

SENATE BILL REPORT

SB 6304

As Reported by Senate Committee On:
Transportation, February 5, 2024

Title: An act relating to implementing certain recommendations of the transportation electrification strategy.

Brief Description: Implementing certain recommendations of the transportation electrification strategy.

Sponsors: Senators Liias, Nguyen and Kuderer.

Brief History:

Committee Activity: Transportation: 2/01/24, 2/05/24 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Implements certain recommendations from the Interagency Electric Vehicle Coordinating Council's transportation electrification strategy, by: addressing electric vehicle supply equipment (EVSE) installation and inventorying; removing the limit on how much electric utilities can spend on transportation electrification programs using ratepayer dollars; allowing the establishment and enforcement of energy efficiency standards for replacement tires on certain vehicles; enforcing anti-idling regulations for medium and heavy-duty vehicles; calculating formula funding needed for school districts to fully transition to zero emissions school buses; and requiring specific training for EVSE installation at state agencies.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 6304 be substituted therefor, and the substitute bill do pass.

Signed by Senators Liias, Chair; Shewmake, Vice Chair; Cleveland, Hansen,

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Kauffman, Lovelett, Nobles, Valdez and Wilson, C..

Minority Report: Do not pass.

Signed by Senators King, Ranking Member; Holy, Assistant Ranking Member; Fortunato, Hawkins, MacEwen, Padden and Wilson, J..

Minority Report: That it be referred without recommendation.

Signed by Senator Lovick, Vice Chair.

Staff: Brandon Popovac (786-7465)

Background: Transportation Electrification Strategy. As part of the Move Ahead Washington transportation package enacted by the Legislature in 2022 the Interagency Electric Vehicle Coordinating Council (IEVCC) was established and tasked with aligning existing transportation electrification efforts across ten state agencies and offices to develop a statewide transportation electrification strategy (TES) to ensure market and infrastructure readiness for all new vehicle sales. The IEVCC has developed 86 policy recommendations within the TES for both legislative consideration and administrative action.

Electric Vehicle Supply Equipment Installation, Information, and Reliability. The Department of Commerce (Commerce) must distribute to local governments model ordinances, regulations, and guidance for siting and installing electric vehicle (EV) infrastructure, with an emphasis on battery charging stations and appropriate EV battery storage, handling, and recycling.

Such model regulations and guidance must be developed by a federal or state agency, or nationally recognized organization, with specific expertise in land use regulations or EV infrastructure.

The Department of Transportation (WSDOT) through its public-private partnerships office must, in consultation with Commerce, the Department of Ecology (Ecology), and the Office of Equity, create a publicly available mapping and forecasting tool providing locations and information of EV charging and refueling infrastructure to support forecasted levels of EV adoption, travel, and usage. The tool must, for example:

- prioritize on-road transportation;
- model charging and refueling infrastructure used by owners and operators of light-duty vehicles (LDVs) and medium- and heavy-duty vehicles (MHDVs); and
- if feasible, include expected electric vehicle supply equipment (EVSE) necessary to support forecasted EV usage, estimated energy and capacity demand, and existing public and private level 2 charging, direct current fast charging, and hydrogen refueling infrastructure.

The tool has not been published yet but a scheduled launch is proposed within the 2023-25 fiscal biennium.

Electric Utility Transportation Electrification Investments. A public electric utility and public utility district (PUD) may adopt an electrification of transportation plan that, at a minimum, establishes a finding that utility outreach and investment in the electrification of transportation infrastructure does not increase costs to ratepayers in excess of 0.25 percent. A public electric utility and PUD may, upon such determination, offer incentive programs in the electrification of transportation for its ratepayers, including the promotion of EV adoption.

An investor-owned electric utility regulated by the Utilities and Transportation Commission (UTC) may submit to the UTC an electrification of transportation plan that deploys EVSE or provides other electric transportation programs, services, or incentives to support electrification of transportation. In establishing rates for an investor-owned utility, the UTC may allow an incentive rate of return on investment through December 31, 2030, on capital expenditures for EVSE that is deployed for the benefit of ratepayers, provided that the capital expenditures of the electrification of transportation plan or programs do not increase the annual retail revenue requirement of the utility in excess of 0.25 percent.

As part of Ecology's Clean Fuels Program, public electric utilities, PUDs, and investor-owned utilities must annually provide information to Ecology accounting for and describing expenditures of revenues generated from credits earned under the program. A portion of revenues generated by such utilities from clean fuels credits must be for certain types of transportation electrification projects or programs, including the provision of new or used zero emissions vehicles (ZEVs) to, or the reduction of transportation costs for, nonprofits, transit agencies, or public fleets for providing transportation services for low-income or vulnerable populations. Such utilities should also consider programs that expand low-income customer access to zero emissions transportation.

