S-4554.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 6052**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2024 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Nguyen, Conway, Hasegawa, Keiser, Kuderer, Liias, Pedersen, Saldaña, Stanford, and Valdez; by request of Office of the Governor)

AN ACT Relating to petroleum products supply and pricing; amending RCW 19.86.140 and 42.56.330; adding a new chapter to Title 19 RCW; creating a new section; prescribing penalties; and declaring an emergency.

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

NEW SECTION. **Sec.**  (1) The state of Washington finds and declares that during an energy transition away from reliance on fossil fuels, but until that transition is complete, petroleum-based transportation fuels are of critical importance to the people and businesses of the state. The legislature further finds and declares that the Washington state government requires: A complete and thorough understanding of the transportation fuels market, to enable it to respond to possible shortages, price shocks, oversupplies, or other disruptions. The legislature also finds that access to timely data collection, analysis, evaluation, and reporting to serve information and policy development needs of the governor, the legislature, public agencies, market participants, and the public is essential.

(2) Washington consumers, state and local agencies, businesses, and policymakers, planners, and enforcement agencies lack access to sufficient pricing and operational information held by refinery operators, fuel suppliers, and others in the supply chain for transportation fuels. Such pricing and operational information is critical to understanding the relationship between the price and the cost of production, identifying price and market manipulation, and protecting Washington state consumers, government entities, and businesses. Similar information is already available for other critical fuels, such as electricity.

(3) To protect consumers, Washington state must collect detailed pricing and operational information from refineries, fuel suppliers, and others in the transportation fuels supply chain, analyze the data, and provide summarized reports to the public and lawmakers to expose relevant cost and pricing practices in the industry, and to identify market manipulation, unfair or deceptive practices, and any other manner by which market participants act to harm competition or act contrary to the best interests of consumers in the state.

(4) Furthermore, to ensure that the market for transportation fuels is free of anticompetitive and predatory conduct, the legislature finds that additional legal consequences are needed to ensure that transportation fuels industry practices do not harm consumers.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the utilities and transportation commission.

(2) "Division" means the division of petroleum market oversight established in section 3 of this act.

(3) "Export" means the sale or distribution of transportation fuels outside of this state by a means of conveyance other than the fuel supply tank of a motor vehicle.

(4) "Import" means to bring transportation fuels into this state by a means of conveyance other than the fuel supply tank of a motor vehicle.

(5) "Major marketer" means any person who sells transportation fuels or crude oil intended in amounts determined by the commission as having a major effect on transportation fuel supplies in Washington.

(6) "Oil terminal operator" means a person who owns, operates, or otherwise controls a terminal in this state.

(7) "Person" means any individual, partnership, association, public or private corporation, limited liability company, or any other type of legal or commercial entity, including their members, managers, partners, directors, or officers.

(8) "Planned maintenance" means regular, periodic maintenance or repair of one or more pieces of equipment within a refinery that reduces output of transportation fuels at a level that may affect market supply.

(9) "Refinery" means any industrial plant, regardless of capacity, processing crude oil feedstock and manufacturing transportation fuels in Washington.

(10) "Spot market transaction" means a single, bulk transaction of at least 5,000 barrels, involving a maximum of one product and one delivery, with title transfer occurring within one year.

(11) "Terminal" means a fuel storage and distribution facility that has been assigned a terminal control number by the internal revenue service.

(12)(a) "Transportation fuels" means gasoline, gasoline blending components, and diesel.

(b) "Transportation fuels" does not include jet fuels and maritime fuels.

(13)(a) "Turnaround" means a planned, periodic shutdown, total or partial, of a refinery process unit or plant to perform maintenance, overhaul, and repair operations and to inspect, test, and replace process materials and equipment.

(b) "Turnaround" does not include:

(i) Unplanned maintenance; or

(ii) Planned maintenance.

(14) "Unbranded," as applied to fuel, means gasoline and diesel fuel sold for wholesale or retail distribution to consumers without proprietary additives or marketing under a brand name or trademark owned or controlled by an independent refiner or an integrated refining and marketing company.

(15) "Unplanned maintenance" means any maintenance or repair that requires the shutdown of any part of the refinery that exceeds 72 hours oil out, oil in and was not scheduled as turnaround or planned maintenance.

NEW SECTION. **Sec.**  (1)(a) The division of petroleum market oversight is established within the commission.

(b) The division must operate with authority independent of the commission's authority.

(c) The division must be led by a director, who is appointed by the governor and holds office at the pleasure of the governor.

(d) The director of the division must employ and prescribe the duties of other staff members as necessary to carry out the provisions of this chapter. The staff must include, without limitation, economists, individuals with expertise in transportation fuels markets, and investigative staff with legal training.

