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**SECOND SUBSTITUTE HOUSE BILL 1110**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Fitzgibbon, Slatter, Kloba, Peterson, Tharinger, Jenkins, Macri, Cody, Bergquist, Doglio, Robinson, Pollet, Stanford, and Frame)

1 AN ACT Relating to reducing the greenhouse gas emissions  
2 associated with transportation fuels; amending RCW 46.17.365,  
3 46.25.100, 46.20.202, 46.25.052, 46.25.060, and 70.94.431; adding new  
4 sections to chapter 70.94 RCW; creating new sections; prescribing  
5 penalties; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that rapid  
8 innovations in low-carbon transportation technologies, including  
9 electric vehicles and clean transportation fuels, are at the  
10 threshold of widespread commercial deployment. In order to help  
11 prompt the use of clean fuels, other states have successfully  
12 implemented programs that reduce the carbon intensity of their  
13 transportation fuels. Without disruptions to fuel markets or  
14 significant impacts to the costs of transportation fuels, California  
15 and Oregon have both implemented low carbon fuel standards that are  
16 similar to the program created in this act. Washington state has  
17 extensively studied the potential impact of a clean fuels program,  
18 and most projections show that a low carbon fuel standard would  
19 decrease greenhouse gas and conventional air pollutant emissions,  
20 while positively impacting the state's economy.

1 (2) The legislature further finds that the health and welfare of  
2 the people of the state of Washington is threatened by the prospect  
3 of crumbling or swamped coastlines, rising water, and more intense  
4 forest fires caused by higher temperatures and related droughts, all  
5 of which are intensified and made more frequent by the volume of  
6 greenhouse gas emissions. As of 2015, the transportation sector  
7 contributes forty-three percent of Washington's greenhouse gas  
8 emissions, and the legislature's interest in the life cycle of the  
9 fuels used in the state arises from a concern for the effects of the  
10 production and use of these fuels on Washington's environment and  
11 public health, including its air quality, snowpack, and coastline.

12 (3) Therefore, it is the intent of the legislature to support the  
13 deployment of clean transportation fuel technologies through a  
14 carefully designed program that reduces the carbon intensity of fuel  
15 used in Washington, in order to:

16 (a) Reduce levels of conventional air pollutants from diesel and  
17 gasoline that are harmful to public health;

18 (b) Reduce greenhouse gas emissions associated with  
19 transportation fuels, which are the state's largest source of  
20 greenhouse gas emissions; and

21 (c) Create jobs and spur economic development based on innovative  
22 clean fuel technologies.

23 NEW SECTION. **Sec. 2.** The definitions in this section apply  
24 throughout this section and sections 3 through 12 of this act unless  
25 the context clearly indicates otherwise.

26 (1) "Carbon dioxide equivalents" has the same meaning as defined  
27 in RCW 70.235.010.

28 (2) "Clean fuels program" means the requirements established by  
29 this act.

30 (3) "Credit" means a unit of measure equal to one metric ton of  
31 carbon dioxide equivalents.

32 (4) "Deficit" means a unit of measure generated when a  
33 transportation fuel with a carbon intensity that is greater than the  
34 applicable standard adopted by the department under section 3 of this  
35 act is produced, imported, or dispensed for use in Washington, such  
36 that one deficit is equal to one metric ton of carbon dioxide  
37 equivalents.

38 (5) "Electric utility" means a consumer-owned utility or  
39 investor-owned utility, as those terms are defined in RCW 19.29A.010.

1 (6) "Greenhouse gas" has the same meaning as defined in RCW  
2 70.235.010.

3 (7) "Military tactical vehicle" means a motor vehicle owned by  
4 the United States department of defense or the United States military  
5 services and that is used in combat, combat support, combat service  
6 support, tactical or relief operations, or training for such  
7 operations.

8 (8) "Motor vehicle" has the same meaning as defined in RCW  
9 46.04.320.

10 (9) (a) "Tactical support equipment" means equipment using a  
11 portable engine, including turbines, that meets military  
12 specifications, owned by the United States military services or its  
13 allies, and that is used in combat, combat support, combat service  
14 support, tactical or relief operations, or training for such  
15 operations.

16 (b) "Tactical support equipment" includes, but is not limited to,  
17 engines associated with portable generators, aircraft start carts,  
18 heaters, and lighting carts.

19 (10) "Transportation fuel" means electricity and any liquid or  
20 gaseous fuel sold, supplied, offered for sale, or used for the  
21 propulsion of a motor vehicle or that is intended for use for  
22 transportation purposes.

23 NEW SECTION. **Sec. 3.** (1) The department shall adopt rules that  
24 establish standards that reduce the greenhouse gas emissions per unit  
25 of fuel energy (carbon intensity) in transportation fuels used in  
26 Washington. The rules adopted under this section must reduce the  
27 greenhouse gas emissions attributable to each unit of the fuels to  
28 ten percent below 2017 levels by 2028 and twenty percent below 2017  
29 levels by 2035. The rules must establish a start date for the clean  
30 fuels program of no later than January 1, 2021. To the extent the  
31 requirements of this act conflict with the requirements of chapter  
32 19.112 RCW, the requirements of this act prevail.

33 (2) The direction to the department to adopt rules under this  
34 section is not an acknowledgment, denial, or limitation of any  
35 authority of the department that existed prior to the effective date  
36 of this section to adopt rules related to the greenhouse gas  
37 emissions intensity of fuel under other provisions of this chapter  
38 including, but not limited to, RCW 70.94.151 and 70.94.331.

1 (3) (a) Transportation fuels exported from Washington are not  
2 subject to the greenhouse gas emissions reduction requirements in  
3 this section.

4 (b) Electricity is not subject to the greenhouse gas emissions  
5 reduction requirements in this section.

6 NEW SECTION. **Sec. 4.** The rules adopted by the department to  
7 achieve the greenhouse gas emissions reductions per unit of fuel  
8 energy specified in section 3 of this act must include, but are not  
9 limited to, the following:

10 (1) Standards for greenhouse gas emissions attributable to the  
11 transportation fuels throughout their life cycles, including but not  
12 limited to emissions from the production, storage, transportation,  
13 and combustion of transportation fuels and from changes in land use  
14 associated with transportation fuels.

