S-0564.1

SENATE BILL 5438

State of Washington 69th Legislature 2025 Regular Session

By Senators Lovelett, Bateman, Saldaña, Trudeau, Shewmake, Cleveland, Hasegawa, Nobles, Orwall, Ramos, Stanford, and Valdez

Read first time 01/22/25. Referred to Committee on Environment, Energy & Technology.

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; amending RCW 70A.60.010; reenacting and amending RCW 39.26.310; adding new sections to chapter 70A.60 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** (1) The legislature finds that:

(a) Hydrofluorocarbons are potent greenhouse gases with global warming potentials that are hundreds to thousands of times greater than carbon dioxide. The widespread use of hydrofluorocarbon in refrigeration, air conditioning, and heat pumps, among other applications, makes them significant contributors to climate change;

(b) Short-lived climate pollutants, such as hydrofluorocarbons, create an acute warming influence despite their shorter atmospheric lifespan. Reducing short-lived climate pollutant emissions is essential for mitigating near-term climate risks and preventing irreversible climate tipping points, such as polar ice sheet collapse and permafrost thaw;

(c) Life-cycle refrigerant management, which encompasses leak prevention, recovery, reclamation, and safe disposal of refrigerants,

is a critical strategy for reducing emissions across the entire life cycle of refrigerant use. Effective life-cycle refrigerant management is necessary to meet state, federal, and international climate goals;

(d) The Kigali amendment to the Montreal protocol and the American innovation and manufacturing act of 2020 (42 U.S.C. Sec. 7675), establish phased reductions in hydrofluorocarbon production and consumption but leave gaps in ensuring widespread use of reclaimed refrigerants and managing refrigerants at the end of their life cycle; and

(e) State action is urgently needed to complement federal and international efforts by promoting the transition to climate-friendly refrigerants with lower or no global warming potential, enhancing refrigerant recovery systems, and preventing emissions through stronger regulations and market-based incentives.

(2) It is the intent of the legislature to:

(a) Lead by example in promoting reclaimed refrigerants by requiring their use in servicing and repairing state-owned equipment;

(b) Study feasible pathways to an expeditious transition of new equipment by 2035 to low global warming potential refrigerants of less than 150 carbon dioxide equivalents and ultra-low global warming potential refrigerants of less than 10 carbon dioxide equivalents;

(c) Support the development of robust refrigerant recovery infrastructure and foster public-private partnerships to promote the reclamation and reuse of refrigerants;

(d) Establish a clear regulatory framework for reducing emissions from refrigerants through phased limitations on high global warming potential substances and increasing recovery and use of reclaimed refrigerants; and

(e) Enhance industry compliance and stakeholder collaboration through education, training, and financial incentives, ensuring alignment with national and international climate objectives.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70A.60 RCW to read as follows:

(1) It is prohibited to sell, distribute, or otherwise enter into commerce in the state virgin bulk hydrofluorocarbons or virgin bulk hydrofluorocarbon blends that:

(a) Have a global warming potential that exceeds 2,200, beginning January 1, 2027;

(b) Have a global warming potential that exceeds 1,500, beginning January 1, 2030; and

(c) Have a global warming potential that exceeds 750, beginning January 1, 2033.

(2)(a) The department shall adopt rules to implement the requirements of this section.

(b) The department may adopt by rule lower global warming potential limits than are specified in subsection (1) of this section, or earlier dates for global warming potential limits than are specified in subsection (1) of this section, provided the department finds that an adequate supply of reclaimed refrigerant would be available in the state to accommodate any such change to the requirements of subsection (1) of this section.

(c) When adopting rules to conform to this section, the department may update the definitions of terms used in this section, including the definitions of "bulk" and "reclaim" in RCW 70A.60.010, in order to maintain consistency with federal regulations or to harmonize the department's rules with similar requirements adopted by other jurisdictions.

(d) The department may by rule specify that "enter into commerce" includes the use of stockpiled refrigerants to replenish any leaks or otherwise service stationary equipment.

(3)(a) The prohibitions established under this section do not apply to:

(i) Hydrofluorocarbons that are reclaimed;

(ii) An application receiving application-specific allowances under subsection (e)(B) of the American innovation and manufacturing act of 2020 (42 U.S.C. Sec. 7675); or

(iii) Transshipments of bulk virgin hydrofluorocarbons and hydrofluorocarbon blends.

(b) For virgin bulk hydrofluorocarbon blends, the global warming potential limits of this section apply to the global warming potential of the blend and not to any individual component of such a blend.

(4)(a) The department may provide for a temporary exemption for a virgin hydrofluorocarbon or a virgin hydrofluorocarbon blend where the department determines complying with a requirement of this section is technically or economically infeasible.

(b) An exemption granted by the department under this subsection may not exceed three years and must be conditional upon the exemption

recipient carrying out a plan, on an enforceable timeline, to meet the requirements of this section. Each exemption granted by the department shall end after three years unless, at least six months prior to the expiration of the exemption, the exemption recipient submits a request for extension with justification. The department may determine whether to renew or modify the exemption based on its review of the request for an extension.

