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**SECOND SUBSTITUTE HOUSE BILL 1912**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Dent, Reeves, Schmick, Springer, Orcutt, Nance, McClintock, Morgan, Engell, Paul, Mendoza, Bernbaum, Barnard, Richards, Eslick, Manjarrez, Dufault, Shavers, Burnett, Timmons, Abell, Thai, Barkis, Davis, Connors, and Hill)

READ FIRST TIME 02/28/25.

1 AN ACT Relating to the exemption for fuels used for agricultural  
2 purposes in the climate commitment act; amending RCW 70A.65.080;  
3 adding a new section to chapter 70A.65 RCW; creating a new section;  
4 and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 70A.65  
7 RCW to read as follows:

8 (1) For sales of fuel for which the associated emissions are  
9 exempt from coverage under RCW 70A.65.080(7)(e):

10 (a)(i) A retail fuel seller to a person who uses the fuel for  
11 exempt purposes may elect to register with the department as an  
12 exempt fuel retailer. A fuel seller electing to track and report  
13 exempt fuel sales beginning January 1, 2026, must register with the  
14 department by December 15, 2025, consistent with subsection (2) of  
15 this section, and must annually update its registration with the  
16 department by December 15th of each year for purposes of the  
17 following calendar year.

18 (ii) A retail fuel seller that elects to register with the  
19 department must track and report, upon request and no less often than  
20 quarterly, the volume of exempt fuel sales to either the person that

1 supplied the fuel to the retail fuel seller or to the covered entity  
2 or opt-in entity under this chapter responsible for the fuel.

3 (iii) A retail fuel seller that elects to register with the  
4 department under this section must accept the certificate developed  
5 by the department under RCW 70A.65.080(7)(e). A registered exempt  
6 retail fuel seller under this section must make available exempt  
7 fuel.

8 (iv) A retail fuel seller that does not register with the  
9 department may not sell exempt fuels or report the sales of exempt  
10 fuels to another fuel seller, including a covered entity or opt-in  
11 entity, under this section as exempt under RCW 70A.65.080(7)(e);

12 (b)(i) Any fuel seller that is not a covered or opt-in fuel  
13 supplier or a retail fuel seller specified in (a) or (c) of this  
14 subsection must register with the department consistent with  
15 subsection (2) of this section within 30 days of receipt of a request  
16 by either the person that sold the fuel to the fuel supplier or by  
17 the fuel supplier with a compliance obligation associated with the  
18 fuel. Such a fuel seller must track and report to the requester no  
19 less frequently than quarterly, the volume of their fuel sales  
20 reported as exempt by retail fuel sellers under (a) of this  
21 subsection.

22 (ii) A fuel seller that sells exempt fuel, including a retail  
23 fuel seller that is registered with the department, must make  
24 available exempt fuel for purchase at a differential rate that  
25 reflects the differential rate charged by the covered or opt-in fuel  
26 supplier with a compliance obligation for that fuel as required under  
27 (c)(iv) of this subsection or must credit the fuel purchaser in a  
28 manner that compensates the fuel purchaser consistent with that  
29 differential rate.

30 (c)(i) Each fuel supplier covered or opted-in under this chapter  
31 must annually report to the department the volume of exempt fuel  
32 sales reported to it by retail fuel sellers under (a) of this  
33 subsection and by fuel sellers under (b) of this subsection.

34 (ii) Fuel suppliers that are covered or opt-in entities under  
35 this chapter must report their volumes of exempt fuel sales, and the  
36 greenhouse gas emissions associated with the exempt fuel sales, in  
37 conjunction with but as a separate and distinct portion of, reports  
38 submitted under RCW 70A.15.2200. The department may require the  
39 covered or opt-in entity to submit data or documentation of exempt  
40 fuel sales reported to the covered or opt-in entity by retail fuel

1 sellers under (a) of this subsection and by fuel sellers under (b) of  
2 this subsection.

3 (iii) A fuel supplier may not claim the exemption from the  
4 compliance obligation under RCW 70A.65.080(7)(e) for fuel sold by a  
5 retail fuel seller that has not registered with the department and  
6 does not directly or indirectly report exempt fuel sales to the  
7 supplier.

8 (iv) A fuel supplier that is a covered or opt-in entity that  
9 sells exempt fuel must make available exempt fuel for purchase at a  
10 differential rate that reflects the lack of associated compliance  
11 costs under this chapter or must credit the purchaser in a manner  
12 that compensates the purchaser for the differential cost of exempt  
13 sales.