15 (a) The rules adopted by the department under this subsection (1)  
16 may:

17 (i) Include provisions to address the efficiency of a fuel as  
18 used in a powertrain as compared to a reference fuel; and

19 (ii) Consider carbon intensity calculations for transportation  
20 fuels developed by national laboratories or used by similar programs  
21 in other states.

22 (b) The rules adopted by the department under this subsection (1)  
23 must:

24 (i) Neutrally consider the life-cycle emissions associated with  
25 transportation fuels with respect to the political jurisdiction in  
26 which the fuels originated and may not discriminate against fuels on  
27 the basis of having originated in another state or jurisdiction.  
28 Nothing in this subsection may be construed to prohibit inclusion or  
29 assessment of emissions related to fuel production, storage,  
30 transportation, or combustion or associated changes in land use in  
31 determining the carbon intensity of a fuel;

32 (ii) Measure greenhouse gas emissions associated with electricity  
33 based on a mix of generation resources specific to each electric  
34 utility participating in the clean fuels program. The department may  
35 apply an asset-controlling supplier emission factor certified or  
36 approved by a similar program to reduce the greenhouse gas emissions  
37 associated with transportation fuels in another state; and

1 (iii) Include procedures for setting and adjusting the amounts of  
2 greenhouse gas emissions per unit of fuel energy that is assigned to  
3 transportation fuels under this subsection.

4 (c) If the department determines that it is necessary for  
5 purposes of accurately measuring greenhouse gas emissions associated  
6 with transportation fuels, the department may require transportation  
7 fuel suppliers to submit data or information to be used for purposes  
8 of calculating greenhouse gas emissions that is different from or  
9 additional to the greenhouse gas emissions data reported under RCW  
10 70.94.151(5) (a) (iii).

11 (d) If the department determines that it is necessary for  
12 purposes of accurately measuring greenhouse gas emissions associated  
13 with electricity supplied to retail customers by an electric utility,  
14 the department may require electric utilities participating in the  
15 clean fuels program to submit data or information to be used for  
16 purposes of calculating greenhouse gas emissions that is different  
17 from or additional to the fuel mix disclosure information submitted  
18 under chapter 19.29A RCW. To the extent practicable, rules adopted by  
19 the department may allow data requested of utilities to be submitted  
20 in a form and manner consistent with other required state or federal  
21 data submissions;

22 (2) Provisions allowing for the achievement of limits on the  
23 greenhouse gas emissions intensity of transportation fuels in section  
24 3 of this act to be achieved by any combination of credit generating  
25 activities capable of meeting such standards, consistent with the  
26 limitations of subsection (3) (a) of this section;

27 (3) (a) Methods for assigning compliance obligations and methods  
28 for tracking tradable credits. The department may assign the  
29 generation of a credit when a fuel with associated life-cycle  
30 greenhouse gas emissions that are lower than the applicable per-unit  
31 standard adopted by the department under section 3 of this act is  
32 produced, imported, or dispensed for use in Washington, or when  
33 specified activities are undertaken that support the reduction of  
34 greenhouse gas emissions associated with transportation in  
35 Washington. Transportation fuels with associated greenhouse gas  
36 emissions exceeding eighty percent of the 2017 levels established in  
37 section 3 of this act are not eligible to generate credits under the  
38 clean fuels program;

39 (b) Mechanisms that allow credits to be traded and to be banked  
40 for future compliance periods; and

1 (c) Procedures for verifying the validity of credits and deficits  
2 generated under the clean fuels program;

3 (4) Mechanisms to elect to participate in the clean fuels program  
4 for persons associated with the supply chains of transportation fuels  
5 that are eligible to generate credits consistent with subsection (3)  
6 of this section, including producers, importers, distributors, users,  
7 or retailers of such fuels;

8 (5) Mechanisms for persons associated with the supply chains of  
9 transportation fuels that are used for purposes that are exempt from  
10 the clean fuels program compliance obligations under section 5 of  
11 this act, including but not limited to electricity and fuels used by  
12 aircraft, vessels, and railroad locomotives, to elect to participate  
13 in the clean fuels program by earning credits for the production,  
14 import, distribution, use, or retail of exempt fuels with associated  
15 life-cycle greenhouse gas emissions lower than the per-unit standard  
16 established in section 3 of this act;

17 (6) Cost containment mechanisms.

18 (a) Cost containment mechanisms may include, but are not limited  
19 to:

20 (i) A credit clearance market designed to make credits available  
21 for sale to regulated persons after the conclusion of a compliance  
22 period at a department-determined price; or

23 (ii) Similar procedures that provide a means of compliance with  
24 the clean fuels program requirements in the event that a regulated  
25 person has not been able to acquire sufficient volumes of credits at  
26 the end of a compliance period.

27 (b) Any cost containment mechanisms must be designed to provide  
28 financial disincentive for regulated persons to rely on the cost  
29 containment mechanism for purposes of program compliance instead of  
30 seeking to generate or acquire sufficient credits under the program;

31 (7) Authority for the department to designate an entity to  
32 aggregate and use unclaimed credits associated with persons that  
33 elect not to participate in the clean fuels program under subsection  
34 4 of this section.

35 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and  
36 4 of this act must include exemptions for, at minimum, the following  
37 transportation fuels:

38 (a) Fuels used in volumes below thresholds adopted by the  
39 department;

1 (b) Fuels used for the propulsion of all aircraft, vessels, and  
2 railroad locomotives; and

3 (c) Fuels used for the operation of military tactical vehicles  
4 and tactical support equipment.

5 (2) The rules adopted under sections 3 and 4 of this act may  
6 include exemptions in addition to those described in subsection (1)  
7 of this section, but only if such exemptions are necessary, with  
8 respect to the relationship between the program and similar  
9 greenhouse gas emissions requirements or low carbon fuel standards,  
10 in order to avoid:

11 (a) Mismatched incentives across programs;

12 (b) Fuel shifting between markets; or

13 (c) Other results that are counter to the intent of this act.

