

HOUSE BILL REPORT

HB 2310

As Reported by House Committee On:
Environment & Energy
Appropriations

Title: An act relating to reducing emissions from vehicles associated with on-demand transportation services.

Brief Description: Reducing emissions from vehicles associated with on-demand transportation services.

Sponsors: Representatives Fitzgibbon, Ramel, Macri, Doglio, Cody, Hudgins and Pollet.

Brief History:

Committee Activity:

Environment & Energy: 1/14/20, 1/28/20 [DPS];

Appropriations: 2/5/20, 2/8/20 [DP2S(w/o sub ENVI)].

Brief Summary of Second Substitute Bill

- Requires certain service providers arranging for the transportation of people to submit information to the Department of Ecology (Ecology) regarding vehicle miles driven and greenhouse gas emissions.
- Requires covered service providers to develop plans by 2023, and implement those plans beginning in 2024, to meet greenhouse gas emission reduction goals and targets established by Ecology.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Doglio, Fey, Mead, Robinson and Shewmake.

Minority Report: Do not pass. Signed by 3 members: Representatives DeBolt, Ranking Minority Member; Boehnke and Goehner.

Staff: Jacob Lipson (786-7196).

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.

Background:

Regulation of Commercial Transportation Service Providers.

Certain private transportation providers, such as operators of airporters, limousines, for-hire vehicles, taxicabs, and charter and excursion buses, are regulated by state law. Commercial transportation service providers are businesses that use a digital network or software application to connect passengers to drivers to provide prearranged rides. These providers are not taxicab companies, charterers or excursion service carriers, auto transportation companies, private nonprofit transportation providers, or limousine carriers. There are statutory requirements regarding liability insurance for personal vehicles being used for commercial transportation services.

Greenhouse Gas Emission Limits, Growth Management Act Planning Goals, and Vehicle Miles Traveled Goals.

In 2008 state limits were established for the emissions of greenhouse gases (GHGs) as follows:

- By 2020, overall GHG emissions in the state must be reduced to 1990 levels.
- By 2035, overall GHG emissions in the state must be reduced to 25 percent below 1990 levels.
- By 2050, overall GHG emissions in the state must be reduced to 50 percent below 1990 levels or 70 percent below the state's expected emissions for that year.

In 2008 the Washington State Department of Transportation was also directed to adopt statewide goals to reduce annual per capita vehicle miles traveled by 18 percent by 2020, by 30 percent by 2035, and by 50 percent by 2050.

Under the state's Growth Management Act (GMA), planning jurisdictions must consider 13 nonprioritized goals set forth in statute for the purpose of guiding comprehensive plans and development regulations. The GMA planning goals address transportation, housing, urban growth, reducing sprawl, and economic development, among other topics.

Clean Air Act.

The state Clean Air Act (CAA) establishes an Air Pollution Control Account (Account) for use by the Department of Ecology (Ecology) in carrying out certain responsibilities under the CAA. The Account is funded by certain fees and other receipts authorized under the CAA.

Violations of the CAA requirements are punishable by a variety of criminal and civil penalties. Civil penalties of up to \$10,000 per violation are authorized by the CAA. Penalties must be deposited in the Account.

Confidential Business Information and Privacy Protections.

Ecology has an established administrative process that allows for information submitted to Ecology to be designated for Ecology's confidential use, because the information relates to unique production processes, and its release would hurt the competitive position of the entity that submitted the information. Ecology may designate these submitted records as confidential if doing so would not be detrimental to the public interest and is in accord with other policies and purposes governing Ecology's activities.

The Public Records Act (PRA) generally exempts information held by state agencies that would violate personal privacy from public disclosure requirements. Under the PRA, personal privacy is considered to be invaded or violated if disclosure of information would be highly offensive to a reasonable person and is not of legitimate concern to the public.

Summary of Substitute Bill:

Two categories of providers of passenger and goods delivery services are defined and made subject to certain regulatory and reporting requirements overseen by the Department of Ecology (Ecology):

- commercial transportation service providers (Passenger Delivery Services), which are entities that use a digital network or software application to connect passengers to vehicle operators in order to provide a prearranged ride. The same entities, such as regulated taxis and limousines, that are excluded from existing commercial transportation service insurance requirements are also excluded from the definition of commercial transportation service provider; and
- food delivery providers (Food Delivery Services), which are entities that use a customer-facing digital network or software application to prearrange for the delivery of prepared meals, groceries, or other food that was not sold and transported directly to a customer by the entity.

Greenhouse Gas Emissions Reporting and Baseline Calculation for Food and Passenger Delivery Services.