14 (2) A fuel seller required or electing to track and report exempt  
15 fuel sales beginning January 1, 2026, must register with the  
16 department by December 15, 2025, by submitting, to an email address  
17 or via an online form developed by the department, the following:

18 (a) The address, if applicable, of retail fuel sales locations at  
19 which exempt fuel is to be sold, tracked, and reported;

20 (b) The name, phone number, email address, and address of at  
21 least two persons designated as points of contact for the registering  
22 fuel seller;

23 (c) The service area of the company or retail location;

24 (d) The types of exempt fuels sold at each retail location; and

25 (e) The latitude and longitude coordinates such that the location  
26 can be displayed on a map.

27 (3) The department must post and periodically update on its  
28 website a list, by county and, if applicable, city, of the name and  
29 address of each retail fuel seller that has elected to participate as  
30 an exempt fuel retail seller under subsection (1)(a) of this section.

31 (4)(a) The department may adopt rules to implement, administer,  
32 and enforce the requirements of this section.

33 (b) Upon request, a fuel seller required to track and report  
34 information under subsection (1) of this section must provide the  
35 department documentation of tracked or reported exempt fuel sales  
36 volumes within 14 business days.

37 (5) Violations of the requirements of this section are subject to  
38 penalties as provided in RCW 70A.65.200(5).

39 (6) Nothing in this section establishes, limits, or otherwise  
40 alters the obligation of a person to be a covered or opt-in entity

1 under RCW 70A.65.080 or an opt-in entity under RCW 70A.65.090(3) or  
2 to report emissions under RCW 70A.15.2200.

3 (7) The requirements of this section apply to sales of exempt  
4 fuel occurring on or after January 1, 2026.

5 **Sec. 2.** RCW 70A.65.080 and 2024 c 352 s 4 are each amended to  
6 read as follows:

7 (1) A person is a covered entity as of the beginning of the first  
8 compliance period and all subsequent compliance periods if the person  
9 reported emissions under RCW 70A.15.2200 for any calendar year from  
10 2015 through 2019, or if additional data provided as required by this  
11 chapter indicates that emissions for any calendar year from 2015  
12 through 2019 equaled or exceeded any of the following thresholds, or  
13 if the person is a first jurisdictional deliverer and imports  
14 electricity into the state during the compliance period:

15 (a) Where the person owns or operates a facility and the  
16 facility's emissions equal or exceed 25,000 metric tons of carbon  
17 dioxide equivalent;

18 (b) Where the person is a first jurisdictional deliverer and  
19 generates electricity in the state and emissions associated with this  
20 generation equals or exceeds 25,000 metric tons of carbon dioxide  
21 equivalent;

22 (c)(i) Where the person is a first jurisdictional deliverer  
23 importing electricity into the state and:

24 (A) For specified sources, the cumulative annual total of  
25 emissions associated with the imported electricity exceeds 25,000  
26 metric tons of carbon dioxide equivalent;

27 (B) For unspecified sources, the cumulative annual total of  
28 emissions associated with the imported electricity exceeds 0 metric  
29 tons of carbon dioxide equivalent; or

30 (C) For electricity purchased from a federal power marketing  
31 administration pursuant to section 5(b) of the Pacific Northwest  
32 electric power planning and conservation act of 1980, P.L. 96-501, if  
33 the department determines such electricity is not from a specified  
34 source, the cumulative annual total of emissions associated with the  
35 imported electricity exceeds 25,000 metric tons of carbon dioxide  
36 equivalent.

37 (ii) In consultation with any linked jurisdiction to the program  
38 created by this chapter, by October 1, 2026, the department, in  
39 consultation with the department of commerce and the utilities and

1 transportation commission, shall adopt by rule a methodology for  
2 addressing imported electricity associated with a centralized  
3 electricity market;

4 (d) Where the person is a supplier of fossil fuel other than  
5 natural gas and from that fuel 25,000 metric tons or more of carbon  
6 dioxide equivalent emissions would result from the full combustion or  
7 oxidation, excluding the amounts for fuel products that are produced  
8 or imported with a documented final point of delivery outside of  
9 Washington and combusted outside of Washington; and

10 (e)(i) Where the person supplies natural gas in amounts that  
11 would result in exceeding 25,000 metric tons of carbon dioxide  
12 equivalent emissions if fully combusted or oxidized, excluding the  
13 amounts for fuel products that are produced or imported with a  
14 documented final point of delivery outside of Washington and  
15 combusted outside of Washington, and excluding the amounts: (A)  
16 Supplied to covered entities under (a) through (d) of this  
17 subsection; and (B) delivered to opt-in entities;

