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**SENATE BILL 5192**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Das, Lovelett, Carlyle, Kuderer, Nguyen, and Wilson, C.

AN ACT Relating to supporting access to electric vehicle supply equipment; amending RCW 19.94.010, 19.94.175, 19.94.190, 19.94.517, and 46.08.185; and adding new sections to chapter 19.94 RCW.

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

**Sec.**  RCW 19.94.010 and 2019 c 96 s 1 are each amended to read as follows:

(1) The definitions in this section apply throughout this chapter and to any rules adopted pursuant to this chapter unless the context clearly requires otherwise.

(a) "City" means a first-class city or a code city, as defined in RCW 35A.01.035, with a population of over fifty thousand persons.

(b) "City sealer" means the person duly authorized by a city to enforce and administer the weights and measures program within such city and any duly appointed deputy sealer acting under the instructions and at the direction of the city sealer.

(c) "Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive, however, of an auxiliary shipping container enclosing packages that individually conform to the requirements of this chapter. An individual item or lot of any commodity not in packaged form, but on which there is marked a selling price based on established price per unit of weight or of measure, shall be construed to be a commodity in package form.

(d) "Consumer package" or "package of consumer commodity" means a commodity in package form that is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by persons, or used by persons for the purpose of personal care or in the performance of services ordinarily rendered in or about a household or in connection with personal possessions.

(e) "Cord" means the measurement of wood intended for fuel or pulp purposes that is contained in a space of one hundred twenty‑eight cubic feet, when the wood is ranked and well stowed.

(f) "Department" means the department of agriculture of the state of Washington.

(g) "Director" means the director of the department or duly authorized representative acting under the instructions and at the direction of the director.

(h) "Fish" means any waterbreathing animal, including shellfish, such as, but not limited to, lobster, clam, crab, or other mollusca that is prepared, processed, sold, or intended for sale.

(i) "Net weight" means the weight of a commodity excluding any materials, substances, or items not considered to be part of such commodity. Materials, substances, or items not considered to be part of a commodity shall include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.

(j) "Nonconsumer package" or "package of nonconsumer commodity" means a commodity in package form other than a consumer package and particularly a package designed solely for industrial or institutional use or for wholesale distribution only.

(k) "Meat" means and shall include all animal flesh, carcasses, or parts of animals, and shall also include fish, shellfish, game, poultry, and meat food products of every kind and character, whether fresh, frozen, cooked, cured, or processed.

(l) "Official seal of approval" means the seal or certificate issued by the director or city sealer which indicates that a secondary weights and measures standard or a weighing or measuring instrument or device conforms with the specifications, tolerances, and other technical requirements adopted in RCW 19.94.190.

(m) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

(n) "Poultry" means all fowl, domestic or wild, that is prepared, processed, sold, or intended or offered for sale.

(o) "Service agent" means a person who for hire, award, commission, or any other payment of any kind, installs, tests, inspects, checks, adjusts, repairs, reconditions, or systematically standardizes the graduations of a weighing or measuring instrument or device.

(p) "Ton" means a unit of two thousand pounds avoirdupois weight.

(q) "Weighing or measuring instrument or device" means any equipment or apparatus used commercially to establish the size, quantity, capacity, count, extent, area, heaviness, or measurement of quantities, things, produce, or articles for distribution or consumption, that are purchased, offered or submitted for sale, hire, or award on the basis of weight, measure or count, including any accessory attached to or used in connection with a weighing or measuring instrument or device when such accessory is so designed or installed that its operation affects, or may effect, the accuracy or indication of the device. This definition shall be strictly limited to those weighing or measuring instruments or devices governed by Handbook 44 as adopted under RCW 19.94.190.

(r) "Weight" means net weight as defined in this section.

(s) "Weights and measures" means the recognized standards or units of measure used to indicate the size, quantity, capacity, count, extent, area, heaviness, or measurement of any consumable commodity.

