
SENATE BILL 5447

State of Washington

68th Legislature

2023 Regular Session

By Senators Billig, King, Nguyen, MacEwen, Mullet, Wellman, Gildon, Keiser, Shewmake, Lovick, Boehnke, Warnick, Randall, Conway, Dhingra, Dozier, Lias, Lovelett, Saldaña, Stanford, Van De Wege, and Wagoner

Read first time 01/18/23. Referred to Committee on Environment, Energy & Technology.

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.65 RCW; adding a new section to
4 chapter 70A.535 RCW; adding a new section to chapter 28B.30 RCW;
5 adding new sections to chapter 82.04 RCW; adding a new section to
6 chapter 82.16 RCW; creating new sections; providing effective dates;
7 providing an expiration date; and declaring an 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

TREATMENT OF ALTERNATIVE JET FUELS

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

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

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

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

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

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

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

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

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

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

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

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

(11) "Motor vehicle" has the same meaning as defined in RCW 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. Alternative jet fuel includes jet
26 fuels derived from co-processed feedstocks at a conventional
27 petroleum refinery.

28 NEW SECTION. Sec. 3. A new section is added to chapter 70A.65
29 RCW to read as follows:

30 The department must amend the energy economy ratio for
31 alternative jet fuel relative to conventional jet fuel from the value
32 of 1.0 to 1.3 within ten years after the in-state production capacity
33 of alternative jet fuel is sufficient to satisfy the requirements
34 under sections 10 and 11 of this act. The energy economy ratio must
35 be reduced at a rate of 0.1 every three years until it is equal to
36 1.0.

37 NEW SECTION. Sec. 4. A new section is added to chapter 70A.535
38 RCW to read as follows:

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

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

7 (3) The department must notify the department of revenue within
8 30 days when a facility capable of producing at least 20,000,000
9 gallons of alternative jet fuel is operating in this state.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 28B.30
11 RCW to read as follows:

12 (1) The office of clean technology at the Washington State
13 University must convene an alternative jet fuels work group to
14 further the development of alternative jet fuel as a productive
15 industry in Washington. The work group must include members from the
16 legislature and sectors involved in alternative jet fuel research,
17 development, production, and utilization. The work group must provide
18 a report including any pertinent recommendations to the governor and
19 appropriate committees of the legislature by December 1, 2024, and
20 December 1st of every even-numbered year until December 1, 2028.

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

22 **Sec. 6.** RCW 43.330.565 and 2022 c 292 s 102 are each amended to
23 read as follows:

24 (1) The statewide office of renewable fuels is established within
25 the department. The office shall report to the director of the
26 department. The office may employ staff as necessary to carry out the
27 office's duties as prescribed by chapter 292, Laws of 2022, subject
28 to the availability of amounts appropriated for this specific
29 purpose.

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

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

34 (b) Support research into and development and deployment of
35 renewable fuel and the production, distribution, and use of renewable
36 and green electrolytic hydrogen and their derivatives, as well as
37 product engineering and manufacturing relating to the production and
38 use of such hydrogen and its derivatives;

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

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

5 (e) Enhance resiliency by using renewable fuels, alternative jet
6 fuels, and green electrolytic hydrogen to support climate change
7 mitigation and adaptations; and

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

10 **Sec. 7.** RCW 43.330.570 and 2022 c 292 s 103 are each amended to
11 read as follows:

12 (1) The office shall:

13 (a) Coordinate with federally recognized tribes, local
14 government, state agencies, federal agencies, private entities, the
15 state's public four-year institutions of higher education, labor
16 unions, and others to facilitate and promote multi-institution
17 collaborations to drive research, development, and deployment efforts
18 in the production, distribution, and use of alternative jet fuels and
19 renewable fuels including, but not limited to, green electrolytic
20 hydrogen;

21 (b) Review existing renewable fuels, alternative jet fuels, and
22 green electrolytic hydrogen initiatives, policies, and public and
23 private investments;

24 (c) Consider funding opportunities that provide for the
25 coordination of public and private funds for the purposes of
26 developing and deploying renewable fuels, alternative jet fuels, and
27 green electrolytic hydrogen;

