
ENGROSSED THIRD SUBSTITUTE HOUSE BILL 1091

State of Washington

67th Legislature

2021 Regular Session

By House Transportation (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 02/22/21.

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 section to chapter 82.04
5 RCW; adding a new section to chapter 28B.30 RCW; adding a new section
6 to chapter 43.21A RCW; adding a new chapter to Title 70A RCW;
7 creating a new section; prescribing penalties; and providing an
8 expiration date.

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

10 NEW SECTION. **Sec. 1.** (1) The legislature finds that rapid
11 innovations in low carbon transportation technologies, including
12 electric vehicles and clean transportation fuels, are at the
13 threshold of widespread commercial deployment. In order to help
14 prompt the use of clean fuels, other states have successfully
15 implemented programs that reduce the carbon intensity of their
16 transportation fuels. California and Oregon have both implemented low
17 carbon fuel standards that are similar to the program created in this
18 act; after enacting their programs, neither state has experienced
19 disruptions to fuel markets or significant impacts to the costs of
20 transportation fuels, and both states have experienced biofuel sector
21 growth and have successfully sited large biofuel projects that had

1 originally been planned for Washington. Washington state has
2 extensively studied the potential impact of a clean fuels program,
3 and most projections show that a low carbon fuel standard would
4 decrease greenhouse gas and conventional air pollutant emissions,
5 while positively impacting the state's economy.

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

17 (3) The legislature finds that the clean fuel standard created in
18 this chapter will create jobs in Washington state in the production
19 and distribution of sustainable fuels like biofuels from agricultural
20 feedstocks and forest residuals, hydrogen produced from renewable
21 feedstocks, and more. In order to maximize the benefits of this
22 policy to Washington workers while also protecting the environment
23 for current and future generations, it is necessary to uphold and
24 improve upon the state's siting policies. By identifying priority
25 areas of the state for development and by developing methods to
26 further avoid, minimize, and mitigate environmental impacts
27 consistent with statute, rules, and guidance, Washington can protect
28 its environment, contribute to the global fight against climate
29 change, and support broadly shared prosperity.

30 (4) Therefore, it is the intent of the legislature to support the
31 deployment of clean transportation fuel technologies through a
32 carefully designed program that reduces the carbon intensity of fuel
33 used in Washington, in order to:

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

36 (b) Reduce greenhouse gas emissions associated with
37 transportation fuels, which are the state's largest source of
38 greenhouse gas emissions; and

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

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

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

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

9 (3) "Clean fuels program" means the requirements established
10 under this chapter.

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

14 (5) "Credit" means a unit of measure generated when a
15 transportation fuel with a carbon intensity that is less than the
16 applicable standard adopted by the department under section 3 of this
17 act is produced, imported, or dispensed for use in Washington, such
18 that one credit is equal to one metric ton of carbon dioxide
19 equivalents.

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

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

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

29 (9) "Greenhouse gas" has the same meaning as defined in RCW
30 70A.45.010.

31 (10) "Military tactical vehicle" means a motor vehicle owned by
32 the United States department of defense or the United States military
33 services and that is used in combat, combat support, combat service
34 support, tactical or relief operations, or training for such
35 operations.

36 (11) "Motor vehicle" has the same meaning as defined in RCW
37 46.04.320.

38 (12) "Price" means the amount of payment or compensation provided
39 as consideration for a specified quantity of transportation fuel by a
40 consumer or end user of the transportation fuel.

1 (13) (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 (14) "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 hydrogen based on a mix of generation resources specific to each
8 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; and

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

21 (iv) Allow the generation of credits associated with electricity
22 with a carbon intensity lower than that of standard adopted by the
23 department. The department may not require electricity to have a
24 carbon intensity of zero in order to be eligible to generate credits
25 from use as a transportation fuel; and

26 (v) Include procedures for setting and adjusting the amounts of
27 greenhouse gas emissions per unit of fuel energy that is assigned to
28 transportation fuels under this subsection.

29 (c) If the department determines that it is necessary for
30 purposes of accurately measuring greenhouse gas emissions associated
31 with transportation fuels, the department may require transportation
32 fuel suppliers to submit data or information to be used for purposes
33 of calculating greenhouse gas emissions that is different from or
34 additional to the greenhouse gas emissions data reported under RCW
35 70A.15.2200(5)(a)(iii).

