

---

**HOUSE BILL 1091**

---

**State of Washington**

**67th Legislature**

**2021 Regular Session**

**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

Prefiled 01/06/21. Read first time 01/11/21. Referred to Committee on Environment & Energy.

1 AN ACT Relating to reducing greenhouse gas emissions by reducing  
2 the carbon intensity of transportation fuel; amending RCW 46.25.100,  
3 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 (gCO<sub>2</sub>e/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) "Greenhouse gas" has the same meaning as defined in RCW  
15 70A.45.010.

16 (10) "Military tactical vehicle" means a motor vehicle owned by  
17 the United States department of defense or the United States military  
18 services and that is used in combat, combat support, combat service  
19 support, tactical or relief operations, or training for such  
20 operations.

21 (11) "Motor vehicle" has the same meaning as defined in RCW  
22 46.04.320.

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

26 (13)(a) "Tactical support equipment" means equipment using a  
27 portable engine, including turbines, that meets military  
28 specifications, owned by the United States military services or its  
29 allies, and that is used in combat, combat support, combat service  
30 support, tactical or relief operations, or training for such  
31 operations.

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

35 (14) "Transportation fuel" means electricity and any liquid or  
36 gaseous fuel sold, supplied, offered for sale, or used for the  
37 propulsion of a motor vehicle or that is intended for use for  
38 transportation purposes.

1        NEW SECTION.    **Sec. 3.**    (1) The department shall adopt rules that  
2 establish standards that reduce carbon intensity in transportation  
3 fuels used in Washington. The standards established by the rules must  
4 be based on the carbon intensity of gasoline and gasoline substitutes  
5 and the carbon intensity of diesel and diesel substitutes.

6        (2) (a) The rules adopted under this section must reduce the  
7 greenhouse gas emissions attributable to each unit of the fuels to 10  
8 percent below 2017 levels by 2028 and 20 percent below 2017 levels by  
9 2035.

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

12        (c) By December 31, 2031, the department must adopt updated rules  
13 that reduce the greenhouse gas emissions attributable to each unit of  
14 transportation fuels applicable to each year through 2050. The  
15 department must adopt rules that set the greenhouse gas emissions  
16 attributable to each unit of transportation fuel in the year 2050 so  
17 that total emissions from transportation sources in 2050 are  
18 consistent with the state achieving the emissions limits established  
19 in RCW 70A.45.020.

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

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

25        (4) To the extent the requirements of this chapter conflict with  
26 the requirements of chapter 19.112 RCW, the requirements of this  
27 chapter prevail.

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

32        (1) Standards for greenhouse gas emissions attributable to the  
33 transportation fuels throughout their life cycles, including but not  
34 limited to emissions from the production, storage, transportation,  
35 and combustion of transportation fuels and from changes in land use  
36 associated with transportation fuels and any permanent greenhouse gas  
37 sequestration activities.

38        (a) The rules adopted by the department under this subsection (1)  
39 may:

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

3 (ii) Consider carbon intensity calculations for transportation  
4 fuels developed by national laboratories or used by similar programs  
5 in other states; and

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

9 (b) The rules adopted by the department under this subsection (1)  
10 must:

11 (i) Neutrally consider the life-cycle emissions associated with  
12 transportation fuels with respect to the political jurisdiction in  
13 which the fuels originated and may not discriminate against fuels on  
14 the basis of having originated in another state or jurisdiction.  
15 Nothing in this subsection may be construed to prohibit inclusion or  
16 assessment of emissions related to fuel production, storage,  
17 transportation, or combustion or associated changes in land use in  
18 determining the carbon intensity of a fuel;

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

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

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

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

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

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

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

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

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

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

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

11 (6) Cost containment mechanisms.

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

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

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

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

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

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

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

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

38 (b) Fuels used for the propulsion of all aircraft, vessels, and  
39 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 electric vehicles using electricity certified  
12 by the department to have a carbon intensity of zero. Such  
13 electricity must include, at minimum:

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

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

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

25       (2) The rules adopted under sections 3 and 4 of this act must  
26 allow the generation of credits from the provision of zero emission  
27 vehicle refueling infrastructure and other low carbon fuel  
28 infrastructure including, but not limited to, fast charging battery  
29 electric vehicle infrastructure and hydrogen electric vehicle  
30 refueling infrastructure.

31       (3) The rules adopted by the department may establish limits for  
32 the number of credits that may be earned each year by persons  
33 participating in the program for some or all of the activities  
34 specified in subsections (1) and (2) of this section. Any limits  
35 established under this subsection must take into consideration the  
36 return on investment required in order for an activity specified in  
37 subsection (1) or (2) of this section to be financially viable.

