
SENATE BILL 6264

State of Washington

63rd Legislature

2014 Regular Session

By Senator Ericksen

Read first time 01/20/14. Referred to Committee on Energy, Environment & Telecommunications.

1 AN ACT Relating to capping the amount of the greenhouse gas
2 reporting fee; and amending RCW 70.94.151.

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

4 **Sec. 1.** RCW 70.94.151 and 2010 c 146 s 2 are each amended to read
5 as follows:

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

17 (2) Except as provided in subsection (3) of this section, any
18 person operating or responsible for the operation of air contaminant
19 sources of any class for which the ordinances, resolutions, rules or

1 regulations of the department or board of the authority, require
2 registration or reporting shall register therewith and make reports
3 containing information as may be required by such department or board
4 concerning location, size and height of contaminant outlets, processes
5 employed, nature of the contaminant emission and such other information
6 as is relevant to air pollution and available or reasonably capable of
7 being assembled. In the case of emissions of greenhouse gases as
8 defined in RCW 70.235.010 the department shall adopt rules requiring
9 reporting of those emissions. The department or board may require that
10 such registration or reporting be accompanied by a fee, (~~and may~~
11 ~~determine the amount of such fee for such class or classes~~) not to
12 exceed one hundred dollars: PROVIDED, That the amount of the fee shall
13 only be to compensate for the costs of administering such registration
14 or reporting program which shall be defined as initial registration and
15 annual or other periodic reports from the source owner providing
16 information directly related to air pollution registration, on-site
17 inspections necessary to verify compliance with registration
18 requirements, data storage and retrieval systems necessary for support
19 of the registration program, emission inventory reports and emission
20 reduction credits computed from information provided by sources
21 pursuant to registration program requirements, staff review, including
22 engineering or other reliable analysis for accuracy and currentness, of
23 information provided by sources pursuant to registration program
24 requirements, clerical and other office support provided in direct
25 furtherance of the registration program, and administrative support
26 provided in directly carrying out the registration program: PROVIDED
27 FURTHER, That any such registration made with either the board or the
28 department shall preclude a further registration and reporting with any
29 other board or the department, except that emissions of greenhouse
30 gases as defined in RCW 70.235.010 must be reported as required under
31 subsection (5) of this section.

32 All registration program and reporting fees collected by the
33 department shall be deposited in the air pollution control account.
34 All registration program fees collected by the local air authorities
35 shall be deposited in their respective treasuries.

36 (3) If a registration or report has been filed for a grain
37 warehouse or grain elevator as required under this section,
38 registration, reporting, or a registration program fee shall not, after

1 January 1, 1997, again be required under this section for the warehouse
2 or elevator unless the capacity of the warehouse or elevator as listed
3 as part of the license issued for the facility has been increased since
4 the date the registration or reporting was last made. If the capacity
5 of the warehouse or elevator listed as part of the license is
6 increased, any registration or reporting required for the warehouse or
7 elevator under this section must be made by the date the warehouse or
8 elevator receives grain from the first harvest season that occurs after
9 the increase in its capacity is listed in the license.

10 This subsection does not apply to a grain warehouse or grain
11 elevator if the warehouse or elevator handles more than ten million
12 bushels of grain annually.

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

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

19 (b) A "license" is a license issued by the department of
20 agriculture licensing a facility as a grain warehouse or grain elevator
21 under chapter 22.09 RCW or a license issued by the federal government
22 licensing a facility as a grain warehouse or grain elevator for
23 purposes similar to those of licensure for the facility under chapter
24 22.09 RCW; and

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

26 (5)(a) The department shall adopt rules requiring persons to report
27 emissions of greenhouse gases as defined in RCW 70.235.010 where those
28 emissions from a single facility, source, or site, or from fossil fuels
29 sold in Washington by a single supplier meet or exceed ten thousand
30 metric tons of carbon dioxide equivalent annually. The department may
31 phase in the requirement to report greenhouse gas emissions until the
32 reporting threshold in this subsection is met, which must occur by
33 January 1, 2012. In addition, the rules must require that:

34 (i) Emissions of greenhouse gases resulting from the combustion of
35 fossil fuels be reported separately from emissions of greenhouse gases
36 resulting from the combustion of biomass;

37 (ii) Reporting will start in 2010 for 2009 emissions. Each annual
38 report must include emissions data for the preceding calendar year and

1 must be submitted to the department by October 31st of the year in
2 which the report is due. However, starting in 2011, a person who is
3 required to report greenhouse gas emissions to the United States
4 environmental protection agency under 40 C.F.R. Part 98, as adopted on
5 September 22, 2009, must submit the report required under this section
6 to the department concurrent with the submission to the United States
7 environmental protection agency. Except as otherwise provided in this
8 section, the data for emissions in Washington and any corrections
9 thereto that are reported to the United States environmental protection
10 agency must be the emissions data reported to the department; and