36 (d) If the department determines that it is necessary for
37 purposes of accurately measuring greenhouse gas emissions associated
38 with electricity supplied to retail customers or hydrogen production
39 facilities by an electric utility, the department may require
40 electric utilities participating in the clean fuels program to submit

1 data or information to be used for purposes of calculating greenhouse
2 gas emissions that is different from or additional to the fuel mix
3 disclosure information submitted under chapter 19.29A RCW. To the
4 extent practicable, rules adopted by the department may allow data
5 requested of utilities to be submitted in a form and manner
6 consistent with other required state or federal data submissions;

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

18 (3) (a) Methods for assigning compliance obligations and methods
19 for tracking tradable credits. The department may assign the
20 generation of a credit when a fuel with associated life-cycle
21 greenhouse gas emissions that are lower than the applicable per-unit
22 standard adopted by the department under section 3 of this act is
23 produced, imported, or dispensed for use in Washington, or when
24 specified activities are undertaken that support the reduction of
25 greenhouse gas emissions associated with transportation in
26 Washington;

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

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

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

36 (5) Mechanisms for persons associated with the supply chains of
37 transportation fuels that are used for purposes that are exempt from
38 the clean fuels program compliance obligations including, but not
39 limited to, fuels used by aircraft, vessels, railroad locomotives,
40 and other exempt fuels specified in section 5 of this act, to elect

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

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

8 (7) Cost containment mechanisms.

9 (a) Cost containment mechanisms may include, but are not limited
10 to:

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

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

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

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

26 (c) The department shall harmonize the program's cost containment
27 mechanisms with the cost containment rules in the states specified in
28 section 7(1) of this act.

29 (d) The department shall consider mechanisms such as the
30 establishment of a credit price cap or other alternative cost
31 containment measures if deemed necessary to harmonize market credit
32 costs with those in the states specified in section 7(1) of this act;

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

37 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and
38 4 of this act must include exemptions for, at minimum, the following
39 transportation fuels:

1 (a) Fuels used in volumes below thresholds adopted by the
2 department;

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

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

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

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

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

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

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

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

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

36 (a) Mismatched incentives across programs;

37 (b) Fuel shifting between markets; or

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

39 (5) Nothing in this chapter precludes the department from
40 adopting rules under sections 3 and 4 of this act that allow the

1 generation of credits associated with electric or alternative
2 transportation infrastructure that existed prior to the effective
3 date of this section or to the start date of program requirements.
4 The department must apply the same baseline years to credits
5 associated with electric or alternative transportation infrastructure
6 that apply to gasoline and diesel liquid fuels in any market-based
7 program enacted by the legislature that establishes a cap on
8 greenhouse gas emissions.

9 NEW SECTION. **Sec. 6.** (1) The rules adopted under sections 3 and
10 4 of this act may allow the generation of credits from activities
11 that support the reduction of greenhouse gas emissions associated
12 with transportation in Washington, including but not limited to:

13 (a) Carbon capture and sequestration projects, including but not
14 limited to:

15 (i) Innovative crude oil production projects that include carbon
16 capture and sequestration;

17 (ii) Project-based refinery greenhouse gas mitigation including,
18 but not limited to, process improvements, renewable hydrogen use, and
19 carbon capture and sequestration;

20 (iii) Direct air capture projects; or

21 (iv) Investments and activities that support deployment of
22 machinery and equipment used to produce gaseous and liquid fuels from
23 nonfossil feedstocks, and derivatives thereof; or

24 (v) Infrastructure investments in broadband access associated
25 with facilitating remote work and therefore reducing transportation
26 emissions, consistent with the 2021 state energy strategy
27 recommendation. The department must establish a metric for the
28 allocation of credits per foot of installed broadband infrastructure
29 that varies by technology type including, but not limited to, cable,
30 digital subscriber line, and fiber broadband;

31 (b) The fueling of battery or fuel cell electric vehicles by a
32 commercial, nonprofit, or public entity that is not an electric
33 utility, which may include, but is not limited to, the fueling of
34 vehicles using electricity certified by the department to have a
35 carbon intensity of zero; and

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

1 (2) (a) The rules adopted under sections 3 and 4 of this act must
2 allow the generation of credits based on capacity for zero emission
3 vehicle refueling infrastructure, including DC fast charging
4 infrastructure and hydrogen refueling infrastructure.

