
HOUSE BILL 2653

State of Washington

61st Legislature

2010 Regular Session

By Representatives Short, Kristiansen, and Kretz

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1 AN ACT Relating to eliminating duplication in federal and state
2 greenhouse gas reporting requirements; amending RCW 70.94.151; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that new federal
6 regulations requiring reporting of greenhouse gas emissions conflict
7 with state rules. The legislature envisioned that once federal
8 greenhouse gas reporting requirements were in place, the state
9 provisions would be eliminated so that the employers of Washington did
10 not have dual reporting requirements that place them at an economic
11 disadvantage to out-of-state companies.

12 Therefore, it is the intent of the legislature that companies that
13 comply with the federal greenhouse gas reporting requirements do not
14 have to submit different paperwork to the Washington state department
15 of ecology or comply with any additional state requirements.

16 **Sec. 2.** RCW 70.94.151 and 2008 c 14 s 5 are each amended to read
17 as follows:

18 (1) The board of any activated authority or the department, may

1 classify air contaminant sources, by ordinance, resolution, rule or
2 regulation, which in its judgment may cause or contribute to air
3 pollution, according to levels and types of emissions and other
4 characteristics which cause or contribute to air pollution, and may
5 require registration or reporting or both for any such class or
6 classes. Classifications made pursuant to this section may be for
7 application to the area of jurisdiction of such authority, or the state
8 as a whole or to any designated area within the jurisdiction, and shall
9 be made with special reference to effects on health, economic and
10 social factors, and physical effects on property.

11 (2) Except as provided in subsection (3) of this section, any
12 person operating or responsible for the operation of air contaminant
13 sources of any class for which the ordinances, resolutions, rules or
14 regulations of the department or board of the authority, require
15 registration or reporting shall register therewith and make reports
16 containing information as may be required by such department or board
17 concerning location, size and height of contaminant outlets, processes
18 employed, nature of the contaminant emission and such other information
19 as is relevant to air pollution and available or reasonably capable of
20 being assembled. In the case of emissions of greenhouse gases as
21 defined in RCW 70.235.010 the department shall adopt rules requiring
22 reporting of those emissions. The department or board may require that
23 such registration or reporting be accompanied by a fee, and may
24 determine the amount of such fee for such class or classes: PROVIDED,
25 That the amount of the fee shall only be to compensate for the costs of
26 administering such registration or reporting program which shall be
27 defined as initial registration and annual or other periodic reports
28 from the source owner providing information directly related to air
29 pollution registration, on-site inspections necessary to verify
30 compliance with registration requirements, data storage and retrieval
31 systems necessary for support of the registration program, emission
32 inventory reports and emission reduction credits computed from
33 information provided by sources pursuant to registration program
34 requirements, staff review, including engineering or other reliable
35 analysis for accuracy and currentness, of information provided by
36 sources pursuant to registration program requirements, clerical and
37 other office support provided in direct furtherance of the registration
38 program, and administrative support provided in directly carrying out

1 the registration program: PROVIDED FURTHER, That any such registration
2 made with either the board or the department shall preclude a further
3 registration and reporting with any other board or the department,
4 except that emissions of greenhouse gases as defined in RCW 70.235.010
5 must be reported as required under subsection (5) of this section.

6 All registration program and reporting fees collected by the
7 department shall be deposited in the air pollution control account.
8 All registration program fees collected by the local air authorities
9 shall be deposited in their respective treasuries.

10 (3) If a registration or report has been filed for a grain
11 warehouse or grain elevator as required under this section,
12 registration, reporting, or a registration program fee shall not, after
13 January 1, 1997, again be required under this section for the warehouse
14 or elevator unless the capacity of the warehouse or elevator as listed
15 as part of the license issued for the facility has been increased since
16 the date the registration or reporting was last made. If the capacity
17 of the warehouse or elevator listed as part of the license is
18 increased, any registration or reporting required for the warehouse or
19 elevator under this section must be made by the date the warehouse or
20 elevator receives grain from the first harvest season that occurs after
21 the increase in its capacity is listed in the license.

22 This subsection does not apply to a grain warehouse or grain
23 elevator if the warehouse or elevator handles more than ten million
24 bushels of grain annually.

25 (4) For the purposes of subsection (3) of this section:

26 (a) A "grain warehouse" or "grain elevator" is an establishment
27 classified in standard industrial classification (SIC) code 5153 for
28 wholesale trade for which a license is required and includes, but is
29 not limited to, such a licensed facility that also conducts cleaning
30 operations for grain;

31 (b) A "license" is a license issued by the department of
32 agriculture licensing a facility as a grain warehouse or grain elevator
33 under chapter 22.09 RCW or a license issued by the federal government
34 licensing a facility as a grain warehouse or grain elevator for
35 purposes similar to those of licensure for the facility under chapter
36 22.09 RCW; and

37 (c) "Grain" means a grain or a pulse.

