
BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-1406.2/19 2nd draft

ATTY/TYPIST: JA:amh

BRIEF DESCRIPTION: Reducing carbon pollution.

1 AN ACT Relating to reducing carbon pollution; adding a new
2 chapter to Title 82 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** INTENT. (1) The legislature finds that
5 anthropogenic climate change caused by increased greenhouse gas
6 emissions poses a grave threat to the safety and well-being of all
7 Washingtonians, the environment, and the economy. The legislature
8 finds that despite current laws and policies targeting greenhouse gas
9 emissions reductions, alternative fuels, and other clean energy
10 innovations in specific sectors, economy-wide emissions of greenhouse
11 gases are not decreasing at a rate sufficient to achieve the state's
12 emissions reduction goals. The legislature therefore finds that the
13 livelihoods of current and future generations of Washingtonians
14 depend on the state taking steps to significantly and quickly reduce
15 the rate of greenhouse gas emissions across all sectors of the
16 economy.

17 (2) According to a 2018 report published by researchers at the
18 Massachusetts institute of technology and the national renewable
19 energy laboratory, putting a price on carbon, in the form of a fee or
20 tax on the use of fossil fuels, coupled with returning the generated
21 revenue to the public, is an effective, fair, and cost-efficient way

1 to curb emissions of greenhouse gases. It is therefore the intent of
2 the legislature to impose a tax on the carbon content of fossil fuels
3 sold or used within the state and to then return the generated
4 revenue in the form of a carbon tax rebate to taxpayers who live in
5 Washington.

6 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
7 section apply throughout this chapter unless the context clearly
8 requires otherwise.

9 (1) "Aircraft fuel" has the same meaning as provided in RCW
10 82.42.010.

11 (2) "Asset controlling supplier" means any entity that owns or
12 operates interconnected electricity generating facilities or serves
13 as an exclusive marketer for these facilities even though it does not
14 own them, and is assigned a supplier-specific identification number
15 and system emission factor by the department of ecology, in
16 consultation with the department of commerce, for the wholesale
17 electricity procured from its system and sold into Washington.

18 (3) "Carbon calculation" means a calculation made by the
19 department for purposes of calculating the tax pursuant to section 5
20 of this act. Among other resources, the department may consider
21 carbon dioxide content measurements for fossil fuels from the United
22 States energy information administration or the United States
23 environmental protection agency.

24 (4) "Carbon content inherent in electricity" means the carbon
25 dioxide generated by the production of electricity from fossil fuels.

26 (5) "Carbon pollution tax" means the tax created in section 5 of
27 this act.

28 (6) "Coal" means coal of any kind, including anthracite coal,
29 bituminous coal, subbituminous coal, lignite, waste coal, syncoal,
30 and coke of any kind.

31 (7) "Consumer price index" means, for any calendar year, that
32 year's annual average consumer price index, for Washington state, for
33 wage earners and clerical workers, all items, compiled by the bureau
34 of labor and statistics, United States department of labor. If the
35 bureau of labor and statistics develops more than one consumer price
36 index for areas within the state, the index covering the greatest
37 number of people, covering areas exclusively within the boundaries of
38 the state, and including all items must be used for the adjustments
39 for inflation in this section.

1 (8) "Direct service industrial customer" has the same meaning as
2 provided in RCW 82.16.0495.

3 (9) "Fossil fuel" means petroleum products, motor vehicle fuel,
4 special fuel, aircraft fuel, natural gas, petroleum, coal, or any
5 form of solid, liquid, or gaseous fuel derived from these products,
6 including without limitation still gas, propane, and petroleum
7 residuals including bunker fuel.

8 (10) "Motor vehicle fuel" has the same meaning as provided in RCW
9 82.38.020.

10 (11) "Natural gas" means naturally occurring mixtures of
11 hydrocarbon gases and vapors consisting principally of methane,
12 whether in gaseous or liquid form, including methane clathrate.

