
SUBSTITUTE HOUSE BILL 1091

State of Washington

67th Legislature

2021 Regular Session

By House Environment & Energy (originally sponsored by Representatives Fitzgibbon, Slatter, Berry, Dolan, Bateman, Ramos, Simmons, Ramel, Senn, Peterson, Duerr, Ryu, Valdez, Callan, Kloba, Chopp, Ormsby, Frame, Macri, Pollet, Goodman, and Bergquist; by request of Office of the Governor)

READ FIRST TIME 01/26/21.

1 AN ACT Relating to reducing greenhouse gas emissions by reducing
2 the carbon intensity of transportation fuel; amending RCW 46.17.365,
3 46.25.100, 46.20.202, 46.25.052, 46.25.060, 70A.15.3150, 70A.15.3160,
4 19.112.110, and 19.112.120; adding a new chapter to Title 70A RCW;
5 prescribing 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. California and Oregon have both implemented low
14 carbon fuel standards that are similar to the program created in this
15 act; after enacting their programs, neither state has experienced
16 disruptions to fuel markets or significant impacts to the costs of
17 transportation fuels, and both states have experienced biofuel sector
18 growth and have successfully sited large biofuel projects that had
19 originally been planned for Washington. Washington state has
20 extensively studied the potential impact of a clean fuels program,
21 and most projections show that a low carbon fuel standard would

1 decrease greenhouse gas and conventional air pollutant emissions,
2 while positively impacting the state's economy.

3 (2) The legislature further finds that the health and welfare of
4 the people of the state of Washington is threatened by the prospect
5 of crumbling or swamped coastlines, rising water, and more intense
6 forest fires caused by higher temperatures and related droughts, all
7 of which are intensified and made more frequent by the volume of
8 greenhouse gas emissions. As of 2017, the transportation sector
9 contributes 45 percent of Washington's greenhouse gas emissions, and
10 the legislature's interest in the life cycle of the fuels used in the
11 state arises from a concern for the effects of the production and use
12 of these fuels on Washington's environment and public health,
13 including its air quality, snowpack, and coastline.

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

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

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

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

25 NEW SECTION. **Sec. 2.** The definitions in this section apply
26 throughout this chapter unless the context clearly indicates
27 otherwise.

28 (1) "Carbon dioxide equivalents" has the same meaning as defined
29 in RCW 70A.45.010.

30 (2) "Carbon intensity" means the quantity of life-cycle
31 greenhouse gas emissions, per unit of fuel energy, expressed in grams
32 of carbon dioxide equivalent per megajoule (gCO₂e/MJ).

33 (3) "Clean fuels program" means the requirements established
34 under this chapter.

35 (4) "Cost" means an expense connected to the manufacture,
36 distribution, or other aspects of the provision of a transportation
37 fuel product.

38 (5) "Credit" means a unit of measure generated when a
39 transportation fuel with a carbon intensity that is less than the

1 applicable standard adopted by the department under section 3 of this
2 act is produced, imported, or dispensed for use in Washington, such
3 that one credit is equal to one metric ton of carbon dioxide
4 equivalents.

5 (6) "Deficit" means a unit of measure generated when a
6 transportation fuel with a carbon intensity that is greater than the
7 applicable standard adopted by the department under section 3 of this
8 act is produced, imported, or dispensed for use in Washington, such
9 that one deficit is equal to one metric ton of carbon dioxide
10 equivalents.

11 (7) "Department" means the department of ecology.

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

14 (9) (a) "Green hydrogen" means hydrogen produced using: (i)
15 Electricity that meets the carbon neutrality standard of RCW
16 19.405.040 by 2030 and carbon-free standard of RCW 19.405.040 by 2045
17 for the energy input into the production process; and (ii) renewable
18 resources for the source of the hydrogen.

19 (b) "Green hydrogen" includes renewable hydrogen.

20 (10) "Greenhouse gas" has the same meaning as defined in RCW
21 70A.45.010.

22 (11) "Military tactical vehicle" means a motor vehicle owned by
23 the United States department of defense or the United States military
24 services and that is used in combat, combat support, combat service
25 support, tactical or relief operations, or training for such
26 operations.

27 (12) "Motor vehicle" has the same meaning as defined in RCW
28 46.04.320.

29 (13) "Price" means the amount of payment or compensation provided
30 as consideration for a specified quantity of transportation fuel by a
31 consumer or end user of the transportation fuel.

32 (14) "Renewable hydrogen" means hydrogen produced using renewable
33 resources both as the source for the hydrogen and the source for the
34 energy input into the production process.

35 (15) "Renewable resource" means: (a) Water; (b) wind; (c) solar
36 energy; (d) geothermal energy; (e) renewable natural gas as defined
37 in RCW 54.04.190; (f) renewable hydrogen; (g) wave, ocean, or tidal
38 power; (h) biodiesel fuel that is not derived from crops raised on
39 land cleared from old growth or first growth forests where the
40 clearing occurred after December 7, 2006; or (i) biomass energy.

1 (16) (a) "Tactical support equipment" means equipment using a
2 portable engine, including turbines, that meets military
3 specifications, owned by the United States military services or its
4 allies, and that is used in combat, combat support, combat service
5 support, tactical or relief operations, or training for such
6 operations.

