
SUBSTITUTE SENATE BILL 5447

State of Washington**68th Legislature****2023 Regular Session**

By Senate Environment, Energy & Technology (originally sponsored by Senators Billig, King, Nguyen, MacEwen, Mullet, Wellman, Gildon, Keiser, Shewmake, Lovick, Boehnke, Warnick, Randall, Conway, Dhingra, Dozier, Llias, Lovelett, Saldaña, Stanford, Van De Wege, and Wagoner)

READ FIRST TIME 02/09/23.

1 AN ACT Relating to promoting the alternative jet fuel industry in
2 Washington; amending RCW 70A.535.010, 43.330.565, and 43.330.570;
3 adding a new section to chapter 70A.535 RCW; adding a new section to
4 chapter 28B.30 RCW; adding new sections to chapter 82.04 RCW; adding
5 a new section to chapter 82.16 RCW; creating new sections; providing
6 effective dates; providing an expiration date; and declaring an
7 emergency.

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

9 NEW SECTION. **Sec. 1.** The legislature intends to use funds from
10 the climate commitment act to promote the production and use of
11 sustainable aviation fuels, thereby growing the clean energy sector,
12 addressing greenhouse gas emissions, and creating family wage
13 manufacturing jobs in Washington. Sustainable aviation fuels
14 represent the most significant near and midterm opportunity for
15 aviation to reduce its greenhouse gas emissions. The use of
16 sustainable aviation fuels will also improve air quality for airport
17 workers and communities surrounding airports. While many efforts are
18 underway to advance the use of sustainable aviation fuels, this act
19 is intended to assist and accelerate those efforts.

20

PART I

1 **TREATMENT OF ALTERNATIVE JET FUELS**

2 **Sec. 2.** RCW 70A.535.010 and 2022 c 182 s 409 are each amended to
3 read as follows:

4 The definitions in this section apply throughout this chapter
5 unless the context clearly indicates otherwise.

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

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

11 (3) "Clean fuels program" means the requirements established
12 under this chapter.

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

16 (5) "Credit" means a unit of measure generated when a
17 transportation fuel with a carbon intensity that is less than the
18 applicable standard adopted by the department under RCW 70A.535.025
19 is produced, imported, or dispensed for use in Washington, such that
20 one credit is equal to one metric ton of carbon dioxide equivalents.
21 A credit may also be generated through other activities consistent
22 with this chapter.

23 (6) "Deficit" means a unit of measure generated when a
24 transportation fuel with a carbon intensity that is greater than the
25 applicable standard adopted by the department under RCW 70A.535.025
26 is produced, imported, or dispensed for use in Washington, such that
27 one deficit is equal to one metric ton of carbon dioxide equivalents.

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

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

31 (9) "Greenhouse gas" has the same meaning as defined in RCW
32 70A.45.010.

33 (10) "Military tactical vehicle" means a motor vehicle owned by
34 the United States department of defense or the United States military
35 services and that is used in combat, combat support, combat service
36 support, tactical or relief operations, or training for such
37 operations.

38 (11) "Motor vehicle" has the same meaning as defined in RCW
39 46.04.320.

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

4 (13) "Regulated party" means a producer or importer of any amount
5 of a transportation fuel that is ineligible to generate credits under
6 this chapter.

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

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

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

20 (16) "Alternative jet fuel" means a fuel made from petroleum or
21 nonpetroleum sources that can be blended and used with conventional
22 petroleum jet fuels without the need to modify aircraft engines and
23 existing fuel distribution infrastructure, and that have a lower
24 carbon intensity than the applicable annual carbon intensity standard
25 in Table 2 of WAC 173-424-900, as it existed on the effective date of
26 this section. Alternative jet fuel includes jet fuels derived from
27 coprocessed feedstocks at a conventional petroleum refinery.