(2) The division has the powers and duties to:

(a) Provide independent analysis and evaluation of the transportation fuels markets for the protection of consumers by identifying price manipulation, market manipulation, monopolistic behaviors, and any other manner by which market participants act to unfairly constrain the supply of transportation fuels or otherwise harm competition;

(b) Provide guidance and recommendations to the commission relating to the development of the assessment required by section 14 of this act and the transportation fuels transition plan described in section 15 of this act;

(c) Provide guidance and recommendations to the governor, members of the commission, and other divisions of the commission on issues related to transportation fuels pricing and supply in Washington;

(d) Report its findings and recommendations to improve market performance at least annually to the legislature, the governor, the commission, the attorney general, the department of ecology, the energy resilience and emergency management office of the department of commerce, and the department of licensing;

(e) Subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records, or other items material to the performance of the division's duties or exercise of its powers including, but not limited to, current and historical pricing and sales data and contracts with other petroleum industry participants; and

(f) Refer potential violations of this chapter to the attorney general confidentially at any time.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2026, a refinery must submit the following information to the division monthly:

(a) The refinery's acquisition cost of crude oil, by volume and country of origin;

(b) Imports of transportation fuels and ethanol, by acquisition cost and volume;

(c) Exports of transportation fuels and ethanol, by volume and sale price;

(d) Refinery outputs of transportation fuels, by volume, including all gasoline sold unbranded;

(e) Refinery capacity, and utilization and method of transportation of refinery receipts and distributions; and

(f) Washington weighted average prices and sales volumes of transportation fuels sold through company-operated retail outlets, to wholesale customers, and to other end-users.

(2) Beginning January 1, 2026, an oil terminal operator must submit the following information to the division monthly:

(a) The acquisition cost of transportation fuels by volume, sales by volume, including fees, surcharges, and taxes on transportation fuels;

(b) The volume and sale price of transportation fuels;

(c) Imports of transportation fuels, by volume and acquisition cost; and

(d) Exports of transportation fuels, by volume and sale price.

(3) Beginning January 1, 2026, a major marketer must submit the following information to the division monthly:

(a) The acquisition cost of transportation fuels by volume, sales by volume, including fees, surcharges, and taxes on transportation fuels;

(b) Facility capacity, methods of transportation and distribution, and sale of transportation fuels by volume and price;

(c) Imports of transportation fuels, by volume and acquisition cost; and

(d) Exports of transportation fuels, by volume and sale price.

(4) A refinery, oil terminal operator, or major marketer submitting information under this section must include the full names of all persons or entities that directly or indirectly own 10 percent or more of the refiner, oil terminal operator, or major marketer submitting the information.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2026, a refinery, major marketer, or oil terminal operator must retain for division review, for at least three years:

(a) Copies of all contracts or agreements entered into and any amendments to such contracts or agreements, with another refinery, oil terminal operator, major marketer, or other entity that trades in transportation fuels; and

(b) Records of each transaction made under the contracts or agreements in (a) of this subsection and the prices charged for those transactions.

(2) Other entities, including, without limitation, proprietary storage companies, that commercially trade in transportation fuels must retain for division review, for at least three years:

(a) Copies of monthly transportation fuels inventory volume records by type for each position holder by name of company; and

(b) Copies of all contracts or agreements entered into with any refinery, oil terminal operator, major marketer, or other entity that trades in transportation fuels.

(3) The requirements of this section apply regardless of whether the entity takes possession of the transportation fuels, as designated by the commission by rule.

NEW SECTION. **Sec.**  Beginning January 1, 2026, a refinery, oil terminal operator, major marketer, or other entity that trades in transportation fuels, completing a spot market transaction for transportation fuels must submit the following information, for each transaction, to the division monthly:

(1) The identity of the spot market;

(2) Whether the transaction was reported to the oil price information service, or any other price reporting service, and the time of the reporting;

(3) The date;

(4) The contract identification number;

(5) The position sequence number;

(6) The contract position identification number;

(7) The name, or nonanonymized identification, of the executing trader;

(8) The counterparty, including company name and name or nonanonymized identification of the executing trader;

(9) Whether the reporting entity is the seller or buyer;

(10) The broker, including company name and name or nonanonymized identification of the executing broker;

(11) The type of transportation fuel bought or sold;

(l2) The product name for each type of transportation fuel;

(13) The volume in thousands of barrels, or other specified unit of measurement if unable to be indicated in thousands of barrels;

(14) The invoiced volume in thousands of barrels, or other specified unit of measurement if unable to be indicated in thousands of barrels;

(15) The date and time the transportation fuels are scheduled to be delivered or were delivered;

(16) The delivery location specified in the contract and the actual delivery location;

(17) The method of transportation for the delivery, such as pipeline, marine vessel, or truck, and the name of the transport;

(18) The actual title transfer date;