Rolling Resistance of Replacement Tires. Federal motor vehicle safety standards govern tire dimensions, testing and labeling requirements, and tire load ratings for all pneumatic, radial tires for use on motor vehicles. The Washington State Patrol (WSP) is responsible for enforcing laws governing equipment required on vehicles.

Federal Corporate Average Fuel Economy (CAFE) requirements mandate minimum fuel standards for the fleets of new vehicles produced by automakers. To meet CAFE standards, a new vehicle's original equipment may include energy efficient tires. The energy efficiency of tires is measured by their rolling resistance.

The United States Congress has twice directed the National Highway Transportation Safety Administration (NHTSA) to adopt rules relating to the energy efficiency of replacement tires. The Energy Independence and Security Act (EISA) of 2007 directed the creation of a National Tire Fuel Efficiency Consumer Information Program. The rules adopted by NHTSA in 2012 prescribed testing methods for determining ratings for rolling resistance, peak wet traction, and treadwear. The rules did not adopt a tire rating system or consumer information requirements. EISA also requires that after federal rules are adopted, a state

may only adopt regulations on tire fuel efficiency consumer information if the state regulations are identical to the federal regulations. The Fixing America's Surface Transportation Act of 2015 required additional minimum performance standards for the efficiency and traction of passenger car tires. NHTSA halted this rulemaking in 2017.

Commercial Motor Vehicle Idling Prevention. As part of its Clean Vehicles Program, and pursuant to the federal clean air act, Ecology has adopted by reference certain California regulations relating to motor vehicle emission standards, including an airborne toxic control measure designed to limit diesel-fueled commercial motor vehicle idling. The anti-idling regulation applies to any person who owns or operates a diesel-fueled commercial motor vehicle with a gross vehicle weight rating (GVWR) of more than 10,000 pounds, and prohibits the idling of such vehicles to no more than five consecutive minutes at any location, with exceptions. However, under the federal clean air act, California has not sought the required waiver of preemption with the Environmental Protection Agency to allow other states to enact and enforce this anti-idling regulation.

Zero Emissions School Buses. Ecology's Clean School Bus Program provides school bus owners that transport students to K-12 schools administered by the Office of Superintendent of Public Instruction (OSPI) with grant funding to scrap and replace diesel school buses with zero emissions school buses, including necessary charging or fueling infrastructure. Grant funding levels, the maximum number of buses per applicant, and infrastructure funding caps vary depending on the number of students eligible for free or reduced price lunches or rural low-income data.

Electric Vehicle Infrastructure Training. Executive Order 21-04, in part, requires all state executive and small-cabinet agencies to meet certain state fleet electrification minimum targets in years 2025, 2030, and 2035 for replacing internal combustion engine LDVs and MHDVs with corresponding battery electric vehicles.

The Electric Vehicle Infrastructure Training Program (EVITP) is a brand neutral, volunteer based, nonprofit that trains electricians in the EV infrastructure space in the United States and Canada. Training includes site assessment, load calculations, the National Electric Code, jobsite safety, personal protection equipment, and other installation and maintenance best practices. EVITP certification typically requires 20 hours of online instruction at a cost of \$275.

Summary of Bill (First Substitute): Electric Vehicle Supply Equipment Installation, Information, and Reliability. Commerce must develop and deliver to the Legislature recommended legislation regarding:

- maximum timelines for EVSE project permitting and interconnection;
- reporting requirements for electric utilities on transportation electrification efforts;
- EVSE consumer information requirements;
- extending right-to-charge policies to tenants and homeowners outside of common interest communities;

- reliability standards for publicly funded and available EVSE; and
- other policies to implement TES recommendations on improving EVSE availability.

Commerce must also develop a comprehensive and publicly available inventory of EVSE in the state by December 31, 2025, informed by reporting requirements for EVSE providers, owners, and operators or any other necessary entities. Commerce must require entities to report reliability data for public and shared-use EVSE. Such reporting processes must be established by Commerce rule.

Commerce must distribute to local governments model ordinances, regulations, and guidance for siting and installing EV infrastructure, without an emphasis on battery charging stations or EV battery storage and recycling, every five years, beginning by December 31, 2025.