13 (12) "Person" means any individual, division, or instrumentality
14 of a government, business, corporation, partnership, or trust.

15 (13) "Petroleum product" has the same meaning as provided in RCW
16 82.23A.010.

17 (14) "Qualified sequestration" means sequestration qualified for
18 credit pursuant to RCW 80.70.020 or in accordance with a method
19 established by the department with reference to methods approved by
20 the United States environmental protection agency or its successor.

21 (15) "Qualifying utility" means any electric utility that is:

22 (a) An "electrical company" as defined in RCW 80.04.010;

23 (b) Operating under authority of chapter 35.92 or 87.03 RCW or
24 Title 54 RCW; or

25 (c) A profit, nonprofit, cooperative, or mutual corporation
26 operating within this state for the sale or distribution of
27 electricity to others.

28 (16) "Special fuel" has the same meaning as provided in RCW
29 82.38.020 and includes fuel that is sold or used to propel vessels.

30 (17) "Year" means the twelve-month period commencing January 1st
31 and ending December 31st unless otherwise specified.

32 NEW SECTION. **Sec. 3.** CLIMATE CHANGE ADAPTATION ACCOUNT. (1) The
33 climate change adaptation account is created in the state treasury.
34 All receipts from the tax levied and collected under section 5 of
35 this act must be deposited into the account. Money in the account may
36 only be spent after appropriation. Expenditures from the account may
37 only be used for the purposes described in this section and section
38 10 of this act.

1 (2) No more than five percent of the receipts from the tax levied
2 and collected under section 5 of this act may be appropriated to the
3 ongoing administration of the tax, the implementation of the programs
4 directed by this chapter, or other related tax and program
5 implementation and enforcement activities.

6 (3) Prior to June 30th of each fiscal year, the office of
7 financial management must determine the fund balance in the account.
8 The office of financial management must notify the department of this
9 amount, and the department must issue rebates consistent with section
10 4 of this act with funds in the account.

11 (4)(a) Any funds remaining in the account after the issuance of
12 the rebates under section 4 of this act may be used by the department
13 of commerce for carbon sequestration or greenhouse gas emission
14 reduction projects in Washington; projects that reduce emissions
15 directly connected to energy use and other activity in Washington
16 state; or projects that mitigate the effects of climate change on
17 disproportionately impacted communities, including low-income
18 communities, tribal communities, and minority communities.

19 (b) Private and public sector entities may apply to the
20 department of commerce to receive grant funding from the climate
21 change adaptation account. Applicants must demonstrate that project
22 proposals are consistent with the intent of this chapter, especially
23 the reduction of state greenhouse gas emissions consistent with state
24 limits under RCW 70.235.020, and the achievement of public benefits
25 such as lower energy costs for Washington residents, reduced health
26 impacts due to pollution, increased access to clean energy by low-
27 income and moderate-income utility customers, and increased energy
28 efficiency.

29 (c) Applicants must provide information to the department of
30 commerce on the lifetime and annual anticipated carbon sequestration
31 or greenhouse gas emission reductions associated with a project, cost
32 of the project, projected cost savings resulting from the project,
33 timeline for completion, and other information as required by the
34 department of commerce. Project funding must be prioritized based on
35 the anticipated quantifiable and verifiable amount of carbon
36 sequestration or greenhouse gas emission reduction to be achieved by
37 the project per dollar of investment from the account.

38 NEW SECTION. **Sec. 4.** REBATE ISSUANCE. (1)(a) Beginning October
39 1, 2021, and on October 1st every year thereafter, the department

1 must issue a carbon tax rebate to each eligible recipient. Beginning
2 September 15, 2021, and on September 15th of each year thereafter,
3 the department must publicly announce the aggregate and per capita
4 amount of the carbon tax rebate to be issued.

5 (b) Beginning with rebates issued in October 2026, the rebate may
6 not exceed one thousand dollars per taxpayer per year.

7 (c) The rebate must be structured such that each eligible
8 recipient is given a rebate of a uniform amount.