(19) The contract subcycle, including descriptors such as "any," "L3," "FH," "BH," "C1," "C2," "C3," or "C4";

(20) The type of pricing method, including exchange of futures for physical, fixed price, fixed date range, floating date range, reference formula, oil price information service close, event-related date range, such as seven days on and around delivery or discharge, or any other utilized method of pricing;

(21) The contract price formula, including the differential from any contract formula and the unit of measurement for any price differential;

(22) The pricing start and end dates for each contract;

(23) The price value of the contract; and

(24) For exchange of futures for physical contracts, the name of the futures product, the contract month of the futures product expressed as the two-digit month and the two-digit year (MM-YY), and the price value of the futures product.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2026, a refinery must report quarterly all the following information, at a minimum, regarding planned maintenance, unplanned maintenance, or turnaround completed during the previous quarter:

(a) A brief description of the completed work;

(b) The start and return-to-service dates;

(c) The individual process units involved;

(d) The name and operational capacity of each process unit involved;

(e) The daily decrease in output of transportation fuels;

(f) The quantity of contractual supply obligations for transportation fuels due during the planned maintenance or turnaround;

(g) The drawdown of inventory levels of transportation fuels produced by the process unit that are controlled by the refinery on-site and at other storage locations in this state during the planned maintenance event or turnaround, and the levels of such inventories immediately before the planned maintenance or turnaround began; and

(h) Imports of transportation fuels produced by the process unit in preparation for or during the planned maintenance or turnaround.

(2) For unplanned maintenance, a refinery must submit the following additional information:

(a) The name and operational capacity of each process unit involved in the unplanned outage;

(b) The daily decrease in output of transportation fuels from each process unit affected by the unplanned outage;

(c) The inventory levels of transportation fuels produced by the process unit affected by the unplanned maintenance that is controlled by the refinery on-site and at other storage locations in this state during the unplanned maintenance;

(d) A description of the reason for the unplanned maintenance;

(e) The duration of production reduction;

(f) The return-to-service date;

(g) The total decreased output of transportation fuels from each affected process unit;

(h) The total increased output of transportation fuels from other process units, by type of product, to partially compensate for the reduced output from the process units affected by the unplanned maintenance or outage;

(i) The amount of material obtained from other sources that compensated for the decrease described in (g) of this subsection and enabled the refinery to cover the loss of that production; and

(j) The drawdown of inventory levels of transportation fuels produced by the process unit that are controlled by the refinery on-site and at other storage locations in this state during the unplanned maintenance event.

(3) The division may request additional information from a refinery, as necessary, to assess the effect of the planned maintenance, unplanned maintenance, or turnaround on the prices of transportation fuels in this state.

(4) Information required under this section must be reported no later than 30 days after the end of each quarter.

(5) Information collected under this section is confidential information exempt from public disclosure, as provided in section 18 of this act and RCW 42.56.330, and must comply with the cybersecurity requirements in section 17 of this act.

NEW SECTION. **Sec.**  A refinery, oil terminal operator, or major marketer required to submit information under this chapter may instead, submit a report made to any other governmental agency if:

(1) The alternative report or reports contain all the information or data required under this chapter; and

(2) The reporting entity clearly identifies the specific provision of this chapter to which the alternate report is responsive.

NEW SECTION. **Sec.**  (1) The division, utilizing its own staff and other support staff having expertise and experience in, or with, the petroleum industry, and in consultation with the energy resilience and emergency management office of the department of commerce, must gather, analyze, and interpret the information submitted to it under this chapter and other information relating to the supply and price of transportation fuels, including, but not limited to, all of the following:

(a) The nature, cause, and extent of any transportation fuels shortage or condition affecting supply;

(b) The economic and environmental impacts of any transportation fuels shortage or condition affecting supply;

(c) Transportation fuels demand and supply forecasting methodologies utilized by the transportation fuels industry in Washington;

(d) The prices, including sales to unbranded retail markets, and any significant changes in prices charged by the transportation fuels industry for transportation fuels sold in Washington and the reasons for those changes;

(e) The profits, both before and after taxes, of the industry as a whole and of major firms within it, and where in the supply chain these profits are realized, including a comparison with other major industry groups and major firms within them as to profits, return on equity and capital, and price-earnings ratio;

(f) The emerging trends relating to supply, demand, and prices of transportation fuels; and

(g) The nature and extent of efforts of the transportation fuels industry to expand refinery capacity and to make acquisitions of additional supplies of transportation fuels.

(2) The commission must analyze the impacts of state and federal laws and policies upon the supply and prices of transportation fuels.

(3) The division must quarterly prepare and make available to the public a summary report based on the data collected under this chapter. The division must aggregate information used in a report prepared under this subsection to the extent necessary to maintain confidentiality of all specific confidential information exempt from public disclosure and protected as confidential under section 18 of this act and RCW 42.56.330, including critical energy infrastructure information protected under the cybersecurity requirements established in section 17 of this act.

