

---

SENATE BILL 5469

---

State of Washington

58th Legislature

2003 Regular Session

By Senators Finkbeiner, Eide, Haugen, McAuliffe, Schmidt, Poulsen, Esser, Reardon and Kohl-Welles

Read first time 01/27/2003. Referred to Committee on Highways & Transportation.

1 AN ACT Relating to providing incentives to use clean alternative  
2 fuel vehicles; amending RCW 70.94.030; adding new sections to chapter  
3 70.94 RCW; adding new sections to chapter 82.04 RCW; providing  
4 effective dates; and providing expiration dates.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.94 RCW  
7 to read as follows:

8 The legislature finds that the use of motor vehicles has a  
9 significant impact on the air quality of the state of Washington.  
10 Motor vehicle emissions account for more than half of all air  
11 pollutants, almost sixty percent of total carbon dioxide emissions, and  
12 a significant portion of toxic contaminants in Washington state. These  
13 emissions result in deteriorating air quality, with additional negative  
14 impacts on the environment and public health. The legislature further  
15 recognizes that motor vehicles account for the largest percentage of  
16 oil consumption in the United States, exposing Washington state  
17 businesses and citizens to an uncertain and volatile global petroleum  
18 market. The legislature finds it is important to begin addressing  
19 these negative impacts of gasoline and diesel-powered vehicles.

1 Addressing the impacts of motor vehicles is further necessitated by the  
2 expected increases in population and vehicle miles traveled in the  
3 state. To make net progress in improving air quality, reducing the  
4 threat of climate change, protecting public health and the environment,  
5 and improving energy security, the legislature finds it is necessary to  
6 encourage the use of clean alternative fuel vehicles.

7 **Sec. 2.** RCW 70.94.030 and 1993 c 252 s 2 are each amended to read  
8 as follows:

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

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

15 (2) "Air pollution" is presence in the outdoor atmosphere of one or  
16 more air contaminants in sufficient quantities and of such  
17 characteristics and duration as is, or is likely to be, injurious to  
18 human health, plant or animal life, or property, or which unreasonably  
19 interfere with enjoyment of life and property. For the purpose of this  
20 chapter, air pollution shall not include air contaminants emitted in  
21 compliance with chapter 17.21 RCW.

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

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

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

29 (6) "Best available control technology" (BACT) means an emission  
30 limitation based on the maximum degree of reduction for each air  
31 pollutant subject to regulation under this chapter emitted from or that  
32 results from any new or modified stationary source, that the permitting  
33 authority, on a case-by-case basis, taking into account energy,  
34 environmental, and economic impacts and other costs, determines is  
35 achievable for such a source or modification through application of  
36 production processes and available methods, systems, and techniques,  
37 including fuel cleaning, clean fuels, or treatment or innovative fuel

1 combustion techniques for control of each such a pollutant. In no  
2 event shall application of "best available control technology" result  
3 in emissions of any pollutants that will exceed the emissions allowed  
4 by any applicable standard under 40 C.F.R. Part 60 and Part 61, as they  
5 exist on July 25, 1993, or their later enactments as adopted by  
6 reference by the director by rule. Emissions from any source utilizing  
7 clean fuels, or any other means, to comply with this subsection shall  
8 not be allowed to increase above levels that would have been required  
9 under the definition of BACT as it existed prior to enactment of the  
10 (~~federal~~) federal clean air act amendments of 1990.

11 (7) "Best available retrofit technology" (BART) means an emission  
12 limitation based on the degree of reduction achievable through the  
13 application of the best system of continuous emission reduction for  
14 each pollutant that is emitted by an existing stationary facility. The  
15 emission limitation must be established, on a case-by-case basis,  
16 taking into consideration the technology available, the costs of  
17 compliance, the energy and nonair quality environmental impacts of  
18 compliance, any pollution control equipment in use or in existence at  
19 the source, the remaining useful life of the source, and the degree of  
20 improvement in visibility that might reasonably be anticipated to  
21 result from the use of the technology.

22 (8) "Board" means the board of directors of an authority.

