

SHB 2545 - H AMD 1051

By Representative Upthegrove

NOT CONSIDERED 03/11/2010

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

3 "Sec. 1. RCW 70.235.010 and 2008 c 14 s 2 are each amended to read
4 as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Carbon dioxide equivalents" means a metric measure used to
8 compare the emissions from various greenhouse gases based upon their
9 global warming potential.

10 (2) "Climate advisory team" means the stakeholder group formed in
11 response to executive order 07-02.

12 (3) "Climate impacts group" means the University of Washington's
13 climate impacts group.

14 (4) "Department" means the department of ecology.

15 (~~(5) ("Direct emissions" means emissions of greenhouse gases from~~
16 ~~sources of emissions, including stationary combustion sources, mobile~~
17 ~~combustion emissions, process emissions, and fugitive emissions.~~

18 ~~(6))~~ (6) "Director" means the director of the department.

19 ~~((7))~~ (7) "Greenhouse gas" and "greenhouse gases" includes carbon
20 dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,
21 ~~((and)) sulfur hexafluoride, and any other gas or gases designated by~~
22 the department by rule.

23 ~~((8) "Indirect emissions" means emissions of greenhouse gases~~
24 ~~associated with the purchase of electricity, heating, cooling, or~~
25 ~~steam.~~

26 ~~(9))~~ (9) "Person" means an individual, partnership, franchise
27 holder, association, corporation, a state, a city, a county, or any
28 subdivision or instrumentality of the state.

29 ~~((10))~~ (10) "Program" means the department's climate change
30 program.

1 ~~((11) "Total emissions of greenhouse gases" means all direct~~
2 ~~emissions and all indirect emissions.~~

3 ~~(12))~~ (9) "Western climate initiative" means the collaboration of
4 states, Canadian provinces, Mexican states, and tribes to design a
5 multisector market-based mechanism as directed under the western
6 regional climate action initiative signed by the governor on February
7 22, 2007.

8 **Sec. 2.** RCW 70.94.151 and 2008 c 14 s 5 are each amended to read
9 as follows:

10 (1) The board of any activated authority or the department, may
11 classify air contaminant sources, by ordinance, resolution, rule or
12 regulation, which in its judgment may cause or contribute to air
13 pollution, according to levels and types of emissions and other
14 characteristics which cause or contribute to air pollution, and may
15 require registration or reporting or both for any such class or
16 classes. Classifications made pursuant to this section may be for
17 application to the area of jurisdiction of such authority, or the state
18 as a whole or to any designated area within the jurisdiction, and shall
19 be made with special reference to effects on health, economic and
20 social factors, and physical effects on property.

21 (2) Except as provided in subsection (3) of this section, any
22 person operating or responsible for the operation of air contaminant
23 sources of any class for which the ordinances, resolutions, rules or
24 regulations of the department or board of the authority, require
25 registration or reporting shall register therewith and make reports
26 containing information as may be required by such department or board
27 concerning location, size and height of contaminant outlets, processes
28 employed, nature of the contaminant emission and such other information
29 as is relevant to air pollution and available or reasonably capable of
30 being assembled. In the case of emissions of greenhouse gases as
31 defined in RCW 70.235.010 the department shall adopt rules requiring
32 reporting of those emissions. The department or board may require that
33 such registration or reporting be accompanied by a fee, and may
34 determine the amount of such fee for such class or classes: PROVIDED,
35 That the amount of the fee shall only be to compensate for the costs of
36 administering such registration or reporting program which shall be
37 defined as initial registration and annual or other periodic reports

1 from the source owner providing information directly related to air
2 pollution registration, on-site inspections necessary to verify
3 compliance with registration requirements, data storage and retrieval
4 systems necessary for support of the registration program, emission
5 inventory reports and emission reduction credits computed from
6 information provided by sources pursuant to registration program
7 requirements, staff review, including engineering or other reliable
8 analysis for accuracy and currentness, of information provided by
9 sources pursuant to registration program requirements, clerical and
10 other office support provided in direct furtherance of the registration
11 program, and administrative support provided in directly carrying out
12 the registration program: PROVIDED FURTHER, That any such registration
13 made with either the board or the department shall preclude a further
14 registration and reporting with any other board or the department,
15 except that emissions of greenhouse gases as defined in RCW 70.235.010
16 must be reported as required under subsection (5) of this section.

