

E3SHB 1091 - CONF REPT
By Conference Committee

HOUSE ADOPTED 04/25/2021; SENATE ADOPTED 04/25/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that rapid
4 innovations in low carbon transportation technologies, including
5 electric vehicles and clean transportation fuels, are at the
6 threshold of widespread commercial deployment. In order to help
7 prompt the use of clean fuels, other states have successfully
8 implemented programs that reduce the carbon intensity of their
9 transportation fuels. California and Oregon have both implemented low
10 carbon fuel standards that are similar to the program created in this
11 act, and both states have experienced biofuel sector growth and have
12 successfully sited large biofuel projects that had originally been
13 planned for Washington. Washington state has extensively studied the
14 potential impact of a clean fuels program, and most projections show
15 that a low carbon fuel standard would decrease greenhouse gas and
16 conventional air pollutant emissions, while positively impacting the
17 state's economy.

18 (2) The legislature further finds that the health and welfare of
19 the people of the state of Washington is threatened by the prospect
20 of crumbling or swamped coastlines, rising water, and more intense
21 forest fires caused by higher temperatures and related droughts, all
22 of which are intensified and made more frequent by the volume of
23 greenhouse gas emissions. As of 2017, the transportation sector
24 contributes 45 percent of Washington's greenhouse gas emissions, and
25 the legislature's interest in the life cycle of the fuels used in the
26 state arises from a concern for the effects of the production and use
27 of these fuels on Washington's environment and public health,
28 including its air quality, snowpack, and coastline.

29 (3) Therefore, it is the intent of the legislature to support the
30 deployment of clean transportation fuel technologies through a
31 carefully designed program that reduces the carbon intensity of fuel
32 used in Washington, in order to:

1 (a) Reduce levels of conventional air pollutants from diesel and
2 gasoline that are harmful to public health;

3 (b) Reduce greenhouse gas emissions associated with
4 transportation fuels, which are the state's largest source of
5 greenhouse gas emissions; and

6 (c) Create jobs and spur economic development based on innovative
7 clean fuel technologies.

8 NEW SECTION. **Sec. 2.** The definitions in this section apply
9 throughout this chapter unless the context clearly indicates
10 otherwise.

11 (1) "Carbon dioxide equivalents" has the same meaning as defined
12 in RCW 70A.45.010.

13 (2) "Carbon intensity" means the quantity of life-cycle
14 greenhouse gas emissions, per unit of fuel energy, expressed in grams
15 of carbon dioxide equivalent per megajoule (gCO₂e/MJ).

16 (3) "Clean fuels program" means the requirements established
17 under this chapter.

18 (4) "Cost" means an expense connected to the manufacture,
19 distribution, or other aspects of the provision of a transportation
20 fuel product.

21 (5) "Credit" means a unit of measure generated when a
22 transportation fuel with a carbon intensity that is less than the
23 applicable standard adopted by the department under section 3 of this
24 act is produced, imported, or dispensed for use in Washington, such
25 that one credit is equal to one metric ton of carbon dioxide
26 equivalents. A credit may also be generated through other activities
27 consistent with this chapter.

28 (6) "Deficit" means a unit of measure generated when a
29 transportation fuel with a carbon intensity that is greater than the
30 applicable standard adopted by the department under section 3 of this
31 act is produced, imported, or dispensed for use in Washington, such
32 that one deficit is equal to one metric ton of carbon dioxide
33 equivalents.

34 (7) "Department" means the department of ecology.

35 (8) "Electric utility" means a consumer-owned utility or
36 investor-owned utility, as those terms are defined in RCW 19.29A.010.

37 (9) "Greenhouse gas" has the same meaning as defined in RCW
38 70A.45.010.

1 (10) "Military tactical vehicle" means a motor vehicle owned by
2 the United States department of defense or the United States military
3 services and that is used in combat, combat support, combat service
4 support, tactical or relief operations, or training for such
5 operations.

6 (11) "Motor vehicle" has the same meaning as defined in RCW
7 46.04.320.

8 (12) "Price" means the amount of payment or compensation provided
9 as consideration for a specified quantity of transportation fuel by a
10 consumer or end user of the transportation fuel.

11 (13) "Regulated party" means a producer or importer of any amount
12 of a transportation fuel that is ineligible to generate credits under
13 this chapter.

14 (14)(a) "Tactical support equipment" means equipment using a
15 portable engine, including turbines, that meets military
16 specifications, owned by the United States military services or its
17 allies, and that is used in combat, combat support, combat service
18 support, tactical or relief operations, or training for such
19 operations.

20 (b) "Tactical support equipment" includes, but is not limited to,
21 engines associated with portable generators, aircraft start carts,
22 heaters, and lighting carts.

23 (15) "Transportation fuel" means electricity and any liquid or
24 gaseous fuel sold, supplied, offered for sale, or used for the
25 propulsion of a motor vehicle or that is intended for use for
26 transportation purposes.

27 NEW SECTION. **Sec. 3.** (1) The department shall adopt rules that
28 establish standards that reduce carbon intensity in transportation
29 fuels used in Washington. The standards established by the rules must
30 be based on the carbon intensity of gasoline and gasoline substitutes
31 and the carbon intensity of diesel and diesel substitutes. The
32 standards:

33 (a) Must reduce the overall, aggregate carbon intensity of
34 transportation fuels used in Washington;

35 (b) May only require carbon intensity reductions at the aggregate
36 level of all transportation fuels and may not require a reduction in
37 carbon intensity to be achieved by any individual type of
38 transportation fuel;

1 (c) Must assign a compliance obligation to fuels whose carbon
2 intensity exceeds the standards adopted by the department, consistent
3 with the requirements of section 4 of this act; and

4 (d) Must assign credits that can be used to satisfy or offset
5 compliance obligations to fuels whose carbon intensity is below the
6 standards adopted by the department and that elect to participate in
7 the program, consistent with the requirements of section 4 of this
8 act.

9 (2) The clean fuels program adopted by the department must be
10 designed such that:

11 (a) Regulated parties generate deficits and may reconcile the
12 deficits, and thus comply with the clean fuels program standards for
13 a compliance period, by obtaining and retiring credits;

14 (b) Regulated parties and credit generators may generate credits
15 for fuels used as substitutes or alternatives for gasoline or diesel;

16 (c) Regulated parties, credit generators, and credit aggregators
17 shall have opportunities to trade credits; and

18 (d) Regulated parties shall be allowed to carry over to the next
19 compliance period a small deficit without penalty.

20 (3) The department shall, throughout a compliance period,
21 regularly monitor the availability of fuels needed for compliance
22 with the clean fuels program.

23 (4)(a) Under the clean fuels program, the department shall
24 monthly calculate the volume-weighted average price of credits and,
25 no later than the last day of the month immediately following the
26 month for which the calculation is completed, post the formula and
27 the nonaggregated data the department used for the calculation and
28 the results of the calculation on the department's website.

29 (b) In completing the calculation required by this subsection,
30 the department may exclude from the data set credit transfers without
31 a price or other credit transfers made for a price that falls two
32 standard deviations outside of the mean credit price for the month.
33 Data posted on the department's website under this section may not
34 include any individually identifiable information or information that
35 would constitute a trade secret.

36 (5)(a) Except as provided in this section, the rules adopted
37 under this section must reduce the greenhouse gas emissions
38 attributable to each unit of the fuels to 20 percent below 2017
39 levels by 2038 based on the following schedule:

40 (i) No more than 0.5 percent each year in 2023 and 2024;

1 (ii) No more than an additional one percent each year beginning
2 in 2025 through 2027;

3 (iii) No more than an additional 1.5 percent each year beginning
4 in 2028 through 2031; and

5 (iv) No change in 2032 and 2033.

6 (b) The rules must establish a start date for the clean fuels
7 program of no later than January 1, 2023, except as provided in
8 subsection (8) of this section.

9 (6) Beginning with the program year beginning in calendar year
10 2028, the department may not increase the carbon intensity reductions
11 required by the applicable clean fuels program standard adopted by
12 the department under subsection (5) of this section beyond a 10
13 percent reduction in carbon intensity until the department
14 demonstrates that the following have occurred:

15 (a) At least a 15 percent net increase in the volume of in-state
16 liquid biofuel production and the use of feedstocks grown or produced
17 within the state relative to the start of the program; and

18 (b) At least one new or expanded biofuel production facility
19 representing an increase in production capacity or producing, in
20 total, in excess of 60,000,000 gallons of biofuels per year has or
21 have received after July 1, 2021, all necessary siting, operating,
22 and environmental permits post all timely and applicable appeals. As
23 part of the threshold of 60,000,000 gallons of biofuel under this
24 subsection, at least one new facility producing at least 10,000,000
25 gallons per year must have received all necessary siting, operating,
26 and environmental permits. Timely and applicable appeals must be
27 determined by the attorney general's office.

28 (7) Beginning with the program year beginning in calendar year
29 2031, the department may not increase the carbon intensity reductions
30 required by the applicable clean fuels program standard adopted by
31 the department under subsection (5) of this section beyond a 10
32 percent reduction in carbon intensity until the:

33 (a) Joint legislative audit and review committee report required
34 in section 15 of this act has been completed; and

35 (b) 2033 regular legislative session has adjourned, in order to
36 allow an opportunity for the legislature to amend the requirements of
37 this chapter in light of the report required in (a) of this
38 subsection.

39 (8)(a) In order to coordinate and synchronize the clean fuels
40 program with other transportation-related investments, the department

1 may not assign compliance obligations or allow the generation of
2 credits under this chapter until a separate additive transportation
3 revenue act becomes law, at which time the department of licensing
4 must provide written notice to the chief clerk of the house of
5 representatives, the secretary of the senate, and the office of the
6 code reviser.

7 (b) For the purposes of this subsection, "additive transportation
8 revenue act" means an act enacted after April 1, 2021, in which the
9 state fuel tax under RCW 82.38.030 is increased by an additional and
10 cumulative tax rate of at least five cents per gallon of fuel.

11 (9) Transportation fuels exported from Washington are not subject
12 to the greenhouse gas emissions reduction requirements in this
13 section.

14 (10) To the extent the requirements of this chapter conflict with
15 the requirements of chapter 19.112 RCW, the requirements of this
16 chapter prevail.

17 NEW SECTION. **Sec. 4.** The rules adopted by the department to
18 achieve the greenhouse gas emissions reductions per unit of fuel
19 energy specified in section 3 of this act must include, but are not
20 limited to, the following:

21 (1) Standards for greenhouse gas emissions attributable to the
22 transportation fuels throughout their life cycles, including but not
23 limited to emissions from the production, storage, transportation,
24 and combustion of transportation fuels and from changes in land use
25 associated with transportation fuels and any permanent greenhouse gas
26 sequestration activities.

27 (a) The rules adopted by the department under this subsection (1)
28 may:

29 (i) Include provisions to address the efficiency of a fuel as
30 used in a powertrain as compared to a reference fuel;

31 (ii) Consider carbon intensity calculations for transportation
32 fuels developed by national laboratories or used by similar programs
33 in other states; and

34 (iii) Consider changes in land use and any permanent greenhouse
35 gas sequestration activities associated with the production of any
36 type of transportation fuel.

