
HOUSE BILL 2566

State of Washington

57th Legislature

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By Representatives Linville, Pflug, Cooper, Barlean, Roach, Berkey, Wood, Reardon, Hunt, Delvin, Sullivan, Lysen, Anderson, Morris, Crouse, Upthegrove, Miloscia, Morell, Chase, Rockefeller, Simpson, Darneille, Conway, McIntire, Santos and Edwards

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1 AN ACT Relating to providing incentives to reduce air pollution
2 through the use of clean alternative fuel vehicles; amending RCW
3 70.94.030; adding new sections to chapter 70.94 RCW; adding new
4 sections to chapter 82.04 RCW; providing effective dates; and providing
5 an expiration date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 70.94 RCW
8 to read as follows:

9 The legislature finds that Washington state faces threats to its
10 economic vitality, public health, and environment from the ongoing and
11 increasing use of gasoline and diesel fuels in motor vehicles. Motor
12 vehicle emissions from petroleum fuels account for more than half of
13 all air pollutants and almost sixty percent of total carbon dioxide
14 emissions in Washington. The legislature finds it is important to
15 begin addressing the negative impacts of continued gasoline and diesel
16 fuel use. Addressing motor vehicle emissions is further needed because
17 of the expected increases in population and vehicle miles traveled,
18 which threaten to erode air quality gains made over the last decade.
19 To make net progress in improving air quality, reducing the threat of

1 climate change, and protecting public health and the environment, the
2 legislature finds it is necessary to encourage the use of clean
3 alternative fuel vehicles.

4 **Sec. 2.** RCW 70.94.030 and 1993 c 252 s 2 are each amended to read
5 as follows:

6 Unless a different meaning is plainly required by the context, the
7 following words and phrases as hereinafter used in this chapter shall
8 have the following meanings:

9 (1) "Air contaminant" means dust, fumes, mist, smoke, other
10 particulate matter, vapor, gas, odorous substance, or any combination
11 thereof.

12 (2) "Air pollution" is presence in the outdoor atmosphere of one or
13 more air contaminants in sufficient quantities and of such
14 characteristics and duration as is, or is likely to be, injurious to
15 human health, plant or animal life, or property, or which unreasonably
16 interfere with enjoyment of life and property. For the purpose of this
17 chapter, air pollution shall not include air contaminants emitted in
18 compliance with chapter 17.21 RCW.

19 (3) "Air quality standard" means an established concentration,
20 exposure time, and frequency of occurrence of an air contaminant or
21 multiple contaminants in the ambient air which shall not be exceeded.

22 (4) "Ambient air" means the surrounding outside air.

23 (5) "Authority" means any air pollution control agency whose
24 jurisdictional boundaries are coextensive with the boundaries of one or
25 more counties.

26 (6) "Best available control technology" (BACT) means an emission
27 limitation based on the maximum degree of reduction for each air
28 pollutant subject to regulation under this chapter emitted from or that
29 results from any new or modified stationary source, that the permitting
30 authority, on a case-by-case basis, taking into account energy,
31 environmental, and economic impacts and other costs, determines is
32 achievable for such a source or modification through application of
33 production processes and available methods, systems, and techniques,
34 including fuel cleaning, clean fuels, or treatment or innovative fuel
35 combustion techniques for control of each such a pollutant. In no
36 event shall application of "best available control technology" result
37 in emissions of any pollutants that will exceed the emissions allowed
38 by any applicable standard under 40 C.F.R. Part 60 and Part 61, as they

1 exist on July 25, 1993, or their later enactments as adopted by
2 reference by the director by rule. Emissions from any source utilizing
3 clean fuels, or any other means, to comply with this subsection shall
4 not be allowed to increase above levels that would have been required
5 under the definition of BACT as it existed prior to enactment of the
6 (~~(federal)~~) federal clean air act amendments of 1990.

7 (7) "Best available retrofit technology" (BART) means an emission
8 limitation based on the degree of reduction achievable through the
9 application of the best system of continuous emission reduction for
10 each pollutant that is emitted by an existing stationary facility. The
11 emission limitation must be established, on a case-by-case basis,
12 taking into consideration the technology available, the costs of
13 compliance, the energy and nonair quality environmental impacts of
14 compliance, any pollution control equipment in use or in existence at
15 the source, the remaining useful life of the source, and the degree of
16 improvement in visibility that might reasonably be anticipated to
17 result from the use of the technology.

