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**ENGROSSED SUBSTITUTE HOUSE BILL 1397**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on Transportation (originally sponsored by Representatives Murray, Jarrett, Morris, B. Sullivan, Anderson, Appleton, Wallace, P. Sullivan, Kenney, Campbell, Rodne, Hunt, Priest, Springer, Tom, Lovick, Quall, Pettigrew, Kirby, Clibborn, Kilmer, Dunshee, Dickerson, Ericks, Green, Sells, Hasegawa, Upthegrove, Williams, Moeller, McIntire, Chase, Simpson, McDermott, Hudgins and Wood)

READ FIRST TIME 02/24/05.

1       AN ACT Relating to vehicle emission standards; amending RCW  
2 70.94.017, 70.120.170, and 46.37.540; amending 2003 c 264 s 9  
3 (uncodified); adding a new section to chapter 46.16 RCW; adding a new  
4 chapter to Title 70 RCW; creating new sections; repealing RCW  
5 70.120.200; repealing 1991 c 199 s 229 (uncodified); prescribing  
6 penalties; providing an effective date; providing expiration dates; and  
7 declaring an emergency.

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

9       NEW SECTION.   **Sec. 1.** The legislature finds that:

10       (1) Motor vehicles are the largest source of air pollution in the  
11 state of Washington, and motor vehicles contribute approximately fifty-  
12 seven percent of criteria air pollutant emissions, eighty percent of  
13 air toxics emissions, and fifty-five percent of greenhouse gas  
14 emissions;

15       (2) Air pollution levels routinely measured in the state of  
16 Washington continue to harm public health, the environment, and the  
17 economy. Air pollution causes or contributes to premature death,  
18 cancer, asthma, and heart and lung disease. Over half of the state's  
19 population suffers from one or more medical conditions that make them

1 very vulnerable to air pollution. Air pollution increases pain and  
2 suffering for vulnerable individuals. Air pollution imposes several  
3 hundred million dollars annually in added health care costs for air  
4 pollution-associated death and illness, reducing the quality of life  
5 and economic security of the citizens of Washington;

6 (3) Reductions of greenhouse gas emissions from transportation  
7 sources are necessary, and it is equitable to seek such reductions  
8 because reductions in greenhouse gas emissions have already been  
9 initiated in other sectors such as power generation;

10 (4) Reductions in greenhouse gas emissions made under this act  
11 should be credited toward any future federal, state, or regional  
12 comprehensive regulatory structure enacted to address reducing  
13 greenhouse gas emissions;

14 (5) Under the federal clean air act, the state of Washington has  
15 the option to implement either federal motor vehicle emission standards  
16 or California motor vehicle emission standards for passenger cars,  
17 light duty trucks, and medium duty passenger vehicles;

18 (6) Opting into the California motor vehicle standards will provide  
19 significant and necessary air quality benefits to residents of the  
20 state of Washington; and

21 (7) Adoption of the California motor vehicle standards will  
22 increase consumer choices of cleaner vehicles, provide better  
23 warranties to consumers, and provide sufficient air quality benefit to  
24 allow additional business and economic growth in the key airsheds of  
25 the state while maintaining conformance with federal air quality  
26 standards.

27 NEW SECTION. **Sec. 2.** (1) Pursuant to the federal clean air act,  
28 the legislature adopts the California motor vehicle emission standards  
29 in Title 13 of the California Code of Regulations, effective January 1,  
30 2005. By December 31, 2005, the department of ecology shall adopt  
31 rules to implement the emission standards of the state of California  
32 for passenger cars, light duty trucks, and medium duty passenger  
33 vehicles, and shall amend the rules from time to time, to maintain  
34 consistency with the California motor vehicle emission standards and 42  
35 U.S.C. Sec. 7507 (section 177 of the federal clean air act). During  
36 rule development, the department of ecology shall convene an advisory  
37 group composed of industry and consumer group representatives. Any

1 proposed rules or changes to rules shall be subject to review and  
2 comment by the advisory group, prior to rule adoption. The order of  
3 adoption for the rules required in this section shall include the  
4 signature of the governor. Rules shall be applicable to motor vehicles  
5 with a model year 2009 and later if an adjoining state, with a  
6 population of greater than three million people, adopts the California  
7 air emission standards for motor vehicles effective for model year  
8 2009, otherwise the rules shall be applicable to motor vehicles with a  
9 model year 2010 and later. This section does not limit the department  
10 of ecology's authority to regulate motor vehicle emissions for any  
11 other class of vehicle.

12 (2) Motor vehicles with a model year equal to or later than the  
13 first model year for which new vehicles sold to Washington state  
14 residents are required to comply with California motor vehicle emission  
15 standards are exempt from emission inspections under chapter 70.120  
16 RCW.