37 (b) The rules adopted by the department under this subsection (1)
38 must:

1 (i) Neutrally consider the life-cycle emissions associated with
2 transportation fuels with respect to the political jurisdiction in
3 which the fuels originated and may not discriminate against fuels on
4 the basis of having originated in another state or jurisdiction.
5 Nothing in this subsection may be construed to prohibit inclusion or
6 assessment of emissions related to fuel production, storage,
7 transportation, or combustion or associated changes in land use in
8 determining the carbon intensity of a fuel;

9 (ii) Measure greenhouse gas emissions associated with electricity
10 and hydrogen based on a mix of generation resources specific to each
11 electric utility participating in the clean fuels program. The
12 department may apply an asset-controlling supplier emission factor
13 certified or approved by a similar program to reduce the greenhouse
14 gas emissions associated with transportation fuels in another state;

15 (iii) Include mechanisms for certifying electricity that has a
16 carbon intensity of zero. This electricity must include, at minimum,
17 electricity:

18 (A) For which a renewable energy credit or other environmental
19 attribute has been retired or used; and

20 (B) Produced using a zero emission resource including, but not
21 limited to, solar, wind, geothermal, or the industrial combustion of
22 biomass consistent with RCW 70A.45.020(3), that is directly supplied
23 as a transportation fuel by the generator of the electricity to a
24 metered customer for electric vehicle charging or refueling;

25 (iv) Allow the generation of credits associated with electricity
26 with a carbon intensity lower than that of standard adopted by the
27 department. The department may not require electricity to have a
28 carbon intensity of zero in order to be eligible to generate credits
29 from use as a transportation fuel; and

30 (v) Include procedures for setting and adjusting the amounts of
31 greenhouse gas emissions per unit of fuel energy that is assigned to
32 transportation fuels under this subsection.

33 (c) If the department determines that it is necessary for
34 purposes of accurately measuring greenhouse gas emissions associated
35 with transportation fuels, the department may require transportation
36 fuel suppliers to submit data or information to be used for purposes
37 of calculating greenhouse gas emissions that is different from or
38 additional to the greenhouse gas emissions data reported under RCW
39 70A.15.2200(5)(a)(iii).

1 (d) If the department determines that it is necessary for
2 purposes of accurately measuring greenhouse gas emissions associated
3 with electricity supplied to retail customers or hydrogen production
4 facilities by an electric utility, the department may require
5 electric utilities participating in the clean fuels program to submit
6 data or information to be used for purposes of calculating greenhouse
7 gas emissions that is different from or additional to the fuel mix
8 disclosure information submitted under chapter 19.29A RCW. To the
9 extent practicable, rules adopted by the department may allow data
10 requested of utilities to be submitted in a form and manner
11 consistent with other required state or federal data submissions;

12 (2) Provisions allowing for the achievement of limits on the
13 greenhouse gas emissions intensity of transportation fuels in section
14 3 of this act to be achieved by any combination of credit generating
15 activities capable of meeting such standards. Where such provisions
16 would not produce results counter to the emission reduction goals of
17 the program or prove administratively burdensome for the department,
18 the rules should provide each participant in the clean fuels program
19 with the opportunity to demonstrate appropriate carbon intensity
20 values taking into account both emissions from production facilities
21 and elsewhere in the production cycle, including changes in land use
22 and permanent greenhouse gas sequestration activities;

23 (3) (a) Methods for assigning compliance obligations and methods
24 for tracking tradable credits. The department may assign the
25 generation of a credit when a fuel with associated life-cycle
26 greenhouse gas emissions that are lower than the applicable per-unit
27 standard adopted by the department under section 3 of this act is
28 produced, imported, or dispensed for use in Washington, or when
29 specified activities are undertaken that support the reduction of
30 greenhouse gas emissions associated with transportation in
31 Washington;

32 (b) Mechanisms that allow credits to be traded and to be banked
33 for future compliance periods; and

34 (c) Procedures for verifying the validity of credits and deficits
35 generated under the clean fuels program;

36 (4) Mechanisms to elect to participate in the clean fuels program
37 for persons associated with the supply chains of transportation fuels
38 that are eligible to generate credits consistent with subsection (3)
39 of this section, including producers, importers, distributors, users,
40 or retailers of such fuels, and electric vehicle manufacturers;

1 (5) Mechanisms for persons associated with the supply chains of
2 transportation fuels that are used for purposes that are exempt from
3 the clean fuels program compliance obligations including, but not
4 limited to, fuels used by aircraft, vessels, railroad locomotives,
5 and other exempt fuels specified in section 5 of this act, to elect
6 to participate in the clean fuels program by earning credits for the
7 production, import, distribution, use, or retail of exempt fuels with
8 associated life-cycle greenhouse gas emissions lower than the per-
9 unit standard established in section 3 of this act;

10 (6) Mechanisms that allow for the assignment of credits to an
11 electric utility for electricity used within its utility service
12 area, at minimum, for residential electric vehicle charging or
13 fueling;

14 (7) Cost containment mechanisms.

15 (a) Cost containment mechanisms must include the credit clearance
16 market specified in subsection (8) of this section and may also
17 include, but are not limited to:

18 (i) Procedures similar to the credit clearance market required in
19 subsection (8) of this section that provide a means of compliance
20 with the clean fuels program requirements in the event that a
21 regulated person has not been able to acquire sufficient volumes of
22 credits at the end of a compliance period; or

23 (ii) Similar procedures that ensure that credit prices do not
24 significantly exceed credit prices in other jurisdictions that have
25 adopted similar programs to reduce the carbon intensity of
26 transportation fuels.

27 (b) Any cost containment mechanisms must be designed to provide
28 financial disincentive for regulated persons to rely on the cost
29 containment mechanism for purposes of program compliance instead of
30 seeking to generate or acquire sufficient credits under the program.

31 (c) The department shall harmonize the program's cost containment
32 mechanisms with the cost containment rules in the states specified in
33 section 7(1) of this act.

34 (d) The department shall consider mechanisms such as the
35 establishment of a credit price cap or other alternative cost
36 containment measures if deemed necessary to harmonize market credit
37 costs with those in the states specified in section 7(1) of this act;

38 (8) (a) (i) A credit clearance market for any compliance period in
39 which at least one regulated party reports that the regulated party
40 has a net deficit balance at the end of the compliance period, after

1 retirement of all credits held by the regulated party, that is
2 greater than a small deficit. A regulated party described by this
3 subsection is required to participate in the credit clearance market.

4 (ii) If a regulated party has a small deficit at the end of a
5 compliance period, the regulated party shall notify the department
6 that it will achieve compliance with the clean fuels program during
7 the compliance period by either: (A) Participating in a credit
8 clearance market; or (B) carrying forward the small deficit.

9 (b) For the purposes of administering a credit clearance market
10 required by this section, the department shall:

11 (i) Allow any regulated party, credit generator, or credit
12 aggregator that holds excess credits at the end of the compliance
13 period to voluntarily participate in the credit clearance market as a
14 seller by pledging a specified number of credits for sale in the
15 market;

16 (ii) Require each regulated party participating in the credit
17 clearance market as purchaser of credits to:

18 (A) Have retired all credits in the regulated party's possession
19 prior to participating in the credit clearance market; and

20 (B) Purchase the specified number of the total pledged credits
21 that the department has determined are that regulated party's pro
22 rata share of the pledged credits;

23 (iii) Require all sellers to:

24 (A) Agree to sell pledged credits at a price no higher than a
25 maximum price for credits;

26 (B) Accept all offers to purchase pledged credits at the maximum
27 price for credits; and

28 (C) Agree to withhold any pledged credits from sale in any
29 transaction outside of the credit clearance market until the end of
30 the credit clearance market, or if no credit clearance market is held
31 in a given year, then until the date on which the department
32 announces it will not be held.

33 (c) (i) The department shall set a maximum price for credits in a
34 credit clearance market, consistent with states that have adopted
35 similar clean fuels programs, not to exceed \$200 in 2018 dollars for
36 2023.

37 (ii) For 2024 and subsequent years, the maximum price may exceed
38 \$200 in 2018 dollars, but only to the extent that a greater maximum
39 price for credits is necessary to annually adjust for inflation,
40 beginning on January 1, 2024, pursuant to the increase, if any, from

1 the preceding calendar year in the consumer price index for all urban
2 consumers, west region (all items), as published by the bureau of
3 labor statistics of the United States department of labor.

4 (d) A regulated party that has a net deficit balance after the
5 close of a credit clearance market:

6 (i) Must carry over the remaining deficits into the next
7 compliance period; and

8 (ii) May not be subject to interest greater than five percent,
9 penalties, or assertions of noncompliance that accrue based on the
10 carryover of deficits under this subsection.

11 (e) If a regulated party has been required under (a) of this
12 subsection to participate as a purchaser in two consecutive credit
13 clearance markets and continues to have a net deficit balance after
14 the close of the second consecutive credit clearance market, the
15 department shall complete, no later than two months after the close
16 of the second credit clearance market, an analysis of the root cause
17 of an inability of the regulated party to retire the remaining
18 deficits. The department may recommend and implement any remedy that
19 the department determines is necessary to address the root cause
20 identified in the analysis including, but not limited to, issuing a
21 deferral, provided that the remedy implemented does not:

22 (i) Require a regulated party to purchase credits for an amount
23 that exceeds the maximum price for credits in the most recent credit
24 clearance market; or

25 (ii) Compel a person to sell credits.

26 (f) If credits sold in a credit clearance market are subsequently
27 invalidated as a result of fraud or any other form of noncompliance
28 on the part of the generator of the credit, the department may not
29 pursue civil penalties against, or require credit replacement by, the
30 regulated party that purchased the credits unless the regulated party
31 was a party to the fraud or other form of noncompliance.

32 (g) The department may not disclose the deficit balances or pro
33 rata share purchase requirements of a regulated party that
34 participates in the credit clearance market;

35 (9) Authority for the department to designate an entity to
36 aggregate and use unclaimed credits associated with persons that
37 elect not to participate in the clean fuels program under subsection
38 (4) of this section.

1 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and
2 4 of this act must include exemptions for, at minimum, the following
3 transportation fuels:

4 (a) Fuels used in volumes below thresholds adopted by the
5 department;

6 (b) Fuels used for the propulsion of all aircraft, vessels, and
7 railroad locomotives; and

8 (c) Fuels used for the operation of military tactical vehicles
9 and tactical support equipment.

10 (2) (a) The rules adopted under sections 3 and 4 of this act must
11 exempt the following transportation fuels from greenhouse gas
12 emission intensity reduction requirements until January 1, 2028:

13 (i) Special fuel used off-road in vehicles used primarily to
14 transport logs;

15 (ii) Dyed special fuel used in vehicles that are not designed
16 primarily to transport persons or property, that are not designed to
17 be primarily operated on highways, and that are used primarily for
18 construction work including, but not limited to, mining and timber
19 harvest operations; and

20 (iii) Dyed special fuel used for agricultural purposes exempt
21 from chapter 82.38 RCW.

