SENATE BILL REPORT
E2SHB 1912

As of April 5, 2025

Title: An act relating to the exemption for fuels used for agricultural purposes in the climate commitment act.

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).

Brief History: Passed House: 3/12/25, 93-4.
Committee Activity: Environment, Energy & Technology: 3/25/25, 4/01/25 [DPA-WM, w/oRec].
Ways & Means: 4/05/25.

Brief Summary of Amended Bill

- Establishes a process by which certain entities may voluntarily notify the Department of Ecology (Ecology) of locations where agricultural fuels exempt from a compliance obligation under the Climate Commitment Act (exempt fuels) are available for purchase.
- Requires Ecology to publish, by October 1, 2025, certain information on its website to assist individuals seeking to purchase exempt fuels or obtain a remittance from the Department of Licensing.
- Extends the exemption for certain fuels used to transport agricultural products on public highways by two years.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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.

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Shewmake, Chair; Slatter, Vice Chair; Boehnke, Ranking Member; Dhingra, Liias, Lovelett, Ramos, Short and Wellman.

Minority Report: That it be referred without recommendation.
Signed by Senators Harris and MacEwen.

Staff: Matt Shepard-Koningsor (786-7627)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jed Herman (786-7346)

Background: Cap-and-Invest Program. In 2021, as part of the Climate Commitment Act, the Legislature directed the Department of Ecology (Ecology) to implement a Cap-and-Invest Program (Program), which is a market-based system designed to achieve the greenhouse gas (GHG) limits set in state law. Under the Program, covered entities must either reduce their GHG emissions or obtain compliance instruments—allowances or offset credits—equal to their covered emissions.

The Program covers approximately 75 percent of statewide GHG emissions. Emissions exempt from coverage under the Program include, in part, emissions from: (1) the combustion of aviation fuels and certain watercraft fuels, (2) certain coal-fired electric generation facilities, and (3) the combustion of biomass or biofuels.

There are two emissions exemptions applying to the agricultural sector. First, there is an exemption for motor vehicle fuel or special fuel used exclusively for agricultural purposes by a farm fuel user. This exemption is available only if a fuel purchaser provides the fuel seller with an exemption certificate, as prescribed by Ecology. Agricultural purposes means the performance of activities directly related to the growing, raising, or producing of agricultural products. Farm fuel user means a farmer, or a person who provides horticultural services for farmers, such as services associated with soil preparation, and crop cultivation and harvesting. Second, there is a temporary, five-year exemption for fuels used to transport agricultural products on public highways. This expanded exemption expires December 31, 2027.

2023-25 Operating Budget. The 2023-25 Biennial Operating Budget appropriated $30 million to the Department of Licensing (DOL) to administer a tiered payment system providing funding to farm fuel users and transporters who purchased fuel for agricultural purposes.

Summary of Amended Bill: Locating and Purchasing Exempt Fuels, and Obtaining a Department of Licensing Remittance. A retail fuel seller, including an exempt fuel purchase aggregator, as defined, may voluntarily notify Ecology of locations where exempt

agricultural fuel is available for purchase, including contact and location information, and the types of exempt fuel available.

By October 1, 2025, Ecology must:

- post and periodically update an easily-searchable directory tool on its website, which must include the voluntary information reported by retail fuel sellers; and
- publish on its website, a guide for potentially eligible users of exempt agricultural fuels that describes the mechanisms by which:
    1. potentially eligible users may obtain a remittance from DOL, with specified information; or
    2. the exempt fuel user may purchase exempt fuels.

Defined Terms. For the purposes of the agricultural exemptions, "motor vehicle fuel" means gasoline, the chief use of which is as a fuel for the propulsion of motor vehicles or vessels; and "special fuel" means diesel and biodiesel.

Extension of the Expanded Agricultural Fuels Exemption. The exemption for fuels used to transport agricultural products on public highways expires December 31, 2029.

Other. The legislation provides intent language relating to continuing the DOL Remittance Program (remittance program), pairing the remittance program with the provisions of this legislation, and including payments to farm fuel users who purchased kerosene, propane, or natural gas for agricultural purposes in the remittance program.

The exemption relating to motor vehicle fuel or special fuel used exclusively for agricultural purposes by a farm fuel user is available regardless of whether the fuel is used to propel a motor vehicle until December 31, 2029, and after that date, it only applies to fuel used to propel a motor vehicle.

EFFECT OF ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE AMENDMENT(S):