5 (b) The rules adopted under sections 3 and 4 of this act may
6 allow the generation of credits from the provision of low-carbon fuel
7 infrastructure not specified in (a) of this subsection.

8 (3) The rules adopted by the department may establish limits for
9 the number of credits that may be earned each year by persons
10 participating in the program for some or all of the activities
11 specified in subsections (1) and (2) of this section. Any limits
12 established under this subsection must take into consideration the
13 return on investment required in order for an activity specified in
14 subsection (2) of this section to be financially viable.

15 NEW SECTION. **Sec. 7.** (1) Except where otherwise provided in
16 this chapter, the department shall seek to adopt rules that are
17 harmonized with the regulatory standards, exemptions, reporting
18 obligations, and other clean fuels program compliance requirements
19 and methods for credit generation of other states that:

20 (a) Have adopted low carbon fuel standards or similar greenhouse
21 gas emissions requirements applicable specifically to transportation
22 fuels; and

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

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

27 (2) The department must establish and periodically consult a
28 stakeholder advisory panel, including representatives of forestland
29 and agricultural landowners, for purposes of soliciting input on how
30 to best incentivize and allot credits for the sequestration of
31 greenhouse gases through activities on agricultural and forestlands
32 in a manner that is consistent with the goals and requirements of
33 this chapter.

34 (3) The department must conduct a biennial review of innovative
35 technologies and pathways that reduce carbon and increase credit
36 generation opportunities and must modify rules or guidance as needed
37 to maintain stable credit markets.

38 (4) In any reports to the legislature under section 10 of this
39 act, on the department's website, or in other public documents or

1 communications that refer to assumed public health benefits
2 associated with the program created in this chapter, the department
3 must distinguish between public health benefits from small
4 particulate matter and other conventional pollutant reductions
5 achieved primarily as a result of vehicle emission standards
6 established under chapter 70A.30 RCW, and the incremental benefits to
7 air pollution attributable to the program created under this chapter.

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

12 (b) Electric vehicle manufacturers and producers, importers,
13 distributors, users, and retailers of transportation fuels that are
14 eligible to generate credits consistent with section 4(3) of this act
15 must register with the department if they elect to participate in the
16 clean fuels program.

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

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

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

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

1 NEW SECTION.

2 **Sec. 9.**

3 (1)(a) Fifty percent of the revenues
4 generated by an electric utility from credits earned from the
5 electricity supplied to retail customers by an electric utility under
6 the clean fuels program must be expended by the electric utility on
7 transportation electrification projects, which may include projects
8 to support the production and provision of hydrogen and other gaseous
9 fuels produced from nonfossil feedstocks, and derivatives thereof as
10 a transportation fuel.

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

27 (2) For the 50 percent of revenues not subject to the
28 requirements of subsection (1) of this section, the department, in
29 consultation with the utilities and transportation commission, must
30 adopt requirements for the expenditure of revenues from credits
31 earned from the electricity supplied to retail customers by an
32 electric utility under the clean fuels program. The department must
33 provide for the establishment and funding of a statewide clean fuel
34 reward program to provide light duty vehicle consumers with
35 reasonable purchase incentives and require that at least some portion
36 of the 50 percent of revenues subject to this subsection be
37 contributed by each electric utility to such a program. The clean
38 fuel reward program must provide a price reduction to vehicle
39 purchasers or leasers at the time of purchase or lease on electric
40 vehicle purchases or leases in Washington. Any requirements for the
expenditure of revenues from credits earned from the electricity
supplied to retail customers by an electric utility under the clean

1 fuels program must be developed in consultation with electric
2 utilities, automobile manufacturers, and car dealers.

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 must
4 be informed by input from stakeholders, including regulated
5 industries, and informed by experience from other jurisdictions. The
6 analysis must impute price impacts using multiple analytical
7 methodologies and must make clear how the assumptions or factors
8 considered differed in each methodology used and price impact
9 imputed. The analysis required in this subsection must be completed
10 and submitted to the appropriate committees of the legislature by
11 July 1, 2022.

