
SENATE BILL 5231

State of Washington

67th Legislature

2021 Regular Session

By Senators Stanford, Saldaña, Billig, Carlyle, Das, Frockt, Hunt, Keiser, Kuderer, Lias, Lovelett, Nguyen, Nobles, Pedersen, Robinson, Salomon, and Wilson, C.; by request of Office of the Governor

Read first time 01/15/21. Referred to Committee on Environment, Energy & Technology.

1 AN ACT Relating to reducing greenhouse gas emissions by reducing
2 the carbon intensity of transportation fuel; amending RCW 46.25.100,
3 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 chapter to Title 70A RCW;
5 prescribing penalties; and providing an expiration date.

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

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

1 decrease greenhouse gas and conventional air pollutant emissions,
2 while positively impacting the state's economy.

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

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

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

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

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

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

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

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

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

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

38 (5) "Credit" means a unit of measure generated when a
39 transportation fuel with a carbon intensity that is less than the

1 applicable standard adopted by the department under section 3 of this
2 act is produced, imported, or dispensed for use in Washington, such
3 that one credit is equal to one metric ton of carbon dioxide
4 equivalents.

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

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

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

14 (9) "Greenhouse gas" has the same meaning as defined in RCW
15 70A.45.010.

16 (10) "Military tactical vehicle" means a motor vehicle owned by
17 the United States department of defense or the United States military
18 services and that is used in combat, combat support, combat service
19 support, tactical or relief operations, or training for such
20 operations.

21 (11) "Motor vehicle" has the same meaning as defined in RCW
22 46.04.320.

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

26 (13)(a) "Tactical support equipment" means equipment using a
27 portable engine, including turbines, that meets military
28 specifications, owned by the United States military services or its
29 allies, and that is used in combat, combat support, combat service
30 support, tactical or relief operations, or training for such
31 operations.

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

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

1 NEW SECTION. **Sec. 3.** (1) The department shall adopt rules that
2 establish standards that reduce carbon intensity in transportation
3 fuels used in Washington. The standards established by the rules must
4 be based on the carbon intensity of gasoline and gasoline substitutes
5 and the carbon intensity of diesel and diesel substitutes.

6 (2) (a) The rules adopted under this section must reduce the
7 greenhouse gas emissions attributable to each unit of the fuels to 10
8 percent below 2017 levels by 2028 and 20 percent below 2017 levels by
9 2035.

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

12 (c) By December 31, 2031, the department must adopt updated rules
13 that reduce the greenhouse gas emissions attributable to each unit of
14 transportation fuels applicable to each year through 2050. The
15 department must adopt rules that set the greenhouse gas emissions
16 attributable to each unit of transportation fuel in the year 2050 so
17 that total emissions from transportation sources in 2050 are
18 consistent with the state achieving the emissions limits established
19 in RCW 70A.45.020.

20 (3) (a) Transportation fuels exported from Washington are not
21 subject to the greenhouse gas emissions reduction requirements in
22 this section.

23 (b) Electricity is not subject to the greenhouse gas emissions
24 reduction requirements in this section.

25 (4) To the extent the requirements of this chapter conflict with
26 the requirements of chapter 19.112 RCW, the requirements of this
27 chapter prevail.

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

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

38 (a) The rules adopted by the department under this subsection (1)
39 may:

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

3 (ii) Consider carbon intensity calculations for transportation
4 fuels developed by national laboratories or used by similar programs
5 in other states; and

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

9 (b) The rules adopted by the department under this subsection (1)
10 must:

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

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

25 (iii) Include procedures for setting and adjusting the amounts of
26 greenhouse gas emissions per unit of fuel energy that is assigned to
27 transportation fuels under this subsection.