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

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

14 NEW SECTION. **Sec. 3.** (1) The department shall adopt rules that
15 establish standards that reduce carbon intensity in transportation
16 fuels used in Washington. The standards established by the rules must
17 be based on the carbon intensity of gasoline and gasoline substitutes
18 and the carbon intensity of diesel and diesel substitutes. The
19 standards:

20 (a) Must reduce the overall, aggregate carbon intensity of
21 transportation fuels used in Washington;

22 (b) May only require carbon intensity reductions at the aggregate
23 level of all transportation fuels and may not require a reduction in
24 carbon intensity to be achieved by any individual type of
25 transportation fuel;

26 (c) Must assign a compliance obligation to fuels whose carbon
27 intensity exceeds the standards adopted by the department, consistent
28 with the requirements of section 4 of this act; and

29 (d) Must assign credits that can be used to satisfy or offset
30 compliance obligations to fuels whose carbon intensity is below the
31 standards adopted by the department and that elect to participate in
32 the program, consistent with the requirements of section 4 of this
33 act.

34 (2) (a) The rules adopted under this section must reduce the
35 greenhouse gas emissions attributable to each unit of the fuels to 10
36 percent below 2017 levels by 2028 and 20 percent below 2017 levels by
37 2035.

38 (b) The rules must establish a start date for the clean fuels
39 program of no later than January 1, 2023.

1 (c) By December 31, 2031, the department must adopt updated rules
2 that reduce the greenhouse gas emissions attributable to each unit of
3 transportation fuels applicable to each year through 2050. The
4 department must adopt rules that set the greenhouse gas emissions
5 attributable to each unit of transportation fuel in the year 2050 so
6 that total emissions from transportation sources in 2050 are
7 consistent with the state achieving the emissions limits established
8 in RCW 70A.45.020.

9 (3) Transportation fuels exported from Washington are not subject
10 to the greenhouse gas emissions reduction requirements in this
11 section.

12 (4) To the extent the requirements of this chapter conflict with
13 the requirements of chapter 19.112 RCW, the requirements of this
14 chapter prevail.

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

19 (1) Standards for greenhouse gas emissions attributable to the
20 transportation fuels throughout their life cycles, including but not
21 limited to emissions from the production, storage, transportation,
22 and combustion of transportation fuels and from changes in land use
23 associated with transportation fuels and any permanent greenhouse gas
24 sequestration activities.

25 (a) The rules adopted by the department under this subsection (1)
26 may:

27 (i) Include provisions to address the efficiency of a fuel as
28 used in a powertrain as compared to a reference fuel;

29 (ii) Consider carbon intensity calculations for transportation
30 fuels developed by national laboratories or used by similar programs
31 in other states; and

32 (iii) Consider changes in land use and any permanent greenhouse
33 gas sequestration activities associated with the production of any
34 type of transportation fuel.

35 (b) The rules adopted by the department under this subsection (1)
36 must:

37 (i) Neutrally consider the life-cycle emissions associated with
38 transportation fuels with respect to the political jurisdiction in
39 which the fuels originated and may not discriminate against fuels on

1 the basis of having originated in another state or jurisdiction.
2 Nothing in this subsection may be construed to prohibit inclusion or
3 assessment of emissions related to fuel production, storage,
4 transportation, or combustion or associated changes in land use in
5 determining the carbon intensity of a fuel;

6 (ii) Measure greenhouse gas emissions associated with electricity
7 and green hydrogen based on a mix of generation resources specific to
8 each electric utility participating in the clean fuels program. The
9 department may apply an asset-controlling supplier emission factor
10 certified or approved by a similar program to reduce the greenhouse
11 gas emissions associated with transportation fuels in another state;

12 (iii) Include mechanisms for certifying electricity that has a
13 carbon intensity of zero. This electricity must include, at minimum,
14 electricity:

15 (A) For which a renewable energy credit or other environmental
16 attribute has been retired or used only for purposes of the clean
17 fuels program; and

18 (B) Produced using a zero emission resource including, but not
19 limited to, solar, wind, geothermal, or the industrial combustion of
20 biomass consistent with RCW 70A.45.020(3), that is directly supplied
21 as a transportation fuel by the generator of the electricity; and

22 (iv) Include procedures for setting and adjusting the amounts of
23 greenhouse gas emissions per unit of fuel energy that is assigned to
24 transportation fuels under this subsection.

25 (c) If the department determines that it is necessary for
26 purposes of accurately measuring greenhouse gas emissions associated
27 with transportation fuels, the department may require transportation
28 fuel suppliers to submit data or information to be used for purposes
29 of calculating greenhouse gas emissions that is different from or
30 additional to the greenhouse gas emissions data reported under RCW
31 70A.15.2200(5)(a)(iii).

32 (d) If the department determines that it is necessary for
33 purposes of accurately measuring greenhouse gas emissions associated
34 with electricity supplied to retail customers or green hydrogen
35 production facilities by an electric utility, the department may
36 require electric utilities participating in the clean fuels program
37 to submit data or information to be used for purposes of calculating
38 greenhouse gas emissions that is different from or additional to the
39 fuel mix disclosure information submitted under chapter 19.29A RCW.
40 To the extent practicable, rules adopted by the department may allow

1 data requested of utilities to be submitted in a form and manner
2 consistent with other required state or federal data submissions;

3 (2) Provisions allowing for the achievement of limits on the
4 greenhouse gas emissions intensity of transportation fuels in section
5 3 of this act to be achieved by any combination of credit generating
6 activities capable of meeting such standards, consistent with the
7 limitations of subsection (3)(a) of this section. Where such
8 provisions would not produce results counter to the emission
9 reduction goals of the program or prove administratively burdensome
10 for the department, the rules should provide each participant in the
11 clean fuels program with the opportunity to demonstrate appropriate
12 carbon intensity values taking into account both emissions from
13 production facilities and elsewhere in the production cycle,
14 including changes in land use and permanent greenhouse gas
15 sequestration activities;

