

SENATE BILL REPORT

SB 6304

As of February 1, 2024

Title: An act relating to implementing certain recommendations of the transportation electrification strategy.

Brief Description: Implementing certain recommendations of the transportation electrification strategy.

Sponsors: Senators Lias, Nguyen and Kuderer.

Brief History:

Committee Activity: Transportation: 2/01/24.

Brief Summary of Bill

- Implements certain recommendations from the Interagency Electric Vehicle Coordinating Council's transportation electrification strategy, by addressing electric vehicle supply equipment (EVSE) installation and inventorying, removing the limit on how much electric utilities can spend on transportation electrification programs using ratepayer dollars, allowing direct sales of zero emissions vehicles to consumers, allowing the establishment and enforcement of energy efficiency standards for replacement tires on certain vehicles, enforcing anti-idling regulations for medium and heavy-duty vehicles, calculating formula funding needed for school districts to fully transition to zero emissions school buses, and require specific training for EVSE installation at state agencies.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Brandon Popovac (786-7465)

Background: Transportation Electrification Strategy. As part of the Move Ahead

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

Washington transportation package enacted by the Legislature in 2022, the Interagency Electric Vehicle Coordinating Council (IEVCC) was established and tasked with aligning existing transportation electrification efforts across ten state agencies and offices to develop a statewide transportation electrification strategy (TES) to ensure market and infrastructure readiness for all new vehicle sales. The IEVCC has developed 86 policy recommendations within the TES for both legislative consideration and administrative action.

Electric Vehicle Supply Equipment Installation, Information, and Reliability. The Department of Commerce (Commerce) must distribute to local governments model ordinances, regulations, and guidance for siting and installing electric vehicle (EV) infrastructure, with an emphasis on battery charging stations and appropriate EV battery storage, handling, and recycling.

Such model regulations and guidance must be developed by a federal or state agency, or nationally recognized organization, with specific expertise in land use regulations or EV infrastructure.

The Department of Transportation (WSDOT) through its public-private partnerships office must, in consultation with Commerce, the Department of Ecology (Ecology), and the Office of Equity, create a publicly available mapping and forecasting tool providing locations and information of EV charging and refueling infrastructure to support forecasted levels of EV adoption, travel, and usage. The tool must, for example:

- prioritize on-road transportation;
- model charging and refueling infrastructure used by owners and operators of light-duty vehicles (LDVs) and medium- and heavy-duty vehicles (MHDVs); and
- if feasible, include expected electric vehicle supply equipment (EVSE) necessary to support forecasted EV usage, estimated energy and capacity demand, and existing public and private level 2 charging, direct current fast charging, and hydrogen refueling infrastructure.

The tool has not been published yet but a scheduled launch is proposed within the 2023-25 fiscal biennium.

Electric Utility Transportation Electrification Investments. A public electric utility and public utility district (PUD) may adopt an electrification of transportation plan that, at a minimum, establishes a finding that utility outreach and investment in the electrification of transportation infrastructure does not increase costs to ratepayers in excess of 0.25 percent. A public electric utility and PUD may, upon such determination, offer incentive programs in the electrification of transportation for its ratepayers, including the promotion of EV adoption.

An investor-owned electric utility regulated by the Utilities and Transportation Commission (UTC) may submit to the UTC an electrification of transportation plan that deploys EVSE or provides other electric transportation programs, services, or incentives to support

electrification of transportation. In establishing rates for an investor-owned utility, the UTC may allow an incentive rate of return on investment through December 31, 2030, on capital expenditures for EVSE that is deployed for the benefit of ratepayers, provided that the capital expenditures of the electrification of transportation plan or programs do not increase the annual retail revenue requirement of the utility in excess of 0.25 percent.

As part of Ecology's Clean Fuels Program, public electric utilities, PUDs, and investor-owned utilities must annually provide information to Ecology accounting for and describing expenditures of revenues generated from credits earned under the program. A portion of revenues generated by such utilities from clean fuels credits must be for certain types of transportation electrification projects or programs, including the provision of new or used zero emissions vehicles (ZEVs) to, or the reduction of transportation costs for, nonprofits, transit agencies, or public fleets for providing transportation services for low-income or vulnerable populations. Such utilities should also consider programs that expand low-income customer access to zero emissions transportation.

