
THIRD SUBSTITUTE HOUSE BILL 1091

State of Washington

67th Legislature

2021 Regular Session

By House Transportation (originally sponsored by Representatives Fitzgibbon, Slatter, Berry, Dolan, Bateman, Ramos, Simmons, Ramel, Senn, Peterson, Duerr, Ryu, Valdez, Callan, Kloba, Chopp, Ormsby, Frame, Macri, Pollet, Goodman, and Bergquist; by request of Office of the Governor)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to reducing greenhouse gas emissions by reducing
2 the carbon intensity of transportation fuel; amending RCW 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; adding a new section to chapter 82.04
5 RCW; adding a new chapter to Title 70A RCW; creating a new section;
6 prescribing penalties; and providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that rapid
9 innovations in low carbon transportation technologies, including
10 electric vehicles and clean transportation fuels, are at the
11 threshold of widespread commercial deployment. In order to help
12 prompt the use of clean fuels, other states have successfully
13 implemented programs that reduce the carbon intensity of their
14 transportation fuels. California and Oregon have both implemented low
15 carbon fuel standards that are similar to the program created in this
16 act; after enacting their programs, neither state has experienced
17 disruptions to fuel markets or significant impacts to the costs of
18 transportation fuels, and both states have experienced biofuel sector
19 growth and have successfully sited large biofuel projects that had
20 originally been planned for Washington. Washington state has
21 extensively studied the potential impact of a clean fuels program,

1 and most projections show that a low carbon fuel standard would
2 decrease greenhouse gas and conventional air pollutant emissions,
3 while positively impacting the state's economy.

4 (2) The legislature further finds that the health and welfare of
5 the people of the state of Washington is threatened by the prospect
6 of crumbling or swamped coastlines, rising water, and more intense
7 forest fires caused by higher temperatures and related droughts, all
8 of which are intensified and made more frequent by the volume of
9 greenhouse gas emissions. As of 2017, the transportation sector
10 contributes 45 percent of Washington's greenhouse gas emissions, and
11 the legislature's interest in the life cycle of the fuels used in the
12 state arises from a concern for the effects of the production and use
13 of these fuels on Washington's environment and public health,
14 including its air quality, snowpack, and coastline.

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

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

21 (b) Reduce greenhouse gas emissions associated with
22 transportation fuels, which are the state's largest source of
23 greenhouse gas emissions; and

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

26 NEW SECTION. **Sec. 2.** The definitions in this section apply
27 throughout this chapter unless the context clearly indicates
28 otherwise.

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

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

34 (3) "Clean fuels program" means the requirements established
35 under this chapter.

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

1 (5) "Credit" means a unit of measure generated when a
2 transportation fuel with a carbon intensity that is less than the
3 applicable standard adopted by the department under section 3 of this
4 act is produced, imported, or dispensed for use in Washington, such
5 that one credit is equal to one metric ton of carbon dioxide
6 equivalents.

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

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

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

16 (9) (a) "Green hydrogen" means hydrogen produced using: (i)
17 Electricity that meets the carbon neutrality standard of RCW
18 19.405.040 by 2030 and carbon-free standard of RCW 19.405.040 by 2045
19 for the energy input into the production process; and (ii) renewable
20 resources for the source of the hydrogen.

21 (b) "Green hydrogen" includes renewable hydrogen.

22 (10) "Greenhouse gas" has the same meaning as defined in RCW
23 70A.45.010.

24 (11) "Military tactical vehicle" means a motor vehicle owned by
25 the United States department of defense or the United States military
26 services and that is used in combat, combat support, combat service
27 support, tactical or relief operations, or training for such
28 operations.

29 (12) "Motor vehicle" has the same meaning as defined in RCW
30 46.04.320.

31 (13) "Price" means the amount of payment or compensation provided
32 as consideration for a specified quantity of transportation fuel by a
33 consumer or end user of the transportation fuel.

34 (14) "Renewable hydrogen" means hydrogen produced using renewable
35 resources both as the source for the hydrogen and the source for the
36 energy input into the production process.

37 (15) "Renewable resource" means: (a) Water; (b) wind; (c) solar
38 energy; (d) geothermal energy; (e) renewable natural gas as defined
39 in RCW 54.04.190; (f) renewable hydrogen; (g) wave, ocean, or tidal
40 power; (h) biodiesel fuel that is not derived from crops raised on

1 land cleared from old growth or first growth forests where the
2 clearing occurred after December 7, 2006; or (i) biomass energy.