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

35 (d) If the department determines that it is necessary for
36 purposes of accurately measuring greenhouse gas emissions associated
37 with electricity supplied to retail customers by an electric utility,
38 the department may require electric utilities participating in the
39 clean fuels program to submit data or information to be used for
40 purposes of calculating greenhouse gas emissions that is different

1 from or additional to the fuel mix disclosure information submitted
2 under chapter 19.29A RCW. To the extent practicable, rules adopted by
3 the department may allow data requested of utilities to be submitted
4 in a form and manner consistent with other required state or federal
5 data submissions;

6 (2) Provisions allowing for the achievement of limits on the
7 greenhouse gas emissions intensity of transportation fuels in section
8 3 of this act to be achieved by any combination of credit generating
9 activities capable of meeting such standards, consistent with the
10 limitations of subsection (3)(a) of this section. Where such
11 provisions would not produce results counter to the emission
12 reduction goals of the program or prove administratively burdensome
13 for the department, the rules should provide each participant in the
14 clean fuels program with the opportunity to demonstrate appropriate
15 carbon intensity values taking into account both emissions from
16 production facilities and elsewhere in the production cycle,
17 including changes in land use and permanent greenhouse gas
18 sequestration activities;

19 (3)(a) Methods for assigning compliance obligations and methods
20 for tracking tradable credits. The department may assign the
21 generation of a credit when a fuel with associated life-cycle
22 greenhouse gas emissions that are lower than the applicable per-unit
23 standard adopted by the department under section 3 of this act is
24 produced, imported, or dispensed for use in Washington, or when
25 specified activities are undertaken that support the reduction of
26 greenhouse gas emissions associated with transportation in
27 Washington. Transportation fuels with associated greenhouse gas
28 emissions exceeding 80 percent of the 2017 levels established in
29 section 3 of this act are not eligible to generate credits under the
30 clean fuels program;

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

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

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

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 electricity and fuels used by aircraft, vessels, railroad
5 locomotives, and other exempt fuels specified in section 5 of this
6 act, to elect to participate in the clean fuels program by earning
7 credits for the production, import, distribution, use, or retail of
8 exempt fuels with associated life-cycle greenhouse gas emissions
9 lower than the per-unit standard established in section 3 of this
10 act;

11 (6) Cost containment mechanisms.

12 (a) Cost containment mechanisms may include, but are not limited
13 to:

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

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

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

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

29 (7) Authority for the department to designate an entity to
30 aggregate and use unclaimed credits associated with persons that
31 elect not to participate in the clean fuels program under subsection
32 (4) of this section.

33 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and
34 4 of this act must include exemptions for, at minimum, the following
35 transportation fuels:

36 (a) Fuels used in volumes below thresholds adopted by the
37 department;

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

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

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

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

8 (ii) Dyed special fuel used in vehicles that are not designed
9 primarily to transport persons or property, that are not designed to
10 be primarily operated on highways, and that are used primarily for
11 construction work including, but not limited to, mining and timber
12 harvest operations; and

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

15 (b) Prior to January 1, 2028, fuels identified in this subsection
16 (2) are eligible to generate credits, consistent with subsection (5)
17 of this section. Beginning January 1, 2028, the fuels identified in
18 this subsection (2) are subject to the greenhouse gas emission
19 intensity reduction requirements applicable to transportation fuels
20 specified in section 3 of this act.

21 (3) The department may adopt rules to specify the standards for
22 persons to qualify for the exemptions provided in this section. The
23 department may implement the exemptions under subsection (2) of this
24 section to align with the implementation of exemptions for similar
25 fuels exempt from chapter 82.38 RCW.

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

32 (a) Mismatched incentives across programs;

33 (b) Fuel shifting between markets; or

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

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

1 NEW SECTION. **Sec. 6.** (1) The rules adopted under sections 3 and
2 4 of this act may allow the generation of credits from activities
3 that support the reduction of greenhouse gas emissions associated
4 with transportation in Washington, including but not limited to:

5 (a) Carbon capture and sequestration projects, including but not
6 limited to:

7 (i) Innovative crude oil production projects that include carbon
8 capture and sequestration;

9 (ii) Refinery investments in carbon capture and sequestration; or

10 (iii) Direct air capture projects;

11 (b) The fueling of electric vehicles using electricity certified
12 by the department to have a carbon intensity of zero. Such
13 electricity must include, at minimum:

14 (i) Electricity for which a renewable energy credit or other
15 environmental attribute has been retired or used only for purposes of
16 the clean fuels program; and

17 (ii) Electricity produced using a zero emission resource,
18 including but not limited to solar, wind, geothermal, or the
19 industrial combustion of biomass consistent with RCW 70A.45.020(3),
20 that is directly supplied as a transportation fuel by the generator
21 of the electricity; and

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

25 (2) The rules adopted under sections 3 and 4 of this act must
26 allow the generation of credits from the provision of zero emission
27 vehicle refueling infrastructure and other low carbon fuel
28 infrastructure including, but not limited to, fast charging battery
29 electric vehicle infrastructure and hydrogen electric vehicle
30 refueling infrastructure.