Ecology must establish baseline greenhouse gas (GHG) emissions for Food and Passenger Delivery Services on a per-delivery-mile basis, using calendar year 2018 data. The baseline calculation must be established by July 1, 2021, and include miles driven both with and without passenger or food deliveries in the vehicle.

The Food and Passenger Delivery Services must provide information to Ecology on a calendar-year basis, which Ecology must use to determine the average GHG emissions per passenger mile and per customer-delivery mile, including:

- total miles driven by vehicles;
- the percent share driven by zero-emission vehicles;
- the average grams of carbon dioxide equivalent per mile; and
- for passenger delivery services, the total passenger miles traveled using an average passenger-per-trip estimate.

Ecology may use reasonable methods to adjust and correct data and emissions estimates. Ecology may require food and passenger delivery services to provide data on the number of vehicles operating in Washington by city and county.

Greenhouse Gas Emissions Targets, Goals, and Plans For Food and Passenger Delivery Services.

By July 1, 2022, Ecology must adopt a rule to establish mandatory goals and targets for GHG emissions per passenger mile or food-delivery mile for Food and Passenger Delivery Services.

The goals and targets must also include annual targets and goals for increasing the percentage of miles travelled using zero-emission vehicles, be technically and economically feasible, be informed by data reported to Ecology by companies, and be designed with consideration of state GHG limits and vehicle miles traveled goals. Ecology may delay implementation of goals and targets if unanticipated barriers exist. Ecology may also establish a baseline for food and passenger delivery services that begin operating in Washington after calendar year 2018 and may establish alternate timelines for the goals and targets for such companies.

Beginning January 1, 2023, Food and Passenger Delivery Services must submit a GHG emission reduction plan to Ecology, which must be implemented by January 1, 2024. The plan must contain proposals for meeting the goals and targets established by Ecology and must consider incentives to encourage specified outcomes that are not explicitly the subject of Ecology-adopted goals and targets. Plans must also outline actions that food and passenger delivery services will take to ensure that the plan will not result in negative financial outcomes for drivers. Ecology may allow plans to earn credit towards goals and targets through the financial support of transportation electrification infrastructure. Procedures are specified for the plan submission process and the process for amending approved plans. Plans must be updated every two years, beginning January 1, 2025.

Program Administration, Confidential Business Information Management, and Compliance Enforcement.

Ecology may adopt rules and must adopt rules relating to the submission of calendar-year information to Ecology by Food and Passenger Delivery Services. In adopting rules, Ecology must ensure, if practicable, minimal negative impact on low-income and moderate-income drivers, that the commercial transportation service provider components of rules complement and support the GMA planning goals, and that the program supports clean mobility for low-income and moderate-income persons.

Food and Passenger Delivery Services that submit information or records to Ecology may request that the information or records be made available only for confidential use by Ecology or other city, county, or state agencies. Data sharing between Ecology and other city, county, or state agencies must occur under a data-sharing agreement approved by Ecology that affords the data the same level of protections as would be offered if the data remained in Ecology's possession. Ecology must grant a request to keep submitted information confidential if it is made in accord with the policies and procedures established under Ecology's existing administrative process and standards for evaluating confidential information submitted to Ecology. Ecology is also prohibited from making public information that would constitute an invasion of privacy, including information that would allow the identification of individuals using food or passenger delivery services.

Ecology must submit a brief report to the Legislature every two years, beginning in September 2026, that addresses GHG emission reductions achieved under plans and the efficacy and sufficiency of financial incentives created by the Legislature to help replace food and passenger delivery vehicles with zero-emission vehicles.

Ecology may assess annual fees to cover Ecology's direct and indirect program costs. Fees must be deposited in the Air Pollution Control Account.

Violations of GHG emission reporting, plan, and other program requirements are subject to criminal and civil penalties under the state Clean Air Act.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original house bill:

- eliminates all requirements related to transportation delivery service providers of nonfood goods;
- authorizes the Department of Ecology (Ecology) to require Passenger and Food Delivery Services to provide data regarding the number of vehicles operating in Washington by city and county;
- authorizes Ecology to set baselines for Food and Passenger Delivery Services that begin operating in Washington after calendar year 2018, and to establish alternate timelines, goals, and plan submission deadlines for such service providers based on the baseline;
- authorizes Ecology to use reasonable methods to adjust and correct data and emissions estimates for passenger miles provided via zero-emission transportation or public transit offered in connection with a service provider's digital network;
- delays the start date by which Food and Passenger Delivery Service plans must begin to be implemented from July 1, 2023, until January 1, 2024;
- requires Food and Passenger Delivery Service plans to outline actions that will be taken to avoid the plan having negative financial outcomes for drivers;
- authorizes Ecology to allow plans to achieve credit toward Ecology-established goals and targets through the funding of transportation electrification infrastructure;
- prohibits Ecology from making public information that would constitute an invasion of privacy, including information that would allow the identification of individuals using Food and Passenger Delivery Services; and
- requires Ecology to submit a biennial report to the Legislature starting in 2026 that addresses greenhouse gas emissions and vehicle miles traveled reductions achieved under Food and Passenger Delivery Service plans and assesses the efficacy of financial incentives created by the Legislature to encourage and facilitate the replacement of high-use food and passenger delivery vehicles with zero-emission vehicles.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Transportation accounts for nearly half of all state greenhouse gas (GHG) emissions. On-demand transportation services are a small but fast-growing source of vehicle