3 (16) (a) "Tactical support equipment" means equipment using a
4 portable engine, including turbines, that meets military
5 specifications, owned by the United States military services or its
6 allies, and that is used in combat, combat support, combat service
7 support, tactical or relief operations, or training for such
8 operations.

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

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

16 NEW SECTION. **Sec. 3.** (1) The department shall adopt rules that
17 establish standards that reduce carbon intensity in transportation
18 fuels used in Washington. The standards established by the rules must
19 be based on the carbon intensity of gasoline and gasoline substitutes
20 and the carbon intensity of diesel and diesel substitutes. The
21 standards:

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

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

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

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

36 (2) (a) The rules adopted under this section must reduce the
37 greenhouse gas emissions attributable to each unit of the fuels to 10
38 percent below 2017 levels by 2028 and 20 percent below 2017 levels by
39 2035.

1 (b) The rules must establish a start date for the clean fuels
2 program of no later than January 1, 2023.

3 (c) By December 31, 2031, the department must adopt updated rules
4 that reduce the greenhouse gas emissions attributable to each unit of
5 transportation fuels applicable to each year through 2050. The
6 department must adopt rules that set the greenhouse gas emissions
7 attributable to each unit of transportation fuel in the year 2050 so
8 that total emissions from transportation sources in 2050 are
9 consistent with the state achieving the emissions limits established
10 in RCW 70A.45.020.

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

14 (4) 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 (5) The department shall improve its internal processes to
18 expedite processing of environmental reviews under chapter 43.21C RCW
19 and applications for permits related to the siting of projects that
20 would produce, or support the production of, transportation fuels
21 with a carbon intensity lower than the standard adopted by the
22 department.

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

27 (1) Standards for greenhouse gas emissions attributable to the
28 transportation fuels throughout their life cycles, including but not
29 limited to emissions from the production, storage, transportation,
30 and combustion of transportation fuels and from changes in land use
31 associated with transportation fuels and any permanent greenhouse gas
32 sequestration activities.

33 (a) The rules adopted by the department under this subsection (1)
34 may:

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

37 (ii) Consider carbon intensity calculations for transportation
38 fuels developed by national laboratories or used by similar programs
39 in other states; and

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

4 (b) The rules adopted by the department under this subsection (1)
5 must:

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

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

20 (iii) Include mechanisms for certifying electricity that has a
21 carbon intensity of zero. This electricity must include, at minimum,
22 electricity:

23 (A) For which a renewable energy credit or other environmental
24 attribute has been retired or used only for purposes of the clean
25 fuels program; and

26 (B) Produced using a zero emission resource including, but not
27 limited to, solar, wind, geothermal, or the industrial combustion of
28 biomass consistent with RCW 70A.45.020(3), that is directly supplied
29 as a transportation fuel by the generator of the electricity;

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

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

38 (c) If the department determines that it is necessary for
39 purposes of accurately measuring greenhouse gas emissions associated
40 with transportation fuels, the department may require transportation

1 fuel suppliers to submit data or information to be used for purposes
2 of calculating greenhouse gas emissions that is different from or
3 additional to the greenhouse gas emissions data reported under RCW
4 70A.15.2200(5)(a)(iii).

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

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

29 (3)(a) Methods for assigning compliance obligations and methods
30 for tracking tradable credits. The department may assign the
31 generation of a credit when a fuel with associated life-cycle
32 greenhouse gas emissions that are lower than the applicable per-unit
33 standard adopted by the department under section 3 of this act is
34 produced, imported, or dispensed for use in Washington, or when
35 specified activities are undertaken that support the reduction of
36 greenhouse gas emissions associated with transportation in
37 Washington. Transportation fuels with associated greenhouse gas
38 emissions exceeding 80 percent of the 2017 levels established in
39 section 3 of this act are not eligible to generate credits under the
40 clean fuels program;

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

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

5 (4) Mechanisms to elect to participate in the clean fuels program
6 for persons associated with the supply chains of transportation fuels
7 that are eligible to generate credits consistent with subsection (3)
8 of this section, including producers, importers, distributors, users,
9 or retailers of such fuels;

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

19 (6) Mechanisms that allow for the assignment of credits to an
20 electric utility for electricity used, at minimum, for residential
21 electric vehicle charging or fueling;

22 (7) Cost containment mechanisms.