(5) A violation of the requirements of this section are subject to penalties as provided in chapter 70A.15 RCW.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70A.60 RCW to read as follows:

(1) The department must establish a refrigerant transition task force to study opportunities and barriers to transitioning to climate-friendly refrigerants and enhancing refrigerant recovery and reclamation.

(a) By February 1, 2026, the department must appoint members of the task force.

(b) Starting no later than June 1, 2027, for a period extending at least 60 days, the department must make available a draft of the task force report required in subsection (4) of this section for public input and comment.

(c) The department must submit the task force report required in subsection (4) of this section to the appropriate committees of the legislature no later than December 1, 2027.

(2) The task force must be chaired by a representative of the department and must consist of the following members appointed by the department:

(a) One representative from the private sector or a private sector trade association with expertise in installing, servicing, repairing, and decommissioning refrigeration and air conditioning equipment;

(b) One representative from the private sector or a private sector trade association with expertise in refrigerant recovery and reclamation;

(c) One representative from the private sector or a private sector trade association with expertise in manufacturing refrigeration and air conditioning equipment and the distribution and sale thereof;

(d) One representative from the private sector or a private sector trade association that owns, operates, or owns and operates either air conditioning or refrigeration equipment, or both, in the state;

(e) Three representatives from environmental nonprofit organizations with familiarity with the climate risks of hydrofluorocarbons;

(f) One representative of Washington businesses that use hydrofluorocarbons;

(g) One representative from an environmental justice organization in Washington; and

(h) One academic or research expert specializing in climate policy, emissions reduction, or refrigerant technology.

(3) The department may invite the participation, as nonvoting members, of others with relevant expertise to work with the task force.

(4)(a) The task force must draft and submit to the department a report assessing the opportunities, barriers, and recommendations for transitioning to refrigerants with low global warming potential and ultra-low global warming potential, accounting for distinctions among different types of equipment and appliances for hydrofluorocarbon-using sectors and subsectors and the timelines needed for each sector or subsector to complete such a transition.

(b) In drafting the report required in this section, each member of the task force must make a good faith effort to reach consensus on each point and provision in the report.

(c) Where one or more members of the task force object to a point or provision in the report, that member or members may provide a description of such an objection, with all such descriptions listed in an annex to the report.

(5)(a) The department shall provide administrative and operating support, including arrangements for virtual meetings, to the task force and may contract with a third-party facilitator or other consultants to assist in carrying out the activities of the task force.

(b) A majority of the task force constitutes a quorum. Action by the task force, including the inclusion of a point or provision in the report, requires a quorum and a majority of those present and voting.

(6) The department may disband the task force created in this section upon the submission of the report under subsection (1)(c) of this section.

(7)(a) To achieve the transition described in this section, the department shall adopt rules, informed by the work and the report of the task force, to require low global warming potential or ultra-low global warming potential alternatives to hydrofluorocarbons in a sector unless it is not practicable for entities in the sector to comply with the requirement.

(b) The department may not commence the rule making referred to in (a) of this subsection until the task force has finalized its report.

Sec. 4. RCW 70A.60.010 and 2021 c 315 s 2 are each amended to read as follows:

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

(1)(a) "Air conditioning" means the process of treating air to meet the requirements of a conditioned space by controlling its temperature, humidity, cleanliness, or distribution.

(b)(i) "Air conditioning" includes chillers((~~, except for purposes of RCW 70A.60.020~~)).

(ii) "Air conditioning" includes heat pumps.

(c) "Air conditioning" applies to stationary air conditioning equipment and does not apply to mobile air conditioning, including those used in motor vehicles, rail and trains, aircraft, watercraft, recreational vehicles, recreational trailers, and campers.

(2) "Class I substance" and "class II substance" means those substances listed in 42 U.S.C. Sec. 7671a, as of November 15, 1990, or those substances listed in Appendix A or B of Subpart A of 40 C.F.R. Part 82, as of January 3, 2017.

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

(4) "Hydrofluorocarbons" means a class of greenhouse gases that are saturated organic compounds containing hydrogen, fluorine, and carbon.

(5) "Ice rink" means a frozen body of water, hardened chemicals, or both, including, but not limited to, professional ice skating rinks and those used by the general public for recreational purposes.

(6) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint

venture that produces any product that contains or uses hydrofluorocarbons or is an importer or domestic distributor of such a product.

(7) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of the state.

(8) "Refrigeration equipment" or "refrigeration system" means any stationary device that is designed to contain and use refrigerant. "Refrigeration equipment" includes refrigeration equipment used in retail food, cold storage, industrial process refrigeration and cooling that does not use a chiller, ice rinks, and other refrigeration applications.

(9) "Regulated refrigerant" means a class I or class II substance as listed in Title VI of section 602 of the federal clean air act amendments of November 15, 1990.

