FINAL BILL REPORT
E2SHB 1912

C 282 L 25
Synopsis as Enacted

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

Sponsors: House Committee on Appropriations (originally sponsored by 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).

House Committee on Environment & Energy
House Committee on Appropriations
Senate Committee on Environment, Energy & Technology
Senate Committee on Ways & Means

Background:

Under the federal Clean Air Act, greenhouse gases (GHGs) are regulated as an air pollutant and are subject to several air regulations administered by the United States Environmental Protection Agency (EPA). These federal Clean Air Act regulations include a requirement that facilities and fuel suppliers whose associated annual emissions exceed 25,000 metric tons of carbon dioxide equivalent (CO2e) report their emissions to the EPA. At the state level, GHG reporting is regulated by the Department of Ecology (Ecology) under the state Clean Air Act. This state law requires fuel suppliers and facilities whose emissions exceed 10,000 metric tons of CO2e each year to report their annual emissions to Ecology.

Under the 2021 Climate Commitment Act (CCA), in order to ensure that GHG emissions are reduced consistent with the state's 2030, 2040, and 2050 emissions limits, 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.
- 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.

To implement the CCA agricultural fuel exemptions, Ecology has:

- issued interim guidance regarding the implementation of the agricultural exemptions and other CCA emission exemptions;
- convened a workgroup of stakeholders in 2023; and
- has developed an exemption certificate for optional use by covered entities and fuel users. purposes of implementing these exemptions.

With certain exceptions, violations of CCA requirements are subject to penalties of up to $10,000 per day per violation.

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, the 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 CCA surcharge.

Summary:

Retail fuel sellers of fuel that is exempt from CCA compliance obligations due to its use for agricultural purposes by a farm fuel user or due to its use to transport agricultural products on public highways (exempt agricultural fuel) may voluntarily notify Ecology of locations where exempt agricultural fuel is available for purchase.

Ecology must post and periodically update on its website a directory tool of retail fuel sellers that have voluntarily notified Ecology that they sell exempt agricultural fuel at a price that is different than fuel that is not exempt under the CCA. This directory must be posted by October 1, 2025, and must list the name, address, county, and, if applicable, city of each exempt retail fuel seller listed on the directory. The directory must include retail fuel sellers that rely on a cardholder or membership program and exempt fuel purchase aggregators that have procedures for verifying the exempt status of fuel and for tracking and reporting volumes of exempt fuel to CCA covered entities.

By October 1, 2025, Ecology must publish on its website a guide for potentially eligible users of exempt agricultural fuels that describes the mechanisms by which an exempt agricultural fuel user may purchase exempt agricultural fuel and, in consultation with the Department of Licensing, mechanisms for obtaining a remittance for exempt agricultural fuel.

The temporary CCA exemption for fuels used to transport agricultural products on public highways is extended by two years, and made to expire on December 31, 2029.

The special fuel exempted as exempt agricultural fuel is specified to mean diesel, propane, and biodiesel. The motor vehicle fuel subject to the same CCA exemption is specified to mean gasoline.

Until December 31, 2029, the CCA exemption for fuel used by farm fuel users for agricultural purposes is specified to include fuel that used to propel a motor vehicle or for other purposes. Beginning January 1, 2030, this CCA exemption is specified to apply only to fuel used to propel a motor vehicle.

A legislative intent is declared for an extension of the remittance program for exempt agricultural fuel implemented by the Department of Licensing through the 2025-2027 biennium, and for the remittance program to include payments to farm fuel users who purchased kerosene or natural gas for agricultural purposes.

Votes on Final Passage:

House	93	4	
Senate	49	0	(Senate amended)
House	94	2	(House concurred)

Effective: May 15, 2025