
SUBSTITUTE HOUSE BILL 2421

State of Washington

56th Legislature

2000 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Pennington, G. Chandler, Dunn, Schoesler, Delvin, Schindler, Koster, Mielke, Boldt and Esser)

Read first time 02/04/2000. Referred to Committee on .

1 AN ACT Relating to air pollution control; amending RCW 70.120.170,
2 70.94.745, 70.94.130, and 70.94.100; adding a new section to chapter
3 46.16 RCW; adding a new section to chapter 46.61 RCW; adding a new
4 section to chapter 70.120 RCW; adding a new section to chapter 19.112
5 RCW; creating a new section; prescribing penalties; and providing an
6 expiration date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the federal clean
9 air act amendments of 1990 sought to accelerate the deployment of
10 clean-fuel vehicles through the use of nonmonetary incentives. The
11 federal regulations adopted to implement the clean air act amendments
12 direct states to exempt federally certified and labeled clean-fuel
13 vehicles in fleets from high occupancy vehicle restrictions for single-
14 occupant vehicles. In addition, the federal transportation equity act
15 of the twenty-first century encourages and permits states to extend the
16 high occupancy vehicle lane access exemption to nonfleet owners of
17 clean-fuel vehicles.

18 The legislature finds that the goals of the state and federal clean
19 air acts will be advanced by extending the use of the high occupancy

1 vehicle lanes to federally certified clean-fuel vehicles as long as the
2 vehicles are not a significant cause of congestion in the high
3 occupancy vehicle lanes.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.16 RCW
5 to read as follows:

6 (1) By June 30, 2001, the department shall issue special clean-fuel
7 license plates, bearing the standard background, for passenger vehicles
8 that are federally certified as: (a) Inherently low-emission vehicles;
9 (b) ultra low-emission vehicles; or (c) zero-emission vehicles. The
10 license plates shall denote the vehicle's certification with the
11 inherently low-emission, ultra low-emission, or zero-emission
12 designation.

13 (2) The department shall issue the special clean-fuel license
14 plates upon payment by the applicant of all license fees, but the
15 department may not set or charge an additional fee for the special
16 clean-fuel license plates. The department shall replace, at cost,
17 license plates issued under this section if they are lost, stolen,
18 damaged, defaced, or destroyed. The clean-fuel license plates shall
19 remain with the vehicle for which they were initially issued and may
20 not be used on another vehicle.

21 (3) The department shall revoke the special clean-fuel designation
22 if the vehicle is required to have a standard emission test, under
23 chapter 70.120 RCW, and it fails the test. If the vehicle fails the
24 emission test, the vehicle's owner shall return the special clean-fuel
25 license plates to the department within fifteen days and apply for
26 regular license plates.

27 (4) The use of a special clean-fuel license plate on a vehicle that
28 is not federally certified, or on a certified vehicle that has failed
29 an emission test more than fifteen days previous, is a misdemeanor.

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.61 RCW
31 to read as follows:

32 (1) The state department of transportation and the local
33 authorities, in consultation with the department of ecology, may permit
34 a vehicle with one or more occupants to operate in high occupancy
35 vehicle lanes if it is certified as an inherently low-emission vehicle,
36 ultra low-emission vehicle, or zero-emission vehicle pursuant to Title
37 40, Chapter 1, Part 88, Code of Federal Regulations, is labeled in

1 accordance with section 88.312-93(c) of that title, and bears a special
2 clean-fuel license plate as provided in section 2 of this act.

3 (2) Inherently low-emission fleet vehicles that have been
4 certified, labeled, and issued special clean-fuel license plates shall
5 be allowed in the high occupancy vehicle lanes with only one occupant
6 in federally designated nonattainment air pollution areas. For the
7 purpose of this section "fleet" means a vehicle owner who is in a
8 nonattainment area and owns a total of at least ten motor vehicles,
9 including the inherently low-emission vehicle, that operate in the
10 owner's fleet.

11 (3) This section expires June 30, 2005.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.120 RCW
13 to read as follows:

14 If a vehicle with special clean-fuel license plates bearing the
15 designation inherently low-emission, ultra low-emission, or zero-
16 emission, as provided in section 2 of this act, fails an emission test
17 required under this chapter, the department shall immediately send
18 written notice of the failure to the department of licensing.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 19.112 RCW
20 to read as follows:

21 Methyl tertiary-butyl ether may not be intentionally added to any
22 gasoline, motor fuel, or clean fuel produced for sale or use in the
23 state of Washington after December 31, 2002, and in no event may methyl
24 tertiary-butyl ether be present in gasoline above six-tenths of one
25 percent by volume.