16 (3)(a) Methods for assigning compliance obligations and methods
17 for tracking tradable credits. The department may assign the
18 generation of a credit when a fuel with associated life-cycle
19 greenhouse gas emissions that are lower than the applicable per-unit
20 standard adopted by the department under section 3 of this act is
21 produced, imported, or dispensed for use in Washington, or when
22 specified activities are undertaken that support the reduction of
23 greenhouse gas emissions associated with transportation in
24 Washington. Transportation fuels with associated greenhouse gas
25 emissions exceeding 80 percent of the 2017 levels established in
26 section 3 of this act are not eligible to generate credits under the
27 clean fuels program;

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

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

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

37 (5) Mechanisms for persons associated with the supply chains of
38 transportation fuels that are used for purposes that are exempt from
39 the clean fuels program compliance obligations, including but not
40 limited to electricity and fuels used by aircraft, vessels, railroad

1 locomotives, and other exempt fuels specified in section 5 of this
2 act, to elect to participate in the clean fuels program by earning
3 credits for the production, import, distribution, use, or retail of
4 exempt fuels with associated life-cycle greenhouse gas emissions
5 lower than the per-unit standard established in section 3 of this
6 act;

7 (6) Mechanisms that allow for the assignment of credits to an
8 electric utility for electricity used, at minimum, for residential
9 electric vehicle charging or fueling;

10 (7) Cost containment mechanisms.

11 (a) Cost containment mechanisms may include, but are not limited
12 to:

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

16 (ii) Similar procedures that provide a means of compliance with
17 the clean fuels program requirements in the event that a regulated
18 person has not been able to acquire sufficient volumes of credits at
19 the end of a compliance period; or

20 (iii) Similar procedures that ensure that credit prices do not
21 significantly exceed credit prices in other jurisdictions that have
22 adopted similar programs to reduce the carbon intensity of
23 transportation fuels.

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

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

32 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and
33 4 of this act must include exemptions for, at minimum, the following
34 transportation fuels:

35 (a) Fuels used in volumes below thresholds adopted by the
36 department;

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

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

3 (2) (a) The rules adopted under sections 3 and 4 of this act must
4 exempt the following transportation fuels from greenhouse gas
5 emission intensity reduction requirements until January 1, 2028:

6 (i) Special fuel used off-road in vehicles used primarily to
7 transport logs;

8 (ii) Dyed special fuel used in vehicles that are not designed
9 primarily to transport persons or property, that are not designed to
10 be primarily operated on highways, and that are used primarily for
11 construction work including, but not limited to, mining and timber
12 harvest operations; and

13 (iii) Dyed special fuel used for agricultural purposes exempt
14 from chapter 82.38 RCW.

15 (b) Prior to January 1, 2028, fuels identified in this subsection
16 (2) are eligible to generate credits, consistent with subsection (5)
17 of this section. Beginning January 1, 2028, the fuels identified in
18 this subsection (2) are subject to the greenhouse gas emission
19 intensity reduction requirements applicable to transportation fuels
20 specified in section 3 of this act.

21 (3) The department may adopt rules to specify the standards for
22 persons to qualify for the exemptions provided in this section. The
23 department may implement the exemptions under subsection (2) of this
24 section to align with the implementation of exemptions for similar
25 fuels exempt from chapter 82.38 RCW.

26 (4) The rules adopted under sections 3 and 4 of this act may
27 include exemptions in addition to those described in subsections (1)
28 and (2) of this section, but only if such exemptions are necessary,
29 with respect to the relationship between the program and similar
30 greenhouse gas emissions requirements or low carbon fuel standards,
31 in order to avoid:

32 (a) Mismatched incentives across programs;

33 (b) Fuel shifting between markets; or

34 (c) Other results that are counter to the intent of this chapter.

35 (5) Nothing in this chapter precludes the department from
36 adopting rules under sections 3 and 4 of this act that allow the
37 generation of credits associated with electric or alternative
38 transportation infrastructure that existed prior to the effective
39 date of this section or to the start date of program requirements.

1 NEW SECTION. **Sec. 6.** (1) The rules adopted under sections 3 and
2 4 of this act may allow the generation of credits from activities
3 that support the reduction of greenhouse gas emissions associated
4 with transportation in Washington, including but not limited to:

5 (a) Carbon capture and sequestration projects, including but not
6 limited to:

7 (i) Innovative crude oil production projects that include carbon
8 capture and sequestration;

9 (ii) Refinery investments in carbon capture and sequestration; or

10 (iii) Direct air capture projects;

11 (b) The fueling of battery or fuel cell electric vehicles by a
12 commercial entity that is not an electric utility, which may include,
13 but is not limited to, the fueling of vehicles using electricity
14 certified by the department to have a carbon intensity of zero; and

15 (c) The use of smart vehicle charging technology that results in
16 the fueling of an electric vehicle during times when the carbon
17 intensity of grid electricity is comparatively low.

18 (2) The rules adopted under sections 3 and 4 of this act must
19 allow the generation of credits from the provision of zero emission
20 vehicle refueling infrastructure and other low carbon fuel
21 infrastructure including, but not limited to, fast charging battery
22 electric vehicle infrastructure and hydrogen-powered fuel cell
23 electric vehicle refueling infrastructure.

24 (3) The rules adopted by the department may establish limits for
25 the number of credits that may be earned each year by persons
26 participating in the program for some or all of the activities
27 specified in subsections (1) and (2) of this section. Any limits
28 established under this subsection must take into consideration the
29 return on investment required in order for an activity specified in
30 subsection (2) of this section to be financially viable.