31 (3) The rules adopted by the department may establish limits for
32 the number of credits that may be earned each year by persons
33 participating in the program for some or all of the activities
34 specified in subsections (1) and (2) of this section. Any limits
35 established under this subsection must take into consideration the
36 return on investment required in order for an activity specified in
37 subsection (1) or (2) of this section to be financially viable.

38 NEW SECTION. **Sec. 7.** (1) Except where otherwise provided in
39 this chapter, the department shall seek to adopt rules that are

1 harmonized with the regulatory standards, exemptions, reporting
2 obligations, and other clean fuels program compliance requirements of
3 other states that:

4 (a) Have adopted low carbon fuel standards or similar greenhouse
5 gas emissions requirements applicable specifically to transportation
6 fuels; and

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

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

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

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

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

26 (c) Other persons must register with the department to generate
27 credits from other activities that support the reduction of
28 greenhouse gas emissions associated with transportation in
29 Washington.

30 (2) Each transaction transferring ownership of transportation
31 fuels for which clean fuels program participation is mandated or has
32 been chosen must be accompanied by documentation, in a format
33 approved by the department, that assigns the clean fuels program
34 compliance responsibility associated with the fuels, including the
35 assignment of associated credits.

36 (3) The department may adopt rules requiring the periodic
37 reporting of information to the department by persons associated with
38 the supply chains of transportation fuels participating in the clean
39 fuels program. To the extent practicable, the rules must establish

1 reporting procedures and timelines that are consistent with similar
2 programs in other states that reduce the greenhouse gas emission
3 intensity of transportation fuel and with procedures and timelines of
4 state programs requiring similar information to be reported by
5 regulated parties, including electric utilities.

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

8 NEW SECTION. **Sec. 9.** (1)(a) Fifty percent of the revenues
9 generated by an electric utility from credits earned from the
10 electricity supplied to retail customers by an electric utility under
11 the clean fuels program must be expended by the electric utility on
12 transportation electrification projects, which may include projects
13 to support the production and provision of renewable hydrogen as a
14 transportation fuel or used in the production of a transportation
15 fuel.

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

31 (2) The department may adopt requirements for the expenditure of
32 revenues from credits earned from the electricity supplied to retail
33 customers by an electric utility under the clean fuels program that
34 are applicable to the 50 percent of revenues not subject to the
35 requirements of subsection (1) of this section. Any requirements for
36 the expenditure of revenues from credits earned from the electricity
37 supplied to retail customers by an electric utility under the clean
38 fuels program must be developed in consultation with electric
39 utilities.

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

5 (4) The definitions in this subsection apply throughout this
6 section unless the context clearly requires otherwise.

7 (a) "Renewable hydrogen" means hydrogen produced using renewable
8 resources both as the source for the hydrogen and the source for the
9 energy input into the production process.

10 (b) "Renewable resource" means: (i) Water; (ii) wind; (iii) solar
11 energy; (iv) geothermal energy; (v) renewable natural gas as defined
12 in RCW 54.04.190; (vi) renewable hydrogen; (vii) wave, ocean, or
13 tidal power; (viii) biodiesel fuel that is not derived from crops
14 raised on land cleared from old growth or first growth forests where
15 the clearing occurred after December 7, 2006; or (ix) biomass energy.

16 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2025, and each May
17 1st thereafter, the department must post a report on the department's
18 website that includes the following information regarding the
19 previous calendar year of clean fuels program activities:

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

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

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

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

37 (e) The range in the probable cost per ton of greenhouse gas
38 emissions reductions attributable to fuels supported by the clean

1 fuels program, taking into account the information in (c) and (d) of
2 this subsection.