12 NEW SECTION. **Sec. 11.** (1) In consultation with the department
13 and the department of agriculture, the department of commerce must
14 develop a periodic fuel supply forecast to project the availability
15 of fuels necessary for compliance with clean fuels program
16 requirements.

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

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

23 (a) An estimate of the volume of each transportation fuel
24 available in Washington;

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

27 (c) An estimate of the number of credits needed to meet the
28 applicable clean fuels program requirements during the forecasted
29 compliance period.

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

33 NEW SECTION. **Sec. 12.** (1) The department must issue an order
34 declaring an emergency deferral:

35 (a) No later than 15 calendar days after the date that the
36 department determines that:

1 (i) There is a known shortage of a fuel or low carbon fuel that
2 is needed for regulated parties to comply with the carbon intensity
3 standard established under section 3 of this act; and

4 (ii) The magnitude of the shortage of that fuel is greater than
5 the equivalent of five percent of the amount of the fuel forecasted
6 to be available during the effective compliance period; or

7 (b) Immediately upon the issuance by the governor of a
8 proclamation, executive order, or directive pursuant to declaring an
9 energy emergency under chapter 43.21G RCW due to a shortage of
10 gasoline or diesel.

11 (2) An order declaring an emergency deferral under this section
12 must set forth:

13 (a) The duration of the emergency deferral;

14 (b) The types of fuel to which the emergency deferral applies;

15 and

16 (c) Which of the following methods the department has selected
17 for deferring compliance with the scheduled applicable carbon
18 intensity standard during the emergency deferral:

19 (i) Temporarily adjusting the scheduled applicable carbon
20 intensity standard to a standard identified in the order that better
21 reflects the availability of credits during the emergency deferral
22 and requiring regulated parties to comply with the temporary
23 standard;

24 (ii) Allowing for the carryover of deficits accrued during the
25 emergency deferral into one or more future compliance periods without
26 penalty; or

27 (iii) Suspending deficit accrual during the emergency deferral
28 period.

29 (3) (a) In implementing an emergency deferral, the department may
30 take an action for deferring compliance with the carbon intensity
31 standard other than, or in addition to, selecting a method under
32 subsection (2)(c) of this section only if the department determines
33 that none of the methods under subsection (2)(c) of this section will
34 provide a sufficient mechanism for containing the costs of compliance
35 with the carbon intensity standards during the emergency deferral.

36 (b) If the department makes the determination specified in (a) of
37 this subsection, the department shall:

38 (i) Include in the order declaring an emergency deferral the
39 determination and the action to be taken; and

1 (ii) Provide written notification and justification of the
2 determination and the action to:

3 (A) The governor;

4 (B) The president of the senate;

5 (C) The speaker of the house of representatives; and

6 (D) The appropriate committees of the house of representatives
7 and the senate.

8 (4) (a) Except as provided in (b) of this subsection, the duration
9 of an emergency deferral:

10 (i) Implemented using the method described in subsection
11 (2) (c) (i) of this section may not be less than one calendar quarter;
12 and

13 (ii) Implemented using a method described in subsection
14 (2) (c) (ii) or (iii) or (3) of this section may not be less than 30
15 calendar days.

16 (b) An emergency deferral may not continue past the end of the
17 compliance period during which the emergency deferral is issued.

18 (c) The department may terminate an emergency deferral prior to
19 the expiration date of the emergency deferral only if new information
20 becomes available indicating that the shortage for which the
21 emergency deferral was issued has ended. Termination of an emergency
22 deferral is effective 15 calendar days after the date that the order
23 declaring the termination is adopted.

24 NEW SECTION. **Sec. 13.** (1) The department may require that
25 persons that are required or elect to register or report under this
26 chapter pay a fee. If the department elects to require program
27 participants to pay a fee, the department must, after an opportunity
28 for public review and comment, adopt rules to establish a process to
29 determine the payment schedule and the amount of the fee charged. The
30 amount of the fee must be set so as to equal but not exceed the
31 projected direct and indirect costs to the department for developing
32 and implementing the program and the projected direct and indirect
33 costs to the department of commerce to carry out its responsibilities
34 under section 11 of this act. The department and the department of
35 commerce must prepare a biennial workload analysis and provide an
36 opportunity for public review of and comment on the workload
37 analysis. The department shall enter into an interagency agreement
38 with the department of commerce to implement this section.

