2SHB 1912 - H AMD **343**
By Representative Walsh

NOT ADOPTED 03/12/2025

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 70A.65 RCW to read as follows:

(1) For sales of any fuel for which the associated emissions are exempt from coverage under RCW 70A.65.080(7)(e):

(a) A motor vehicle or special fuels seller who sells fuel to a person who uses the fuel for exempt purposes must register with the department by December 15, 2025. However, nothing in this subsection shall be construed to require any motor vehicle or special fuels seller to register with the department under this subsection if they have devised a methodology within their supply chain to provide fuel to persons exempt from coverage under RCW 70A.65.080(7)(e) without imposing any projected fuel price impact of compliance with the climate commitment act.

(b)(i) The department must establish a projected fuel price impact of compliance with the climate commitment act derived from total allowance cost based on the most recent quarterly auction price determined under the provisions of this chapter. The department must calculate a projected fuel price impact of compliance with the climate commitment act for each type of fuel that may be purchased by persons exempt under RCW 70A.65.080(7)(e).

(ii) For the purposes of computing the fuel price impact of compliance with the climate commitment act, the department must:

(A) Assume that the compliance costs of this chapter are passed through, in full, to exempt users; and

(B) Apply a calculation methodology for each fuel type, exclusive of any biofuel content, that results in a cents per gallon equivalent to be used by a registered motor vehicle or special fuels seller to calculate the deduction to persons exempt under RCW 70A.65.080(7)(e) and the amount of rebate created in this section.

(c) The department must update the fuel price impacts of compliance with the climate commitment act calculated under (b)(ii)(B) of this subsection upon the conclusion of each quarterly allowance auction, publish it on the department's website, and notify each registered motor vehicle or special fuels seller at the beginning of each quarter.

(2) A registered retail seller of fuel must accept a valid exemption certificate, provided on form ECY 070-721 adopted in February 2023 or as hereinafter amended from time to time by the department, from a person exempt under RCW 70A.65.080(7)(e) and must deduct the fuel price impact of compliance with the climate commitment act determined by the department under subsection (1)(b) of this section for the current quarter from the price per gallon of fuel when that fuel is purchased.

(3)(a) A rebate program is hereby established for registered motor vehicle or special fuels sellers to offset their lost revenue for selling fuel to persons exempt under RCW 70A.65.080(7)(e). The first quarter that the rebate program is to begin will occur on January 1, 2026.

(b) Rebates under this program shall be paid by the department from moneys collected for the climate commitment account and these payments shall not require legislative appropriation.

(c) The rebate form issued by the department under this section shall be in a form and manner prescribed by the department, which may include an electronic form. Rebate forms must be updated quarterly when the department calculates the fuel price impacts of the climate commitment act and must be provided to each registered motor vehicle or special fuels seller at the beginning of each quarter. Rebate forms must contain the following information:

(i) A unique identifying number assigned by the department to the registered motor vehicle or special fuels seller;

(ii) The name and address of the rebate form holder;

(iii) A space for each type of fuel that may be used by a person exempt under RCW 70A.65.080(7)(e);

(iv) A space for the fuel price impacts of compliance with the climate commitment act that are calculated by the department for that quarter for each type of fuel that might be sold to persons exempt under RCW 70A.65.080(7)(e);

(v) A space for the registered motor vehicle or special fuel seller to insert the number of gallons of each type of exempt fuel sold to persons under RCW 70A.65.080(7)(e);

(vi) A space for a grand total being requested for rebate that quarter.

(4) Rebate forms may also contain such other information as required by the department including, but not limited to:

(a) An attestation which states: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the state of Washington and the United States of America that the foregoing is true and correct.";

(b) A statement that the department is authorized to obtain information concerning the validity of the rebate being requested by the registered motor vehicle or special fuels seller and that falsifying information on the rebate form will result in the registered motor vehicle or special fuels seller being required to refund the incorrect amount of the rebate paid plus a 25 percent penalty;

(c) The signature of the representative of the registered motor vehicle or special fuels seller requesting the rebate, unless a copy of the rebate form is provided to the department in a format other than paper.

(5) A registered motor vehicle or special fuels seller may submit rebate forms to the department monthly or quarterly. The department may also create a pathway for registered motor vehicle or special fuels sellers to submit the rebate forms electronically with electronic signatures. The department shall provide the rebate within 30 days of the receipt of a valid rebate form.

Sec. 2. RCW 70A.65.080 and 2024 c 352 s 4 are each amended to read as follows:

(1) A person is a covered entity as of the beginning of the first compliance period and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 for any calendar year from 2015 through 2019, or if additional data provided as required by this chapter indicates that emissions for any calendar year from 2015 through 2019 equaled or exceeded any of the following thresholds, or if the person is a first jurisdictional deliverer and imports electricity into the state during the compliance period:

(a) Where the person owns or operates a facility and the facility's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent;

(b) Where the person is a first jurisdictional deliverer and generates electricity in the state and emissions associated with this generation equals or exceeds 25,000 metric tons of carbon dioxide equivalent;

(c)(i) Where the person is a first jurisdictional deliverer importing electricity into the state and:

(A) For specified sources, the cumulative annual total of emissions associated with the imported electricity exceeds 25,000 metric tons of carbon dioxide equivalent;

(B) For unspecified sources, the cumulative annual total of emissions associated with the imported electricity exceeds 0 metric tons of carbon dioxide equivalent; or

(C) For electricity purchased from a federal power marketing administration pursuant to section 5(b) of the Pacific Northwest electric power planning and conservation act of 1980, P.L. 96-501, if the department determines such electricity is not from a specified source, the cumulative annual total of emissions associated with the imported electricity exceeds 25,000 metric tons of carbon dioxide equivalent.