Sales of Vehicles From Manufacturers. A vehicle manufacturer may not compete with a new motor vehicle dealer of any make or line by acting as a dealer or owning a dealership with some exceptions, including if they are a final stage manufacturer or a manufacturer that held a dealer license on January 1, 2014, selling new vehicles of that manufacturer's makes or line that are not sold new by a licensed independent franchise.

Rolling Resistance of Replacement Tires. Federal motor vehicle safety standards govern tire dimensions, testing and labeling requirements, and tire load ratings for all pneumatic, radial tires for use on motor vehicles. The Washington State Patrol (WSP) is responsible for enforcing laws governing equipment required on vehicles.

Federal Corporate Average Fuel Economy (CAFE) requirements mandate minimum fuel standards for the fleets of new vehicles produced by automakers. To meet CAFE standards, a new vehicle's original equipment may include energy efficient tires. The energy efficiency of tires is measured by their rolling resistance.

The United States Congress has twice directed the National Highway Transportation Safety Administration (NHTSA) to adopt rules relating to the energy efficiency of replacement tires. The Energy Independence and Security Act (EISA) of 2007, directed the creation of a National Tire Fuel Efficiency Consumer Information Program. The rules adopted by NHTSA in 2012 prescribed testing methods for determining ratings for rolling resistance, peak wet traction, and treadwear. The rules did not adopt a tire rating system or consumer information requirements. EISA also requires that after federal rules are adopted, a state may only adopt regulations on tire fuel efficiency consumer information if the state regulations are identical to the federal regulations. The Fixing America's Surface Transportation Act of 2015 required additional minimum performance standards for the efficiency and traction of passenger car tires. NHTSA halted this rulemaking in 2017.

Commercial Motor Vehicle Idling Prevention. As part of its Clean Vehicles Program, Ecology has adopted by reference certain California regulations relating to motor vehicle emissions, including an airborne toxic control measure designed to limit diesel-fueled commercial motor vehicle idling. The anti-idling regulation applies to any person who owns or operates a diesel-fueled commercial motor vehicle with a gross vehicle weight rating (GVWR) of more than 10,000 pounds, and prohibits the idling of such vehicles to no more than five consecutive minutes at any location, with exceptions.

Zero Emissions School Buses. Ecology's Clean School Bus Program provides school bus owners that transport students to K-12 schools administered by the Office of Superintendent of Public Instruction (OSPI) with grant funding to scrap and replace diesel school buses with zero emissions school buses, including necessary charging or fueling infrastructure. Grant funding levels, the maximum number of buses per applicant, and infrastructure funding caps vary depending on the number of students eligible for free or reduced price lunches or rural low-income data.

Electric Vehicle Infrastructure Training. Executive Order 21-04, in part, requires all state executive and small-cabinet agencies to meet certain state fleet electrification minimum targets in years 2025, 2030, and 2035 for replacing internal combustion engine LDVs and MHDVs with corresponding battery electric vehicles.

The Electric Vehicle Infrastructure Training Program (EVITP) is a brand neutral, volunteer based, nonprofit that trains electricians in the EV infrastructure space in the United States and Canada. Training includes site assessment, load calculations, the National Electric Code, jobsite safety, personal protection equipment, and other installation and maintenance best practices. EVITP certification typically requires 20 hours of online instruction at a cost of \$275.

Summary of Bill: Electric Vehicle Supply Equipment Installation, Information, and Reliability. Commerce must develop and deliver to the Legislature recommended legislation regarding:

- maximum timelines for EVSE project permitting and interconnection;
- reporting requirements for electric utilities on transportation electrification efforts;
- EVSE consumer information requirements;
- extending right-to-charge policies to tenants and homeowners outside of common interest communities;
- reliability standards for public and shared-use EVSE; and
- other policies to implement TES recommendations on improving EVSE availability.

Commerce must also develop a comprehensive and publicly available inventory of EVSE in the state by December 31, 2025, informed by reporting requirements for EVSE providers, equipment owners and operators, electric utilities, or any other necessary entities. Commerce must require entities to report reliability data for public and shared-use EVSE. Such reporting processes must be established by Commerce rule.

Commerce must distribute to local governments model ordinances, regulations, and guidance for siting and installing EV infrastructure, without an emphasis on battery charging stations or EV battery storage and recycling, every five years, beginning by December 31, 2025.

Commerce must coordinate with the IEVCC, public agencies, climate and environmental justice organizations, consumer and ratepayer advocates, industry representatives, and building owners to implement the new EVSE reporting and inventorying and EV infrastructure model regulation distribution requirements.