18 (8) "Board" means the board of directors of an authority.

19 (9) "Clean alternative fuel vehicle" means a motor vehicle, as
20 defined in RCW 46.04.320, originally designed and equipped by the
21 manufacturer to operate: (a) Exclusively on alternative fuels; (b) as
22 a hybrid vehicle powered by a combination of an electric motor and an
23 engine powered by gasoline, diesel, or an alternative fuel, that has an
24 average estimated fuel economy rating, as determined by the
25 environmental protection agency's national vehicle and fuel emissions
26 laboratory, of at least forty miles per gallon; or (c) as a fuel cell
27 vehicle powered by gasoline or an alternative fuel. Vehicles less than
28 twelve thousand pounds gross vehicle weight must also meet or exceed
29 the federal emission standards for ultra-low emission vehicles. For
30 purposes of this subsection, "alternative fuels" are defined as natural
31 gas, propane, hydrogen, and electricity.

32 (10) "Control officer" means the air pollution control officer of
33 any authority.

34 (~~(10)~~) (11) "Department" or "ecology" means the department of
35 ecology.

36 (~~(11)~~) (12) "Emission" means a release of air contaminants into
37 the ambient air.

38 (~~(12)~~) (13) "Emission standard" and "emission limitation" mean a
39 requirement established under the federal clean air act or this chapter

1 that limits the quantity, rate, or concentration of emissions of air
2 contaminants on a continuous basis, including any requirement relating
3 to the operation or maintenance of a source to assure continuous
4 emission reduction, and any design, equipment, work practice, or
5 operational standard adopted under the federal clean air act or this
6 chapter.

7 ~~((13))~~ (14) "Lowest achievable emission rate" (LAER) means for
8 any source that rate of emissions that reflects:

9 (a) The most stringent emission limitation that is contained in the
10 implementation plan of any state for such class or category of source,
11 unless the owner or operator of the proposed source demonstrates that
12 such limitations are not achievable; or

13 (b) The most stringent emission limitation that is achieved in
14 practice by such class or category of source, whichever is more
15 stringent.

16 In no event shall the application of this term permit a proposed
17 new or modified source to emit any pollutant in excess of the amount
18 allowable under applicable new source performance standards.

19 ~~((14))~~ (15) "Modification" means any physical change in, or
20 change in the method of operation of, a stationary source that
21 increases the amount of any air contaminant emitted by such source or
22 that results in the emission of any air contaminant not previously
23 emitted. The term modification shall be construed consistent with the
24 definition of modification in Section 7411, Title 42, United States
25 Code, and with rules implementing that section.

26 ~~((15))~~ (16) "Multicounty authority" means an authority which
27 consists of two or more counties.

28 ~~((16))~~ (17) "New source" means (a) the construction or
29 modification of a stationary source that increases the amount of any
30 air contaminant emitted by such source or that results in the emission
31 of any air contaminant not previously emitted, and (b) any other
32 project that constitutes a new source under the federal clean air act.

33 ~~((17))~~ (18) "Permit program source" means a source required to
34 apply for or to maintain an operating permit under RCW 70.94.161.

35 ~~((18))~~ (19) "Person" means an individual, firm, public or private
36 corporation, association, partnership, political subdivision of the
37 state, municipality, or governmental agency.

38 ~~((19))~~ (20) "Reasonably available control technology" (RACT)
39 means the lowest emission limit that a particular source or source

1 category is capable of meeting by the application of control technology
2 that is reasonably available considering technological and economic
3 feasibility. RACT is determined on a case-by-case basis for an
4 individual source or source category taking into account the impact of
5 the source upon air quality, the availability of additional controls,
6 the emission reduction to be achieved by additional controls, the
7 impact of additional controls on air quality, and the capital and
8 operating costs of the additional controls. RACT requirements for a
9 source or source category shall be adopted only after notice and
10 opportunity for comment are afforded.

11 ~~((20))~~ (21) "Silvicultural burning" means burning of wood fiber
12 on forest land consistent with the provisions of RCW 70.94.660.

13 ~~((21))~~ (22) "Source" means all of the emissions units including
14 quantifiable fugitive emissions, that are located on one or more
15 contiguous or adjacent properties, and are under the control of the
16 same person, or persons under common control, whose activities are
17 ancillary to the production of a single product or functionally related
18 group of products.

19 ~~((22))~~ (23) "Stationary source" means any building, structure,
20 facility, or installation that emits or may emit any air contaminant.