14 (3) Nothing in this chapter precludes the department from  
15 adopting rules under sections 3 and 4 of this act that allow the  
16 generation of credits associated with electric or alternative  
17 transportation infrastructure that existed prior to the effective  
18 date of this section or to the start date of program requirements.

19 NEW SECTION. **Sec. 6.** (1) Except where otherwise provided in  
20 sections 2 through 10 of this act, the department should seek to  
21 adopt rules that are harmonized with the regulatory standards,  
22 exemptions, reporting obligations, and other clean fuels program  
23 compliance requirements of other states that:

24 (a) Have adopted low carbon fuel standards or similar greenhouse  
25 gas emissions requirements applicable specifically to transportation  
26 fuels; and

27 (b)(i) Supply, or have the potential to supply, significant  
28 quantities of transportation fuel to Washington markets; or

29 (ii) To which Washington supplies, or has the potential to  
30 supply, significant quantities of transportation fuel.

31 (2) In adopting rules under sections 3 and 4 of this act, the  
32 department must consider whether actions taken or credits generated  
33 under the clean fuels program are eligible for purposes of compliance  
34 with the clean air rule, chapter 173-442 WAC as it existed as of  
35 October 16, 2016, and whether actions taken or emissions reduction  
36 units generated under the clean air rule may be used for purposes of  
37 compliance with this section.

1        NEW SECTION.    **Sec. 7.**    (1)(a) Each producer or importer of any  
2 amount of a transportation fuel that is ineligible to generate  
3 credits consistent with the requirements of section 4(3) of this act  
4 must register with the department.

5        (b) Producers, importers, distributors, users, and retailers of  
6 transportation fuels that are eligible to generate credits consistent  
7 with section 4(3) of this act must register with the department if  
8 they elect to participate in the clean fuels program.

9        (c) Other persons must register with the department to generate  
10 credits from other activities that support the reduction of  
11 greenhouse gas emissions associated with transportation in  
12 Washington.

13        (2) Each transaction transferring ownership of transportation  
14 fuels for which clean fuels program participation is mandated or has  
15 been chosen must be accompanied by documentation, in a format  
16 approved by the department, that assigns the clean fuels program  
17 compliance responsibility associated with the fuels, including the  
18 assignment of associated credits.

19        (3) The department may adopt rules requiring the periodic  
20 reporting of information to the department by persons associated with  
21 the supply chains of transportation fuels participating in the clean  
22 fuels program. To the extent practicable, the rules must establish  
23 reporting procedures and timelines that are consistent with similar  
24 programs in other states that reduce the greenhouse gas emission  
25 intensity of transportation fuel and with procedures and timelines of  
26 state programs requiring similar information to be reported by  
27 regulated parties, including electric utilities.

28        (4) RCW 70.94.205 applies to records or information submitted to  
29 the department under sections 2 through 12 of this act.

30        NEW SECTION.    **Sec. 8.**    (1)(a) Fifty percent of the revenues  
31 generated by an electric utility from credits earned from the  
32 electricity supplied to retail customers by an electric utility under  
33 the clean fuels program must be expended by the electric utility on  
34 transportation electrification projects, including projects to  
35 support the production and provision of renewable hydrogen as a  
36 transportation fuel.

37        (b) Sixty percent of the revenues described in (a) of this  
38 subsection, or thirty percent of the revenues generated by an  
39 electric utility from credits earned from the electricity supplied to



1 retail customers by an electric utility under the clean fuels  
2 program, must be expended by the electric utility on transportation  
3 electrification projects, including projects to support the  
4 production and provision of renewable hydrogen as a transportation  
5 fuel, located within or directly benefiting a federally designated  
6 nonattainment or maintenance area, a federally designated  
7 nonattainment or maintenance area that existed as of the effective  
8 date of this section, or an area designated by the department as  
9 being at risk of nonattainment, if such a nonattainment or  
10 maintenance area is within the service area of the utility.

11 (2) The department may adopt requirements for the expenditure of  
12 revenues from credits earned from the electricity supplied to retail  
13 customers by an electric utility under the clean fuels program that  
14 are applicable to the fifty percent of revenues not subject to the  
15 requirements of subsection (1) of this section. Any requirements for  
16 the expenditure of revenues from credits earned from the electricity  
17 supplied to retail customers by an electric utility under the clean  
18 fuels program must be developed in consultation with electric  
19 utilities.

20 (3) Electric utilities that elect to participate in the clean  
21 fuels program must annually provide information to the department  
22 accounting for and briefly describing all expenditures of revenues  
23 generated from credits earned under the clean fuels program.

24 (4) The definitions in this subsection apply throughout this  
25 section unless the context clearly requires otherwise.

26 (a) "Renewable hydrogen" means hydrogen produced using renewable  
27 resources both as the source for the hydrogen and the source for the  
28 energy input into the production process.

29 (b) "Renewable resource" means: (i) Water; (ii) wind; (iii) solar  
30 energy; (iv) geothermal energy; (v) renewable natural gas as defined  
31 in RCW 54.04.190; (vi) renewable hydrogen; (vii) wave, ocean, or  
32 tidal power; (viii) biodiesel fuel that is not derived from crops  
33 raised on land cleared from old growth or first growth forests; or  
34 (ix) biomass energy.

35 NEW SECTION. **Sec. 9.** (1) Beginning May 1, 2023, and each May  
36 1st thereafter, the department must post a report on the department's  
37 web site that includes the following information regarding the  
38 previous calendar year of clean fuels program activities:

1 (a) The program-wide number of credits and deficits generated by  
2 entities participating in the clean fuels program;

3 (b) The volumes of each transportation fuel and average price per  
4 credit used to comply with the requirements of the clean fuels  
5 program;

6 (c) The best estimate or range in probable costs or cost savings  
7 attributable to the clean fuels program per gallon of gasoline and  
8 per gallon of diesel;

9 (d) The total greenhouse gas emissions reductions attributable to  
10 the clean fuels program; and

11 (e) The range in the probable cost per ton of greenhouse gas  
12 emissions reductions attributable to fuels supported by the clean  
13 fuels program, taking into account the information in (c) and (d) of  
14 this subsection.