WSDOT must update the publicly available mapping and forecasting of EV charging infrastructure tool as follows:

- incorporate the latest data on public and shared-use charging from the EVSE inventory compiled by Commerce;
- use EVSE estimates as identified in the TES;
- model hydrogen refueling infrastructure for owners and operators of LDVs and MHDVs; and
- if feasible, use statewide ZEV estimates from the TES and forecast each utility service area's level of ZEV use to achieve each area's emissions reductions consistent with TES estimates.

Electric Utility Transportation Electrification Investments. The ratepayer cost cap of 0.25 percent for each public electric utility, PUD, and investor-owned electric utility related to its electrification of transportation infrastructure is removed. For investments in its electrification of transportation infrastructure, each public electric utility, PUD, and investor-owned electric utility must prioritize strategies, including:

- residential and fleet charging;
- demand management, including managed charging; and
- upgrades to or expansions of applicable grid infrastructure to deliver power to EVSE.

In making such investments, each public electric utility, PUD, and investor-owned electric utility must also meet or exceed the equity-related investment requirements under the Clean Fuels Program as implemented by Ecology.

Direct-to-Consumer Sales for Zero Emission Vehicle Manufacturers. A ZEV manufacturer is explicitly allowed to own and operate a new motor vehicle dealership that sells new vehicles of only the manufacturer's makes or lines, or own and operate or contract with companies that provide financing, leasing, or services for vehicles of the manufacturer's makes or lines.

Rolling Resistance of Replacement Tires. Commerce may establish and enforce energy efficiency standards for replacement tires on passenger cars and light duty trucks not exceeding 10,000 pounds.

Commerce may also implement any of the following:

- a database of replacement tires in production offered for sale or distribution in the state;
- reporting requirements for tire brand name owners and manufacturers with replacement tires in production offered for sale or distribution in the state;
- a rating system for the energy efficiency of replacement tires based on their rolling resistance coefficient;
- testing procedures in alignment with NHTSA regulations; and
- minimum energy efficiency standards for replacement tires based on their rolling resistance.

Commerce may prohibit the sale or offer for sale of replacement tires that do not meet minimum energy efficiency standards. Any rules adopted by Commerce prohibiting the sale of tires based on their rolling resistance:

- may not adversely affect tire safety or tire longevity as demonstrated by independent testing prepared for Commerce or another state energy office and verified by Commerce; and
- must exempt snow tires, spare-use tires, or tires manufactured specifically for use in vehicles with three or fewer wheels, off-road recreational vehicles, or agricultural motor vehicles.

Commerce may require that energy efficiency ratings be displayed to consumers at the physical or online point-of-sale.

Any person or entity who violates rules adopted to implement energy efficiency standards for replacement tires may be issued a warning for a first violation. Repeat violations are subject to a civil penalty of \$100 to \$10,000 per occurrence. Commerce may also carry out inspections of replacement tires sold or offered for sale. Enforcement and inspections may be conducted by Commerce or another state agency designated by Commerce.

WSP may update its rules to reference rules adopted by Commerce to implement energy efficiency standards for replacement tires.

Medium- and Heavy-Duty Vehicle Idling Prevention. Ecology must enforce motor vehicle emission standards regarding the idling of motor vehicles with a GVWR of more than 10,000 pounds.

The idling prevention enforcement account is created as an appropriated account. Any interest accrued remains with the account. Penalty revenues from idling violations must be deposited into the account, with authorized expenditures for:

- idling prevention enforcement activities by Ecology;
- idle reduction technology incentives; and
- incentives for ZEVs with a GVWR of more than 10,000 pounds.

Zero Emissions School Buses. Informed by its Clean School Bus Program, Ecology must collaborate with OSPI and Commerce to:

- identify target years for requiring all new school bus purchases, and all buses in operation, be zero emissions buses, while considering TES modeling and other cost analyses and projections;
- calculate funding needed for school districts to cover higher purchase prices before cost parity, bus route planning, facility upgrades, charging infrastructure, and driver and technician training;
- develop a formula funding program for school districts to ensure a seamless transition from Ecology's clean school bus program;
- develop a zero emissions school bus exemptions process, if a school district can demonstrate the zero emissions school bus is required by the bus route; and
- coordinate with school districts through regional transportation coordinators for such activities.

Electric Vehicle Infrastructure Training. Each state agency subject to Executive Order 21-04 must require the installation of EVSE at state facilities be performed by persons certified by EVITP or a similar certification program.