31 NEW SECTION. **Sec. 7.** (1) Except where otherwise provided in
32 this chapter, the department shall seek to adopt rules that are
33 harmonized with the regulatory standards, exemptions, reporting
34 obligations, and other clean fuels program compliance requirements of
35 other states that:

36 (a) Have adopted low carbon fuel standards or similar greenhouse
37 gas emissions requirements applicable specifically to transportation
38 fuels; and

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

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

5 (2) The department must establish and periodically consult a
6 stakeholder advisory panel, including representatives of forestland
7 and agricultural landowners, for purposes of soliciting input on how
8 to best incentivize and allot credits for the sequestration of
9 greenhouse gases through activities on agricultural and forestlands
10 in a manner that is consistent with the goals and requirements of
11 this chapter.

12 NEW SECTION. **Sec. 8.** (1)(a) Each producer or importer of any
13 amount of a transportation fuel that is ineligible to generate
14 credits consistent with the requirements of section 4(3) of this act
15 must register with the department.

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

20 (c) Other persons must register with the department to generate
21 credits from other activities that support the reduction of
22 greenhouse gas emissions associated with transportation in
23 Washington.

24 (2) Each transaction transferring ownership of transportation
25 fuels for which clean fuels program participation is mandated must be
26 accompanied by documentation, in a format approved by the department,
27 that assigns the clean fuels program compliance responsibility
28 associated with the fuels, including the assignment of associated
29 credits. The department may also require documentation assigning
30 clean fuels program compliance responsibility associated with fuels
31 for which program participation has been elected.

32 (3) The department may adopt rules requiring the periodic
33 reporting of information to the department by persons associated with
34 the supply chains of transportation fuels participating in the clean
35 fuels program. To the extent practicable, the rules must establish
36 reporting procedures and timelines that are consistent with similar
37 programs in other states that reduce the greenhouse gas emission
38 intensity of transportation fuel and with procedures and timelines of

1 state programs requiring similar information to be reported by
2 regulated parties, including electric utilities.

3 (4) RCW 70A.15.2510 applies to records or information submitted
4 to the department under this chapter.

5 NEW SECTION. **Sec. 9.** (1)(a) Fifty percent of the revenues
6 generated by an electric utility from credits earned from the
7 electricity supplied to retail customers by an electric utility under
8 the clean fuels program must be expended by the electric utility on
9 transportation electrification projects, which may include projects
10 to support the production and provision of renewable and green
11 hydrogen as a transportation fuel or used in the production of a
12 transportation fuel.

13 (b) Sixty percent of the revenues described in (a) of this
14 subsection, or 30 percent of the revenues generated by an electric
15 utility from credits earned from the electricity supplied to retail
16 customers by an electric utility under the clean fuels program, must
17 be expended by the electric utility on transportation electrification
18 projects, which may include projects to support the production and
19 provision of renewable and green hydrogen as a transportation fuel or
20 used in the production of a transportation fuel, located within or
21 directly benefiting a federally designated nonattainment or
22 maintenance area, a federally designated nonattainment or maintenance
23 area that existed as of the effective date of this section, a
24 disproportionately impacted community identified by the department of
25 health, or an area designated by the department as being at risk of
26 nonattainment, if such a nonattainment or maintenance area or
27 disproportionately impacted community is within the service area of
28 the utility.

29 (2) The department may adopt requirements for the expenditure of
30 revenues from credits earned from the electricity supplied to retail
31 customers by an electric utility under the clean fuels program that
32 are applicable to the 50 percent of revenues not subject to the
33 requirements of subsection (1) of this section. The department must
34 require that at least some portion of the 50 percent of revenues
35 subject to this subsection be used by each electric utility for the
36 establishment of a clean fuel reward program that provides a price
37 reduction on new electric vehicle purchases or leases in Washington.
38 Any requirements for the expenditure of revenues from credits earned
39 from the electricity supplied to retail customers by an electric

1 utility under the clean fuels program must be developed in
2 consultation with electric utilities.

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

7 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2025, and each May
8 1st thereafter, the department must post a report on the department's
9 website that includes the following information regarding the
10 previous calendar year of clean fuels program activities:

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

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

16 (c) The best estimate or range in probable costs or cost savings
17 attributable to the clean fuels program per gallon of gasoline and
18 per gallon of diesel, as determined by an independent consultant
19 whose services the department has contracted. The estimate or range
20 in probable costs or cost savings from the independent consultant
21 must be announced in a press release to the news media at the time
22 that the report under this subsection (1) is posted to the
23 department's website, and must be simultaneously reported to the
24 transportation committees of the house of representatives and the
25 senate;

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

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

32 (2) Nothing in this section prohibits the department from posting
33 information described in subsection (1) of this section on a more
34 frequent basis than once per year.

35 (3) By May 1, 2025, and each May 1st thereafter, the department
36 must submit the report required under subsection (1) of this section
37 to the appropriate committees of the house of representatives and
38 senate.

1 (4) The department must contract for an ex ante independent
2 analysis of the information specified in subsection (1)(c) of this
3 section for each year of the program through 2035. The analysis
4 required in this subsection must be completed and submitted to the
5 appropriate committees of the legislature by December 1, 2021.

6 NEW SECTION. **Sec. 11.** (1) In consultation with the department
7 and the department of agriculture, the department of commerce must
8 develop a periodic fuel supply forecast to project the availability
9 of fuels necessary for compliance with clean fuels program
10 requirements.

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

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

17 (a) An estimate of the volume of each transportation fuel
18 available in Washington;

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

21 (c) An estimate of the number of credits needed to meet the
22 applicable clean fuels program requirements during the forecasted
23 compliance period.

24 (4) The department of commerce must finalize a fuel supply
25 forecast for an upcoming compliance period by no later than 90 days
26 prior to the start of the compliance period.