22 (b) Prior to January 1, 2028, fuels identified in this subsection
23 (2) are eligible to generate credits, consistent with subsection (5)
24 of this section. Beginning January 1, 2028, the fuels identified in
25 this subsection (2) are subject to the greenhouse gas emission
26 intensity reduction requirements applicable to transportation fuels
27 specified in section 3 of this act.

28 (3) The department may adopt rules to specify the standards for
29 persons to qualify for the exemptions provided in this section. The
30 department may implement the exemptions under subsection (2) of this
31 section to align with the implementation of exemptions for similar
32 fuels exempt from chapter 82.38 RCW.

33 (4) The rules adopted under sections 3 and 4 of this act may
34 include exemptions in addition to those described in subsections (1)
35 and (2) of this section, but only if such exemptions are necessary,
36 with respect to the relationship between the program and similar
37 greenhouse gas emissions requirements or low carbon fuel standards,
38 in order to avoid:

39 (a) Mismatched incentives across programs;

40 (b) Fuel shifting between markets; or

1 (c) Other results that are counter to the intent of this chapter.

2 (5) Nothing in this chapter precludes the department from
3 adopting rules under sections 3 and 4 of this act that allow the
4 generation of credits associated with electric or alternative
5 transportation infrastructure that existed prior to the effective
6 date of this section or to the start date of program requirements.
7 The department must apply the same baseline years to credits
8 associated with electric or alternative transportation infrastructure
9 that apply to gasoline and diesel liquid fuels in any market-based
10 program enacted by the legislature that establishes a cap on
11 greenhouse gas emissions.

12 NEW SECTION. **Sec. 6.** (1) The rules adopted under sections 3 and
13 4 of this act may allow the generation of credits from activities
14 that support the reduction of greenhouse gas emissions associated
15 with transportation in Washington, including but not limited to:

16 (a) Carbon capture and sequestration projects, including but not
17 limited to:

18 (i) Innovative crude oil production projects that include carbon
19 capture and sequestration;

20 (ii) Project-based refinery greenhouse gas mitigation including,
21 but not limited to, process improvements, renewable hydrogen use, and
22 carbon capture and sequestration; or

23 (iii) Direct air capture projects;

24 (b) Investments and activities that support deployment of
25 machinery and equipment used to produce gaseous and liquid fuels from
26 nonfossil feedstocks, and derivatives thereof;

27 (c) The fueling of battery or fuel cell electric vehicles by a
28 commercial, nonprofit, or public entity that is not an electric
29 utility, which may include, but is not limited to, the fueling of
30 vehicles using electricity certified by the department to have a
31 carbon intensity of zero; and

32 (d) The use of smart vehicle charging technology that results in
33 the fueling of an electric vehicle during times when the carbon
34 intensity of grid electricity is comparatively low.

35 (2) (a) The rules adopted under sections 3 and 4 of this act must
36 allow the generation of credits based on capacity for zero emission
37 vehicle refueling infrastructure, including DC fast charging
38 infrastructure and hydrogen refueling infrastructure.

1 (b) The rules adopted under sections 3 and 4 of this act may
2 allow the generation of credits from the provision of low carbon fuel
3 infrastructure not specified in (a) of this subsection.

4 (3) The rules adopted under sections 3 and 4 of this act must
5 allow the generation of credits from state transportation investments
6 funded in an omnibus transportation appropriations act for activities
7 and projects that reduce greenhouse gas emissions and decarbonize the
8 transportation sector. These include, but are not limited to: (a)
9 Electrical grid and hydrogen fueling infrastructure investments; (b)
10 ferry operating and capital investments; (c) electrification of the
11 state ferry fleet; (d) alternative fuel vehicle rebate programs; (e)
12 transit grants; (f) infrastructure and other costs associated with
13 the adoption of alternative fuel use by transit agencies; (g) bike
14 and pedestrian grant programs and other activities; (h) complete
15 streets and safe walking grants and allocations; (i) rail funding;
16 and (j) multimodal investments.

17 (4) The rules adopted by the department may establish limits for
18 the number of credits that may be earned each year by persons
19 participating in the program for some or all of the activities
20 specified in subsections (1) and (2) of this section. The department
21 must limit the number of credits that may be earned each year under
22 subsection (3) of this section to 10 percent of the total program
23 credits. Any limits established under this subsection must take into
24 consideration the return on investment required in order for an
25 activity specified in subsection (2) of this section to be
26 financially viable.

27 NEW SECTION. **Sec. 7.** (1) Except where otherwise provided in
28 this chapter, the department shall seek to adopt rules that are
29 harmonized with the regulatory standards, exemptions, reporting
30 obligations, and other clean fuels program compliance requirements
31 and methods for credit generation of other states that:

32 (a) Have adopted low carbon fuel standards or similar greenhouse
33 gas emissions requirements applicable specifically to transportation
34 fuels; and

35 (b)(i) Supply, or have the potential to supply, significant
36 quantities of transportation fuel to Washington markets; or

37 (ii) To which Washington supplies, or has the potential to
38 supply, significant quantities of transportation fuel.

1 (2) The department must establish and periodically consult a
2 stakeholder advisory panel, including representatives of forestland
3 and agricultural landowners, for purposes of soliciting input on how
4 to best incentivize and allot credits for the sequestration of
5 greenhouse gases through activities on agricultural and forestlands
6 in a manner that is consistent with the goals and requirements of
7 this chapter.

8 (3) The department must conduct a biennial review of innovative
9 technologies and pathways that reduce carbon and increase credit
10 generation opportunities and must modify rules or guidance as needed
11 to maintain stable credit markets.

12 (4) In any reports to the legislature under section 10 of this
13 act, on the department's website, or in other public documents or
14 communications that refer to assumed public health benefits
15 associated with the program created in this chapter, the department
16 must distinguish between public health benefits from small
17 particulate matter and other conventional pollutant reductions
18 achieved primarily as a result of vehicle emission standards
19 established under chapter 70A.30 RCW, and the incremental benefits to
20 air pollution attributable to the program created under this chapter.

21 NEW SECTION. **Sec. 8.** (1)(a) Each producer or importer of any
22 amount of a transportation fuel that is ineligible to generate
23 credits consistent with the requirements of section 4(3) of this act
24 must register with the department.

25 (b) Electric vehicle manufacturers and producers, importers,
26 distributors, users, and retailers of transportation fuels that are
27 eligible to generate credits consistent with section 4(3) of this act
28 must register with the department if they elect to participate in the
29 clean fuels program.

30 (c) Other persons must register with the department to generate
31 credits from other activities that support the reduction of
32 greenhouse gas emissions associated with transportation in
33 Washington.

34 (2) Each transaction transferring ownership of transportation
35 fuels for which clean fuels program participation is mandated must be
36 accompanied by documentation, in a format approved by the department,
37 that assigns the clean fuels program compliance responsibility
38 associated with the fuels, including the assignment of associated
39 credits. The department may also require documentation assigning

1 clean fuels program compliance responsibility associated with fuels
2 for which program participation has been elected.

3 (3) The department may adopt rules requiring the periodic
4 reporting of information to the department by persons associated with
5 the supply chains of transportation fuels participating in the clean
6 fuels program. To the extent practicable, the rules must establish
7 reporting procedures and timelines that are consistent with similar
8 programs in other states that reduce the greenhouse gas emission
9 intensity of transportation fuel and with procedures and timelines of
10 state programs requiring similar information to be reported by
11 regulated parties, including electric utilities.

12 (4) RCW 70A.15.2510 applies to records or information submitted
13 to the department under this chapter.

14 NEW SECTION. **Sec. 9.** (1)(a) Fifty percent of the revenues
15 generated by an electric utility from credits earned from the
16 electricity supplied to retail customers by an electric utility under
17 the clean fuels program must be expended by the electric utility on
18 transportation electrification projects, which may include projects
19 to support the production and provision of hydrogen and other gaseous
20 fuels produced from nonfossil feedstocks, and derivatives thereof as
21 a transportation fuel.

22 (b) Sixty percent of the revenues described in (a) of this
23 subsection, or 30 percent of the revenues generated by an electric
24 utility from credits earned from the electricity supplied to retail
25 customers by an electric utility under the clean fuels program, must
26 be expended by the electric utility on transportation electrification
27 projects, which may include projects to support the production and
28 provision of hydrogen and other gaseous fuels produced from nonfossil
29 feedstocks, and derivatives thereof as a transportation fuel, located
30 within or directly benefiting a federally designated nonattainment or
31 maintenance area, a federally designated nonattainment or maintenance
32 area that existed as of January 1, 2021, a disproportionately
33 impacted community identified by the department of health, or an area
34 designated by the department as being at risk of nonattainment, if
35 such a nonattainment or maintenance area or disproportionately
36 impacted community is within the service area of the utility.

37 (2)(a) Each electric utility must spend 50 percent of revenues
38 not subject to the requirements of subsection (1) of this section on
39 one or more transportation electrification programs or projects it

1 selects from a list of types of programs and projects jointly
2 developed by the department and the Washington state department of
3 transportation. The department and the Washington state department of
4 transportation must develop the list based on those with the highest
5 impact on reducing greenhouse gas emissions and decarbonizing the
6 transportation sector. The types of transportation electrification
7 projects or programs placed on the list must include, but are not
8 limited to:

9 (i) Provision of new or used zero emissions vehicles at no cost
10 or at a discount to nonprofit service providers, transit agencies, or
11 public fleets for the purpose of providing transportation services
12 for low-income or vulnerable populations or to reduce transportation
13 costs for the nonprofits, transit agencies, or public fleets serving
14 low-income or vulnerable populations;

15 (ii) Construction, operation, or maintenance of, or funding for
16 charging infrastructure, including smart charging infrastructure, or
17 hydrogen fueling infrastructure;

18 (iii) Expanding grid capacity to enable transportation
19 electrification investments directly associated with expenditures
20 permitted by this chapter; and

21 (iv) Partnership programs with public and private vehicle fleet
22 owners to enable increased electrification of transportation.

23 (b) Under (a) of this subsection, electric utilities should
24 consider programs or projects that expand low and moderate-income
25 customer access to zero emissions transportation, when prioritizing
26 program expenditures.

27 (3) Electric utilities that participate in the clean fuels
28 program must annually provide information to the department
29 accounting for and briefly describing all expenditures of revenues
30 generated from credits earned under the clean fuels program.

31 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2025, and each May
32 1st thereafter, the department must post a report on the department's
33 website that includes the following information regarding the
34 previous calendar year of clean fuels program activities:

35 (a) The program-wide number of credits and deficits generated by
36 entities participating in the clean fuels program;

37 (b) The volumes of each transportation fuel and average price per
38 credit used to comply with the requirements of the clean fuels
39 program;

1 (c) The best estimate or range in probable costs or cost savings
2 attributable to the clean fuels program per gallon of gasoline and
3 per gallon of diesel, as determined by an independent consultant
4 whose services the department has contracted. The estimate or range
5 in probable costs or cost savings from the independent consultant
6 must be announced in a press release to the news media at the time
7 that the report under this subsection (1) is posted to the
8 department's website, and must be simultaneously reported to the
9 transportation committees of the house of representatives and the
10 senate;

11 (d) The total greenhouse gas emissions reductions attributable to
12 the clean fuels program isolated from the greenhouse gas emissions
13 reductions attributable to other state and national programs on the
14 same fuels; and

15 (e) The range in the probable cost per ton of greenhouse gas
16 emissions reductions attributable to fuels supported by the clean
17 fuels program, taking into account the information in (c) and (d) of
18 this subsection.