23 (a) Cost containment mechanisms may include, but are not limited
24 to:

25 (i) A credit clearance market designed to make credits available
26 for sale to regulated persons after the conclusion of a compliance
27 period at a department-determined price;

28 (ii) Similar procedures that provide a means of compliance with
29 the clean fuels program requirements in the event that a regulated
30 person has not been able to acquire sufficient volumes of credits at
31 the end of a compliance period; or

32 (iii) Similar procedures that ensure that credit prices do not
33 significantly exceed credit prices in other jurisdictions that have
34 adopted similar programs to reduce the carbon intensity of
35 transportation fuels.

36 (b) Any cost containment mechanisms must be designed to provide
37 financial disincentive for regulated persons to rely on the cost
38 containment mechanism for purposes of program compliance instead of
39 seeking to generate or acquire sufficient credits under the program;

1 (8) Authority for the department to designate an entity to
2 aggregate and use unclaimed credits associated with persons that
3 elect not to participate in the clean fuels program under subsection
4 (4) of this section.

5 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and
6 4 of this act must include exemptions for, at minimum, the following
7 transportation fuels:

8 (a) Fuels used in volumes below thresholds adopted by the
9 department;

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

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

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

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

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

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

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

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

37 (4) The rules adopted under sections 3 and 4 of this act may
38 include exemptions in addition to those described in subsections (1)
39 and (2) of this section, but only if such exemptions are necessary,

1 with respect to the relationship between the program and similar
2 greenhouse gas emissions requirements or low carbon fuel standards,
3 in order to avoid:

4 (a) Mismatched incentives across programs;

5 (b) Fuel shifting between markets; or

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

7 (5) Nothing in this chapter precludes the department from
8 adopting rules under sections 3 and 4 of this act that allow the
9 generation of credits associated with electric or alternative
10 transportation infrastructure that existed prior to the effective
11 date of this section or to the start date of program requirements.

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) Refinery investments in carbon capture and sequestration; or

21 (iii) Direct air capture projects;

22 (b) The fueling of battery or fuel cell electric vehicles by a
23 commercial entity that is not an electric utility, which may include,
24 but is not limited to, the fueling of vehicles using electricity
25 certified by the department to have a carbon intensity of zero; and

26 (c) The use of smart vehicle charging technology that results in
27 the fueling of an electric vehicle during times when the carbon
28 intensity of grid electricity is comparatively low.

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

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

36 (3) The rules adopted by the department may establish limits for
37 the number of credits that may be earned each year by persons
38 participating in the program for some or all of the activities
39 specified in subsections (1) and (2) of this section. Any limits

1 established under this subsection must take into consideration the
2 return on investment required in order for an activity specified in
3 subsection (2) of this section to be financially viable.

4 NEW SECTION. **Sec. 7.** (1) Except where otherwise provided in
5 this chapter, the department shall seek to adopt rules that are
6 harmonized with the regulatory standards, exemptions, reporting
7 obligations, and other clean fuels program compliance requirements of
8 other states that:

9 (a) Have adopted low carbon fuel standards or similar greenhouse
10 gas emissions requirements applicable specifically to transportation
11 fuels; and

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

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

16 (2) The department must establish and periodically consult a
17 stakeholder advisory panel, including representatives of forestland
18 and agricultural landowners, for purposes of soliciting input on how
19 to best incentivize and allot credits for the sequestration of
20 greenhouse gases through activities on agricultural and forestlands
21 in a manner that is consistent with the goals and requirements of
22 this chapter.

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

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

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

35 (2) Each transaction transferring ownership of transportation
36 fuels for which clean fuels program participation is mandated must be
37 accompanied by documentation, in a format approved by the department,
38 that assigns the clean fuels program compliance responsibility

1 associated with the fuels, including the assignment of associated
2 credits. The department may also require documentation assigning
3 clean fuels program compliance responsibility associated with fuels
4 for which program participation has been elected.

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

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

16 NEW SECTION. **Sec. 9.** (1)(a) Fifty percent of the revenues
17 generated by an electric utility from credits earned from the
18 electricity supplied to retail customers by an electric utility under
19 the clean fuels program must be expended by the electric utility on
20 transportation electrification projects, which may include projects
21 to support the production and provision of renewable and green
22 hydrogen as a transportation fuel or used in the production of a
23 transportation fuel.