(t) "Secondary weights and measures standard" means the physical standards that are traceable to the primary standards through comparisons, used by the director, a city sealer, or a service agent that under specified conditions defines or represents a recognized weight or measure during the inspection, adjustment, testing, or systematic standardization of the graduations of any weighing or measuring instrument or device.

(u) "Charging session" means an event starting when a user or a vehicle initiates a refueling event and stops when a user or a vehicle ends a refueling event.

(v) "Clearly marked" means, at a minimum, a sign, sticker, plaque, or any other visible marker that is readable, which may include standards from the Americans with disabilities act of 1990, 2010 standards for accessible design.

(w) "Common interest community" has the same meaning as defined in RCW 64.90.010.

(x) "Direct current fast charger" means electric vehicle supply equipment capable of supplying direct current electricity to a vehicle fitted with the appropriate connection to support refueling the vehicle's energy storage battery.

(y) "Electric vehicle service provider" means the entity responsible for operating one or more networked or nonnetworked electric vehicle supply equipment. Operating includes, but is not limited to: Sending commands or messages to a networked electric vehicle supply equipment; receiving commands or messages from a networked electric vehicle supply equipment; or providing billing, maintenance, reservations, or other services to a nonnetworked or networked electric vehicle supply equipment. An electric vehicle service provider may designate another entity to act as the electric vehicle service provider for purposes of this chapter. A state agency, an electric utility as defined in RCW 19.405.020, or a municipal corporation as defined in RCW 39.69.010 is considered an electric vehicle service provider when responsible for operating one or more networked or nonnetworked electric vehicle supply equipment.

(z) "Electric vehicle supply equipment" means the unit controlling the power supply to one or more vehicles during a charging session including, but not limited to, level 2 electric vehicle supply equipment and direct current fast chargers.

(aa) "Installed" means operational and made available for a charging session.

(bb) "Kiosk" means a stand-alone physical unit that allows users to pay for and initiate a charging session at one or more electric vehicle supply equipment located at the same site as the kiosk.

(cc) "Level 2 electric vehicle supply equipment" means electric vehicle supply equipment capable of supplying 208 to 240 volt alternating current.

(dd) "Networked electric vehicle supply equipment" means electric vehicle supply equipment capable of receiving and sending commands or messages remotely from an electric vehicle service provider.

(ee) "Nonnetworked electric vehicle supply equipment" means electric vehicle supply equipment incapable of receiving and sending commands or messages remotely from an electric vehicle service provider, including electric vehicle supply equipment with remote communication capabilities that have been disabled or electric vehicle supply equipment with secondary systems that provide remote communication capabilities that have been installed.

(ff) "Publicly available electric vehicle supply equipment" means electric vehicle supply equipment and associated parking space or spaces designated by a property owner or lessee to be available to, and accessible by, the public.

(2) The director shall prescribe by rule other definitions as may be necessary for the implementation of this chapter.

NEW SECTION. **Sec.**  A new section is added to chapter 19.94 RCW to read as follows:

(1) Except for the applicable exemptions in section 3 of this act, electric vehicle supply equipment is considered publicly available and is subject to the requirements of this chapter if:

(a) A lessee or a property owner designates electric vehicle supply equipment to be available only to customers or visitors of a business;

(b) Any member of the public can obtain vehicular access to electric vehicle supply equipment and associated parking spaces located in a parking garage or gated facility for free or through payment of a fee;

(c) The electric vehicle supply equipment and associated parking spaces are made available to the public for only limited time periods, then the electric vehicle supply equipment and associated parking spaces are considered publicly available electric vehicle supply equipment during those limited time periods only.

(2) The director may by rule subject additional types of electric vehicle supply equipment to the requirements of this chapter to benefit the public and provide protections to consumers.

NEW SECTION. **Sec.**  A new section is added to chapter 19.94 RCW to read as follows:

(1) Publicly available electric vehicle supply equipment is exempt from compliance with the requirements of sections 4 and 5 of this act if:

(a) Members of the public may use the electric vehicle supply equipment at no cost, including no charges, fees, memberships, minimum balance on an account, and other cost at all times; and

(b) It is clearly marked that the electric vehicle supply equipment is available for use at no cost at all times.

