

HOUSE BILL REPORT

2SSB 5192

As Reported by House Committee On:
Appropriations

Title: An act relating to supporting access to electric vehicle supply equipment.

Brief Description: Supporting access to electric vehicle supply equipment.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Das, Lovelett, Carlyle, Kuderer, Nguyen and Wilson, C.).

Brief History:

Committee Activity:

Appropriations: 4/19/21, 4/20/21 [DPA].

**Brief Summary of Second Substitute Bill
(As Amended By Committee)**

- Requires electric vehicle service providers to clearly disclose the costs of using publicly available electric vehicle supply equipment.
- Requires the Washington State Department of Agriculture, in consultation with the Department of Commerce and the Utilities and Transportation Commission, to adopt rules for certain publicly available electric vehicle supply equipment regarding payment methods, interoperability, and the sale of electricity as a vehicle fuel.
- Establishes registration fees and penalties related to electric vehicle supply equipment.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Johnson, J., Lekanoff, Pollet, Ryu, Senn, Springer,

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Stonier, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 11 members: Representatives Stokesbary, Ranking Minority Member; Corry, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Dye, Harris, Hoff, Jacobsen, Schmick and Steele.

Minority Report: Without recommendation. Signed by 3 members: Representatives Chambers, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude.

Staff: Dan Jones (786-7118).

Background:

Weights and Measures Program.

The Washington State Department of Agriculture (WSDA) administers a Weights and Measures Program (Program), which tests and inspects commercial weighing and measuring devices such as gas pumps and grocery scales. Revenue collected by the Program is deposited in the Agricultural Local Fund.

Alternative Fuels Data Center.

The Alternative Fuels Data Center (AFDC) is a repository of alternative fuel vehicle performance data administered through the Office of Energy Efficiency and Renewable Energy at the United States Department of Energy. Information provided by the AFDC includes fuel properties, production, distribution, prices, and station locations.

Electric Vehicle Account.

The Electric Vehicle Account is an account in the State Treasury that may be used, among other things, for Department of Transportation grants and loans for alternative fuel vehicle charging infrastructure.

Summary of Amended Bill:

Requirements for Electric Vehicle Service Providers.

By January 1, 2023, electric vehicle service providers must ensure that all publicly available electric vehicle supply equipment is clearly marked and discloses all associated costs prior to a charging session. Electric vehicle service providers may not require a subscription, membership, or account to use a Level 2 (capable of supplying 208 to 240 volts alternating current) or direct current fast charger electric vehicle supply equipment.

Electric vehicle supply equipment is considered publicly available and subject to the requirements of the act if the equipment is only available to customers or visitors of a business or charging network, or is available to any member of the public, including in a parking garage or gated facility (whether free or paid). Electric vehicle supply equipment made available to the public for limited time periods is considered publicly available electric vehicle supply equipment only during those limited time periods.

Certain electric vehicle supply equipment is exempted from the requirements of the act, including equipment that is available to the public at no cost or exclusively used by a workplace, private residence, common interest community, or vehicle dealer. The Director of the Washington State Department of Agriculture (WSDA) may subject or exempt other electric vehicle supply equipment to the requirements of the act by rule.

By January 1, 2023, electric vehicle service providers must annually report inventory and payment method information to the Alternative Fuels Data Center at the United States Department of Energy.

If Second Substitute Senate Bill 5062 is not enacted by June 30, 2021, and an electric vehicle service provider intends to sell consumer data collected from a charging session, the service provider must disclose data collected to the consumer.

Rulemaking for Electric Vehicle Supply Equipment.

By January 1, 2023, the WSDA, in consultation with the Department of Commerce and the Utilities and Transportation Commission, must adopt rules concerning publicly available Level 2 or direct current fast charger electric vehicle supply equipment. These rules must require electric vehicle service providers to make available multiple payment methods and meet nonproprietary interoperability standards. If necessary, the rules may be amended every two years to maintain consistency with evolving technology.

The WSDA rulemaking related to the sale of electricity sold as a vehicle fuel and electric vehicle fueling systems may be modified to maintain consistency with evolving technology. These rules may take effect no earlier than January 1, 2024.

Fees and Penalties.

Annual registration fees of \$20 for Level 2 electric vehicle supply equipment ports and \$40 for direct current fast charger electric vehicle supply equipment ports are established. The WSDA may establish additional fees by rule to cover remaining costs of enforcing the act.

Penalties of \$200 for a first violation and \$500 for a second or subsequent violation within one year are established for electric vehicle service providers for the following situations:

- the WSDA or a city sealer finds an electric vehicle fuel measuring instrument to be

- incorrect to the benefit of the owner and detriment of the customer; or
- the service provider fails to meet the fee disclosure, payment availability, or interoperability standards established either in the act or by rule.

The penalties for failure to comply with the standards of the act must first be used to cover the WSDA's enforcement costs, with any remaining amounts deposited into the Electric Vehicle Account.

Amended Bill Compared to Second Substitute Bill:

The amended bill makes the following changes to the second substitute bill:

- delays the deadline for Washington State Department of Agriculture rule making on payment methods and interoperability from July 1, 2022, to January 1, 2023;
- states that certain references to electric vehicle supply equipment pertain to "publicly available" electric vehicle supply equipment;
- amends one of the criteria for electric vehicle supply equipment that is subject to the act, from parking spaces located in a parking garage or gated facility, to parking spaces, "including" equipment located in a parking garage or gated facility;
- removes "available for use at no cost" from the criteria for certain exemptions from the act;
- requires that certain electric vehicle supply equipment that is exempt from rules related to the sale of electricity sold as a vehicle fuel be subject to annual registration fees;
- removes a reference to standards from the Americans with Disabilities Act from the definition of "clearly marked"; and
- makes other clarifying and technical changes.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, section 13, relating to disclosure of consumer data, only takes effect if Substitute Senate Bill 5062 is not enacted by June 30, 2021.

Staff Summary of Public Testimony:

(In support) A regulatory framework and interoperability standards are what the electric vehicle (EV) industry needs, and these will help give consumers the assurance they need to transition towards EVs. More EVs are coming, so the industry needs to get its house in order so people can charge their cars and get going. Different charging networks currently have different payment methods, but charging your car should be as easy as buying gas. The proposed striking amendment creates a balanced bill. Funding for the Washington

State Department of Agriculture's rulemaking costs should be included in the operating budget. Many residents do not have access to EV charging near their homes, and more accessible charging infrastructure is needed. The exemption for automobile dealers is appreciated.

(Opposed) None.

(Other) Positive changes were made to the bill as it passed the Senate, and in the proposed striking amendment. The bill could increase costs for EV service providers and lead to fewer chargers being built. The regulations in the bill may be too much for such small transactions.

Persons Testifying: (In support) Matthew Hepner, International Brotherhood of Electrical Workers and Certified Electrical Workers of Washington; Kate White Tuder, Natural Resources Defense Council; Quinn Majeski, City of Seattle; Annabel Drayton, NW Energy Coalition; and Scott Hazlegrove, Washington State Auto Dealers Association.

(Other) Jeff Gombosky, Tesla; Justin Wilson, ChargePoint; John Rothlin, Avista; and Cassie Bordelon, Puget Sound Energy.

Persons Signed In To Testify But Not Testifying: None.