(4) Within 30 days of the end of each quarter, the commission must post the following information obtained from the division on its internet website:

(a) The gross transportation fuels refining margin calculated by the division, separated by month, as a volume-weighted gross refining margin in aggregate for all the combined refineries in this state;

(b) The net transportation fuels refining margin calculated by the commission, separated by month, as a volume-weighted net refining margin in aggregate for all the combined refineries in this state; and

(c) The average retail price of gasoline by regional markets within the state, and a breakdown of that average price into retail margin and costs, distribution margin (from the rack to the stations) and costs, wholesale margin (from the refinery to the rack) and costs, and refinery margin and costs.

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

(a) "Gross transportation fuels refining margin" means the difference, expressed in dollars per barrel, between the volume-weighted average price of wholesale transportation fuels sold by a refinery in this state and the average price of crude oil received by the refinery.

(b) "Net transportation fuels refining margin" means the difference, expressed in dollars per barrel, between the gross transportation fuels refining margin and the refinery's operational costs.

(c) "Operational costs" means costs, expressed in dollars per barrel, necessarily incurred by the refinery to produce transportation fuels meeting Washington specifications including, without limitation, costs of labor, electricity, natural gas, chemicals, maintenance, hydrogen, and other intermediate crude oil products, federal renewable identification numbers, obligation costs, logistics costs, taxes and fees, and additive costs.

NEW SECTION. **Sec.**  (1) The division, in consultation with the department of ecology, must adopt a methodology for refiners to use to provide separate quantification of the volume-weighted fees or estimated valuations of costs embedded in all wholesale sales of transportation fuels associated with the Washington clean fuels program established under chapter 70A.535 RCW and the Washington cap and invest program established under chapter 70A.65 RCW, for each volume-weighted average price for:

(a) Unbranded rack sales;

(b) Branded rack sales;

(c) Bulk sales;

(d) Spot pipeline sales; and

(e) Dealer tankwagon sales.

(2) The division must provide an opportunity for public input regarding the development of the methodology.

(3) Beginning 60 days after the division adopts the methodology, the quantification must be included in the reports required in section 9 of this act.

NEW SECTION. **Sec.**  (1) By January 1, 2027, and quarterly thereafter, the division must publish and submit to the governor and the legislature a summary, an analysis, and an interpretation of the information submitted to it under this chapter, consistent with the confidentiality requirements of section 18 of this act and RCW 42.56.330, and the cybersecurity requirements of section 17 of this act. Any person may submit comments in writing regarding the accuracy or sufficiency of the information submitted.

(2) The division must prepare a biennial assessment of the information provided under this chapter.

(3) The division may use reasonable means necessary and available to it to seek and obtain any facts, figures, and other information from any source for the purpose of preparing and providing reports to the governor and the legislature. The commission must specifically include in the reports its analysis of any unsuccessful attempts in obtaining information from potential sources, including the lack of cooperation or refusal to provide information.

(4) Whenever the commission fails to provide any report required under this section within the specified time, it must provide to all members of the legislature and the governor, within five days of the specified time, a detailed written explanation of the cause of any delay.

NEW SECTION. **Sec.**  (1) By August 1, 2024, the commission must post on its internet website information about transportation fuels including, but not limited to:

(a) A comparison between the retail price of Washington gasoline and diesel, the retail price of Oregon gasoline and diesel, the retail price of California gasoline and diesel, and the national average retail price of gasoline and diesel over time for the past two decades;

(b) The relationship between the price of Washington transportation fuels and the price of crude oil for the past two decades;

(c) A comparison between the cost components of a gallon of Washington retail gasoline and the cost components of the national average price of retail gasoline including, but not limited to, taxes, crude oil, refining margin, and rack-to-retail margin;

(d) A description of how transportation fuels are produced and distributed in Washington including, but not limited to, an explanation of crude oil and the global crude oil market, transportation networks for the import, export, and movement of crude oil and refined products; and

(e) A description of the major factors affecting gasoline prices in Washington.

(2) The information provided on the website must be designed and displayed in a manner that facilitates understanding by the general public and must include, to the extent practicable, visual representations of data and plain language descriptions.

(3) The information contained on the website must be drawn from publicly available data and secondary sources and must be appropriately referenced.

NEW SECTION. **Sec.**  (1) The commission must notify those persons who have failed to timely provide the information specified and required by the division under this chapter. If, within five business days after being notified of the failure to provide the specified information, the person willfully fails to supply the specified information, the person is subject to a civil penalty of not less than $5,000 nor more than $20,000 per day for each day the submission of information is refused or delayed, up to a maximum penalty of $500,000 per submission.