(2) This chapter does not apply to:

(a) Workplace electric vehicle supply equipment and its associated parking spaces if it is clearly marked and operated as available exclusively to employees or contracted drivers, regardless of the physical accessibility of the electric vehicle supply equipment to the public, and that is available for use at no cost;

(b) Electric vehicle supply equipment and associated parking spaces reserved exclusively and available for use at no cost for residents, tenants, visitors, or employees of a private residence or common interest community; or a residential building adjacent to a private residence.

(3) The director may by rule provide exemptions from compliance with some or all requirements of this chapter to benefit the public and provide protections to consumers, including electric vehicle supply equipment that is not available or intended for use by the public but where charges, fees, or other costs are required to initiate a charging session.

NEW SECTION. **Sec.**  A new section is added to chapter 19.94 RCW to read as follows:

(1) By January 1, 2023, the electric vehicle service provider must ensure all publicly available electric vehicle supply equipment is clearly marked and discloses all charges, fees, and costs associated with a charging session at each electric vehicle supply equipment or kiosk used to service that electric vehicle supply equipment. At a minimum, the electric vehicle service provider must disclose to the user the following information at the point of sale, if applicable:

(a) A fee for use of the parking space;

(b) A nonmember plug-in fee from the electric vehicle service provider;

(c) Price to refuel in United States dollars per kilowatt-hour or megajoule;

(d) Any potential changes in the price to refuel, in United States dollars per kilowatt-hour or megajoule, due to variable pricing; and

(e) Any other fees charged for a charging session.

(2) If the charging session or portion of a charging session is offered at no cost, it must be disclosed at the electric vehicle supply equipment or kiosk used to service that electric vehicle supply equipment.

NEW SECTION. **Sec.**  A new section is added to chapter 19.94 RCW to read as follows:

(1) By July 1, 2022, the department, in consultation with the department of commerce and the Washington utilities and transportation commission, must adopt rules requiring all electric vehicle service providers make available multiple payment methods at all publicly available level 2 electric vehicle supply equipment or direct current fast charger electric vehicle supply equipment installed in Washington and must review and, if necessary, amend the rules every two years, to maintain consistency with evolving technology. At a minimum, the rules must include:

(a) Deadlines for electric vehicle service provider compliance for publicly available level 2 electric vehicle supply equipment and direct current fast charger electric vehicle supply equipment installed prior to a specific date;

(b) Deadlines for electric vehicle service provider compliance for publicly available level 2 electric vehicle supply equipment and direct current fast charger electric vehicle supply equipment installed on or after a specific date;

(c) Minimum required payment methods that are convenient and reasonably support access for all current and future users at publicly available level 2 electric vehicle supply equipment or direct current fast charger electric vehicle supply equipment installed in Washington. Payment methods may include, but are not limited to:

(i) A credit card reader device physically located on either the electric vehicle supply equipment unit or a kiosk used to service that electric vehicle supply equipment;

(ii) A toll-free number on each electric vehicle supply equipment and kiosk used to service that electric vehicle supply equipment that provides the user with the option to initiate a charging session and submit payment at any time that the electric vehicle supply equipment is operational and publicly available;

(iii) A mobile payment option used to initiate a charging session;

(d) Means for conducting a charging session in languages other than English;

(e) Means for facilitating charging sessions for consumers who are unbanked, underbanked, or low-moderate income.

(2) The electric vehicle service provider may not require a subscription, membership, or account or a minimum balance on an account in order to initiate a charging session at electric vehicle supply equipment subject to this section.

(3) If an electric vehicle service provider sells or intends to sell consumer data collected during or associated with a charging session, the electric vehicle service provider shall disclose all types of data collected to the consumer.