15 (2) By December 1, 2022, and each December 1st thereafter, the  
16 department must submit recommendations to the appropriate committees  
17 of the house of representatives and senate, in the form of draft  
18 legislation, for any changes to sections 2 through 12 of this act  
19 that are needed in order to more efficiently achieve the greenhouse  
20 gas emissions reduction goals of the clean fuels program.

21 (3) The department must identify the sources of information it  
22 relied upon in each report submitted under this section, including  
23 peer-reviewed science.

24 NEW SECTION. **Sec. 10.** (1) In consultation with the department  
25 and the department of agriculture, the department of commerce must  
26 develop a periodic fuel supply forecast to project the availability  
27 of fuels necessary for compliance with clean fuels program  
28 requirements.

29 (2) Based upon the estimates in subsection (3) of this section,  
30 the fuel supply forecast must include a prediction by the department  
31 of commerce regarding whether sufficient credits will be available to  
32 comply with clean fuels program requirements.

33 (3) The fuel supply forecast for each upcoming compliance period  
34 must include, but is not limited to, the following:

35 (a) An estimate of the volume of each transportation fuel  
36 available in Washington;

37 (b) An estimate of the total banked credits and deficits from  
38 previous compliance periods; and

1 (c) An estimate of the number of credits needed to meet the  
2 applicable clean fuels program requirements during the forecasted  
3 compliance period.

4 (4) The department of commerce must finalize a fuel supply  
5 forecast for an upcoming compliance period by no later than ninety  
6 days prior to the start of the compliance period.

7 (5) The department of commerce must identify the sources of  
8 information it relied upon in each fuel supply forecast submitted  
9 under this section, including peer-reviewed science.

10 NEW SECTION. **Sec. 11.** (1) The department may require that  
11 persons that are required or elect to register or report under  
12 sections 2 through 12 of this act pay a fee. If the department elects  
13 to require program participants to pay a fee, the department must,  
14 after an opportunity for public review and comment, adopt rules to  
15 establish a process to determine the payment schedule and the amount  
16 of the fee charged. The amount of the fee must be set so as to equal  
17 but not exceed the projected direct and indirect costs to the  
18 department for developing and implementing the program and the  
19 projected direct and indirect costs to the department of commerce to  
20 carry out its responsibilities under section 10 of this act. The  
21 department and the department of commerce must prepare a biennial  
22 workload analysis and provide an opportunity for public review of and  
23 comment on the workload analysis. The department shall enter into an  
24 interagency agreement with the department of commerce to implement  
25 this section.

26 (2) The clean fuels program account is created in the state  
27 treasury. All receipts from fees and penalties received under the  
28 program created in this section and sections 2 through 10 of this act  
29 must be deposited into the account. Moneys in the account may be  
30 spent only after appropriation. The department may only use  
31 expenditures from the account for carrying out the program created in  
32 this section and sections 2 through 10 of this act.

33 NEW SECTION. **Sec. 12.** (1) By December 1, 2027, the joint  
34 legislative audit and review committee must analyze the impacts of  
35 the initial five years of clean fuels program implementation and must  
36 submit a report summarizing the analysis to the legislature. The  
37 analysis must include, at minimum, the following components:

1 (a) Costs and benefits, including environmental and public health  
2 costs and benefits, associated with this act for categories of  
3 persons participating in the clean fuels program or that are most  
4 impacted by air pollution, as defined in consultation with the  
5 departments of ecology and health and as measured on a census tract  
6 scale. This component of the analysis must, at minimum, assess the  
7 costs and benefits of changes in the following metrics since the  
8 start of the program:

9 (i) Levels of greenhouse gas emissions and criteria air  
10 pollutants for which the United States environmental protection  
11 agency has established national ambient air quality standards;

12 (ii) Fuel prices; and

13 (iii) Total employment in categories of industries generating  
14 credits or deficits. The categories of industries assessed must  
15 include but are not limited to electric utilities, oil refineries,  
16 and other industries involved in the production of high carbon fuels,  
17 industries involved in the delivery and sale of high carbon fuels,  
18 biofuel refineries, and industries involved in the delivery and sale  
19 of low carbon fuels;

20 (b) An evaluation of the information calculated and provided by  
21 the department under section 9(1) of this act; and

22 (c) A summary of the estimated total statewide costs and benefits  
23 attributable to the clean fuels program, including state agency  
24 administrative costs and regulated entity compliance costs. For  
25 purposes of calculating the benefits of the program, the summary may  
26 rely, in part, on a constant value of the social costs attributable  
27 to greenhouse gas emissions, as identified in contemporary  
28 internationally accepted estimates of such global social cost. This  
29 summary must include an estimate of the total statewide costs of the  
30 program per ton of greenhouse gas emissions reductions achieved by  
31 the clean fuels program.

32 (2) This section expires June 30, 2028.

33 **Sec. 13.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each  
34 amended to read as follows:

35 (1) A person applying for a motor vehicle registration and paying  
36 the vehicle license fee required in RCW 46.17.350(1) (a), (d), (e),  
37 (h), (j), (n), and (o) shall pay a motor vehicle weight fee in  
38 addition to all other fees and taxes required by law.

1 (a) For vehicle registrations that are due or become due before  
2 July 1, 2016, the motor vehicle weight fee:

3 (i) Must be based on the motor vehicle scale weight;

4 (ii) Is the difference determined by subtracting the vehicle  
5 license fee required in RCW 46.17.350 from the license fee in  
6 Schedule B of RCW 46.17.355, plus two dollars; and

7 (iii) Must be distributed under RCW 46.68.415.

8 (b) For vehicle registrations that are due or become due on or  
9 after July 1, 2016, the motor vehicle weight fee:

10 (i) Must be based on the motor vehicle scale weight as follows:

WEIGHT	FEE
4,000 pounds	\$ 25.00
6,000 pounds	\$ 45.00
8,000 pounds	\$ 65.00
16,000 pounds and over	\$ 72.00;

16 (ii) If the resultant motor vehicle scale weight is not listed in  
17 the table provided in (b)(i) of this subsection, must be increased to  
18 the next highest weight; and

19 (iii) Must be distributed under RCW 46.68.415 unless prior to  
20 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this  
21 subsection occur, in which case the portion of the revenue that is  
22 the result of the fee increased in this subsection must be  
23 distributed to the connecting Washington account created under RCW  
24 46.68.395.