21 NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW
22 to read as follows:

23 (1) Persons who are taxable under this chapter may take a credit
24 for the purchase, or the lease for a period of at least three years, of
25 new clean alternative fuel vehicles as defined in RCW 70.94.030(9) (a),
26 (b), or (c), if the vehicles are exclusively used in business
27 operations. The credit is based upon the following schedule:

28	VEHICLE TONNAGE	CREDIT
29	Less than 12,000 pounds gross	25 percent of the base cost
30	vehicle weight	or \$5,000, whichever is less
31	Over 12,000 pounds gross	25 percent of the base cost
32	vehicle weight	or \$20,000, whichever is less

33 (2) The credit may not exceed the amount of tax that would
34 otherwise be due under this chapter. The credit may be accrued and
35 carried over until it is used. Refunds shall not be granted in place
36 of credits. The maximum amount of credit under this section that may

1 be claimed, by each person, for any calendar year shall not exceed two
2 hundred thousand dollars.

3 (3) Tax credit may not be claimed for expenditures that occurred
4 before the effective date of this section or expenditures that occur
5 after the date specified in section 6 of this act.

6 (4) The tax credit for vehicles defined under RCW 70.94.030(9)(b)
7 expires June 30, 2004.

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.04 RCW
9 to read as follows:

10 (1) Persons who are taxable under this chapter and provide
11 financial assistance for the purchase, or the lease for a period of at
12 least three years, of new clean alternative fuel vehicles as defined in
13 RCW 70.94.030 to school districts, transit agencies, and local
14 governments may take a credit for amounts paid, if the vehicles are
15 used for public transit. School buses are considered public transit
16 for purposes of this section.

17 (2) The credit may not exceed the amount of tax that would
18 otherwise be due under this chapter. The credit may be accrued and
19 carried over until it is used. Refunds shall not be granted in place
20 of credits. The maximum amount of credit under this section that may
21 be claimed, by each person, for any calendar year shall not exceed two
22 hundred thousand dollars.

23 (3) Tax credit may not be claimed for financial assistance that
24 occurred before the effective date of this section or financial
25 assistance that occurs after the date specified in section 6 of this
26 act.

27 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.04 RCW
28 to read as follows:

29 (1) Persons who are taxable under this chapter may take a credit
30 for the costs expended for acquiring and installing alternative fuel
31 and electric vehicle recharging equipment, including alternative fuel
32 storage tanks. "Alternative fuel" means natural gas, propane,
33 hydrogen, fuel containing a minimum of eighty-five percent ethanol, and
34 fuel containing a minimum of twenty percent biodiesel. The credit is
35 based upon the following schedule:

36 (a) Fifty percent of the costs incurred at facilities open to the
37 public not to exceed two hundred thousand dollars; and

1 (b) Twenty-five percent of the costs incurred at facilities not
2 open to the public not to exceed one hundred thousand dollars.

3 (2) The credit may not exceed the amount of tax that would
4 otherwise be due under this chapter. The credit may be accrued and
5 carried over until it is used. Refunds shall not be granted in place
6 of credits. The maximum amount of credit under this section that may
7 be claimed, by each person, for any calendar year shall not exceed one
8 million dollars.

9 (3) Tax credit may not be claimed for expenditures that occurred
10 before the effective date of this section or expenditures that occur
11 after the date specified in section 6 of this act.

12 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.04 RCW
13 to read as follows:

14 Tax credits under sections 3 through 5 of this act are not allowed
15 for expenditures that occur after December 31, 2010.

16 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.94 RCW
17 to read as follows:

18 The Washington State University energy program, in consultation
19 with the departments of ecology, revenue, and licensing; local
20 governments; vehicle manufacturers and suppliers; and other interested
21 parties shall collect and review the relevant data associated with the
22 provisions of chapter . . . , Laws of 2002 (this act) and evaluate the
23 effectiveness of these incentives in improving air quality and
24 increasing the use of clean alternative fuel vehicles. The Washington
25 State University energy program shall present its findings and make
26 recommendations as appropriate to the legislature biennially on or
27 before November 30th, beginning in 2005.

28 NEW SECTION. **Sec. 8.** Sections 1 through 6 of this act take effect
29 August 1, 2002.

30 NEW SECTION. **Sec. 9.** Section 7 of this act takes effect January
31 1, 2003.

1 NEW SECTION. **Sec. 10.** Section 7 of this act expires December 31,
2 2010.

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