
24 homes;

25 (xiv) Establishment of a program of alternative work schedules such
26 as compressed work week schedules which reduce commuting; and

27 (xv) Implementation of other measures designed to facilitate the
28 use of high-occupancy vehicles such as on-site day care facilities and
29 emergency taxi services.

1 (3) Employers or owners of work sites may form or utilize existing
2 transportation management associations to assist members in developing
3 and implementing commute trip reduction programs.

4 NEW SECTION. **Sec. 215.** (1) Each jurisdiction implementing a
5 commute trip reduction plan under this chapter or as part of a plan or
6 ordinance developed under RCW 36.70A.070 shall review each employer's
7 initial commute trip reduction program to determine if the program is
8 likely to meet the applicable commute trip reduction goals. The
9 employer shall be notified by the jurisdiction of its findings. If the
10 jurisdiction finds that the program is not likely to meet the
11 applicable commute trip reduction goals, the jurisdiction will work
12 with the employer to modify the program as necessary. The jurisdiction
13 shall complete review of each employee's initial commute trip reduction
14 program within six months of receipt.

15 (2) Each jurisdiction shall annually review each employer's
16 progress toward meeting the applicable commute trip reduction goals.
17 If it appears an employer is not likely to meet the applicable commute
18 trip reduction goals, the jurisdiction shall work with the employer to
19 make modifications to the commute trip reduction program.

20 (3) If an employer fails to meet the applicable commute trip
21 reduction goals, the jurisdiction shall propose modifications to the
22 program and direct the employer to revise its program to incorporate
23 those modifications or modifications which the jurisdiction determines
24 to be equivalent within thirty days.

25 (4) Each jurisdiction implementing a commute trip reduction plan
26 pursuant to this chapter may impose civil penalties, in the manner
27 provided in chapter 7.80 RCW, for failure by an employer to implement
28 a commute trip reduction program or to modify its commute trip
29 reduction program as required in subsection (3) of this section.

1 NEW SECTION. **Sec. 216.** (1) A commute trip reduction task force
2 shall be established by the state energy office. The task force shall
3 be composed of one representative from the state energy office who
4 shall serve as chair; one representative from each of the departments
5 of transportation, ecology, community development, and general
6 administration; six representatives from counties, based on
7 recommendations from the Washington state association of counties;
8 three representatives from cities or towns, based on recommendations
9 from the association of Washington cities; three representatives from
10 transit agencies; and six representatives from major employers. The
11 task force shall be dissolved on July 1, 1997.

12 (2) By January 1, 1992, the commute trip reduction task force shall
13 establish guidelines for commute trip reduction plans. The guidelines
14 are intended to ensure consistency in commute trip reduction plans and
15 goals among jurisdictions while fairly taking into account differences
16 in employment and housing density, employer size, existing and
17 anticipated levels of transit service, and other factors the task force
18 determines to be relevant. The guidelines shall include criteria for
19 establishing commute trip reduction zones and the information
20 requirements for determining progress in meeting the commute trip
21 reduction goals.

22 (3) The task force shall review the costs and benefits of commute
23 trip plans and programs and shall make recommendations to the
24 legislature by December 1, 1994, and December 1, 1996. In assessing
25 the costs and benefits, the task force shall also consider the costs of
26 not having implemented commute trip reduction plans and programs. The
27 recommendations shall address the need for continuation, modification,
28 or termination of any or all requirements of this chapter.

1 NEW SECTION. **Sec. 217.** (1) A technical assistance team shall
2 be established under the direction of the state energy office and
3 include representatives of the departments of transportation and
4 ecology. The team shall provide staff support to the commute trip
5 reduction task force in carrying out the requirements of section 216 of
6 this act and to the department of general administration in carrying
7 out the requirements of section 219 of this act.

8 (2) The team shall provide technical assistance to counties,
9 cities, and towns, the department of general administration, other
10 state agencies, and other employers in developing and implementing
11 commute trip reduction plans and programs. The technical assistance
12 shall include: (a) Guidance in determining base and subsequent year
13 values of single occupant vehicle commuting proportion and commute trip
14 reduction vehicle miles traveled to be used in determining progress in
15 attaining plan goals; (b) developing model plans and programs
16 appropriate to different situations; and (c) providing consistent
17 training and informational materials for the implementation of commute
18 trip reduction programs. Model plans and programs, training and
19 informational materials shall be developed in cooperation with
20 representatives of local governments, transit agencies, and employers.

21 NEW SECTION. **Sec. 218.** A portion of the funds collected under
22 section 225 of this act shall be used to fund the commute trip
23 reduction task force in carrying out the responsibilities of section
24 217 of this act, and the interagency technical assistance team and to
25 assist counties, cities, and towns implementing commute trip reduction
26 plans. Funds shall be provided to the counties in proportion to the
27 number of major employers and major work sites in each county. The
28 counties shall provide funds to cities and towns within the county
29 which are implementing commute trip reduction plans in proportion to

1 the number of major employers and major work sites within the city or
2 town.

3 NEW SECTION. **Sec. 219.** (1) The director of general
4 administration, with the concurrence of an interagency task force
5 established for the purposes of this section, shall coordinate a
6 commute trip reduction plan for state facilities by July 1, 1992. The
7 task force shall include representatives of the state energy office,
8 the departments of transportation and ecology and such other
9 departments as the director of general administration determines to be
10 necessary to be generally representative of state agencies. The state
11 agency plan shall be consistent with the requirements of sections 213
12 and 214 of this act and shall be developed in consultation with state
13 employees, local and regional governments, local transit agencies, the
14 business community, and other interested groups. The plan shall
15 consider and recommend policies applicable to all state agencies
16 including but not limited to policies regarding parking and parking
17 charges, employee incentives for commuting by other than single-
18 occupant automobiles, flexible and alternative work schedules,
19 alternative work sites, and the use of state-owned vehicles for car and
20 van pools. The plan shall also consider the costs and benefits to
21 state agencies of achieving commute trip reductions and consider
22 mechanisms for funding state agency commute trip reduction programs.
23 The department shall, by July 15, 1992, submit a summary of its plan
24 along with certification of adoption to the commute trip reduction task
25 force established under section 216 of this act.

26 (2) Not more than three months after the adoption of the commute
27 trip reduction plan, each state agency shall, for each facility which
28 is a major employer, develop a commute trip reduction program. The
29 program shall be designed to meet the goals of the commute trip

1 reduction plan of the county, city, or town or, if there is no local
2 commute trip reduction plan, the state. The program shall be
3 consistent with the policies of the state commute trip reduction plan
4 and section 214 of this act. The agency shall submit a description of
5 that program to the local jurisdiction implementing a commute trip
6 reduction plan or, if there is no local commute trip reduction plan, to
7 the department of general administration. The program shall be
8 implemented not more than three months after submission to the
9 department. Annual reports required in section 214(2)(c) of this act
10 shall be submitted to the local jurisdiction implementing a commute
11 trip reduction plan and to the department of general administration.
12 An agency which is not meeting the applicable commute trip reduction
13 goals shall, to the extent possible, modify its program to comply with
14 the recommendations of the local jurisdiction or the department of
15 general administration.

16 (3) State agencies sharing a common location may develop and
17 implement a joint commute trip reduction program or may delegate the
18 development and implementation of the commute trip reduction program to
19 the department of general administration.

20 (4) The department of general administration in consultation with
21 the state technical assistance team shall review the initial commute
22 trip reduction program of each state agency subject to the commute trip
23 reduction plan for state agencies to determine if the program is likely
24 to meet the applicable commute trip reduction goals and notify the
25 agency of any deficiencies. If it is found that the program is not
26 likely to meet the applicable commute trip reduction goals, the team
27 will work with the agency to modify the program as necessary.

28 (5) For each agency subject to the state agency commute trip
29 reduction plan, the department of general administration in
30 consultation with the technical assistance team shall annually review

1 progress toward meeting the applicable commute trip reduction goals.
2 If it appears an agency is not meeting or is not likely to meet the
3 applicable commute trip reduction goals, the team shall work with the
4 agency to make modifications to the commute trip reduction program.

5 (6) The department of general administration shall submit an annual
6 progress report for state agencies subject to the state agency commute
7 trip reduction plan to the commute trip reduction task force
8 established under section 216 of this act. The report shall be due
9 April 1, 1993, and each April 1 thereafter. The report shall report
10 progress in attaining the applicable commute trip reduction goals for
11 each commute trip reduction zone and shall highlight any problems being
12 encountered in achieving the goals. The information shall be reported
13 in a form established by the commute trip reduction task force.

14 NEW SECTION. **Sec. 220.** Sections 211 through 219 of this act
15 shall constitute a new chapter in Title 70 RCW.

16 NEW SECTION. **Sec. 221.** The long-range health and environmental
17 goals for the state of Washington require the protection of the state's
18 air quality for the health, safety, and enjoyment of its people. It is
19 the purpose of this chapter to encourage the purchase of efficient, low
20 emission motor vehicles.

21 NEW SECTION. **Sec. 222.** Unless the context clearly requires
22 otherwise, the definitions in this section apply throughout this
23 chapter.

24 (1) "Motor vehicle" means all motor vehicles of the type designed
25 primarily to be used upon the public streets and highways, for the
26 convenience or pleasure of the owner, or for the conveyance, for hire
27 or otherwise, of persons or property, including automobiles, light

1 trucks, fixed loads and facilities for human habitation; but shall not
2 include (a) dock and warehouse tractors and their cars or trailers,
3 lumber carriers of the type known as spiders, and all other automotive
4 equipment not designed primarily for use upon public streets, or
5 highways, (b) mobile home and travel trailers as defined in RCW
6 82.50.010, or (c) farm vehicles as defined in RCW 46.04.181.

7 (2) "New motor vehicle dealer" means the initial retail seller of
8 motor vehicles as defined in subsection (1) of this section.

9 (3) "Purchase price" means the price paid by a new motor vehicle
10 dealer to a manufacturer, or distribution company of a manufacturer,
11 for a motor vehicle delivered to the dealer for subsequent resale.

12 NEW SECTION. **Sec. 223.** An excise tax is imposed on the
13 privilege of selling by manufacturers or the distribution companies of
14 manufacturers new motor vehicles to the new motor vehicle dealers in
15 the state. The excise tax shall consist of two parts and shall be
16 computed as follows:

17 (1) Part one shall be an amount equal to thirty-seven one-
18 hundredths percent of the purchase price of the vehicle and shall be
19 based on information provided pursuant to section 226 of this act; and

20 (2) Part two shall be an amount computed by section 224 of this
21 act.

22 NEW SECTION. **Sec. 224.** The tax under section 223(2) of this
23 act will be based on a vehicle's emissions of hydrocarbons, carbon
24 monoxide, oxides of nitrogen, and carbon dioxide weighted relative to
25 the emissions of other new motor vehicles in the class. The state
26 energy office shall calculate the tax for each new vehicle based on its
27 total emissions relative to other vehicles in the same class. In
28 calculating a schedule of taxes, the state energy office shall, in

1 consultation with the department of ecology, utilize United States
2 environmental protection agency estimates of emissions per mile of each
3 pollutant. The schedule shall be updated annually, in order to
4 incorporate new information on emissions. The maximum tax imposed on
5 a new vehicle under this section is two hundred fifty dollars, except
6 this maximum tax shall be adjusted annually to account for inflation as
7 determined by the state office of the economic and revenue forecast
8 council.

9 NEW SECTION. **Sec. 225.** The excise tax imposed by section
10 233(2) of this act is due and payable by the vehicle manufacturer to
11 the department of revenue or its agents quarterly as determined by the
12 department of revenue. Automobiles and light pick-up trucks will be
13 considered separate classes for the purposes of the emission fee
14 imposed by section 223(2) of this act.