(4) For the purpose of this section, "mobile payment" means an electronic fund transfer initiated through a mobile phone or device.

NEW SECTION. **Sec.**  A new section is added to chapter 19.94 RCW to read as follows:

(1) Interoperability standards provide safeguards to consumers and support access to electric vehicle supply equipment. In order for Washington to have reliable, accessible, and competitive markets for electric vehicle supply equipment that are necessary for the movement of goods and people by electric vehicles, interoperability standards that align with national and international best practices or standards are necessary.

(2) By July 1, 2022, the department, in consultation with the department of commerce and the Washington utilities and transportation commission, shall adopt rules establishing requirements for all electric vehicle service providers to, at a minimum, meet and maintain interoperability standards for publicly available level 2 electric vehicle supply equipment and direct current fast charger electric vehicle supply equipment and shall review and, if necessary, amend the rules every two years, to maintain consistency with evolving technology.

(3) For the purpose of this section, "interoperability" means the ability of hardware, systems, software, or a communications network provided by one party, vendor, or service provider to interact with or exchange and make use of information, including payment information, between hardware, software, or a communications network provided by a different party, vendor, or service provider.

NEW SECTION. **Sec.**  A new section is added to chapter 19.94 RCW to read as follows:

(1) This section applies to all electric vehicle service providers operating one or more publicly available level 2 electric vehicle supply equipment or direct current fast charger electric vehicle supply equipment installed in Washington. If an electric vehicle service provider also operates electric vehicle supply equipment that is not available to the public, the requirements of this section apply only to that electric vehicle service provider's publicly available level 2 electric vehicle supply equipment or direct current fast charger electric vehicle supply equipment installed in Washington.

(2) By July 1, 2022, the department of commerce, in consultation with the department and the Washington utilities and transportation commission, must adopt rules establishing inventory, payment, and reliability reporting requirements for electric vehicle service providers and shall review and, if necessary, amend the rules every two years, to maintain consistency with evolving technology. The rules must include requirements for electric vehicle service providers to collect and submit information including, but not limited to:

(a) Electric vehicle service provider contact information;

(b) Electric vehicle supply equipment model certification for each electric vehicle supply equipment model operated in Washington;

(c) Electric vehicle supply equipment inventory for both active and retired, decommissioned, or removed electric vehicle supply equipment in Washington;

(d) Annual reports detailing electric vehicle supply equipment payment information;

(e) Specifications for reporting data to the national renewable energy laboratory, alternative fuels data center.

**Sec.**  RCW 19.94.175 and 2019 c 96 s 3 are each amended to read as follows:

(1) Pursuant to RCW 19.94.015, the following annual registration fees shall be charged for each weighing or measuring instrument or device used for commercial purposes in this state:

|  |  |  |  |
| --- | --- | --- | --- |
| (a) | Weighing devices: | | |
| (i) | Small scales "zero to four hundred pounds capacity" | $ | 16.00 |
| (ii) | Intermediate scales "four hundred one pounds to five thousand pounds capacity" | $ | 60.00 |
| (iii) | Large scales "over five thousand pounds capacity" | $ | 120.00 |
| (iv) | Railroad track scales | $ | 1,200.00 |
| (b) | Liquid fuel metering devices: | | |
| (i) | Motor fuel meters with flows of twenty gallons or less per minute | $ | 16.00 |
| (ii) | Motor fuel meters with flows of more than twenty but not more than one hundred fifty gallons per minute | $ | 50.00 |
| (iii) | Motor fuel meters with flows over one hundred fifty gallons per minute | $ | 75.00 |
| (c) | Liquid petroleum gas meters: | | |
| (i) | With one inch diameter or smaller dispensers | $ | 40.00 |
| (ii) | With greater than one inch diameter dispensers | $ | 80.00 |
| (d) | Fabric meters | $ | 15.00 |
| (e) | Cordage meters | $ | 15.00 |
| (f) | Mass flow meters | $ | 300.00 |
| (g) | Taxi meters | $ | 40.00 |

(2) Pursuant to RCW 19.94.015, a reasonable registration fee for electric vehicle supply equipment may be established through rule making to cover the costs associated with enforcing this chapter on electric vehicle supply equipment.