23 (9)(a) "Clean alternative fuel vehicle" means a motor vehicle, as  
24 defined in RCW 46.04.320, originally designed and equipped by the  
25 manufacturer to operate: (i) Exclusively on natural gas, liquefied  
26 petroleum gas, hydrogen, or electricity; (ii) as a fuel cell vehicle;  
27 or (iii) as a hybrid vehicle. Hybrid vehicles rated at or below eight  
28 thousand five hundred pounds gross vehicle weight rating must have an  
29 average estimated fuel economy rating, as determined by the  
30 environmental protection agency, of at least forty miles per gallon.

31 (b) For purposes of this subsection, (i) "fuel cell vehicle" is  
32 defined as a vehicle that operates on an electric motor drawing current  
33 from combining hydrogen and oxygen in an electrochemical process; and  
34 (ii) "hybrid vehicle" means a vehicle that draws propulsion energy from  
35 both an internal combustion or heat engine and an onboard rechargeable  
36 energy storage device or similar system and employs a vehicle braking  
37 system that recovers waste energy to charge an onboard energy storage

1 device or any other vehicle that is defined as a hybrid vehicle in  
2 regulations prescribed by the secretary of energy for the  
3 administration of title III of the energy policy act of 1992.

4 ~~(10)~~ (10) "Control officer" means the air pollution control officer of  
5 any authority.

6 ~~((+10+))~~ (11) "Department" or "ecology" means the department of  
7 ecology.

8 ~~((+11+))~~ (12) "Emission" means a release of air contaminants into  
9 the ambient air.

10 ~~((+12+))~~ (13) "Emission standard" and "emission limitation" mean a  
11 requirement established under the federal clean air act or this chapter  
12 that limits the quantity, rate, or concentration of emissions of air  
13 contaminants on a continuous basis, including any requirement relating  
14 to the operation or maintenance of a source to assure continuous  
15 emission reduction, and any design, equipment, work practice, or  
16 operational standard adopted under the federal clean air act or this  
17 chapter.

18 ~~((+13+))~~ (14) "Lowest achievable emission rate" (LAER) means for  
19 any source that rate of emissions that reflects:

20 (a) The most stringent emission limitation that is contained in the  
21 implementation plan of any state for such class or category of source,  
22 unless the owner or operator of the proposed source demonstrates that  
23 such limitations are not achievable; or

24 (b) The most stringent emission limitation that is achieved in  
25 practice by such class or category of source, whichever is more  
26 stringent.

27 In no event shall the application of this term permit a proposed  
28 new or modified source to emit any pollutant in excess of the amount  
29 allowable under applicable new source performance standards.

30 ~~((+14+))~~ (15) "Modification" means any physical change in, or  
31 change in the method of operation of, a stationary source that  
32 increases the amount of any air contaminant emitted by such source or  
33 that results in the emission of any air contaminant not previously  
34 emitted. The term modification shall be construed consistent with the  
35 definition of modification in Section 7411, Title 42, United States  
36 Code, and with rules implementing that section.

37 ~~((+15+))~~ (16) "Multicounty authority" means an authority which  
38 consists of two or more counties.

1        ~~((16))~~ (17) "New source" means (a) the construction or  
2 modification of a stationary source that increases the amount of any  
3 air contaminant emitted by such source or that results in the emission  
4 of any air contaminant not previously emitted, and (b) any other  
5 project that constitutes a new source under the federal clean air act.

6        ~~((17))~~ (18) "Permit program source" means a source required to  
7 apply for or to maintain an operating permit under RCW 70.94.161.

8        ~~((18))~~ (19) "Person" means an individual, firm, public or private  
9 corporation, association, partnership, political subdivision of the  
10 state, municipality, or governmental agency.

11        ~~((19))~~ (20) "Reasonably available control technology" (RACT)  
12 means the lowest emission limit that a particular source or source  
13 category is capable of meeting by the application of control technology  
14 that is reasonably available considering technological and economic  
15 feasibility. RACT is determined on a case-by-case basis for an  
16 individual source or source category taking into account the impact of  
17 the source upon air quality, the availability of additional controls,  
18 the emission reduction to be achieved by additional controls, the  
19 impact of additional controls on air quality, and the capital and  
20 operating costs of the additional controls. RACT requirements for a  
21 source or source category shall be adopted only after notice and  
22 opportunity for comment are afforded.

23        ~~((20))~~ (21) "Silvicultural burning" means burning of wood fiber  
24 on forest land consistent with the provisions of RCW 70.94.660.