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

1 (2) For the 50 percent of revenues not subject to the
2 requirements of subsection (1) of this section, the department, in
3 consultation with the utilities and transportation commission, must
4 adopt requirements for the expenditure of revenues from credits
5 earned from the electricity supplied to retail customers by an
6 electric utility under the clean fuels program. The department must
7 require that at least some portion of the 50 percent of revenues
8 subject to this subsection be used by each electric utility for the
9 establishment of a clean fuel reward program that provides a price
10 reduction on new electric vehicle purchases or leases in Washington.
11 Any requirements for the expenditure of revenues from credits earned
12 from the electricity supplied to retail customers by an electric
13 utility under the clean fuels program must be developed in
14 consultation with electric utilities.

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

19 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2025, and each May
20 1st thereafter, the department must post a report on the department's
21 website that includes the following information regarding the
22 previous calendar year of clean fuels program activities:

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

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

28 (c) The best estimate or range in probable costs or cost savings
29 attributable to the clean fuels program per gallon of gasoline and
30 per gallon of diesel, as determined by an independent consultant
31 whose services the department has contracted. The estimate or range
32 in probable costs or cost savings from the independent consultant
33 must be announced in a press release to the news media at the time
34 that the report under this subsection (1) is posted to the
35 department's website, and must be simultaneously reported to the
36 transportation committees of the house of representatives and the
37 senate;

38 (d) The total greenhouse gas emissions reductions attributable to
39 the clean fuels program; and

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

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

8 (3) By May 1, 2025, and each May 1st thereafter, the department
9 must submit the report required under subsection (1) of this section
10 to the appropriate committees of the house of representatives and
11 senate.

12 (4) The department must contract for an ex ante independent
13 analysis of the information specified in subsection (1)(c) of this
14 section for each year of the program through 2035. The analysis
15 required in this subsection must be completed and submitted to the
16 appropriate committees of the legislature by July 1, 2022.

17 NEW SECTION. **Sec. 11.** (1) In consultation with the department
18 and the department of agriculture, the department of commerce must
19 develop a periodic fuel supply forecast to project the availability
20 of fuels necessary for compliance with clean fuels program
21 requirements.

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

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

28 (a) An estimate of the volume of each transportation fuel
29 available in Washington;

30 (b) An estimate of the total banked credits and deficits from
31 previous compliance periods; and

32 (c) An estimate of the number of credits needed to meet the
33 applicable clean fuels program requirements during the forecasted
34 compliance period.

35 (4) The department of commerce must finalize a fuel supply
36 forecast for an upcoming compliance period by no later than 90 days
37 prior to the start of the compliance period.

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

16 (2) The clean fuels program account is created in the state
17 treasury. All receipts from fees and penalties received under the
18 program created in this chapter must be deposited into the account.
19 Moneys in the account may be spent only after appropriation. The
20 department may only use expenditures from the account for carrying
21 out the program created in this chapter.

22 NEW SECTION. **Sec. 13.** (1) By December 1, 2029, the joint
23 legislative audit and review committee must analyze the impacts of
24 the initial five years of clean fuels program implementation and must
25 submit a report summarizing the analysis to the legislature. The
26 analysis must include, at minimum, the following components:

27 (a) Costs and benefits, including environmental and public health
28 costs and benefits, associated with this chapter for categories of
29 persons participating in the clean fuels program or that are most
30 impacted by air pollution, as defined in consultation with the
31 departments of ecology and health and as measured on a census tract
32 scale. This component of the analysis must, at minimum, assess the
33 costs and benefits of changes in the following metrics since the
34 start of the program:

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

38 (ii) Fuel prices; and

1 (iii) Total employment in categories of industries generating
2 credits or deficits. The categories of industries assessed must
3 include but are not limited to electric utilities, oil refineries,
4 and other industries involved in the production of high carbon fuels,
5 industries involved in the delivery and sale of high carbon fuels,
6 biofuel refineries, and industries involved in the delivery and sale
7 of low carbon fuels;

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

10 (c) A summary of the estimated total statewide costs and benefits
11 attributable to the clean fuels program, including state agency
12 administrative costs and regulated entity compliance costs. For
13 purposes of calculating the benefits of the program, the summary may
14 rely, in part, on a constant value of the social costs attributable
15 to greenhouse gas emissions, as identified in contemporary
16 internationally accepted estimates of such global social cost. This
17 summary must include an estimate of the total statewide costs of the
18 program per ton of greenhouse gas emissions reductions achieved by
19 the clean fuels program.

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

21 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.04
22 RCW to read as follows:

23 (1) This chapter does not apply to amounts received from the
24 generation, purchase, sale, transfer, or retirement of credits under
25 chapter 70A.--- RCW (the new chapter created in section 24 of this
26 act).