9 (d) The rebate may not be applied as a credit against other taxes
10 owed to the department by the eligible recipient.

11 (2) The issuance of rebates under this section may not be on a
12 first-come, first-served basis. The department may not issue rebates
13 until after it has identified all eligible recipients for the annual
14 rebate.

15 (3) By July 1, 2020, the department must contract with an entity
16 with expertise and experience in social psychology, marketing, and
17 public outreach or educational campaigns to receive advice on the
18 design and the structure the rebate mechanism by which rebates will
19 be issued to eligible recipients. The rebate must be structured and
20 designed so as to maximize salience and encourage public
21 understanding and awareness of the rebate's amount, the impact of
22 carbon pricing on carbon dioxide emission reductions, and the
23 collective responsibility of the public to reduce emissions of
24 greenhouse gases in order to address climate change. The department
25 must encourage recipients to consider using their rebate to save
26 themselves additional money while helping the environment by
27 purchasing items to improve energy efficiency, including but not
28 limited to:

29 (a) Insulation;

30 (b) Solar panels;

31 (c) A professional residential energy audit;

32 (d) Energy Star products that meet energy efficient
33 specifications set by the environmental protection agency;

34 (e) Halogen incandescent, compact fluorescent light, and light
35 emitting diode light bulbs; and

36 (f) Regular maintenance on current vehicles which can improve
37 fuel efficiency, as well as switching to more fuel efficient or
38 electric vehicles.

39 (4) (a) For the purposes of this section, "eligible recipient"
40 means any person who:

1 (i) Holds a valid driver's license; or
2 (ii) Pays for a utility service that is subject to the tax levied
3 in this chapter.

4 (b) By June 1st of every year, the department of licensing must
5 provide the department a list of all persons who hold a valid
6 driver's license. All personally identifiable information must be
7 kept confidential by all parties, at all times.

8 (c) If a person does not hold a valid driver's license, the
9 person may submit proof of payment of gas or electric utility service
10 whose product is subject to the tax in this chapter, in a manner and
11 form required by the department.

12 (5) The deposit of a rebate or any other use or access of the
13 value of the issued carbon tax rebate by a person constitutes an
14 acknowledgment by the person of the purchase of a good or service in
15 the past calendar year on which the tax in this chapter is levied.

16 NEW SECTION. **Sec. 5.** CARBON POLLUTION TAX. (1) There is levied
17 and the department must collect a tax upon:

18 (a) The carbon content of fossil fuels sold or used within this
19 state including, but not limited to, fossil fuels sold or used for
20 aviation or marine purposes; and

21 (b) The carbon content inherent in electricity consumed within
22 this state, including electricity that is:

23 (i) Generated within Washington;

24 (ii) Imported (by way of wheeling or otherwise) into Washington;

25 or

26 (iii) Acquired from the Bonneville power administration.

27 (2)(a) The tax rate is equal to ten dollars per metric ton of
28 carbon dioxide as of July 1, 2020, with annual automatic increases
29 thereafter by twenty percent each year beginning July 1st, adjusting
30 for inflation using the consumer price index.

31 (b) If the department of ecology, based on data collected by the
32 department on total electricity and fuels subject to the tax in (a)
33 of this subsection in the previous year, determines that the sources
34 of emissions covered by the tax are predicted to achieve or exceed
35 their combined share of the emissions reductions necessary for the
36 state to achieve the emissions limits established in RCW 70.235.020,
37 the tax rate established in (a) of this subsection does not increase
38 during the following July 1st. The department must make the

1 determinations required under this subsection by April 1st of each
2 year.

3 (3) The department must determine the tax in each case by
4 applying a carbon calculation as follows:

5 (a) For electricity consumed within the state, the department
6 must adopt by rule criteria for making the carbon calculation and
7 must consider, among other information, the information specified in
8 section 6 of this act;

9 (b) For fossil fuels used to refine fossil fuels, the department
10 must adopt by rule criteria for making the carbon calculation and
11 must consider, among other information, the reports filed pursuant to
12 section 8 of this act; and

13 (c) For all other fossil fuels sold or used in Washington by any
14 person, the department must adopt by rule criteria for making the
15 carbon calculation.