18 (ii) Where the person who is not a natural gas company and has a  
19 tariff with a natural gas company to deliver to an end-use customer  
20 in the state in amounts that would result in exceeding 25,000 metric  
21 tons of carbon dioxide equivalent emissions if fully combusted or  
22 oxidized, excluding the amounts: (A) Supplied to covered entities  
23 under (a) through (d) of this subsection; and (B) the amounts  
24 delivered to opt-in entities;

25 (iii) Where the person is an end-use customer in the state who  
26 directly purchases natural gas from a person that is not a natural  
27 gas company and has the natural gas delivered through an interstate  
28 pipeline to a distribution system owned by the purchaser in amounts  
29 that would result in exceeding 25,000 metric tons of carbon dioxide  
30 equivalent emissions if fully combusted or oxidized, excluding the  
31 amounts: (A) Supplied to covered entities under (a) through (d) of  
32 this subsection; and (B) delivered to opt-in entities.

33 (2) A person is a covered entity as of the beginning of the  
34 second compliance period and all subsequent compliance periods if the  
35 person reported emissions under RCW 70A.15.2200 or provided emissions  
36 data as required by this chapter for any calendar year from 2023  
37 through 2025, where the person owns or operates a waste to energy  
38 facility utilized by a county and city solid waste management program  
39 and the facility's emissions equal or exceed 25,000 metric tons of  
40 carbon dioxide equivalent.

1 (3) A person is a covered entity as of the beginning of the third  
2 compliance period, and all subsequent compliance periods if the  
3 person reported emissions under RCW 70A.15.2200 or provided emissions  
4 data as required by this chapter for 2027 or 2028, where the person  
5 owns or operates a railroad company, as that term is defined in RCW  
6 81.04.010, and the railroad company's emissions equal or exceed  
7 25,000 metric tons of carbon dioxide equivalent.

8 (4) When a covered entity reports, during a compliance period,  
9 emissions from a facility under RCW 70A.15.2200 that are below the  
10 thresholds specified in subsection (1) or (2) of this section, the  
11 covered entity continues to have a compliance obligation through the  
12 current compliance period. When a covered entity reports emissions  
13 below the threshold for each year during an entire compliance period,  
14 or has ceased all processes at the facility requiring reporting under  
15 RCW 70A.15.2200, the entity is no longer a covered entity as of the  
16 beginning of the subsequent compliance period unless the department  
17 provides notice at least 12 months before the end of the compliance  
18 period that the facility's emissions were within 10 percent of the  
19 threshold and that the person will continue to be designated as a  
20 covered entity in order to ensure equity among all covered entities.  
21 Whenever a covered entity ceases to be a covered entity, the  
22 department shall notify the appropriate policy and fiscal committees  
23 of the legislature of the name of the entity and the reason the  
24 entity is no longer a covered entity.

25 (5) For types of emission sources described in subsection (1) of  
26 this section that begin or modify operation after January 1, 2023,  
27 and types of emission sources described in subsection (2) of this  
28 section that begin or modify operation after 2027, coverage under the  
29 program starts in the calendar year in which emissions from the  
30 source exceed the applicable thresholds in subsection (1) or (2) of  
31 this section, or upon formal notice from the department that the  
32 source is expected to exceed the applicable emissions threshold,  
33 whichever happens first. Sources meeting these conditions are  
34 required to transfer their first allowances on the first transfer  
35 deadline of the year following the year in which their emissions were  
36 equal to or exceeded the emissions threshold.

37 (6) For emission sources described in subsection (1) of this  
38 section that are in operation or otherwise active between 2015 and  
39 2019 but were not required to report emissions for those years under  
40 RCW 70A.15.2200 for the reporting periods between 2015 and 2019,

1 coverage under the program starts in the calendar year following the  
2 year in which emissions from the source exceed the applicable  
3 thresholds in subsection (1) of this section as reported pursuant to  
4 RCW 70A.15.2200 or provided as required by this chapter, or upon  
5 formal notice from the department that the source is expected to  
6 exceed the applicable emissions threshold for the first year that  
7 source is required to report emissions, whichever happens first.  
8 Sources meeting these criteria are required to transfer their first  
9 allowances on the first transfer deadline of the year following the  
10 year in which their emissions, as reported under RCW 70A.15.2200 or  
11 provided as required by this chapter, were equal to or exceeded the  
12 emissions threshold.