17 All registration program and reporting fees collected by the
18 department shall be deposited in the air pollution control account.
19 All registration program fees collected by the local air authorities
20 shall be deposited in their respective treasuries.

21 (3) If a registration or report has been filed for a grain
22 warehouse or grain elevator as required under this section,
23 registration, reporting, or a registration program fee shall not, after
24 January 1, 1997, again be required under this section for the warehouse
25 or elevator unless the capacity of the warehouse or elevator as listed
26 as part of the license issued for the facility has been increased since
27 the date the registration or reporting was last made. If the capacity
28 of the warehouse or elevator listed as part of the license is
29 increased, any registration or reporting required for the warehouse or
30 elevator under this section must be made by the date the warehouse or
31 elevator receives grain from the first harvest season that occurs after
32 the increase in its capacity is listed in the license.

33 This subsection does not apply to a grain warehouse or grain
34 elevator if the warehouse or elevator handles more than ten million
35 bushels of grain annually.

36 (4) For the purposes of subsection (3) of this section:

37 (a) A "grain warehouse" or "grain elevator" is an establishment
38 classified in standard industrial classification (SIC) code 5153 for

1 wholesale trade for which a license is required and includes, but is
2 not limited to, such a licensed facility that also conducts cleaning
3 operations for grain;

4 (b) A "license" is a license issued by the department of
5 agriculture licensing a facility as a grain warehouse or grain elevator
6 under chapter 22.09 RCW or a license issued by the federal government
7 licensing a facility as a grain warehouse or grain elevator for
8 purposes similar to those of licensure for the facility under chapter
9 22.09 RCW; and

10 (c) "Grain" means a grain or a pulse.

11 (5)(a) The department shall adopt rules requiring ~~((the reporting~~
12 ~~of)) persons to report emissions of greenhouse gases as defined in RCW~~
13 ~~70.235.010((. The rules must include a de minimis amount of emissions~~
14 ~~below which reporting will not be required for both indirect and direct~~
15 ~~emissions. The rules must require that emissions of greenhouse gases~~
16 ~~resulting from the burning of fossil fuels be reported separately from~~
17 ~~emissions of greenhouse gases resulting from the burning of biomass.~~
18 ~~Except as provided in (b) of this subsection, the department shall,~~
19 ~~under the authority granted in subsection (1) of this section, adopt~~
20 ~~rules requiring any owner or operator: (i) Of a fleet of on-road motor~~
21 ~~vehicles that as a fleet emit at least twenty-five hundred metric tons~~
22 ~~of greenhouse gas annually in the state to report the emissions of~~
23 ~~greenhouse gases generated from or emitted by that fleet; or (ii) of a~~
24 ~~source or combination of sources that emit at least ten thousand metric~~
25 ~~tons of greenhouse gas annually in the state to report their total~~
26 ~~annual emissions of greenhouse gases. In calculating emissions of~~
27 ~~greenhouse gases for purposes of determining whether or not reporting~~
28 ~~is required, only direct emissions shall be included. For purposes of~~
29 ~~reporting emissions of greenhouse gases in chapter 14, Laws of 2008,~~
30 ~~"source" means any stationary source as defined in RCW 70.94.030, or~~
31 ~~mobile source used for transportation of people or cargo. The~~
32 ~~emissions of greenhouse gases must be reported as carbon dioxide~~
33 ~~equivalents. The rules must require that persons report 2009 emissions~~
34 ~~starting in 2010. The rules must establish an annual reporting~~
35 ~~schedule that takes into account the time needed to allow the owner or~~
36 ~~operator reporting emissions of greenhouse gases to gather the~~
37 ~~information needed and to verify the emissions being reported.~~
38 ~~However, in no event may reports be submitted later than October 31st~~

1 of the year in which the report is due. The department may phase in
2 the reporting requirements for sources or combinations of sources under
3 (a)(ii) of this subsection until the reporting threshold is met, which
4 must be met by January 1, 2012. The department may from time to time
5 amend the rules to include other persons that emit less than the annual
6 greenhouse gas emissions levels set out in this subsection if necessary
7 to comply with any federal reporting requirements for emissions of
8 greenhouse gases.