(10) "Residential consumer refrigeration products" has the same meaning as defined in section 430.2 of Subpart A of 10 C.F.R. Part 430 (2017).

(11) "Retrofit" has the same meaning as defined in section 152 of Subpart F of 40 C.F.R. Part 82, as that section existed as of January 3, 2017.

(12) "Substitute" means a chemical, product, or alternative manufacturing process, whether existing or new, that is used to perform a function previously performed by a class I substance or class II substance and any chemical, product, or alternative manufacturing process subsequently developed, adapted, or adopted to perform that function including, but not limited to, hydrofluorocarbons. "Substitute" does not include 2-BTP or any compound as applied to its use in aerospace fire extinguishing systems.

(13) "Bulk" means:

(a) The same as defined in 40 C.F.R. Sec. 84.3, as it existed on the effective date of this section; or

(b) An updated definition adopted by rule by the department under section 2(2)(c) of this act.

(14) "Carbon dioxide equivalents" has the same meaning as defined in RCW 70.45.010.

(15) "Low global warming potential" means a global warming potential of less than 150 carbon dioxide equivalents.

(16) "Reclaim" means:

(a) The reprocessing of regulated substances to all of the specifications in appendix A to 40 C.F.R. Part 82, Subpart F (based on air-conditioning, heating, and refrigeration institute standard 700-2016), as it existed on the effective date of this section, that are applicable to that regulated substance and to verify that the regulated substance meets these specifications using the analytical methodology prescribed in section 5 of appendix A to 40 C.F.R. Part 82, Subpart F, as those regulations existed on the effective date of this section, and do not contain more than 15 percent virgin material by weight, pursuant to federal regulations at 40 C.F.R. Part 84, Subpart C, as it existed on the effective date of this section; or

(b) An updated definition adopted by rule by the department under section 2(2)(c) of this act.

(17) "Transshipment" means the shipment of a regulated substance through the state of Washington from one point outside the state of Washington to another point outside the state of Washington, as long as the shipment does not enter commerce in Washington.

(18) "Ultra-low global warming potential" means a global warming potential of less than 10 carbon dioxide equivalents.

(19) "Virgin refrigerant" means a refrigerant that has not been previously used, recovered, or reclaimed.

Sec. 5. RCW 39.26.310 and 2021 c 315 s 19 and 2021 c 65 s 28 are each reenacted and amended to read as follows:

(1) The department shall establish purchasing and procurement policies that provide a preference for products that:

(a) Are not restricted under RCW 70A.60.060;

(b) Do not contain hydrofluorocarbons or contain hydrofluorocarbons with a comparatively low global warming potential;

(c) Are not designed to function only in conjunction with hydrofluorocarbons characterized by a comparatively high global warming potential; and

(d) Were not manufactured using hydrofluorocarbons or were manufactured using hydrofluorocarbons with a low global warming potential.

(2) No agency may knowingly purchase products that are not accorded a preference in the purchasing and procurement policies established by the department pursuant to subsection (1) of this section, unless there is no cost-effective and technologically feasible option that is accorded a preference.

(3) The department shall establish a purchasing and procurement policy that provides a preference, in serving existing equipment, for a reclaimed refrigerant that meets the minimum quality requirement established in federal regulations adopted under 42 U.S.C. Sec. 7671(g).

(4)(a) Nothing in subsection (1) of this section requires the department or any other state agency to breach an existing contract or dispose of stock that has been ordered or is in the possession of the department or other state agency as of July 28, 2019.

(b) Nothing in subsection (3) of this section requires the department or any other state agency to breach an existing contract or dispose of stock that has been ordered or is in the possession of the department or other state agency as of July 28, 2021.

(5)(a) Beginning July 1, 2026, hydrofluorocarbons with a global warming potential 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. The department must consult with the department of ecology for technical assistance in adopting rules to implement this subsection.

(b) The department may provide for a temporary exemption for equipment where the department determines that complying with the requirement in (a) of this subsection will be technically or economically infeasible. An exemption granted by the department under this subsection may not exceed three years and must be conditional upon the exemption recipient carrying out a plan, on an enforceable timeline, to meet the requirements of this section. Each exemption granted by the department shall end after three years unless, six months prior to the expiration of the exemption, the exemption recipient submits a request for extension with justification. The department may, after consultation with the department of ecology, determine whether to renew or modify the exemption based on its review of the request for extension.

(c) The definitions in this subsection (5)(c) apply throughout this subsection unless the context clearly requires otherwise.

(i) "Hydrofluorocarbons" has the same meaning as defined in RCW 70A.60.010.

(ii) "Reclaimed" has the same meaning as "reclaim" as defined in RCW 70A.60.010.

(6) By December 1, 2020, and each December 1st of even-numbered years thereafter, the department must submit a status report to the

appropriate committees of the house of representatives and senate regarding the implementation and compliance of the department and state agencies with this section.

NEW SECTION. **Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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