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

29 **Sec. 15.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each
30 amended to read as follows:

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

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

37 (i) Must be based on the motor vehicle scale weight;

1 (ii) Is the difference determined by subtracting the vehicle
2 license fee required in RCW 46.17.350 from the license fee in
3 Schedule B of RCW 46.17.355, plus two dollars; and

4 (iii) Must be distributed under RCW 46.68.415.

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

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

8	WEIGHT	FEE
9	4,000 pounds	\$ 25.00
10	6,000 pounds	\$ 45.00
11	8,000 pounds	\$ 65.00
12	16,000 pounds and over	\$ 72.00;

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

16 (iii) Must be distributed under RCW 46.68.415 unless prior to
17 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this
18 subsection occur, in which case the portion of the revenue that is
19 the result of the fee increased in this subsection must be
20 distributed to the connecting Washington account created under RCW
21 46.68.395.

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

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

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

37 (2) A person applying for a motor home vehicle registration
38 shall, in lieu of the motor vehicle weight fee required in subsection

1 (1) of this section, pay a motor home vehicle weight fee of seventy-
2 five dollars in addition to all other fees and taxes required by law.
3 The motor home vehicle weight fee must be distributed under RCW
4 46.68.415.

5 (3) Beginning July 1, 2022, in addition to the motor vehicle
6 weight fee as provided in subsection (1) of this section, the
7 department, county auditor or other agent, or subagent appointed by
8 the director must require an applicant to pay an additional weight
9 fee of ten dollars, which must be distributed to the multimodal
10 transportation account under RCW 47.66.070 unless prior to July 1,
11 2023, the actions described in (a) or (b) of this subsection occur,
12 in which case the portion of the revenue that is the result of the
13 fee increased in this subsection must be distributed to the
14 connecting Washington account created under RCW 46.68.395.

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

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

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

30 (4) The department shall:

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

34 (b) Adopt rules for determining weight for vehicles without
35 manufacturer empty scale weights.

36 **Sec. 16.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each
37 amended to read as follows:

38 (1) When a person has been disqualified from operating a
39 commercial motor vehicle, the person is not entitled to have the

1 commercial driver's license or commercial learner's permit restored
2 until after the expiration of the appropriate disqualification period
3 required under RCW 46.25.090 or until the department has received a
4 drug and alcohol assessment and evidence is presented of satisfactory
5 participation in or completion of any required drug or alcohol
6 treatment program for ending the disqualification under RCW
7 46.25.090(7). After expiration of the appropriate period and upon
8 payment of a requalification fee of twenty dollars until June 30,
9 2016, and thirty-five dollars beginning July 1, 2016, or one hundred
10 fifty dollars if the person has been disqualified under RCW
11 46.25.090(7), the person may apply for a new, duplicate, or renewal
12 commercial driver's license or commercial learner's permit as
13 provided by law. If the person has been disqualified for a period of
14 one year or more, the person shall demonstrate that he or she meets
15 the commercial driver's license or commercial learner's permit
16 qualification standards specified in RCW 46.25.060.

17 (2) The fees under this section must be deposited into the
18 highway safety fund unless prior to July 1, 2023, the actions
19 described in (a) or (b) of this subsection occur, in which case the
20 portion of the revenue that is the result of the fee increased in
21 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be
22 distributed to the connecting Washington account created under RCW
23 46.68.395.

24 (a) Any state agency files a notice of rule making under chapter
25 34.05 RCW, absent explicit legislative authorization enacted
26 subsequent to July 1, 2015, for a rule regarding a fuel standard
27 based upon or defined by the carbon intensity of fuel, including a
28 low carbon fuel standard or clean fuel standard.

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

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

1 **Sec. 17.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to
2 read as follows:

3 (1) The department may enter into a memorandum of understanding
4 with any federal agency for the purposes of facilitating the crossing
5 of the border between the state of Washington and the Canadian
6 province of British Columbia.

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

10 (3)(a) The department may issue an enhanced driver's license or
11 identicard for the purposes of crossing the border between the state
12 of Washington and the Canadian province of British Columbia to an
13 applicant who provides the department with proof of: United States
14 citizenship, identity, and state residency. The department shall
15 continue to offer a standard driver's license and identicard. If the
16 department chooses to issue an enhanced driver's license, the
17 department must allow each applicant to choose between a standard
18 driver's license or identicard, or an enhanced driver's license or
19 identicard.