9 (b) In its rules, the department may defer the reporting
10 requirement under (a) of this subsection for emissions associated with
11 interstate and international commercial aircraft, rail, truck, or
12 marine vessels until (i) there is a federal requirement to report these
13 emissions; or (ii) the department finds that there is a generally
14 accepted reporting protocol for determining interstate emissions from
15 these sources.) where those emissions from a single facility, source,
16 or site, or from fossil fuels sold in Washington by a single supplier
17 meet or exceed ten thousand metric tons of carbon dioxide equivalent
18 annually. The department may phase in the requirement to report
19 greenhouse gas emissions until the reporting threshold in this
20 subsection is met, which must occur by January 1, 2012. In addition,
21 the rules must require that:

22 (i) Emissions of greenhouse gases resulting from the combustion of
23 fossil fuels be reported separately from emissions of greenhouse gases
24 resulting from the combustion of biomass;

25 (ii) Reporting will start in 2010 for 2009 emissions. Each annual
26 report must include emissions data for the preceding calendar year and
27 must be submitted to the department by October 31st of the year in
28 which the report is due. However, starting in 2011, a person who is
29 required to report greenhouse gas emissions to the United States
30 environmental protection agency under 40 C.F.R. Part 98, as adopted on
31 September 22, 2009, must submit the report required under this section
32 to the department concurrent with the submission to the United States
33 environmental protection agency. Except as otherwise provided in this
34 section, the data for emissions in Washington and any corrections
35 thereto that are reported to the United States environmental protection
36 agency must be the emissions data reported to the department; and

37 (iii) Emissions of carbon dioxide associated with the complete
38 combustion or oxidation of liquid motor vehicle fuel, special fuel, or

1 aircraft fuel that is sold in Washington where the annual emissions
2 associated with that combustion or oxidation equal or exceed ten
3 thousand metric tons be reported to the department. Each person who is
4 required to file periodic tax reports of motor vehicle fuel sales under
5 RCW 82.36.031 or special fuel sales under RCW 82.38.150, or each
6 distributor of aircraft fuel required to file periodic tax reports
7 under RCW 82.42.040 must report to the department the annual emissions
8 of carbon dioxide from the complete combustion or oxidation of the
9 fuels listed in those reports as sold in the state of Washington. The
10 department shall not require suppliers to use additional data to
11 calculate greenhouse gas emissions other than the data the suppliers
12 report to the department of licensing. The rules may allow this
13 information to be aggregated when reported to the department. The
14 department and the department of licensing may enter into an
15 interagency agreement if necessary to share reported information and
16 protect proprietary information. Any proprietary information exempt
17 from disclosure when reported to the department of licensing is exempt
18 from disclosure when shared by the department of licensing with the
19 department under this provision.

20 (b)(i) Except as otherwise provided in this subsection, the rules
21 adopted by the department under (a) of this subsection must be
22 consistent with the regulations adopted by the United States
23 environmental protection agency in 40 C.F.R. Part 98 on September 22,
24 2009.

25 (ii) The department may by rule include additional gases to the
26 definition of "greenhouse gas" in RCW 70.235.010 only if the gas has
27 been designated as a greenhouse gas by the United States congress or by
28 the United States environmental protection agency. Prior to including
29 additional gases to the definition of "greenhouse gas" in RCW
30 70.235.010, the department shall notify the appropriate committees of
31 the legislature. Decisions to amend the rule to include additional
32 gases must be made prior to December 1st of any year and the amended
33 rule may not take effect before the end of the regular legislative
34 session in the next year.

35 (iii) The department may by rule exempt persons who are required
36 to report greenhouse gas emissions to the United States environmental
37 protection agency and who emit less than ten thousand metric tons
38 carbon dioxide equivalent annually.

1 (iv) The department must establish a methodology for persons who
2 are not required to report under this section to voluntarily report
3 their greenhouse gas emissions.