38       NEW SECTION.    **Sec. 7.**    (1) Except where otherwise provided in  
39 this chapter, the department shall seek to adopt rules that are

1 harmonized with the regulatory standards, exemptions, reporting  
2 obligations, and other clean fuels program compliance requirements of  
3 other states that:

4 (a) Have adopted low carbon fuel standards or similar greenhouse  
5 gas emissions requirements applicable specifically to transportation  
6 fuels; and

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

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

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

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

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

26 (c) Other persons must register with the department to generate  
27 credits from other activities that support the reduction of  
28 greenhouse gas emissions associated with transportation in  
29 Washington.

30 (2) Each transaction transferring ownership of transportation  
31 fuels for which clean fuels program participation is mandated or has  
32 been chosen must be accompanied by documentation, in a format  
33 approved by the department, that assigns the clean fuels program  
34 compliance responsibility associated with the fuels, including the  
35 assignment of associated credits.

36 (3) The department may adopt rules requiring the periodic  
37 reporting of information to the department by persons associated with  
38 the supply chains of transportation fuels participating in the clean  
39 fuels program. To the extent practicable, the rules must establish

1 reporting procedures and timelines that are consistent with similar  
2 programs in other states that reduce the greenhouse gas emission  
3 intensity of transportation fuel and with procedures and timelines of  
4 state programs requiring similar information to be reported by  
5 regulated parties, including electric utilities.

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

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

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

31 (2) The department may adopt requirements for the expenditure of  
32 revenues from credits earned from the electricity supplied to retail  
33 customers by an electric utility under the clean fuels program that  
34 are applicable to the 50 percent of revenues not subject to the  
35 requirements of subsection (1) of this section. Any requirements for  
36 the expenditure of revenues from credits earned from the electricity  
37 supplied to retail customers by an electric utility under the clean  
38 fuels program must be developed in consultation with electric  
39 utilities.

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

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

7 (a) "Renewable hydrogen" means hydrogen produced using renewable  
8 resources both as the source for the hydrogen and the source for the  
9 energy input into the production process.

10 (b) "Renewable resource" means: (i) Water; (ii) wind; (iii) solar  
11 energy; (iv) geothermal energy; (v) renewable natural gas as defined  
12 in RCW 54.04.190; (vi) renewable hydrogen; (vii) wave, ocean, or  
13 tidal power; (viii) biodiesel fuel that is not derived from crops  
14 raised on land cleared from old growth or first growth forests where  
15 the clearing occurred after December 7, 2006; or (ix) biomass energy.

16 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2025, and each May  
17 1st thereafter, the department must post a report on the department's  
18 website that includes the following information regarding the  
19 previous calendar year of clean fuels program activities:

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

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

25 (c) The best estimate or range in probable costs or cost savings  
26 attributable to the clean fuels program per gallon of gasoline and  
27 per gallon of diesel, as determined by an independent consultant  
28 whose services the department has contracted. The estimate or range  
29 in probable costs or cost savings from the independent consultant  
30 must be announced in a press release to the news media at the time  
31 that the report under this subsection (1) is posted to the  
32 department's website, and must be simultaneously reported to the  
33 transportation committees of the house of representatives and the  
34 senate;

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

37 (e) The range in the probable cost per ton of greenhouse gas  
38 emissions reductions attributable to fuels supported by the clean

1 fuels program, taking into account the information in (c) and (d) of  
2 this subsection.

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

6 (3) By May 1, 2025, and each May 1st thereafter, the department  
7 must submit the report required under subsection (1) of this section  
8 to the appropriate committees of the house of representatives and  
9 senate.

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

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

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

21 (a) An estimate of the volume of each transportation fuel  
22 available in Washington;

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

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

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

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

1 and implementing the program and the projected direct and indirect  
2 costs to the department of commerce to carry out its responsibilities  
3 under section 11 of this act. The department and the department of  
4 commerce must prepare a biennial workload analysis and provide an  
5 opportunity for public review of and comment on the workload  
6 analysis. The department shall enter into an interagency agreement  
7 with the department of commerce to implement this section.