16 (4) The department must adopt rules and provide forms with
17 respect to the reporting of consumption of fossil fuels as follows:

18 (a) Motor vehicle fuel, in accordance with and at the intervals
19 provided in chapter 82.38 RCW;

20 (b) Special fuel, in accordance with and at the intervals
21 provided in chapter 82.38 RCW;

22 (c) Aircraft fuel, in accordance with and at the intervals
23 provided in chapter 82.42 RCW;

24 (d) Every other product derived from the refining of crude oil as
25 defined in chapter 82.23A RCW, in accordance with and at the
26 intervals provided in chapter 82.23A RCW;

27 (e) Fossil fuels not listed elsewhere in this subsection, in
28 accordance with chapters 82.08 and 82.12 RCW unless expressly
29 provided otherwise in this section; and

30 (f) Carbon dioxide emanating into the atmosphere as a result of
31 the consumption of fossil fuels in refineries must be reported by
32 each refinery operator as provided in section 8 of this act, and the
33 tax on the carbon reported thereon must be paid to the department
34 within fifteen days thereafter in accordance with regulations adopted
35 by the department.

36 (5) The department must adopt rules and provide forms with
37 respect to the reporting of electricity generated by the consumption
38 of fossil fuels as required in section 8 of this act. The department
39 and the department of commerce may cooperate to adopt a consolidated
40 form to be submitted to both departments.

1 (6) The department must adopt rules as necessary to implement the
2 carbon pollution tax provided for in this section. The department
3 must develop and make available worksheets and guidance documents
4 necessary to calculate the carbon pollution tax for various fossil
5 fuels.

6 (7) In relation to the tax on the consumption of electricity, the
7 tax imposed in this chapter is on the consumer of the electricity,
8 but if the seller is located within the state, that seller must
9 collect from the consumer the full amount of the tax. If any seller
10 fails to collect the tax imposed in this chapter or, having collected
11 the tax, fails to pay it to the department as required, the seller is
12 nevertheless liable to the state for the amount of the tax.

13 NEW SECTION. **Sec. 6.** EXEMPTIONS, PHASE-INS, AND CREDITS. (1)

14 The tax levied under section 5 of this act does not apply to:

15 (a) Fossil fuels brought into this state by means of the fuel
16 supply tank of a motor vehicle, vessel, locomotive, or aircraft;

17 (b) Aviation fuels used in a flight originating or terminating
18 outside Washington;

19 (c) Fuel that the state is prohibited from taxing under the
20 Constitution of this state or the Constitution or laws of the United
21 States; or

22 (d) Fuel intended for export outside this state. Export to a
23 federally recognized Indian tribal reservation located within this
24 state is not considered export outside this state.

25 (2) (a) The tax levied under section 5 of this act is phased in as
26 described in this subsection for:

27 (i) Diesel fuel, biodiesel fuel, or aircraft fuel used solely for
28 agricultural purposes, as those terms are defined in RCW 82.08.865.
29 This phase-in is available only if the buyer provides the seller with
30 a certificate in a form and manner prescribed by the department;

31 (ii) Fuel that is purchased for the purpose of public
32 transportation and for which the purchaser is entitled to a refund or
33 an exemption under RCW 82.38.080(1) (f) and (g) or 82.38.180(3) (b);

34 (iii) Fuel that is purchased by a private, nonprofit
35 transportation provider certified under chapter 81.66 RCW and for
36 which the purchaser is entitled to a refund or an exemption under RCW
37 82.38.080(1) (d) or 82.38.180(3) (a);

38 (iv) Fuel purchased by the Washington state ferry system for use
39 in a state-owned ferry; and

1 (v) Fuel purchased for school buses as defined in RCW 46.04.521
2 and used for the purposes set forth in RCW 46.04.521.