15 NEW SECTION. **Sec. 226.** (1) Each new motor vehicle dealer in
16 the state shall before the twenty-fifth day of February, May, August,
17 and November of each year, commencing with November 1991, advise the
18 department of revenue of the make, model, body type, engine type, and
19 displacement and transmission type as specified on the United States
20 environmental protection agency fuel economy label of the new motor
21 vehicles delivered to them by vehicle manufacturers or the distribution
22 companies of manufacturers during the preceding calendar quarter ending
23 on the last day of March, June, September, and December, respectively.
24 The department of revenue may collect the excise tax imposed by section
25 223(1) of this act based upon the information provided by the new motor
26 vehicle dealers.

27 (2) Chapter 82.32 RCW applies to the tax imposed by this chapter,
28 in addition to any other provisions of law for the payment and

1 enforcement of the tax imposed by this chapter. The department of
2 revenue shall by rule provide for the effective administration of this
3 chapter.

4 NEW SECTION. **Sec. 227.** (1)(a) The air pollution control
5 account is established in the state treasury. The moneys deposited
6 into the air pollution control account from revenues under section 223
7 of this act may be used by the state energy office, the department, and
8 local air authorities to develop and implement the provisions of this
9 chapter.

10 (b) Money in the air pollution control account shall be expended by
11 the state energy office or the department of ecology subject to
12 legislative appropriation. All earnings of investments of balances in
13 the air pollution control account shall be credited to the general
14 fund. The amounts collected and allocated in accordance with this
15 section shall be expended upon appropriation and in accordance with the
16 following limitations:

17 Portions of moneys received by the department from the air
18 pollution control account shall be distributed by the department to
19 local authorities based on:

20 (i) The level and extent of motor vehicle related air quality
21 problems within such authority's jurisdiction;

22 (ii) The costs associated with implementing motor vehicle related
23 programs by such authority; and

24 (iii) The amount of funding available to such authority from other
25 sources, whether state, federal, or local, that could be used to
26 implement motor vehicle related programs.

27 (2) On the first day of the months of January, April, July, and
28 October of each year the department of revenue shall deposit all excise

1 taxes collected under this chapter into the air pollution control
2 account.

3 NEW SECTION. **Sec. 228.** The state energy office shall publish
4 annually, for each new automobile and light truck make, model, body
5 type, engine type, and displacement and transmission type, the
6 emissions excise tax for that vehicle; the maximum and minimum
7 emissions excise tax for vehicles of the same vehicle class as defined
8 by the United States environmental protection agency; the estimated
9 total emissions of hydrocarbons, carbon monoxide, oxides of nitrogen
10 and carbon dioxide for that vehicle over one hundred thousand miles;
11 and the maximum and minimum total emissions for vehicles of the same
12 vehicle class. This information shall be distributed to all new motor
13 vehicle dealers along with a form for the display of this information.
14 New motor vehicle dealers shall prominently display this information
15 for each new vehicle on the vehicle using the prescribed form.

16 NEW SECTION. **Sec. 229.** Sections 221 through 228 of this act
17 shall constitute a new chapter in Title 82 RCW.

18 NEW SECTION. **Sec. 230.** A new section is added to chapter 70.120
19 RCW to read as follows:

20 It is the intent of the legislature that the state take advantage
21 of the best control systems available on new motor vehicles. The
22 department shall ensure that beginning with the 1994 model year, new
23 motor vehicles sold in Washington meet the same emission standards as
24 new vehicles sold in the state of California.

25 NEW SECTION. **Sec. 231.** The department of ecology shall
26 contract with Western Washington University for the biennium ending

1 June 30, 1993, for research and development of alternative fuel and
2 solar powered vehicles. A report on the progress of such research
3 shall be presented to the standing environmental committees and the
4 department by January 1, 1994.

5 III.

6 INDUSTRIAL AND COMMERCIAL SOURCES

7 NEW SECTION. **Sec. 301.** A new section is added to chapter 70.94
8 RCW to read as follows:

9 The department of ecology, or board of an authority, shall require
10 renewable permits for the construction, installation, establishment,
11 modification, or operation of air containment sources subject to the
12 following conditions and limitations:

13 (1) The permits shall be issued for a period of five years.
14 Permits may be reissued if new federal or state statutes specifically
15 requiring revisions to a permit are enacted or during the first five
16 years of the permit program where necessary to ease administrative
17 burdens on a permitting agency or source. Permits may also be revised
18 at any time at the request of the source owner.

19 (2) "Best available control technology" is required in permits for
20 all new and modified sources and best available retrofit technology is
21 required in permits for all existing sources. Control technology may
22 only be redefined at time of permit renewal. "Best available retrofit
23 control technology" means an emission limitation that is based on the
24 maximum degree of reduction achievable, taking into account
25 environmental, energy, and economic impacts by and on a source.

26 (3) Rules establishing content and minimum requirements for a
27 state-wide permit program and the process for permit application and

1 renewal consistent with federal requirements shall be established by
2 the department by July 1, 1992.

3 (4) Permits shall apply to all sources except single-family or
4 duplex dwellings (a) where required by the federal clean air act, (b)
5 for all new sources proposed after the effective date of this section,
6 and (c) for any source that may cause or contribute to air pollution in
7 such quantity as can reasonably be demonstrated by the department or
8 board of any authority to create a threat to the public health or
9 welfare. Subsection (4)(c) of this section applies only in areas
10 exceeding or threatened to exceed federal or state air quality
11 standards. For purposes of this section areas threatened to exceed air
12 quality standards shall mean areas projected by the department to
13 exceed such standards within five years. Prior to identifying
14 threatened areas the department shall hold a public hearing or hearings
15 within the proposed areas.

16 (5) Sources operated by government agencies are not exempt under
17 this section.

18 (6) For the purposes of this section "source" shall mean "point
19 source" and means a confined and discrete conveyance from which
20 pollutants are or may be discharged.

21 (7) Sources in existence as of the effective date of this section
22 shall be notified pursuant to rules adopted in subsection (3) of this
23 section of the need for a renewable permit and the process and
24 timetable for obtaining the permit. Existing sources shall be allowed
25 to operate under presently applicable standards and conditions until
26 such time as the permit for the existing source is issued.

27 (8) All permits shall be subject to public notice and comment.

28 (9) The procedures contained in chapter 43.21B RCW shall apply to
29 permit appeals. Sources shall be allowed to operate while permits are
30 under appeal.

1 (10) Failure to submit application for a permit as required by this
2 section, or failure to operate in accordance with conditions of the
3 permit shall result in penalties as provided for in RCW 70.94.430 and
4 70.94.431.

5 (11) The department or appropriate local authority shall provide in
6 writing to any source for which permit decisions will be delayed more
7 than ninety days after a complete application is received, (a) the
8 causes of the delay, (b) the time period that will elapse before a
9 decision is rendered including a reasonable schedule of time
10 requirements and steps necessary for the department or local authority
11 to reach such decision and, (c) a clear statement of corrective or
12 prospective actions that the source should take to secure the permit.
13 If the timetable in (b) of this subsection is exceeded by the
14 department or appropriate local authority for actions under its
15 control, provisions shall be made to allow for sources to proceed with
16 construction, installation, establishment, modification, or operation
17 in cases where severe economic damage would result from further delay
18 and no significant public health, safety, or environmental concerns are
19 involved.

20 (12) The fee schedule for industrial and commercial air pollution
21 sources under this section shall be based on the requirements of the
22 federal clean air act and shall be set by rule. All fees collected
23 shall be deposited in the air pollution control account created in
24 section 227 of this act. The initial fee shall be twenty-five dollars
25 multiplied by the annual permitted emissions of air contaminants from
26 the affected source. Fees shall be adjusted annually for inflation as
27 determined by the state office of the economic and revenue forecast
28 council. All sources subject to permits under this section and section
29 302 of this act shall be subject to emission fees. Fees may exceed
30 twenty-five dollars per ton only if necessary to adjust for inflation

1 or to cover permit program costs as determined by the federal clean air
2 act.

3 **Sec. 302.** RCW 70.94.152 and 1973 1st ex.s. c 193 s 2 are each
4 amended to read as follows:

5 (1) ~~((The department of ecology or board of any authority may
6 require notice of the construction, installation, or establishment of
7 any new air contaminant sources except single family and duplex
8 dwellings. The department of ecology or board may require such notice
9 to be accompanied by a fee and determine the amount of such fee:
10 PROVIDED, That the amount of the fee may not exceed the cost of
11 reviewing the plans, specifications, and other information and
12 administering such notice: PROVIDED FURTHER, That any such notice
13 given))~~ A permit application required by section 301 of this act and
14 submitted to either the board or to the department of ecology shall
15 preclude a further ~~((notice))~~ submittal of an application to ~~((be given
16 to))~~ any ~~((other))~~ board or to the department of ecology. Within
17 thirty days of ~~((its))~~ receipt of such ~~((notice))~~ application, the
18 department of ecology or board may require, as a condition precedent to
19 the construction, installation, ~~((or))~~ establishment, modification, or
20 operation of the air contaminant source or sources covered thereby, the
21 submission of plans, specifications, and such other information as it
22 deems necessary ~~((in order))~~ to determine whether the proposed
23 construction, installation, ~~((or))~~ establishment, modification, or
24 operation will be in accord with applicable rules and regulations in
25 force ~~((pursuant to))~~ under this chapter, and will provide all known
26 available and reasonable methods of emission control. If on the basis
27 of plans, specifications, or other information required ~~((pursuant to))~~
28 under this section the department of ecology or board determines that
29 the proposed construction, installation, ~~((or))~~ establishment,

1 modification, or operation will not be in accord with this chapter or
2 the applicable ordinances, resolutions, rules, and regulations adopted
3 ~~((pursuant thereto))~~ under this chapter, or will not provide all known
4 available and reasonable means of emission control consistent with
5 section 301 of this act, it shall issue an order for the prevention of
6 the construction, installation, ~~((or))~~ establishment, or modification
7 of the air contaminant source or sources and deny the permit for the
8 operation of an air contaminant source. If on the basis of plans,
9 specifications, or other information required ~~((pursuant to))~~ under
10 this section, the department of ecology or board determines that the
11 proposed construction, installation, ~~((or))~~ establishment,
12 modification, or operation will be in accord with this chapter, and the
13 applicable ordinances, resolutions, rules, and regulations adopted
14 ~~((pursuant thereto and will provide all known available and reasonable~~
15 ~~methods of emission control))~~ under this chapter, it shall issue ~~((an~~
16 ~~order of approval of))~~ a permit for the construction, installation,
17 ~~((and))~~ establishment, modification, or operation of the air
18 contaminant source or sources, which ~~((order))~~ permit may provide such
19 conditions ~~((of operation))~~ as are reasonably necessary to assure the
20 maintenance of compliance with this chapter and the applicable
21 ordinances, resolutions, rules, and regulations adopted ~~((pursuant~~
22 ~~thereto))~~ under this chapter.

23 (2) For the purposes of this chapter, addition to or enlargement or
24 replacement of an air contaminant source, or any major alteration
25 ~~((therein))~~ of a source, shall be construed as construction or
26 installation or establishment of a new air contaminant source. The
27 determination~~((r))~~ required under subsection (1) of this section~~((r of~~
28 ~~whether a proposed construction, installation, or establishment will be~~
29 ~~in accord with this chapter and the applicable ordinances, resolutions,~~
30 ~~rules, and regulations adopted pursuant thereto))~~ shall include a

1 determination of whether the operation of the new air contaminant
2 source at the location proposed will cause any ambient air quality
3 standard to be exceeded.

4 (3) Nothing in this section shall be construed to authorize the
5 department of ecology or board to require the use of emission control
6 equipment or other equipment, machinery, or devices of any particular
7 type, from any particular supplier, or produced by any particular
8 manufacturer.

9 (4) Any features, machines, and devices constituting parts of or
10 called for by plans, specifications, or other information submitted
11 pursuant to subsection (1) (~~hereof~~) of this section shall be
12 maintained in good working order and operated in a manner to minimize
13 emissions.

14 (5) The absence of an ordinance, resolution, rule, or regulation,
15 or the failure to issue (~~an order pursuant to this section~~) a permit
16 under section 301 of this act or this section shall not relieve any
17 person from his or her obligation to comply with (~~any~~) applicable
18 emission control requirements or with any other provision of law.