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

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

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

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

23 (ii) Fuel prices; and

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

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

33 (c) A summary of the estimated total statewide costs and benefits
34 attributable to the clean fuels program, including state agency
35 administrative costs and regulated entity compliance costs. For
36 purposes of calculating the benefits of the program, the summary may
37 rely, in part, on a constant value of the social costs attributable
38 to greenhouse gas emissions, as identified in contemporary
39 internationally accepted estimates of such global social cost. This

1 summary must include an estimate of the total statewide costs of the
2 program per ton of greenhouse gas emissions reductions achieved by
3 the clean fuels program.

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

5 NEW SECTION. **Sec. 15.** A new section is added to chapter 82.04
6 RCW to read as follows:

7 (1) This chapter does not apply to amounts received from the
8 generation, purchase, sale, transfer, or retirement of credits under
9 chapter 70A.--- RCW (the new chapter created in section 27 of this
10 act).

11 (2) The provisions of RCW 82.32.805 and 82.32.808 do not apply to
12 subsection (1) of this section.

13 **Sec. 16.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each
14 amended to read as follows:

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

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

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

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

25 (iii) Must be distributed under RCW 46.68.415.

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

28 (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;

29
30
31
32
33
34 (ii) If the resultant motor vehicle scale weight is not listed in
35 the table provided in (b) (i) of this subsection, must be increased to
36 the next highest weight; and

1 (iii) Must be distributed under RCW 46.68.415 unless prior to
2 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this
3 subsection occur, in which case the portion of the revenue that is
4 the result of the fee increased in this subsection must be
5 distributed to the connecting Washington account created under RCW
6 46.68.395.

7 (A) Any state agency files a notice of rule making under chapter
8 34.05 RCW, absent explicit legislative authorization enacted
9 subsequent to July 1, 2015, for a rule regarding a fuel standard
10 based upon or defined by the carbon intensity of fuel, including a
11 low carbon fuel standard or clean fuel standard.

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

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

22 (2) A person applying for a motor home vehicle registration
23 shall, in lieu of the motor vehicle weight fee required in subsection
24 (1) of this section, pay a motor home vehicle weight fee of seventy-
25 five dollars in addition to all other fees and taxes required by law.
26 The motor home vehicle weight fee must be distributed under RCW
27 46.68.415.

28 (3) Beginning July 1, 2022, in addition to the motor vehicle
29 weight fee as provided in subsection (1) of this section, the
30 department, county auditor or other agent, or subagent appointed by
31 the director must require an applicant to pay an additional weight
32 fee of ten dollars, which must be distributed to the multimodal
33 transportation account under RCW 47.66.070 unless prior to July 1,
34 2023, the actions described in (a) or (b) of this subsection occur,
35 in which case the portion of the revenue that is the result of the
36 fee increased in this subsection must be distributed to the
37 connecting Washington account created under RCW 46.68.395.

38 (a) Any state agency files a notice of rule making under chapter
39 34.05 RCW, absent explicit legislative authorization enacted
40 subsequent to July 1, 2015, for a rule regarding a fuel standard

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

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

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

13 (4) The department shall:

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

17 (b) Adopt rules for determining weight for vehicles without
18 manufacturer empty scale weights.

19 **Sec. 17.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each
20 amended to read as follows:

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

1 (2) The fees under this section must be deposited into the
2 highway safety fund unless prior to July 1, 2023, the actions
3 described in (a) or (b) of this subsection occur, in which case the
4 portion of the revenue that is the result of the fee increased in
5 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be
6 distributed to the connecting Washington account created under RCW
7 46.68.395.

8 (a) Any state agency files a notice of rule making under chapter
9 34.05 RCW, absent explicit legislative authorization enacted
10 subsequent to July 1, 2015, for a rule regarding a fuel standard
11 based upon or defined by the carbon intensity of fuel, including a
12 low carbon fuel standard or clean fuel standard.

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

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

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

25 (1) The department may enter into a memorandum of understanding
26 with any federal agency for the purposes of facilitating the crossing
27 of the border between the state of Washington and the Canadian
28 province of British Columbia.

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

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

1 driver's license or identicard, or an enhanced driver's license or
2 identicard.