3 (b) The tax rate for these fuels is five percent of the rate
4 described in section 5 of this act effective July 1, 2020, ten
5 percent of the rate described in section 5 of this act effective July
6 1, 2022, and continuing to increase thereafter at five percentage
7 points per biennium until the tax rate reaches one hundred percent of
8 the rate described in section 5 of this act.

9 (3) Nothing in this chapter may be construed to exempt the state
10 or any political subdivision thereof from the payment of the tax.

11 (4) The tax is imposed only once and at the time and place of the
12 first taxable event and upon the first taxable person within this
13 state. If a person pays the tax imposed under this chapter on fuel
14 that is consumed in the generation of electricity, the electricity so
15 generated or used will not be subject to the tax imposed under this
16 chapter provided that the department receives evidence, pursuant to
17 rules adopted by the department, that the tax has been paid by the
18 person using the fuel to generate electricity.

19 (5) Persons taxable under this chapter with respect to
20 electricity consumed in this state but generated in another state are
21 allowed a credit against those taxes for any similar carbon pollution
22 taxes paid to that other state on the fossil fuels consumed in the
23 generation of that electricity. The amount of the credit may not
24 exceed the tax liability arising under this chapter with respect to
25 the consumption of that electricity in this state. Persons claiming
26 this credit must provide the department with evidence, pursuant to
27 rules adopted by the department, that the tax has been paid to
28 another state.

29 (6) The department must assign credits to the operators of energy
30 intensive trade-exposed industries specified in (a) of this
31 subsection or identified by the department of commerce in (b) of this
32 subsection until 2053. The amount of credits assigned to the operator
33 of an energy intensive trade-exposed facility must include the
34 taxable emissions attributed to a supplier of electricity or natural
35 gas to the energy intensive trade-exposed facility associated with
36 the electricity or natural gas supplied to the facility. Credits
37 assigned under this subsection may be banked, traded, or sold when
38 accompanied by written documentation prescribed in rules adopted by
39 the department, and may be submitted to the department to reduce tax
40 liability due under this chapter by any person.

1 (a) Facilities with a primary North American industry
2 classification system (NAICS) code, as those codes existed as of
3 January 1, 2019, included in the following list are energy intensive
4 trade-exposed industries under this section:

- 5 112310: Chicken egg production;
- 6 112320: Broilers and other meat type chicken production;
- 7 112330: Turkey production;
- 8 112340: Poultry hatcheries;
- 9 112390: Other poultry production;
- 10 311211: Flour milling;
- 11 311221: Wet corn milling;
- 12 311224: Soybean and other oilseed processing;
- 13 311225: Fats and oils refining and blending;
- 14 311230: Breakfast cereal manufacturing;
- 15 311411: Frozen fruit, juice, and vegetable manufacturing;
- 16 311412: Frozen specialty food manufacturing;
- 17 311421: Fruit and vegetable canning;
- 18 311422: Specialty canning;
- 19 311423: Dried and dehydrated food manufacturing;
- 20 311511: Fluid milk manufacturing;
- 21 311512: Creamery butter manufacturing;
- 22 311513: Cheese manufacturing;
- 23 311514: Dry, condensed, and evaporated dairy product
24 manufacturing;
- 25 311520: Ice cream and frozen dessert manufacturing;
- 26 311611: Animal (except poultry) slaughtering;
- 27 311612: Meat processed from carcasses;
- 28 311613: Rendering and meat byproduct processing;
- 29 311615: Poultry processing;
- 30 311710: Seafood product preparation and packaging;
- 31 311812: Commercial bakeries;
- 32 311821: Cookie and cracker manufacturing;
- 33 311824: Dry pasta, dough, and flour mixes manufacturing from
34 purchased flour;
- 35 311830: Tortilla manufacturing;
- 36 311911: Roasted nuts and peanut butter manufacturing;
- 37 311919: Other snack food manufacturing;
- 38 311930: Flavoring syrup and concentrate manufacturing;
- 39 311941: Mayonnaise, dressing, and other prepared sauce
40 manufacturing;