11 (iii) Emissions of carbon dioxide associated with the complete
12 combustion or oxidation of liquid motor vehicle fuel, special fuel, or
13 aircraft fuel that is sold in Washington where the annual emissions
14 associated with that combustion or oxidation equal or exceed ten
15 thousand metric tons be reported to the department. Each person who is
16 required to file periodic tax reports of motor vehicle fuel sales under
17 RCW 82.36.031 or special fuel sales under RCW 82.38.150, or each
18 distributor of aircraft fuel required to file periodic tax reports
19 under RCW 82.42.040 must report to the department the annual emissions
20 of carbon dioxide from the complete combustion or oxidation of the
21 fuels listed in those reports as sold in the state of Washington. The
22 department shall not require suppliers to use additional data to
23 calculate greenhouse gas emissions other than the data the suppliers
24 report to the department of licensing. The rules may allow this
25 information to be aggregated when reported to the department. The
26 department and the department of licensing shall enter into an
27 interagency agreement to ensure proprietary and confidential
28 information is protected if the departments share reported information.
29 Any proprietary or confidential information exempt from disclosure when
30 reported to the department of licensing is exempt from disclosure when
31 shared by the department of licensing with the department under this
32 provision.

33 (b)(i) Except as otherwise provided in this subsection, the rules
34 adopted by the department under (a) of this subsection must be
35 consistent with the regulations adopted by the United States
36 environmental protection agency in 40 C.F.R. Part 98 on September 22,
37 2009.

1 (ii) The department may by rule include additional gases to the
2 definition of "greenhouse gas" in RCW 70.235.010 only if the gas has
3 been designated as a greenhouse gas by the United States congress or by
4 the United States environmental protection agency. Prior to including
5 additional gases to the definition of "greenhouse gas" in RCW
6 70.235.010, the department shall notify the appropriate committees of
7 the legislature. Decisions to amend the rule to include additional
8 gases must be made prior to December 1st of any year and the amended
9 rule may not take effect before the end of the regular legislative
10 session in the next year.

11 (iii) The department may by rule exempt persons who are required to
12 report greenhouse gas emissions to the United States environmental
13 protection agency and who emit less than ten thousand metric tons
14 carbon dioxide equivalent annually.

15 (iv) The department must establish a methodology for persons who
16 are not required to report under this section to voluntarily report
17 their greenhouse gas emissions.

18 (c) The department shall review and if necessary update its rules
19 whenever the United States environmental protection agency adopts final
20 amendments to 40 C.F.R. Part 98 to ensure consistency with federal
21 reporting requirements for emissions of greenhouse gases. However, the
22 department shall not amend its rules in a manner that conflicts with
23 (a) of this subsection.

24 (d) The department shall share any reporting information reported
25 to it with the local air authority in which the person reporting under
26 the rules adopted by the department operates.

27 (e) The fee provisions in subsection (2) of this section apply to
28 reporting of emissions of greenhouse gases. Persons required to report
29 under (a) of this subsection who fail to report or pay the fee required
30 in subsection (2) of this section are subject to enforcement penalties
31 under this chapter. The department shall enforce the reporting rule
32 requirements unless it approves a local air authority's request to
33 enforce the requirements for persons operating within the authority's
34 jurisdiction. However, neither the department nor a local air
35 authority approved under this section are authorized to assess
36 enforcement penalties on persons required to report under (a) of this
37 subsection until six months after the department adopts its reporting
38 rule in 2010.

1 (f) The energy facility site evaluation council shall,
2 simultaneously with the department, adopt rules that impose greenhouse
3 gas reporting requirements in site certifications on owners or
4 operators of a facility permitted by the energy facility site
5 evaluation council. The greenhouse gas reporting requirements imposed
6 by the energy facility site evaluation council must be the same as the
7 greenhouse gas reporting requirements imposed by the department. The
8 department shall share any information reported to it from facilities
9 permitted by the energy facility site evaluation council with the
10 council, including notice of a facility that has failed to report as
11 required. The energy facility site evaluation council shall contract
12 with the department to monitor the reporting requirements adopted under
13 this section.

14 (g) The inclusion or failure to include any person, source, classes
15 of persons or sources, or types of emissions of greenhouse gases into
16 the department's rules for reporting under this section does not
17 indicate whether such a person, source, or category is appropriate for
18 inclusion in state, regional, or national greenhouse gas reduction
19 programs or strategies. Furthermore, aircraft fuel purchased in the
20 state may not be considered equivalent to aircraft fuel combusted in
21 the state.

22 (h)(i) The definitions in RCW 70.235.010 apply throughout this
23 subsection (5) unless the context clearly requires otherwise.

24 (ii) For the purpose of this subsection (5), the term "supplier"
25 includes: (A) A motor vehicle fuel supplier or a motor vehicle fuel
26 importer, as those terms are defined in RCW 82.36.010; (B) a special
27 fuel supplier or a special fuel importer, as those terms are defined in
28 RCW 82.38.020; and (C) a distributor of aircraft fuel, as those terms
29 are defined in RCW 82.42.010.

30 (iii) For the purpose of this subsection (5), the term "person"
31 includes: (A) An owner or operator, as those terms are defined by the
32 United States environmental protection agency in its mandatory
33 greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted on
34 September 22, 2009; and (B) a supplier.

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