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**SECOND SUBSTITUTE HOUSE BILL 2310**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Fitzgibbon, Ramel, Macri, Doglio, Cody, Hudgins, and Pollet)

AN ACT Relating to reducing emissions from vehicles associated with on-demand transportation services; amending RCW 70.120.010 and 70.94.015; adding new sections to chapter 70.120 RCW; and creating a new section.

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

**Sec.**  RCW 70.120.010 and 2011 c 171 s 108 are each amended to read as follows:

((~~Unless the context clearly requires otherwise, the~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology.

(3) "Fleet" means a group of fifteen or more motor vehicles registered in the same name and whose owner has been assigned a fleet identifier code by the department of licensing.

(4) "Motor vehicle" means any self-propelled vehicle required to be licensed pursuant to chapter 46.16A RCW.

(5) "Motor vehicle dealer" means a motor vehicle dealer, as defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.

(6) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision of the state, municipality, or governmental agency.

(7) The terms "air contaminant," "air pollution," "air quality standard," "ambient air," "emission," and "emission standard" have the meanings given them in RCW 70.94.030.

(8)(a) "Commercial transportation services provider" includes a corporation, partnership, sole proprietorship, or other entity, operating in Washington, that uses a digital network or software application to connect passengers to vehicle operators for the purpose of providing a prearranged ride.

(b) "Commercial transportation services provider" does not include: (i) A taxicab company under chapter 81.72 RCW; (ii) a charter party or excursion service carrier under chapter 81.70 RCW; (iii) an auto transportation company under chapter 81.68 RCW; (iv) a private, nonprofit transportation provider under chapter 81.66 RCW; or (v) a limousine carrier under chapter 46.72A RCW.

(9) "Commercial transportation services provider passenger" or "passenger" has the same meaning as defined in RCW 48.177.005.

(10) "Vehicle" means a vehicle that is used to provide prearranged transportation services for compensation in connection with and authorized by a commercial transportation services provider, and that meets all of the following:

(a) Has a passenger capacity of less than nine persons, including a driver; and

(b) Is not operating as a taxicab regulated under chapter 81.72 RCW or as a limousine regulated under chapter 46.72A RCW.

(11) "Greenhouse gas" has the same meaning as defined in RCW 70.235.010.

(12) "Zero emission vehicle" means a vehicle that emits no exhaust gas from the onboard source of power, other than water vapor.

NEW SECTION. **Sec.**  A new section is added to chapter 70.120 RCW to read as follows:

(1) By July 1, 2021, the department shall establish a baseline for emissions of greenhouse gases for vehicles used on online-enabled applications or platforms of commercial transportation services providers on a per-passenger-mile traveled basis. The baseline calculation must use data from calendar year 2018 and include:

(a) Miles driven with no passenger delivery in the vehicle when the operator of the vehicle is logged in to a provider's digital platform or software application; and

(b) Miles driven with one or more passengers in the vehicle as a prearranged ride.

(2) Commercial transportation services providers must provide information to the department covering individual calendar years, consistent with a reporting schedule and criteria to be adopted by rule by the department. The department may require commercial transportation services providers to provide data regarding the number of vehicles operating in Washington by city and by county. The department must use the provided information to determine average emissions of greenhouse gases per passenger-mile including, but not limited to:

(a) The total miles driven by vehicles operated to provide commercial transportation services in Washington state;

(b) The percent share of miles traveled by zero emission vehicles;

(c) The miles-weighted average network-wide grams of carbon dioxide equivalent per mile, for purposes of producing an estimate of greenhouse gas emissions; and

(d) Total passenger-miles traveled using an average passengers-per-trip estimate to account for trips where exact passenger head count data was not captured.