28 NEW SECTION. Sec. 3. A new section is added to chapter 70A.535
29 RCW to read as follows:

30 (1) By no later than December 31, 2023, the department must allow
31 one or more carbon intensity pathways for alternative jet fuel.

32 (2) The department must allow biomethane to be claimed as the
33 feedstock for renewable diesel and alternative jet fuel consistent
34 with that allowable for compressed natural gas, liquified natural
35 gas, liquified compressed natural gas, or hydrogen production.

36 (3) The department must notify the department of revenue within
37 30 days when one or more facilities capable of producing a cumulative
38 production capacity of at least 20,000,000 gallons of alternative jet
39 fuel each year are operating in this state.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 28B.30
2 RCW to read as follows:

3 (1) Washington State University must convene an alternative jet
4 fuels work group to further the development of alternative jet fuel
5 as a productive industry in Washington. The work group must include
6 members from the legislature and sectors involved in alternative jet
7 fuel research, development, production, and utilization. The work
8 group must provide a report including any pertinent recommendations
9 to the governor and appropriate committees of the legislature by
10 December 1, 2024, and December 1st of every even-numbered year until
11 December 1, 2028.

12 (2) This section expires January 1, 2029.

13 **Sec. 5.** RCW 43.330.565 and 2022 c 292 s 102 are each amended to
14 read as follows:

15 (1) The statewide office of renewable fuels is established within
16 the department. The office shall report to the director of the
17 department. The office may employ staff as necessary to carry out the
18 office's duties as prescribed by chapter 292, Laws of 2022, subject
19 to the availability of amounts appropriated for this specific
20 purpose.

21 (2) The purpose of the office is to leverage, support, and
22 integrate with other state agencies to:

23 (a) Accelerate comprehensive market development with assistance
24 along the entire life cycle of renewable fuel projects;

25 (b) Support research into and development and deployment of
26 renewable fuel and the production, distribution, and use of renewable
27 and green electrolytic hydrogen and their derivatives, as well as
28 product engineering and manufacturing relating to the production and
29 use of such hydrogen and its derivatives;

30 (c) Drive job creation, improve economic vitality, and support
31 the transition to clean energy;

32 (d) Further the development and use of alternative jet fuels as a
33 productive industry in Washington;

34 (e) Enhance resiliency by using renewable fuels, alternative jet
35 fuels, and green electrolytic hydrogen to support climate change
36 mitigation and adaptations; and

37 (~~(e)~~) (f) Partner with overburdened communities to ensure
38 communities equitably benefit from renewable and clean fuels efforts.

1 **Sec. 6.** RCW 43.330.570 and 2022 c 292 s 103 are each amended to
2 read as follows:

3 (1) The office shall:

4 (a) Coordinate with federally recognized tribes, local
5 government, state agencies, federal agencies, private entities, the
6 state's public four-year institutions of higher education, labor
7 unions, and others to facilitate and promote multi-institution
8 collaborations to drive research, development, and deployment efforts
9 in the production, distribution, and use of alternative jet fuels and
10 renewable fuels including, but not limited to, green electrolytic
11 hydrogen;

12 (b) Review existing renewable fuels, alternative jet fuels, and
13 green electrolytic hydrogen initiatives, policies, and public and
14 private investments, and tax and regulatory incentives, including
15 assessment of adequacy of feedstock supply and in-state feedstock,
16 renewable fuels, and alternative jet fuels production;

17 (c) Consider funding opportunities that provide for the
18 coordination of public and private funds for the purposes of
19 developing and deploying renewable fuels, alternative jet fuels, and
20 green electrolytic hydrogen;

21 (d) Assess opportunities for and barriers to deployment of
22 renewable fuels, alternative jet fuels, and green electrolytic
23 hydrogen in hard to decarbonize sectors of the state economy;

24 (e) Request recommendations from the Washington state association
25 of fire marshals regarding fire and other safety standards adopted by
26 the United States department of energy and recognized national and
27 international fire and safety code development authorities regarding
28 renewable fuels, alternative jet fuels, and green electrolytic
29 hydrogen;

30 (f) By December 1, 2023, develop a plan and recommendations for
31 consideration by the legislature and governor on renewable fuels and
32 green electrolytic hydrogen policy and public funding including, but
33 not limited to, project permitting, state procurement, and pilot
34 projects; and

35 (g) Encourage new and support existing public-private
36 partnerships to increase coordinated planning and deployment of
37 renewable fuels, alternative jet fuels, and green electrolytic
38 hydrogen.