19 NEW SECTION. Sec. 303. A new section is added to chapter 70.94
20 RCW to read as follows:

21 All sources not subject to permits under this section but emitting
22 more than ten tons of a criteria air contaminant or one ton of a
23 hazardous air pollutant, as identified by the federal clean air act,
24 per year shall be required to develop emission reduction plans for the
25 reduction of air contaminant emissions. A person with multiple
26 facilities may submit a single plan for one or more of those
27 facilities. The department shall adopt rules for preparation, format,
28 and approval process for these plans. The rules shall be, to the
29 extent possible, consistent with rules adopted by the department under

1 chapter 114, Laws of 1990. Where applicable hazardous substance
2 reduction plans required by chapter 114, Laws of 1990 shall constitute
3 full or partial compliance with these requirements. The rules shall
4 require the plan to address, where applicable, at a minimum the
5 following options: Process changes, product substitution, equipment
6 modifications, hazardous substance use reduction, recycling, and energy
7 efficiency. The plan shall contain but not be limited to a written
8 policy articulating corporate management or agency director support for
9 the plan and an executive summary documenting the scope, objectives,
10 and methods of emission reduction chosen. The appropriate local air
11 authority or the department shall approve the emission reduction plan
12 consistent with rules adopted under this section. Sources that
13 voluntarily install best available control technology and best
14 management practices for all emission points are exempt from the plans
15 under this subsection. Specific levels, quantities, or percentage
16 emission reduction shall not be required by these plans. Failure to
17 submit an adequate plan shall result in penalties as provided for in
18 RCW 70.94.430 and 70.94.431.

19 **Sec. 304.** RCW 70.94.155 and 1981 c 224 s 1 are each amended to
20 read as follows:

21 (1) As used in subsection (3) of this section, the term "bubble"
22 means an air pollution control system which permits aggregate
23 measurements of allowable emissions, for a single category of
24 pollutant, for emissions points from a specified emissions-generating
25 facility or facilities. Individual point source emissions levels from
26 such specified facility or facilities may be modified provided that the
27 aggregate limit for the specified sources is not exceeded.

28 (2) Whenever any regulation relating to emission standards or other
29 requirements for the control of emissions is adopted which provides for

1 compliance with such standards or requirements no later than a
2 specified time after the date of adoption of the regulation, the
3 appropriate activated air pollution control authority or, if there be
4 none, the department of ecology shall, by regulatory order, issue to
5 air contaminant sources subject to the standards or requirements,
6 schedules of compliance setting forth timetables for the achievement of
7 compliance as expeditiously as practicable, but in no case later than
8 the time specified in the regulation. Interim dates in such schedules
9 for the completion of steps of progress toward compliance shall be as
10 enforceable as the final date for full compliance therein.

11 (3) Wherever requirements necessary for the attainment of air
12 quality standards or, where such standards are not exceeded, for the
13 maintenance of air quality can be achieved through the use of a control
14 program involving the bubble concept, such program may be authorized by
15 a ~~((regulatory order or orders))~~ permit issued to the air contaminant
16 source or sources involved. Any such ~~((order))~~ permit provision shall
17 restrict total emissions within the bubble to no more than ninety
18 percent of what would otherwise be allowed in the aggregate for all
19 emitting processes covered. The ~~((orders))~~ permits provided for by
20 this subsection shall be issued by the department or the authority with
21 jurisdiction. If the bubble involves interjurisdictional approval,
22 concurrence in the total program must be secured from each regulatory
23 entity concerned.

24 **Sec. 305.** RCW 70.94.181 and 1983 c 3 s 176 are each amended to
25 read as follows:

26 (1) Any person who owns or is in control of any plant, building,
27 structure, establishment, process or equipment may apply to the
28 department of ecology ~~((where it has regulatory authority under RCW~~
29 ~~70.94.390, 70.94.395, 70.94.410, and 70.94.420,))~~ or appropriate local

1 authority board for a variance from rules or regulations governing the
2 quality, nature, duration or extent of discharges of air contaminants.
3 The application shall be accompanied by such information and data as
4 the department of ecology or board may require. The department of
5 ecology or board may grant such variance, provided that variances to
6 state rules shall require the department's approval prior to being
7 issued by a local authority board. Variances may be issued by either
8 the department or a local board but only after public hearing or due
9 notice, if ~~((it))~~ the department or board finds that:

10 (a) The emissions occurring or proposed to occur do not endanger
11 public health or safety or the environment; and

12 (b) Compliance with the rules or regulations from which variance is
13 sought would produce serious hardship without equal or greater benefits
14 to the public.

15 (2) No variance shall be granted pursuant to this section until the
16 department of ecology or board has considered the relative interests of
17 the applicant, other owners of property likely to be affected by the
18 discharges, and the general public.

19 (3) Any variance or renewal thereof shall be granted within the
20 requirements of subsection (1) of this section and for time periods and
21 under conditions consistent with the reasons therefor, and within the
22 following limitations:

23 (a) If the variance is granted on the ground that there is no
24 practicable means known or available for the adequate prevention,
25 abatement or control of the pollution involved, it shall be only until
26 the necessary means for prevention, abatement or control become known
27 and available, and subject to the taking of any substitute or alternate
28 measures that the department of ecology or board may prescribe.

29 (b) ~~((If the application for variance shows that there is no
30 automobile fragmentizer within a reasonable distance of the wrecking~~

1 yard for which the variance is sought, a variance will be granted for
2 a period not to exceed three years for commercial burning of automobile
3 hulks, subject to such conditions as the department of ecology may
4 impose as to climatic conditions and hours during which burning of such
5 hulks may be carried out: PROVIDED, HOWEVER, That any variance granted
6 hereunder shall be of no force and effect after July 1, 1970.

7 (e)) If the variance is granted on the ground that compliance with
8 the particular requirement or requirements from which variance is
9 sought will require the taking of measures which, because of their
10 extent or cost, must be spread over a considerable period of time, it
11 shall be for a period not to exceed such reasonable time as, in the
12 view of the department of ecology or board is requisite for the taking
13 of the necessary measures. A variance granted on the ground specified
14 herein shall contain a timetable for the taking of action in an
15 expeditious manner and shall be conditioned on adherence to such
16 timetable.

17 ((d)) (c) If the variance is granted on the ground that it is
18 justified to relieve or prevent hardship of a kind other than that
19 provided for in ((item)) (a)((, (b))) and ((e)) (b) of this
20 ((subparagraph)) subsection, it shall be for not more than one year.

21 (4) Any variance granted pursuant to this section may be renewed on
22 terms and conditions and for periods which would be appropriate on
23 initial granting of a variance. If complaint is made to the department
24 of ecology or board on account of the variance, no renewal thereof
25 shall be granted unless following a public hearing on the complaint on
26 due notice the state board or board finds that renewal is justified. No
27 renewal shall be granted except on application therefor. Any such
28 application shall be made at least sixty days prior to the expiration
29 of the variance. Immediately upon receipt of an application for
30 renewal, the department of ecology or board shall give public notice of

1 such application in accordance with rules ((and regulations)) of the
2 department of ecology or board.

3 (5) A variance or renewal shall not be a right of the applicant or
4 holder thereof but shall be granted at the discretion of the department
5 of ecology or board. However, any applicant adversely affected by the
6 denial or the terms and conditions of the granting of an application
7 for a variance or renewal of a variance by the department of ecology or
8 board may obtain judicial review thereof under the provisions of
9 chapter 34.05 RCW as now or hereafter amended.

10 (6) Nothing in this section and no variance or renewal granted
11 pursuant hereto shall be construed to prevent or limit the application
12 of the emergency provisions and procedures of RCW 70.94.710 through
13 70.94.730 to any person or his or her property.

14 (7) An application for a variance, or for the renewal thereof,
15 submitted to the department of ecology or board pursuant to this
16 section shall be approved or disapproved by the department or board
17 within sixty-five days of receipt unless the applicant and the
18 department of ecology or board agree to a continuance.

19 **Sec. 306.** RCW 70.94.205 and 1973 1st ex.s. c 193 s 4 are each
20 amended to read as follows:

21 Whenever any records or other information, other than ambient air
22 quality data or emission data, furnished to or obtained by the
23 department of ecology or the board of any authority ((pursuant to any
24 sections in chapter 70.94 RCW)) under this chapter, relate to processes
25 or production unique to the owner or operator, ((or)) is likely to
26 affect adversely the competitive position of such owner or operator if
27 released to the public or to a competitor, and the owner or operator of
28 such processes or production so certifies, such records or information
29 shall be only for the confidential use of the department of ecology or

1 board. Nothing herein shall be construed to prevent the use of records
2 or information by the department of ecology or board in compiling or
3 publishing analyses or summaries relating to the general condition of
4 the outdoor atmosphere: PROVIDED, That such analyses or summaries do
5 not reveal any information otherwise confidential under the provisions
6 of this section: PROVIDED FURTHER, That emission data furnished to or
7 obtained by the department of ecology or board shall be correlated with
8 applicable emission limitations and other control measures and shall be
9 available for public inspection during normal business hours at offices
10 of the department of ecology or board.

11 NEW SECTION. **Sec. 307.** (1) In order to address the goal of
12 preserving, protecting, and enhancing air quality the legislature
13 intends to utilize a variety of approaches to reduce pollution, enhance
14 environmental quality, and provide a sound basis for economic growth.
15 The use of economic incentives is a powerful new approach that could
16 reduce pollution and promote resource protection efficiently.

17 The legislature wishes to evaluate economic incentives designed to
18 allow the state to obtain air pollution reduction for the lowest
19 possible cost to society, to create a long-term incentive for
20 innovation which protects the environment, to cause prices to
21 appropriately reflect the environmental costs imposed on society, and
22 to reduce capital losses due to uncertainty and inappropriate
23 investment.

24 (2) "Economic incentives" means pricing mechanisms intended to
25 incorporate the environmental costs and benefits of market behavior
26 into market decisions and thus to promote innovation and resource
27 recovery, to alter the way the market interacts with the environment,
28 and to diminish damages to the environment. These pricing mechanisms
29 may include but are not limited to subsidies, taxes, fees, deposit

1 systems, marketable permits, preconsumption disposal payments, and
2 altering capital rates and terms.

3 (3) The department in consultation with the department of trade and
4 economic development shall contract for a study to assess the
5 availability and effectiveness of economic incentives to reduce,
6 control, and prevent air contaminant emissions.

7 (4) The study shall be completed by July 1, 1992, and be provided
8 to the governor's office, the legislature, the standing environmental
9 committees, and the department of ecology upon completion.

10 (5) The study shall include but not be limited to:

11 (a) A listing of air pollution related market incentives in place
12 or scheduled for use in other states and/or countries;

13 (b) An assessment of the effectiveness in terms of air pollution
14 reduction of the incentives listed in subsection (3) of this section;

15 (c) Recommendations of strategies most appropriate and effective
16 for use in Washington state and mechanisms for implementing these
17 strategies including identifying where statutory changes are necessary.

18 NEW SECTION. **Sec. 308.** A new section is added to chapter 70.94
19 RCW to read as follows:

20 The department shall establish a technical assistance unit within
21 its air quality program to provide the regulated community, especially
22 small businesses with:

23 (1) Information on air pollution laws, regulations, compliance
24 methods, and technologies;

25 (2) Information on air pollution prevention methods and
26 technologies, and prevention of accidental releases;

27 (3) Assistance in obtaining permits and developing emission
28 reduction plans;

1 (4) Information on the health and environmental effects of air
2 pollution.

3 **Sec. 309.** RCW 70.94.211 and 1974 ex.s. c 69 s 4 are each amended
4 to read as follows:

5 Whenever the board or the control officer has reason to believe
6 that any provision of this chapter or any ordinance, resolution, rule
7 or regulation relating to the control or prevention of air pollution
8 has been violated, such board or control officer may cause written
9 notice to be served upon the alleged violator or violators. The notice
10 shall specify the provision of this chapter or the ordinance,
11 resolution, rule or regulation alleged to be violated, and the facts
12 alleged to constitute a violation thereof, and may include an order
13 that necessary corrective action be taken within a reasonable time. In
14 lieu of an order, the board or the control officer may require that the
15 alleged violator or violators appear before the board for a hearing, or
16 in addition to or in place of an order or hearing, the board may
17 initiate action pursuant to RCW 70.94.425, 70.94.430, 70.94.431, and
18 70.94.435.

