

HOUSE BILL REPORT

SB 5811

As Reported by House Committee On:
Environment & Energy
Appropriations

Title: An act relating to reducing emissions by making changes to the clean car standards and clean car program.

Brief Description: Reducing emissions by making changes to the clean car standards and clean car program.

Sponsors: Senators Nguyen, Rolfes, Wilson, C., Liias, Das, Hunt, Kuderer and Saldaña.

Brief History:

Committee Activity:

Environment & Energy: 3/19/19, 2/13/20, 2/20/20 [DPA];

Appropriations: 2/29/20, 3/2/20 [DPA(ENVI)].

Brief Summary of Bill
(As Amended by Committee)

- Directs the Department of Ecology to adopt rules to implement the California vehicle emissions standards, including the zero-emission vehicle (ZEV) program.
- Eliminates provisions of existing law pertaining to how the ZEV program must be adopted and implemented, including requirements that the ZEV program only be implemented if Oregon adopts California's standards, and pertaining to two systems of early banking and crediting for manufacturers of ZEVs produced and sold prior to the implementation of the program in Washington.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: Do pass as amended. Signed by 7 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Doglio, Fey, Mead, Robinson and Shewmake.

Minority Report: Do not pass. Signed by 4 members: Representatives DeBolt, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke and Goehner.

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.

Staff: Jacob Lipson (786-7196).

Background:

Under the federal Clean Air Act (federal CAA), most states, including Washington, are restricted from enacting their own emissions standards for new motor vehicles, which is an authority generally reserved to the federal government. California is the only state allowed under the federal CAA to adopt state standards for vehicle emissions. California's vehicle emissions standards must be at least as protective of public health as federal standards and must be approved by the United States Environmental Protection Agency (EPA). Other states may adopt vehicle emissions standards that are identical to California's vehicle emissions standards for specific vehicle model years. Under federal law, other states adopting California vehicle emissions standards must delay program implementation until at least two model years after the state adopts California's standards.

California Vehicle Emissions Standards.

The motor vehicle emissions standards established by California contain two program components: low-emission vehicle (LEV) requirements and zero-emission vehicle (ZEV) requirements.

First, LEV requirements establish that all vehicles sold in states subject to California's standards must exceed emissions performance standards for certain criteria air pollutants, such as particulates and nitrogen oxide, and for greenhouse gases, such as carbon dioxide. Vehicle emission control systems must also exceed a 150,000-mile durability standard. Specific performance requirements vary depending on the model year, vehicle weight, and whether the vehicle is a passenger car, light-duty truck, or heavy-duty truck.

Second, a specified percentage of the vehicles delivered for sale in the state by manufacturers must be ZEVs, or else credits equal to that specified percentage must be otherwise obtained.

- The ZEVs must produce zero-exhaust emissions of air pollutants and greenhouse gases. The ZEVs include battery-electric vehicles and hydrogen fuel-cell vehicles.
- The ZEV credits may be earned by either delivering vehicles for sale in the state, purchasing ZEV credits from another vehicle manufacturer, or earning credits through ZEV deliveries in other states with ZEV mandates.
- Manufacturers may receive partial credit towards ZEV requirements by producing transitional zero-emission vehicles (TZEVs), which include plug-in hybrids. The amount of credit towards ZEV requirements granted to a TZEV model is based on the vehicle's emissions performance and electric range.

California's current ZEV standards for passenger cars and light-duty trucks require that ZEV credits equal to 4.5 percent of vehicles produced by manufacturers and delivered for sale in California be ZEVs by 2018, increasing to 9.5 percent by 2020 and 22 percent for model year 2025 and beyond.

- For large-volume manufacturers with sales in California after 2018 of over 20,000 vehicles per model year, a minimum percentage of ZEV credits must come from ZEV sales rather than TZEV sales. Two percent of the initial 4.5 percent of ZEV credits must come from ZEV rather than TZEV sales for model year 2018 sales, 6 percent of

- the 9.5 percent of ZEV credits must come from ZEV sales, and 16 percent of the 22 percent of ZEV credits must come from ZEV sales starting for model year 2025.
- Intermediate-volume manufacturers with sales in California after 2018 of between 4,501 and 20,000 vehicles per model year must meet the overall ZEV percentage requirements but are not subject to the requirement that a certain percentage of ZEV credits be from ZEVs as opposed to TZEVs.
 - Small-volume manufacturers with sales in California after 2018 of less than 4,500 are not subject to ZEV delivery requirements.

The ZEV credits earned by a manufacturer may be banked and may be used, with some limitations, to fulfill ZEV obligations in other states that have adopted California's ZEV program. Small-volume manufacturers may earn, bank, market, and trade credits for the ZEVs and TZEVs they deliver, even though they are not subject to the requirement to obtain or earn ZEV credits. Manufacturers who fail to obtain sufficient credits for a particular model year must make up the credits during the following year or may request an extended period of up to three years to make up a deficit.

In September 2019 the EPA and the National Highway Traffic Safety Administration jointly adopted a package of regulations (the Safer Affordable Fuel-Efficient Vehicles Rule) withdrawing the federal CAA waiver authorizing California to establish the ZEV program for vehicles beginning with mileage year 2021 and LEV standards for greenhouse gases applicable to those model years. The Safer Affordable Fuel-Efficient Vehicles Rule did not amend California's authority to establish the LEV program for criteria air pollutants. As of February 2020, Washington is a plaintiff in a lawsuit filed by multiple states challenging the Safer Affordable Fuel-Efficient Vehicles Rule in federal court.

Washington Vehicle Emissions Standards.