17 NEW SECTION. **Sec. 3.** (1) In recognition of the provisions of the  
18 federal clean air act which require a minimum phase-in period of three  
19 model years for adoption of California motor vehicle emission  
20 standards, the implementing rules shall include a system of early  
21 credits and banking for manufacturers for zero emission vehicles  
22 produced and sold earlier than the implementation date for the  
23 standards in Washington. Beginning with the model year in which the  
24 new standards become effective, each manufacturer's fleet of passenger  
25 cars and light duty trucks delivered for sale in the state of  
26 Washington shall proportionately conform to the zero emission vehicle  
27 requirements of Title 13 of the California Code of Regulations,  
28 including early credit and banking provisions set forth in Title 13 of  
29 the Code of California Regulations using Washington specific vehicle  
30 numbers. A manufacturer shall be given early Washington zero emission  
31 vehicle credits proportionally equivalent to the zero emission vehicle  
32 credits possessed by the requesting manufacturer for use in the state  
33 of California on January 1st of the model year the California standards  
34 become effective in Washington.

35 (2) In addition, an alternative means of compliance with the  
36 requirements of subsection (1) of this section shall be created in the  
37 implementing rules provided for in section 2 of this act. The

1 alternative means of compliance shall allow a manufacturer to earn  
2 Washington zero emission vehicle credits beginning with the 2005 model  
3 year. The alternative means of compliance shall be developed to be  
4 consistent in concept with the alternative compliance systems developed  
5 for the states of Connecticut, New York, and Maine as they adopted the  
6 zero emission vehicle provisions of the California motor vehicle  
7 standards and shall contain a Washington multiplier consistent with the  
8 multipliers in those systems. The implementing rules shall require  
9 timely notification by the manufacturer to the department of ecology of  
10 an election to use the alternative means of compliance.

11 **Sec. 4.** RCW 70.94.017 and 2003 c 264 s 1 are each amended to read  
12 as follows:

13 (1) Money deposited in the segregated subaccount of the air  
14 pollution control account under RCW 46.68.020(2) shall be distributed  
15 as follows:

16 (a) Eighty-five percent shall be distributed to air pollution  
17 control authorities created under this chapter. The money must be  
18 distributed in direct proportion with the amount of fees imposed under  
19 RCW 46.12.080, 46.12.170, and 46.12.181 that are collected within the  
20 boundaries of each authority. However, an amount in direct proportion  
21 with those fees collected in counties for which no air pollution  
22 control authority exists must be distributed to the department.

23 (b) The remaining fifteen percent shall be distributed to the  
24 department.

25 (2) Money distributed to air pollution control authorities and the  
26 department under subsection (1) of this section must be used as  
27 follows:

28 (a) Eighty-five percent of the money received by an air pollution  
29 control authority or the department (~~(must be used)~~) is available on a  
30 priority basis to retrofit school buses with exhaust emission control  
31 devices or to provide funding for fueling infrastructure necessary to  
32 allow school bus fleets to use alternative, cleaner fuels. In  
33 addition, the director of ecology or the air pollution control officer  
34 may direct funding under this section for other publicly owned diesel  
35 equipment if the director of ecology or the air pollution control  
36 officer finds that funding for other publicly owned diesel equipment

1 will provide public health benefits and further the purposes of this  
2 chapter.

3 (b) The remaining fifteen percent may be used by the air pollution  
4 control authority or department to reduce ((vehicle)) transportation-  
5 related air contaminant emissions and clean up air pollution, or reduce  
6 and monitor toxic air contaminants.

7 (3) Money in the air pollution control account may be spent by the  
8 department only after appropriation.

9 (4) ~~((The department shall provide a report to the legislative~~  
10 ~~transportation committees on the progress of the implementation of this~~  
11 ~~section by December 31, 2004)) This section expires July 1, 2020.~~

12 **Sec. 5.** RCW 70.120.170 and 1998 c 342 s 4 are each amended to read  
13 as follows:

14 (1) The department shall administer a system for emission  
15 inspections of all motor vehicles, except those described in RCW  
16 46.16.015(2), that are registered within the boundaries of each  
17 emission contributing area. Under such system a motor vehicle shall be  
18 inspected biennially except where an annual program would be required  
19 to meet federal law and prevent federal sanctions. In addition, motor  
20 vehicles shall be inspected at each change of registered owner of a  
21 licensed vehicle as provided under RCW 46.16.015.

22 (2) The director shall:

23 (a) Adopt procedures for conducting emission inspections of motor  
24 vehicles. The inspections may include idle and high revolution per  
25 minute emission tests. The emission test for diesel vehicles shall  
26 consist solely of a smoke opacity test.

27 (b) Adopt criteria for calibrating emission testing equipment.  
28 Electronic equipment used to test for emissions standards provided for  
29 in this chapter shall be properly calibrated. The department shall  
30 examine frequently the calibration of the emission testing equipment  
31 used at the stations.