19 **Sec. 310.** RCW 70.94.430 and 1984 c 255 s 1 are each amended to
20 read as follows:

21 Any person who violates any of the provisions of this chapter or
22 chapter 70.120 RCW, or any ordinance, resolution, ~~((rule))~~ or
23 regulation in force pursuant thereto shall be guilty of a
24 ~~((misdemeanor))~~ crime and upon conviction thereof shall be punished by
25 a fine of not more than ~~((one))~~ ten thousand dollars and costs of
26 investigation and prosecution, or by imprisonment in the county jail
27 for not more than ~~((ninety days))~~ one year, or by both fine and
28 imprisonment for each separate violation. Maximum penalties shall be

1 reserved for persons who willfully violate such provisions, ordinances,
2 resolutions, or regulations.

3 ~~((Any person who wilfully violates any of the provisions of this~~
4 ~~chapter or any ordinance, resolution, rule or regulation in force~~
5 ~~pursuant thereto shall be guilty of a gross misdemeanor. Upon~~
6 ~~conviction the offender shall be punished by a fine of not less than~~
7 ~~one hundred dollars for each offense or by imprisonment for a term of~~
8 ~~not more than one year or by both fine and imprisonment.))~~

9 In case of a continuing violation, whether or not willfully
10 committed, each day's continuance shall be a separate and distinct
11 violation.

12 Persons who knowingly fail to disclose a potential conflict of
13 interest under section 704(5) of this act shall be guilty of a gross
14 misdemeanor.

15 **Sec. 311.** RCW 70.94.431 and 1990 c 157 s 1 are each amended to
16 read as follows:

17 (1) In addition to or as an alternate to any other penalty provided
18 by law, any person who violates any of the provisions of this chapter
19 ~~((70.94 RCW))~~ or any of the rules ~~((and regulations))~~ of the department
20 or the board shall incur a civil penalty in an amount not to exceed
21 ~~((one))~~ ten thousand dollars per day for each violation. Each such
22 violation shall be a separate and distinct offense, and in case of a
23 continuing violation, each day's continuance shall be a separate and
24 distinct violation. ~~((For the purposes of this subsection, the maximum~~
25 ~~daily fine imposed by a local board for violations of standards by a~~
26 ~~specific emissions unit is one thousand dollars.))~~

27 A person who fails to take action as specified by an order issued
28 pursuant to this chapter shall be liable for a civil penalty of not
29 more than ten thousand dollars for each day of continued noncompliance.

1 Penalties incurred, if unpaid after ninety days, shall be subject
2 to the maximum interest charges allowed by law. If violations and
3 penalties are appealed, no interest shall accrue until the appeal is
4 resolved.

5 The maximum penalty may be increased annually to account for
6 inflation as determined by the state office of the economic and revenue
7 forecast council.

8 ~~(2) ((Further, the person is subject to a fine of up to five~~
9 ~~thousand dollars to be levied by the director of the department of~~
10 ~~ecology if requested by the board of a local authority or if the~~
11 ~~director determines that the penalty is needed for effective~~
12 ~~enforcement of this chapter. A local board shall not make such a~~
13 ~~request until notice of violation and compliance order procedures have~~
14 ~~been exhausted, if such procedures are applicable. For the purposes of~~
15 ~~this subsection, the maximum daily fine imposed by the department of~~
16 ~~ecology for violations of standards by a specific emissions unit is~~
17 ~~five thousand dollars.~~

18 ~~(3))~~ Each act of commission or omission which procures, aids or
19 abets in the violation shall be considered a violation under the
20 provisions of this section and subject to the same penalty. The
21 penalties provided in this section shall be imposed pursuant to RCW
22 43.21B.300.

23 ~~((4))~~ (3) All penalties recovered under this section by the
24 department shall be paid into the state treasury and credited to the
25 ~~((general fund))~~ air pollution control account established in section
26 227 of this act or, if recovered by the authority, shall be paid into
27 the treasury of the authority and credited to its funds. If a prior
28 penalty for the same violation has been paid to a local authority, the
29 penalty imposed by the department under subsection ~~((2))~~ (1) of this
30 section shall be reduced by the amount of the payment.

1 (~~Notwithstanding any other provisions of this chapter, no penalty may~~
2 ~~be levied for the violation of any opacity standard in an amount~~
3 ~~exceeding four hundred dollars per day.~~

4 ~~(5))~~ (4) To secure the penalty incurred under this section, the
5 state or the authority shall have a lien on any vessel used or operated
6 in violation of this chapter which shall be enforced as provided in RCW
7 60.36.050.

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

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

17 **Sec. 312.** RCW 70.94.860 and 1984 c 164 s 2 are each amended to
18 read as follows:

19 The department of ecology may accept delegation of the prevention
20 of significant deterioration program (~~pursuant to Part C, Subpart 1~~
21 ~~of~~) as provided for in the federal clean air act. The department may,
22 in turn, delegate this program to the local authority with jurisdiction
23 in a given area.

24 **Sec. 313.** RCW 70.94.875 and 1985 c 456 s 3 are each amended to
25 read as follows:

26 The department of ecology, in consultation with the (~~joint~~
27 ~~legislative committee on science and technology or the~~) appropriate
28 committees of the house of representatives and of the senate, shall:

- 1 (1) Continue evaluation of information and research on acid
2 deposition in the Pacific Northwest region;
- 3 (2) Establish critical levels of acid deposition and lake, stream,
4 and soil acidification; and
- 5 (3) Notify the legislature if acid deposition or lake, stream, and
6 soil acidification reaches the levels established under subsection (2)
7 of this section.

8 IV.

9 OUTDOOR BURNING

10 **Sec. 401.** RCW 70.94.745 and 1972 ex.s. c 136 s 2 are each amended
11 to read as follows:

12 It shall be the responsibility and duty of the department of
13 natural resources, department of ecology, department of agriculture,
14 fire districts, and local air pollution control authorities to
15 establish, through regulations, ordinances, or policy, a limited
16 burning program for the people of this state, consisting of a one-
17 permit system, until such time as ~~((an))~~ alternate technology or
18 methods of disposing of the organic refuse ~~((described in this chapter~~
19 ~~shall))~~ have been developed ~~((which is))~~ that are reasonably economical
20 and less harmful to the environment. It is the policy of this state to
21 ~~((encourage the fostering and development of such))~~ foster and
22 encourage development of alternate methods or technology for disposing
23 of or reducing the amount of organic refuse.

24 NEW SECTION. **Sec. 402.** A new section is added to chapter 70.94
25 RCW to read as follows:

1 (1) Consistent with the policy of the state to reduce outdoor
2 burning to the greatest extent practical:

3 (a) Outdoor burning shall not be allowed in any area of the state
4 where federal or state ambient air quality standards are exceeded for
5 pollutants emitted by outdoor burning.

6 (b) Outdoor burning shall not be allowed in any urban growth area
7 as defined by RCW 36.70A.030, or any city of the state having a
8 population greater than ten thousand people if such cities are
9 threatened to exceed state or federal air quality standards, and
10 alternative disposal practices consistent with good solid waste
11 management are reasonably available or practices eliminating production
12 of organic refuse are reasonably available. In no event shall such
13 burning be allowed after December 31, 2000.

14 (2) "Outdoor burning" means a combustion of material of any type in
15 the outdoors in the open, not in an enclosure, where the productions of
16 combustion are not directed through a flue.

17 NEW SECTION. **Sec. 403.** A new section is added to chapter 70.94
18 RCW to read as follows:

19 (1) The department of natural resources shall administer a program
20 to reduce state-wide emissions from prescribed forest burning so as to
21 achieve the following minimum objectives:

22 (a) Twenty percent reduction by December 31, 1994; and

23 (b) Fifty percent reduction by December 31, 2000.

24 Reductions shall be calculated from the average annual emissions
25 level from calendar years 1985 to 1990, using the same methodology for
26 both reduction and base year calculations.

27 "Prescribed forest burning" means the permitted burning of wood
28 fiber on forest lands.

1 (2) The department of natural resources, within twelve months after
2 the effective date of this section, shall develop a plan, in
3 conjunction with the department of ecology and public and private land
4 owners engaged in prescribed forest burning, to carry out the program
5 as described in this section.

6 The plan shall recognize the variations in prescribed forest
7 burning including, but not limited to, objectives of burning,
8 geographic region, climate, elevation and slope, proximity to populated
9 areas, and diversity of land ownership. The plan shall establish
10 priorities that the department shall use to allocate allowable
11 emissions.

12 The emission reductions in this section are to apply to all forest
13 lands including those owned and managed by the United States. If the
14 United States does not satisfactorily participate in implementing the
15 plan, the departments of natural resources and ecology shall use all
16 appropriate and available enforcement powers to ensure participation
17 until such time as satisfactory participation occurs. The contribution
18 of emissions from such lands shall be deleted from the calculation of
19 the base period and the percentage reductions.

20 The plan shall include a tracking system designed to measure the
21 degree of progress toward the emission reductions goals set in this
22 section. Emissions are to be measured by the department of natural
23 resources based on the best available methods of estimation. The
24 department of natural resources shall report annually to the department
25 of ecology and the legislature on the status of the plan, emission
26 reductions and progress toward meeting the objectives specified in this
27 section, and the goals of this chapter and chapter 76.04 RCW.

28 (3) If the December 31, 1994, emission reductions targets in this
29 section are not met, the department of natural resources, in
30 consultation with the department of ecology, shall use its authority

1 granted in this chapter and chapter 76.04 RCW to immediately limit
2 emissions from such burning to the 1994 target levels and limit
3 prescribed forest burning in subsequent years to achieve equal annual
4 incremental reductions so as to achieve the December 31, 2000, target
5 level. If, as a result of the program established in this section, the
6 emission reductions are met in 1994, but are not met by December 31,
7 2000, the department of natural resources in consultation with the
8 department of ecology shall immediately limit prescribed forest burning
9 to reduce emissions from such burning to the December 31, 2000, target
10 level in all subsequent years.

11 **Sec. 404.** RCW 70.94.660 and 1971 ex.s. c 232 s 2 are each amended
12 to read as follows:

13 (1) The department of natural resources shall have the
14 responsibility for issuing and regulating burning permits required by
15 it relating to the following activities ~~((declared to be))~~ for the
16 protection of life or property and/or ~~((in))~~ for the public health,
17 safety, and welfare:

18 ~~((+1))~~ (a) Abating a forest fire hazard;

19 ~~((+2))~~ (b) Prevention of a fire hazard;

20 ~~((+3))~~ (c) Instruction of public officials in methods of forest
21 fire fighting; and

22 ~~((+4))~~ (d) Any silvicultural operation to improve the forest lands
23 of the state.

24 (2) The department of natural resources shall not retain such
25 authority, but it shall be the responsibility of the department of
26 ecology or the appropriate local authority for permitting and
27 regulating outdoor burning on unimproved lands where the department of
28 natural resources does not have fire protection responsibility for such
29 lands.

1 (3) Permit fees shall be assessed for silvicultural and related
2 burning under the jurisdiction of the department of natural resources
3 and shall be set by rule and collected by the department of natural
4 resources at the time the permit as provided for in this section is
5 issued. All fees shall be deposited in the air pollution control
6 account, created in section 227 of this act. The amount collected by
7 these permit fees or as much of such fees as the legislature deems
8 necessary shall be appropriated to the departments of natural resources
9 and ecology for the purposes of enforcing and administering the
10 provisions of this chapter related to such burning. Fees shall be set
11 by rule by the department of natural resources at the level necessary
12 to cover the costs of administering and enforcing the permit program
13 and providing funds for research into alternatives to burning.
14 Exemption from permit fees shall be provided for landholders who employ
15 laid off timber workers in slash reduction, utilization, and nonburning
16 slash disposal activities.