Miscellaneous. The bill is subject to funding in the supplemental transportation appropriations act.

Appropriation: None.

Fiscal Note: Requested on January 24, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The IEVCC created these recommendations and the Legislature should attempt to implement them through an open public discussion. Decarbonization targets are an immense challenge, but higher rates of EV sales are contributing to climate goals. The bill could increase EV sales immensely by 2030. There is room for both direct sales and dealership models to coexist. Some ZEV manufacturers cannot offer ZEV sales or provide ZEV test driving in the state. Prohibiting direct sales of ZEVs limits consumer choice, potential job creation, and increased EV adoption. Washington State is the only state on west coast to ban ZEV direct sales. Only one ZEV manufacturer is authorized to provide direct sales of ZEVs. Some ZEV manufacturers want to implement their own business models separate from the auto dealer franchise framework. The bill supports consumer choice to meet clean transportation goals. Purchasing EVs out of state is burdensome. The bill reflects the collaborative process involved in TES development. Mandating electric utilities to prioritize transportation electrification actions is

strategic and focused. Increasing EV sales and anti-idling enforcement will contribute to a cleaner environment. The bill will help create more union paying jobs. The state must act now in order to reach 2030 goals. School bus fleet conversions will contribute to better health outcomes for kids. The state has already passed a clean fuel standards and ZEV direct sales supports this policy. Equity is at the forefront of the bill's underlying policy. Port districts are leaning in to decarbonization strategies. Incentives should be researched before imposing penalties proposed for unlawful idling. The bill will provide more work opportunities for highly trained electricians for public projects. Young workers want to be part of the transportation electrification transition. EV infrastructure training should be expanded to apply to all public facilities.

CON: Minimum performance standards for tires should come from the federal government and regulations. NHTSA has not finalized such federal regulation efforts. Consumers might be influenced to drive to nearby states to purchase tires. The ZEV direct sales provision is too broad. Auto dealer locations provide sufficient inventory and test drive capabilities, and allow consumers to drive home with new vehicles. The bill will jeopardize the auto dealer system, and take sales tax away from communities. Proposed tire replacement rules will limit consumer choice and are based solely on one inconclusive California study. The tire efficiency standard rulemaking process is dangerously permissive in terms of enforcement and imposes very high penalty amounts. Anti-idling prevention needs more scrutiny to consider climate impacts in different states. Current labor regulations might conflict with anti-idling enforcement rules. Some laborers need idling vehicles to stay warm at job sites without electricity.

OTHER: It is uncertain if there will be enough electricity to meet the demands of EVSE. Grid load is growing while options to power up grids are declining. The electrical transmission system is already stressed during peak load periods. The state needs to prioritize grid reliability first. Electric utilities should be added as stakeholders informing the new actions for Commerce. Hydrogen and fuel cell vehicles are often overlooked as a vital tool in decarbonization efforts. Such vehicles have higher range and better recharging capabilities and better recharging capabilities. With EVSE inventory reporting, there are proprietary information concerns if data is required to be tracked in real time. EVSE reliability standards should only apply to public and shared use EVSE.

Persons Testifying: PRO: Senator Marko Liias, Prime Sponsor; Isaac Kastama, Clean & Prosperous Washington; Paula Sardinias, WBBA (WA Build Back Black Alliance); Hannah Steinweg, Rivian; Mark Prentice; Charlee Thompson, NW Energy Coalition; Leah Missik, Climate Solutions; Anthony Geren; Sim Guth; Croix Frigo, IBEW Local 46; Mya Robinson, IBEW Local 46; Matthew Hepner, IBEW/ceww; Ali Lee; Winston Lee; Quiong Chen; Jeff Gombosky, Tesla; Seth Harmon; MATTHEW METZ, Coltura; Heather Trim, Zero Waste Washington.

CON: Scott Hazlegrove, WA State Auto Dealers Association; Tracey Norberg, U.S. Tire Manufacturers Association; Jeff DeVere, Washington Trucking Associations; Jennifer

Ziegler, Les Schwab; Jan Himebaugh, Building Industry Association of Washington.

OTHER: Dave Warren, WA Green Hydrogen Alliance; Brian Bonlender, Electric Vehicle Charging Association; John Flanagan, Port of Seattle; Carly Michiels, WPPA; Nicolas Garcia, WPUA.

Persons Signed In To Testify But Not Testifying: No one.