27 NEW SECTION. **Sec. 12.** (1) The department may require that
28 persons that are required or elect to register or report under this
29 chapter pay a fee. If the department elects to require program
30 participants to pay a fee, the department must, after an opportunity
31 for public review and comment, adopt rules to establish a process to
32 determine the payment schedule and the amount of the fee charged. The
33 amount of the fee must be set so as to equal but not exceed the
34 projected direct and indirect costs to the department for developing
35 and implementing the program and the projected direct and indirect
36 costs to the department of commerce to carry out its responsibilities
37 under section 11 of this act. The department and the department of
38 commerce must prepare a biennial workload analysis and provide an

1 opportunity for public review of and comment on the workload
2 analysis. The department shall enter into an interagency agreement
3 with the department of commerce to implement this section.

4 (2) The clean fuels program account is created in the state
5 treasury. All receipts from fees and penalties received under the
6 program created in this chapter must be deposited into the account.
7 Moneys in the account may be spent only after appropriation. The
8 department may only use expenditures from the account for carrying
9 out the program created in this chapter.

10 NEW SECTION.

Sec. 13.

(1) By December 1, 2029, the joint
11 legislative audit and review committee must analyze the impacts of
12 the initial five years of clean fuels program implementation and must
13 submit a report summarizing the analysis to the legislature. The
14 analysis must include, at minimum, the following components:

15 (a) Costs and benefits, including environmental and public health
16 costs and benefits, associated with this chapter for categories of
17 persons participating in the clean fuels program or that are most
18 impacted by air pollution, as defined in consultation with the
19 departments of ecology and health and as measured on a census tract
20 scale. This component of the analysis must, at minimum, assess the
21 costs and benefits of changes in the following metrics since the
22 start of the program:

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

26 (ii) Fuel prices; and

27 (iii) Total employment in categories of industries generating
28 credits or deficits. The categories of industries assessed must
29 include but are not limited to electric utilities, oil refineries,
30 and other industries involved in the production of high carbon fuels,
31 industries involved in the delivery and sale of high carbon fuels,
32 biofuel refineries, and industries involved in the delivery and sale
33 of low carbon fuels;

34 (b) An evaluation of the information calculated and provided by
35 the department under section 10(1) of this act; and

36 (c) A summary of the estimated total statewide costs and benefits
37 attributable to the clean fuels program, including state agency
38 administrative costs and regulated entity compliance costs. For
39 purposes of calculating the benefits of the program, the summary may

1 rely, in part, on a constant value of the social costs attributable
2 to greenhouse gas emissions, as identified in contemporary
3 internationally accepted estimates of such global social cost. This
4 summary must include an estimate of the total statewide costs of the
5 program per ton of greenhouse gas emissions reductions achieved by
6 the clean fuels program.

7 (2) This section expires June 30, 2030.

8 **Sec. 14.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each
9 amended to read as follows:

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

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

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

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

20 (iii) Must be distributed under RCW 46.68.415.

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

23 (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;

24
25
26
27
28
29 (ii) If the resultant motor vehicle scale weight is not listed in
30 the table provided in (b)(i) of this subsection, must be increased to
31 the next highest weight; and

32 (iii) Must be distributed under RCW 46.68.415 unless prior to
33 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this
34 subsection occur, in which case the portion of the revenue that is
35 the result of the fee increased in this subsection must be
36 distributed to the connecting Washington account created under RCW
37 46.68.395.

1 (A) Any state agency files a notice of rule making under chapter
2 34.05 RCW, absent explicit legislative authorization enacted
3 subsequent to July 1, 2015, for a rule regarding a fuel standard
4 based upon or defined by the carbon intensity of fuel, including a
5 low carbon fuel standard or clean fuel standard.

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

11 (C) Nothing in this subsection acknowledges, establishes, or
12 creates legal authority for the department of ecology or any other
13 state agency to enact, adopt, order, or in any way implement a fuel
14 standard based upon or defined by the carbon intensity of fuel,
15 including a low carbon fuel standard or clean fuel standard.

16 (2) A person applying for a motor home vehicle registration
17 shall, in lieu of the motor vehicle weight fee required in subsection
18 (1) of this section, pay a motor home vehicle weight fee of seventy-
19 five dollars in addition to all other fees and taxes required by law.
20 The motor home vehicle weight fee must be distributed under RCW
21 46.68.415.

22 (3) Beginning July 1, 2022, in addition to the motor vehicle
23 weight fee as provided in subsection (1) of this section, the
24 department, county auditor or other agent, or subagent appointed by
25 the director must require an applicant to pay an additional weight
26 fee of ten dollars, which must be distributed to the multimodal
27 transportation account under RCW 47.66.070 unless prior to July 1,
28 2023, the actions described in (a) or (b) of this subsection occur,
29 in which case the portion of the revenue that is the result of the
30 fee increased in this subsection must be distributed to the
31 connecting Washington account created under RCW 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 (4) The department shall:

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

12 (b) Adopt rules for determining weight for vehicles without
13 manufacturer empty scale weights.

14 **Sec. 15.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each
15 amended to read as follows:

16 (1) When a person has been disqualified from operating a
17 commercial motor vehicle, the person is not entitled to have the
18 commercial driver's license or commercial learner's permit restored
19 until after the expiration of the appropriate disqualification period
20 required under RCW 46.25.090 or until the department has received a
21 drug and alcohol assessment and evidence is presented of satisfactory
22 participation in or completion of any required drug or alcohol
23 treatment program for ending the disqualification under RCW
24 46.25.090(7). After expiration of the appropriate period and upon
25 payment of a requalification fee of twenty dollars until June 30,
26 2016, and thirty-five dollars beginning July 1, 2016, or one hundred
27 fifty dollars if the person has been disqualified under RCW
28 46.25.090(7), the person may apply for a new, duplicate, or renewal
29 commercial driver's license or commercial learner's permit as
30 provided by law. If the person has been disqualified for a period of
31 one year or more, the person shall demonstrate that he or she meets
32 the commercial driver's license or commercial learner's permit
33 qualification standards specified in RCW 46.25.060.