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

31 (e) Request recommendations from the Washington state association
32 of fire marshals regarding fire and other safety standards adopted by
33 the United States department of energy and recognized national and
34 international fire and safety code development authorities regarding
35 renewable fuels, alternative jet fuels, and green electrolytic
36 hydrogen;

37 (f) By December 1, 2023, develop a plan and recommendations for
38 consideration by the legislature and governor on renewable fuels,
39 alternative jet fuels, and green electrolytic hydrogen policy and

1 public funding including, but not limited to, project permitting,
2 state procurement, and pilot projects; and

3 (g) Encourage new and support existing public-private
4 partnerships to increase coordinated planning and deployment of
5 renewable fuels, alternative jet fuels, and green electrolytic
6 hydrogen.

7 (2) The office may take all appropriate steps to seek and apply
8 for federal funds for which the office is eligible, and other grants,
9 and accept donations, and must deposit these funds in the renewable
10 fuels accelerator account created in RCW 43.330.575.

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

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

25 PART II

26 ALTERNATIVE JET FUEL TAX INCENTIVES

27 NEW SECTION. **Sec. 8.** (1) This section is the tax preference
28 performance statement for the tax preferences contained in sections 9
29 through 12, chapter . . ., Laws of 2023 (sections 9 through 12 of
30 this act). This performance statement is only intended to be used for
31 subsequent evaluation of the tax preferences. It is not intended to
32 create a private right of action by any party or to be used to
33 determine eligibility for preferential tax treatment.

34 (2) The legislature categorizes these tax preferences as ones
35 intended to improve industry competitiveness as indicated in RCW
36 82.32.808(2)(b).

37 (3) It is the legislature's specific public policy objective to
38 encourage the production and use of alternative jet fuels. It is also

1 the legislature's intent to support the development of the
2 alternative jet fuels industry in Washington by providing targeted
3 tax relief for such businesses.

4 (4) If a review finds that the production and use of alternative
5 jet fuels has increased because of the tax preferences contained in
6 this act, then the legislature intends to extend the expiration date
7 of these tax preferences.

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

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

13 (1) Upon every person engaging within the state in the business
14 of manufacturing alternative jet fuel; as to such persons, the amount
15 of the tax with respect to such business is, in the case of
16 manufacturers, equal to the value of the product manufactured, or in
17 the case of processors for hire, equal to the gross income of the
18 business, multiplied by the rate of 0.275 percent.

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

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

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

29 (5) The tax rate under subsections (1) and (2) of this section
30 applies for a period of 10 calendar years beginning on the first day
31 of the month immediately following the month in which the department
32 receives notification from the department of ecology that a facility
33 capable of producing at least 20,000,000 gallons of alternative jet
34 fuel is operating in this state, as required in section 4 of this
35 act.

36 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.04
37 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 manufacturing of alternative jet fuel.

4 (b) Except as provided in (c) of this subsection, the credit
5 under this section is equal to \$1.00 for each gallon of alternative
6 jet fuel that has at least 50 percent less carbon dioxide equivalent
7 emissions than conventional jet fuel and is sold during the prior
8 calendar year by:

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

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

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

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

19 (e) 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 (f) A credit under this section may not be claimed until the
24 department of ecology verifies that there is at least one facility
25 operating in this state that is capable of producing at least
26 20,000,000 gallons of alternative jet fuel per year and has provided
27 such notice to the department.

28 (g) The credit under this section applies only to alternative jet
29 fuel that meets the appropriate ASTM international standards as it
30 existed on the effective date of this section, or a subsequent date
31 as may be provided by the department by rule, consistent with the
32 purposes of this section.

33 (h) Contract pricing for sales of alternative jet fuel between a
34 person claiming the credit under this section and the final consumer
35 must reflect the per gallon credit under (b) and (c) of this
36 subsection.

37 (2) A person may not receive credit under this section for
38 amounts claimed as credits under section 11 of this act.

39 (3) To claim a credit under this section a person must
40 electronically file with the department all returns, forms, and any

1 other information required by the department, in an electronic format
2 as provided or approved by the department.

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

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

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

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

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

15 (iv) Documentation sufficient to verify compliance with
16 subsection (1)(h) of this section; and

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

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

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

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

27 (7)(a) The credit under this section may only be claimed against
28 taxes due under section 9 of this act.