1 311942: Spice and extract manufacturing;
2 311991: Perishable prepared food manufacturing;
3 311999: All other miscellaneous food manufacturing;
4 312112: Bottled water manufacturing;
5 321113: Sawmills;
6 321212: Softwood veneer and plywood manufacturing;
7 322110: Pulp mills;
8 322121: Paper (except newsprint) mills;
9 322122: Newsprint mills;
10 322130: Paperboard mills;
11 324110: Petroleum refineries;
12 325180: Other basic inorganic chemical manufacturing;
13 325193: Ethyl alcohol manufacturing;
14 325199: All other basic organic chemical manufacturing;
15 325311: Nitrogenous fertilizer manufacturing;
16 327211: Flat glass manufacturing;
17 327213: Glass container manufacturing;
18 327310: Cement manufacturing;
19 327410: Lime manufacturing;
20 327420: Gypsum product manufacturing;
21 331110: Iron and steel mills;
22 331313: Alumina refining and primary aluminum production;
23 331314: Secondary smelting and alloying of aluminum;
24 331315: Aluminum sheet, plate, and foil manufacturing;
25 331318: Other aluminum rolling, drawing, and extruding;
26 334413: Semiconductor and related device manufacturing;
27 336411: Aircraft manufacturing;
28 336412: Aircraft engine and engine parts manufacturing;
29 336413: Other aircraft parts and auxiliary equipment
30 manufacturing;
31 336414: Guided missile and space vehicle manufacturing;
32 336415: Guided missile and space vehicle propulsion unit and
33 propulsion unit parts manufacturing; and
34 336419: Other guided missile and space vehicle parts and
35 auxiliary equipment manufacturing.

36 (b) By July 1, 2020, the department of commerce must adopt a rule
37 that identifies energy intensive trade-exposed facilities in addition
38 to those identified in (a) of this subsection. An operator of an
39 energy intensive trade-exposed facility identified by the department
40 of commerce under this section is to be allocated credits equal to

1 the amount of the taxable emissions under this chapter associated
2 with the facility, in a manner consistent with the credit allocation
3 method for facilities identified in (a) of this subsection.

4 (c) Relative to the taxable emissions associated with an energy
5 intensive trade-exposed facility, the amount of the credits assigned
6 must be equal to:

7 (i) Beginning in 2020, eighty percent of the taxable emissions of
8 the facility;

9 (ii) Beginning in 2025, seventy-five percent of the taxable
10 emissions of the facility;

11 (iii) Beginning in 2030, seventy percent of the taxable emissions
12 of the facility;

13 (iv) Beginning in 2035, sixty percent of the taxable emissions of
14 the facility;

15 (v) Beginning in 2045, forty percent of the taxable emissions of
16 the facility;

17 (vi) In 2046, thirty-five percent of the taxable emissions of the
18 facility;

19 (vii) In 2047, thirty percent of the taxable emissions of the
20 facility;

21 (viii) In 2048, twenty-five percent of the taxable emissions of
22 the facility;

23 (ix) In 2049, twenty percent of the taxable emissions of the
24 facility;

25 (x) In 2050, fifteen percent of the taxable emissions of the
26 facility;

27 (xi) In 2051, ten percent of the taxable emissions of the
28 facility; and

29 (xii) In 2052, five percent of the taxable emissions of the
30 facility.

31 (d) The amounts in (c) of this subsection must be measured
32 against either the average emissions from the facility over the most
33 recent three years for which emissions data are available, or, for
34 new facilities or facilities that do not report emissions under RCW
35 70.94.151 and for which no emissions information is otherwise
36 estimable, against a benchmark based on the mean emissions from
37 similarly sized facilities in similar economic sectors or producing
38 similar products, consistent with rules adopted by the department to
39 establish benchmarking protocols.