34 (2) The fees under this section must be deposited into the
35 highway safety fund unless prior to July 1, 2023, the actions
36 described in (a) or (b) of this subsection occur, in which case the
37 portion of the revenue that is the result of the fee increased in
38 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be

1 distributed to the connecting Washington account created under RCW
2 46.68.395.

3 (a) Any state agency files a notice of rule making under chapter
4 34.05 RCW, absent explicit legislative authorization enacted
5 subsequent to July 1, 2015, for a rule regarding a fuel standard
6 based upon or defined by the carbon intensity of fuel, including a
7 low carbon fuel standard or clean fuel standard.

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

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

18 **Sec. 16.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to
19 read as follows:

20 (1) The department may enter into a memorandum of understanding
21 with any federal agency for the purposes of facilitating the crossing
22 of the border between the state of Washington and the Canadian
23 province of British Columbia.

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

27 (3)(a) The department may issue an enhanced driver's license or
28 identicard for the purposes of crossing the border between the state
29 of Washington and the Canadian province of British Columbia to an
30 applicant who provides the department with proof of: United States
31 citizenship, identity, and state residency. The department shall
32 continue to offer a standard driver's license and identicard. If the
33 department chooses to issue an enhanced driver's license, the
34 department must allow each applicant to choose between a standard
35 driver's license or identicard, or an enhanced driver's license or
36 identicard.

37 (b) The department shall implement a one-to-many biometric
38 matching system for the enhanced driver's license or identicard. An
39 applicant for an enhanced driver's license or identicard shall submit

1 a biometric identifier as designated by the department. The biometric
2 identifier must be used solely for the purpose of verifying the
3 identity of the holders and for any purpose set out in RCW 46.20.037.
4 Applicants are required to sign a declaration acknowledging their
5 understanding of the one-to-many biometric match.

6 (c) The enhanced driver's license or identicard must include
7 reasonable security measures to protect the privacy of Washington
8 state residents, including reasonable safeguards to protect against
9 unauthorized disclosure of data about Washington state residents. If
10 the enhanced driver's license or identicard includes a radio
11 frequency identification chip, or similar technology, the department
12 shall ensure that the technology is encrypted or otherwise secure
13 from unauthorized data access.

14 (d) The requirements of this subsection are in addition to the
15 requirements otherwise imposed on applicants for a driver's license
16 or identicard. The department shall adopt such rules as necessary to
17 meet the requirements of this subsection. From time to time the
18 department shall review technological innovations related to the
19 security of identity cards and amend the rules related to enhanced
20 driver's licenses and identicards as the director deems consistent
21 with this section and appropriate to protect the privacy of
22 Washington state residents.

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

27 (4) Beginning on July 23, 2017, the fee for an enhanced driver's
28 license or enhanced identicard is twenty-four dollars, which is in
29 addition to the fees for any regular driver's license or identicard.
30 If the enhanced driver's license or enhanced identicard is issued,
31 renewed, or extended for a period other than six years, the fee for
32 each class is four dollars for each year that the enhanced driver's
33 license or enhanced identicard is issued, renewed, or extended.

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

1 (a) Any state agency files a notice of rule making under chapter
2 34.05 RCW, absent explicit legislative authorization enacted
3 subsequent to July 1, 2015, for a rule regarding a fuel standard
4 based upon or defined by the carbon intensity of fuel, including a
5 low carbon fuel standard or clean fuel standard.

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

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

16 **Sec. 17.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each
17 amended to read as follows:

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

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

23 (b) Passed the general knowledge examination required for
24 issuance of a CDL under RCW 46.25.060 for the commercial motor
25 vehicle classification in which the applicant operates or expects to
26 operate; and

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

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

34 (3) The holder of a CLP may drive a commercial motor vehicle on a
35 highway only when in possession of a valid driver's license and
36 accompanied by the holder of a valid CDL who has the proper CDL
37 classification and endorsement or endorsements necessary to operate
38 the commercial motor vehicle. The CDL holder must at all times be
39 physically present in the front seat of the vehicle next to the CLP

1 holder or, in the case of a passenger vehicle, directly behind or in
2 the first row behind the driver and must have the CLP holder under
3 observation and direct supervision.

4 (4) A CLP may be classified in the same manner as a CDL under RCW
5 46.25.080(2)(a).

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

8 (a) The holder of a CLP with a P endorsement must have taken and
9 passed the P endorsement knowledge examination. The holder of a CLP
10 with a P endorsement is prohibited from operating a commercial motor
11 vehicle carrying passengers other than authorized employees or
12 representatives of the department and the federal motor carrier
13 safety administration, examiners, other trainees, and the CDL holder
14 accompanying the CLP holder as required under subsection (2) of this
15 section. The P endorsement must be class specific.

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

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

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

31 (a) "P" restricts the driver from operating a bus with
32 passengers;

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

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

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

38 (8) A CLP may not be issued for a period to exceed one hundred
39 eighty days. The department may renew the CLP for one additional one

1 hundred eighty-day period without requiring the CLP holder to retake
2 the general and endorsement knowledge examinations.

