

# SENATE BILL REPORT

## SB 5438

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As of January 27, 2025

**Title:** An act relating to reducing greenhouse gas emissions associated with hydrofluorocarbons by transitioning to environmentally and economically sustainable alternatives and promoting use of reclaimed hydrofluorocarbons.

**Brief Description:** Reducing greenhouse gas emissions associated with hydrofluorocarbons.

**Sponsors:** Senators Lovelett, Bateman, Saldaña, Trudeau, Shewmake, Cleveland, Hasegawa, Nobles, Orwall, Ramos, Stanford and Valdez.

**Brief History:**

**Committee Activity:** Environment, Energy & Technology: 1/28/25.

**Brief Summary of Bill**

- Phases-in prohibitions against selling, distributing, or otherwise entering into Washington commerce certain hydrofluorocarbons with specified global warming potentials, with certain exceptions.
- Directs the Department of Ecology to establish a refrigerant transition task force to study and report on opportunities and barriers associated with transitioning to climate-friendly refrigerants and enhancing refrigerant recovery and reclamation.
- Provides that certain hydrofluorocarbons with specified global warming potentials may not be used to replenish leaks or otherwise service stationary equipment owned or operated by the state, with certain exceptions.

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**SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY**

**Staff:** Matt Shepard-Koningsor (786-7627)

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*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.*

**Background:** Hydrofluorocarbons and Refrigerant Regulations. Hydrofluorocarbons (HFCs) are a category of gases used primarily as refrigerants in a variety of commercial and industrial applications. HFCs are among the greenhouse gases (GHGs) identified by the United States Environmental Protection Agency (EPA) and the Department of Ecology (Ecology) because of their capacity to trap heat in the earth's atmosphere. The global warming potential (GWP) of HFCs and other GHGs is measured as a function of how much of the gas is concentrated in the atmosphere, how long the gas stays in the atmosphere, and how strongly the particular gas affects global atmospheric temperatures. Under state law, the GWP of GHGs are measured in terms of their equivalence to the emission of an identical volume of carbon dioxide over a 100-year timeframe. Some HFCs can be hundreds to thousands of times more potent than carbon dioxide.

In recent years, the Legislature has established several new regulatory requirements to restrict emissions of HFCs and other refrigerants, including:

- requiring that repair or disposal services of refrigeration equipment use refrigerant extraction equipment to recover unused refrigerants;
- prohibiting the willful release of refrigerants from air conditioning, heating, and refrigeration systems, and consumer appliances;
- establishing a maximum GWP for refrigerants in numerous categories of uses, including foam blowing agents like polyurethane or spray foam, refrigeration equipment, and air conditioning equipment; and
- establishing a refrigerant management program to reduce refrigerant emissions from larger stationary refrigeration systems and larger commercial air conditioning systems.

Ecology has adopted rules to implement many of these requirements, including establishing required service practices for individuals performing the installation, maintenance, service, repair, or disposal of a refrigeration or air conditioning system with a charge of at least 50 pounds and that uses a refrigerant with a GWP of at least 150.

In December 2021, Ecology submitted a report to the Legislature regarding end-of-life refrigerant management, which included recommendations that an end-of-life refrigerant management program be based on several specified principles, including that a program address refrigerant-containing equipment and appliances, and contain provisions for all types of refrigerants, not just HFCs. Ecology determined that more extensive stakeholder feedback was needed to develop recommendations for an optimally-designed end-of-life refrigerant management program.

Federal Law. In December 2020, the Congress enacted the American Innovation and Manufacturing Act (AIM Act), establishing federal restrictions on HFCs. The AIM Act, and EPA rules to implement it, establish a phase-down of production and consumption of HFCs in the United States to 15 percent of baseline levels by 2036, with reductions to 60 percent of baseline levels taking effect in 2024, reductions to 30 percent of baseline levels taking effect in 2029, and reductions to 20 percent of baseline levels taking effect in 2034.

In addition to the overall phase-down of HFCs, EPA is authorized to adopt regulations to facilitate sector-based transitions to lower-GWP technologies, including through restrictions on the use of certain HFCs, and to adopt regulations to maximize reclamation and minimize releases of HFCs.

Under the federal Clean Air Act, EPA adopted regulations to maximize the recapture and recycling of refrigerants during the maintenance, service, repair, and disposal of appliances and motor vehicle air conditioning systems. The regulations also require the certification of technicians that service, repair, or dispose of equipment that could release refrigerants, who must pass a test to become certified.