(2) A person who willfully makes any false statement, representation, or certification in any record, report, plan, or other document filed with the commission is subject to a civil penalty not to exceed $40,000, as well as all other civil and criminal liability provided under applicable law.

(3) The administration of civil penalties under this section is subject to the procedures provided in section 19 of this act, and to the procedures for judicial review under the administrative procedure act, chapter 34.05 RCW.

(4) In addition to any civil penalty provided for by this section, if a person fails to timely provide the information specified and required by the commission under this act, the commission may petition a court for an order compelling the person to provide that information.

(5) For purposes of this section, "person" means, in addition to the definition contained in section 2 of this act, any responsible corporate officer.

NEW SECTION. **Sec.**  (1)(a) On or before July 1, 2026, and every three years thereafter, the division, in collaboration with the energy resilience and emergency management office of the department of commerce, must submit an assessment to the legislature, and to the governor that:

(i) Identifies methods to ensure a reliable supply of affordable transportation fuels in Washington. The assessment must consider the potential benefits to Washington transportation fuel consumers of creating estimates for the level of transportation fuels at the state level and, to the extent feasible, at regional and local levels, and individual refineries if relevant, that should be held in reserve by refiners to prevent shortages that result in sharp increases in the price of transportation fuels. The assessment must consider all factors causing price fluctuation in retail transportation fuels prices when recommending adequate reserve levels. The division must consider all relevant evidence from any reasonably available source including, but not limited to, information about imports, by amount, source, if known, and data received by the commission under existing laws, economic and business experts, and information from any local, state, and federal agencies. The energy resilience and emergency management office of the department of commerce must transmit to the legislature any proposals it deems appropriate for mandatory reserve levels and the terms of a program to implement reserve levels;

(ii) Evaluates the price of transportation fuels, including branded and unbranded retail prices, alternate formulations of transportation fuels with lower carbon impact, and other products suitable for production from refineries in Washington. This evaluation must consider the market demand for these products at three, seven, 10, and 20-year intervals from the date of the assessment. This evaluation must include both of the following:

(A) An examination of whether branded fuel additives have any impact and, if so, how much on fuel efficiency and vehicle emissions; and

(B) An assessment of the presence and availability of retail outlets, including monitoring changes in availability of retail outlets that contribute to increasing retail prices in local and regional areas;

(iii) Considers different levels of supply conditions and assesses the impact of potential refinery closures in Washington;

(iv) Includes an analysis of the impacts on production of refinery planned maintenance, unplanned maintenance, and turnaround, utilizing the reports provided by refineries as directed in section 7 of this act. Notwithstanding any other law, the department of labor and industries must disclose to the division, upon request, any information the department has received to ensure all aspects of refinery safety are incorporated into the analysis. All information designated confidential must be treated as confidential by the division;

(v) Evaluates the utility and feasibility of alternative methods to maintain adequate supplies of transportation fuels, including delivery alternatives for fuel and components of fuel, such as delivery by rail, and other solutions beyond the activities of refineries, oil terminal operators, major marketers, and other entities; and

(vi) Proposes solutions to mitigate any impacts described in the assessment. The solutions must include an assessment of the employment impacts and the cost and cost-effectiveness of any proposal, including cost impacts to all impacted sectors, both public and private. The assessment must include recommendations and alternatives.

(b) The first assessment must include the evaluation of transportation fuels refining.

(2) The assessment must be developed in a public process. The assessment must be available to the public within the proceeding docket and must be approved by a vote of the commission at its business meeting.

(3) The division may enter into contracts to perform the assessment required in subsection (1) of this section.

(4) The division must provide input to and otherwise support the commission in preparation of the assessment required by subsection (1) of this section.

NEW SECTION. **Sec.**  On or before January 1, 2027, the division and the department of ecology, considering findings of the assessment conducted under section 14 of this act, must prepare a transportation fuels transition plan. The commission and the department of ecology must determine the contents of the plan, but the plan must include, at a minimum, a discussion of how to ensure that the supply of transportation fuels is affordable, reliable, equitable, and adequate to meet demand, and an evaluation of the readiness of the electrical grid to serve as the main source of energy for the transportation sector and identify shortcomings where actions must be taken to strengthen grid reliability. The plan must be prepared in consultation with a multistakeholder, multiagency work group convened by the division and the department of ecology to identify mechanisms to plan for and monitor progress toward the state's reliable, safe, equitable, and affordable transition away from petroleum fuels in line with declining in-state petroleum demand, RCW 70A.45.020, and chapter 70A.65 RCW. The work group must consist of members representing interests that include, but are not limited to, environmental justice, labor, environmental protection, land use, and public health, members representing the state's fuel producers and refiners, and members representing relevant state, regional, and local agencies.