17 **Sec. 405.** RCW 70.94.670 and 1971 ex.s. c 232 s 3 are each amended
18 to read as follows:

19 The department of natural resources in granting burning permits for
20 fires for the purposes set forth in RCW 70.94.660 shall condition the
21 issuance and use of such permits to comply with air quality standards
22 established by the department of ecology after full consultation with
23 the department of natural resources. Such burning shall not cause the
24 state air quality standards (~~((for suspended particulate matter))~~) to be
25 exceeded in the ambient air up to two thousand feet above ground level
26 over critical areas designated by the department of ecology, otherwise
27 subject to air pollution from other sources. Air quality standards
28 (~~((for suspended particulate matter))~~) shall be established and published
29 by the department of ecology which shall also establish a procedure for

1 advising the department of natural resources when and where the air
2 exceeds or threatens to exceed the ambient air standards over such
3 critical areas. The ~~((suspended particulate matter))~~ air quality shall
4 be quantitatively measured by the department of ecology or the
5 appropriate local air pollution control authority at established
6 ~~((primary air mass stations or primary ground level))~~ monitoring
7 stations over such designated areas. Further, such permitted burning
8 shall not cause damage to public health or the environment, or
9 unreasonably interfere with enjoyment of property or natural resources
10 of the state. All permits issued under this section shall be subject
11 to all applicable fees, permitting, penalty, and enforcement provisions
12 of this chapter. The department of natural resources shall set forth
13 smoke dispersal objectives designed consistent with this section to
14 minimize any air pollution ~~((from smoke))~~ from such burning and the
15 procedures necessary to meet those objectives.

16 The department of natural resources shall aggressively encourage
17 more intense utilization in logging and alternative silviculture
18 practices to reduce ~~((forest fire hazards and shall encourage~~
19 ~~development and use of procedures and equipment to burn forest debris~~
20 ~~in a manner that will produce less smoke))~~ the need for burning. The
21 department of natural resources shall, whenever practical,
22 ~~((encourage))~~ require development and use of alternative acceptable
23 disposal methods subject to the following priorities: (1) slash
24 production minimization, (2) slash utilization, (3) nonburning
25 disposal, (4) slash burning. Such alternative methods shall be
26 evaluated as to the relative impact on air, water, and land pollution,
27 public health, and their financial feasibility.

28 The department of natural resources shall not issue burning permits
29 and shall revoke previously issued permits at any time in any area

1 where the department of ecology or local board has declared a stage of
2 impaired air quality as defined in RCW 70.94.473.

3 **Sec. 406.** RCW 70.94.690 and 1971 ex.s. c 232 s 5 are each amended
4 to read as follows:

5 In the regulation of outdoor burning not included in RCW 70.94.660
6 requiring permits from the department of natural resources, said
7 department and the state, local, or regional air pollution control
8 authorities will cooperate in regulating such burning so as to minimize
9 insofar as possible duplicate inspections and separate permits while
10 still accomplishing the objectives and responsibilities of the
11 respective agencies.

12 Permits shall be withheld by the department of natural resources
13 when so requested by the department of ecology if a forecast, alert,
14 warning, or emergency condition exists as defined in the episode
15 criteria of the department of ecology.

16 NEW SECTION. **Sec. 407.** A new section is added to chapter 70.94
17 RCW to read as follows:

18 Nothing contained in this chapter shall prohibit Indian ceremonial
19 fires or the sending of smoke signals if part of a religious ritual.
20 Permits issued for burning under this section shall be drafted to
21 minimize emissions including denial of permission to burn during
22 periods of adverse meteorological conditions.

23 **Sec. 408.** RCW 70.94.650 and 1971 ex.s. c 232 s 1 are each amended
24 to read as follows:

25 (1) Any person who proposes to set fires in the course of ~~((the~~
26 ~~following:~~

27 ~~(1)))~~ (a) weed abatement,

1 (~~(2)~~) (b) instruction in methods of fire fighting (except forest
2 fires), or
3 (~~(3) Disease prevention relating to~~) (c) agricultural activities,
4 shall, prior to carrying out the same, obtain a permit from an air
5 pollution control authority or the department of ecology, as
6 appropriate. Each such authority and the department of ecology shall,
7 by rule or ordinance, establish a permit system to carry out the
8 provisions of this section except as provided in RCW 70.94.660.
9 General criteria of state-wide applicability for ruling on such permits
10 shall be established by the department, by rule (~~or regulation~~),
11 after consultation with the various air pollution control authorities.
12 Permits shall be issued under this section based on seasonal operations
13 or by individual operations, or both(~~(: PROVIDED, That)~~). All permits
14 so issued shall be conditioned to insure that the public interest in
15 air, water, and land pollution and safety to life and property is fully
16 considered. In addition to any other requirements established by the
17 department to protect air quality pursuant to other laws, applicants
18 for permits must show that the setting of fires as requested is the
19 most reasonable procedure to follow in safeguarding life or property
20 under all circumstances or is otherwise reasonably necessary to
21 successfully carry out the enterprise in which the applicant is engaged
22 (~~in~~), or both. All burning permits will be designed to minimize air
23 pollution insofar as practical. Nothing in this section shall relieve
24 the applicant from obtaining permits, licenses, or other approvals
25 required by any other law(~~(: PROVIDED FURTHER, That)~~). An application
26 for a permit to set fires in the course of agricultural burning for
27 controlling diseases, insects, (~~and~~) or development of physiological
28 conditions conducive to increased crop yield, shall be (~~granted~~)
29 acted upon within fourteen days from the date such application is
30 filed(~~(: PROVIDED, That nothing herein shall prevent a householder from~~

1 ~~setting fire in the course of burning leaves, clippings or trash when~~
2 ~~otherwise permitted locally. Nothing contained herein shall prohibit~~
3 ~~Indian campfires or the sending of smoke signals if part of a religious~~
4 ~~ritual)).~~

5 (2) Permit fees shall be assessed for outdoor burning under this
6 section and shall be collected by the department of ecology or the
7 appropriate local air authority at the time the permit is issued. All
8 fees collected shall be deposited in the air pollution control account
9 created in section 227 of this act. Fees shall be set by rule by the
10 permitting authority at the level necessary to cover the costs of
11 administering and enforcing the permit programs, to provide funds for
12 research into alternative methods to reduce emissions from such
13 burning, and to the extent possible be consistent with fees charged for
14 such burning permits in neighboring states.

15 (3) Conservation districts and agricultural extension agents in
16 conjunction with the department shall develop public education material
17 for the agricultural community identifying the health and environmental
18 affects of agricultural outdoor burning and providing technical
19 assistance in alternatives to agricultural outdoor burning.

20 **Sec. 409.** RCW 70.94.654 and 1973 1st ex.s. c 193 s 6 are each
21 amended to read as follows:

22 Whenever the department of ecology shall find that any county or
23 conservation district which is outside the jurisdictional boundaries of
24 an activated air pollution control authority is capable of effectively
25 administering the issuance and enforcement of permits for any or all of
26 the kinds of burning identified in RCW 70.94.650 (~~((1) and (3))~~) and
27 desirous of doing so, the department of ecology may delegate (~~((all))~~)
28 powers necessary for the issuance (~~((and))~~) or enforcement, or both, of
29 permits for any or all of the kinds of burning to the county(~~((+~~

1 ~~PROVIDED, That))~~ or conservation district. Such delegation may be
2 withdrawn by the department of ecology upon ((a)) its finding that the
3 county or conservation district is not effectively administering the
4 permit program.

5 **Sec. 410.** RCW 70.94.775 and 1974 ex.s. c 164 s 1 are each amended
6 to read as follows:

7 No person shall cause or allow any outdoor fire:

8 (1) Containing garbage, dead animals, asphalt, petroleum products,
9 paints, rubber products, plastics, or any substance other than natural
10 vegetation ((which)) that normally emits dense smoke or obnoxious odors
11 ((except as provided in RCW 70.94.650: ~~PROVIDED, That~~)). Agricultural
12 heating devices ((which)) that otherwise meet the requirements of this
13 chapter shall not be considered outdoor fires under this section;

14 (2) During a forecast, alert, warning or emergency condition as
15 defined in RCW 70.94.715 or impaired air quality condition as defined
16 in RCW 70.94.473;

17 (3) In any area which has been designated by the department of
18 ecology or board of an activated authority as an area exceeding or
19 threatening to exceed state or federal ambient air quality standards((~~7~~
20 ~~or after July 1, 1976, state ambient air quality goals for~~
21 ~~particulates~~)), except instructional fires permitted by RCW
22 70.94.650(2).

23 **Sec. 411.** RCW 70.94.780 and 1973 1st ex.s. c 193 s 10 are each
24 amended to read as follows:

25 In addition to any other powers granted to them by law, the fire
26 protection agency, county, or conservation district authorized to issue
27 burning permits ((may)) shall regulate or prohibit outdoor burning in
28 order to prevent or abate the nuisances caused by such burning. No

1 **Sec. 501.** RCW 70.94.457 and 1987 c 405 s 4 are each amended to
2 read as follows:

3 (~~Before January 1, 1988,~~) The department of ecology shall
4 establish by rule under chapter 34.05 RCW:

5 (1) State-wide emission performance standards for new wood stoves.
6 Notwithstanding any other provision of this chapter which allows an
7 authority to adopt more stringent emission standards, no authority
8 shall adopt any emission standard for new wood stoves other than the
9 state-wide standard adopted by the department under this section.

10 (a) (~~For new wood stoves sold after July 1, 1988, the state-wide~~
11 ~~performance standard, by rule, shall be the equivalent of and~~
12 ~~consistent with state-wide emission standards in effect in bordering~~
13 ~~states on or before January 1, 1987. For solid fuel burning devices~~
14 ~~for which bordering states have not established emission standards, the~~
15 ~~department may temporarily exempt or establish, by rule, state-wide~~
16 ~~standards including emission levels and test procedures for such~~
17 ~~devices and such emission levels and test procedures shall be~~
18 ~~equivalent to emission levels per pound per hour burned for other new~~
19 ~~wood stoves regulated by this subsection)) After January 1, 1995, no
20 solid fuel burning device shall be offered for sale that has
21 particulate air contaminant emissions exceeding two grams per hour and
22 after January 1, 2000, no device shall exceed a particulate emissions
23 level of 0.5 grams per hour.~~

24 (b) Notwithstanding (a) of this subsection, the department is
25 authorized to adopt, by rule, emission standards adopted by the United
26 States environmental protection agency for new wood stoves sold at
27 retail. For solid fuel burning devices for which the United States
28 environmental protection agency has not established emission standards,
29 the department may (~~temporarily~~) exempt or establish, by rule, state-

1 wide standards including emission levels and test procedures for such
2 devices and such emission levels and test procedures shall be
3 equivalent to emission levels per pound per hour burned for other new
4 wood stoves regulated under this subsection.

5 (2) A program to:

6 (a) Determine whether a new wood stove complies with the state-wide
7 emission performance standards established in subsection (1) of this
8 section; and

9 (b) Approve the sale of stoves that comply with the state-wide
10 emission performance standards.

11 **Sec. 502.** RCW 70.94.470 and 1987 c 405 s 5 are each amended to
12 read as follows:

13 (1) ~~((Before January 1, 1988,))~~ The department shall establish, by
14 rule under chapter 34.05 RCW, ~~((state wide opacity levels for
15 residential solid fuel burning devices as follows:~~

16 ~~(a) A state wide opacity level of twenty percent for the purpose of
17 public education;~~

18 ~~(b) Until July 1, 1990, a state wide opacity level of forty percent
19 for the purpose of enforcement on a complaint basis; and~~

20 ~~(c) After July 1, 1990, a)~~ (a) state-wide opacity level of twenty
21 percent for residential solid fuel burning devices for the purpose of
22 enforcement on a complaint basis and (b) after July 1, 1995, a state-
23 wide opacity of ten percent for purposes of enforcement on a complaint
24 basis.