19 (2) Nothing in this section prohibits the department from posting
20 information described in subsection (1) of this section on a more
21 frequent basis than once per year.

22 (3) By May 1, 2025, and each May 1st thereafter, the department
23 must submit the report required under subsection (1) of this section
24 to the appropriate committees of the house of representatives and
25 senate.

26 (4) The department must contract for a one-time ex ante
27 independent analysis of the information specified in subsection
28 (1)(c) of this section covering each year of the program through
29 2038. The analysis must be informed by input from stakeholders,
30 including regulated industries, and informed by experience from other
31 jurisdictions. The analysis must impute price impacts using multiple
32 analytical methodologies and must make clear how the assumptions or
33 factors considered differed in each methodology used and price impact
34 imputed. The analysis required in this subsection must be completed
35 and submitted to the appropriate committees of the legislature by
36 July 1, 2022.

37 NEW SECTION. **Sec. 11.** (1) In consultation with the department,
38 the utilities and transportation commission, and the department of
39 agriculture, the department of commerce must develop a periodic fuel

1 supply forecast to project the availability of fuels to Washington
2 necessary for compliance with clean fuels program requirements.

3 (2) Based upon the estimates in subsection (3) of this section,
4 the fuel supply forecast must include a prediction by the department
5 of commerce regarding whether sufficient credits will be available to
6 comply with clean fuels program requirements.

7 (3) The fuel supply forecast for each upcoming compliance period
8 must include, but is not limited to, the following:

9 (a) An estimate of the potential volumes of gasoline, gasoline
10 substitutes, and gasoline alternatives, and diesel, diesel
11 substitutes, and diesel alternatives available to Washington. In
12 developing this estimate, the department of commerce must consider,
13 but is not limited to considering:

14 (i) The existing and future vehicle fleet in Washington; and

15 (ii) Any constraints that might be preventing access to available
16 and cost-effective low carbon fuels by Washington, such as geographic
17 and logistical factors, and alleviating factors to the constraints;

18 (b) An estimate of the total banked credits and carried over
19 deficits held by regulated parties, credit generators, and credit
20 aggregators at the beginning of the compliance period, and an
21 estimate of the total credits attributable to fuels described in (a)
22 of this subsection;

23 (c) An estimate of the number of credits needed to meet the
24 applicable clean fuels program requirements during the forecasted
25 compliance period; and

26 (d) A comparison in the estimates of (a) and (b) of this
27 subsection with the estimate in (c) of this subsection, for the
28 purpose of indicating the availability of fuels and banked credits
29 needed for compliance with the requirements of this chapter.

30 (4) The department of commerce, in coordination with the
31 department, may appoint a forecast review team of relevant experts to
32 participate in the fuel supply forecast or examination of data
33 required by this section. The department of commerce must finalize a
34 fuel supply forecast for an upcoming compliance period by no later
35 than 90 days prior to the start of the compliance period.

36 NEW SECTION. **Sec. 12.** (1) No later than 30 calendar days before
37 the commencement of a compliance period, the department shall issue
38 an order declaring a forecast deferral if the fuel supply forecast
39 under section 11 of this act projects that the amount of credits that

1 will be available during the forecast compliance period will be less
2 than 100 percent of the credits projected to be necessary for
3 regulated parties to comply with the scheduled applicable clean fuels
4 program standard adopted by the department for the forecast
5 compliance period.

6 (2) An order declaring a forecast deferral under this section
7 must set forth:

8 (a) The duration of the forecast deferral;

9 (b) The types of fuel to which the forecast deferral applies; and

10 (c) Which of the following methods the department has selected
11 for deferring compliance with the scheduled applicable clean fuels
12 program standard during the forecast deferral:

13 (i) Temporarily adjusting the scheduled applicable clean fuels
14 program standard to a standard identified in the order that better
15 reflects the forecast availability of credits during the forecast
16 compliance period and requiring regulated parties to comply with the
17 temporary standard;

18 (ii) Requiring regulated parties to comply only with the clean
19 fuels program standard applicable during the compliance period prior
20 to the forecast compliance period; or

21 (iii) Suspending deficit accrual for part or all of the forecast
22 deferral period.

23 (3)(a) In implementing a forecast deferral, the department may
24 take an action for deferring compliance with the clean fuels program
25 standard other than, or in addition to, selecting a method under
26 subsection (2)(c) of this section only if the department determines
27 that none of the methods under subsection (2)(c) of this section will
28 provide a sufficient mechanism for containing the costs of compliance
29 with the clean fuels program standards during the forecast deferral.

30 (b) If the department makes the determination specified in (a) of
31 this subsection, the department shall:

32 (i) Include in the order declaring a forecast deferral the
33 determination and the action to be taken; and

34 (ii) Provide written notification and justification of the
35 determination and the action to:

36 (A) The governor;

37 (B) The president of the senate;

38 (C) The speaker of the house of representatives;

39 (D) The majority and minority leaders of the senate; and

1 (E) The majority and minority leaders of the house of
2 representatives.

3 (4) The duration of a forecast deferral may not be less than one
4 calendar quarter or longer than one compliance period. Only the
5 department may terminate, by order, a forecast deferral before the
6 expiration date of the forecast deferral. Termination of a forecast
7 deferral is effective on the first day of the next calendar quarter
8 after the date that the order declaring the termination is adopted.

9 NEW SECTION. **Sec. 13.** (1) The director of the department may
10 issue an order declaring an emergency deferral of compliance with the
11 carbon intensity standard established under section 3 of this act no
12 later than 15 calendar days after the date the department determines,
13 in consultation with the governor's office and the department of
14 commerce, that:

15 (a) Extreme and unusual circumstances exist that prevent the
16 distribution of an adequate supply of renewable fuels needed for
17 regulated parties to comply with the clean fuels program taking into
18 consideration all available methods of obtaining sufficient credits
19 to comply with the standard;

20 (b) The extreme and unusual circumstances are the result of a
21 natural disaster, an act of God, a significant supply chain
22 disruption or production facility equipment failure, or another event
23 that could not reasonably have been foreseen or prevented and not the
24 lack of prudent planning on the part of the suppliers of the fuels to
25 the state; and

26 (c) It is in the public interest to grant the deferral such as
27 when a deferral is necessary to meet projected temporary shortfalls
28 in the supply of the renewable fuel in the state and that other
29 methods of obtaining compliance credits are unavailable to compensate
30 for the shortage of renewable fuel supply.

31 (2) If the director of the department makes the determination
32 required under subsection (1) of this section, such a temporary
33 extreme and unusual deferral is permitted only if:

34 (a) The deferral applies only for the shortest time necessary to
35 address the extreme and unusual circumstances;

36 (b) The deferral is effective for the shortest practicable time
37 period the director of the department determines necessary to permit
38 the correction of the extreme and unusual circumstances; and

39 (c) The director has given public notice of a proposed deferral.

1 (3) An order declaring an emergency deferral under this section
2 must set forth:

3 (a) The duration of the emergency deferral;

4 (b) The types of fuel to which the emergency deferral applies;

5 (c) Which of the following methods the department has selected
6 for deferring compliance with the clean fuels program during the
7 emergency deferral:

8 (i) Temporarily adjusting the scheduled applicable carbon
9 intensity standard to a standard identified in the order that better
10 reflects the availability of credits during the emergency deferral
11 and requiring regulated parties to comply with the temporary
12 standard;

13 (ii) Allowing for the carryover of deficits accrued during the
14 emergency deferral into the next compliance period without penalty;
15 or

16 (iii) Suspending deficit accrual during the emergency deferral
17 period.

18 (4) An emergency deferral may be terminated prior to the
19 expiration date of the emergency deferral if new information becomes
20 available indicating that the shortage that provided the basis for
21 the emergency deferral has ended. The director of the department
22 shall consult with the department of commerce and the governor's
23 office in making an early termination decision. Termination of an
24 emergency deferral is effective 15 calendar days after the date that
25 the order declaring the termination is adopted.

26 (5)(a) In addition to the emergency deferral specified in
27 subsection (1) of this section, the department may issue a full or
28 partial deferral for one calendar quarter of a person's obligation to
29 furnish credits for compliance under section 4 of this act if it
30 finds that the person is unable to comply with the requirements of
31 this chapter due to reasons beyond the person's reasonable control.
32 The department may initiate a deferral under this subsection at its
33 own discretion or at the request of a person regulated under this
34 chapter. The department may renew issued deferrals. In evaluating
35 whether to issue a deferral under this subsection, the department may
36 consider the results of the fuel supply forecast in section 11 of
37 this act, but is not bound in its decision-making discretion by the
38 results of the forecast.

39 (b) If the department issues a deferral pursuant to this
40 subsection, the department may:

1 (i) Direct the person subject to the deferral to file a progress
2 report on achieving full compliance with the requirements of this
3 chapter within an amount of time determined to be reasonable by the
4 department; and

5 (ii) Direct the person to take specific actions to achieve full
6 compliance with the requirements of this chapter.

7 (c) The issuance of a deferral under this subsection does not
8 permanently relieve the deferral recipient of the obligation to
9 comply with the requirements of this chapter.

10 NEW SECTION. **Sec. 14.** (1) The department may require that
11 persons that are required or elect to register or report under this
12 chapter pay a fee. If the department elects to require program
13 participants to pay a fee, the department must, after an opportunity
14 for public review and comment, adopt rules to establish a process to
15 determine the payment schedule and the amount of the fee charged. The
16 amount of the fee must be set so as to equal but not exceed the
17 projected direct and indirect costs to the department for developing
18 and implementing the program and the projected direct and indirect
19 costs to the department of commerce to carry out its responsibilities
20 under section 11 of this act. The department and the department of
21 commerce must prepare a biennial workload analysis and provide an
22 opportunity for public review of and comment on the workload
23 analysis. The department shall enter into an interagency agreement
24 with the department of commerce to implement this section.

25 (2) The clean fuels program account is created in the state
26 treasury. All receipts from fees and penalties received under the
27 program created in this chapter must be deposited into the account.
28 Moneys in the account may be spent only after appropriation. The
29 department may only use expenditures from the account for carrying
30 out the program created in this chapter.

31 (3) All rule making authorized under this act must be conducted
32 according to the standards for significant legislative rules provided
33 in RCW 34.05.328.

