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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1912

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State of Washington

69th Legislature

2025 Regular Session

**By** House 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)

READ FIRST TIME 02/28/25.

1 AN ACT Relating to the exemption for fuels used for agricultural  
2 purposes in the climate commitment act; amending RCW 70A.65.080;  
3 adding a new section to chapter 70A.65 RCW; and declaring an  
4 emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

8 (1) By October 1, 2025, the department must post and periodically  
9 update on its website a directory tool, by county and, if applicable,  
10 city, of the name and address of each retail fuel seller of exempt  
11 agricultural fuel under RCW 70A.65.080(7)(e) that has notified the  
12 department under subsection (3) of this section including, but not  
13 limited to, retail fuel sellers that rely on a cardholder or  
14 membership program and exempt fuel purchase aggregators. The  
15 department may only identify in the directory entities that make  
16 available exempt agricultural fuel under RCW 70A.65.080(7)(e) for  
17 purchase at a price that is different than the price of fuel that is  
18 not exempt under RCW 70A.65.080(7)(e). The directory tool must allow  
19 a user to use a simple search function to find a retail seller of  
20 exempt agricultural fuel in a specific jurisdiction within the state.

1 (2) (a) By October 1, 2025, the department must publish on its  
2 website a guide for potentially eligible users of exempt agricultural  
3 fuel under RCW 70A.65.080(7) (e) that describes:

4 (i) In consultation with the department of licensing, the  
5 mechanisms by which the exempt fuel user may obtain a remittance; or

6 (ii) The mechanisms by which the exempt fuel user may purchase  
7 exempt fuel including, but not limited to, exempt fuel purchase  
8 aggregators and cardholder or membership-based payment options  
9 offered by private parties. The information that the department is  
10 required to publish under this subsection is limited to information  
11 that is voluntarily disclosed by retail fuel sellers or exempt fuel  
12 purchase aggregators.

13 (b) This guide must include a description of the information  
14 submission and procedural requirements associated with obtaining a  
15 remittance payment under the remittance program implemented by the  
16 department of licensing.

17 (3) A retail fuel seller including, but not limited to, an exempt  
18 fuel purchase aggregator or cardholder or membership-based payment  
19 option, may voluntarily notify the department of locations where  
20 exempt agricultural fuel under RCW 70A.65.080(7) (e) is available for  
21 purchase, including contact information for the location, types of  
22 exempt fuel for sale, and the address and latitude and longitude of  
23 each location.

24 (4) Subject to amounts appropriated for this purpose, the  
25 department of commerce must provide financial incentives or remove  
26 financial barriers to retail fuel sellers for making exempt  
27 agricultural fuel available for purchase at a price that is different  
28 than the price of fuel that is not exempt under RCW 70A.65.080(7) (e)  
29 including, but not limited to, providing financial assistance to  
30 retail fuel sellers to make cardholder or membership-based payment  
31 options available for use at the retail fuel seller.

32 (5) Nothing in this section establishes, limits, or otherwise  
33 alters the obligation of a person to be a covered or opt-in entity  
34 under RCW 70A.65.080, an opt-in entity under RCW 70A.65.090(3), or to  
35 report emissions under RCW 70A.15.2200. Nothing in this section makes  
36 a fuel seller that is not a covered entity under this chapter subject  
37 to the penalties provided in RCW 70A.65.200(5).

38 (6) It is the intent of the legislature to pair the activities  
39 described in this section with a continuation, through the 2025-2027  
40 biennium of the payment program for exempt fuel specified in RCW

1 70A.65.080(7)(e) implemented by the department of licensing as  
2 required by the 2024 supplemental omnibus operating appropriations  
3 act, ESSB 5950. It is the intent of the legislature to fund the  
4 continuation of the department of licensing's remittance program with  
5 all unexpended funds appropriated in the 2024 supplemental omnibus  
6 operating appropriations act for purposes of that program.

7 (7) For purposes of this section "exempt fuel purchase  
8 aggregator" means a for-profit or nonprofit entity that makes exempt  
9 agricultural fuel available to customers for purchase at a  
10 differential rate than the rate charged for nonexempt fuels, and that  
11 has established procedures for verifying that the fuel purchased  
12 qualifies as exempt, as well as procedures for tracking and reporting  
13 the volumes of exempt fuel sales to covered or opt-in entities from  
14 which the aggregator purchases fuel.

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

17 (1) A person is a covered entity as of the beginning of the first  
18 compliance period and all subsequent compliance periods if the person  
19 reported emissions under RCW 70A.15.2200 for any calendar year from  
20 2015 through 2019, or if additional data provided as required by this  
21 chapter indicates that emissions for any calendar year from 2015  
22 through 2019 equaled or exceeded any of the following thresholds, or  
23 if the person is a first jurisdictional deliverer and imports  
24 electricity into the state during the compliance period:

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

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

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

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

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

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

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

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

20 (e)(i) Where the person supplies natural gas in amounts that  
21 would result in exceeding 25,000 metric tons of carbon dioxide  
22 equivalent emissions if fully combusted or oxidized, excluding the  
23 amounts for fuel products that are produced or imported with a  
24 documented final point of delivery outside of Washington and  
25 combusted outside of Washington, and excluding the amounts: (A)  
26 Supplied to covered entities under (a) through (d) of this  
27 subsection; and (B) delivered to opt-in entities;

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

35 (iii) Where the person is an end-use customer in the state who  
36 directly purchases natural gas from a person that is not a natural  
37 gas company and has the natural gas delivered through an interstate  
38 pipeline to a distribution system owned by the purchaser in amounts  
39 that would result in exceeding 25,000 metric tons of carbon dioxide  
40 equivalent emissions if fully combusted or oxidized, excluding the

1 amounts: (A) Supplied to covered entities under (a) through (d) of  
2 this subsection; and (B) delivered to opt-in entities.