39 (2) The office may take all appropriate steps to seek and apply
40 for federal funds for which the office is eligible, and other grants,

1 and accept donations, and must deposit these funds in the renewable
2 fuels accelerator account created in RCW 43.330.575.

3 (3) In carrying out its duties, the office must collaborate with
4 the department, the department of ecology, the department of
5 transportation, the utilities and transportation commission, electric
6 utilities in Washington state, the Washington State University
7 extension energy program, the alternative jet fuel work group
8 established in section 4 of this act, and all other relevant state
9 agencies. The office must also consult with and seek to involve
10 federally recognized tribes, project developers, labor and industry
11 trade groups, and other interested parties, in the development of
12 policy analysis and recommended programs or projects.

13 (4) The office may cooperate with other state agencies in
14 compiling data regarding the use of renewable fuels and green
15 electrolytic hydrogen in state operations, including motor vehicle
16 fleets, the state ferry system, and nonroad equipment.

17 PART II

18 ALTERNATIVE JET FUEL TAX INCENTIVES

19 NEW SECTION. **Sec. 7.** (1) This section is the tax preference
20 performance statement for the tax preferences contained in sections 8
21 through 11, chapter . . ., Laws of 2023 (sections 8 through 11 of
22 this act). This performance statement is only intended to be used for
23 subsequent evaluation of the tax preferences. It is not intended to
24 create a private right of action by any party or to be used to
25 determine eligibility for preferential tax treatment.

26 (2) The legislature categorizes these tax preferences as ones
27 intended to improve industry competitiveness as indicated in RCW
28 82.32.808(2)(b).

29 (3) It is the legislature's specific public policy objective to
30 encourage the production and use of alternative jet fuels. It is also
31 the legislature's intent to support the development of the
32 alternative jet fuels industry in Washington by providing targeted
33 tax relief for such businesses.

34 (4) If a review finds that the production and use of alternative
35 jet fuels has increased, then the legislature intends to extend the
36 expiration date of these tax preferences.

1 (5) In order to obtain the data necessary to perform the review
2 in subsection (4) of this section, the joint legislative audit and
3 review committee may refer to any data collected by the state.

4 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.04
5 RCW to read as follows:

6 (1) Upon every person engaging within the state in the business
7 of manufacturing alternative jet fuel; as to such persons, the amount
8 of the tax with respect to such business is, in the case of
9 manufacturers, equal to the value of the product manufactured, or in
10 the case of processors for hire, equal to the gross income of the
11 business, multiplied by the rate of 0.275 percent.

12 (2) Upon every person engaging in making sales, at retail or
13 wholesale, of manufactured alternative jet fuel; as to such persons,
14 the amount of the tax with respect to such business is equal to the
15 gross proceeds of sales of the alternative jet fuel, multiplied by
16 the rate of 0.275 percent.

17 (3) For the purposes of this section, "alternative jet fuel" has
18 the same meaning as in RCW 70A.535.010.

19 (4) A person reporting under the tax rate provided in this
20 section must file a complete annual tax performance report with the
21 department under RCW 82.32.534.

22 (5) (a) The tax rate under subsections (1) and (2) of this section
23 takes effect on the first day of the first calendar quarter following
24 the month in which the department receives notice from the department
25 of ecology that there are one or more facilities operating in this
26 state with a cumulative production capacity of at least 20,000,000
27 gallons of alternative jet fuel each year, as required in section 3
28 of this act.

