Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Environment & Energy Committee

HB 1912

Brief Description: Concerning the exemption for fuels used for agricultural purposes in the climate commitment act.

Sponsors: Representatives Dent, Reeves, Schmick, Springer, Orcutt, Nance, McClintock, Morgan, Engell, Paul, Mendoza, Bernbaum, Barnard, Richards, Eslick, Manjarrez, Dufault, Shavers, Burnett, Timmons, Abell, Thai, Barkis, Davis, Connors and Hill.

Brief Summary of Bill

- Requires the Department of Ecology to adopt rules to establish a remittance program for suppliers and users of agricultural and farm fuels exempt from Climate Commitment Act (CCA) compliance obligations.
- Makes permanent the temporary five-year exemption from CCA compliance obligations for fuel used to transport agricultural products to market.

Hearing Date: 2/13/25

Staff: Jacob Lipson (786-7196).

Background:

Under the 2021 Climate Commitment Act (CCA), in order to ensure that greenhouse gas (GHG) emissions are reduced consistent with the state's 2030, 2040, and 2050 emissions limits, the Department of Ecology (Ecology) must implement a cap on GHG emissions from covered entities and a program to track, verify, and enforce compliance through the use of compliance instruments, which include allowances or eligible offset credits. The Cap-and-Invest Program (Program) commenced on January 1, 2023.

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.

The Program:

- establishes annual allowance budgets that limit emissions from covered entities;
- defines those entities covered by the Program (covered entities), those entities that may voluntarily opt into coverage under the Program (opt-in entities), and other persons that participate in auctions or allowance markets by purchasing, holding, selling, or voluntarily retiring compliance instruments (general market participants);
- provides for the distribution of emissions allowances at no cost to certain covered entities, or by purchase at auction;
- provides for offset credits as a method for meeting compliance obligations;
- defines the compliance obligations of covered entities;
- provides for the transfer of allowances and recognition of compliance instruments, including those issued by jurisdictions with which Washington may have linkage agreements in the future; and
- provides monitoring and oversight of the sale and transfer of allowances.

Except for directly distributed, no-cost allowances allocated to certain entities, allowances must be distributed via allowance auctions. Auctions are open to covered entities, opt-in entities, and general market participants that are registered entities in good standing.

Seven categories of emissions are exempt from coverage under the Program, regardless of emission level, including certain biofuels and the following types of agriculture-related emissions:

- emissions from 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 fuel provides a seller with an exemption certificate developed by Ecology, and is available only to the agricultural purposes and farm fuel users that are also exempt from state retail sales tax on fuel purchases; and
- fuels used for transporting agricultural products on public highways.
    - Ecology must determine a method for implementing this exemption, and must maintain it for five years.

Ecology has issued interim guidance regarding the implementation of the agricultural exemptions and other CCA emission exemptions, has convened a workgroup of stakeholders in 2023 to address the issue and complete a report on exemption implementation, and has developed an exemption certificate for purposes of implementing these exemptions. Fuel users and covered entities are not required to use the exemption certificate developed by Ecology.

In the 2024 supplemental operating budget, the Legislature also allocated $30 million of CCA revenues to the Department of Licensing (DOL) to implement a program to provide payments to exempt farm fuel users and transporters who purchased fuel for agricultural purposes. Under this program, DOL provides payments based on a tiered system which is structured according to the volume of agricultural farm fuel used for which the exempt user was charged a surcharge, due to the price impacts on fuel of the CCA.

Federal and state fuel tax laws exclude from taxation fuels used for certain non-highway purposes, such as in farm equipment. Fuel exempt from taxation has a red dye added to it to indicate that no federal or state fuel taxes have been paid on it, and that it is intended for exempt uses.

Summary of Bill:

The temporary five-year exemption from CCA compliance obligations for fuel used to transport agricultural products to market is made permanent.

Ecology must adopt rules to establish a remittance program for exempt fuel used for agricultural purposes by a farm fuel user, or for transporting agricultural products on public highways.

Under this program, Ecology must provide remittances as follows:

- for licensed dyed fuel, Ecology must provide remittances to a supplier for fuel sold to a user whose fuel use is exempt, unless the fuel sold was from a source whose emissions are not covered emissions under the CCA; and
- for other exempt agricultural or farm fuel, or fuel used to transport agricultural products to market, Ecology must provide remittances to the persons whose fuel use is exempt.

Ecology's rules must allow remittances to suppliers of fuels to persons whose emissions are exempt from CCA compliance obligations to apply to Ecology for a remittance of a projected fuel price impact, which is to be calculated based on the most recent CCA quarterly auction price. To calculate the remittance to suppliers and exempt users, Ecology must assume that the compliance costs of suppliers are passed through, in full, to exempt users. Ecology must also apply a calculation methodology that multiplies the GHG emissions reduction per gallon of fuel, exclusive of any biofuel content, by the most recent quarterly auction price, and must post these calculations on its website and in auction summary results. Remittances must be issued at least twice per month to fuel suppliers, and quarterly to exempt fuel users. Ecology's rules must ensure that suppliers of fuel that seek a remittance do not charge exempt users of dyed fuel for the cost of CCA compliance obligations, and that the price impacts of the CCA are not experienced by users of exempt fuels.

Appropriation: None.

Fiscal Note: Requested on February 10, 2025.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.