34 NEW SECTION. **Sec. 15.** (1) By December 1, 2030, the joint
35 legislative audit and review committee must analyze the impacts of
36 the initial five years of clean fuels program implementation and must
37 submit a report summarizing the analysis to the legislature. The
38 analysis must include, at minimum, the following components:

1 (a) Costs and benefits, including environmental and public health
2 costs and benefits, associated with this chapter for categories of
3 persons participating in the clean fuels program or that are most
4 impacted by air pollution, as defined in consultation with the
5 departments of ecology and health and as measured on a census tract
6 scale. This component of the analysis must, at minimum, assess the
7 costs and benefits of changes in the following metrics since the
8 start of the program:

9 (i) Levels of greenhouse gas emissions and criteria air
10 pollutants for which the United States environmental protection
11 agency has established national ambient air quality standards;

12 (ii) Fuel prices; and

13 (iii) Total employment in categories of industries generating
14 credits or deficits. The categories of industries assessed must
15 include but are not limited to electric utilities, oil refineries,
16 and other industries involved in the production of high carbon fuels,
17 industries involved in the delivery and sale of high carbon fuels,
18 biofuel refineries, and industries involved in the delivery and sale
19 of low carbon fuels;

20 (b) An evaluation of the information calculated and provided by
21 the department under section 10(1) of this act;

22 (c) A summary of the estimated total statewide costs and benefits
23 attributable to the clean fuels program, including state agency
24 administrative costs and regulated entity compliance costs. For
25 purposes of calculating the benefits of the program, the summary may
26 rely, in part, on a constant value of the social costs attributable
27 to greenhouse gas emissions, as identified in contemporary
28 internationally accepted estimates of such global social cost. This
29 summary must include an estimate of the total statewide costs of the
30 program per ton of greenhouse gas emissions reductions achieved by
31 the clean fuels program;

32 (d) An evaluation of the impacts of the program on low-income
33 households; and

34 (e) The outcomes of proposals to site biofuel facilities through
35 the energy facility site evaluation council review process that is
36 allowed by RCW 80.50.060(2).

37 (2) This section expires June 30, 2030.

38 NEW SECTION. **Sec. 16.** A new section is added to chapter 82.04
39 RCW to read as follows:

1 (1) This chapter does not apply to amounts received from the
2 generation, purchase, sale, transfer, or retirement of credits under
3 chapter 70A.--- RCW (the new chapter created in section 29 of this
4 act).

5 (2) The provisions of RCW 82.32.805 and 82.32.808 do not apply to
6 subsection (1) of this section.

7 **Sec. 17.** RCW 80.50.020 and 2010 c 152 s 1 are each reenacted and
8 amended to read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Alternative energy resource" includes energy facilities of
12 the following types: (a) Wind; (b) solar energy; (c) geothermal
13 energy; (d) landfill gas; (e) wave or tidal action; or (f) biomass
14 energy based on solid organic fuels from wood, forest, or field
15 residues, or dedicated energy crops that do not include wood pieces
16 that have been treated with chemical preservatives such as creosote,
17 pentachlorophenol, or copper-chrome-arsenic.

18 (2) "Applicant" means any person who makes application for a site
19 certification pursuant to the provisions of this chapter.

20 (3) "Application" means any request for approval of a particular
21 site or sites filed in accordance with the procedures established
22 pursuant to this chapter, unless the context otherwise requires.

23 (4) "Associated facilities" means storage, transmission,
24 handling, or other related and supporting facilities connecting an
25 energy plant with the existing energy supply, processing, or
26 distribution system, including, but not limited to, communications,
27 controls, mobilizing or maintenance equipment, instrumentation, and
28 other types of ancillary transmission equipment, off-line storage or
29 venting required for efficient operation or safety of the
30 transmission system and overhead, and surface or subsurface lines of
31 physical access for the inspection, maintenance, and safe operations
32 of the transmission facility and new transmission lines constructed
33 to operate at nominal voltages of at least 115,000 volts to connect a
34 thermal power plant or alternative energy facilities to the northwest
35 power grid. However, common carrier railroads or motor vehicles shall
36 not be included.

37 (5) "Biofuel" (~~(has the same meaning as defined in RCW~~
38 ~~43.325.010)~~) means a liquid or gaseous fuel derived from organic
39 matter intended for use as a transportation fuel including, but not

1 limited to, biodiesel, renewable diesel, ethanol, renewable natural
2 gas, and renewable propane.

3 (6) "Certification" means a binding agreement between an
4 applicant and the state which shall embody compliance to the siting
5 guidelines, in effect as of the date of certification, which have
6 been adopted pursuant to RCW 80.50.040 as now or hereafter amended as
7 conditions to be met prior to or concurrent with the construction or
8 operation of any energy facility.

9 (7) "Construction" means on-site improvements, excluding
10 exploratory work, which cost in excess of two hundred fifty thousand
11 dollars.

12 (8) "Council" means the energy facility site evaluation council
13 created by RCW 80.50.030.

14 (9) "Counsel for the environment" means an assistant attorney
15 general or a special assistant attorney general who shall represent
16 the public in accordance with RCW 80.50.080.

17 (10) "Electrical transmission facilities" means electrical power
18 lines and related equipment.

19 (11) "Energy facility" means an energy plant or transmission
20 facilities: PROVIDED, That the following are excluded from the
21 provisions of this chapter:

22 (a) Facilities for the extraction, conversion, transmission or
23 storage of water, other than water specifically consumed or
24 discharged by energy production or conversion for energy purposes;
25 and

26 (b) Facilities operated by and for the armed services for
27 military purposes or by other federal authority for the national
28 defense.

29 (12) "Energy plant" means the following facilities together with
30 their associated facilities:

31 (a) Any nuclear power facility where the primary purpose is to
32 produce and sell electricity;

33 (b) Any nonnuclear stationary thermal power plant with generating
34 capacity of three hundred fifty thousand kilowatts or more, measured
35 using maximum continuous electric generating capacity, less minimum
36 auxiliary load, at average ambient temperature and pressure, and
37 floating thermal power plants of one hundred thousand kilowatts or
38 more suspended on the surface of water by means of a barge, vessel,
39 or other floating platform;

1 (c) Facilities which will have the capacity to receive liquefied
2 natural gas in the equivalent of more than one hundred million
3 standard cubic feet of natural gas per day, which has been
4 transported over marine waters;

5 (d) Facilities which will have the capacity to receive more than
6 an average of fifty thousand barrels per day of crude or refined
7 petroleum or liquefied petroleum gas which has been or will be
8 transported over marine waters, except that the provisions of this
9 chapter shall not apply to storage facilities unless occasioned by
10 such new facility construction;

11 (e) Any underground reservoir for receipt and storage of natural
12 gas as defined in RCW 80.40.010 capable of delivering an average of
13 more than one hundred million standard cubic feet of natural gas per
14 day; (~~and~~)

15 (f) Facilities capable of processing more than twenty-five
16 thousand barrels per day of petroleum or biofuel into refined
17 products except where such biofuel production is undertaken at
18 existing industrial facilities; and

19 (g) Facilities capable of producing more than one thousand five
20 hundred barrels per day of refined biofuel but less than twenty-five
21 thousand barrels of refined biofuel.

22 (13) "Independent consultants" means those persons who have no
23 financial interest in the applicant's proposals and who are retained
24 by the council to evaluate the applicant's proposals, supporting
25 studies, or to conduct additional studies.

26 (14) "Land use plan" means a comprehensive plan or land use
27 element thereof adopted by a unit of local government pursuant to
28 chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise
29 designated by chapter 325, Laws of 2007.

30 (15) "Person" means an individual, partnership, joint venture,
31 private or public corporation, association, firm, public service
32 company, political subdivision, municipal corporation, government
33 agency, public utility district, or any other entity, public or
34 private, however organized.

35 (16) "Preapplicant" means a person considering applying for a
36 site certificate agreement for any transmission facility.

37 (17) "Preapplication process" means the process which is
38 initiated by written correspondence from the preapplicant to the
39 council, and includes the process adopted by the council for

1 consulting with the preapplicant and with cities, towns, and counties
2 prior to accepting applications for all transmission facilities.

3 (18) "Secretary" means the secretary of the United States
4 department of energy.

5 (19) "Site" means any proposed or approved location of an energy
6 facility, alternative energy resource, or electrical transmission
7 facility.

8 (20) "Thermal power plant" means, for the purpose of
9 certification, any electrical generating facility using any fuel for
10 distribution of electricity by electric utilities.

11 (21) "Transmission facility" means any of the following together
12 with their associated facilities:

13 (a) Crude or refined petroleum or liquid petroleum product
14 transmission pipeline of the following dimensions: A pipeline larger
15 than six inches minimum inside diameter between valves for the
16 transmission of these products with a total length of at least
17 fifteen miles;

18 (b) Natural gas, synthetic fuel gas, or liquefied petroleum gas
19 transmission pipeline of the following dimensions: A pipeline larger
20 than fourteen inches minimum inside diameter between valves, for the
21 transmission of these products, with a total length of at least
22 fifteen miles for the purpose of delivering gas to a distribution
23 facility, except an interstate natural gas pipeline regulated by the
24 United States federal power commission.

25 (22) "Zoning ordinance" means an ordinance of a unit of local
26 government regulating the use of land and adopted pursuant to chapter
27 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state
28 Constitution, or as otherwise designated by chapter 325, Laws of
29 2007.

30 **Sec. 18.** RCW 80.50.060 and 2007 c 325 s 2 are each amended to
31 read as follows:

32 (1) ~~((The))~~ Except for biofuel refineries specified in RCW
33 80.50.020(12)(g), the provisions of this chapter apply to the
34 construction of energy facilities which includes the new construction
35 of energy facilities and the reconstruction or enlargement of
36 existing energy facilities where the net increase in physical
37 capacity or dimensions resulting from such reconstruction or
38 enlargement meets or exceeds those capacities or dimensions set forth
39 in RCW 80.50.020 ~~((+7))~~ (12) and ~~((+15))~~ (21). No construction of

1 such energy facilities may be undertaken, except as otherwise
2 provided in this chapter, after July 15, 1977, without first
3 obtaining certification in the manner provided in this chapter.

4 (2) The provisions of this chapter apply to the construction,
5 reconstruction, or enlargement of a new or existing biofuel refinery
6 specified in RCW 80.50.020(12)(g) or a new or existing energy
7 facility that exclusively uses alternative energy resources and
8 chooses to receive certification under this chapter, regardless of
9 the generating capacity of the project.

10 (3)(a) The provisions of this chapter apply to the construction,
11 reconstruction, or modification of electrical transmission facilities
12 when:

13 (i) The facilities are located in a national interest electric
14 transmission corridor as specified in RCW 80.50.045;

15 (ii) An applicant chooses to receive certification under this
16 chapter, and the facilities are: (A) Of a nominal voltage of at least
17 one hundred fifteen thousand volts and are located in a completely
18 new corridor, except for the terminus of the new facility or
19 interconnection of the new facility with the existing grid, and the
20 corridor is not otherwise used for electrical transmission
21 facilities; and (B) located in more than one jurisdiction that has
22 promulgated land use plans or zoning ordinances; or

23 (iii) An applicant chooses to receive certification under this
24 chapter, and the facilities are: (A) Of a nominal voltage in excess
25 of one hundred fifteen thousand volts; and (B) located outside an
26 electrical transmission corridor identified in (a)(i) and (ii) of
27 this subsection (3).

28 (b) For the purposes of this subsection, "modify" means a
29 significant change to an electrical transmission facility and does
30 not include the following: (i) Minor improvements such as the
31 replacement of existing transmission line facilities or supporting
32 structures with equivalent facilities or structures; (ii) the
33 relocation of existing electrical transmission line facilities; (iii)
34 the conversion of existing overhead lines to underground; or (iv) the
35 placing of new or additional conductors, supporting structures,
36 insulators, or their accessories on or replacement of supporting
37 structures already built.