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

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

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

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

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

21 (a) An estimate of the volume of each transportation fuel
22 available in Washington;

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

25 (c) An estimate of the number of credits needed to meet the
26 applicable clean fuels program requirements during the forecasted
27 compliance period.

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

31 NEW SECTION. **Sec. 12.** (1) The department may require that
32 persons that are required or elect to register or report under this
33 chapter pay a fee. If the department elects to require program
34 participants to pay a fee, the department must, after an opportunity
35 for public review and comment, adopt rules to establish a process to
36 determine the payment schedule and the amount of the fee charged. The
37 amount of the fee must be set so as to equal but not exceed the
38 projected direct and indirect costs to the department for developing

1 and implementing the program and the projected direct and indirect
2 costs to the department of commerce to carry out its responsibilities
3 under section 11 of this act. The department and the department of
4 commerce must prepare a biennial workload analysis and provide an
5 opportunity for public review of and comment on the workload
6 analysis. The department shall enter into an interagency agreement
7 with the department of commerce to implement this section.

8 (2) The clean fuels program account is created in the state
9 treasury. All receipts from fees and penalties received under the
10 program created in this chapter must be deposited into the account.
11 Moneys in the account may be spent only after appropriation. The
12 department may only use expenditures from the account for carrying
13 out the program created in this chapter.

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

19 (a) Costs and benefits, including environmental and public health
20 costs and benefits, associated with this chapter for categories of
21 persons participating in the clean fuels program or that are most
22 impacted by air pollution, as defined in consultation with the
23 departments of ecology and health and as measured on a census tract
24 scale. This component of the analysis must, at minimum, assess the
25 costs and benefits of changes in the following metrics since the
26 start of the program:

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

30 (ii) Fuel prices; and

31 (iii) Total employment in categories of industries generating
32 credits or deficits. The categories of industries assessed must
33 include but are not limited to electric utilities, oil refineries,
34 and other industries involved in the production of high carbon fuels,
35 industries involved in the delivery and sale of high carbon fuels,
36 biofuel refineries, and industries involved in the delivery and sale
37 of low carbon fuels;

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

1 (c) A summary of the estimated total statewide costs and benefits
2 attributable to the clean fuels program, including state agency
3 administrative costs and regulated entity compliance costs. For
4 purposes of calculating the benefits of the program, the summary may
5 rely, in part, on a constant value of the social costs attributable
6 to greenhouse gas emissions, as identified in contemporary
7 internationally accepted estimates of such global social cost. This
8 summary must include an estimate of the total statewide costs of the
9 program per ton of greenhouse gas emissions reductions achieved by
10 the clean fuels program.

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

12 **Sec. 14.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each
13 amended to read as follows:

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

32 (2) The fees under this section must be deposited into the
33 highway safety fund unless prior to July 1, 2023, the actions
34 described in (a) or (b) of this subsection occur, in which case the
35 portion of the revenue that is the result of the fee increased in
36 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be
37 distributed to the connecting Washington account created under RCW
38 46.68.395.

1 (a) Any state agency files a notice of rule making under chapter
2 34.05 RCW, absent explicit legislative authorization enacted
3 subsequent to July 1, 2015, for a rule regarding a fuel standard
4 based upon or defined by the carbon intensity of fuel, including a
5 low carbon fuel standard or clean fuel standard.

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

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

16 **Sec. 15.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to
17 read as follows:

18 (1) The department may enter into a memorandum of understanding
19 with any federal agency for the purposes of facilitating the crossing
20 of the border between the state of Washington and the Canadian
21 province of British Columbia.

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

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

35 (b) The department shall implement a one-to-many biometric
36 matching system for the enhanced driver's license or identicard. An
37 applicant for an enhanced driver's license or identicard shall submit
38 a biometric identifier as designated by the department. The biometric
39 identifier must be used solely for the purpose of verifying the

1 identity of the holders and for any purpose set out in RCW 46.20.037.
2 Applicants are required to sign a declaration acknowledging their
3 understanding of the one-to-many biometric match.

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

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

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

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

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

39 (a) Any state agency files a notice of rule making under chapter
40 34.05 RCW, absent explicit legislative authorization enacted

1 subsequent to July 1, 2015, for a rule regarding a fuel standard
2 based upon or defined by the carbon intensity of fuel, including a
3 low carbon fuel standard or clean fuel standard.