- Defines "motor vehicle fuel" to mean gasoline, the chief use of which is as a fuel for the propulsion of motor vehicles or vessels; and "special fuel" to mean diesel and biodiesel.
- Provides that the exemption relating to motor vehicle fuel or special fuel used exclusively for agricultural purposes by a farm fuel user is available regardless of whether the fuel is used to propel a motor vehicle until January 1, 2030, and after that date, it only applies to fuel used to propel a motor vehicle.
- Removes proposed language relating to the Department of Commerce providing financial incentives or removing financial barriers to retail fuel sellers for making exempt fuels available for purchase at a price different from that for non-exempt fuels.
- Adds legislative intent to include payments to farm fuel users who purchased

kerosene, propane, or natural gas for agricultural purposes in the remittance program.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill (Environment, Energy & Technology): *The committee recommended a different version of the bill than what was heard.* PRO: I was honored to serve on the Governor's transition team and while this bill does not do everything, it helps fulfill the promise made to agriculture under the CCA. The provisions of this bill can help every agricultural producer who chooses to use them. We think the two-year exemption extension is good. We have learned most farmers are able to access exempt fuels throughout the state, but some smaller farmers are not. This bill has been worked well. We need to do a better job of educating farmers so they know where to purchase exempt fuel. While it did take awhile for fuel distributors, the exemption is working. We are working on an amendment to clarify the definition of special fuel. We agree with Ecology's interpretation of public highways to include waterways. The bill provides a workable solution to a complex problem within the existing system. There is a fuel location in every area for individuals to access exempt fuel. The bill reduces financial barriers for retail fuel stations to be able to provide exempt fuel access directly at the point of sale. This version of the bill lowers administrative costs while creating easily-accessible information to improve outcomes for agricultural fuel users.

CON: If this bill is considered a fix, it needs to do more. We are concerned the bill would just codify what is happening today, and we have been circulating an amendment. The bill does not resolve our issues. We oppose this bill as written since the natural gas part of this bill is not solved. We hope the bill will be amended to allow natural gas to pass on the exemption.

OTHER: Most of the agricultural fuels are taken care of, but there are some small farmers that are unable to receive the exemption. Commerce is in the process of determining how it can set up a method to provide an incentive to retail fuel sellers.

Persons Testifying (Environment, Energy & Technology): PRO: Representative Tom Dent, Prime Sponsor; Clifford Traisman, Washington Conservation Action; Diana Carlen, Washington Oil Marketers Association; Mark Streuli, WA Potato and Onion Assoc, WA Cattlemen's Assoc; Jay Gordon, Washington State Dairy Federation; Ryan Poe, Washington Association of Wheat Growers; David Ducharme, Washington State Tree Fruit Association; Joel Creswell, Washington State Department of Ecology; Kate Brouns, Governor

Ferguson's Policy Office; Ben Buchholz, NW Ag CoopCouncil, WA Friends of Farms and Forests, Far West Agribusiness Assoc, NW Grain Growers.

CON: Bridget Coon, WA Farm Bureau/Bar U Ranch; Bob Landgren, Vanguard Nursery; Dennis Lagler, Lagler Dairy.

OTHER: Jessica Spiegel, WSPA; Jon Paul Driver, DD Farms; Dave Pringle, Washington State Department of Commerce.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: Thank you for including the agricultural fuel exemption originally in the CCA and for putting money in the remittance program. We appreciate the two-year extension of on-road in this bill and recognize that there is some confusion around special fuels, but we want to see a good bill keep moving forward.

The bill provides a workable solution to a complex situation by recognizing existing systems that make agricultural-exempt fuel available to farmers and providing another avenue for farmers to recover their costs. There is more work to be done on the bill for tree fruit, and the propane issue is very important in protecting our crops.

On behalf of fuel distributors, we support farmers receiving the exemption. We've worked hard with the Department of Ecology and our fuel suppliers to put mechanisms in place where it works in the supply chain to get the exemption as close as possible to the point of sale. The rebate program comes in when there are gaps. We think what is great about this bill is putting a directory out there so people are able to access exempt fuel.

Propane is used in in the agricultural industry to dry grains. One of its main purposes is to fight off frost, especially in the lower Yakima Valley and in other parts of Eastern Washington, where tree fruit is growing. The other most important reason for using propane is to dry hops. That has always been considered a special use fuels, so we need to get that put back in. But we support the bill and appreciate you hearing it today and for keeping it moving forward.

We do believe that there are some critical things that need to be fixed, such as the clarification between Ecology and Department of Licensing over the special fuel exemption. Also you can't have a $3 million pool replacing a $30 million pool. We believe that the voluntary approach for retailers is better than having a mandatory one.

CON: As currently written, this bill does not resolve outstanding issues for farms seeking to utilize the agricultural fuel exemption under the Climate Commitment Act. Last week, a critical exemption for special fuels like natural gas and propane was removed. Reimbursements for this loss would be dependent on the agriculture support program.

However, the current funding proposal reduced that program from an original $30 million to just $3 million. This amount would not cover current agriculture fees for even one year, let alone the addition of special fuels. This will leave farms with no options to recover those fees, with some farms calculating up to $100,000 per year loss if this passes in its current form.

OTHER: We do recognize some of the positive steps in the bill and recognize others have some concerns and that the fuel supply chain is incredibly complex. We want to make sure that any changes are vetted with fuel supply because it can have unintended cost impacts.

Persons Testifying (Ways & Means): PRO: Ben Buchholz, NW Ag Cooperative Council; Mark Streuli, WA Assoc of Wheat Growers, WA Potato and Onion Assoc, WA Cattlemen's Assoc; David Ducharme, Washington State Tree Fruit Association; Diana Carlen, Washington Oil Marketers Association; Mark Herke, Yakima Klickitat Farm Association.

CON: Bre Elsey, WA Farm Bureau.

OTHER: Jessica Spiegel, WSPA; Jay Gordon, Washington State Dairy Federation.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.