Commerce must coordinate with the IEVCC, public agencies, climate and environmental justice organizations, consumer and ratepayer advocates, labor representatives, industry representatives, consumer-owned and investor-owned electric utilities, and building owners to implement the new EVSE reporting and inventorying and EV infrastructure model regulation distribution requirements.

WSDOT must update the publicly available mapping and forecasting of EV charging infrastructure tool as follows:

- incorporate the latest data on public and shared-use charging from the EVSE inventory compiled by Commerce;
- use EVSE estimates as identified in the TES;
- model hydrogen refueling infrastructure for owners and operators of LDVs and MHDVs; and
- if feasible, use statewide ZEV estimates from the TES and forecast each utility service area's level of ZEV use to achieve each area's emissions reductions consistent with TES estimates.

Electric Utility Transportation Electrification Investments. The ratepayer cost cap of 0.25 percent for each public electric utility, PUD, and investor-owned electric utility related to its electrification of transportation infrastructure is removed. For investments in its electrification of transportation infrastructure, each public electric utility, PUD, and investor-owned electric utility must prioritize strategies, including:

- residential and fleet charging;
- demand management, including managed charging; and
- upgrades to or expansions of applicable grid infrastructure to deliver power to EVSE.

In making such investments, each public electric utility, PUD, and investor-owned electric utility must also meet or exceed the equity-related investment requirements under the Clean Fuels Program as implemented by Ecology.

Rolling Resistance of Replacement Tires. Commerce may establish and enforce energy efficiency standards for replacement tires on passenger cars and light duty trucks with a GVWR not exceeding 10,000 pounds. If acting upon this authority, Commerce must adopt and amend rules necessary to implement, administer, and enforce such standards, with implementation rules taking effect at least one year after final rule adoption.

Commerce may also implement any of the following:

- a database of replacement tires in production offered for sale or distribution in the state;
- reporting requirements for tire brand name owners and manufacturers with replacement tires in production offered for sale or distribution in the state;
- a rating system for the energy efficiency of replacement tires based on their rolling resistance coefficient;
- testing procedures in alignment with NHTSA regulations; and
- minimum energy efficiency standards for replacement tires based on their rolling resistance. In developing such standards, Commerce must consider information submitted by tire industry representatives, including tire brand name owners, and tire manufacturers, during the rule-making process and may classify such information as confidential if requested and considered in the public interest.

Commerce may prohibit the sale or offer for sale of replacement tires that do not meet minimum energy efficiency standards. Any rules adopted by Commerce prohibiting the sale of tires based on their rolling resistance:

- may not adversely affect tire safety or tire longevity as demonstrated by independent testing prepared for Commerce or another state energy office and verified by Commerce in consultation with WSP; and
- must exempt snow tires, spare-use tires, or tires manufactured specifically for use in: vehicles participating in an organized racing or sanctioned competitive event; vehicles with three or fewer wheels; authorized emergency vehicles unable to meet the new replacement tire energy efficiency standards; off-road recreational vehicles, or agricultural motor vehicles.

Commerce may require that energy efficiency ratings be displayed to consumers at the physical or online point-of-sale. Commerce is encouraged to coordinate with the California energy commission to pursue common replacement tire energy efficiency standards, reporting requirements, and labeling that reduces industry compliance costs.

Any tire brand name owner or tire manufacturer that violates rules adopted to implement energy efficiency standards for replacement tires may be issued a warning for a first violation, with repeat violations subject to a civil penalty of \$100 to \$10,000 per occurrence. Any tire retailer who violates such rules may be issued a warning for a first violation, with repeat violations subject to a civil penalty of \$100 to \$1,000 per occurrence. Tire retailers may not be penalized for false reports of compliance by the tire brand name owner or tire manufacturer. Commerce or another state agency designated by Commerce

may also carry out inspections of replacement tires sold or offered for sale.

WSP may update its rules to reference rules adopted by Commerce to implement energy efficiency standards for replacement tires.

Ecology must, in consultation with Commerce, identify and conduct hazard assessments of the chemical ingredients used to achieve reduced rolling resistance in passenger car and light duty truck tires.

Medium- and Heavy-Duty Vehicle Idling Prevention, Beginning January 2, 2025:

- every diesel-fueled commercial motor vehicle licensed to operate within the state with a GVWR of more than 10,000 pounds may not idle for more than five consecutive minutes at any location.
- every diesel-fueled auxiliary power system may not be operated for more than five minutes at any location within 100 feet of a restricted area, defined as any real property zoned for housing units, hotels, motels, hospitals, or senior or child care facilities.