NEW SECTION. **Sec.**  (1) In connection with any investigation or action authorized under this act, the division may:

(a) Inspect and copy books, records, and other items described in (e) of this subsection;

(b) Hear complaints;

(c) Administer oaths;

(d) Certify to all official acts;

(e) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, any writing as defined by the Washington state court rules of evidence, tangible things, and testimony pertinent or material to any inquiry, investigation, hearing, proceeding, or action conducted in any part of the state;

(f) Promulgate interrogatories pertinent or material to any inquiry, investigation, hearing, proceeding, or action;

(g) Divulge information or evidence related to the investigation of unlawful activity discovered from interrogatory answers, papers, books, accounts, documents, and any other item described in (e) of this subsection, or testimony, to the attorney general or to any prosecuting attorney of this state, any other state, or the United States who has a responsibility for investigating the unlawful activity investigated or discovered, or to any governmental agency responsible for enforcing laws related to the unlawful activity investigated or discovered, if the attorney general, prosecuting attorney, or agency to which the information or evidence is divulged agrees to maintain the confidentiality of the information received to the extent required by this section; and

(h) Present information or evidence obtained or developed from the investigation of unlawful activity to a court or at an administrative hearing in connection with any action or proceeding.

(2) The division must use reasonable means necessary and available including, but not limited to, the authority under subsection (1)(e) and (f) of this section, to seek and obtain any facts, figures, and other information from any source for the purpose of preparing the assessment under section 14 of this act. The division must specifically report in the assessment any ongoing or unsuccessful attempts to obtain information from potential sources, including the lack of cooperation or refusal to provide information.

(3) For purposes of the assessment prepared under section 14 of this act, the commission may impose a civil penalty whenever a person fails to timely provide the information specified in that section and any other information the commission deems necessary to conduct the assessment. A civil penalty under this subsection will be imposed under the procedures set forth in section 13 of this act.

(4) Section 13 (1) through (3) of this act apply to a person who willfully submits or makes any false statement to the division.

(5) The commission must conduct a public meeting in December of each year to provide an opportunity for the public to provide input on transportation fuels prices.

NEW SECTION. **Sec.**  (1) The requirements in this section apply to all state agencies that have authorized access to the data being collected in this chapter. Each agency is responsible for implementing information technology infrastructure and procedures to protect critical energy infrastructure information that if compromised or released, could result in supply disruptions, negatively affect economic security, national security, or public health or safety, or result in other potentially negative consequences, or any combination of those matters.

(2)(a) The commission must contract with an independent consultant with experience in developing information technology architecture to protect critical energy infrastructure information, in coordination with the office of cybersecurity within the consolidated technology services agency created in chapter 43.105 RCW and the energy resilience and emergency management office of the department of commerce, to provide recommendations on standards for each of the authorized state agencies to adopt to secure the critical energy infrastructure information in this chapter. The standards must be consistent with federal standards for energy sector data security.

(b) In identifying these standards, the consultant must seek input from the transportation fuels industry to make final recommendations to the state for implementing information technology infrastructure and procedures to protect critical energy infrastructure information.

(c) By September 1, 2025, each of the authorized state agencies must establish the cybersecurity standards necessary to protect the critical energy infrastructure information in this chapter. These standards must be reviewed and updated annually to address the dynamic nature of cybersecurity risks.

(3) Each agency with authorized access to the critical energy infrastructure information in this chapter must implement program activities, including data governance, information protection, response, access control and monitoring, system management, and other necessary requirements, in addition to receive an annual audit.

(4)(a) The auditor must coordinate with the office of cybersecurity within the consolidated technology services agency created in chapter 43.105 RCW to develop a risk-based compliance oversight evaluation for state agencies, in coordination with the energy resilience and emergency management office of the department of commerce.

(b) In developing the risk-based compliance oversight evaluation, the independent consultant must provide guidance by using existing federal infrastructure protection audit processes and established cybersecurity requirements to protect critical energy infrastructure information.

(c) By September 1, 2025, the auditor, in coordination with the office of cybersecurity within the consolidated technology services agency created in chapter 43.105 RCW and the energy resilience and emergency management office of the department of commerce, must establish the audit requirements necessary to protect the critical energy infrastructure information in this chapter. The audit requirements must be reviewed annually and include any updates from additional standards included in subsection (2) of this section.

(5)(a) The auditor must contract with an independent consultant with experience in maintaining information technology architecture and programs to protect critical energy infrastructure information, to conduct an annual audit of each authorized agency's cybersecurity robustness and must provide a report based on the risk-based compliance oversight evaluation.

(b) The annual audit findings must be provided to the authorized agencies and the auditor within 60 days of the audit's completion. The recipient agency has 60 days to respond to the auditor, providing evidence that any noted deficiencies have been addressed and provide documentation noting how deficiencies will be addressed in the future.

(6) If an authorized agency is found to have a high-risk deficiency from the audit and is unable to correct it within 60 days, the authorized agency must lose access to the critical energy infrastructure information in this chapter until the independent consultant returns to review the evidence that the deficiency was addressed.