(3) With the exception of subsection ((~~(3)~~)) (4) of this section, no person shall be required to pay more than the annual registration fee for any weighing or measuring instrument or device in any one year.

((~~(3)~~)) (4) The department or a city sealer may establish reasonable inspection and testing fees for each type or class of weighing or measuring instrument or device specially requested to be inspected or tested by the device owner. These inspection and testing fees shall be limited to those amounts necessary for the department or city sealer to cover the direct costs associated with such inspection and testing. The fees shall not be set so as to compete with service agents normally engaged in such services.

((~~(4)~~)) (5) The weights and measures advisory group within the department must review the fees in subsection (1) of this section and report to stakeholders on the financial status of the program supported by the fees by September 1, 2024, and September 1st every five years thereafter.

**Sec.**  RCW 19.94.190 and 2019 c 96 s 4 are each amended to read as follows:

(1) The director and duly appointed city sealers must enforce the provisions of this chapter.

(2) The department's enforcement proceedings under this chapter are subject to the requirement to provide technical assistance in chapter 43.05 RCW and the administrative procedure act, chapter 34.05 RCW. City sealers undertaking enforcement actions must provide equivalent procedures.

(3) In assessing the amount of a civil penalty, the department or city must give due consideration to the gravity of the violation and history of previous violations.

(4) The director must adopt rules for enforcing and carrying out the purposes of this chapter including but not limited to the following:

(a) Establishing state standards of weight, measure, or count, and reasonable standards of fill for any commodity in package form;

(b) The establishment of technical test procedures to be followed, any necessary report and record forms, and marks of rejection to be used by the director and city sealers in the discharge of their official duties as required by this chapter;

(c) The establishment of technical test procedures, reporting procedures, and any necessary record and reporting forms to be used by service agents when testing and inspecting instruments or devices under RCW 19.94.255(3) or when otherwise installing, repairing, inspecting, or standardizing the graduations of any weighing or measuring instruments or devices;

(d) The establishment of exemptions from the marking or tagging requirements of RCW 19.94.250 with respect to weighing or measuring instruments or devices of such a character or size that the marking or tagging would be inappropriate, impracticable, or damaging to the apparatus in question;

(e) The establishment of exemptions from the inspection and testing requirements of RCW 19.94.163 with respect to classes of weighing or measuring instruments or devices found to be of such a character that periodic inspection and testing is unnecessary to ensure continued accuracy;

(f) The establishment of inspection and approval techniques, if any, to be used with respect to classes of weighing or measuring instruments or devices that are designed specifically to be used commercially only once and then discarded, or are uniformly mass‑produced by means of a mold or die and are not individually adjustable;

(g) The establishment of inspection and testing procedures to be used for classes of weighing or measuring instruments or devices found to be few in number, highly complex, and of such character that differential or special inspection and testing is necessary, including railroad track scales. The department's procedures shall include requirements for the provision, maintenance, and transport of any weight or measure necessary for the inspection and testing at no expense to the state;

(h) Specifications, tolerances, and other technical requirements for commercial weighing and measuring instruments or devices that must be consistent with the most recent edition of the national institute of standards and technology handbook 44 except where modified to achieve state objectives; and

(i) Packaging, labeling, and method of sale of commodities that must be consistent with the most recent edition of the national institute of standards and technology handbook 44 and 130 (for legal metrology and engine fuel quality) except where modified to achieve state objectives.

(5) Rules adopted under this section must also include specifications and tolerances for the acceptable range of accuracy required of weighing or measuring instruments or devices and must be designed to eliminate from use, without prejudice to weighing or measuring instruments or devices that conform as closely as practicable to official specifications and tolerances, those that: (a) Are of such construction that they are faulty, that is, that are not reasonably permanent in their adjustment or will not repeat their indications correctly; or (b) facilitate the perpetration of fraud.