(3) The department may use reasonable methods to adjust and correct data and emission estimates including, but not limited to:

(a) Methods to apportion emissions between commercial transportation services providers to account for: (i) Circumstances in which multiple applications or platforms are simultaneously used by a vehicle provider; or (ii) periods when vehicle providers are driving primarily for purposes other than engaging with services provided by the commercial transportation service provider, even though the latter party may be recording data on the vehicle provider's movement; and

(b) Methods to account for passenger-miles provided via zero-emissions transportation or public transit, other than a motor vehicle, offered in connection with a commercial transportation services provider's digital network.

(4) The department may establish a baseline for a commercial transportation services provider that begins operating in Washington after calendar year 2018 with consideration of the baselines established under subsection (1) of this section and the information received by the department under subsection (2) of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 70.120 RCW to read as follows:

(1) By July 1, 2022, the department shall adopt by rule and implement mandatory annual goals and targets that begin in 2024 for each commercial transportation services provider for the reduction under the baseline established under section 2 of this act for emissions of greenhouse gases per passenger-mile. The department may establish alternate timelines for the goals and targets for a commercial transportation services provider that begins covered operations in Washington after calendar year 2018. The goals and targets must:

(a) Include annual targets and goals for increasing the percentage of passenger-miles traveled using zero emission vehicles;

(b) Be technically and economically feasible;

(c) Be informed by data reported by commercial transportation services providers to the department; and

(d) Be designed with consideration of the state greenhouse gas emission limits of RCW 70.235.020 and the state vehicle miles traveled goals of RCW 47.01.440.

(2) The department may delay implementation of the targets and goals adopted under this section if the department finds that unanticipated barriers exist to expanding the usage of zero emission vehicles by commercial transportation services providers. No less frequently than every two years, the department must review available data related to barriers to usage of zero emission vehicles by commercial transportation services providers, including data related to current and future electric transportation adoption rates and charging infrastructure utilization rates.

(3)(a) Beginning January 1, 2023, each commercial transportation services provider must develop and submit to the department a greenhouse gas emission reduction plan. The department may establish alternate deadlines for the submission of a plan by a commercial transportation services provider that begins operating in Washington as a covered entity after calendar year 2018. The department shall review the plan within one hundred eighty days of receipt of the plan, including a review of the plan for compliance with subsections (4) and (5) of this section, and decide whether to approve the plan. If a plan is rejected, the department shall provide the reasons for rejecting the plan to the commercial transportation services provider. The commercial transportation services provider must submit a new plan within sixty days after receipt of the letter of disapproval. Each commercial transportation services provider must implement a greenhouse gas emission reduction plan by January 1, 2024.

(b) A commercial transportation services provider must submit a plan amendment to the department no less than forty-five days before the commercial transportation services provider plans to begin implementing a substantial change to the commercial transportation services provider's plan. Within forty-five days of receipt of a plan amendment, the department must decide whether to approve the plan amendment and must provide the reasons for rejecting the plan amendment.

(4) Greenhouse gas emission reduction plans must contain proposals for meeting the goals and targets established in subsection (1) of this section through, at a minimum:

(a) Increasing the proportion of vehicles used to complete trips that are zero emission vehicles;

(b) Increasing the proportion of vehicle miles completed by zero emission vehicles relative to the proportion of overall vehicle miles;

(c) Decreasing the average gram-per-mile greenhouse gas emission rates for vehicle miles traveled; and

(d) Increasing the proportion of passenger-miles traveled relative to overall vehicle miles traveled.

(5) Plans developed under this section by each commercial transportation services provider must also:

(a) Consider incentives to encourage increasing the share of total miles traveled by passengers whose walking, biking, or other active or zero emission modes of transportation are facilitated using vehicles on an online-enabled application or platform; and

(b) Outline actions that a commercial transportation services provider will take to ensure that the plan will not result in negative financial outcomes for drivers relative to existing operational conditions.

(6) The department may allow plans to achieve credit towards the goals and targets established in subsection (1) of this section through the provision, funding, or other financial support of transportation electrification infrastructure by the commercial transportation services provider that is used to support commercial transportation services provider company vehicle charging.