25 (2) Notwithstanding any other provision of this chapter which may
26 allow an authority to adopt a more stringent opacity level, no
27 authority shall adopt or enforce an opacity level(~~(:~~

28 ~~(a) Lower than forty percent until July 1, 1990; and~~

1 ~~(b))~~ lower than twenty percent after July 1, 1990, or lower than
2 ten percent after July 1, 1995.

3 NEW SECTION. Sec. 503. A new section is added to chapter 70.94
4 RCW to read as follows:

5 After January 1, 1992, no used solid fuel burning device shall be
6 offered for sale or sold except for scrap unless such device is either
7 Oregon department of environmental quality phase II or United States
8 environmental protection agency certified or a pellet stove either
9 certified or exempt from certification by the United States
10 environmental protection agency.

11 **Sec. 504.** RCW 70.94.473 and 1990 c 128 s 2 are each amended to
12 read as follows:

13 (1) Any person in a residence or commercial establishment which has
14 an adequate source of heat without burning wood shall:

15 (a) Not burn wood in any solid fuel burning device whenever the
16 department has determined under RCW 70.94.715 that any air pollution
17 episode exists in that area;

18 (b) Not burn wood in any solid fuel burning device except those
19 which (~~meet the standards set forth in RCW 70.94.457,~~) are either
20 Oregon department of environmental quality phase II or United States
21 environmental protection agency certified or a pellet stove either
22 certified or issued an exemption certificate by the United States
23 environmental protection agency in accordance with Title 40, Part 60 of
24 the code of federal regulations, in the geographical area and for the
25 period of time that a first stage of impaired air quality has been
26 determined, by the department or any authority, for that area. A first
27 stage of impaired air quality is reached when particulates ten microns
28 and smaller in diameter are at an ambient level of seventy-five

1 micrograms per cubic meter measured on a twenty-four hour average or
2 when carbon monoxide is at an ambient level of eight parts of
3 contaminant per million parts of air by volume measured on an eight-
4 hour average; and

5 (c) Not burn wood in any solid fuel burning device, including those
6 which meet the standards set forth in RCW 70.94.457, in a geographical
7 area and for the period of time that a second stage of impaired air
8 quality has been determined by the department or any authority, for
9 that area. A second stage of impaired air quality is reached when
10 particulates ten microns and smaller in diameter are at an ambient
11 level of one hundred five micrograms per cubic meter measured on a
12 twenty-four hour average.

13 ((When)) If a local air authority exercises the limitation on
14 solid fuel burning devices specified under RCW 70.94.477(2), a single
15 stage of impaired air quality applies in the geographical area defined
16 by the authority in accordance with RCW 70.94.477(2) and is reached
17 when particulates ten microns and smaller in diameter are at an ambient
18 level of ninety micrograms per cubic meter measured on a twenty-four
19 hour average or when carbon monoxide is at an ambient level of eight
20 parts of contaminant per million parts of air by volume measured on an
21 eight-hour average.

22 ((When)) If this single stage of impaired air quality is reached,
23 no person in a residence or commercial establishment ((which)) that has
24 an adequate source of heat without burning wood shall burn wood in any
25 solid fuel burning device, including those which meet the standards set
26 forth in RCW 70.94.457.

27 **Sec. 505.** RCW 70.94.483 and 1990 c 128 s 5 are each amended to
28 read as follows:

1 (1) The wood stove education and enforcement account is hereby
2 created in the general fund. Money placed in the account shall include
3 all money received under subsection (2) of this section and any other
4 money appropriated by the legislature. Money in the account shall be
5 spent for the purposes of the wood stove education program established
6 under RCW 70.94.480 and for enforcement of the wood stove program, and
7 shall be subject to legislative appropriation.

8 (2) The department of ecology, with the advice of the advisory
9 committee, shall set a flat fee(~~(, not to exceed fifteen))~~ of thirty
10 dollars, on the retail sale, as defined in RCW 82.04.050, of each solid
11 fuel burning device, excepting masonry fireplaces, after January 1,
12 (~~(1988))~~ 1992. The fee shall be imposed upon the consumer and shall
13 not be subject to the retail sales tax provisions of chapters 82.08 and
14 82.12 RCW. The fee may be adjusted annually above (~~(fifteen))~~ thirty
15 dollars (~~((according to changes in the consumer price index after~~
16 ~~January 1, 1989))~~ to account for inflation as determined by the state
17 office of the economic and revenue forecast council. The fee shall be
18 collected by the department of revenue in conjunction with the retail
19 sales tax under chapter 82.08 RCW. If the seller fails to collect the
20 fee herein imposed or fails to remit the fee to the department of
21 revenue in the manner prescribed in chapter 82.08 RCW, the seller shall
22 be personally liable to the state for the amount of the fee. The
23 collection provisions of chapter 82.32 RCW shall apply. The department
24 of revenue shall deposit fees collected under this section in the wood
25 stove education and enforcement account.

26 **Sec. 506.** RCW 70.94.041 and 1983 c 3 s 175 are each amended to
27 read as follows:

28 Except as otherwise provided in this section, any building or
29 structure listed on the national register of historic sites,

1 structures, or buildings established pursuant to 80 Stat. 915, 16
2 U.S.C. Sec. 470a, or on the state register established pursuant to RCW
3 (~~(43.51A.080)~~) 27.34.220, shall be permitted to burn wood as it would
4 have when it was a functioning facility as an authorized exception to
5 the provisions of this chapter. Such burning of wood shall not be
6 exempted from the provisions of RCW 70.94.710 through 70.94.730.

7 VI.

8 GLOBAL WARMING AND OZONE DEPLETION

9 NEW SECTION. **Sec. 601.** The legislature finds that:

10 (1) The release of chlorofluorocarbons and other ozone-depleting
11 chemicals into the atmosphere contributes to the destruction of
12 stratospheric ozone and threatens plant and animal life with harmful
13 overexposure to ultraviolet radiation;

14 (2) The technology and equipment to extract and recover
15 chlorofluorocarbons and other ozone-depleting chemicals from air
16 conditioners, refrigerators, and other appliances are available;

17 (3) A number of nonessential consumer products contain ozone-
18 depleting chemicals; and

19 (4) Unnecessary releases of chlorofluorocarbons and other ozone-
20 depleting chemicals from these sources should be eliminated.

21 NEW SECTION. **Sec. 602.** A new section is added to chapter 70.94
22 RCW to read as follows:

23 (1) Regulated refrigerant means a class I substance as listed in
24 Title VI of section 602 of the federal clean air act amendments of
25 November 15, 1990.

1 (2) A person who services or repairs or disposes of a motor vehicle
2 air conditioning system; commercial or industrial air conditioning,
3 heating, or refrigeration system; or consumer appliance shall use
4 refrigerant extraction equipment to recover regulated refrigerant that
5 would otherwise be released into the atmosphere. This subsection does
6 not apply to off-road commercial equipment.

7 (3) The willful release of regulated refrigerant from a source
8 listed in subsection (2) of this section is prohibited.

9 NEW SECTION. **Sec. 603.** A new section is added to chapter 70.94
10 RCW to read as follows:

11 No person may sell, offer for sale, or purchase any of the
12 following:

13 (1) A regulated refrigerant in a container designed for consumer
14 recharge of a motor vehicle air conditioning system or consumer
15 appliance during repair or service. This subsection does not apply to
16 a regulated refrigerant purchased for the recharge of the air
17 conditioning system of off-road commercial equipment and sold or
18 offered for sale at an establishment which specializes in the sale of
19 off-road commercial equipment or parts or service for such equipment;

20 (2) A cleaning spray designed for noncommercial or nonindustrial
21 cleaning of electronic or photographic equipment that contains
22 chlorofluorocarbons or other ozone-depleting chemicals; and

23 (3) Nonessential consumer products that contain chlorofluorocarbons
24 or other ozone-depleting chemicals, and for which substitutes are
25 readily available. Products affected under this subsection shall
26 include, but are not limited to, party streamers, tire inflators, air
27 horns, and noise makers.

1 NEW SECTION. Sec. 604. A new section is added to chapter 70.94

2 RCW to read as follows:

3 The department shall adopt rules to implement sections 602 and 603
4 of this act. Rules shall include but not be limited to minimum
5 performance specifications for refrigerant extraction equipment, as
6 well as procedures for enforcing sections 602 and 603 of this act.

7 VII.

8 MISCELLANEOUS SECTIONS

9 **Sec. 701.** RCW 70.94.053 and 1987 c 505 s 60 and 1987 c 109 s 34
10 are each reenacted and amended to read as follows:

11 (1) In each county of the state there is hereby created an air
12 pollution control authority, which shall bear the name of the county
13 within which it is located. The boundaries of each authority shall be
14 coextensive with the boundaries of the county within which it is
15 located. An authority shall include all incorporated and
16 unincorporated areas of the county within which it is located.

17 (2) All authorities which are presently ~~((or may hereafter be
18 within counties of the first class, class A or class AA, are hereby
19 designated as))~~ activated authorities ~~((and))~~ shall carry out the
20 duties and exercise the powers provided in this chapter. Those
21 activated authorities ~~((hereby activated))~~ which encompass contiguous
22 counties ~~((located in one or the other of the two major areas
23 determined in RCW 70.94.011))~~ are declared to be and directed to
24 function as a multicounty authority.

25 (3) Except as provided in RCW 70.94.232, all other air pollution
26 control authorities are hereby designated as inactive authorities.

1 (4) The boards of those authorities designated as activated
2 authorities by this chapter shall be comprised of such appointees
3 and/or county commissioners or other officers as is provided in RCW
4 70.94.100. ~~((The first meeting of the boards of those authorities
5 designated as activated authorities by this chapter shall be on or
6 before sixty days after June 8, 1967.~~

7 ~~(5) The department is directed to conduct the necessary evaluations
8 and delineate appropriate air pollution regions throughout the state,
9 taking into consideration:~~

10 ~~(a) The natural climatic and topographic features affecting the
11 potential for buildup of air contaminant concentrations.~~

12 ~~(b) The degree of urbanization and industrialization and the
13 existence of activities which are likely to cause air pollution.~~

14 ~~(c) The county boundaries as related to the air pollution regions
15 and the practicality of administering air pollution control programs.))~~

16 **Sec. 702.** RCW 70.94.055 and 1967 c 238 s 5 are each amended to
17 read as follows:

18 The board of county commissioners of any county ~~((other than a
19 first class, class A or class AA county))~~ may activate an air pollution
20 control authority following a public hearing on its own motion, or upon
21 a filing of a petition signed by one hundred property owners within the
22 county. If the board of county commissioners determines as a result of
23 the public hearing that:

24 (1) Air pollution exists or is likely to occur; and

25 (2) The city or town ordinances, or county resolutions, or their
26 enforcement, are inadequate to prevent or control air pollution, they
27 ~~((shall))~~ may by resolution activate an air pollution control authority
28 or combine with a contiguous county or counties to form a multicounty
29 air pollution control authority.

1 **Sec. 703.** RCW 70.94.092 and 1975 1st ex.s. c 106 s 1 are each
2 amended to read as follows:

3 Notwithstanding the provisions of RCW 1.16.030, the budget year of
4 each activated authority shall be the fiscal year beginning July 1st
5 and ending on the following June 30th. (~~The current budget year shall~~
6 ~~be terminated June 30, 1975, and a budget for the fiscal year beginning~~
7 ~~July 1, 1975, shall be adopted pursuant to this section as now or~~
8 ~~hereafter amended.)) On or before the fourth Monday in June of each
9 year, each activated authority shall adopt a budget for the following
10 fiscal year. The activated authority budget shall contain adequate
11 funding and provide for staff sufficient to carry out the provisions of
12 all applicable ordinances, resolutions, and local regulations related
13 to the reduction, prevention, and control of air pollution. The
14 legislature acknowledges the need for the state to provide reasonable
15 funding to local authorities to carry out the requirements of this
16 chapter. The budget shall contain an estimate of all revenues to be
17 collected during the following budget year, including any surplus funds
18 remaining unexpended from the preceding year. The remaining funds
19 required to meet budget expenditures, if any, shall be designated as
20 "supplemental income" and shall be obtained from the component cities,
21 towns, and counties in the manner provided in this chapter. The
22 affirmative vote of three-fourths of all members of the board shall be
23 required to authorize emergency expenditures.~~

24 **Sec. 704.** RCW 70.94.100 and 1989 c 150 s 1 are each amended to
25 read as follows:

26 (1) The governing body of each authority shall be known as the
27 board of directors.