25 (A) Any state agency files a notice of rule making under chapter  
26 34.05 RCW, absent explicit legislative authorization enacted  
27 subsequent to July 1, 2015, for a rule regarding a fuel standard  
28 based upon or defined by the carbon intensity of fuel, including a  
29 low carbon fuel standard or clean fuel standard.

30 (B) Any state agency otherwise enacts, adopts, orders, or in any  
31 way implements a fuel standard based upon or defined by the carbon  
32 intensity of fuel, including a low carbon fuel standard or clean fuel  
33 standard, without explicit legislative authorization enacted  
34 subsequent to July 1, 2015.

35 (C) Nothing in this subsection acknowledges, establishes, or  
36 creates legal authority for the department of ecology or any other  
37 state agency to enact, adopt, order, or in any way implement a fuel

1 standard based upon or defined by the carbon intensity of fuel,  
2 including a low carbon fuel standard or clean fuel standard.

3 (2) A person applying for a motor home vehicle registration  
4 shall, in lieu of the motor vehicle weight fee required in subsection  
5 (1) of this section, pay a motor home vehicle weight fee of seventy-  
6 five dollars in addition to all other fees and taxes required by law.  
7 The motor home vehicle weight fee must be distributed under RCW  
8 46.68.415.

9 (3) Beginning July 1, 2022, in addition to the motor vehicle  
10 weight fee as provided in subsection (1) of this section, the  
11 department, county auditor or other agent, or subagent appointed by  
12 the director must require an applicant to pay an additional weight  
13 fee of ten dollars, which must be distributed to the multimodal  
14 transportation account under RCW 47.66.070 unless prior to July 1,  
15 2023, the actions described in (a) or (b) of this subsection occur,  
16 in which case the portion of the revenue that is the result of the  
17 fee increased in this subsection must be distributed to the  
18 connecting Washington account created under RCW 46.68.395.

19 (a) Any state agency files a notice of rule making under chapter  
20 34.05 RCW, absent explicit legislative authorization enacted  
21 subsequent to July 1, 2015, for a rule regarding a fuel standard  
22 based upon or defined by the carbon intensity of fuel, including a  
23 low carbon fuel standard or clean fuel standard.

24 (b) Any state agency otherwise enacts, adopts, orders, or in any  
25 way implements a fuel standard based upon or defined by the carbon  
26 intensity of fuel, including a low carbon fuel standard or clean fuel  
27 standard, without explicit legislative authorization enacted  
28 subsequent to July 1, 2015.

29 (c) Nothing in this subsection acknowledges, establishes, or  
30 creates legal authority for the department of ecology or any other  
31 state agency to enact, adopt, order, or in any way implement a fuel  
32 standard based upon or defined by the carbon intensity of fuel,  
33 including a low carbon fuel standard or clean fuel standard.

34 (4) The department shall:

35 (a) Rely on motor vehicle empty scale weights provided by vehicle  
36 manufacturers, or other sources defined by the department, to  
37 determine the weight of each motor vehicle; and

38 (b) Adopt rules for determining weight for vehicles without  
39 manufacturer empty scale weights.

1       **Sec. 14.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each  
2 amended to read as follows:

3       (1) When a person has been disqualified from operating a  
4 commercial motor vehicle, the person is not entitled to have the  
5 commercial driver's license or commercial learner's permit restored  
6 until after the expiration of the appropriate disqualification period  
7 required under RCW 46.25.090 or until the department has received a  
8 drug and alcohol assessment and evidence is presented of satisfactory  
9 participation in or completion of any required drug or alcohol  
10 treatment program for ending the disqualification under RCW  
11 46.25.090(7). After expiration of the appropriate period and upon  
12 payment of a requalification fee of twenty dollars until June 30,  
13 2016, and thirty-five dollars beginning July 1, 2016, or one hundred  
14 fifty dollars if the person has been disqualified under RCW  
15 46.25.090(7), the person may apply for a new, duplicate, or renewal  
16 commercial driver's license or commercial learner's permit as  
17 provided by law. If the person has been disqualified for a period of  
18 one year or more, the person shall demonstrate that he or she meets  
19 the commercial driver's license or commercial learner's permit  
20 qualification standards specified in RCW 46.25.060.

21       (2) The fees under this section must be deposited into the  
22 highway safety fund unless prior to July 1, 2023, the actions  
23 described in (a) or (b) of this subsection occur, in which case the  
24 portion of the revenue that is the result of the fee increased in  
25 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be  
26 distributed to the connecting Washington account created under RCW  
27 46.68.395.

28       (a) Any state agency files a notice of rule making under chapter  
29 34.05 RCW, absent explicit legislative authorization enacted  
30 subsequent to July 1, 2015, for a rule regarding a fuel standard  
31 based upon or defined by the carbon intensity of fuel, including a  
32 low carbon fuel standard or clean fuel standard.

33       (b) Any state agency otherwise enacts, adopts, orders, or in any  
34 way implements a fuel standard based upon or defined by the carbon  
35 intensity of fuel, including a low carbon fuel standard or clean fuel  
36 standard, without explicit legislative authorization enacted  
37 subsequent to July 1, 2015.

38       (c) Nothing in this subsection acknowledges, establishes, or  
39 creates legal authority for the department of ecology or any other  
40 state agency to enact, adopt, order, or in any way implement a fuel

1 standard based upon or defined by the carbon intensity of fuel,  
2 including a low carbon fuel standard or clean fuel standard.

3 **Sec. 15.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to  
4 read as follows:

5 (1) The department may enter into a memorandum of understanding  
6 with any federal agency for the purposes of facilitating the crossing  
7 of the border between the state of Washington and the Canadian  
8 province of British Columbia.

9 (2) The department may enter into an agreement with the Canadian  
10 province of British Columbia for the purposes of implementing a  
11 border-crossing initiative.

