

HOUSE BILL REPORT

SSB 6373

As Reported by House Committee On:
Ecology & Parks
General Government Appropriations

Title: An act relating to reporting of emissions of greenhouse gases.

Brief Description: Directing the department of ecology to adopt rules requiring entities to report the emissions of greenhouse gases.

Sponsors: Senate Committee on Environment, Water & Energy (originally sponsored by Senators Ranker, Rockefeller, Swecker, Pridemore, Marr, Kline and Fraser; by request of Department of Ecology).

Brief History:

Committee Activity:

Ecology & Parks: 2/19/10, 2/23/10 [DPA];
General Government Appropriations: 2/25/10 [DPA(EPAR)].

**Brief Summary of Substitute Bill
(As Amended by House)**

- Requires the Department of Ecology to modify its greenhouse gas emissions reporting rules.
- Requires persons who emit 10,000 metric tons of carbon dioxide equivalent annually from a single facility, source, or site, or from fossil fuels sold in Washington by a single supplier, to report their greenhouse gas emissions to the Department of Ecology.
- Requires persons who are required to file tax reports of motor vehicle fuel sales, persons required to report periodic tax reports for special fuel sales, and distributors of aircraft fuel to report their annual greenhouse gas emissions to the Department of Ecology.
- Requires the Department of Ecology's rules to be consistent with the greenhouse gas reporting regulations adopted by the U.S. Environmental Protection Agency.

HOUSE COMMITTEE ON ECOLOGY & PARKS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass as amended. Signed by 12 members: Representatives Upthegrove, Chair; Rolfes, Vice Chair; Short, Ranking Minority Member; Chase, Dickerson, Dunshee, Eddy, Finn, Hudgins, Kretz, Morris and Orcutt.

Minority Report: Do not pass. Signed by 3 members: Representatives Kristiansen, Shea and Taylor.

Staff: Jaclyn Ford (786-7339).

Background:

The Department of Ecology (DOE) must adopt rules requiring a person to report their greenhouse gas (GHG) emissions. Owners or operators of a fleet of on-road motor vehicles that emit at least 2,500 metric tons of direct GHG emissions annually in the state, and a source or combination of sources that emit at least 10,000 metric tons of direct GHG emissions annually in the state, must report to the DOE their total annual GHG emissions beginning in 2010 for their 2009 emissions.

The DOE rules must establish an annual reporting schedule where reports are submitted by October 31 each year. The DOE may phase in the reporting requirements until either the threshold is met or by January 1, 2012, whichever occurs first. The DOE has discretion to amend the rules to include other persons that emit less than the annual GHG emission levels required to report in order to comply with federal reporting requirements. The DOE may also include GHG emissions that result from upstream and downstream sources. With the assistance of the Washington State Department of Transportation, the DOE must identify a mechanism to report an aggregate estimate of the annual GHG emissions generated from or emitted by otherwise unreported on-road motor vehicles. The DOE may defer the reporting requirements for emissions associated with the interstate commercial aircraft, rail, or marine vessels until either there is a federal requirement to report the emissions or the DOE finds there is a generally accepted reporting protocol for determining interstate emissions.

The Energy Facility Site Evaluation Council (EFSEC) must adopt rules that require the same GHG emissions reporting requirements in site certifications on persons operating or responsible for the operation of a facility permitted by the EFSEC. If the federal government adopts rules governing the reporting of GHG emissions, the DOE must propose amendments to its rules to ensure administrative consistency and non-duplicative reporting.

Any fees for reporting must be determined by the DOE and deposited into the Air Pollution Control Account. If persons fail to report or fail to pay the required reporting fee, penalties may be imposed.

By December 31 of each even-numbered year beginning in 2010, the DOE and the Department of Commerce must report to the Governor and the Legislature the total GHG emissions for the preceding two years and totals in each major source sector.

Summary of Amended Bill:

Persons who emit 10,000 metric tons of carbon dioxide equivalent annually from a single facility, source, or site, or from fossil fuels sold in Washington by a single supplier, must report their GHG emissions to the DOE.

Greenhouse gas emissions resulting from the combustion of biomass must be reported separately from GHG emissions resulting from the combustion of fossil fuels.

Beginning in 2011, a person who is required to report GHG emissions to the U.S. Environmental Protection Agency (EPA) must submit that report and any data or corrections reported to the EPA concurrently to the DOE.