29 (b) The tax rate expires nine calendar years after the close of
30 the calendar year in which the tax rate under subsections (1) and (2)
31 of this section takes effect.

32 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04
33 RCW to read as follows:

34 (1) (a) Subject to the limits and provisions of this section, a
35 credit is allowed against the tax otherwise due under this chapter
36 for persons engaged in the manufacturing of alternative jet fuel.

37 (b) Except as provided in (c) of this subsection, the credit
38 under this section is equal to \$1 for each gallon of alternative jet

1 fuel that has at least 50 percent less carbon dioxide equivalent
2 emissions than conventional jet fuel and is sold during the prior
3 calendar year by:

4 (i) A business that produces alternative jet fuel and is located
5 in a qualifying county; or

6 (ii) A business's designated alternative jet fuel blender that is
7 located in this state.

8 (c) The credit amount under (b) of this subsection must increase
9 by 2 cents for each additional one percent reduction in carbon
10 dioxide equivalent emissions beyond 50 percent, not to exceed \$2 for
11 each gallon of alternative jet fuel.

12 (d) A person may not receive credit under both (b)(i) and (ii) of
13 this subsection.

14 (e) The credit under this section is calculated only on the
15 portion of jet fuel that is considered alternative jet fuel and does
16 not include conventional jet fuel when such fuels are blended or
17 otherwise used in a jet fuel mixture.

18 (f) A credit under this section may not be claimed until the
19 department of ecology verifies that there are one or more facilities
20 operating in this state with cumulative production capacity of at
21 least 20,000,000 gallons of alternative jet fuel each year and has
22 provided such notice to the department.

23 (g) Contract pricing for sales of alternative jet fuel between a
24 person claiming the credit under this section and the final consumer
25 must reflect the per gallon credit under (b) and (c) of this
26 subsection.

27 (2) A person may not receive credit under this section for
28 amounts claimed as credits under section 10 of this act or chapter
29 82.16 RCW.

30 (3) To claim a credit under this section a person must
31 electronically file with the department all returns, forms, and any
32 other information required by the department, in an electronic format
33 as provided or approved by the department.

34 (4) To claim a credit under this section, the person applying
35 must:

36 (a) Complete an application for the credit which must include:

37 (i) The name, business address, and tax identification number of
38 the applicant;

39 (ii) Documentation of the total amount of alternative jet fuel
40 manufactured and sold in the prior calendar year;

1 (iii) Documentation sufficient for the department to verify that
2 the alternative jet fuel for which the credit is being claimed meets
3 the carbon intensity reduction benchmarks under subsection (1)(b) and
4 (c) of this section, as certified by the department of ecology under
5 section 3 of this act;

6 (iv) Documentation sufficient to verify compliance with
7 subsection (1)(g) of this section; and

8 (v) Any other information deemed necessary by the department to
9 support administration or reporting of the program.

10 (b) Obtain a carbon intensity score from the department of
11 ecology prior to submitting an application to the department.

12 (5) The department must notify applicants of credit approval or
13 denial within 60 days of receipt of a final application and
14 documentation.

15 (6) If a person fails to supply the information as required in
16 subsection (4) of this section, the department must deny the
17 application.

18 (7)(a) The credit under this section may only be claimed against
19 taxes due under section 8 of this act, less any taxable amount for
20 which a credit is allowed under RCW 82.04.440.

21 (b) A credit earned during one calendar year may be carried over
22 and claimed against taxes incurred for the next subsequent calendar
23 year but may not be carried over for any calendar year thereafter.

24 (c) No refunds may be granted for credits under this section.

25 (8) For the purposes of this section:

26 (a) "Alternative jet fuel" has the same meaning as in RCW
27 70A.535.010.

28 (b) "Carbon dioxide equivalent" has the same meaning as in RCW
29 70A.45.010.

30 (c) "Qualifying county" means a county that has a population less
31 than 650,000 at the time an application for a credit under this
32 section is received by the department.