25        ~~((21))~~ (22) "Source" means all of the emissions units including  
26 quantifiable fugitive emissions, that are located on one or more  
27 contiguous or adjacent properties, and are under the control of the  
28 same person, or persons under common control, whose activities are  
29 ancillary to the production of a single product or functionally related  
30 group of products.

31        ~~((22))~~ (23) "Stationary source" means any building, structure,  
32 facility, or installation that emits or may emit any air contaminant.

33        NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW  
34 to read as follows:

35        (1) Persons who are taxable under this chapter may take a credit  
36 for the purchase, or the lease for a period of at least three years, of

1 new clean alternative fuel vehicles as defined in RCW 70.94.030, if the  
2 vehicles are exclusively used in business operations. The credit is  
3 based upon the following schedule:

4	VEHICLE TONNAGE	CREDIT
5	Less than 10,000 pounds	30 percent of the cost or
6	gross vehicle weight	\$5,000, whichever is less
7	10,000 pounds or more	30 percent of the cost or
8	gross vehicle weight	\$25,000, whichever is
9		less

10 (2) The credit may not exceed the amount of tax that would  
11 otherwise be due under this chapter. The credit may be accrued and  
12 carried over until it is used. Refunds shall not be granted in place  
13 of credits. The maximum amount of credit under this section that may  
14 be claimed, by each person, for any calendar year shall not exceed two  
15 hundred thousand dollars.

16 (3) Tax credit may not be claimed for expenditures that occurred  
17 before the effective date of this section or expenditures that occur  
18 after the date specified in section 5 of this act.

19 (4) The tax credit for hybrid vehicles at or below eight thousand  
20 five hundred pounds gross vehicle weight rating defined under RCW  
21 70.94.030(9) expires June 30, 2006.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.04 RCW  
23 to read as follows:

24 (1) Persons who are taxable under this chapter may take a credit  
25 for the costs expended for acquiring and installing alternative fuel  
26 equipment and electric vehicle recharging equipment, including  
27 alternative fuel storage tanks.

28 (2) For the purposes of this section, (a) "alternative fuel" means  
29 natural gas, liquefied petroleum gas, hydrogen, fuel containing a  
30 minimum of eighty-five percent ethanol, and fuel containing a minimum  
31 of twenty percent biodiesel; and (b) "biodiesel" means a fuel as  
32 defined in ASTM Standard D6751.

33 (3) The credit is based upon the following schedule:

34 (a) Fifty percent of the costs incurred at facilities open to the  
35 public not to exceed two hundred thousand dollars; and

1 (b) Twenty-five percent of the costs incurred at facilities not  
2 open to the public not to exceed one hundred thousand dollars.

3 (4) The credit may not exceed the amount of tax that would  
4 otherwise be due under this chapter. The credit may be accrued and  
5 carried over until it is used. Refunds shall not be granted in place  
6 of credits. The maximum amount of credit under this section that may  
7 be claimed by each person for any calendar year shall not exceed one  
8 million dollars.

9 (5) Tax credit may not be claimed for expenditures that occurred  
10 before the effective date of this section or expenditures that occur  
11 after the date specified in section 5 of this act.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.04 RCW  
13 to read as follows:

14 Sections 3 and 4 of this act expire December 31, 2012, and credits  
15 are not allowed for expenditures that occur after this date.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.94 RCW  
17 to read as follows:

18 The Washington State University energy program, in consultation  
19 with the departments of ecology, revenue, and licensing; local  
20 governments; vehicle manufacturers and suppliers; and other interested  
21 parties, shall collect and review the relevant data associated with the  
22 provisions of chapter . . . , Laws of 2003 (this act) and evaluate the  
23 effectiveness of these incentives in improving air quality and  
24 increasing the use of clean alternative fuel vehicles. The Washington  
25 State University energy program shall present its findings and make  
26 recommendations as appropriate to the legislature biennially on or  
27 before November 30th, beginning in 2006.

28 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act take effect  
29 August 1, 2003.

30 NEW SECTION. **Sec. 8.** Section 6 of this act takes effect January  
31 1, 2004.

32 NEW SECTION. **Sec. 9.** Section 6 of this act expires December 31,  
33 2012.

--- END ---