32 (c) Authorize, through contracts, the establishment and operation  
33 of inspection stations for conducting vehicle emission inspections  
34 authorized in this chapter. No person contracted to inspect motor  
35 vehicles may perform for compensation repairs on any vehicles. No  
36 public body may establish or operate contracted inspection stations.

1 Any contracts (~~must be let in accordance~~) comply with the procedures  
2 established for competitive bids in chapter 43.19 RCW.

3 (d) Beginning in 2012, authorize businesses other than those  
4 contracted to operate inspection stations under (c) of this subsection  
5 to conduct vehicle emission inspections. Businesses authorized under  
6 this subsection may also inspect and perform, for compensation, repairs  
7 on vehicles. The fee limitations under subsection (4) of this section  
8 do not apply to the fee charged for a vehicle emissions inspection by  
9 a business authorized to conduct vehicle emission inspections under  
10 this subsection. The director may establish by rule a fee to be paid  
11 to the department for the oversight costs for each vehicle emission  
12 inspection performed by a business authorized under this subsection  
13 (2)(d).

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

17 (a) Auditing;

18 (b) Contractor evaluation;

19 (c) Collection of data for establishing calibration and performance  
20 standards; or

21 (d) Public information and education.

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

32 (b) Before each inspection, a person whose motor vehicle is to be  
33 inspected shall pay to the inspection station the fee established under  
34 this section. The person whose motor vehicle is inspected shall  
35 receive the results of the inspection. If the inspected vehicle  
36 complies with the standards established by the director, the person  
37 shall receive a dated certificate of compliance. If the inspected

1 vehicle does not comply with those standards, one reinspection of the  
2 vehicle shall be afforded without charge.

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

13 (6) This section expires January 1, 2020.

14 NEW SECTION. Sec. 6. A new section is added to chapter 46.16 RCW  
15 to read as follows:

16 After adoption of rules specified in section 2 of this act, no  
17 vehicle shall be registered, leased, rented, or sold for use in the  
18 state starting with the model year as provided in section 2 of this act  
19 unless the vehicle: (1) Is consistent with the vehicle emission  
20 standards adopted by the department of ecology; or (2) has seven  
21 thousand five hundred miles or more. The department of licensing, in  
22 consultation with the department of ecology, may adopt rules necessary  
23 to implement this section and may provide for reasonable exemptions to  
24 these requirements. The department of ecology may exempt public safety  
25 vehicles from meeting the standards where the department finds that  
26 vehicles necessary to meet the needs of public safety agencies are not  
27 otherwise reasonably available.

28 **Sec. 7.** RCW 46.37.540 and 1983 c 3 s 119 are each amended to read  
29 as follows:

30 (1) The legislature intends to make it illegal for persons to turn  
31 forward the odometer on a new car to avoid compliance with the  
32 emissions standards required by this act.

33 (2) It shall be unlawful for any person to disconnect, turn back,  
34 turn forward, or reset the odometer of any motor vehicle with the  
35 intent to ((reduce)) change the number of miles indicated on the  
36 odometer gauge. A violation of this subsection is a gross misdemeanor.

1        NEW SECTION.    **Sec. 8.** The office of financial management shall  
2 provide an annual progress report to the appropriate committees of the  
3 legislature. The office of financial management, in conjunction with  
4 the departments of licensing, revenue, and ecology, shall report on the  
5 availability of vehicles meeting the standards, the progress of  
6 automobile industries in meeting the requirements of the standards, and  
7 any other matters relevant to the success of auto-related industries in  
8 implementing these requirements.

9        **Sec. 9.** 2003 c 264 s 9 (uncodified) is amended to read as follows:  
10        Section(~~(s 1 and)~~) 3 of this act expires July 1, (~~(2008)~~) 2020.

11        NEW SECTION.    **Sec. 10.** RCW 70.120.200 (Engine conformance) and  
12 1991 c 199 s 211 are each repealed.

13        NEW SECTION.    **Sec. 11.** 1991 c 199 s 229 (uncodified) is repealed.

14        NEW SECTION.    **Sec. 12.** Sections 2 and 3 of this act constitute a  
15 new chapter in Title 70 RCW.

16        NEW SECTION.    **Sec. 13.** Sections 4, 5, and 9 of this act are  
17 necessary for the immediate preservation of the public peace, health,  
18 or safety, or support of the state government and its existing public  
19 institutions, and take effect July 1, 2005.

20        NEW SECTION.    **Sec. 14.** Sections 1, 2, 6, and 10 through 12 of this  
21 act are necessary for the immediate preservation of the public peace,  
22 health, or safety, or support of the state government and its existing  
23 public institutions, and take effect immediately.

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