Auxiliary power system is defined as any device installed and permanently dedicated to a vehicle to provide electrical, mechanical, or thermal energy to the primary diesel engine, truck cab or sleeper berth, bus passenger compartment, or other commercial vehicle cab, as an alternative to idling the primary diesel engine.

Ecology must adopt rules to provide for civil penalties and enforcement procedures for the new idling prohibitions, to be consistent with rules adopted to implement and enforce certain California motor vehicle emissions standards. The rules must provide for civil penalties for violations ranging from \$300 to \$1,000 per violation per day. Ecology may assess and collect annual fees from commercial motor vehicle owners subject to the new idling prohibitions in amounts to cover administrative and enforcement costs. Any person who knowingly avoids paying required fees or is more than 90 days late with such fee payment may be subject to an additional penalty equal to three times the amount of the original fee owed.

A peace officer and any air pollution control authority may issue civil penalties for violations of the new idling prohibitions.

The idling prevention enforcement account is created as an appropriated account. Any interest accrued remains with the account. Penalty revenues from idling violations and any newly assessed commercial motor vehicle owner fees must be deposited into the account, with authorized expenditures for:

- idling prevention enforcement activities;
- idle reduction technology incentives; and
- incentives for ZEVs with a GVWR of more than 10,000 pounds.

Zero Emissions School Buses. Informed by its Clean School Bus Program, Ecology must collaborate with OSPI and Commerce to:

- identify target years for requiring all new school bus purchases, and all buses in operation, be zero emissions buses, while considering TES modeling and other cost analyses and projections;
- calculate funding needed for school districts to cover higher purchase prices before cost parity, bus route planning, facility upgrades, charging infrastructure, and driver and technician training; and
- develop a formula funding program recommendation for school districts to ensure a seamless transition from Ecology's clean school bus program, contingent on receipt of sufficient funding.

OSPI must collaborate with Ecology and Commerce to:

- develop a zero emissions school bus extension request and approval process, if a school district can demonstrate the zero emissions school bus will not meet the needs of the school district; and
- coordinate with school districts through regional transportation coordinators for such activities.

Electric Vehicle Infrastructure Training. Each state agency subject to Executive Order 21-04 must require the installation of EVSE at state-owned facilities be performed by persons certified by EVITP or a similar certification program, except for existing installation projects under contract.

Miscellaneous. The bill is subject to funding in the supplemental transportation appropriations act.

EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE (First Substitute):

- Adds labor representatives and both consumer-owned and investor-owned utilities to the list of stakeholders Commerce must consult with in developing certain legislative recommendations and EVSE inventory.
- Modifies the requirement for Commerce to develop recommended legislation on reliability standards for certain EVSE to such standards for both publicly funded and publicly available EVSE.
- Modifies the application of energy efficiency standards for replacement tires to tire retailers.
- Adds to the required exemptions the sale of replacement tires manufactured specifically for sanctioned vehicle racing and for authorized emergency vehicles that are unable to meet the new tire standards.
- Requires Commerce to consider information submitted by tire industry representatives during the rulemaking to set energy efficiency tire standards.
- Encourages Commerce to coordinate with the California Energy Commission to

- pursue common tire energy efficiency standards, and reporting and labeling requirements.
- Requires Commerce to adopt rules to implement the energy efficient tire standards if acting upon rulemaking authority.
 - Applies the civil penalties of \$100 to \$10,000 to tire brand name owners and manufacturers, and creates a lower range of civil penalties for tire retailers found not in compliance.
 - Requires that tire retailers may not be penalized for false reports of compliance by the tire brand name owner or manufacturer.
 - Adds energy efficient tire standards to WSP's equipment provisions prohibiting the sale of tires which do not meet safety standards.
 - Requires Ecology to conduct hazard assessments of the chemical ingredients that are used to achieve reduced rolling resistance in replacement tires.
 - Modifies the enforcement process and penalties for unlawful idling of commercial motor vehicles by:
 1. providing specific idling violations and which types of vehicles and power systems are subject to compliance;
 2. requiring rulemaking for civil penalties (\$300 to \$1,000 per violation per day) and enforcement procedures, to be consistent with rules adopted to implement California motor vehicle emissions standards;
 3. authorizing the assessment of fees on commercial motor vehicle owners to cover administration costs;
 4. authorizing the imposition of additional penalties for failing to pay or late payment of assessed fees; and
 5. authorizing police and air pollution control authorities to issue penalties for idling violations; and
 - Clarifies the roles of Ecology and OSPI regarding development of a funding process recommendation for school districts and an extension request and approval process for a zero emissions school bus.
 - Exempts existing EVSE installation projects under contract at state-owned facilities from the certification requirements for installers.