12 (3) (a) The department may issue an enhanced driver's license or  
13 identicard for the purposes of crossing the border between the state  
14 of Washington and the Canadian province of British Columbia to an  
15 applicant who provides the department with proof of: United States  
16 citizenship, identity, and state residency. The department shall  
17 continue to offer a standard driver's license and identicard. If the  
18 department chooses to issue an enhanced driver's license, the  
19 department must allow each applicant to choose between a standard  
20 driver's license or identicard, or an enhanced driver's license or  
21 identicard.

22 (b) The department shall implement a one-to-many biometric  
23 matching system for the enhanced driver's license or identicard. An  
24 applicant for an enhanced driver's license or identicard shall submit  
25 a biometric identifier as designated by the department. The biometric  
26 identifier must be used solely for the purpose of verifying the  
27 identity of the holders and for any purpose set out in RCW 46.20.037.  
28 Applicants are required to sign a declaration acknowledging their  
29 understanding of the one-to-many biometric match.

30 (c) The enhanced driver's license or identicard must include  
31 reasonable security measures to protect the privacy of Washington  
32 state residents, including reasonable safeguards to protect against  
33 unauthorized disclosure of data about Washington state residents. If  
34 the enhanced driver's license or identicard includes a radio  
35 frequency identification chip, or similar technology, the department  
36 shall ensure that the technology is encrypted or otherwise secure  
37 from unauthorized data access.

38 (d) The requirements of this subsection are in addition to the  
39 requirements otherwise imposed on applicants for a driver's license



1 or identicard. The department shall adopt such rules as necessary to  
2 meet the requirements of this subsection. From time to time the  
3 department shall review technological innovations related to the  
4 security of identity cards and amend the rules related to enhanced  
5 driver's licenses and identicards as the director deems consistent  
6 with this section and appropriate to protect the privacy of  
7 Washington state residents.

8 (e) Notwithstanding RCW 46.20.118, the department may make images  
9 associated with enhanced drivers' licenses or identicards from the  
10 negative file available to United States customs and border agents  
11 for the purposes of verifying identity.

12 (4) Beginning on July 23, 2017, the fee for an enhanced driver's  
13 license or enhanced identicard is twenty-four dollars, which is in  
14 addition to the fees for any regular driver's license or identicard.  
15 If the enhanced driver's license or enhanced identicard is issued,  
16 renewed, or extended for a period other than six years, the fee for  
17 each class is four dollars for each year that the enhanced driver's  
18 license or enhanced identicard is issued, renewed, or extended.

19 (5) The enhanced driver's license and enhanced identicard fee  
20 under this section must be deposited into the highway safety fund  
21 unless prior to July 1, 2023, the actions described in (a) or (b) of  
22 this subsection occur, in which case the portion of the revenue that  
23 is the result of the fee increased in section 209, chapter 44, Laws  
24 of 2015 3rd sp. sess. must be distributed to the connecting  
25 Washington account created under RCW 46.68.395.

26 (a) Any state agency files a notice of rule making under chapter  
27 34.05 RCW, absent explicit legislative authorization enacted  
28 subsequent to July 1, 2015, for a rule regarding a fuel standard  
29 based upon or defined by the carbon intensity of fuel, including a  
30 low carbon fuel standard or clean fuel standard.

31 (b) Any state agency otherwise enacts, adopts, orders, or in any  
32 way implements a fuel standard based upon or defined by the carbon  
33 intensity of fuel, including a low carbon fuel standard or clean fuel  
34 standard, without explicit legislative authorization enacted  
35 subsequent to July 1, 2015.

36 (c) Nothing in this subsection acknowledges, establishes, or  
37 creates legal authority for the department of ecology or any other  
38 state agency to enact, adopt, order, or in any way implement a fuel  
39 standard based upon or defined by the carbon intensity of fuel,  
40 including a low carbon fuel standard or clean fuel standard.

1       **Sec. 16.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each  
2 amended to read as follows:

3       (1) The department may issue a CLP to an applicant who is at  
4 least eighteen years of age and holds a valid Washington state  
5 driver's license and who has:

6       (a) Submitted an application on a form or in a format provided by  
7 the department;

8       (b) Passed the general knowledge examination required for  
9 issuance of a CDL under RCW 46.25.060 for the commercial motor  
10 vehicle classification in which the applicant operates or expects to  
11 operate; and

12       (c) Paid the appropriate examination fee or fees and an  
13 application fee of ten dollars until June 30, 2016, and forty dollars  
14 beginning July 1, 2016.

15       (2) A CLP must be marked "commercial learner's permit" or "CLP,"  
16 and must be, to the maximum extent practicable, tamperproof. Other  
17 than a photograph of the applicant, it must include, but not be  
18 limited to, the information required on a CDL under RCW 46.25.080(1).

19       (3) The holder of a CLP may drive a commercial motor vehicle on a  
20 highway only when in possession of a valid driver's license and  
21 accompanied by the holder of a valid CDL who has the proper CDL  
22 classification and endorsement or endorsements necessary to operate  
23 the commercial motor vehicle. The CDL holder must at all times be  
24 physically present in the front seat of the vehicle next to the CLP  
25 holder or, in the case of a passenger vehicle, directly behind or in  
26 the first row behind the driver and must have the CLP holder under  
27 observation and direct supervision.

28       (4) A CLP may be classified in the same manner as a CDL under RCW  
29 46.25.080(2)(a).

30       (5) CLPs may be issued with only P, S, or N endorsements as  
31 described in RCW 46.25.080(2)(b).

32       (a) The holder of a CLP with a P endorsement must have taken and  
33 passed the P endorsement knowledge examination. The holder of a CLP  
34 with a P endorsement is prohibited from operating a commercial motor  
35 vehicle carrying passengers other than authorized employees or  
36 representatives of the department and the federal motor carrier  
37 safety administration, examiners, other trainees, and the CDL holder  
38 accompanying the CLP holder as required under subsection (2) of this  
39 section. The P endorsement must be class specific.