33 (9)(a) Credits may be earned beginning on the first day of the
34 first calendar quarter following the month in which notice under
35 subsection (1)(f) of this section was received by the department.

36 (b) Credits may not be earned beginning nine calendar years after
37 the close of the calendar year in which the credit may be earned, as
38 provided in (a) of this subsection.

1 (10) A person claiming the credit provided in this section must
2 file a complete annual tax performance report with the department
3 under RCW 82.32.534.

4 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.04
5 RCW to read as follows:

6 (1)(a) Subject to the limits and provisions of this section, a
7 credit is allowed against the tax otherwise due under this chapter
8 for persons engaged in the use of alternative jet fuel.

9 (b) Except as provided in (c) of this subsection, the credit
10 under this section is equal to \$1 for each gallon of alternative jet
11 fuel that has at least 50 percent less carbon dioxide equivalent
12 emissions than conventional jet fuel and is purchased during the
13 prior calendar year by a business for use as alternative jet fuel for
14 flights departing in this state.

15 (c) The credit amount under (b) of this subsection must increase
16 by 2 cents for each additional one percent reduction in carbon
17 dioxide equivalent emissions beyond 50 percent, not to exceed \$2 for
18 each gallon of alternative jet fuel.

19 (d) The credit under this section is calculated only on the
20 portion of jet fuel that is considered alternative jet fuel and does
21 not include conventional jet fuel when such fuels are blended or
22 otherwise used in a jet fuel mixture.

23 (e) A credit under this section may not be claimed until the
24 department of ecology verifies that there are one or more facilities
25 operating in this state with cumulative production capacity of at
26 least 20,000,000 gallons of alternative jet fuel each year and has
27 provided such notice to the department.

28 (2) A person may not receive credit under this section for
29 amounts claimed as credits under section 9 of this act or chapter
30 82.16 RCW.

31 (3) To claim a credit under this section a person must
32 electronically file with the department all returns, forms, and any
33 other information required by the department, in an electronic format
34 as provided or approved by the department.

35 (4) To claim a credit under this section, the person applying
36 must:

37 (a) Complete an application for the credit which must include:

38 (i) The name, business address, and tax identification number of
39 the applicant;

1 (ii) Documentation of the amount of alternative jet fuel
2 purchased by the business in the prior calendar year;

3 (iii) Documentation sufficient for the department to verify that
4 the alternative jet fuel for which the credit is being claimed meets
5 the carbon intensity reduction benchmarks under subsection (1)(b) and
6 (c) of this section, as certified by the department of ecology under
7 section 3 of this act; and

8 (iv) Any other information deemed necessary by the department to
9 support administration or reporting of the program.

10 (b) Obtain a carbon intensity score from the department of
11 ecology prior to submitting an application to the department.

12 (5) The department must notify applicants of credit approval or
13 denial within 60 days of receipt of a final application and
14 documentation.

15 (6) If a person fails to supply the information as required in
16 subsection (4) of this section, the department must deny the
17 application.

18 (7)(a) The credit under this section may be used against any tax
19 due under this chapter.

20 (b) A credit earned during one calendar year may be carried over
21 and claimed against taxes incurred for the next subsequent calendar
22 year but may not be carried over for any calendar year thereafter.

23 (c) No refunds may be granted for credits under this section.

24 (8) For the purposes of this section:

25 (a) "Alternative jet fuel" has the same meaning as in RCW
26 70A.535.010.

27 (b) "Carbon dioxide equivalent" has the same meaning as in RCW
28 70A.45.010.

29 (9)(a) Credits may be earned beginning on the first day of the
30 first calendar quarter following the month in which notice under
31 subsection (1)(e) of this section was received by the department.

32 (b) Credits may not be earned beginning nine calendar years after
33 the close of the calendar year in which the credit may be earned, as
34 provided in (a) of this subsection.

