

FINAL BILL REPORT

SSB 6373

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Synopsis as Enacted

Brief Description: Directing the department of ecology to adopt rules requiring entities to report the emissions of greenhouse gases.

Sponsors: Senate Committee on Environment, Water & Energy (originally sponsored by Senators Ranker, Rockefeller, Swecker, Pridemore, Marr, Kline and Fraser; by request of Department of Ecology).

Senate Committee on Environment, Water & Energy
Senate Committee on Ways & Means
House Committee on Ecology & Parks
House Committee on General Government Appropriations

Background: In 2008 the Legislature passed E2SHB 2815, providing a framework for reducing greenhouse gas (GHG) emissions in the Washington economy. The legislation, in part, set forth requirements for the Department of Ecology (department) to adopt rules for reporting GHG emissions. In addition, the department is required to amend its GHG reporting rules when necessary to be consistent with federal rules to avoid duplicative reporting.

The department must adopt GHG reporting rules for owners or operators of a fleet of on-road motor vehicles that emit at 2500 metric tons or more per year of GHG emissions, or a source or combination of sources that emit 10,000 metric tons or more per year of direct GHG emissions. A source is defined as any building, structure, facility, or installation that emits any air contaminant or mobile source used for transportation or cargo.

Annual GHG emissions reporting is required beginning in 2010 for 2009 emissions. However, the department may phase in reporting requirements until the reporting threshold is met, which must be by January 1, 2012. In order to comply with federal reporting requirements, the department has discretion to amend the rules to include persons emitting less than the required annual GHG emission reporting levels. The department may also include GHG emissions that result from upstream and downstream sources. For interstate and international commercial aircraft, rail, truck, or marine vessels, the reporting requirement may be deferred until there is a federal reporting requirement or a generally accepted reporting protocol for determining interstate emissions.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In September 2009 the U.S. Environmental Protection Agency (EPA) adopted its Final Mandatory Greenhouse Gases Reporting Rule. The rule became effective January 1, 2010. Annual reporting begins March 2011 for emissions data collected in 2010. Fuel suppliers and facilities that emit 25,000 metric tons of GHG emissions per year must submit annual reports to the EPA. A facility is the physical property, plant building, structure, source, or stationary equipment located on a single piece or contiguous property. Mobile source emissions will be accounted for through reporting by suppliers of petroleum products and coal-based liquid fuel. Facilities with vehicle fleets are not required to report their emissions.

The EPA rule does not preempt or replace state reporting programs. EPA recognizes that its rule is much narrower and more targeted than many state programs and it also recognizes and supports states with their different programs that may be more advanced and have different policy objectives than the federal rules.

Summary: The department must modify its greenhouse gas emission reporting rules to require a person to report GHG emissions from a single facility, source, or fossil fuels sold in Washington by a single supplier when the emissions are 10,000 metric tons or more per year. Beginning in 2011, a person who is required to report GHG emissions to EPA must concurrently submit the reported data to the department. The department and local air authorities are prohibited from prescribing penalties until six months after the reporting rules are finalized in 2010.

The department must review and update the state GHG reporting rule whenever the EPA adopts final amendments to its GHG reporting rule to ensure consistency with federal reporting requirements.

Persons who are required to file periodic tax reports of motor vehicle fuel sales, special fuel sales, and distributors of aircraft fuel must report to the department the annual GHG emissions associated with the complete combustion or oxidation of liquid motor vehicle fuel, special fuel, or aircraft fuel that is sold in Washington. Aircraft fuel purchased in state may not be considered equivalent to aircraft fuel combusted in state. The department may not require additional information to calculate GHG emissions than the periodic tax report information provided to the Department of Licensing (DOL). The department rules may allow this information to be aggregated for reporting purposes. The department and DOL must enter into an interagency agreement to share reported information and protect proprietary information. Any proprietary information exempt from disclosure when reported to the DOL remains exempt from disclosure when shared with the department.

The department may include by rule other gas or gases only when the gas has been designated as a GHG by Congress or the EPA. The department: (1) must notify the Legislature prior to adding gases to the definition of GHG; (2) must make decisions to amend the rule prior to December 1, and; (3) is prohibited from making the effective date of the rule before the end of the following regular legislative session.

The definition of a person includes: (1) an owner or operator, as those terms are defined by the EPA in its GHG reporting rule; (2) a motor vehicle fuel supplier or a motor vehicle fuel importer; (3) a special fuel supplier or a special fuel importer; and (4) a distributor of aircraft fuel.

The department may exempt from state reporting requirements a person required to report to the EPA and who emits less than 10,000 metric tons of GHG annually. The department must establish a methodology for persons to voluntarily report their GHGs.

The GHG reporting rules no longer require: reporting of indirect emissions; or reporting GHG emissions by an owner or operator of a fleet of on-road motor vehicle fleets that emit at least 2,500 metric tons of GHG annually. Obsolete definitions are removed.

Votes on Final Passage:

Senate	45	1	
House	79	19	(House amended)
Senate	41	4	(Senate concurred)

Effective: June 10, 2010