Persons who are required to file periodic tax reports of motor vehicle fuel sales, persons required to report periodic tax reports for special fuel sales, and distributors of aircraft fuel must report to the DOE the annual GHG emissions associated with the complete combustion or oxidation of liquid motor vehicle fuel, special fuel, or aircraft fuel that is sold in Washington. The DOE rules may allow this information to be aggregated when reported to the DOE. The DOE and the Department of Licensing (DOL) must enter into an interagency agreement to ensure proprietary information is protected if they share reported information. Any proprietary information exempt from disclosure when reported to the DOL is exempt from disclosure when shared by the DOL with the DOE.

The DOE must establish a methodology for persons who are not required to report to voluntarily report their GHG emissions.

The DOE rules must be consistent with the regulations adopted by the EPA. The DOE may exempt persons from reporting who are required to report GHG emissions to the EPA and who emit less than 10,000 metric tons of carbon dioxide equivalent annually.

The DOE must review and update its rules whenever the EPA adopts final amendments to their GHG reporting rule in order to ensure consistency with federal reporting requirements.

The inclusion or failure to include any person, source, classes of persons or sources, or types of GHG emissions in the DOE's rules for reporting does not indicate whether that person, source, or category is appropriate for inclusion in the state, regional, or national GHG reduction programs or strategies.

Neither the DOE nor an approved local air authority are authorized to assess enforcement penalties on persons until six months after the DOE finalizes its reporting rule.

The definition of "greenhouse gas" now includes the ability for the DOE to designate by rule any other gas or gases. However, the DOE may only include additional gases to the definition of "greenhouse gas" if the gas has been designated as a GHG by the U.S. Congress or by the EPA. The DOE must notify the appropriate legislative committees if they decide to amend the definition of "greenhouse gas." In addition, the decision to amend the rule must be made prior to December 1 of any year and the rule cannot take effect before the end of a regular legislative session in the next year.

Definitions for "direct emissions," "indirect emissions," and "total emissions of greenhouse gases" are eliminated.

A "person" includes: (1) an owner or operator, as those terms are defined by the EPA in its GHG reporting regulation; (2) a motor vehicle fuel supplier or a motor vehicle fuel importer; (3) a special fuel supplier or a special fuel importer; and (4) a distributor of aircraft fuel.

Amended Bill Compared to Substitute Bill:

The amended bill:

- restricts the DOE from requiring suppliers to use data other than the data supplied to the DOL to calculate their GHG emissions;
- requires the DOE to notify the appropriate legislative committees if they decide to amend the definition of "greenhouse gas." In addition, the decision to amend the rule must be made prior to December 1 of any year and the rule cannot take effect before the end of a regular legislative session in the next year;
- requires the DOE to establish a methodology for persons not required to report their GHG emissions to voluntarily report their GHG emissions to the DOE;
- defines "proprietary information" and requires the DOE and the DOL to enter into an interagency agreement to ensure proprietary information is protected;
- prohibits the DOE and local air authorities from prescribing penalties until six months after the DOE finalizes its reporting rule; and
- removes the emergency clause.

Appropriation: None.

Fiscal Note: Available on original bill.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill makes the reporting of GHG emissions consistent with the reporting requirements of the EPA. This bill also makes it easier for businesses to report. The DOE supports the striking amendment. The stakeholder coalition is also in support of the striking amendment and the underlying bill. The amount of aircraft fuel sold and the amount combusted in the state is different; the DOE should estimate the difference. Moving from fleet reporting to fuel reporting is a good thing and the right way to go.

(Opposed) None.

Persons Testifying: Senator Ranker, prime sponsor; Janice Adair, Department of Ecology; and Dan Coyne, Alaska Airlines.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Ecology & Parks. Signed by 14 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Blake, Dunshee, Hudgins, Kenney, Klippert, Pedersen, Sells, Short, Van De Wege and Williams.

Staff: Owen Rowe (786-7391).

Summary of Recommendation of Committee On General Government Appropriations Compared to Recommendation of Committee On Ecology & Parks:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) The Department of Ecology is still working with stakeholders on this legislation and there is no reason to hold this bill up. This is a very important cost savings measure for businesses that operate vehicle fleets. The current law greenhouse gas reporting requirements increase the cost of doing business.

(Opposed) None.

Persons Testifying: Stu Clark, Washington State Department of Ecology; and Brad Tower, Northwest Grocery Association.

Persons Signed In To Testify But Not Testifying: None.