miles traveled and GHG emissions, even though the services tend to use cleaner cars. California has adopted a similar policy to the proposal in this bill, but this bill goes beyond California's law by including food and goods delivery services. This bill will allow companies to use innovative incentives and other tools to encourage pooling of rides and delivery services and to transition vehicles to zero-emission vehicles. It is important that this bill not result in negative impacts on delivery service drivers or on low-income communities. The data-reporting provisions will ensure that GHG emission reductions are achieved through the program. The biennial plan update cycle will ensure accountability for regulated companies. Safeguards for consumer data should be included. The program should address the cost gap for electric vehicle purchases through incentives and could be expanded to include taxis and eventually personal cars.

(Opposed) None.

(Other) The burden of this bill should be on companies, not on drivers. It would be helpful to add a fund that would allow full-time drivers to convert to cleaner vehicles. This bill should be limited in scope to transportation network companies and should not address other companies that deliver goods.

Persons Testifying: (In support) Representative Fitzgibbon, prime sponsor; Reed Schuler, Governor's Policy Office; Craig Kenworthy, Puget Sound Clean Air Agency; Michael Breish, Department of Commerce; Bryan Hockaday, Lyft; Caleb Weaver, Uber; Clifford Traisman, Washington Environmental Council and Washington Conservation Voters; and Leah Missik, Climate Solutions.

(Opposed) None.

(Other) Brenda Wiest, Teamsters 117 and App-Based Drivers Association; and Mike Ennis, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Environment & Energy. Signed by 20 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; Chopp, Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Kilduff, Macri, Pettigrew, Pollet, Ryu, Senn, Steele, Sullivan, Tarleton and Tharinger.

Minority Report: Do not pass. Signed by 11 members: Representatives MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Dye, Hoff, Kraft, Mosbrucker, Schmick, Sutherland and Ybarra.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Environment & Energy:

The second substitute bill:

- eliminates data reporting and greenhouse gas emission reduction plan requirements applicable to food delivery providers;
- requires the Department of Ecology (Ecology) to submit a report to the Legislature by December 1, 2021, that assesses how to reduce greenhouse gas emissions from entities that deliver food and other consumer goods;
- requires any credits allowed by Ecology towards passenger delivery service goals and targets through the provision of transportation electrification infrastructure to be from infrastructure that is used to support passenger or food delivery service vehicle charging; and
- requires Ecology to seek input from entities that deliver food and other consumer goods in preparing recommendations to the Legislature regarding how to reduce greenhouse gas emissions from those entities.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Rideshare services are an expanding portion of the state's transportation system. These services are innovative tools, but also present a challenge in terms of emissions. This bill is a common sense, flexible approach for the state and rideshare companies to collaborate to reduce emission and congestion. The bill provides a number of avenues for companies to reduce their emissions. There are provisions to ensure there are no negative financial outcomes for the workers who provide these services. The bill should provide additional incentives for electrification, such as those offered in California's equivalent policy.

(Opposed) The language in the bill covers grocery truck fleets, which was likely not intentional and is not reflected in the fiscal note.

(Other) Transportation network companies represent a small percentage of vehicle miles traveled. Broadening the scope of the policy to include taxis, private for-hires, and ultimately personal vehicles would enhance the impact of this effort. The bill includes a limited subset of the delivery sector, and should include either all food and package delivery, or none. The bill should exempt food delivery due to the complications for food delivery companies to implement the bill. The goals of the bill are not applied even-handedly across portions of the industry. The information on carbon emissions collected in the bill should be made widely available.

Persons Testifying: (In support) Reed Schuler, Office of the Governor; and Bryan Hockaday, Lyft.

(Opposed) Holly Chisa, Northwest Grocery Association.

(Other) Caleb Weaver, Uber; Samantha Kersul, TechNet; and Arthur West.

Persons Signed In To Testify But Not Testifying: None.