(ii) In consultation with any linked jurisdiction to the program created by this chapter, by October 1, 2026, the department, in consultation with the department of commerce and the utilities and transportation commission, shall adopt by rule a methodology for addressing imported electricity associated with a centralized electricity market;

(d) Where the person is a supplier of fossil fuel other than natural gas and from that fuel 25,000 metric tons or more of carbon dioxide equivalent emissions would result from the full combustion or oxidation, excluding the amounts for fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington; and

(e)(i) Where the person supplies natural gas in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts for fuel products that are produced or imported with a documented final point of delivery outside of Washington and combusted outside of Washington, and excluding the amounts: (A)

Supplied to covered entities under (a) through (d) of this subsection; and (B) delivered to opt-in entities;

(ii) Where the person who is not a natural gas company and has a tariff with a natural gas company to deliver to an end-use customer in the state in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts: (A) Supplied to covered entities under (a) through (d) of this subsection; and (B) the amounts delivered to opt-in entities;

(iii) Where the person is an end-use customer in the state who directly purchases natural gas from a person that is not a natural gas company and has the natural gas delivered through an interstate pipeline to a distribution system owned by the purchaser in amounts that would result in exceeding 25,000 metric tons of carbon dioxide equivalent emissions if fully combusted or oxidized, excluding the amounts: (A) Supplied to covered entities under (a) through (d) of this subsection; and (B) delivered to opt-in entities.

(2) A person is a covered entity as of the beginning of the second compliance period and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 or provided emissions data as required by this chapter for any calendar year from 2023 through 2025, where the person owns or operates a waste to energy facility utilized by a county and city solid waste management program and the facility's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent.

(3) A person is a covered entity as of the beginning of the third compliance period, and all subsequent compliance periods if the person reported emissions under RCW 70A.15.2200 or provided emissions data as required by this chapter for 2027 or 2028, where the person owns or operates a railroad company, as that term is defined in RCW 81.04.010, and the railroad company's emissions equal or exceed 25,000 metric tons of carbon dioxide equivalent.

(4) When a covered entity reports, during a compliance period, emissions from a facility under RCW 70A.15.2200 that are below the thresholds specified in subsection (1) or (2) of this section, the covered entity continues to have a compliance obligation through the current compliance period. When a covered entity reports emissions below the threshold for each year during an entire compliance period, or has ceased all processes at the facility requiring reporting under RCW 70A.15.2200, the entity is no longer a covered entity as of the

beginning of the subsequent compliance period unless the department provides notice at least 12 months before the end of the compliance period that the facility's emissions were within 10 percent of the threshold and that the person will continue to be designated as a covered entity in order to ensure equity among all covered entities. Whenever a covered entity ceases to be a covered entity, the department shall notify the appropriate policy and fiscal committees of the legislature of the name of the entity and the reason the entity is no longer a covered entity.

(5) For types of emission sources described in subsection (1) of this section that begin or modify operation after January 1, 2023, and types of emission sources described in subsection (2) of this section that begin or modify operation after 2027, coverage under the program starts in the calendar year in which emissions from the source exceed the applicable thresholds in subsection (1) or (2) of this section, or upon formal notice from the department that the source is expected to exceed the applicable emissions threshold, whichever happens first. Sources meeting these conditions are required to transfer their first allowances on the first transfer deadline of the year following the year in which their emissions were equal to or exceeded the emissions threshold.

(6) For emission sources described in subsection (1) of this section that are in operation or otherwise active between 2015 and 2019 but were not required to report emissions for those years under RCW 70A.15.2200 for the reporting periods between 2015 and 2019, coverage under the program starts in the calendar year following the year in which emissions from the source exceed the applicable thresholds in subsection (1) of this section as reported pursuant to RCW 70A.15.2200 or provided as required by this chapter, or upon formal notice from the department that the source is expected to exceed the applicable emissions threshold for the first year that source is required to report emissions, whichever happens first. Sources meeting these criteria are required to transfer their first allowances on the first transfer deadline of the year following the year in which their emissions, as reported under RCW 70A.15.2200 or provided as required by this chapter, were equal to or exceeded the emissions threshold.