26 **Sec. 6.** RCW 70.120.170 and 1998 c 342 s 4 are each amended to read
27 as follows:

28 (1) The department shall administer a system for emission
29 inspections of all motor vehicles, except those described in RCW
30 46.16.015(2), that are registered within the boundaries of each
31 emission contributing area. Under such system a motor vehicle shall be
32 inspected biennially except where an annual program would be required
33 to meet federal law and prevent federal sanctions. In addition, motor
34 vehicles shall be inspected at each change of registered owner of a
35 licensed vehicle as provided under RCW 46.16.015.

36 (2) The director shall:

1 (a) Adopt procedures for conducting emission inspections of motor
2 vehicles. The inspections may include idle and high revolution per
3 minute emission tests, but may not include the transient emission test
4 known as the IM 240 test developed by the United States environmental
5 protection agency and authorized in 40 C.F.R. 51.357 as it exists on
6 the effective date of this section. The emission test for diesel
7 vehicles shall consist solely of a smoke opacity test.

8 (b) Adopt criteria for calibrating emission testing equipment.
9 Electronic equipment used to test for emissions standards provided for
10 in this chapter shall be properly calibrated. The department shall
11 examine frequently the calibration of the emission testing equipment
12 used at the stations.

13 (c) Authorize, through contracts, the establishment and operation
14 of inspection stations for conducting vehicle emission inspections
15 authorized in this chapter. No person contracted to inspect motor
16 vehicles may perform for compensation repairs on any vehicles. No
17 public body may establish or operate contracted inspection stations.
18 Any contracts must be let in accordance with the procedures established
19 for competitive bids in chapter 43.19 RCW.

20 (3) Subsection (2)(c) of this section does not apply to volunteer
21 motor vehicle inspections under RCW 70.120.020(1) if the inspections
22 are conducted for the following purposes:

23 (a) Auditing;

24 (b) Contractor evaluation;

25 (c) Collection of data for establishing calibration and performance
26 standards; or

27 (d) Public information and education.

28 (4)(a) The director shall establish by rule the fee to be charged
29 for emission inspections. The inspection fee shall be a standard fee
30 applicable state-wide or throughout an emission contributing area and
31 shall be no greater than fifteen dollars. Surplus moneys collected
32 from fees over the amount due the contractor shall be paid to the state
33 and deposited in the general fund. Fees shall be set at the minimum
34 whole dollar amount required to (i) compensate the contractor or
35 inspection facility owner, and (ii) offset the general fund
36 appropriation to the department to cover the administrative costs of
37 the motor vehicle emission inspection program.

38 (b) Before each inspection, a person whose motor vehicle is to be
39 inspected shall pay to the inspection station the fee established under

1 this section. The person whose motor vehicle is inspected shall
2 receive the results of the inspection. If the inspected vehicle
3 complies with the standards established by the director, the person
4 shall receive a dated certificate of compliance. If the inspected
5 vehicle does not comply with those standards, one reinspection of the
6 vehicle shall be afforded without charge.

7 (5) All units of local government and agencies of the state with
8 motor vehicles garaged or regularly operated in an emissions
9 contributing area shall test the emissions of those vehicles annually
10 to ensure that the vehicle's emissions comply with the emission
11 standards established by the director. All state agencies outside of
12 emission contributing areas with more than twenty motor vehicles housed
13 at a single facility or contiguous facilities shall test the emissions
14 of those vehicles annually to ensure that the vehicles' emissions
15 comply with standards established by the director. A report of the
16 results of the tests shall be submitted to the department.

17 **Sec. 7.** RCW 70.94.745 and 1995 c 206 s 1 are each amended to read
18 as follows:

19 (1) It shall be the responsibility and duty of the department of
20 natural resources, department of ecology, department of agriculture,
21 fire districts, and local air pollution control authorities to
22 establish, through regulations, ordinances, or policy, a limited
23 burning permit program.

24 (2) The permit program shall apply to residential and land clearing
25 burning in the following areas:

26 (a) In the nonurban areas of any county with an unincorporated
27 population of greater than fifty thousand; and

28 (b) In any city and urban growth area that is not otherwise
29 prohibited from burning pursuant to RCW 70.94.743.

30 (3) The permit program shall apply only to land clearing burning in
31 the nonurban areas of any county with an unincorporated population of
32 less than fifty thousand.

33 (4) The permit program may be limited to a general permit by rule,
34 or by verbal, written, or electronic approval by the permitting entity.

35 (5) Notwithstanding any other provision of this section, neither a
36 permit nor the payment of a fee shall be required for outdoor burning
37 for the purpose of disposal of tumbleweeds blown by wind. Such burning
38 shall not be conducted during an air pollution episode or any stage of

1 impaired air quality declared under RCW (~~(70.94.714)~~) 70.94.715. This
2 subsection (5) shall only apply within counties with a population less
3 than two hundred fifty thousand.