In 2005 the Legislature adopted California's clean car LEV standards. The Department of Ecology (Ecology) was directed to adopt and maintain rules consistent with California's standards. However, the Legislature directed Ecology to not adopt the ZEV program. Ecology was also not authorized to adopt California LEV vehicle emissions standards for medium-duty trucks, which include most trucks weighing between 8,500 and 14,000 pounds. In adopting rules consistent with California motor vehicle emissions standards, Ecology must convene an advisory group of industry and consumer representatives to comment on proposed rules. The signature of the Governor is required for rule adoption. Washington's adoption of California's clean car rules only apply to car model years for which Oregon has also adopted California's standards; as a result, Washington's clean car regulations apply to car model years 2009 and later. Oregon has adopted California's ZEV requirement.

Beginning in model year 2010, light-duty cars and trucks and medium-duty passenger vehicles sold in Washington must have a label affixed to them disclosing the comparative greenhouse gas emissions for the vehicle that presents information in a continuous, easy-to-read scale. Labels that meet California clean car program labeling requirements are deemed to meet these requirements.

Under rules adopted to implement the program, Ecology is authorized to inspect motor vehicles and related records for compliance. Manufacturers must submit information on vehicle deliveries into the state upon request by Ecology. Vehicles that do not meet

California vehicle emissions standards may not be registered, rented, licensed, or sold in Washington. Violations of California vehicle emissions standard rules are punishable by a civil penalty of up to \$5,000 per vehicle.

Upon enactment of ZEV requirements in Washington, the award of early credits and banking towards future ZEV compliance obligations must be allowed for ZEVs manufactured prior to the model year that California standards take effect in Washington. Under state law, federal requirements are described as mandating other states adopting California vehicle emissions standards to delay program implementation until at least three model years after the state adopts California's standards, rather than two model years.

Until 2020, vehicles in certain emission-contributing areas were required to undergo inspections and pass emissions standards on a biennial basis. Vehicles are exempt from vehicle emissions inspection requirements if they are of a model year for which Washington has adopted California clean car rules, which are vehicle model years 2009 and later.

Summary of Amended Bill:

The Department of Ecology (Ecology) is directed to adopt rules to implement the motor vehicle emissions standards of California, including the zero-emission vehicle (ZEV) program. Requirements for the labeling of greenhouse-gas emissions for new light-duty cars, light-duty trucks, and medium-duty passenger vehicles are also applicable to medium-duty trucks.

The following requirements are eliminated:

- the direction to Ecology to convene an advisory group for California-vehicle-rule comment and the obligation that the Governor sign the rule-adoption order;
- the provision that makes Washington's enactment of ZEV or other California clean-car standards contingent upon Oregon adopting the same California rules for specific vehicle model years;
- the provision exempting cars from vehicle emission inspection requirements for model years for which Washington has adopted California vehicle emission standards; and
- the requirement that Ecology, in adopting the ZEV program, provide two systems of early credits and banking for manufacturers of ZEVs produced and sold prior to the implementation of the ZEV program in Washington.

Amended Bill Compared to Original Bill:

The striking amendment:

- directs the Department of Ecology (Ecology) to adopt California's vehicle emissions standards, without specifying the types of vehicles to which those standards apply, but explicitly including the zero-emission vehicle program;
- repeals a section of existing law that requires Ecology to provide two systems of early credits and banking for manufacturers of zero-emission vehicles (ZEVs) produced and sold prior to the implementation of the ZEV program in Washington;

- adopts California vehicle emissions standards and programs in Washington regardless of whether Oregon has also adopted California's standards for the same vehicle-model years; and
- eliminates the exemption from vehicle emission inspection requirements for model years of vehicles that are required to meet California vehicle emission standards in Washington.

Appropriation: None.

Fiscal Note: Available.

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 simple bill expresses Washington's commitment to the clean energy, clean car future. This bill would help to accelerate Washington's transition to an economy where consumers can purchase cleaner vehicles, including electric vehicles, thereby reducing greenhouse gas emissions and other air pollutants associated with the combustion of gasoline. This bill would help ensure that manufacturers deliver more of these cars to the state.

(Opposed) This bill establishes a manufactured mandate. Having the zero-emission vehicle mandate does not increase electric vehicle sales; sales are increased by infrastructure build-out and customer incentives. When policies force a technology before the market is ready, cost shifts can occur.

Persons Testifying: (In support) Senator Nguyen, prime sponsor; Reed Schuler, Governor's Policy Office; David Mendoza, Front and Centered; Matthew Hepner, Certified Electrical Workers of Washington and International Brotherhood of Electrical Workers; Jeff Finn, Plug In America; and Phyllis Farrell, League of Women Voters of Washington.

(Opposed) Ryan Spiller, Alliance for Automotive Innovation; and Mike Ennis, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Environment & Energy. Signed by 20 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Kilduff, Macri, Pettigrew, Pollet, Ryu, Senn, Springer, Sullivan, Tarleton, Tharinger and Ybarra.

Minority Report: Do not pass. Signed by 13 members: Representatives Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Corry, Dye, Hoff, Kraft, Mosbrucker, Schmick, Steele and Sutherland.

Staff: David Pringle (786-7310).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Environment & Energy:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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) The bill would help keep the momentum of Washington residents' interest in zero-emission vehicles (ZEVs), and ensure a full range of vehicles is available. The bill would help reduce air pollution and protect public health.

(Opposed) A ZEV mandate is unnecessary in Washington. There is a proposed amendment which would allow for a smoother transition to ZEV in Washington with fewer market disruptions. Zero-emission vehicle technology is not yet ready.

Persons Testifying: (In support) Craig Kenworthy, Puget Sound Clean Air Agency.

(Opposed) Ryan Spiller, Alliance of Automotive Innovators; and Mike Ennis, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.