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

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

14 **Sec. 16.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each
15 amended to read as follows:

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

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

21 (b) Passed the general knowledge examination required for
22 issuance of a CDL under RCW 46.25.060 for the commercial motor
23 vehicle classification in which the applicant operates or expects to
24 operate; and

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

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

32 (3) The holder of a CLP may drive a commercial motor vehicle on a
33 highway only when in possession of a valid driver's license and
34 accompanied by the holder of a valid CDL who has the proper CDL
35 classification and endorsement or endorsements necessary to operate
36 the commercial motor vehicle. The CDL holder must at all times be
37 physically present in the front seat of the vehicle next to the CLP
38 holder or, in the case of a passenger vehicle, directly behind or in

1 the first row behind the driver and must have the CLP holder under
2 observation and direct supervision.

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

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

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

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

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

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

30 (a) "P" restricts the driver from operating a bus with
31 passengers;

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

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

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

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

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

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

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

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

23 **Sec. 17.** RCW 46.25.060 and 2020 c 78 s 2 are each amended to
24 read as follows:

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

27 (i) Is a resident of this state;

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

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

35 (iv) Has passed a knowledge and skills examination for driving a
36 commercial motor vehicle that complies with minimum federal standards
37 established by federal regulation enumerated in 49 C.F.R. Part 383,
38 subparts F, G, and H, in addition to other requirements imposed by
39 state law or federal regulation. The department may not allow the

1 person to take the skills examination during the first fourteen days
2 after initial issuance of the person's commercial learner's permit.
3 The examinations must be prescribed and conducted by the department.

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

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

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

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

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

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

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

35 (ii) Public benefit not-for-profit corporations that support
36 early childhood education and assistance programs as described in RCW
37 43.216.505.

38 (e) Beginning July 1, 2016, if the applicant's primary use of a
39 commercial driver's license is to drive a school bus, the applicant
40 shall pay a fee of no more than one hundred dollars for the

1 classified skill examination or combination of classified skill
2 examinations conducted by the department.

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

6 (2)(a) The department may waive the skills examination and the
7 requirement for completion of a course of instruction in the
8 operation of a commercial motor vehicle specified in this section for
9 a commercial driver's license applicant who meets the requirements of
10 49 C.F.R. Sec. 383.77. For current or former military service members
11 that meet the requirements of 49 C.F.R. Sec. 383.77, the department
12 may also waive the requirements for a knowledge test for commercial
13 driver's license applicants. Beginning December 1, 2021, the
14 department shall provide an annual report to the house and senate
15 transportation committees and the joint committee on veterans' and
16 military affairs of the legislature on the number and types of
17 waivers granted pursuant to this subsection.

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

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

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

30 (iii) Unprocessed agricultural commodities, as defined in RCW
31 17.21.020, where such commodities are produced by farmers, ranchers,
32 vineyardists, or orchardists; or

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

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

37 (3) A commercial driver's license or commercial learner's permit
38 may not be issued to a person while the person is subject to a
39 disqualification from driving a commercial motor vehicle, or while
40 the person's driver's license is suspended, revoked, or canceled in

1 any state, nor may a commercial driver's license be issued to a
2 person who has a commercial driver's license issued by any other
3 state unless the person first surrenders all such licenses, which
4 must be returned to the issuing state for cancellation.

5 (4) The fees under this section must be deposited into the
6 highway safety fund unless prior to July 1, 2023, the actions
7 described in (a) or (b) of this subsection occur, in which case the
8 portion of the revenue that is the result of the fee increased in
9 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be
10 distributed to the connecting Washington account created under RCW
11 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. 18.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended
28 to read as follows:

29 (1) Any person who knowingly violates any of the provisions of
30 this chapter (~~(of)~~), chapter 70A.25 or 70A.--- (the new chapter
31 created in section 22 of this act) RCW, RCW 70A.45.080, or any
32 ordinance, resolution, or regulation in force pursuant thereto is
33 guilty of a gross misdemeanor and upon conviction thereof shall be
34 punished by a fine of not more than ten thousand dollars, or by
35 imprisonment in the county jail for up to three hundred sixty-four
36 days, or by both for each separate violation.