1 (5)(a) The department shall adopt rules requiring the reporting of
2 emissions of greenhouse gases as defined in RCW 70.235.010. The rules
3 must include a de minimis amount of emissions below which reporting
4 will not be required for both indirect and direct emissions. The rules
5 must require that emissions of greenhouse gases resulting from the
6 burning of fossil fuels be reported separately from emissions of
7 greenhouse gases resulting from the burning of biomass. Except as
8 provided in (b) of this subsection, the department shall, under the
9 authority granted in subsection (1) of this section, adopt rules
10 requiring any owner or operator: (i) Of a fleet of on-road motor
11 vehicles that as a fleet emit at least twenty-five hundred metric tons
12 of greenhouse gas annually in the state to report the emissions of
13 greenhouse gases generated from or emitted by that fleet; or (ii) of a
14 source or combination of sources that emit at least ten thousand metric
15 tons of greenhouse gas annually in the state to report their total
16 annual emissions of greenhouse gases. In calculating emissions of
17 greenhouse gases for purposes of determining whether or not reporting
18 is required, only direct emissions shall be included. For purposes of
19 reporting emissions of greenhouse gases in chapter 14, Laws of 2008,
20 "source" means any stationary source as defined in RCW 70.94.030, or
21 mobile source used for transportation of people or cargo. The
22 emissions of greenhouse gases must be reported as carbon dioxide
23 equivalents. The rules must require that persons report 2009 emissions
24 starting in 2010. The rules must establish an annual reporting
25 schedule that takes into account the time needed to allow the owner or
26 operator reporting emissions of greenhouse gases to gather the
27 information needed and to verify the emissions being reported.
28 However, in no event may reports be submitted later than October 31st
29 of the year in which the report is due. The department may phase in
30 the reporting requirements for sources or combinations of sources under
31 (a)(ii) of this subsection until the reporting threshold is met, which
32 must be met by January 1, 2012. The department may from time to time
33 amend the rules to include other persons that emit less than the annual
34 greenhouse gas emissions levels set out in this subsection if necessary
35 to comply with any federal reporting requirements for emissions of
36 greenhouse gases.

37 (b) In its rules, the department may defer the reporting
38 requirement under (a) of this subsection for emissions associated with

1 interstate and international commercial aircraft, rail, truck, or
2 marine vessels until (i) there is a federal requirement to report these
3 emissions; or (ii) the department finds that there is a generally
4 accepted reporting protocol for determining interstate emissions from
5 these sources.

6 (c) The department shall share any reporting information reported
7 to it with the local air authority in which the owner or operator
8 reporting under the rules adopted by the department operates.

9 (d) Except for owners and operators required to report greenhouse
10 gas emissions to the United States environmental protection agency
11 under 40 C.F.R. Part 98, as adopted on September 22, 2009, the fee
12 provisions in subsection (2) of this section apply to reporting of
13 emissions of greenhouse gases. Owners and operators required to report
14 under (a) of this subsection who fail to report or pay the fee required
15 in subsection (2) of this section are subject to enforcement penalties
16 under this chapter. The department shall enforce the reporting rule
17 requirements unless it approves a local air authority's request to
18 enforce the requirements for sources operating within the authority's
19 jurisdiction.

20 (e) The energy facility site evaluation council shall,
21 simultaneously with the department, adopt rules that impose greenhouse
22 gas reporting requirements in site certifications on owners or
23 operators of a facility permitted by the energy facility site
24 evaluation council. The greenhouse gas reporting requirements imposed
25 by the energy facility site evaluation council must be the same as the
26 greenhouse gas reporting requirements imposed by the department. The
27 department shall share any information reported to it from facilities
28 permitted by the energy facility site evaluation council with the
29 council, including notice of a facility that has failed to report as
30 required. The energy facility site evaluation council shall contract
31 with the department to monitor the reporting requirements adopted under
32 this section.

33 (f) In developing its rules, the department shall, with the
34 assistance of the department of transportation, identify a mechanism to
35 report an aggregate estimate of the annual emissions of greenhouse
36 gases generated from or emitted by otherwise unreported on-road motor
37 vehicles.

1 (g) The inclusion or failure to include any person, source, classes
2 of persons or sources, or types of emissions of greenhouse gases into
3 the department's rules for reporting under this section does not
4 indicate whether such a person, source, or category is appropriate for
5 inclusion in the multisector market-based system designed under RCW
6 (~~70.235.020~~) 70.235.030.

7 (h) Owners and operators who are required to report greenhouse gas
8 emissions to the United States environmental protection agency under 40
9 C.F.R. Part 98, as adopted on September 22, 2009, may submit their
10 report concurrently to the United States environmental protection
11 agency and to the department to satisfy the reporting requirements
12 under this section.

13 (i) Should the federal government adopt rules sufficient to track
14 progress toward the emissions reductions required by chapter 14, Laws
15 of 2008 governing the reporting of greenhouse gases, the department
16 shall amend its rules, as necessary, to seek consistency with the
17 federal rules to ensure duplicate reporting is not required. Nothing
18 in this section requires the department to increase the reporting
19 threshold established in (a) of this subsection or otherwise require
20 the department's rules be identical to the federal rules in scope.

21 ~~((+i))~~ (j) The definitions in RCW 70.235.010 apply throughout this
22 subsection (5) unless the context clearly requires otherwise.

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