13 (7) The following emissions are exempt from coverage in the  
14 program, regardless of the emissions reported under RCW 70A.15.2200  
15 or provided as required by this chapter:

16 (a) Emissions from the combustion of aviation fuels;

17 (b) Emissions from watercraft fuels supplied in Washington that  
18 are combusted outside of Washington;

19 (c) Emissions from a coal-fired electric generation facility  
20 exempted from additional greenhouse gas limitations, requirements, or  
21 performance standards under RCW 80.80.110;

22 (d) Carbon dioxide emissions from the combustion of biomass or  
23 biofuels;

24 (e)(i) Motor vehicle fuel or special fuel that is used  
25 exclusively for agricultural purposes by a farm fuel user. This  
26 exemption is available only if a buyer of motor vehicle fuel or  
27 special fuel provides the seller with an exemption certificate in a  
28 form and manner prescribed by the department. For the purposes of  
29 this subsection, "agricultural purposes" and "farm fuel user" have  
30 the same meanings as provided in RCW 82.08.865.

31 (ii) The department must determine a method for expanding the  
32 exemption provided under (e)(i) of this subsection to include fuels  
33 used for the purpose of transporting agricultural products on public  
34 highways. The department must maintain this expanded exemption for a  
35 period of five years, in order to provide the agricultural sector  
36 with a feasible transition period((+)).

37 (iii) The exemptions specified in (e)(i) and (ii) of this  
38 subsection must be implemented consistent with section 1 of this act.  
39 Fuel sold by a retail fuel seller who has not registered with the

1 department under section 1 of this act does not qualify for the  
2 exemptions specified in (e) (i) or (ii) of this subsection.

3 (f) Emissions from facilities with North American industry  
4 classification system code 92811 (national security); and

5 (g) Emissions from municipal solid waste landfills that are  
6 subject to, and in compliance with, chapter 70A.540 RCW.

7 (8) The department shall not require multiple covered entities to  
8 have a compliance obligation for the same emissions. The department  
9 may by rule authorize refineries, fuel suppliers, facilities using  
10 natural gas, and natural gas utilities to provide by agreement for  
11 the assumption of the compliance obligation for fuel or natural gas  
12 supplied and combusted in the state. The department must be notified  
13 of such an agreement at least 12 months prior to the compliance  
14 obligation period for which the agreement is applicable.

15 (9) (a) The legislature intends to promote a growing and  
16 sustainable economy and to avoid leakage of emissions from  
17 manufacturing to other locations. The legislature further intends to  
18 see innovative new businesses locate and grow in Washington that  
19 contribute to Washington's prosperity and environmental objectives.

20 (b) Consistent with the intent of the legislature to avoid the  
21 leakage of emissions to other jurisdictions, in achieving the state's  
22 greenhouse gas limits in RCW 70A.45.020, the state, including lead  
23 agencies under chapter 43.21C RCW, shall pursue the limits in a  
24 manner that recognizes that the siting and placement of new or  
25 expanded best-in-class facilities with lower carbon emitting  
26 processes is in the economic and environmental interests of the state  
27 of Washington.

28 (c) In conducting a life-cycle analysis, if required, for new or  
29 expanded facilities that require review under chapter 43.21C RCW, a  
30 lead agency must evaluate and attribute any potential net cumulative  
31 greenhouse gas emissions resulting from the project as compared to  
32 other existing facilities or best available technology including  
33 best-in-class facilities and emerging lower carbon processes that  
34 supply the same product or end use. The department may adopt rules to  
35 determine the appropriate threshold for applying this analysis.

36 (d) Covered emissions from an entity that is or will be a covered  
37 entity under this chapter may not be the basis for denial of a permit  
38 for a new or expanded facility. Covered emissions must be included in  
39 the analysis undertaken pursuant to (c) of this subsection. Nothing  
40 in this subsection requires a lead agency or a permitting agency to



1 approve or issue a permit to a permit applicant, including to a new  
2 or expanded fossil fuel project.

3 (e) A lead agency under chapter 43.21C RCW or a permitting agency  
4 shall allow a new or expanded facility that is a covered entity or  
5 opt-in entity to satisfy a mitigation requirement for its covered  
6 emissions under this chapter and under any greenhouse gas emission  
7 mitigation requirements for covered emissions under chapter 43.21C  
8 RCW by submitting to the department the number of compliance  
9 instruments equivalent to its covered emissions during a compliance  
10 period.

11 NEW SECTION. **Sec. 3.** If specific funding for the purposes of  
12 this act, referencing this act by bill or chapter number, is not  
13 provided by June 30, 2025, in the omnibus appropriations act, this  
14 act is null and void.

15 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
16 preservation of the public peace, health, or safety, or support of  
17 the state government and its existing public institutions, and takes  
18 effect immediately.

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