20 (b) The department shall implement a one-to-many biometric
21 matching system for the enhanced driver's license or identicard. An
22 applicant for an enhanced driver's license or identicard shall submit
23 a biometric identifier as designated by the department. The biometric
24 identifier must be used solely for the purpose of verifying the
25 identity of the holders and for any purpose set out in RCW 46.20.037.
26 Applicants are required to sign a declaration acknowledging their
27 understanding of the one-to-many biometric match.

28 (c) The enhanced driver's license or identicard must include
29 reasonable security measures to protect the privacy of Washington
30 state residents, including reasonable safeguards to protect against
31 unauthorized disclosure of data about Washington state residents. If
32 the enhanced driver's license or identicard includes a radio
33 frequency identification chip, or similar technology, the department
34 shall ensure that the technology is encrypted or otherwise secure
35 from unauthorized data access.

36 (d) The requirements of this subsection are in addition to the
37 requirements otherwise imposed on applicants for a driver's license
38 or identicard. The department shall adopt such rules as necessary to
39 meet the requirements of this subsection. From time to time the
40 department shall review technological innovations related to the

1 security of identity cards and amend the rules related to enhanced
2 driver's licenses and identicards as the director deems consistent
3 with this section and appropriate to protect the privacy of
4 Washington state residents.

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

9 (4) Beginning on July 23, 2017, the fee for an enhanced driver's
10 license or enhanced identicard is twenty-four dollars, which is in
11 addition to the fees for any regular driver's license or identicard.
12 If the enhanced driver's license or enhanced identicard is issued,
13 renewed, or extended for a period other than six years, the fee for
14 each class is four dollars for each year that the enhanced driver's
15 license or enhanced identicard is issued, renewed, or extended.

16 (5) The enhanced driver's license and enhanced identicard fee
17 under this section must be deposited into the highway safety fund
18 unless prior to July 1, 2023, the actions described in (a) or (b) of
19 this subsection occur, in which case the portion of the revenue that
20 is the result of the fee increased in section 209, chapter 44, Laws
21 of 2015 3rd sp. sess. must be distributed to the connecting
22 Washington account created under RCW 46.68.395.

23 (a) Any state agency files a notice of rule making under chapter
24 34.05 RCW, absent explicit legislative authorization enacted
25 subsequent to July 1, 2015, for a rule regarding a fuel standard
26 based upon or defined by the carbon intensity of fuel, including a
27 low carbon fuel standard or clean fuel standard.

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

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

38 **Sec. 18.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each
39 amended to read as follows:

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

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

6 (b) Passed the general knowledge examination required for
7 issuance of a CDL under RCW 46.25.060 for the commercial motor
8 vehicle classification in which the applicant operates or expects to
9 operate; and

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

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

17 (3) The holder of a CLP may drive a commercial motor vehicle on a
18 highway only when in possession of a valid driver's license and
19 accompanied by the holder of a valid CDL who has the proper CDL
20 classification and endorsement or endorsements necessary to operate
21 the commercial motor vehicle. The CDL holder must at all times be
22 physically present in the front seat of the vehicle next to the CLP
23 holder or, in the case of a passenger vehicle, directly behind or in
24 the first row behind the driver and must have the CLP holder under
25 observation and direct supervision.

26 (4) A CLP may be classified in the same manner as a CDL under RCW
27 46.25.080(2)(a).

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

30 (a) The holder of a CLP with a P endorsement must have taken and
31 passed the P endorsement knowledge examination. The holder of a CLP
32 with a P endorsement is prohibited from operating a commercial motor
33 vehicle carrying passengers other than authorized employees or
34 representatives of the department and the federal motor carrier
35 safety administration, examiners, other trainees, and the CDL holder
36 accompanying the CLP holder as required under subsection (2) of this
37 section. The P endorsement must be class specific.

38 (b) The holder of a CLP with an S endorsement must have taken and
39 passed the S endorsement knowledge examination. The holder of a CLP
40 with an S endorsement is prohibited from operating a school bus with

1 passengers other than authorized employees or representatives of the
2 department and the federal motor carrier safety administration,
3 examiners, other trainees, and the CDL holder accompanying the CLP
4 holder as required under subsection (2) of this section.

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

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

13 (a) "P" restricts the driver from operating a bus with
14 passengers;

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

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

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

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

24 (9) The department must transmit the fees collected for CLPs to
25 the state treasurer for deposit in the highway safety fund unless
26 prior to July 1, 2023, the actions described in (a) or (b) of this
27 subsection occur, in which case the portion of the revenue that is
28 the result of the fee increased in section 206, chapter 44, Laws of
29 2015 3rd sp. sess. must be distributed to the connecting Washington
30 account created under RCW 46.68.395.