Appropriation: None.

Fiscal Note: Requested on January 24, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The IEVCC created these recommendations and the Legislature should attempt to implement them through an open public discussion. Decarbonization targets are an immense challenge, but higher rates of EV

sales are contributing to climate goals. The bill could increase EV sales immensely by 2030. There is room for both direct sales and dealership models to coexist. Some ZEV manufacturers cannot offer ZEV sales or provide ZEV test driving in the state. Prohibiting direct sales of ZEVs limits consumer choice, potential job creation, and increased EV adoption. Washington State is the only state on west coast to ban ZEV direct sales. Only one ZEV manufacturer is authorized to provide direct sales of ZEVs. Some ZEV manufacturers want to implement their own business models separate from the auto dealer franchise framework. The bill supports consumer choice to meet clean transportation goals. Purchasing EVs out of state is burdensome. The bill reflects the collaborative process involved in TES development. Mandating electric utilities to prioritize transportation electrification actions is strategic and focused. Increasing EV sales and anti-idling enforcement will contribute to a cleaner environment. The bill will help create more union paying jobs. The state must act now in order to reach 2030 goals. School bus fleet conversions will contribute to better health outcomes for kids. The state has already passed a clean fuel standards and ZEV direct sales supports this policy. Equity is at the forefront of the bill's underlying policy. Port districts are leaning in to decarbonization strategies. Incentives should be researched before imposing penalties proposed for unlawful idling. The bill will provide more work opportunities for highly trained electricians for public projects. Young workers want to be part of the transportation electrification transition. EV infrastructure training should be expanded to apply to all public facilities.

CON: Minimum performance standards for tires should come from the federal government and regulations. NHTSA has not finalized such federal regulation efforts. Consumers might be influenced to drive to nearby states to purchase tires. The ZEV direct sales provision is too broad. Auto dealer locations provide sufficient inventory and test drive capabilities, and allow consumers to drive home with new vehicles. The bill will jeopardize the auto dealer system, and take sales tax away from communities. Proposed tire replacement rules will limit consumer choice and are based solely on one inconclusive California study. The tire efficiency standard rulemaking process is dangerously permissive in terms of enforcement and imposes very high penalty amounts. Anti-idling prevention needs more scrutiny to consider climate impacts in different states. Current labor regulations might conflict with anti-idling enforcement rules. Some laborers need idling vehicles to stay warm at job sites without electricity.

OTHER: It is uncertain if there will be enough electricity to meet the demands of EVSE. Grid load is growing while options to power up grids are declining. The electrical transmission system is already stressed during peak load periods. The state needs to prioritize grid reliability first. Electric utilities should be added as stakeholders informing the new actions for Commerce. Hydrogen and fuel cell vehicles are often overlooked as a vital tool in decarbonization efforts. Such vehicles have higher range and better recharging capabilities and better recharging capabilities. With EVSE inventory reporting, there are proprietary information concerns if data is required to be tracked in real time. EVSE reliability standards should only apply to public and shared use EVSE.

Persons Testifying: PRO: Senator Marko Liias, Prime Sponsor; Isaac Kastama, Clean & Prosperous Washington; Paula Sardinias, WBBA (WA Build Back Black Alliance); Hannah Steinweg, Rivian; Mark Prentice; Charlee Thompson, NW Energy Coalition; Leah Missik, Climate Solutions; Anthony Geren; Sim Guth; Croix Frigo, IBEW Local 46; Mya Robinson, IBEW Local 46; Matthew Hepner, IBEW/ceww; Ali Lee; Winston Lee; Quiong Chen; Jeff Gombosky, Tesla; Seth Harmon; MATTHEW METZ, Coltura; Heather Trim, Zero Waste Washington.

CON: Scott Hazlegrove, WA State Auto Dealers Association; Tracey Norberg, U.S. Tire Manufacturers Association; Jeff DeVere, Washington Trucking Associations; Jennifer Ziegler, Les Schwab; Jan Himebaugh, Building Industry Association of Washington.

OTHER: Dave Warren, WA Green Hydrogen Alliance; Brian Bonlender, Electric Vehicle Charging Association; John Flanagan, Port of Seattle; Carly Michiels, WPPA; Nicolas Garcia, WPUDA.

Persons Signed In To Testify But Not Testifying: No one.