State Procurement Policies and Refrigerants. One aspect of the Washington State Department of Enterprise Services' (DES) work is managing statewide contracts with thousands of vendors. Part of this work includes publishing a Green Purchasing Guide for state agencies, which is organized by category. Green purchasing, or environmentally-preferred purchasing, means making purchasing decisions that have less negative environmental and health impacts than similar products. State law requires DES to establish purchasing and procurement policies that provide a preference for:

- products that are not restricted, not designed to function only with HFCs characterized by a high GWP, and were either not manufactured with HFCs or manufactured with HFCs with a low GWP; and
- a reclaimed refrigerant that meets the minimum quality requirement established in federal law when servicing existing equipment.

Agencies are prohibited from knowingly purchasing products that are not preferred in DES policies.

**Summary of Bill:** Prohibitions Regarding Certain Hydrofluorocarbons. It is prohibited to sell, distribute, or otherwise enter into commerce in the state virgin bulk HFCs or virgin bulk HFC blends that have a:

- GWP exceeding 2200, beginning January 1, 2027;
- GWP exceeding 1500, beginning January 1, 2030; and
- GWP exceeding 750, beginning January 1, 2033.

Virgin refrigerant means a refrigerant that has not been previously used, recovered, or reclaimed. Reclaim means the reprocessing of regulated substances to certain specifications in federal law and where the substance does not contain more than 15 percent virgin material by weight.

The prohibitions do not apply to:

- reclaimed HFCs;
- certain application-specific uses permitted in the AIM Act; or
- shipments of certain HFCs through the state, where the substance does not enter commerce in the state.

Ecology is granted rulemaking authority generally, including authority to lower the GWP limits above if it finds that an adequate supply of reclaimed refrigerant would be available in the state to accommodate the lower limits, and to update newly-added terms to existing statutes regarding refrigerants. Ecology may provide a temporary exemption for a virgin HFC or virgin HFC blend where it determines compliance is technically or economically infeasible. An exemption may not exceed three years in most cases and is conditioned on the recipient completing a compliance plan.

Violations are subject to certain state Clean Air Act penalties. The term bulk is added to HFC statutes, which references a federal definition of the same term. Bulk means a regulated refrigerant stored in a container and not included in a manufactured product. Low GWP means a GWP of less than 150 carbon dioxide equivalents. Ultra-low GWP means a GWP of less than ten carbon dioxide equivalents.

Refrigerant Transition Task Force. Ecology must establish a refrigerant transition task force (task force) by February 1, 2026, to study opportunities and barriers associated with transitioning to climate-friendly refrigerants and enhancing refrigerant recovery and reclamation. The task force must include 11 specified members, including:

- one representative from Ecology, who chairs the task force;
- one representative from the private sector with expertise in installing, servicing, repairing, and decommissioning refrigeration and air conditioning equipment;
- one representative from the private sector with expertise in refrigerant recovery and reclamation;
- one representative from the private sector with expertise in manufacturing refrigeration and air conditioning equipment and the distribution and sale of such equipment;
- one representative from the private sector that owns or operates either air conditioning or refrigeration equipment, or both, in the state;
- three representatives from environmental nonprofit organizations familiar with the climate risks of HFCs;
- one representative of Washington businesses that uses HFCs;
- one representative from an environmental justice organization in the state; and
- one academic or research expert specializing in climate policy, emissions reduction, or refrigerant technology.

Ecology may invite other non-voting members to participate in the task force.

The task force must submit a report by December 31, 2027, assessing the opportunities, barriers, and recommendations for transitioning to refrigerants with low GWPs and ultra-low GWPs, accounting for distinctions among different types of equipment and appliances for HFC-using sectors and subsectors and the timelines needed for each to complete a transition. Ecology must provide administrative and operating support to the task force. A majority of the task force constitutes a quorum. A quorum and an affirmative vote by a

majority of those present is needed to include a point or provision in the report.

Only after the task force has finalized its report, Ecology must adopt rules to require low GWP or ultra-low GWP alternatives to HFCs in a sector unless it is not practicable.

State Procurement Policies and Refrigerants. Beginning July 1, 2026, HFCs with a GWP greater than 750 that are not reclaimed may not be used to replenish any leaks or otherwise service stationary equipment owned or operated by the state. DES must consult with Ecology for technical assistance in adopting rules to implement this requirement. DES may provide a temporary exemption in a similar manner to the exemption permitted by Ecology for virgin HFCs and HFC blends.

**Appropriation:** None.

**Fiscal Note:** Requested on January 21, 2025.

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

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