(7) Plans required under this section must be updated and resubmitted to the department by January 1, 2025, and each January 1st of odd-numbered years thereafter, with implementation of resubmitted plans commencing January 1, 2026, and each January 1st of even-numbered years thereafter.

NEW SECTION. **Sec.**  A new section is added to chapter 70.120 RCW to read as follows:

(1) The department may determine, assess, and collect annual fees from each commercial transportation services provider sufficient to cover the direct and indirect costs of administering and enforcing the provisions of this section and sections 2 and 3 of this act.

(2) The annual fee assessed to each commercial transportation services provider must be calculated by dividing the department's administrative costs associated with commercial transportation services providers by the provider's proportional share of total number of miles of service provided by all commercial transportation services providers during the preceding calendar year.

NEW SECTION. **Sec.**  A new section is added to chapter 70.120 RCW to read as follows:

(1) The department may adopt rules to implement, administer, and enforce sections 2 through 4 of this act. In adopting rules under this section, the department must ensure, to the extent practicable:

(a) Minimal negative impact on low-income and moderate-income drivers;

(b) That the program complements and supports the planning goals of RCW 36.70A.020; and

(c) That the program supports a goal of providing clean mobility for low-income and moderate-income individuals.

(2) By September 30, 2026, and every two years thereafter, the department must submit a brief report to the appropriate committees of the legislature that addresses:

(a) The greenhouse gas emission and vehicle miles traveled reductions achieved under plans implemented consistent with this chapter; and

(b) The efficacy and sufficiency of financial incentives created by the legislature to encourage and facilitate the replacement of high-utilization commercial transportation services provider vehicles with zero emission vehicles.

(3) A commercial transportation services provider that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, the director, the appropriate division of the department, or other city, county, or state agencies under data-sharing agreements approved by the department that provide the same protections as would be afforded to the information or records if the information or records remained solely in the possession of the department. The director shall give consideration to the request and if this action is not detrimental to the public interest and is otherwise in accord with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

(4) The department may not make public information that would constitute an invasion of privacy consistent with the standard established in RCW 42.56.050 including, at minimum, information that would allow identification of individuals receiving services from commercial transportation services providers.

**Sec.**  RCW 70.94.015 and 2019 c 284 s 6 are each amended to read as follows:

(1) The air pollution control account is established in the state treasury. All receipts collected by or on behalf of the department from RCW 70.94.151(2), and receipts from nonpermit program sources under RCW 70.94.152(1) and 70.94.154(7), and all receipts from RCW 70.94.6528 ((~~and~~)), 70.94.6534, and section 4 of this act shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to develop and implement the provisions of this chapter, chapter((~~s 70.94 and~~)) 70.120 RCW, and RCW 70.235.080.

(2) The amounts collected and allocated in accordance with this section shall be expended upon appropriation except as otherwise provided in this section and in accordance with the following limitations:

Portions of moneys received by the department of ecology from the air pollution control account shall be distributed by the department to local authorities based on:

(a) The level and extent of air quality problems within such authority's jurisdiction;

(b) The costs associated with implementing air pollution regulatory programs by such authority; and

(c) The amount of funding available to such authority from other sources, whether state, federal, or local, that could be used to implement such programs.

(3) The air operating permit account is created in the custody of the state treasurer. All receipts collected by or on behalf of the department from permit program sources under RCW 70.94.152(1), 70.94.161, 70.94.162, and 70.94.154(7) shall be deposited into the account. Expenditures from the account may be used only for the activities described in RCW 70.94.152(1), 70.94.161, 70.94.162, and 70.94.154(7). Moneys in the account may be spent only after appropriation.

NEW SECTION. **Sec.**  By December 1, 2021, the department of ecology must submit a report to the appropriate committees of the house of representatives and the senate consistent with RCW 43.01.036 that assesses how to reduce greenhouse gas emissions from entities that deliver food and other consumer goods. The department of ecology must seek input from entities that deliver food and other consumer goods in preparing the report required under this section.

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