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

(a) "Auditor" means the office of the state auditor.

(b)(i) "Critical energy infrastructure information" means information related to:

(A) Energy assets, systems, and networks that provide functions necessary for essential services; or

(B) A system or asset of the bulk-power system, whether physical or virtual, refining systems, or transmission and distribution systems, of any critical energy and electric supply, including, without limitation, electricity, natural gas, and petroleum sectors, the incapacity or destruction of which would negatively affect national security, social or economic security, public health or safety, or any combination of those matters.

(ii) "Critical energy infrastructure information" includes, without limitation, data meeting the description in (a) and (b) of this subsection and designated as "category 3 and 4" as defined in policy established in accordance with RCW 43.105.054.

(c) "High-risk deficiency" means risks associated with the loss of confidentiality, integrity, or availability where there is at least a credible scenario of cyberattack to cause impacts to sensitive industry business or stakeholder impact, potential to cause disruptions, or potential to cause harm to national security.

NEW SECTION. **Sec.**  (1) Except as provided in subsection (2) of this section, because public disclosure of information or data provided under this chapter could result in unfair competitive disadvantage to the person supplying the information or could adversely affect market competition, information provided, disclosed, or presented to the division, the commission, or any other state agency, or otherwise obtained by the division, the commission, or any other state agency under this act, is confidential and exempt from public disclosure. This information must be held in confidence or aggregated to the extent necessary to ensure confidentiality.

(2) The division may disclose information deemed confidential under this chapter to members of the commission, other divisions of the commission, the attorney general, the department of commerce, the department of ecology, or the department of licensing if the receiving entity is in compliance with the cybersecurity requirements in section 17 of this act and has a data sharing agreement in place in accordance with section 24 of this act and agrees to keep the information confidential, except that the attorney general may present the information to a court or administrative tribunal to support an enforcement action but must submit confidential information under seal where permissible. If the attorney general requests the assistance of the division in connection with any investigation, the division must provide information to the attorney general under this subsection and any other assistance that is feasible.

(3) For purposes of the division's annual reports under this chapter, the division must aggregate data or otherwise anonymize and generalize information as needed to mitigate the risk that public disclosure of the specific information would result in unfair competitive disadvantage to the person supplying the information or would adversely affect market competition, or has the potential to negatively impact national security.

(4) Any person with knowledge of the information collected in this chapter must report any mishandling, loss, or compromise of confidential information to the person's supervisor or security office immediately. Failure to report under this subsection (4) may result in disciplinary action, monetary fine, loss of employment, or imprisonment.

(5)(a) Any person who knowingly discloses, misuses, or abuses information determined confidential by the commission is subject to the following penalties, not to exceed:

(i) Disciplinary action;

(ii) A monetary fine of $10,000;

(iii) Loss of employment; or

(iv) Imprisonment.

(b) The penalties in (a) of this subsection must be based on the confidential information involved, the intended use of the information, and the harm caused by the mishandling.

NEW SECTION. **Sec.**  (1) The commission may issue a civil penalty to any person or entity on whom an administrative civil penalty may be imposed under this chapter. The notice of appeal must allege the act or failure to act for which the civil penalty is proposed, the provision of law authorizing civil liability, and the civil penalty amount.

(2) The notice must be served by personal notice or certified mail and must inform the party so served that a hearing will be conducted within 60 days after the party has been served. The hearing must be before the commission. An appellant may waive the right to a hearing, in which case the commission may not conduct a hearing.

(3) After any hearing, the commission may adopt, with or without revision, the proposed decision and order of the director.

(4) Orders setting an administrative civil penalty are effective and final upon issuance thereof, and any payment must be made within 30 days. Copies of these orders must be served by personal service or by registered mail upon the party served with the complaint and upon other persons who appeared at the hearing and requested a copy.

(5) In determining the amount of the administrative civil penalty, the commission must take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the violation is susceptible to removal or resolution, the cost to the state in pursuing the enforcement action, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary removal or resolution efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

NEW SECTION. **Sec.**  (1)(a) It is unlawful for a person to make deceptive environmental marketing claims, whether explicit or implied, regarding transportation fuels.

(b) It is a defense to any suit or complaint brought under this section that the person's environmental marketing claims conform to the standards or are consistent with the examples contained in the guides for the use of environmental marketing claims published by the federal trade commission.

(2) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for purposes of applying the consumer protection act, chapter 19.86 RCW.

(3) For the purposes of this section:

(a) "Environmental marketing claim" means a claim about the environmental attributes of a product, package, or service in connection with the marketing, offering for sale, or sale of such item or service to individuals, or in business-to-business transactions.