3 (b) The department shall implement a one-to-many biometric
4 matching system for the enhanced driver's license or identicard. An
5 applicant for an enhanced driver's license or identicard shall submit
6 a biometric identifier as designated by the department. The biometric
7 identifier must be used solely for the purpose of verifying the
8 identity of the holders and for any purpose set out in RCW 46.20.037.
9 Applicants are required to sign a declaration acknowledging their
10 understanding of the one-to-many biometric match.

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

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

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

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

39 (5) The enhanced driver's license and enhanced identicard fee
40 under this section must be deposited into the highway safety fund

1 unless prior to July 1, 2023, the actions described in (a) or (b) of
2 this subsection occur, in which case the portion of the revenue that
3 is the result of the fee increased in section 209, chapter 44, Laws
4 of 2015 3rd sp. sess. must be distributed to the connecting
5 Washington account created under RCW 46.68.395.

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

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

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

21 **Sec. 19.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each
22 amended to read as follows:

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

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

28 (b) Passed the general knowledge examination required for
29 issuance of a CDL under RCW 46.25.060 for the commercial motor
30 vehicle classification in which the applicant operates or expects to
31 operate; and

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

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

1 (3) The holder of a CLP may drive a commercial motor vehicle on a
2 highway only when in possession of a valid driver's license and
3 accompanied by the holder of a valid CDL who has the proper CDL
4 classification and endorsement or endorsements necessary to operate
5 the commercial motor vehicle. The CDL holder must at all times be
6 physically present in the front seat of the vehicle next to the CLP
7 holder or, in the case of a passenger vehicle, directly behind or in
8 the first row behind the driver and must have the CLP holder under
9 observation and direct supervision.

10 (4) A CLP may be classified in the same manner as a CDL under RCW
11 46.25.080(2)(a).

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

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

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

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

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

37 (a) "P" restricts the driver from operating a bus with
38 passengers;

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

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

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

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

8 (9) The department must transmit the fees collected for CLPs to
9 the state treasurer for deposit in the highway safety fund unless
10 prior to July 1, 2023, the actions described in (a) or (b) of this
11 subsection occur, in which case the portion of the revenue that is
12 the result of the fee increased in section 206, chapter 44, Laws of
13 2015 3rd sp. sess. must be distributed to the connecting Washington
14 account created under RCW 46.68.395.

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

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

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

30 **Sec. 20.** RCW 46.25.060 and 2020 c 78 s 2 are each amended to
31 read as follows:

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

34 (i) Is a resident of this state;

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

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

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

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

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

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

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

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

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

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

3 (ii) Public benefit not-for-profit corporations that support
4 early childhood education and assistance programs as described in RCW
5 43.216.505.

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

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

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

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

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

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

38 (iii) Unprocessed agricultural commodities, as defined in RCW
39 17.21.020, where such commodities are produced by farmers, ranchers,
40 vineyardists, or orchardists; or

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

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

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

13 (4) The fees under this section must be deposited into the
14 highway safety fund unless prior to July 1, 2023, the actions
15 described in (a) or (b) of this subsection occur, in which case the
16 portion of the revenue that is the result of the fee increased in
17 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be
18 distributed to the connecting Washington account created under RCW
19 46.68.395.

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

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

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

35 **Sec. 21.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended
36 to read as follows:

37 (1) Any person who knowingly violates any of the provisions of
38 this chapter (~~(~~or~~)~~), chapter 70A.25 or 70A.--- (the new chapter
39 created in section 27 of this act) RCW, RCW 70A.45.080, or any

1 ordinance, resolution, or regulation in force pursuant thereto is
2 guilty of a gross misdemeanor and upon conviction thereof shall be
3 punished by a fine of not more than ten thousand dollars, or by
4 imprisonment in the county jail for up to three hundred sixty-four
5 days, or by both for each separate violation.

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

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

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

27 **Sec. 22.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended
28 to read as follows:

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

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

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

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

14 (3) Each act of commission or omission which procures, aids or
15 abets in the violation shall be considered a violation under the
16 provisions of this section and subject to the same penalty. The
17 penalties provided in this section shall be imposed pursuant to RCW
18 43.21B.300.

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

27 (5) To secure the penalty incurred under this section, the state
28 or the authority shall have a lien on any vessel used or operated in
29 violation of this chapter which shall be enforced as provided in RCW
30 60.36.050.