29 (b) The credit may be carried over until used, as provided in
30 subsection (9) of this section.

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

32 (8) For the purposes of this section:

33 (a) "Alternative jet fuel" has the same meaning as in RCW
34 70A.535.010.

35 (b) "Carbon dioxide equivalent" has the same meaning as in RCW
36 70A.45.010.

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

1 (9) Credits may be earned and claimed for a period of 10 calendar
2 years beginning on the first day of the month immediately following
3 the month in which notification under subsection (1)(f) of this
4 section was received by the department.

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

8 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.04
9 RCW to read as follows:

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

13 (b) Except as provided in (c) of this subsection, the credit
14 under this section is equal to \$1.00 for each gallon of alternative
15 jet fuel that has at least 50 percent less carbon dioxide equivalent
16 emissions than conventional jet fuel and is purchased during the
17 prior calendar year by a business for use as alternative jet fuel for
18 flights originating in this state.

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

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

27 (e) A credit under this section may not be claimed until the
28 department of ecology verifies that there is at least one facility
29 operating in this state that is capable of producing at least
30 20,000,000 gallons of alternative jet fuel per year and has provided
31 such notice to the department.

32 (f) The credit under this section applies only to alternative jet
33 fuel that meets the appropriate ASTM international standards as it
34 existed on the effective date of this section, or a subsequent date
35 as may be provided by the department by rule, consistent with the
36 purposes of this section.

37 (2) A person may not receive credit under this section for
38 amounts claimed as credits under section 10 of this act or chapter
39 82.16 RCW.

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

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

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

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

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

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

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

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

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

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

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

29 (b) The credit may be carried over until used, as provided in
30 subsection (9) of this section.

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

32 (8) For the purposes of this section:

33 (a) "Alternative jet fuel" has the same meaning as in RCW
34 70A.535.010.

35 (b) "Carbon dioxide equivalent" has the same meaning as in RCW
36 70A.45.010.

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

1 (9) Credits may be earned and claimed for a period of 10 calendar
2 years beginning on the first day of the month immediately following
3 the month in which notification under subsection (1)(e) of this
4 section was received by the department.

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

8 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.16
9 RCW to read as follows:

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

13 (b) Except as provided in (c) of this subsection, the credit
14 under this section is equal to \$1.00 for each gallon of alternative
15 jet fuel that has at least 50 percent less carbon dioxide equivalent
16 emissions than conventional jet fuel and is purchased during the
17 prior calendar year by a business for use as alternative jet fuel for
18 flights originating in this state.

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

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

27 (e) A credit under this section may not be claimed until the
28 department of ecology verifies that there is at least one facility
29 operating in this state that is capable of producing at least
30 20,000,000 gallons of alternative jet fuel per year and has provided
31 such notice to the department.

32 (f) The credit under this section applies only to alternative jet
33 fuel that meets the appropriate ASTM international standards as it
34 existed on the effective date of this section, or a subsequent date
35 as may be provided by the department by rule, consistent with the
36 purposes of this section.

37 (2) A person may not receive credit under this section for
38 amounts claimed as credits under section 11 of this act or chapter
39 82.04 RCW.

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

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

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

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

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

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

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

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

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

24 (6) If a person fails to supply the information as required in
25 subsection (7) of this section, the department must deny the
26 application.

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

29 (b) The credit may be carried over until used, as provided in
30 subsection (9) of this section.

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

32 (8) The definitions in section 11 of this act apply to this
33 section.

34 (9) Credits may be earned and claimed for a period of 10 calendar
35 years beginning on the first day of the month immediately following
36 the month in which notification under subsection (1)(e) of this
37 section was received by the department.

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

1 NEW SECTION. **Sec. 13.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 14.** RCW 82.32.805 does not apply to this act.

6 NEW SECTION. **Sec. 15.** Sections 9 through 12 of this act take
7 effect July 1, 2024.

8 NEW SECTION. **Sec. 16.** Sections 1 through 7 of this act are
9 necessary for the immediate preservation of the public peace, health,
10 or safety, or support of the state government and its existing public
11 institutions, and take effect July 1, 2023.

--- END ---