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

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

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

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

30 (ii) Fuel prices; and

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

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

1 (c) A summary of the estimated total statewide costs and benefits  
2 attributable to the clean fuels program, including state agency  
3 administrative costs and regulated entity compliance costs. For  
4 purposes of calculating the benefits of the program, the summary may  
5 rely, in part, on a constant value of the social costs attributable  
6 to greenhouse gas emissions, as identified in contemporary  
7 internationally accepted estimates of such global social cost. This  
8 summary must include an estimate of the total statewide costs of the  
9 program per ton of greenhouse gas emissions reductions achieved by  
10 the clean fuels program.

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

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

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

32 (2) The fees under this section must be deposited into the  
33 highway safety fund unless prior to July 1, 2023, the actions  
34 described in (a) or (b) of this subsection occur, in which case the  
35 portion of the revenue that is the result of the fee increased in  
36 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be  
37 distributed to the connecting Washington account created under RCW  
38 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. 15.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to  
17 read as follows:

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

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

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

35 (b) The department shall implement a one-to-many biometric  
36 matching system for the enhanced driver's license or identicard. An  
37 applicant for an enhanced driver's license or identicard shall submit  
38 a biometric identifier as designated by the department. The biometric  
39 identifier must be used solely for the purpose of verifying the



1 identity of the holders and for any purpose set out in RCW 46.20.037.  
2 Applicants are required to sign a declaration acknowledging their  
3 understanding of the one-to-many biometric match.

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

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

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

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

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

39 (a) Any state agency files a notice of rule making under chapter  
40 34.05 RCW, absent explicit legislative authorization enacted

1 subsequent to July 1, 2015, for a rule regarding a fuel standard  
2 based upon or defined by the carbon intensity of fuel, including a  
3 low carbon fuel standard or clean fuel standard.

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

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

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

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

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

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

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

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

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

1 the first row behind the driver and must have the CLP holder under  
2 observation and direct supervision.

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

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

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

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

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

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

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

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

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

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

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

1 (9) The department must transmit the fees collected for CLPs to  
2 the state treasurer for deposit in the highway safety fund unless  
3 prior to July 1, 2023, the actions described in (a) or (b) of this  
4 subsection occur, in which case the portion of the revenue that is  
5 the result of the fee increased in section 206, chapter 44, Laws of  
6 2015 3rd sp. sess. must be distributed to the connecting Washington  
7 account created under RCW 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. 17.** RCW 46.25.060 and 2020 c 78 s 2 are each amended to  
24 read as follows:

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

27 (i) Is a resident of this state;

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

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

35 (iv) Has passed a knowledge and skills examination for driving a  
36 commercial motor vehicle that complies with minimum federal standards  
37 established by federal regulation enumerated in 49 C.F.R. Part 383,  
38 subparts F, G, and H, in addition to other requirements imposed by  
39 state law or federal regulation. The department may not allow the

1 person to take the skills examination during the first fourteen days  
2 after initial issuance of the person's commercial learner's permit.  
3 The examinations must be prescribed and conducted by the department.

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

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

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

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

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

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

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

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

38 (e) Beginning July 1, 2016, if the applicant's primary use of a  
39 commercial driver's license is to drive a school bus, the applicant  
40 shall pay a fee of no more than one hundred dollars for the

1 classified skill examination or combination of classified skill  
2 examinations conducted by the department.

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

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

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

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

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

30 (iii) Unprocessed agricultural commodities, as defined in RCW  
31 17.21.020, where such commodities are produced by farmers, ranchers,  
32 vineyardists, or orchardists; or

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

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

37 (3) A commercial driver's license or commercial learner's permit  
38 may not be issued to a person while the person is subject to a  
39 disqualification from driving a commercial motor vehicle, or while  
40 the person's driver's license is suspended, revoked, or canceled in

1 any state, nor may a commercial driver's license be issued to a  
2 person who has a commercial driver's license issued by any other  
3 state unless the person first surrenders all such licenses, which  
4 must be returned to the issuing state for cancellation.

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

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

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

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

27 **Sec. 18.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended  
28 to read as follows:

29 (1) Any person who knowingly violates any of the provisions of  
30 this chapter (~~(of)~~), chapter 70A.25 or 70A.--- (the new chapter  
31 created in section 22 of this act) RCW, RCW 70A.45.080, or any  
32 ordinance, resolution, or regulation in force pursuant thereto is  
33 guilty of a gross misdemeanor and upon conviction thereof shall be  
34 punished by a fine of not more than ten thousand dollars, or by  
35 imprisonment in the county jail for up to three hundred sixty-four  
36 days, or by both for each separate violation.