31 (a) Any state agency files a notice of rule making under chapter
32 34.05 RCW, absent explicit legislative authorization enacted
33 subsequent to July 1, 2015, for a rule regarding a fuel standard
34 based upon or defined by the carbon intensity of fuel, including a
35 low carbon fuel standard or clean fuel standard.

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

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

6 **Sec. 19.** RCW 46.25.060 and 2020 c 78 s 2 are each amended to
7 read as follows:

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

10 (i) Is a resident of this state;

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

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

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

26 (b) In addition to the fee charged for issuance or renewal of any
27 license, the applicant shall pay a fee of no more than ten dollars
28 until June 30, 2016, and thirty-five dollars beginning July 1, 2016,
29 for the classified knowledge examination, classified endorsement
30 knowledge examination, or any combination of classified license and
31 endorsement knowledge examinations. The applicant shall pay a fee of
32 no more than one hundred dollars until June 30, 2016, and two hundred
33 fifty dollars beginning July 1, 2016, for each classified skill
34 examination or combination of classified skill examinations conducted
35 by the department.

36 (c) The department may authorize a person, including an agency of
37 this or another state, an employer, a private driver training
38 facility, or other private institution, or a department, agency, or

1 instrumentality of local government, to administer the skills
2 examination specified by this section under the following conditions:

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

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

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

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

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

19 (ii) Public benefit not-for-profit corporations that support
20 early childhood education and assistance programs as described in RCW
21 43.216.505.

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

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

30 (2)(a) The department may waive the skills examination and the
31 requirement for completion of a course of instruction in the
32 operation of a commercial motor vehicle specified in this section for
33 a commercial driver's license applicant who meets the requirements of
34 49 C.F.R. Sec. 383.77. For current or former military service members
35 that meet the requirements of 49 C.F.R. Sec. 383.77, the department
36 may also waive the requirements for a knowledge test for commercial
37 driver's license applicants. Beginning December 1, 2021, the
38 department shall provide an annual report to the house and senate
39 transportation committees and the joint committee on veterans' and

1 military affairs of the legislature on the number and types of
2 waivers granted pursuant to this subsection.

3 (b) An applicant who operates a commercial motor vehicle for
4 agribusiness purposes is exempt from the course of instruction
5 completion and employer skills and training certification
6 requirements under this section. By January 1, 2010, the department
7 shall submit recommendations regarding the continuance of this
8 exemption to the transportation committees of the legislature. For
9 purposes of this subsection (2)(b), "agribusiness" means a private
10 carrier who in the normal course of business primarily transports:

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

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

15 (iii) Unprocessed agricultural commodities, as defined in RCW
16 17.21.020, where such commodities are produced by farmers, ranchers,
17 vineyardists, or orchardists; or

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

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

22 (3) A commercial driver's license or commercial learner's permit
23 may not be issued to a person while the person is subject to a
24 disqualification from driving a commercial motor vehicle, or while
25 the person's driver's license is suspended, revoked, or canceled in
26 any state, nor may a commercial driver's license be issued to a
27 person who has a commercial driver's license issued by any other
28 state unless the person first surrenders all such licenses, which
29 must be returned to the issuing state for cancellation.

30 (4) The fees under this section must be deposited into the
31 highway safety fund unless prior to July 1, 2023, the actions
32 described in (a) or (b) of this subsection occur, in which case the
33 portion of the revenue that is the result of the fee increased in
34 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be
35 distributed to the connecting Washington account created under RCW
36 46.68.395.

37 (a) Any state agency files a notice of rule making under chapter
38 34.05 RCW, absent explicit legislative authorization enacted
39 subsequent to July 1, 2015, for a rule regarding a fuel standard

1 based upon or defined by the carbon intensity of fuel, including a
2 low carbon fuel standard or clean fuel standard.

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

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

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

15 (1) Any person who knowingly violates any of the provisions of
16 this chapter (~~($\text{\textcircled{R}}$)~~), chapter 70A.25 or 70A.--- (the new chapter
17 created in section 24 of this act) RCW, RCW 70A.45.080, or any
18 ordinance, resolution, or regulation in force pursuant thereto is
19 guilty of a gross misdemeanor and upon conviction thereof shall be
20 punished by a fine of not more than ten thousand dollars, or by
21 imprisonment in the county jail for up to three hundred sixty-four
22 days, or by both for each separate violation.