3 (9) The department must transmit the fees collected for CLPs to
4 the state treasurer for deposit in the highway safety fund unless
5 prior to July 1, 2023, the actions described in (a) or (b) of this
6 subsection occur, in which case the portion of the revenue that is
7 the result of the fee increased in section 206, chapter 44, Laws of
8 2015 3rd sp. sess. must be distributed to the connecting Washington
9 account created under RCW 46.68.395.

10 (a) Any state agency files a notice of rule making under chapter
11 34.05 RCW, absent explicit legislative authorization enacted
12 subsequent to July 1, 2015, for a rule regarding a fuel standard
13 based upon or defined by the carbon intensity of fuel, including a
14 low carbon fuel standard or clean fuel standard.

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

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

25 **Sec. 18.** RCW 46.25.060 and 2020 c 78 s 2 are each amended to
26 read as follows:

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

29 (i) Is a resident of this state;

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

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

37 (iv) Has passed a knowledge and skills examination for driving a
38 commercial motor vehicle that complies with minimum federal standards
39 established by federal regulation enumerated in 49 C.F.R. Part 383,

1 subparts F, G, and H, in addition to other requirements imposed by
2 state law or federal regulation. The department may not allow the
3 person to take the skills examination during the first fourteen days
4 after initial issuance of the person's commercial learner's permit.
5 The examinations must be prescribed and conducted by the department.

6 (b) In addition to the fee charged for issuance or renewal of any
7 license, the applicant shall pay a fee of no more than ten dollars
8 until June 30, 2016, and thirty-five dollars beginning July 1, 2016,
9 for the classified knowledge examination, classified endorsement
10 knowledge examination, or any combination of classified license and
11 endorsement knowledge examinations. The applicant shall pay a fee of
12 no more than one hundred dollars until June 30, 2016, and two hundred
13 fifty dollars beginning July 1, 2016, for each classified skill
14 examination or combination of classified skill examinations conducted
15 by the department.

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

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

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

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

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

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

37 (ii) Public benefit not-for-profit corporations that support
38 early childhood education and assistance programs as described in RCW
39 43.216.505.

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

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

9 (2)(a) The department may waive the skills examination and the
10 requirement for completion of a course of instruction in the
11 operation of a commercial motor vehicle specified in this section for
12 a commercial driver's license applicant who meets the requirements of
13 49 C.F.R. Sec. 383.77. For current or former military service members
14 that meet the requirements of 49 C.F.R. Sec. 383.77, the department
15 may also waive the requirements for a knowledge test for commercial
16 driver's license applicants. Beginning December 1, 2021, the
17 department shall provide an annual report to the house and senate
18 transportation committees and the joint committee on veterans' and
19 military affairs of the legislature on the number and types of
20 waivers granted pursuant to this subsection.

21 (b) An applicant who operates a commercial motor vehicle for
22 agribusiness purposes is exempt from the course of instruction
23 completion and employer skills and training certification
24 requirements under this section. By January 1, 2010, the department
25 shall submit recommendations regarding the continuance of this
26 exemption to the transportation committees of the legislature. For
27 purposes of this subsection (2)(b), "agribusiness" means a private
28 carrier who in the normal course of business primarily transports:

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

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

33 (iii) Unprocessed agricultural commodities, as defined in RCW
34 17.21.020, where such commodities are produced by farmers, ranchers,
35 vineyardists, or orchardists; or

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

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

1 (3) A commercial driver's license or commercial learner's permit
2 may not be issued to a person while the person is subject to a
3 disqualification from driving a commercial motor vehicle, or while
4 the person's driver's license is suspended, revoked, or canceled in
5 any state, nor may a commercial driver's license be issued to a
6 person who has a commercial driver's license issued by any other
7 state unless the person first surrenders all such licenses, which
8 must be returned to the issuing state for cancellation.

9 (4) The fees under this section must be deposited into the
10 highway safety fund unless prior to July 1, 2023, the actions
11 described in (a) or (b) of this subsection occur, in which case the
12 portion of the revenue that is the result of the fee increased in
13 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be
14 distributed to the connecting Washington account created under RCW
15 46.68.395.

16 (a) Any state agency files a notice of rule making under chapter
17 34.05 RCW, absent explicit legislative authorization enacted
18 subsequent to July 1, 2015, for a rule regarding a fuel standard
19 based upon or defined by the carbon intensity of fuel, including a
20 low carbon fuel standard or clean fuel standard.

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

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

31 **Sec. 19.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended
32 to read as follows:

33 (1) Any person who knowingly violates any of the provisions of
34 this chapter (~~(of)~~), chapter 70A.25 or 70A.--- (the new chapter
35 created in section 23 of this act) RCW, RCW 70A.45.080, or any
36 ordinance, resolution, or regulation in force pursuant thereto is
37 guilty of a gross misdemeanor and upon conviction thereof shall be
38 punished by a fine of not more than ten thousand dollars, or by

1 imprisonment in the county jail for up to three hundred sixty-four
2 days, or by both for each separate violation.

3 (2) Any person who negligently releases into the ambient air any
4 substance listed by the department of ecology as a hazardous air
5 pollutant, other than in compliance with the terms of an applicable
6 permit or emission limit, and who at the time negligently places
7 another person in imminent danger of death or substantial bodily harm
8 is guilty of a gross misdemeanor and shall, upon conviction, be
9 punished by a fine of not more than ten thousand dollars, or by
10 imprisonment for up to three hundred sixty-four days, or both.

11 (3) Any person who knowingly releases into the ambient air any
12 substance listed by the department of ecology as a hazardous air
13 pollutant, other than in compliance with the terms of an applicable
14 permit or emission limit, and who knows at the time that he or she
15 thereby places another person in imminent danger of death or
16 substantial bodily harm, is guilty of a class C felony and shall,
17 upon conviction, be punished by a fine of not less than fifty
18 thousand dollars, or by imprisonment for not more than five years, or
19 both.