28 (2) In the case of an authority comprised of one county the board
29 shall be comprised of two appointees of the city selection committee

1 (~~as hereinafter provided~~), at least one of whom shall represent the
2 city having the most population in the county, and two representatives
3 to be designated by the board of county commissioners. In the case of
4 an authority comprised of two (~~or~~), three, four, or five counties,
5 the board shall be comprised of one appointee (~~of the city selection~~
6 ~~committee of~~) from each county (~~as hereinafter provided~~), who shall
7 represent the city having the most population in such county, to be
8 designated by the mayor and city council of such city, and one
9 representative from each county to be designated by the board of county
10 commissioners of each county making up the authority. (~~In the case of~~
11 ~~an authority comprised of four or five counties, the board shall be~~
12 ~~comprised of one appointee of the city selection committee of each~~
13 ~~county as hereinafter provided who shall represent the city having the~~
14 ~~most population in such county, and one representative from each county~~
15 ~~to be designated by the board of county commissioners of each county~~
16 ~~making up the authority.~~) In the case of an authority comprised of
17 six or more counties, the board shall be comprised of one
18 representative from each county to be designated by the board of county
19 commissioners of each county making up the authority, and (~~one~~) three
20 appointees, one each from (~~each city with over one hundred thousand~~
21 ~~population~~) the three largest cities within the local authority's
22 jurisdiction to be appointed by the mayor and city council of such
23 city.

24 (3) If the board of an authority otherwise would consist of an even
25 number, the members selected as above provided shall agree upon and
26 elect an additional member who shall be either a member of the
27 governing body of one of the towns, cities or counties comprising the
28 authority, or a private citizen residing in the authority. (~~All board~~
29 ~~members shall hold office at the pleasure of the appointing body.~~)

30 (4) The terms of office of board members shall be four years.

1 (5) Wherever a member of a board has a potential conflict of
2 interest in an action before the board, the member shall declare to the
3 board the nature of the potential conflict prior to participating in
4 the action review. The board shall, if the potential conflict of
5 interest, in the judgment of a majority of the board, may prevent the
6 member from a fair and objective review of the case, remove the member
7 from participation in the action.

8 **Sec. 705.** RCW 70.94.130 and 1969 ex.s. c 168 s 15 are each amended
9 to read as follows:

10 The board shall exercise all powers of the authority except as
11 otherwise provided. The board shall conduct its first meeting within
12 thirty days after all of its members have been appointed or designated
13 as provided in RCW 70.94.100. The board shall meet at least ten times
14 per year. All meetings shall be publicly announced prior to their
15 occurrence. All meetings shall be open to the public. A majority of
16 the board shall constitute a quorum for the transaction of business and
17 shall be necessary for any action taken by the board. The board shall
18 elect from its members a ~~((chairman))~~ chair and such other officers as
19 may be necessary. Any member of the board may designate a regular
20 alternate to serve on the board in his or her place with the same
21 authority as the member when he or she is unable to attend. Each
22 member of the board, or his or her representative, shall receive from
23 the authority ~~((twenty-five dollars per day))~~ compensation consistent
24 with such authority's rates (but not to exceed one thousand dollars per
25 year) for ~~((each full day))~~ time spent in the performance of ~~((his))~~
26 duties under this chapter, plus the actual and necessary expenses
27 incurred by ~~((him))~~ the member in such performance. The board may
28 appoint ~~((an executive director))~~ a control officer, and any other

1 personnel, and shall determine their salaries, and pay same, together
2 with any other proper indebtedness, from authority funds.

3 **Sec. 706.** RCW 70.94.170 and 1969 ex.s. c 168 s 21 are each amended
4 to read as follows:

5 Any activated authority which has adopted an ordinance, resolution,
6 or valid rules and regulations as provided herein for the control and
7 prevention of air pollution shall appoint a full time control officer,
8 ((~~who~~)) whose sole responsibility shall be to observe and enforce the
9 provisions of this chapter and all orders, ordinances, resolutions, or
10 rules and regulations of such activated authority pertaining to the
11 control and prevention of air pollution.

12 **Sec. 707.** RCW 70.94.231 and 1969 ex.s. c 168 s 29 are each amended
13 to read as follows:

14 Upon the date that an authority begins to exercise its powers and
15 functions, all ((~~districts formed as a district under chapter 70.94 RCW~~
16 ~~prior to June 8, 1967 which previously were wholly or partially~~
17 ~~composed of one or more cities or towns located within such activated~~
18 ~~authority shall be considered to be dissolved but its~~)) rules and
19 regulations in force on such date shall remain in effect until
20 superseded by the rules and regulations of the authority as provided in
21 RCW 70.94.230. ((~~In such event, the board of any such district shall~~
22 ~~proceed to wind up the affairs of the district in the same manner as if~~
23 ~~the district were dissolved as provided in RCW 70.94.260.~~))

24 **Sec. 708.** RCW 70.94.240 and 1969 ex.s. c 168 s 30 are each amended
25 to read as follows:

26 The board of any authority ((~~shall~~)) may appoint an air pollution
27 control advisory council to advise and consult with such board, and the

1 control officer in effectuating the purposes of this chapter. The
2 council shall consist of at least five appointed members who are
3 residents of the authority and who are preferably skilled and
4 experienced in the field of air pollution control, ~~((two))~~ chemistry,
5 meteorology, public health, or a related field, at least one of whom
6 shall serve as a representative~~((s))~~ of industry and one of whom shall
7 serve as a representative of the environmental community. The
8 ~~((chairman))~~ chair of the board of any such authority shall serve as ex
9 officio member of the council and be its ~~((chairman))~~ chair. Each
10 member of the council shall receive from the authority per diem and
11 travel expenses in an amount not to exceed that provided for the state
12 board in this chapter (but not to exceed one thousand dollars per year)
13 for each full day spent in the performance of his or her duties under
14 this chapter.

15 **Sec. 709.** RCW 70.94.331 and 1988 c 106 s 1 are each amended to
16 read as follows:

17 (1) The department shall have all the powers as provided in RCW
18 70.94.141.

19 (2) The department, in addition to any other powers vested in it by
20 law after consideration at a public hearing held in accordance with
21 chapters 42.30 ~~((RCW))~~ and ~~((chapter))~~ 34.05 RCW shall:

22 (a) Adopt rules ~~((and regulations))~~ establishing air quality
23 objectives and air quality standards;

24 (b) Adopt emission standards which shall constitute minimum
25 emission standards throughout the state. An authority may enact more
26 stringent emission standards, except for emission performance standards
27 for new wood stoves and opacity levels for residential solid fuel
28 burning devices which shall be state-wide, but in no event may less
29 stringent standards be enacted by an authority without the prior

1 approval of the department after public hearing and due notice to
2 interested parties;

3 (c) Adopt by rule (~~and regulation~~) air quality standards and
4 emission standards for the control or prohibition of emissions to the
5 outdoor atmosphere of radionuclides, dust, fumes, mist, smoke, other
6 particulate matter, vapor, gas, odorous substances, or any combination
7 thereof. Such requirements may be based upon a system of
8 classification by types of emissions or types of sources of emissions,
9 or combinations thereof, which it determines most feasible for the
10 purposes of this chapter. However, an industry, or the air pollution
11 control authority having jurisdiction, can choose, subject to the
12 submittal of appropriate data that the industry has quantified, to have
13 any limit on the opacity of emissions from a source whose emission
14 standard is stated in terms of a weight of particulate per unit volume
15 of air (e.g., grains per dry standard cubic foot) be based on the
16 applicable particulate emission standard for that source, such that any
17 violation of the opacity limit accurately indicates a violation of the
18 applicable particulate emission standard. A reasonable fee may be
19 assessed to the industry to which the alternate opacity standard would
20 apply. The fee shall cover only those costs to the air pollution
21 control authority which are directly related to the determination on
22 the acceptability of the alternate opacity standard, including testing,
23 oversight and review of data.

24 (3) The air quality standards and emission standards may be for the
25 state as a whole or may vary from area to area or source to source,
26 except that emission performance standards for new wood stoves and
27 opacity levels for residential solid fuel burning devices shall be
28 state-wide, as may be appropriate to facilitate the accomplishment of
29 the objectives of this chapter and to take necessary or desirable
30 account of varying local conditions of population concentration, the

1 existence of actual or ((reasonable)) reasonably foreseeable air
2 pollution, topographic and meteorologic conditions and other pertinent
3 variables.

4 (4) The department is directed to cooperate with the appropriate
5 agencies of the United States or other states or any interstate
6 agencies or international agencies with respect to the control of air
7 pollution and air contamination, or for the formulation for the
8 submission to the legislature of interstate air pollution control
9 compacts or agreements.

10 (5) The department is directed to conduct or cause to be conducted
11 a continuous surveillance program to monitor the quality of the ambient
12 atmosphere as to concentrations and movements of air contaminants and
13 conduct or cause to be conducted a program to determine the quantity of
14 emissions to the atmosphere.

15 (6) The department shall enforce the air quality standards and
16 emission standards throughout the state except where a local authority
17 is enforcing the state regulations or its own regulations which are
18 more stringent than those of the state.

19 (7) The department shall encourage local units of government to
20 handle air pollution problems within their respective jurisdictions;
21 and, on a cooperative basis provide technical and consultative
22 assistance therefor.

23 (8) The department shall have the power to require the addition to
24 or deletion of a county or counties from an existing authority in order
25 to carry out the purposes of this chapter(~~(:—PROVIDED, HOWEVER,~~
26 ~~That))~~). No such addition or deletion shall be made without the
27 concurrence of any existing authority involved. Such action shall only
28 be taken after a public hearing held pursuant to the provisions of
29 chapter 34.05 RCW.

1 **Sec. 710.** RCW 70.94.332 and 1987 c 109 s 18 are each amended to
2 read as follows:

3 Whenever the department of ecology has reason to believe that any
4 provision of this chapter or any rule or regulation adopted by it or
5 being enforced by it under RCW 70.94.410 relating to the control or
6 prevention of air pollution has been violated, it may cause written
7 notice to be served upon the alleged violator or violators. The notice
8 shall specify the provision of this chapter or the rule or regulation
9 alleged to be violated, and the facts alleged to constitute a violation
10 thereof, and may include an order that necessary corrective action be
11 taken within a reasonable time. In lieu of an order, the department
12 may require that the alleged violator or violators appear before it for
13 the purpose of providing the department information pertaining to the
14 violation or the charges complained of. In addition to or in place of
15 an order or hearing, the department may initiate action pursuant to RCW
16 70.94.425, 70.94.430, 70.94.431, and 70.94.435.

17 **Sec. 711.** RCW 70.94.385 and 1987 c 109 s 41 are each amended to
18 read as follows:

19 (1) Any authority may apply to the department for state financial
20 aid. The department shall ~~((by rule and regulation))~~ annually
21 establish the ~~((ratio))~~ amount of state funds ~~((to))~~ available for the
22 local ~~((funds))~~ authorities taking into consideration available federal
23 and state funds. The establishment of funding amounts shall be
24 consistent with federal requirements and local maintenance of effort
25 necessary to carry out the provisions of this chapter. Any such aid
26 shall be expended from the general fund or from ~~((such))~~ other
27 appropriations as the legislature may provide for this purpose:
28 PROVIDED, That federal funds shall be utilized to the maximum unless
29 otherwise approved by the department: PROVIDED FURTHER, That the

1 (~~ratio~~) amount of state funds provided to local (~~funds of~~)
2 authorities during the previous year shall not be (~~changed~~) reduced
3 without a public notice or hearing if requested by the affected local
4 authority, held by the department unless such changes are the direct
5 result of federal regulation.