(7) The following emissions are exempt from coverage in the program, regardless of the emissions reported under RCW 70A.15.2200 or provided as required by this chapter:

(a) Emissions from the combustion of aviation fuels;

(b) Emissions from watercraft fuels supplied in Washington that are combusted outside of Washington;

(c) Emissions from a coal-fired electric generation facility exempted from additional greenhouse gas limitations, requirements, or performance standards under RCW 80.80.110;

(d) Carbon dioxide emissions from the combustion of biomass or biofuels;

(e)(i) Motor vehicle fuel or special fuel that is used exclusively for agricultural purposes by a farm fuel user. This exemption is available only if a buyer of motor vehicle fuel or special fuel provides the ((~~seller~~)) motor vehicle or special fuels seller, registered under section 1 of this act, with an exemption certificate in a form and manner prescribed by the department. For the purposes of this subsection, "agricultural purposes" and "farm fuel user" have the same meanings as provided in RCW 82.08.865. For the purposes of this subsection, "special fuel" means diesel fuel, propane, natural gas, kerosene, biodiesel, and any other combustible liquid or gas by whatever name the liquid or gas may be known sold to a farm fuel user for agricultural purposes under this subsection;

(ii) ((~~The department must determine a method for expanding the exemption provided under (e)(i) of this subsection to include fuels used for the purpose of transporting agricultural products on public highways. The department must maintain this expanded exemption for a period of five years, in order to provide the agricultural sector with a feasible transition period;~~)) Until December 31, 2036, motor vehicle fuel or special fuel that is used for the purpose of transporting agricultural products on public highways and river systems. This exemption is available only if a buyer of motor vehicle fuel or special fuel provides the seller with an exemption certificate in a form and manner prescribed by the department. For the purposes of this subsection, "special fuel" means diesel fuel, propane, natural gas, kerosene, biodiesel, and any other combustible liquid or gas by whatever name the liquid or gas may be known sold to a transporter of agricultural products under this subsection;

(f) Emissions from facilities with North American industry classification system code 92811 (national security); and

(g) Emissions from municipal solid waste landfills that are subject to, and in compliance with, chapter 70A.540 RCW.

(8) The department shall not require multiple covered entities to have a compliance obligation for the same emissions. The department may by rule authorize refineries, fuel suppliers, facilities using natural gas, and natural gas utilities to provide by agreement for the assumption of the compliance obligation for fuel or natural gas supplied and combusted in the state. The department must be notified of such an agreement at least 12 months prior to the compliance obligation period for which the agreement is applicable.

(9)(a) The legislature intends to promote a growing and sustainable economy and to avoid leakage of emissions from manufacturing to other locations. The legislature further intends to see innovative new businesses locate and grow in Washington that contribute to Washington's prosperity and environmental objectives.

(b) Consistent with the intent of the legislature to avoid the leakage of emissions to other jurisdictions, in achieving the state's greenhouse gas limits in RCW 70A.45.020, the state, including lead agencies under chapter 43.21C RCW, shall pursue the limits in a manner that recognizes that the siting and placement of new or expanded best-in-class facilities with lower carbon emitting processes is in the economic and environmental interests of the state of Washington.

(c) In conducting a life-cycle analysis, if required, for new or expanded facilities that require review under chapter 43.21C RCW, a lead agency must evaluate and attribute any potential net cumulative greenhouse gas emissions resulting from the project as compared to other existing facilities or best available technology including best-in-class facilities and emerging lower carbon processes that supply the same product or end use. The department may adopt rules to determine the appropriate threshold for applying this analysis.

(d) Covered emissions from an entity that is or will be a covered entity under this chapter may not be the basis for denial of a permit for a new or expanded facility. Covered emissions must be included in the analysis undertaken pursuant to (c) of this subsection. Nothing in this subsection requires a lead agency or a permitting agency to approve or issue a permit to a permit applicant, including to a new or expanded fossil fuel project.

(e) A lead agency under chapter 43.21C RCW or a permitting agency shall allow a new or expanded facility that is a covered entity or opt-in entity to satisfy a mitigation requirement for its covered emissions under this chapter and under any greenhouse gas emission

mitigation requirements for covered emissions under chapter 43.21C RCW by submitting to the department the number of compliance instruments equivalent to its covered emissions during a compliance period."

Correct the title.

EFFECT: Strikes the underlying bill, and

(1) Requires sellers of compliance obligation-exempt fuels used for agricultural purposes under the Climate Commitment Act (CCA) and for transporting agricultural products on public highways to register with the Department of Ecology (Ecology) by December 15, 2025.

(2) Requires Ecology to establish a projected fuel price associated with the CCA based on the most recent quarterly allowance auction price using a specified methodology.

(3) Requires registered retail sellers of CCA-exempt fuels to deduct the fuel price impact of CCA compliance from the price per gallon of fuel purchased by holder of valid Ecology-developed exemption certificates.

(4) Establishes a rebate program for registered motor vehicle or special fuel sellers to offset their lost revenue for selling exempt fuel used for agricultural purposes or to transport agricultural products on public highways.

(5) Specifies that the special fuels exempt under the CCA exemptions for agricultural purposes means diesel fuel, propane, natural gas, kerosene, biodiesel, and other combustible liquids or gases sold to a farm fuel user for agricultural purposes.

(6) Expands the exemption for motor vehicle and special fuel used to transport agricultural products on public highways to also apply to the transport of agricultural products on river systems, and expires this exemption on December 31, 2036.

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