35 (10) A person claiming the credit provided in this section must
36 file a complete annual tax performance report with the department
37 under RCW 82.32.534.

38 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.16
39 RCW to read as follows:

1 (1) (a) Subject to the limits and provisions of this section, a
2 credit is allowed against the tax otherwise due under this chapter
3 for persons engaged in the use of alternative jet fuel.

4 (b) Except as provided in (c) of this subsection, the credit
5 under this section is equal to \$1 for each gallon of alternative jet
6 fuel that has at least 50 percent less carbon dioxide equivalent
7 emissions than conventional jet fuel and is purchased during the
8 prior calendar year by a business for use as alternative jet fuel for
9 flights departing in this state.

10 (c) The credit amount under (b) of this subsection must increase
11 by 2 cents for each additional one percent reduction in carbon
12 dioxide equivalent emissions beyond 50 percent, not to exceed \$2 for
13 each gallon of alternative jet fuel.

14 (d) The credit under this section is calculated only on the
15 portion of jet fuel that is considered alternative jet fuel and does
16 not include conventional jet fuel when such fuels are blended or
17 otherwise used in a jet fuel mixture.

18 (e) A credit under this section may not be claimed until the
19 department of ecology verifies that there are one or more facilities
20 operating in this state with cumulative production capacity of at
21 least 20,000,000 gallons of alternative jet fuel each year and has
22 provided such notice to the department.

23 (2) A person may not receive credit under this section for
24 amounts claimed as credits under chapter 82.04 RCW.

25 (3) To claim a credit under this section a person must
26 electronically file with the department all returns, forms, and any
27 other information required by the department, in an electronic format
28 as provided or approved by the department.

29 (4) To claim a credit under this section, the person applying
30 must:

31 (a) Complete an application for the credit which must include:

32 (i) The name, business address, and tax identification number of
33 the applicant;

34 (ii) Documentation of the amount of alternative jet fuel
35 purchased by the business in the prior calendar year;

36 (iii) Documentation sufficient for the department to verify that
37 the alternative jet fuel for which the credit is being claimed meets
38 the carbon intensity reduction benchmarks under subsection (1)(b) and
39 (c) of this section, as certified by the department of ecology under
40 section 3 of this act; and

1 (iv) Any other information deemed necessary by the department to
2 support administration or reporting of the program.

3 (b) Obtain a carbon intensity score from the department of
4 ecology prior to submitting an application to the department.

5 (5) The department must notify applicants of credit approval or
6 denial within 60 days of receipt of a final application and
7 documentation.

8 (6) If a person fails to supply the information as required in
9 subsection (4) of this section, the department must deny the
10 application.

11 (7) (a) The credit under this section may be used against any tax
12 due under this chapter.

13 (b) A credit earned during one calendar year may be carried over
14 and claimed against taxes incurred for the next subsequent calendar
15 year but may not be carried over for any calendar year thereafter.

16 (c) No refunds may be granted for credits under this section.

17 (8) The definitions in section 10 of this act apply to this
18 section.

19 (9) (a) Credits may be earned beginning on the first day of the
20 first calendar quarter following the month in which notice under
21 subsection (1) (e) of this section was received by the department.

22 (b) Credits may not be earned beginning nine calendar years after
23 the close of the calendar year in which the credit may be earned, as
24 provided in (a) of this subsection.

25 (10) A person claiming the credit provided in this section must
26 file a complete annual tax performance report with the department
27 under RCW 82.32.534.

28 NEW SECTION. **Sec. 12.** If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 13.** RCW 82.32.805 does not apply to this act.

33 NEW SECTION. **Sec. 14.** Sections 8 through 11 of this act take
34 effect July 1, 2024.

35 NEW SECTION. **Sec. 15.** Sections 1 through 6 of this act are
36 necessary for the immediate preservation of the public peace, health,

1 or safety, or support of the state government and its existing public
2 institutions, and take effect July 1, 2023.

--- **END** ---