38 (4) The provisions of this chapter shall not apply to normal
39 maintenance and repairs which do not increase the capacity or

1 dimensions beyond those set forth in RCW 80.50.020 (~~((7))~~) (12) and
2 (~~((15))~~) (21).

3 (5) Applications for certification of energy facilities made
4 prior to July 15, 1977, shall continue to be governed by the
5 applicable provisions of law in effect on the day immediately
6 preceding July 15, 1977, with the exceptions of RCW 80.50.190 and
7 80.50.071 which shall apply to such prior applications and to site
8 certifications prospectively from July 15, 1977.

9 (6) Applications for certification shall be upon forms prescribed
10 by the council and shall be supported by such information and
11 technical studies as the council may require.

12 **Sec. 19.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each
13 amended to read as follows:

14 (1) A person applying for a motor vehicle registration and paying
15 the vehicle license fee required in RCW 46.17.350(1) (a), (d), (e),
16 (h), (j), (n), and (o) shall pay a motor vehicle weight fee in
17 addition to all other fees and taxes required by law.

18 (a) For vehicle registrations that are due or become due before
19 July 1, 2016, the motor vehicle weight fee:

- 20 (i) Must be based on the motor vehicle scale weight;
- 21 (ii) Is the difference determined by subtracting the vehicle
22 license fee required in RCW 46.17.350 from the license fee in
23 Schedule B of RCW 46.17.355, plus two dollars; and
- 24 (iii) Must be distributed under RCW 46.68.415.

25 (b) For vehicle registrations that are due or become due on or
26 after July 1, 2016, the motor vehicle weight fee:

27 (i) Must be based on the motor vehicle scale weight as follows:

28	WEIGHT	FEE
29	4,000 pounds	\$ 25.00
30	6,000 pounds	\$ 45.00
31	8,000 pounds	\$ 65.00
32	16,000 pounds and over	\$ 72.00;

33 (ii) If the resultant motor vehicle scale weight is not listed in
34 the table provided in (b)(i) of this subsection, must be increased to
35 the next highest weight; and

36 (iii) Must be distributed under RCW 46.68.415 unless prior to
37 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this

1 subsection occur, in which case the portion of the revenue that is
2 the result of the fee increased in this subsection must be
3 distributed to the connecting Washington account created under RCW
4 46.68.395.

5 (A) Any state agency files a notice of rule making under chapter
6 34.05 RCW, absent explicit legislative authorization enacted
7 subsequent to July 1, 2015, for a rule regarding a fuel standard
8 based upon or defined by the carbon intensity of fuel, including a
9 low carbon fuel standard or clean fuel standard.

10 (B) Any state agency otherwise enacts, adopts, orders, or in any
11 way implements a fuel standard based upon or defined by the carbon
12 intensity of fuel, including a low carbon fuel standard or clean fuel
13 standard, without explicit legislative authorization enacted
14 subsequent to July 1, 2015.

15 (C) Nothing in this subsection acknowledges, establishes, or
16 creates legal authority for the department of ecology or any other
17 state agency to enact, adopt, order, or in any way implement a fuel
18 standard based upon or defined by the carbon intensity of fuel,
19 including a low carbon fuel standard or clean fuel standard.

20 (2) A person applying for a motor home vehicle registration
21 shall, in lieu of the motor vehicle weight fee required in subsection
22 (1) of this section, pay a motor home vehicle weight fee of seventy-
23 five dollars in addition to all other fees and taxes required by law.
24 The motor home vehicle weight fee must be distributed under RCW
25 46.68.415.

26 (3) Beginning July 1, 2022, in addition to the motor vehicle
27 weight fee as provided in subsection (1) of this section, the
28 department, county auditor or other agent, or subagent appointed by
29 the director must require an applicant to pay an additional weight
30 fee of ten dollars, which must be distributed to the multimodal
31 transportation account under RCW 47.66.070 unless prior to July 1,
32 2023, the actions described in (a) or (b) of this subsection occur,
33 in which case the portion of the revenue that is the result of the
34 fee increased in this subsection must be distributed to the
35 connecting Washington account created under RCW 46.68.395.

36 (a) Any state agency files a notice of rule making under chapter
37 34.05 RCW, absent explicit legislative authorization enacted
38 subsequent to July 1, 2015, for a rule regarding a fuel standard
39 based upon or defined by the carbon intensity of fuel, including a
40 low carbon fuel standard or clean fuel standard.

1 (b) Any state agency otherwise enacts, adopts, orders, or in any
2 way implements a fuel standard based upon or defined by the carbon
3 intensity of fuel, including a low carbon fuel standard or clean fuel
4 standard, without explicit legislative authorization enacted
5 subsequent to July 1, 2015.

6 (c) Nothing in this subsection acknowledges, establishes, or
7 creates legal authority for the department of ecology or any other
8 state agency to enact, adopt, order, or in any way implement a fuel
9 standard based upon or defined by the carbon intensity of fuel,
10 including a low carbon fuel standard or clean fuel standard.

11 (4) The department shall:

12 (a) Rely on motor vehicle empty scale weights provided by vehicle
13 manufacturers, or other sources defined by the department, to
14 determine the weight of each motor vehicle; and

15 (b) Adopt rules for determining weight for vehicles without
16 manufacturer empty scale weights.

17 **Sec. 20.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each
18 amended to read as follows:

19 (1) When a person has been disqualified from operating a
20 commercial motor vehicle, the person is not entitled to have the
21 commercial driver's license or commercial learner's permit restored
22 until after the expiration of the appropriate disqualification period
23 required under RCW 46.25.090 or until the department has received a
24 drug and alcohol assessment and evidence is presented of satisfactory
25 participation in or completion of any required drug or alcohol
26 treatment program for ending the disqualification under RCW
27 46.25.090(7). After expiration of the appropriate period and upon
28 payment of a requalification fee of twenty dollars until June 30,
29 2016, and thirty-five dollars beginning July 1, 2016, or one hundred
30 fifty dollars if the person has been disqualified under RCW
31 46.25.090(7), the person may apply for a new, duplicate, or renewal
32 commercial driver's license or commercial learner's permit as
33 provided by law. If the person has been disqualified for a period of
34 one year or more, the person shall demonstrate that he or she meets
35 the commercial driver's license or commercial learner's permit
36 qualification standards specified in RCW 46.25.060.

37 (2) The fees under this section must be deposited into the
38 highway safety fund unless prior to July 1, 2023, the actions
39 described in (a) or (b) of this subsection occur, in which case the

1 portion of the revenue that is the result of the fee increased in
2 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be
3 distributed to the connecting Washington account created under RCW
4 46.68.395.

5 (a) Any state agency files a notice of rule making under chapter
6 34.05 RCW, absent explicit legislative authorization enacted
7 subsequent to July 1, 2015, for a rule regarding a fuel standard
8 based upon or defined by the carbon intensity of fuel, including a
9 low carbon fuel standard or clean fuel standard.

10 (b) Any state agency otherwise enacts, adopts, orders, or in any
11 way implements a fuel standard based upon or defined by the carbon
12 intensity of fuel, including a low carbon fuel standard or clean fuel
13 standard, without explicit legislative authorization enacted
14 subsequent to July 1, 2015.

15 (c) Nothing in this subsection acknowledges, establishes, or
16 creates legal authority for the department of ecology or any other
17 state agency to enact, adopt, order, or in any way implement a fuel
18 standard based upon or defined by the carbon intensity of fuel,
19 including a low carbon fuel standard or clean fuel standard.

20 **Sec. 21.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to
21 read as follows:

22 (1) The department may enter into a memorandum of understanding
23 with any federal agency for the purposes of facilitating the crossing
24 of the border between the state of Washington and the Canadian
25 province of British Columbia.

26 (2) The department may enter into an agreement with the Canadian
27 province of British Columbia for the purposes of implementing a
28 border-crossing initiative.

29 (3)(a) The department may issue an enhanced driver's license or
30 identicard for the purposes of crossing the border between the state
31 of Washington and the Canadian province of British Columbia to an
32 applicant who provides the department with proof of: United States
33 citizenship, identity, and state residency. The department shall
34 continue to offer a standard driver's license and identicard. If the
35 department chooses to issue an enhanced driver's license, the
36 department must allow each applicant to choose between a standard
37 driver's license or identicard, or an enhanced driver's license or
38 identicard.

1 (b) The department shall implement a one-to-many biometric
2 matching system for the enhanced driver's license or identicard. An
3 applicant for an enhanced driver's license or identicard shall submit
4 a biometric identifier as designated by the department. The biometric
5 identifier must be used solely for the purpose of verifying the
6 identity of the holders and for any purpose set out in RCW 46.20.037.
7 Applicants are required to sign a declaration acknowledging their
8 understanding of the one-to-many biometric match.

9 (c) The enhanced driver's license or identicard must include
10 reasonable security measures to protect the privacy of Washington
11 state residents, including reasonable safeguards to protect against
12 unauthorized disclosure of data about Washington state residents. If
13 the enhanced driver's license or identicard includes a radio
14 frequency identification chip, or similar technology, the department
15 shall ensure that the technology is encrypted or otherwise secure
16 from unauthorized data access.

17 (d) The requirements of this subsection are in addition to the
18 requirements otherwise imposed on applicants for a driver's license
19 or identicard. The department shall adopt such rules as necessary to
20 meet the requirements of this subsection. From time to time the
21 department shall review technological innovations related to the
22 security of identity cards and amend the rules related to enhanced
23 driver's licenses and identicards as the director deems consistent
24 with this section and appropriate to protect the privacy of
25 Washington state residents.

26 (e) Notwithstanding RCW 46.20.118, the department may make images
27 associated with enhanced drivers' licenses or identicards from the
28 negative file available to United States customs and border agents
29 for the purposes of verifying identity.

30 (4) Beginning on July 23, 2017, the fee for an enhanced driver's
31 license or enhanced identicard is twenty-four dollars, which is in
32 addition to the fees for any regular driver's license or identicard.
33 If the enhanced driver's license or enhanced identicard is issued,
34 renewed, or extended for a period other than six years, the fee for
35 each class is four dollars for each year that the enhanced driver's
36 license or enhanced identicard is issued, renewed, or extended.

37 (5) The enhanced driver's license and enhanced identicard fee
38 under this section must be deposited into the highway safety fund
39 unless prior to July 1, 2023, the actions described in (a) or (b) of
40 this subsection occur, in which case the portion of the revenue that

1 is the result of the fee increased in section 209, chapter 44, Laws
2 of 2015 3rd sp. sess. must be distributed to the connecting
3 Washington account created under RCW 46.68.395.

4 (a) Any state agency files a notice of rule making under chapter
5 34.05 RCW, absent explicit legislative authorization enacted
6 subsequent to July 1, 2015, for a rule regarding a fuel standard
7 based upon or defined by the carbon intensity of fuel, including a
8 low carbon fuel standard or clean fuel standard.