37 (2) Any person who negligently releases into the ambient air any  
38 substance listed by the department of ecology as a hazardous air  
39 pollutant, other than in compliance with the terms of an applicable

1 permit or emission limit, and who at the time negligently places  
2 another person in imminent danger of death or substantial bodily harm  
3 is guilty of a gross misdemeanor and shall, upon conviction, be  
4 punished by a fine of not more than ten thousand dollars, or by  
5 imprisonment for up to three hundred sixty-four days, or both.

6 (3) Any person who knowingly 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 knows at the time that he or she  
10 thereby places another person in imminent danger of death or  
11 substantial bodily harm, is guilty of a class C felony and shall,  
12 upon conviction, be punished by a fine of not less than fifty  
13 thousand dollars, or by imprisonment for not more than five years, or  
14 both.

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

19 **Sec. 19.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended  
20 to read as follows:

21 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and  
22 43.05.150, and in addition to or as an alternate to any other penalty  
23 provided by law, any person who violates any of the provisions of  
24 this chapter, chapter 70A.25 (~~(of)~~), 70A.450, or 70A.--- (the new  
25 chapter created in section 22 of this act) RCW, RCW 70A.45.080, or  
26 any of the rules in force under such chapters or section may incur a  
27 civil penalty in an amount not to exceed ten thousand dollars per day  
28 for each violation. Each such violation shall be a separate and  
29 distinct offense, and in case of a continuing violation, each day's  
30 continuance shall be a separate and distinct violation.

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

35 (2)(a) Penalties incurred but not paid shall accrue interest,  
36 beginning on the ninety-first day following the date that the penalty  
37 becomes due and payable, at the highest rate allowed by RCW 19.52.020  
38 on the date that the penalty becomes due and payable. If violations



1 or penalties are appealed, interest shall not begin to accrue until  
2 the thirty-first day following final resolution of the appeal.

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

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

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

19 (5) To secure the penalty incurred under this section, the state  
20 or the authority shall have a lien on any vessel used or operated in  
21 violation of this chapter which shall be enforced as provided in RCW  
22 60.36.050.

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

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

32 (8) The department shall develop rules for excusing excess  
33 emissions from enforcement action if such excess emissions are  
34 unavoidable. The rules shall specify the criteria and procedures for  
35 the department and local air authorities to determine whether a  
36 period of excess emissions is excusable in accordance with the state  
37 implementation plan.

38 **Sec. 20.** RCW 19.112.110 and 2013 c 225 s 601 are each amended to  
39 read as follows:

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

9 (2) 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 five percent of total annual  
12 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,  
13 when the director determines, and publishes this determination in the  
14 Washington State Register, that both in-state oil seed crushing  
15 capacity and feedstock grown in Washington state can satisfy a  
16 three-percent requirement.

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

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

23 (5) To the extent that the requirements of this section conflict  
24 with the requirements of chapter 70A.--- (the new chapter created in  
25 section 22 of this act) RCW, the requirements of chapter 70A.--- (the  
26 new chapter created in section 22 of this act) RCW prevail.

27 **Sec. 21.** RCW 19.112.120 and 2013 c 225 s 602 are each amended to  
28 read as follows:

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

34 (2) If the director of ecology determines that ethanol content  
35 greater than two percent of the total gasoline sold in Washington  
36 will not jeopardize continued attainment of the federal clean air  
37 act's national ambient air quality standard for ozone pollution in  
38 Washington and the director of agriculture determines and publishes  
39 this determination in the Washington State Register that sufficient

1 raw materials are available within Washington to support economical  
2 production of ethanol at higher levels, the director of agriculture  
3 may require by rule that licensees provide evidence to the department  
4 of licensing that denatured ethanol comprises between two percent and  
5 at least ten percent of total gasoline sold in Washington, measured  
6 on a quarterly basis.

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

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

13 (5) Nothing in this section is intended to prohibit the  
14 production, sale, or use of motor fuel for use in federally  
15 designated flexibly fueled vehicles capable of using E85 motor fuel.  
16 Nothing in this section is intended to limit the use of high octane  
17 gasoline not blended with ethanol for use in aircraft.

18 (6) To the extent that the requirements of this section conflict  
19 with the requirements of chapter 70A.--- (the new chapter created in  
20 section 22 of this act) RCW, the requirements of chapter 70A.--- (the  
21 new chapter created in section 22 of this act) RCW prevail.

22 NEW SECTION. Sec. 22. Sections 1 through 13 of this act  
23 constitute a new chapter in Title 70A RCW.

24 NEW SECTION. Sec. 23. If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected.

--- END ---