6 (2) Before any such application is approved and financial aid is
7 given or approved by the department, the authority shall demonstrate to
8 the satisfaction of the department that it is fulfilling the
9 requirements of (~~RCW 70.94.380, or,~~) this chapter. If the department
10 has not adopted ambient air quality standards and objectives as
11 permitted by RCW 70.94.331, the authority shall demonstrate to the
12 satisfaction of the department that it is acting in good faith and
13 doing all that is possible and reasonable to control and prevent air
14 pollution within its jurisdictional boundaries and to carry out the
15 purposes of this chapter.

16 (3) The department shall adopt rules (~~and regulations~~) requiring
17 the submission of such information by each authority including the
18 submission of its proposed budget and a description of its program in
19 support of the application for state financial aid as necessary to
20 enable the department to determine the need for state aid.

21 **Sec. 712.** RCW 70.94.395 and 1987 c 109 s 43 are each amended to
22 read as follows:

23 If the department finds, after public hearing upon due notice to
24 all interested parties, that the emissions from a particular type or
25 class of air contaminant source should be regulated on a state-wide
26 basis in the public interest and for the protection of the welfare of
27 the citizens of the state, it may adopt and enforce rules (~~and~~
28 ~~regulations~~) to control and/or prevent the emission of air
29 contaminants from such source(~~:- PROVIDED, That~~). An authority may,

1 after public hearing and a finding by the board of a need for more
2 stringent rules ~~((and regulations))~~ than those adopted by the
3 department under this section, propose the adoption of such rules ~~((and
4 regulations))~~ by the department for the control of emissions from the
5 particular type or class ~~((or))~~ of air contaminant source within the
6 geographical area of the authority. The department shall hold a public
7 hearing and shall adopt the proposed rules ~~((and regulations))~~ within
8 the area of the requesting authority, unless it finds that the proposed
9 rules ~~((and regulations))~~ are inconsistent with the rules ~~((and
10 regulations))~~ adopted by the department under this section~~((÷
11 PROVIDED, FURTHER, That))~~. When such standards are adopted by the
12 department it ~~((shall))~~ may delegate to the authority all powers
13 necessary for their enforcement at the request of the authority~~((÷
14 PROVIDED, That))~~. The department may delegate the responsibility for
15 the enforcement of ~~((such))~~ rules ~~((and regulations))~~ adopted under
16 this section to any authority which it deems capable of enforcing such
17 ~~((regulations:— PROVIDED FURTHER, That))~~ rules. If after public
18 hearing the department finds that the regulation on a state-wide basis
19 of a particular type ~~((of))~~ or class of air contaminant source is no
20 longer required for the public interest and the protection of the
21 welfare of the citizens of the state, the department may relinquish
22 exclusive jurisdiction over such source.

23 **Sec. 713.** RCW 70.94.405 and 1987 c 109 s 45 are each amended to
24 read as follows:

25 At any time after an authority has been activated for no less than
26 one year, the department may, on its own motion, conduct a hearing held
27 in accordance with chapters 42.30 ~~((RCW))~~ and ~~((chapter))~~ 34.05 RCW,
28 ~~((as now or hereafter amended))~~ to determine whether or not the air
29 pollution prevention and control program of such authority is being

1 carried out in good faith and is as effective as possible (~~under the~~
2 ~~circumstances~~). If at such hearing the department finds that such
3 authority is not carrying out its air pollution control or prevention
4 program in good faith, (~~or~~) is not doing all that is possible and
5 reasonable to control and/or prevent air pollution within the
6 geographical area over which it has jurisdiction, or is not carrying
7 out the provisions of this chapter, it shall set forth in a report or
8 order to the appropriate authority: (1) Its recommendations as to how
9 air pollution prevention and/or control might be more effectively
10 accomplished; and (2) guidelines which will assist the authority in
11 carrying out the recommendations of the department.

12 **Sec. 714.** RCW 70.94.410 and 1987 c 109 s 46 are each amended to
13 read as follows:

14 (1) If, after thirty days from the time that the department issues
15 a report or order to an authority under RCW 70.94.400 and 70.94.405,
16 such authority has not taken (~~any~~) action which indicates that it is
17 attempting in good faith to implement the recommendations or actions of
18 the department as set forth in the report or order, the department may,
19 by order, declare as null and void any or all ordinances, resolutions,
20 rules or regulations of such authority relating to the control and/or
21 prevention of air pollution, and at such time the department shall
22 become the sole body with authority to make and enforce rules and
23 regulations for the control and/or prevention of air pollution within
24 the geographical area of such authority. In this connection the
25 department may assume all those powers which are given to it by law to
26 effectuate the purposes of this chapter. The department may, by order,
27 continue in effect and enforce (~~those~~) provisions of the ordinances,
28 resolutions, or rules (~~and regulations~~) of such authority which are
29 not less stringent than those requirements which the department may

1 have found applicable to the area under RCW 70.94.331, until such time
2 as the department adopts its own rules ((and regulations)). Any rules
3 ((and regulations)) promulgated by the department shall be subject to
4 the provisions of chapter 34.05 RCW ((as it now appears or may
5 hereinafter be amended)). Any enforcement actions shall be subject to
6 RCW 43.21B.300 or 43.21B.310.

7 (2) No provision of this chapter is intended to prohibit any
8 authority from reestablishing its air pollution control program which
9 meets with the approval of the department and which complies with the
10 purposes of this chapter and with applicable rules ((and regulations))
11 and orders of the department.

12 (3) Nothing in this chapter shall prevent the department from
13 withdrawing the exercise of its jurisdiction over an authority upon its
14 own motion((:—PROVIDED, That)) if the department has found at a
15 hearing held in accordance with chapters 42.30 ((RCW)) and ((chapter))
16 34.05 RCW ((as now or hereafter amended)), that the air pollution
17 prevention and control program of such authority will be carried out in
18 good faith ((or)), that such program will do all that is possible and
19 reasonable to control and/or prevent air pollution within the
20 geographical area over which it has jurisdiction, and that the program
21 complies with the provisions of this chapter. Upon the withdrawal of
22 the department, the department shall prescribe certain recommendations
23 as to how air pollution prevention and/or control is to be effectively
24 accomplished and guidelines which will assist the authority in carrying
25 out the recommendations of the department.

26 **Sec. 715.** RCW 70.94.420 and 1987 c 109 s 47 are each amended to
27 read as follows:

28 (({1})) It is declared to be the intent of the legislature of the
29 state of Washington that any state department or agency having

1 jurisdiction over any building, installation, ~~((or))~~ other property, or
2 other activity creating or likely to create significant air pollution
3 shall cooperate with the department and with air pollution control
4 agencies in preventing and/or controlling the pollution of the air in
5 any area insofar as the discharge of ~~((the matter))~~ air contaminants
6 from or by such building, installation, ~~((or))~~ other property, or
7 activity may cause or contribute to pollution of the air in such area.
8 Such state department or agency shall comply with the provisions of
9 this chapter and with any ordinance, resolution, rule or regulation
10 issued hereunder in the same manner as any other person subject to such
11 laws~~((7))~~ or rules ~~((or regulations))~~.

12 ~~((2) In addition to its other powers and duties prescribed by law,~~
13 ~~the department may establish classes of potential pollution sources for~~
14 ~~which any state department or agency having jurisdiction over any~~
15 ~~building, installation, or other property, which is not located within~~
16 ~~the geographical boundaries of any authority which has an air pollution~~
17 ~~control and/or prevention program in effect, shall, before discharging~~
18 ~~any matter into the air, obtain a permit from the department for such~~
19 ~~discharge, such permits to be issued for a specified period of time to~~
20 ~~be determined by the department and subject to revocation if the~~
21 ~~department finds that such discharge is endangering the health and~~
22 ~~welfare of any persons. Such permits may also be required for any such~~
23 ~~building, installation, or other property which is located within the~~
24 ~~geographical boundaries of any authority which has an air pollution~~
25 ~~control and prevention program in effect if the standards set by the~~
26 ~~department for state departments and agencies are more stringent than~~
27 ~~those of the authority. In connection with the issuance of any permits~~
28 ~~under this section, there shall be submitted to the department such~~
29 ~~plans, specifications, and other information as it deems relevant~~
30 ~~thereto and under such other conditions as it may prescribe.))~~

1 **Sec. 716.** RCW 70.146.080 and 1986 c 3 s 11 are each amended to
2 read as follows:

3 Within thirty days after June 30, 1987, and within thirty days
4 after each succeeding fiscal year thereafter, the ~~((state treasurer))~~
5 office of financial management shall determine the tax receipts
6 deposited into the water quality account for the preceding fiscal year.
7 If the tax receipts deposited into the account in each of the fiscal
8 years 1988 and 1989 are less than forty million dollars, the state
9 treasurer shall transfer sufficient moneys from general state revenues
10 into the water quality account to bring the total receipts in each
11 fiscal year up to forty million dollars.

12 After June 30, 1989, if the tax receipts deposited into the water
13 quality account for the preceding fiscal year are less than forty-five
14 million dollars, the state treasurer shall transfer sufficient moneys
15 from general state revenues into the water quality account to bring the
16 total receipts up to forty-five million dollars.

17 Beginning in fiscal year 1992, if the tax receipts deposited into
18 the water quality account for the preceding fiscal year are less than
19 forty-five million dollars, the state treasurer shall transfer
20 sufficient moneys from the air pollution control account, created in
21 section 227 of this act to bring the total receipts up to forty-five
22 million dollars. One-fourth of the required amount shall be
23 transferred at the end of each fiscal quarter based on the tax receipts
24 as determined by July 30 for the preceding fiscal year.

25 NEW SECTION. **Sec. 717.** A new section is added to chapter 70.94
26 RCW to read as follows:

27 All fees and penalties assessed under this chapter except as
28 otherwise provided shall be collected by the department of revenue, and
29 deposited in the air pollution control account, created in section 227

1 of this act. Money in the account deposited pursuant to this section
2 shall be expended by the department of ecology for the purposes of this
3 chapter, subject to legislative appropriation.

4 The amounts collected and allocated in accordance with this section
5 shall be expended upon appropriation and in accordance with the
6 following:

7 Portions of moneys received by the department from the air
8 pollution control account shall be distributed by the department to
9 local air authorities based on the amount of fees collected from
10 sources within the jurisdictional boundaries of such authority and on
11 the level and extent of the air quality problem within such boundaries.

12 NEW SECTION. **Sec. 718.** Section 602 of this act shall take
13 effect on July 1, 1992. Section 604 of this act shall take effect on
14 January 1, 1992.

15 The remainder of this act is necessary for the immediate
16 preservation of the public peace, health, or safety, or support of the
17 state government and its existing public institutions, and shall take
18 effect immediately, except for sections 221 through 228 of this act
19 which shall take effect July 1, 1991.

20 NEW SECTION. **Sec. 719.** The following acts or parts of acts are
21 each repealed:

22 (1) RCW 70.120.110 and 1989 c 240 s 7, 1985 c 7 s 131, & 1979 ex.s.
23 c 163 s 12;

24 (2) RCW 70.120.140 and 1 c 505 s 62 & 1980 c 176 s 5;

25 (3) RCW 70.120.900 and 1989 c 240 s 9;

26 (4) RCW 70.94.232 and 1983 c 3 s 177 & 1967 c 238 s 40;

27 (5) RCW 70.94.656 and 1990 c 113 s 1, 1985 c 57 s 69, & 1973 1st
28 ex.s. c 193 s 7;

- 1 (6) RCW 70.94.680 and 1971 ex.s. c 232 s 4;
- 2 (7) RCW 70.94.740 and 1972 ex.s. c 136 s 1;
- 3 (8) RCW 70.94.810 and 1984 c 277 s 3;
- 4 (9) RCW 70.94.815 and 1984 c 277 s 5;
- 5 (10) RCW 70.94.825 and 1984 c 277 s 7; and
- 6 (11) RCW 70.94.870 and 1984 c 164 s 3.

7 NEW SECTION. **Sec. 720.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.