9 (b) Any state agency otherwise enacts, adopts, orders, or in any
10 way implements a fuel standard based upon or defined by the carbon
11 intensity of fuel, including a low carbon fuel standard or clean fuel
12 standard, without explicit legislative authorization enacted
13 subsequent to July 1, 2015.

14 (c) Nothing in this subsection acknowledges, establishes, or
15 creates legal authority for the department of ecology or any other
16 state agency to enact, adopt, order, or in any way implement a fuel
17 standard based upon or defined by the carbon intensity of fuel,
18 including a low carbon fuel standard or clean fuel standard.

19 **Sec. 22.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each
20 amended to read as follows:

21 (1) The department may issue a CLP to an applicant who is at
22 least eighteen years of age and holds a valid Washington state
23 driver's license and who has:

24 (a) Submitted an application on a form or in a format provided by
25 the department;

26 (b) Passed the general knowledge examination required for
27 issuance of a CDL under RCW 46.25.060 for the commercial motor
28 vehicle classification in which the applicant operates or expects to
29 operate; and

30 (c) Paid the appropriate examination fee or fees and an
31 application fee of ten dollars until June 30, 2016, and forty dollars
32 beginning July 1, 2016.

33 (2) A CLP must be marked "commercial learner's permit" or "CLP,"
34 and must be, to the maximum extent practicable, tamperproof. Other
35 than a photograph of the applicant, it must include, but not be
36 limited to, the information required on a CDL under RCW 46.25.080(1).

37 (3) The holder of a CLP may drive a commercial motor vehicle on a
38 highway only when in possession of a valid driver's license and
39 accompanied by the holder of a valid CDL who has the proper CDL

1 classification and endorsement or endorsements necessary to operate
2 the commercial motor vehicle. The CDL holder must at all times be
3 physically present in the front seat of the vehicle next to the CLP
4 holder or, in the case of a passenger vehicle, directly behind or in
5 the first row behind the driver and must have the CLP holder under
6 observation and direct supervision.

7 (4) A CLP may be classified in the same manner as a CDL under RCW
8 46.25.080(2)(a).

9 (5) CLPs may be issued with only P, S, or N endorsements as
10 described in RCW 46.25.080(2)(b).

11 (a) The holder of a CLP with a P endorsement must have taken and
12 passed the P endorsement knowledge examination. The holder of a CLP
13 with a P endorsement is prohibited from operating a commercial motor
14 vehicle carrying passengers other than authorized employees or
15 representatives of the department and the federal motor carrier
16 safety administration, examiners, other trainees, and the CDL holder
17 accompanying the CLP holder as required under subsection (2) of this
18 section. The P endorsement must be class specific.

19 (b) The holder of a CLP with an S endorsement must have taken and
20 passed the S endorsement knowledge examination. The holder of a CLP
21 with an S endorsement is prohibited from operating a school bus with
22 passengers other than authorized employees or representatives of the
23 department and the federal motor carrier safety administration,
24 examiners, other trainees, and the CDL holder accompanying the CLP
25 holder as required under subsection (2) of this section.

26 (c) The holder of a CLP with an N endorsement must have taken and
27 passed the N endorsement knowledge examination. The holder of a CLP
28 with an N endorsement may only operate an empty tank vehicle and is
29 prohibited from operating any tank vehicle that previously contained
30 hazardous materials and has not been purged of any residue.

31 (6) A CLP may be issued with appropriate restrictions as
32 described in RCW 46.25.080(2)(c). In addition, a CLP may be issued
33 with the following restrictions:

34 (a) "P" restricts the driver from operating a bus with
35 passengers;

36 (b) "X" restricts the driver from operating a tank vehicle that
37 contains cargo; and

38 (c) Any restriction as established by rule of the department.

39 (7) The holder of a CLP is not authorized to operate a commercial
40 motor vehicle transporting hazardous materials.

1 (8) A CLP may not be issued for a period to exceed one hundred
2 eighty days. The department may renew the CLP for one additional one
3 hundred eighty-day period without requiring the CLP holder to retake
4 the general and endorsement knowledge examinations.

5 (9) The department must transmit the fees collected for CLPs to
6 the state treasurer for deposit in the highway safety fund unless
7 prior to July 1, 2023, the actions described in (a) or (b) of this
8 subsection occur, in which case the portion of the revenue that is
9 the result of the fee increased in section 206, chapter 44, Laws of
10 2015 3rd sp. sess. must be distributed to the connecting Washington
11 account created under RCW 46.68.395.

12 (a) Any state agency files a notice of rule making under chapter
13 34.05 RCW, absent explicit legislative authorization enacted
14 subsequent to July 1, 2015, for a rule regarding a fuel standard
15 based upon or defined by the carbon intensity of fuel, including a
16 low carbon fuel standard or clean fuel standard.

17 (b) Any state agency otherwise enacts, adopts, orders, or in any
18 way implements a fuel standard based upon or defined by the carbon
19 intensity of fuel, including a low carbon fuel standard or clean fuel
20 standard, without explicit legislative authorization enacted
21 subsequent to July 1, 2015.

22 (c) Nothing in this subsection acknowledges, establishes, or
23 creates legal authority for the department of ecology or any other
24 state agency to enact, adopt, order, or in any way implement a fuel
25 standard based upon or defined by the carbon intensity of fuel,
26 including a low carbon fuel standard or clean fuel standard.

27 **Sec. 23.** RCW 46.25.060 and 2020 c 78 s 2 are each amended to
28 read as follows:

29 (1)(a) No person may be issued a commercial driver's license
30 unless that person:

31 (i) Is a resident of this state;

32 (ii) Has successfully completed a course of instruction in the
33 operation of a commercial motor vehicle that has been approved by the
34 director or has been certified by an employer as having the skills
35 and training necessary to operate a commercial motor vehicle safely;

36 (iii) If he or she does not hold a valid commercial driver's
37 license of the appropriate classification, has been issued a
38 commercial learner's permit under RCW 46.25.052; and

1 (iv) Has passed a knowledge and skills examination for driving a
2 commercial motor vehicle that complies with minimum federal standards
3 established by federal regulation enumerated in 49 C.F.R. Part 383,
4 subparts F, G, and H, in addition to other requirements imposed by
5 state law or federal regulation. The department may not allow the
6 person to take the skills examination during the first fourteen days
7 after initial issuance of the person's commercial learner's permit.
8 The examinations must be prescribed and conducted by the department.

9 (b) In addition to the fee charged for issuance or renewal of any
10 license, the applicant shall pay a fee of no more than ten dollars
11 until June 30, 2016, and thirty-five dollars beginning July 1, 2016,
12 for the classified knowledge examination, classified endorsement
13 knowledge examination, or any combination of classified license and
14 endorsement knowledge examinations. The applicant shall pay a fee of
15 no more than one hundred dollars until June 30, 2016, and two hundred
16 fifty dollars beginning July 1, 2016, for each classified skill
17 examination or combination of classified skill examinations conducted
18 by the department.

19 (c) The department may authorize a person, including an agency of
20 this or another state, an employer, a private driver training
21 facility, or other private institution, or a department, agency, or
22 instrumentality of local government, to administer the skills
23 examination specified by this section under the following conditions:

24 (i) The examination is the same which would otherwise be
25 administered by the state;

26 (ii) The third party has entered into an agreement with the state
27 that complies with the requirements of 49 C.F.R. Sec. 383.75; and

28 (iii) The director has adopted rules as to the third party
29 testing program and the development and justification for fees
30 charged by any third party.

31 (d) If the applicant's primary use of a commercial driver's
32 license is for any of the following, then the applicant shall pay a
33 fee of no more than seventy-five dollars until June 30, 2016, and two
34 hundred twenty-five dollars beginning July 1, 2016, for the
35 classified skill examination or combination of classified skill
36 examinations whether conducted by the department or a third-party
37 tester:

38 (i) Public benefit not-for-profit corporations that are federally
39 supported head start programs; or

1 (ii) Public benefit not-for-profit corporations that support
2 early childhood education and assistance programs as described in RCW
3 43.216.505.

4 (e) Beginning July 1, 2016, if the applicant's primary use of a
5 commercial driver's license is to drive a school bus, the applicant
6 shall pay a fee of no more than one hundred dollars for the
7 classified skill examination or combination of classified skill
8 examinations conducted by the department.

9 (f) Beginning July 1, 2016, payment of the examination fees under
10 this subsection entitles the applicant to take the examination up to
11 two times in order to pass.

12 (2)(a) The department may waive the skills examination and the
13 requirement for completion of a course of instruction in the
14 operation of a commercial motor vehicle specified in this section for
15 a commercial driver's license applicant who meets the requirements of
16 49 C.F.R. Sec. 383.77. For current or former military service members
17 that meet the requirements of 49 C.F.R. Sec. 383.77, the department
18 may also waive the requirements for a knowledge test for commercial
19 driver's license applicants. Beginning December 1, 2021, the
20 department shall provide an annual report to the house and senate
21 transportation committees and the joint committee on veterans' and
22 military affairs of the legislature on the number and types of
23 waivers granted pursuant to this subsection.

24 (b) An applicant who operates a commercial motor vehicle for
25 agribusiness purposes is exempt from the course of instruction
26 completion and employer skills and training certification
27 requirements under this section. By January 1, 2010, the department
28 shall submit recommendations regarding the continuance of this
29 exemption to the transportation committees of the legislature. For
30 purposes of this subsection (2)(b), "agribusiness" means a private
31 carrier who in the normal course of business primarily transports:

32 (i) Farm machinery, farm equipment, implements of husbandry, farm
33 supplies, and materials used in farming;

34 (ii) Agricultural inputs, such as seed, feed, fertilizer, and
35 crop protection products;

36 (iii) Unprocessed agricultural commodities, as defined in RCW
37 17.21.020, where such commodities are produced by farmers, ranchers,
38 vineyardists, or orchardists; or

39 (iv) Any combination of (b)(i) through (iii) of this subsection.

1 The department shall notify the transportation committees of the
2 legislature if the federal government takes action affecting the
3 exemption provided in this subsection (2)(b).

4 (3) A commercial driver's license or commercial learner's permit
5 may not be issued to a person while the person is subject to a
6 disqualification from driving a commercial motor vehicle, or while
7 the person's driver's license is suspended, revoked, or canceled in
8 any state, nor may a commercial driver's license be issued to a
9 person who has a commercial driver's license issued by any other
10 state unless the person first surrenders all such licenses, which
11 must be returned to the issuing state for cancellation.

12 (4) The fees under this section must be deposited into the
13 highway safety fund unless prior to July 1, 2023, the actions
14 described in (a) or (b) of this subsection occur, in which case the
15 portion of the revenue that is the result of the fee increased in
16 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be
17 distributed to the connecting Washington account created under RCW
18 46.68.395.

19 (a) Any state agency files a notice of rule making under chapter
20 34.05 RCW, absent explicit legislative authorization enacted
21 subsequent to July 1, 2015, for a rule regarding a fuel standard
22 based upon or defined by the carbon intensity of fuel, including a
23 low carbon fuel standard or clean fuel standard.

