
Environment & Energy Committee

HB 2051

Brief Description: Reducing emissions from small off-road engines.

Sponsors: Representatives Walen, Ryu, Ramel, Duerr, Macri, Doglio, Reeves, Hackney, Pollet and Kloba.

Brief Summary of Bill

- Adopts California's small off-road engine and equipment (SORE) standards and authorizes the Department of Ecology to adopt rules to maintain consistency with California standards.
- Exempts chainsaws and generators from California SORE standards and authorizes Ecology to temporarily delay the effective date of SORE restrictions for specific categories or use cases of SORE.
- Establishes a temporary grant program for local governments for zero emission outdoor power equipment.
- Establishes a temporary sales and use tax exemption for zero emission outdoor power equipment.

Hearing Date: 1/11/24

Staff: Jacob Lipson (786-7196).

Background:

Clean Air Act and Nonroad Vehicle and Engine Emission Requirements.

Under the federal Clean Air Act (federal CAA), most states, including Washington, are restricted from enacting their own emissions standards for new nonroad engines or vehicles, which is an

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authority generally reserved to the federal government. California is the only state allowed under the federal CAA to adopt state standards and other requirements related to the control of emissions from nonroad vehicles and engines. California's nonroad vehicle and engine emissions standards must be at least as protective of public health as federal standards and must be approved by the United States Environmental Protection Agency (EPA). Other states may adopt vehicle emissions standards that are identical to the standards, implementation, and enforcement that California has established for nonroad vehicle and engine emissions. Under federal law, other states adopting California vehicle emissions standards may only take effect at least two years after California and the other states adopt the standards. However, a 2004 Congressional Appropriations Act included a provision that prohibits states from adopting standards or other requirements applicable to spark-ignition engines smaller than 50 horsepower, other than standards or requirements adopted by a state prior to 2003, and the EPA has written rules to implement this prohibition. California has adopted regulations prohibiting air emissions from new small off-road engines (SORE), a category of engine which includes engines used for lawn and garden equipment, portable generators, and pressure washers. Penalties for violations of California SORE regulations are indexed to a consumer price index measure of inflation, and are currently set at \$608 per engine violation, as of December 2023. California's SORE standards were submitted to the EPA and a public hearing on the standards was held in May of 2023, but the EPA has not yet taken action to approve or deny California's standards.

Sales and Use Taxes and Tax Preference Performance Statements.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 4.0 percent, depending on the location.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee can use to evaluate the effectiveness of the preference.

All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Climate Commitment Account.

The 2021 Climate Commitment Act (CCA) established a Cap-and-Invest program that requires Ecology to implement a cap on greenhouse gas emissions from covered entities and a program to

track, verify, and enforce compliance through the use of compliance instruments, including allowances sold at auction to regulated entities. The CCA and subsequent amendments to the CCA in 2022 established a total of eight accounts into which allowance auction proceeds and other program revenues to the state are deposited, including a Climate Commitment Account, used for certain types of emission reduction and other uses.

Summary of Bill:

The Legislature adopts California's small off-road engine and equipment (SORE) standards, in their current formulation and upon approval of California's standards by the EPA. The Department of Ecology (Ecology) may adopt rules to implement SORE restrictions, and may amend the rules to maintain consistency with California SORE standards. The rules may only apply to SORE produced on or after January 1, 2027, or as soon as Ecology determines is feasible and allowed under the federal Clean Air Act. The use of SORE produced prior to January 1, 2027 is not restricted.

Ecology rules may not restrict chainsaws or generators. Ecology may temporarily delay the start date of SORE restrictions for specific categories or use cases of SORE upon determining that a suitable zero emissions SORE technology does not exist to satisfy the needs of the use case or category of SORE.

Until January 1, 2030, Ecology must administer an outdoor power equipment grant program for local governments that use outdoor power equipment. Grants must be used to replace working-condition outdoor power equipment powered by gas, liquid, or fossil fuels with zero emissions outdoor power equipment. Outdoor power equipment eligible for the grant program includes leaf blowers, edgers, pressure washers, snowblowers, and vegetation cutting equipment such as lawn mowers and string trimmers. Ecology must prioritize grants that will result in the greatest benefits to vulnerable populations or reduce the most hazardous or frequent occupational exposures from outdoor power equipment. It is declared to be the Legislature's intent to fund this grant program with \$5 million per year from 2025 to 2029.

Beginning January 1, 2025, and ending January 1, 2030, exemptions from sales and use taxes are established for the sale and use of the same categories of zero emission outdoor power equipment that are eligible for the local government grant program. Sellers of outdoor power equipment are encouraged to notify potential customers of the effective zero percent sales tax rate for zero emission outdoor power equipment sales, including through signs, notices, or labels for sellers operating in a physical location, or through notices in advertising and at the time of payment for sellers operating online. A tax preference performance statement is not required to be prepared for the temporary sales and use tax preferences.

The eligible uses of the Climate Commitment Account are expanded to include the outdoor power equipment grant program and transfers to the General Fund to offset revenues losses from the sales and use tax preferences for zero emission outdoor power equipment.

A severability clause is included.

Appropriation: None.

Fiscal Note: Requested on January 2, 2024.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.