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

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

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

5 **Sec. 21.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended
6 to read as follows:

7 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and
8 43.05.150, and in addition to or as an alternate to any other penalty
9 provided by law, any person who violates any of the provisions of
10 this chapter, chapter 70A.25 ~~((of))~~, 70A.450, or 70A.--- (the new
11 chapter created in section 24 of this act) RCW, RCW 70A.45.080, or
12 any of the rules in force under such chapters or section may incur a
13 civil penalty in an amount not to exceed ten thousand dollars per day
14 for each violation. Each such violation shall be a separate and
15 distinct offense, and in case of a continuing violation, each day's
16 continuance shall be a separate and distinct violation.

17 (b) Any person who fails to take action as specified by an order
18 issued pursuant to this chapter shall be liable for a civil penalty
19 of not more than ten thousand dollars for each day of continued
20 noncompliance.

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

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

30 (3) Each act of commission or omission which procures, aids or
31 abets in the violation shall be considered a violation under the
32 provisions of this section and subject to the same penalty. The
33 penalties provided in this section shall be imposed pursuant to RCW
34 43.21B.300.

35 (4) All penalties recovered under this section by the department
36 shall be paid into the state treasury and credited to the air
37 pollution control account established in RCW 70A.15.1010 or, if
38 recovered by the authority, shall be paid into the treasury of the
39 authority and credited to its funds. If a prior penalty for the same

1 violation has been paid to a local authority, the penalty imposed by
2 the department under subsection (1) of this section shall be reduced
3 by the amount of the payment.

4 (5) To secure the penalty incurred under this section, the state
5 or the authority shall have a lien on any vessel used or operated in
6 violation of this chapter which shall be enforced as provided in RCW
7 60.36.050.

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

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

17 (8) The department shall develop rules for excusing excess
18 emissions from enforcement action if such excess emissions are
19 unavoidable. The rules shall specify the criteria and procedures for
20 the department and local air authorities to determine whether a
21 period of excess emissions is excusable in accordance with the state
22 implementation plan.

23 **Sec. 22.** RCW 19.112.110 and 2013 c 225 s 601 are each amended to
24 read as follows:

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

33 (2) Special fuel licensees under chapter 82.38 RCW, as determined
34 by the department of licensing, must provide evidence to the
35 department of licensing that at least five percent of total annual
36 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,
37 when the director determines, and publishes this determination in the
38 Washington State Register, that both in-state oil seed crushing

1 capacity and feedstock grown in Washington state can satisfy a
2 three-percent requirement.

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

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

9 (5) To the extent that the requirements of this section conflict
10 with the requirements of chapter 70A.--- (the new chapter created in
11 section 24 of this act) RCW, the requirements of chapter 70A.--- (the
12 new chapter created in section 24 of this act) RCW prevail.

13 **Sec. 23.** RCW 19.112.120 and 2013 c 225 s 602 are each amended to
14 read as follows:

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

20 (2) If the director of ecology determines that ethanol content
21 greater than two percent of the total gasoline sold in Washington
22 will not jeopardize continued attainment of the federal clean air
23 act's national ambient air quality standard for ozone pollution in
24 Washington and the director of agriculture determines and publishes
25 this determination in the Washington State Register that sufficient
26 raw materials are available within Washington to support economical
27 production of ethanol at higher levels, the director of agriculture
28 may require by rule that licensees provide evidence to the department
29 of licensing that denatured ethanol comprises between two percent and
30 at least ten percent of total gasoline sold in Washington, measured
31 on a quarterly basis.

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

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

38 (5) Nothing in this section is intended to prohibit the
39 production, sale, or use of motor fuel for use in federally

1 designated flexibly fueled vehicles capable of using E85 motor fuel.
2 Nothing in this section is intended to limit the use of high octane
3 gasoline not blended with ethanol for use in aircraft.

4 (6) To the extent that the requirements of this section conflict
5 with the requirements of chapter 70A.--- (the new chapter created in
6 section 24 of this act) RCW, the requirements of chapter 70A.--- (the
7 new chapter created in section 24 of this act) RCW prevail.

8 NEW SECTION. Sec. 24. Sections 1 through 13 of this act
9 constitute a new chapter in Title 70A RCW.

10 NEW SECTION. Sec. 25. If specific funding for the purposes of
11 this act, referencing this act by bill or chapter number, is not
12 provided by June 30, 2021, in the omnibus appropriations act, this
13 act is null and void.

14 NEW SECTION. Sec. 26. If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

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