24 (b) Any state agency otherwise enacts, adopts, orders, or in any
25 way implements a fuel standard based upon or defined by the carbon
26 intensity of fuel, including a low carbon fuel standard or clean fuel
27 standard, without explicit legislative authorization enacted
28 subsequent to July 1, 2015.

29 (c) Nothing in this subsection acknowledges, establishes, or
30 creates legal authority for the department of ecology or any other
31 state agency to enact, adopt, order, or in any way implement a fuel
32 standard based upon or defined by the carbon intensity of fuel,
33 including a low carbon fuel standard or clean fuel standard.

34 **Sec. 24.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended
35 to read as follows:

36 (1) Any person who knowingly violates any of the provisions of
37 this chapter (~~($\text{\textcircled{e}}$)~~), chapter 70A.25 or 70A.--- (the new chapter
38 created in section 29 of this act) RCW, RCW 70A.45.080, or any
39 ordinance, resolution, or regulation in force pursuant thereto is

1 guilty of a gross misdemeanor and upon conviction thereof shall be
2 punished by a fine of not more than ten thousand dollars, or by
3 imprisonment in the county jail for up to three hundred sixty-four
4 days, or by both for each separate violation.

5 (2) Any person who negligently releases into the ambient air any
6 substance listed by the department of ecology as a hazardous air
7 pollutant, other than in compliance with the terms of an applicable
8 permit or emission limit, and who at the time negligently places
9 another person in imminent danger of death or substantial bodily harm
10 is guilty of a gross misdemeanor and shall, upon conviction, be
11 punished by a fine of not more than ten thousand dollars, or by
12 imprisonment for up to three hundred sixty-four days, or both.

13 (3) Any person who knowingly releases into the ambient air any
14 substance listed by the department of ecology as a hazardous air
15 pollutant, other than in compliance with the terms of an applicable
16 permit or emission limit, and who knows at the time that he or she
17 thereby places another person in imminent danger of death or
18 substantial bodily harm, is guilty of a class C felony and shall,
19 upon conviction, be punished by a fine of not less than fifty
20 thousand dollars, or by imprisonment for not more than five years, or
21 both.

22 (4) Any person who knowingly fails to disclose a potential
23 conflict of interest under RCW 70A.15.2000 is guilty of a gross
24 misdemeanor, and upon conviction thereof shall be punished by a fine
25 of not more than five thousand dollars.

26 **Sec. 25.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended
27 to read as follows:

28 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and
29 43.05.150, and in addition to or as an alternate to any other penalty
30 provided by law, any person who violates any of the provisions of
31 this chapter, chapter 70A.25 (~~(\oplus)~~), 70A.450, or 70A.--- (the new
32 chapter created in section 29 of this act) RCW, RCW 70A.45.080, or
33 any of the rules in force under such chapters or section may incur a
34 civil penalty in an amount not to exceed ten thousand dollars per day
35 for each violation. Each such violation shall be a separate and
36 distinct offense, and in case of a continuing violation, each day's
37 continuance shall be a separate and distinct violation.

38 (b) Any person who fails to take action as specified by an order
39 issued pursuant to this chapter shall be liable for a civil penalty

1 of not more than ten thousand dollars for each day of continued
2 noncompliance.

3 (2) (a) Penalties incurred but not paid shall accrue interest,
4 beginning on the ninety-first day following the date that the penalty
5 becomes due and payable, at the highest rate allowed by RCW 19.52.020
6 on the date that the penalty becomes due and payable. If violations
7 or penalties are appealed, interest shall not begin to accrue until
8 the thirty-first day following final resolution of the appeal.

9 (b) The maximum penalty amounts established in this section may
10 be increased annually to account for inflation as determined by the
11 state office of the economic and revenue forecast council.

12 (3) Each act of commission or omission which procures, aids or
13 abets in the violation shall be considered a violation under the
14 provisions of this section and subject to the same penalty. The
15 penalties provided in this section shall be imposed pursuant to RCW
16 43.21B.300.

17 (4) All penalties recovered under this section by the department
18 shall be paid into the state treasury and credited to the air
19 pollution control account established in RCW 70A.15.1010 or, if
20 recovered by the authority, shall be paid into the treasury of the
21 authority and credited to its funds. If a prior penalty for the same
22 violation has been paid to a local authority, the penalty imposed by
23 the department under subsection (1) of this section shall be reduced
24 by the amount of the payment.

25 (5) To secure the penalty incurred under this section, the state
26 or the authority shall have a lien on any vessel used or operated in
27 violation of this chapter which shall be enforced as provided in RCW
28 60.36.050.

29 (6) Public or private entities that are recipients or potential
30 recipients of department grants, whether for air quality related
31 activities or not, may have such grants rescinded or withheld by the
32 department for failure to comply with provisions of this chapter.

33 (7) In addition to other penalties provided by this chapter,
34 persons knowingly under-reporting emissions or other information used
35 to set fees, or persons required to pay emission or permit fees who
36 are more than ninety days late with such payments may be subject to a
37 penalty equal to three times the amount of the original fee owed.

38 (8) The department shall develop rules for excusing excess
39 emissions from enforcement action if such excess emissions are
40 unavoidable. The rules shall specify the criteria and procedures for

1 the department and local air authorities to determine whether a
2 period of excess emissions is excusable in accordance with the state
3 implementation plan.

4 **Sec. 26.** RCW 19.112.110 and 2013 c 225 s 601 are each amended to
5 read as follows:

6 (1) Special fuel licensees under chapter 82.38 RCW, as determined
7 by the department of licensing, must provide evidence to the
8 department of licensing that at least two percent of the total annual
9 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,
10 following the earlier of: (a) November 30, 2008; or (b) when a
11 determination is made by the director, published in the Washington
12 State Register, that feedstock grown in Washington state can satisfy
13 a two-percent requirement.

14 (2) Special fuel licensees under chapter 82.38 RCW, as determined
15 by the department of licensing, must provide evidence to the
16 department of licensing that at least five percent of total annual
17 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,
18 when the director determines, and publishes this determination in the
19 Washington State Register, that both in-state oil seed crushing
20 capacity and feedstock grown in Washington state can satisfy a
21 three-percent requirement.

22 (3) The requirements of subsections (1) and (2) of this section
23 may take effect no sooner than one hundred eighty days after the
24 determination has been published in the Washington State Register.

25 (4) The director and the director of licensing must each adopt
26 rules, in coordination with each other, for enforcing and carrying
27 out the purposes of this section.

28 (5) To the extent that the requirements of this section conflict
29 with the requirements of chapter 70A.--- (the new chapter created in
30 section 29 of this act) RCW, the requirements of chapter 70A.--- (the
31 new chapter created in section 29 of this act) RCW prevail.

32 **Sec. 27.** RCW 19.112.120 and 2013 c 225 s 602 are each amended to
33 read as follows:

34 (1) By December 1, 2008, motor vehicle fuel licensees under
35 chapter 82.38 RCW, as determined by the department of licensing, must
36 provide evidence to the department of licensing that at least two
37 percent of total gasoline sold in Washington, measured on a quarterly
38 basis, is denatured ethanol.

1 (2) If the director of ecology determines that ethanol content
2 greater than two percent of the total gasoline sold in Washington
3 will not jeopardize continued attainment of the federal clean air
4 act's national ambient air quality standard for ozone pollution in
5 Washington and the director of agriculture determines and publishes
6 this determination in the Washington State Register that sufficient
7 raw materials are available within Washington to support economical
8 production of ethanol at higher levels, the director of agriculture
9 may require by rule that licensees provide evidence to the department
10 of licensing that denatured ethanol comprises between two percent and
11 at least ten percent of total gasoline sold in Washington, measured
12 on a quarterly basis.

13 (3) The requirements of subsections (1) and (2) of this section
14 may take effect no sooner than one hundred eighty days after the
15 determination has been published in the Washington State Register.

16 (4) The director and the director of licensing must each adopt
17 rules, in coordination with each other, for enforcing and carrying
18 out the purposes of this section.

19 (5) Nothing in this section is intended to prohibit the
20 production, sale, or use of motor fuel for use in federally
21 designated flexibly fueled vehicles capable of using E85 motor fuel.
22 Nothing in this section is intended to limit the use of high octane
23 gasoline not blended with ethanol for use in aircraft.

24 (6) To the extent that the requirements of this section conflict
25 with the requirements of chapter 70A.--- (the new chapter created in
26 section 29 of this act) RCW, the requirements of chapter 70A.--- (the
27 new chapter created in section 29 of this act) RCW prevail.

28 NEW SECTION. Sec. 28. A new section is added to chapter 43.21A
29 RCW to read as follows:

30 (1) The department, in coordination with the department of
31 commerce and other agencies as appropriate, must develop
32 recommendations for potential improvements to the permitting
33 processes for industrial projects and facilities in Washington that
34 would contribute to achieving greenhouse gas emissions limits
35 established under RCW 70A.45.020 while maintaining standards for the
36 protection of the environment and the preservation of tribal
37 consultation and treaty rights. The department must provide increased
38 clarity on areas in the state that may be suitable for siting
39 projects that have a lower potential for negative environmental

1 impacts, especially to highly impacted communities as defined in RCW
2 19.405.020 and identify strategies for minimizing and mitigating
3 negative environmental impacts where possible. The department must
4 provide clear guidance and direction intended to improve project
5 proposals, recommend policy and administrative improvements necessary
6 to improve the permitting process, and recommend any additional
7 studies needed. The department shall convene businesses, local
8 governments, community organizations, and environmental and labor
9 stakeholders, and consult with tribes.

10 (2) The department and the department of commerce shall produce
11 and submit to the governor and the legislature an interim progress
12 report with initial policy proposal recommendations for the 2022
13 legislative session by December 1, 2021, and a final report including
14 findings, recommendations, and further policy proposals by December
15 1, 2022.

16 (3) This section expires June 30, 2023.

17 NEW SECTION. **Sec. 29.** Sections 1 through 15 of this act
18 constitute a new chapter in Title 70A RCW.

19 NEW SECTION. **Sec. 30.** If specific funding for the purposes of
20 this act, referencing this act by bill or chapter number, is not
21 provided by June 30, 2021, in the omnibus appropriations act, this
22 act is null and void.

23 NEW SECTION. **Sec. 31.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected. In the event that there is
27 litigation on the provisions of section 3(6) of this act or any other
28 provision of this act, it is the intent of the legislature that the
29 remainder of the act shall continue to be enforced and if such
30 provisions are held invalid, the remainder of the act shall not be
31 affected."

E3SHB 1091 - CONF REPT
By Conference Committee

HOUSE ADOPTED 04/25/2021; SENATE ADOPTED 04/25/2021

1 On page 1, line 2 of the title, after "fuel;" strike the
2 remainder of the title and insert "amending RCW 80.50.060, 46.17.365,
3 46.25.100, 46.20.202, 46.25.052, 46.25.060, 70A.15.3150, 70A.15.3160,
4 19.112.110, and 19.112.120; reenacting and amending RCW 80.50.020;
5 adding a section to chapter 82.04 RCW; adding a new section to
6 chapter 43.21A RCW; adding a new chapter to Title 70A RCW; creating
7 new sections; prescribing penalties; and providing expiration dates."

--- END ---