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

11 (3) A person is a covered entity as of the beginning of the third  
12 compliance period, and all subsequent compliance periods if the  
13 person reported emissions under RCW 70A.15.2200 or provided emissions  
14 data as required by this chapter for 2027 or 2028, where the person  
15 owns or operates a railroad company, as that term is defined in RCW  
16 81.04.010, and the railroad company's emissions equal or exceed  
17 25,000 metric tons of carbon dioxide equivalent.

18 (4) When a covered entity reports, during a compliance period,  
19 emissions from a facility under RCW 70A.15.2200 that are below the  
20 thresholds specified in subsection (1) or (2) of this section, the  
21 covered entity continues to have a compliance obligation through the  
22 current compliance period. When a covered entity reports emissions  
23 below the threshold for each year during an entire compliance period,  
24 or has ceased all processes at the facility requiring reporting under  
25 RCW 70A.15.2200, the entity is no longer a covered entity as of the  
26 beginning of the subsequent compliance period unless the department  
27 provides notice at least 12 months before the end of the compliance  
28 period that the facility's emissions were within 10 percent of the  
29 threshold and that the person will continue to be designated as a  
30 covered entity in order to ensure equity among all covered entities.  
31 Whenever a covered entity ceases to be a covered entity, the  
32 department shall notify the appropriate policy and fiscal committees  
33 of the legislature of the name of the entity and the reason the  
34 entity is no longer a covered entity.

35 (5) For types of emission sources described in subsection (1) of  
36 this section that begin or modify operation after January 1, 2023,  
37 and types of emission sources described in subsection (2) of this  
38 section that begin or modify operation after 2027, coverage under the  
39 program starts in the calendar year in which emissions from the  
40 source exceed the applicable thresholds in subsection (1) or (2) of

1 this section, or upon formal notice from the department that the  
2 source is expected to exceed the applicable emissions threshold,  
3 whichever happens first. Sources meeting these conditions are  
4 required to transfer their first allowances on the first transfer  
5 deadline of the year following the year in which their emissions were  
6 equal to or exceeded the emissions threshold.

7 (6) For emission sources described in subsection (1) of this  
8 section that are in operation or otherwise active between 2015 and  
9 2019 but were not required to report emissions for those years under  
10 RCW 70A.15.2200 for the reporting periods between 2015 and 2019,  
11 coverage under the program starts in the calendar year following the  
12 year in which emissions from the source exceed the applicable  
13 thresholds in subsection (1) of this section as reported pursuant to  
14 RCW 70A.15.2200 or provided as required by this chapter, or upon  
15 formal notice from the department that the source is expected to  
16 exceed the applicable emissions threshold for the first year that  
17 source is required to report emissions, whichever happens first.  
18 Sources meeting these criteria are required to transfer their first  
19 allowances on the first transfer deadline of the year following the  
20 year in which their emissions, as reported under RCW 70A.15.2200 or  
21 provided as required by this chapter, were equal to or exceeded the  
22 emissions threshold.

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

26 (a) Emissions from the combustion of aviation fuels;

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

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

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

34 (e)(i) Motor vehicle fuel or special fuel that is used  
35 exclusively for agricultural purposes by a farm fuel user. This  
36 exemption is available only if a buyer of motor vehicle fuel or  
37 special fuel provides the seller with an exemption certificate in a  
38 form and manner prescribed by the department. For the purposes of  
39 this subsection, "agricultural purposes" and "farm fuel user" have  
40 the same meanings as provided in RCW 82.08.865.

1 (ii) The department must determine a method for expanding the  
2 exemption provided under (e)(i) of this subsection to include fuels  
3 used for the purpose of transporting agricultural products on public  
4 highways. The department must maintain this expanded exemption (~~for~~  
5 ~~a period of five years~~) until December 31, 2029, in order to provide  
6 the agricultural sector with a feasible transition period;

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

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

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

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

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

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

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

8 (e) A lead agency under chapter 43.21C RCW or a permitting agency  
9 shall allow a new or expanded facility that is a covered entity or  
10 opt-in entity to satisfy a mitigation requirement for its covered  
11 emissions under this chapter and under any greenhouse gas emission  
12 mitigation requirements for covered emissions under chapter 43.21C  
13 RCW by submitting to the department the number of compliance  
14 instruments equivalent to its covered emissions during a compliance  
15 period.

16 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of  
18 the state government and its existing public institutions, and takes  
19 effect immediately.

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