4 (6) Burning shall be prohibited in an area when an alternate
5 technology or method of disposing of the organic refuse is available,
6 reasonably economical, and less harmful to the environment. The
7 department is required to define the term "reasonably economical" in a
8 report to the legislature by December 1, 2001. In developing this
9 definition, the department shall consult with local air authorities
10 where they exist, and with the governing bodies of individual counties
11 where no local air authority exists. The term may not be adopted by
12 rule until the legislature has had an opportunity to review the
13 definition. It is the policy of this state to foster and encourage
14 development of alternate methods or technology for disposing of or
15 reducing the amount of organic refuse.

16 (7) Incidental agricultural burning must be allowed without
17 applying for any permit and without the payment of any fee if:

18 (a) The burning is incidental to commercial agricultural
19 activities;

20 (b) The operator notifies the local fire department within the area
21 where the burning is to be conducted;

22 (c) The burning does not occur during an air pollution episode or
23 any stage of impaired air quality declared under RCW 70.94.715; and

24 (d) Only the following items are burned:

25 (i) Orchard prunings;

26 (ii) Organic debris along fence lines or irrigation or drainage
27 ditches; or

28 (iii) Organic debris blown by wind.

29 (8) As used in this section, "nonurban areas" are unincorporated
30 areas within a county that is not designated as an urban growth area
31 under chapter 36.70A RCW.

32 (9) Nothing in this section shall require fire districts to enforce
33 air quality requirements related to outdoor burning, unless the fire
34 district enters into an agreement with the department of ecology,
35 department of natural resources, a local air pollution control
36 authority, or other appropriate entity to provide such enforcement.

37 **Sec. 8.** RCW 70.94.130 and 1998 c 342 s 1 are each amended to read
38 as follows:

1 The board shall exercise all powers of the authority except as
2 otherwise provided. The board shall conduct its first meeting within
3 thirty days after all of its members have been appointed or designated
4 as provided in RCW 70.94.100. The board shall meet at least ten times
5 per year. All meetings shall be publicly announced prior to their
6 occurrence. All meetings shall be open to the public. A majority of
7 the board shall constitute a quorum for the transaction of business and
8 shall be necessary for any action taken by the board. The board shall
9 elect from (~~its members~~) the elected officials on the board a chair
10 and such other officers as may be necessary. Any member of the board
11 may designate a regular alternate to serve on the board in his or her
12 place with the same authority as the member when he or she is unable to
13 attend. In no event may a regular alternate serve as the permanent
14 chair. Each member of the board, or his or her representative, shall
15 receive from the authority compensation consistent with such
16 authority's rates (but not to exceed one thousand dollars per year) for
17 time spent in the performance of duties under this chapter, plus the
18 actual and necessary expenses incurred by the member in such
19 performance. The board may appoint a control officer, and any other
20 personnel, and shall determine their salaries, and pay same, together
21 with any other proper indebtedness, from authority funds.

22 **Sec. 9.** RCW 70.94.100 and 1991 c 199 s 704 are each amended to
23 read as follows:

24 (1) The governing body of each authority shall be known as the
25 board of directors.

26 (2) In the case of an authority comprised of one county the board
27 shall be comprised of two appointees of the city selection committee,
28 at least one of whom shall represent the city having the most
29 population in the county, and two representatives to be designated by
30 the board of county commissioners. In the case of an authority
31 comprised of two, three, four, or five counties, the board shall be
32 comprised of one appointee from each county, who shall represent the
33 city having the most population in such county, to be designated by the
34 mayor and city council of such city, and one representative from each
35 county to be designated by the board of county commissioners of each
36 county making up the authority. In the case of an authority comprised
37 of six or more counties, the board shall be comprised of one
38 representative from each county to be designated by the board of county

1 commissioners of each county making up the authority, and three
2 appointees, one each from the three largest cities within the local
3 authority's jurisdiction to be appointed by the mayor and city council
4 of such city.

5 (3) If the board of an authority otherwise would consist of an even
6 number, the members selected as above provided shall agree upon and
7 elect an additional member who shall be either a member of the
8 governing body of one of the towns, cities or counties comprising the
9 authority, or a private citizen residing in the authority.

10 (4) The terms of office of board members shall be four years.

11 (5) Wherever a member of a board has a potential conflict of
12 interest in an action before the board, the member shall declare to the
13 board the nature of the potential conflict prior to ~~((participating in
14 the action))~~ the board's review of the action, and shall refrain from
15 voting on the action before the board. ~~((The board shall, if the
16 potential conflict of interest, in the judgment of a majority of the
17 board, may prevent the member from a fair and objective review of the
18 case, remove the member from participation in the action.))~~

19 (6) A member of a board of directors may not work in any capacity
20 for an entity that is regulated by a local air authority of which the
21 director is a member. If a member of a board of directors is offered
22 a position of employment with an entity that is regulated by the local
23 air authority of which the director is a member, the member is required
24 to choose between continued service on the board or the employment
25 position. This subsection does not prohibit a person who is no longer
26 employed by an entity currently regulated by the board from serving on
27 the board of directors.

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