20 (4) Any person who knowingly fails to disclose a potential
21 conflict of interest under RCW 70A.15.2000 is guilty of a gross
22 misdemeanor, and upon conviction thereof shall be punished by a fine
23 of not more than five thousand dollars.

24 **Sec. 20.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended
25 to read as follows:

26 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and
27 43.05.150, and in addition to or as an alternate to any other penalty
28 provided by law, any person who violates any of the provisions of
29 this chapter, chapter 70A.25 (~~(\oplus)~~), 70A.450, or 70A.--- (the new
30 chapter created in section 23 of this act) RCW, RCW 70A.45.080, or
31 any of the rules in force under such chapters or section may incur a
32 civil penalty in an amount not to exceed ten thousand dollars per day
33 for each violation. Each such violation shall be a separate and
34 distinct offense, and in case of a continuing violation, each day's
35 continuance shall be a separate and distinct violation.

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

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

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

10 (3) Each act of commission or omission which procures, aids or
11 abets in the violation shall be considered a violation under the
12 provisions of this section and subject to the same penalty. The
13 penalties provided in this section shall be imposed pursuant to RCW
14 43.21B.300.

15 (4) All penalties recovered under this section by the department
16 shall be paid into the state treasury and credited to the air
17 pollution control account established in RCW 70A.15.1010 or, if
18 recovered by the authority, shall be paid into the treasury of the
19 authority and credited to its funds. If a prior penalty for the same
20 violation has been paid to a local authority, the penalty imposed by
21 the department under subsection (1) of this section shall be reduced
22 by the amount of the payment.

23 (5) To secure the penalty incurred under this section, the state
24 or the authority shall have a lien on any vessel used or operated in
25 violation of this chapter which shall be enforced as provided in RCW
26 60.36.050.

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

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

36 (8) The department shall develop rules for excusing excess
37 emissions from enforcement action if such excess emissions are
38 unavoidable. The rules shall specify the criteria and procedures for
39 the department and local air authorities to determine whether a

1 period of excess emissions is excusable in accordance with the state
2 implementation plan.

3 **Sec. 21.** RCW 19.112.110 and 2013 c 225 s 601 are each amended to
4 read as follows:

5 (1) Special fuel licensees under chapter 82.38 RCW, as determined
6 by the department of licensing, must provide evidence to the
7 department of licensing that at least two percent of the total annual
8 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,
9 following the earlier of: (a) November 30, 2008; or (b) when a
10 determination is made by the director, published in the Washington
11 State Register, that feedstock grown in Washington state can satisfy
12 a two-percent requirement.

13 (2) Special fuel licensees under chapter 82.38 RCW, as determined
14 by the department of licensing, must provide evidence to the
15 department of licensing that at least five percent of total annual
16 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,
17 when the director determines, and publishes this determination in the
18 Washington State Register, that both in-state oil seed crushing
19 capacity and feedstock grown in Washington state can satisfy a
20 three-percent requirement.

21 (3) The requirements of subsections (1) and (2) of this section
22 may take effect no sooner than one hundred eighty days after the
23 determination has been published in the Washington State Register.

24 (4) The director and the director of licensing must each adopt
25 rules, in coordination with each other, for enforcing and carrying
26 out the purposes of this section.

27 (5) To the extent that the requirements of this section conflict
28 with the requirements of chapter 70A.--- (the new chapter created in
29 section 23 of this act) RCW, the requirements of chapter 70A.--- (the
30 new chapter created in section 23 of this act) RCW prevail.

31 **Sec. 22.** RCW 19.112.120 and 2013 c 225 s 602 are each amended to
32 read as follows:

33 (1) By December 1, 2008, motor vehicle fuel licensees under
34 chapter 82.38 RCW, as determined by the department of licensing, must
35 provide evidence to the department of licensing that at least two
36 percent of total gasoline sold in Washington, measured on a quarterly
37 basis, is denatured ethanol.

1 (2) If the director of ecology determines that ethanol content
2 greater than two percent of the total gasoline sold in Washington
3 will not jeopardize continued attainment of the federal clean air
4 act's national ambient air quality standard for ozone pollution in
5 Washington and the director of agriculture determines and publishes
6 this determination in the Washington State Register that sufficient
7 raw materials are available within Washington to support economical
8 production of ethanol at higher levels, the director of agriculture
9 may require by rule that licensees provide evidence to the department
10 of licensing that denatured ethanol comprises between two percent and
11 at least ten percent of total gasoline sold in Washington, measured
12 on a quarterly basis.

13 (3) The requirements of subsections (1) and (2) of this section
14 may take effect no sooner than one hundred eighty days after the
15 determination has been published in the Washington State Register.

16 (4) The director and the director of licensing must each adopt
17 rules, in coordination with each other, for enforcing and carrying
18 out the purposes of this section.

19 (5) Nothing in this section is intended to prohibit the
20 production, sale, or use of motor fuel for use in federally
21 designated flexibly fueled vehicles capable of using E85 motor fuel.
22 Nothing in this section is intended to limit the use of high octane
23 gasoline not blended with ethanol for use in aircraft.

24 (6) To the extent that the requirements of this section conflict
25 with the requirements of chapter 70A.--- (the new chapter created in
26 section 23 of this act) RCW, the requirements of chapter 70A.--- (the
27 new chapter created in section 23 of this act) RCW prevail.

28 NEW SECTION. Sec. 23. Sections 1 through 13 of this act
29 constitute a new chapter in Title 70A RCW.

30 NEW SECTION. Sec. 24. If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

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