4 (c) The department shall review and if necessary update its rules
5 whenever the United States environmental protection agency adopts final
6 amendments to 40 C.F.R. Part 98 to ensure consistency with federal
7 reporting requirements for emissions of greenhouse gases. However, the
8 department shall not amend its rules in a manner that conflicts with
9 (a) of this subsection.

10 (d) The department shall share any reporting information reported
11 to it with the local air authority in which the ((owner or operator))
12 person reporting under the rules adopted by the department operates.

13 ~~((d))~~ (e) The fee provisions in subsection (2) of this section
14 apply to reporting of emissions of greenhouse gases. ((Owners and
15 operators)) Persons required to report under (a) of this subsection who
16 fail to report or pay the fee required in subsection (2) of this
17 section are subject to enforcement penalties under this chapter. The
18 department shall enforce the reporting rule requirements unless it
19 approves a local air authority's request to enforce the requirements
20 for ((sources)) persons operating within the authority's jurisdiction.

21 ~~((e))~~ (f) The energy facility site evaluation council shall,
22 simultaneously with the department, adopt rules that impose greenhouse
23 gas reporting requirements in site certifications on owners or
24 operators of a facility permitted by the energy facility site
25 evaluation council. The greenhouse gas reporting requirements imposed
26 by the energy facility site evaluation council must be the same as the
27 greenhouse gas reporting requirements imposed by the department. The
28 department shall share any information reported to it from facilities
29 permitted by the energy facility site evaluation council with the
30 council, including notice of a facility that has failed to report as
31 required. The energy facility site evaluation council shall contract
32 with the department to monitor the reporting requirements adopted under
33 this section.

34 ~~((f) In developing its rules, the department shall, with the~~
35 ~~assistance of the department of transportation, identify a mechanism to~~
36 ~~report an aggregate estimate of the annual emissions of greenhouse~~
37 ~~gases generated from or emitted by otherwise unreported on road motor~~
38 ~~vehicles.))~~

1 (g) The inclusion or failure to include any person, source, classes
2 of persons or sources, or types of emissions of greenhouse gases into
3 the department's rules for reporting under this section does not
4 indicate whether such a person, source, or category is appropriate for
5 inclusion in (~~the multiselector market based system designed under RCW~~
6 ~~70.235.020~~) state, regional, or national greenhouse gas reduction
7 programs or strategies.

8 (~~Should the federal government adopt rules sufficient to track~~
9 ~~progress toward the emissions reductions required by chapter 14, Laws~~
10 ~~of 2008 governing the reporting of greenhouse gases, the department~~
11 ~~shall amend its rules, as necessary, to seek consistency with the~~
12 ~~federal rules to ensure duplicate reporting is not required. Nothing~~
13 ~~in this section requires the department to increase the reporting~~
14 ~~threshold established in (a) of this subsection or otherwise require~~
15 ~~the department's rules be identical to the federal rules in scope.))~~

16 (i) The definitions in RCW 70.235.010 apply throughout this subsection
17 (5) unless the context clearly requires otherwise.

18 (ii) For the purpose of this subsection (5), the term "supplier"
19 includes: (A) A motor vehicle fuel supplier or a motor vehicle fuel
20 importer, as those terms are defined in RCW 82.36.010; (B) a special
21 fuel supplier or a special fuel importer, as those terms are defined in
22 RCW 82.38.020; and (C) a distributor of aircraft fuel, as those terms
23 are defined in RCW 82.42.010.

24 (iii) For the purpose of this subsection (5), the term "person"
25 includes: (A) An owner or operator, as those terms are defined by the
26 United States environmental protection agency in its mandatory
27 greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted on
28 September 22, 2009; and (B) a supplier."

29 Correct the title.

EFFECT: Restricts the department of ecology from requiring
suppliers to use data other than the data supplied to the department of
licensing to calculate their greenhouse gas emissions.

Clarifies that inclusion in the state reporting requirements does
not indicate whether a person, source, or category is appropriate for

inclusion in state, regional, or national greenhouse gas reduction programs or strategies.

Requires the department of ecology to establish a methodology for persons not required to report their greenhouse gas emissions to voluntarily report their greenhouse gas emissions to the department of ecology.

Removes the emergency clause.

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