(6) By January 1, 2023, the director must adopt rules related to the sale of electricity sold as a vehicle fuel and electric vehicle fueling systems consistent with the most recent edition of the national institute of standards and technology handbook 130 and handbook 44, except where modified to achieve state objectives, and must review and, if necessary, amend the rules utilizing a public stakeholder process and providing the public advance notice for any proposed modifications every two years, to maintain consistency with evolving technology. These rules may take effect no earlier than January 1, 2024.

**Sec.**  RCW 19.94.517 and 2019 c 96 s 19 are each amended to read as follows:

(1) Whenever the department or a city sealer tests or inspects a weighing or measuring instrument or device and finds the instrument or device to be incorrect to the economic benefit of the owner/operator of the weighing or measuring instrument or device and to the economic detriment of the customer, the owner of the weighing or measuring instrument or device is subject to the following civil penalties:

|  |  |  |  |
| --- | --- | --- | --- |
| Device deviations outside the tolerances stated in Handbook 44. | | | |
|  | | Penalty | |
| Small weighing or measuring instruments or devices: | | | |
|  | First violation | $ | 200.00 |
|  | Second or subsequent violation within one year of first violation | $ | 500.00 |
| Medium weighing or measuring instruments or devices: | | | |
|  | First violation | $ | 400.00 |
|  | Second or subsequent violation within one year of first violation | $ | 1,000.00 |
| Large weighing or measuring instruments or devices: | | | |
|  | First violation | $ | 500.00 |
|  | Second or subsequent violation within one year of first violation | $ | 2,000.00 |
| Electric vehicle fuel measuring instruments or devices: | | | |
|  | First violation | $ | 200.00 |
|  | Second or subsequent violation within one year of first violation | $ | 500.00 |

(2) For the purposes of this section:

(a) The following are small weighing or measuring instruments or devices: Scales of zero to four hundred pounds capacity, liquid fuel metering devices with flows of not more than twenty gallons per minute, liquid petroleum gas meters with one inch in diameter or smaller dispensers, fabric meters, cordage meters, and taxi meters.

(b) The following are medium weighing or measuring instruments or devices: Scales of four hundred one to five thousand pounds capacity, liquid fuel metering devices with flows of more than twenty but not more than one hundred fifty gallons per minute, and mass flow meters.

(c) The following are large weighing or measuring instruments or devices: Liquid petroleum gas meters with greater than one inch diameter dispensers, liquid fuel metering devices with flows over one hundred fifty gallons per minute, and scales of more than five thousand pounds capacity and scales of more than five thousand pounds capacity with supplemental devices.

(3) The weighing or measuring instrument or device owner may appeal the civil penalty.

**Sec.**  RCW 46.08.185 and 2013 c 60 s 1 are each amended to read as follows:

(1) An electric vehicle charging station must be indicated by vertical signage identifying the station as an electric vehicle charging station and indicating that it is only for electric vehicle charging. The signage must be consistent with the manual on uniform traffic control devices, as adopted by the department of transportation under RCW 47.36.030. Additionally, the electric vehicle charging station must be indicated by green pavement markings. Supplementary signage may be posted to provide additional information including, but not limited to, the amount of the monetary penalty under subsection (2) of this section for parking in the station while not connected to the charging equipment. An electric vehicle charging station must comply with the requirements in sections 2 through 5 of this act.

(2) It is a parking infraction, with a monetary penalty of one hundred twenty-four dollars, for any person to park a vehicle in an electric vehicle charging station provided on public or private property if the vehicle is not connected to the charging equipment. The parking infraction must be processed as prescribed under RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270((~~(3)~~)) (2).

(3) For purposes of this section, "electric vehicle charging station" means a public or private parking space that is served by charging equipment that has as its primary purpose the transfer of electric energy to a battery or other energy storage device in an electric vehicle.

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