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

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

1 (8) The department shall develop rules for excusing excess
2 emissions from enforcement action if such excess emissions are
3 unavoidable. The rules shall specify the criteria and procedures for
4 the department and local air authorities to determine whether a
5 period of excess emissions is excusable in accordance with the state
6 implementation plan.

7 **Sec. 23.** RCW 19.112.110 and 2013 c 225 s 601 are each amended to
8 read as follows:

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

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

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

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

31 (5) To the extent that the requirements of this section conflict
32 with the requirements of chapter 70A.--- (the new chapter created in
33 section 27 of this act) RCW, the requirements of chapter 70A.--- (the
34 new chapter created in section 27 of this act) RCW prevail.

35 **Sec. 24.** RCW 19.112.120 and 2013 c 225 s 602 are each amended to
36 read as follows:

37 (1) By December 1, 2008, motor vehicle fuel licensees under
38 chapter 82.38 RCW, as determined by the department of licensing, must

1 provide evidence to the department of licensing that at least two
2 percent of total gasoline sold in Washington, measured on a quarterly
3 basis, is denatured ethanol.

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

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

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

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

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

31 NEW SECTION. Sec. 25. A new section is added to chapter 28B.30
32 RCW to read as follows:

33 (1) Subject to the availability of amounts appropriated for this
34 specific purpose, Washington State University's energy program must
35 initiate a least conflict priority clean energy project siting
36 program in coordination with the energy facility site evaluation
37 council, the department of ecology, the department of commerce, the
38 department of fish and wildlife, local governments, clean energy
39 stakeholders, conservation stakeholders, and Indian tribes. This

1 program must engage all relevant agencies, stakeholders, and Indian
2 tribes to identify priority areas in Washington state with the least
3 amount of potential environmental impact and other conflict over
4 competing land uses in the siting of major clean energy projects with
5 the potential to produce significant volumes of transportation fuel
6 with a low carbon intensity, or that support the production of such
7 transportation fuel. Washington State University's energy program may
8 identify different priority areas for different types of industrial
9 or manufacturing clean energy projects with the potential to produce
10 significant volumes of transportation fuel with a low carbon
11 intensity in sectors including, but not limited to, biofuels,
12 agricultural and forest biomass, hydrogen produced via electrolysis
13 of water, and renewable natural gas.

14 (2) A project proposed in an area designated under subsection (1)
15 of this section does not receive a guarantee or assurance of being
16 permitted and is subject to review consistent with chapter 43.21C RCW
17 and applicable environmental permit processes. Project proponents are
18 not limited to proposing projects in identified least conflict zones.

19 (3) The identification of priority areas completed in subsection
20 (1) of this section must be updated at least once every six years.

21 NEW SECTION. **Sec. 26.** A new section is added to chapter 43.21A
22 RCW to read as follows:

23 Subject to the availability of amounts appropriated for this
24 specific purpose, the department, in consultation with the department
25 of commerce, must periodically convene stakeholders, including all of
26 those identified in section 25 of this act, Indian tribes, and the
27 member agencies of the energy facility site evaluation council to
28 identify and discuss avoidance, minimization, and mitigation of
29 significant likely environmental impacts of clean energy projects
30 specified in section 25 of this act. The environmental impacts
31 identified and discussed must include, but are not limited to, air
32 quality impacts, impacts to land and aquatic habitats, and wildlife
33 impacts that may result from clean energy projects. The department
34 must periodically provide a report to the appropriate committees of
35 the house of representatives and the senate identifying mitigation
36 resources, funding needs, and potential policies and programs to
37 modify permitting and environmental review necessary for construction
38 of clean energy projects with the potential to produce significant
39 volumes of transportation fuel with a low carbon intensity, or that

1 support the production of such transportation fuel, in Washington
2 state.

3 NEW SECTION. **Sec. 27.** Sections 1 through 14 of this act
4 constitute a new chapter in Title 70A RCW.

5 NEW SECTION. **Sec. 28.** If specific funding for the purposes of
6 this act, referencing this act by bill or chapter number, is not
7 provided by June 30, 2021, in the omnibus appropriations act, this
8 act is null and void.

9 NEW SECTION. **Sec. 29.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

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