37 (2) Any person who negligently releases into the ambient air any
38 substance listed by the department of ecology as a hazardous air
39 pollutant, other than in compliance with the terms of an applicable

1 permit or emission limit, and who at the time negligently places
2 another person in imminent danger of death or substantial bodily harm
3 is guilty of a gross misdemeanor and shall, upon conviction, be
4 punished by a fine of not more than ten thousand dollars, or by
5 imprisonment for up to three hundred sixty-four days, or both.

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

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

19 **Sec. 19.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended
20 to read as follows:

21 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and
22 43.05.150, and in addition to or as an alternate to any other penalty
23 provided by law, any person who violates any of the provisions of
24 this chapter, chapter 70A.25 (~~(\oplus)~~), 70A.450, or 70A.--- (the new
25 chapter created in section 22 of this act) RCW, RCW 70A.45.080, or
26 any of the rules in force under such chapters or section may incur a
27 civil penalty in an amount not to exceed ten thousand dollars per day
28 for each violation. Each such violation shall be a separate and
29 distinct offense, and in case of a continuing violation, each day's
30 continuance shall be a separate and distinct violation.

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

35 (2)(a) Penalties incurred but not paid shall accrue interest,
36 beginning on the ninety-first day following the date that the penalty
37 becomes due and payable, at the highest rate allowed by RCW 19.52.020
38 on the date that the penalty becomes due and payable. If violations

1 or penalties are appealed, interest shall not begin to accrue until
2 the thirty-first day following final resolution of the appeal.

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

6 (3) Each act of commission or omission which procures, aids or
7 abets in the violation shall be considered a violation under the
8 provisions of this section and subject to the same penalty. The
9 penalties provided in this section shall be imposed pursuant to RCW
10 43.21B.300.

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

19 (5) To secure the penalty incurred under this section, the state
20 or the authority shall have a lien on any vessel used or operated in
21 violation of this chapter which shall be enforced as provided in RCW
22 60.36.050.

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

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

32 (8) The department shall develop rules for excusing excess
33 emissions from enforcement action if such excess emissions are
34 unavoidable. The rules shall specify the criteria and procedures for
35 the department and local air authorities to determine whether a
36 period of excess emissions is excusable in accordance with the state
37 implementation plan.

38 **Sec. 20.** RCW 19.112.110 and 2013 c 225 s 601 are each amended to
39 read as follows:

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

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

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

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

23 (5) To the extent that the requirements of this section conflict
24 with the requirements of chapter 70A.--- (the new chapter created in
25 section 22 of this act) RCW, the requirements of chapter 70A.--- (the
26 new chapter created in section 22 of this act) RCW prevail.

27 **Sec. 21.** RCW 19.112.120 and 2013 c 225 s 602 are each amended to
28 read as follows:

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

34 (2) If the director of ecology determines that ethanol content
35 greater than two percent of the total gasoline sold in Washington
36 will not jeopardize continued attainment of the federal clean air
37 act's national ambient air quality standard for ozone pollution in
38 Washington and the director of agriculture determines and publishes
39 this determination in the Washington State Register that sufficient

1 raw materials are available within Washington to support economical
2 production of ethanol at higher levels, the director of agriculture
3 may require by rule that licensees provide evidence to the department
4 of licensing that denatured ethanol comprises between two percent and
5 at least ten percent of total gasoline sold in Washington, measured
6 on a quarterly basis.

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

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

13 (5) Nothing in this section is intended to prohibit the
14 production, sale, or use of motor fuel for use in federally
15 designated flexibly fueled vehicles capable of using E85 motor fuel.
16 Nothing in this section is intended to limit the use of high octane
17 gasoline not blended with ethanol for use in aircraft.

18 (6) To the extent that the requirements of this section conflict
19 with the requirements of chapter 70A.--- (the new chapter created in
20 section 22 of this act) RCW, the requirements of chapter 70A.--- (the
21 new chapter created in section 22 of this act) RCW prevail.

22 NEW SECTION. Sec. 22. Sections 1 through 13 of this act
23 constitute a new chapter in Title 70A RCW.

24 NEW SECTION. Sec. 23. If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

--- END ---