1 (b) The holder of a CLP with an S endorsement must have taken and  
2 passed the S endorsement knowledge examination. The holder of a CLP  
3 with an S endorsement is prohibited from operating a school bus with  
4 passengers other than authorized employees or representatives of the  
5 department and the federal motor carrier safety administration,  
6 examiners, other trainees, and the CDL holder accompanying the CLP  
7 holder as required under subsection (2) of this section.

8 (c) The holder of a CLP with an N endorsement must have taken and  
9 passed the N endorsement knowledge examination. The holder of a CLP  
10 with an N endorsement may only operate an empty tank vehicle and is  
11 prohibited from operating any tank vehicle that previously contained  
12 hazardous materials and has not been purged of any residue.

13 (6) A CLP may be issued with appropriate restrictions as  
14 described in RCW 46.25.080(2)(c). In addition, a CLP may be issued  
15 with the following restrictions:

16 (a) "P" restricts the driver from operating a bus with  
17 passengers;

18 (b) "X" restricts the driver from operating a tank vehicle that  
19 contains cargo; and

20 (c) Any restriction as established by rule of the department.

21 (7) The holder of a CLP is not authorized to operate a commercial  
22 motor vehicle transporting hazardous materials.

23 (8) A CLP may not be issued for a period to exceed one hundred  
24 eighty days. The department may renew the CLP for one additional one  
25 hundred eighty-day period without requiring the CLP holder to retake  
26 the general and endorsement knowledge examinations.

27 (9) The department must transmit the fees collected for CLPs to  
28 the state treasurer for deposit in the highway safety fund unless  
29 prior to July 1, 2023, the actions described in (a) or (b) of this  
30 subsection occur, in which case the portion of the revenue that is  
31 the result of the fee increased in section 206, chapter 44, Laws of  
32 2015 3rd sp. sess. must be distributed to the connecting Washington  
33 account created under RCW 46.68.395.

34 (a) Any state agency files a notice of rule making under chapter  
35 34.05 RCW, absent explicit legislative authorization enacted  
36 subsequent to July 1, 2015, for a rule regarding a fuel standard  
37 based upon or defined by the carbon intensity of fuel, including a  
38 low carbon fuel standard or clean fuel standard.

39 (b) Any state agency otherwise enacts, adopts, orders, or in any  
40 way implements a fuel standard based upon or defined by the carbon

1 intensity of fuel, including a low carbon fuel standard or clean fuel  
2 standard, without explicit legislative authorization enacted  
3 subsequent to July 1, 2015.

4 (c) Nothing in this subsection acknowledges, establishes, or  
5 creates legal authority for the department of ecology or any other  
6 state agency to enact, adopt, order, or in any way implement a fuel  
7 standard based upon or defined by the carbon intensity of fuel,  
8 including a low carbon fuel standard or clean fuel standard.

9 **Sec. 17.** RCW 46.25.060 and 2015 3rd sp.s. c 44 s 207 are each  
10 amended to read as follows:

11 (1)(a) No person may be issued a commercial driver's license  
12 unless that person:

13 (i) Is a resident of this state;

14 (ii) Has successfully completed a course of instruction in the  
15 operation of a commercial motor vehicle that has been approved by the  
16 director or has been certified by an employer as having the skills  
17 and training necessary to operate a commercial motor vehicle safely;

18 (iii) If he or she does not hold a valid commercial driver's  
19 license of the appropriate classification, has been issued a  
20 commercial learner's permit under RCW 46.25.052; and

21 (iv) Has passed a knowledge and skills examination for driving a  
22 commercial motor vehicle that complies with minimum federal standards  
23 established by federal regulation enumerated in 49 C.F.R. Part 383,  
24 subparts F, G, and H, in addition to other requirements imposed by  
25 state law or federal regulation. The department may not allow the  
26 person to take the skills examination during the first fourteen days  
27 after initial issuance of the person's commercial learner's permit.  
28 The examinations must be prescribed and conducted by the department.

29 (b) In addition to the fee charged for issuance or renewal of any  
30 license, the applicant shall pay a fee of no more than ten dollars  
31 until June 30, 2016, and thirty-five dollars beginning July 1, 2016,  
32 for the classified knowledge examination, classified endorsement  
33 knowledge examination, or any combination of classified license and  
34 endorsement knowledge examinations. The applicant shall pay a fee of  
35 no more than one hundred dollars until June 30, 2016, and two hundred  
36 fifty dollars beginning July 1, 2016, for each classified skill  
37 examination or combination of classified skill examinations conducted  
38 by the department.

1 (c) The department may authorize a person, including an agency of  
2 this or another state, an employer, a private driver training  
3 facility, or other private institution, or a department, agency, or  
4 instrumentality of local government, to administer the skills  
5 examination specified by this section under the following conditions:

6 (i) The examination is the same which would otherwise be  
7 administered by the state;

8 (ii) The third party has entered into an agreement with the state  
9 that complies with the requirements of 49 C.F.R. Sec. 383.75; and

10 (iii) The director has adopted rules as to the third party  
11 testing program and the development and justification for fees  
12 charged by any third party.

13 (d) If the applicant's primary use of a commercial driver's  
14 license is for any of the following, then the applicant shall pay a  
15 fee of no more than seventy-five dollars until June 30, 2016, and two  
16 hundred twenty-five dollars beginning July 1, 2016, for the  
17 classified skill examination or combination of classified skill  
18 examinations whether conducted by the department or a third-party  
19 tester:

20 (i) Public benefit not-for-profit corporations that are federally  
21 supported head start programs; or

22 (ii) Public benefit not-for-profit corporations that support  
23 early childhood education and assistance programs as described in RCW  
24 (~~(43.215.405(2))~~) 43.216.505(2).

25 (e) Beginning July 1, 2016, if the applicant's primary use of a  
26 commercial driver's license is to drive a school bus, the applicant  
27 shall pay a fee of no more than one hundred dollars for the  
28 classified skill examination or combination of classified skill  
29 examinations conducted by the department.

30 (f) Beginning July 1, 2016, payment of the examination fees under  
31 this subsection entitles the applicant to take the examination up to  
32 two times in order to pass.