(b) "Environmental marketing claim" includes, without limitation:

(i) A claim made in labeling, advertising, promotional materials, and all other forms of marketing in any medium, whether asserted directly or by implication, through words, symbols, logos, depictions, product brand names, or any other means; and

(ii) Any claim described as deceptive in the guides for the use of environmental marketing claims, published by the federal trade commission, as those guides existed on the effective date of this section.

**Sec.**  RCW 19.86.140 and 2021 c 228 s 2 are each amended to read as follows:

Every person who shall violate the terms of any injunction issued as in this chapter provided, shall forfeit and pay a civil penalty of not more than $125,000.

Every individual who violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not more than $180,000. Every person, other than an individual, who violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not more than $900,000.

Every person who violates RCW 19.86.020 shall forfeit and pay a civil penalty of not more than $7,500 for each violation: PROVIDED, That nothing in this paragraph shall apply to any radio or television broadcasting station which broadcasts, or to any publisher, printer or distributor of any newspaper, magazine, billboard or other advertising medium who publishes, prints or distributes, advertising in good faith without knowledge of its false, deceptive or misleading character.

For unlawful acts or practices that target or impact specific individuals or communities based on demographic characteristics including, but not limited to, age, race, national origin, citizenship or immigration status, sex, sexual orientation, presence of any sensory, mental, or physical disability, religion, veteran status, or status as a member of the armed forces, as that term is defined in 10 U.S.C. Sec. 101, an enhanced penalty of $5,000 shall apply. Furthermore, for unlawful acts or practices relating to the sale of transportation fuels, an enhanced penalty of up to three times the profit gained or loss avoided as a result of such unlawful acts or practices shall apply.

For the purpose of this section the superior court issuing any injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties.

With respect to violations of RCW 19.86.030 and 19.86.040, the attorney general, acting in the name of the state, may seek recovery of such penalties in a civil action.

By December 1, ((~~2022~~)) 2026, and every five years thereafter, the office of the attorney general shall evaluate the efficacy of the maximum civil penalty amounts established in this section in deterring violations of the consumer protection act and the difference, if any, between the current penalty amounts and the penalty amounts adjusted for inflation, and provide the legislature with a report of its findings and any recommendations in compliance with RCW 43.01.036.

**Sec.**  RCW 42.56.330 and 2017 c 333 s 6 are each amended to read as follows:

The following information relating to public utilities and transportation is exempt from disclosure under this chapter:

(1) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095, chapter 19.--- RCW (the new chapter created in section 25 of this act), or RCW 81.77.210 that a court has determined are confidential under RCW 80.04.095 or 81.77.210;

(2) The addresses, telephone numbers, electronic contact information, and customer-specific utility usage and billing information in increments less than a billing cycle of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order;

(3) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. Participants' names, general locations, and point of contact may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides;

(4) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons;

(5) The personally identifying information of persons who acquire and use transit passes or other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose personally identifying information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media for the purpose of preventing fraud. As used in this subsection, "personally identifying information" includes acquisition or use information pertaining to a specific, individual transit pass or fare payment media.

(a) Information regarding the acquisition or use of transit passes or fare payment media may be disclosed in aggregate form if the data does not contain any personally identifying information.

(b) Personally identifying information may be released to law enforcement agencies if the request is accompanied by a court order;

(6) Any information obtained by governmental agencies that is collected by the use of a motor carrier intelligent transportation system or any comparable information equipment attached to a truck, tractor, or trailer; however, the information may be given to other governmental agencies or the owners of the truck, tractor, or trailer from which the information is obtained. As used in this subsection, "motor carrier" has the same definition as provided in RCW 81.80.010;

(7) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order;

(8) The personally identifying information of persons who acquire and use a driver's license or identicard that includes a radio frequency identification chip or similar technology to facilitate border crossing. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. Personally identifying information may be released to law enforcement agencies only for United States customs and border protection enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order; and

(9) Personally identifying information included in safety complaints submitted under chapter 81.61 RCW.

NEW SECTION. **Sec.**  (1) The commission must adopt rules to implement this chapter.

(2) The commission may enter into contracts to implement this chapter.

(3) The commission must provide administrative support, as necessary, to the division established in section 3 of this act.

(4)(a) The commission may, by order or rule, modify the reporting period for any individual item of information in section 4 of this act.

(b) The commission must adopt rules prescribing the form and manner of information required under section 4 of this act.

NEW SECTION. **Sec.**  The division, commission, department of ecology, department of commerce, department of licensing, the consolidated technology services agency, and the office of the state auditor are authorized to enter into data-sharing agreements as necessary to implement this chapter.

NEW SECTION. **Sec.**  Sections 1 through 20, 23, 24, and 29 of this act constitute a new chapter in Title 19 RCW.

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

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec.**  This act may be known and cited as the oil industry accountability act.

**--- END ---**