33 (2)(a) The department may waive the skills examination and the  
34 requirement for completion of a course of instruction in the  
35 operation of a commercial motor vehicle specified in this section for  
36 a commercial driver's license applicant who meets the requirements of  
37 49 C.F.R. Sec. 383.77.

38 (b) An applicant who operates a commercial motor vehicle for  
39 agribusiness purposes is exempt from the course of instruction  
40 completion and employer skills and training certification

1 requirements under this section. By January 1, 2010, the department  
2 shall submit recommendations regarding the continuance of this  
3 exemption to the transportation committees of the legislature. For  
4 purposes of this subsection (2)(b), "agribusiness" means a private  
5 carrier who in the normal course of business primarily transports:

6 (i) Farm machinery, farm equipment, implements of husbandry, farm  
7 supplies, and materials used in farming;

8 (ii) Agricultural inputs, such as seed, feed, fertilizer, and  
9 crop protection products;

10 (iii) Unprocessed agricultural commodities, as defined in RCW  
11 17.21.020, where such commodities are produced by farmers, ranchers,  
12 vineyardists, or orchardists; or

13 (iv) Any combination of (b)(i) through (iii) of this subsection.

14 The department shall notify the transportation committees of the  
15 legislature if the federal government takes action affecting the  
16 exemption provided in this subsection (2)(b).

17 (3) A commercial driver's license or commercial learner's permit  
18 may not be issued to a person while the person is subject to a  
19 disqualification from driving a commercial motor vehicle, or while  
20 the person's driver's license is suspended, revoked, or canceled in  
21 any state, nor may a commercial driver's license be issued to a  
22 person who has a commercial driver's license issued by any other  
23 state unless the person first surrenders all such licenses, which  
24 must be returned to the issuing state for cancellation.

25 (4) The fees under this section must be deposited into the  
26 highway safety fund unless prior to July 1, 2023, the actions  
27 described in (a) or (b) of this subsection occur, in which case the  
28 portion of the revenue that is the result of the fee increased in  
29 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be  
30 distributed to the connecting Washington account created under RCW  
31 46.68.395.

32 (a) Any state agency files a notice of rule making under chapter  
33 34.05 RCW, absent explicit legislative authorization enacted  
34 subsequent to July 1, 2015, for a rule regarding a fuel standard  
35 based upon or defined by the carbon intensity of fuel, including a  
36 low carbon fuel standard or clean fuel standard.

37 (b) Any state agency otherwise enacts, adopts, orders, or in any  
38 way implements a fuel standard based upon or defined by the carbon  
39 intensity of fuel, including a low carbon fuel standard or clean fuel

1 standard, without explicit legislative authorization enacted  
2 subsequent to July 1, 2015.

3 (c) Nothing in this subsection acknowledges, establishes, or  
4 creates legal authority for the department of ecology or any other  
5 state agency to enact, adopt, order, or in any way implement a fuel  
6 standard based upon or defined by the carbon intensity of fuel,  
7 including a low carbon fuel standard or clean fuel standard.

8 **Sec. 18.** RCW 70.94.431 and 2013 c 51 s 6 are each amended to  
9 read as follows:

10 (1) (a) Except as provided in RCW 43.05.060 through 43.05.080 and  
11 43.05.150, and in addition to or as an alternate to any other penalty  
12 provided by law, any person who violates any of the provisions of  
13 this chapter, chapter 70.120 RCW, chapter 70.310 RCW, or any of the  
14 rules in force under such chapters may incur a civil penalty in an  
15 amount not to exceed ten thousand dollars per day for each violation.  
16 Each such violation shall be a separate and distinct offense, and in  
17 case of a continuing violation, each day's continuance shall be a  
18 separate and distinct violation.

19 (b) Any person who fails to take action as specified by an order  
20 issued pursuant to this chapter shall be liable for a civil penalty  
21 of not more than ten thousand dollars for each day of continued  
22 noncompliance.

23 (2) (a) Penalties incurred but not paid shall accrue interest,  
24 beginning on the ninety-first day following the date that the penalty  
25 becomes due and payable, at the highest rate allowed by RCW 19.52.020  
26 on the date that the penalty becomes due and payable. If violations  
27 or penalties are appealed, interest shall not begin to accrue until  
28 the thirty-first day following final resolution of the appeal.

29 (b) The maximum penalty amounts established in this section may  
30 be increased annually to account for inflation as determined by the  
31 state office of the economic and revenue forecast council.

32 (3) Each act of commission or omission which procures, aids or  
33 abets in the violation shall be considered a violation under the  
34 provisions of this section and subject to the same penalty. The  
35 penalties provided in this section shall be imposed pursuant to RCW  
36 43.21B.300.

37 (4) Except as provided in section 11 of this act, all penalties  
38 recovered under this section by the department shall be paid into the  
39 state treasury and credited to the air pollution control account

1 established in RCW 70.94.015 or, if recovered by the authority, shall  
2 be paid into the treasury of the authority and credited to its funds.  
3 If a prior penalty for the same violation has been paid to a local  
4 authority, the penalty imposed by the department under subsection (1)  
5 of this section shall be reduced by the amount of the payment.

6 (5) To secure the penalty incurred under this section, the state  
7 or the authority shall have a lien on any vessel used or operated in  
8 violation of this chapter which shall be enforced as provided in RCW  
9 60.36.050.

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

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

19 (8) By January 1, 1992, the department shall develop rules for  
20 excusing excess emissions from enforcement action if such excess  
21 emissions are unavoidable. The rules shall specify the criteria and  
22 procedures for the department and local air authorities to determine  
23 whether a period of excess emissions is excusable in accordance with  
24 the state implementation plan.

25 NEW SECTION. **Sec. 19.** Sections 2 through 12 of this act are  
26 each added to chapter 70.94 RCW and codified with the subchapter  
27 heading of "clean fuels."

28 NEW SECTION. **Sec. 20.** If any provision of this act or its  
29 application to any person or circumstance is held invalid, the  
30 remainder of the act or the application of the provision to other  
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 21.** If specific funding for the purposes of  
33 this act, referencing this act by bill or chapter number, is not  
34 provided by June 30, 2019, in the omnibus appropriations act, this  
35 act is null and void.

--- END ---