1 (e) Each energy intensive trade-exposed facility identified in
2 (a) or (b) of this subsection must submit a report to the department,
3 in a form and at time intervals adopted by rule by the department,
4 regarding the facility's consumption of fossil fuels and electricity
5 and the associated tax paid directly or indirectly by the facility on
6 the fossil fuel or electricity for the preceding twelve months.

7 (7) The department must assign offset credits, which must be
8 interchangeable with and treated equivalently to the credits issued
9 under subsection (6) of this section, to persons completing projects
10 or activities described in section 10 of this act.

11 (8) Until December 31, 2025, the operator of a facility regulated
12 under RCW 80.80.100 may elect to be subject to the tax established in
13 this chapter. In the event that the operator elects to be subject to
14 the tax, the department must assign credits treated equivalently to
15 and interchangeable with the credits issued under subsection (6) of
16 this section to the operator, in an amount equal to account for one-
17 half of the taxable emissions of the facility that would be owed each
18 year based on the average levels of emissions at the facility between
19 2012 and 2015.

20 NEW SECTION. **Sec. 7.** PROCEDURE. The provisions of chapter 82.32
21 RCW apply to this chapter. If there is a conflict between a provision
22 in this chapter and a provision of chapter 82.32 RCW, the provision
23 in this chapter controls.

24 NEW SECTION. **Sec. 8.** REPORTS BY UTILITIES, ELECTRICITY USERS,
25 AND REFINERIES. (1) For purposes of determining the tax due under
26 this chapter from electricity:

27 (a) For the import of electricity sourced from an asset
28 controlling supplier, including the Bonneville power administration
29 and others as approved by the department of ecology, the department
30 of ecology must calculate and publish on its web site no later than
31 December 1st of each year the system emissions factors for each asset
32 controlling supplier for the previous calendar year. Such system
33 emissions factors must be used to determine the carbon tax associated
34 with power sourced from asset controlling supplier systems for the
35 upcoming calendar year. Asset controlling suppliers are considered
36 specified sources of electricity;

37 (b) For the generation or import of electricity from an
38 unspecified source, the carbon dioxide inherent in that electricity

1 is equal to the default emission factor adopted by the department of
2 ecology, in consultation with the department of commerce, in a manner
3 consistent with the default emission factors for electricity
4 established for other markets in the western interconnection, or, if
5 the department of ecology has not adopted a default emission factor
6 by rule, 0.437 metric tons of carbon dioxide per megawatt-hour;

7 (c) For the generation or import of electricity from a specified
8 source, the carbon dioxide inherent in that electricity must be based
9 on the carbon calculation for that source established by the
10 department of ecology. The department of ecology, in consultation
11 with the department of commerce, must adopt by rule criteria for
12 making the carbon calculation for specified sources; and

13 (d) The department of ecology may require additional information
14 to existing reporting programs as necessary, in consultation with the
15 department of commerce, for determining the carbon calculation under
16 this chapter.

17 (2) Persons using fossil fuels to refine fossil fuels must file
18 with the department by the tenth day of each month a fuel use report
19 similar to the United States environmental protection agency facility
20 level information on greenhouse gases tool report containing their
21 fossil fuel carbon dioxide emissions and such other information as
22 the department may require for purposes of this chapter for the
23 previous calendar month together with the tax calculated thereon
24 based on tax tables adopted by the department.

25 (3) If the information required in subsection (1) or (2) of this
26 section is not available, the utility, electricity user, or refinery
27 may file an interim report based on estimates together with an
28 estimated payment based thereon and then file a final report at a
29 later date. Interest and penalties on underpayments are to be imposed
30 in accordance with chapter 82.32 RCW.

31 NEW SECTION. **Sec. 9.** REPORT BY DEPARTMENT. On or before
32 December 31st of each year from 2020 through 2030 and biennially
33 thereafter, and in compliance with RCW 43.01.036, the department must
34 submit a report to the governor and the legislature containing the
35 following with respect to the annual or biennial period ending July
36 1st immediately preceding the reporting date, annualized if in a
37 biennial report:

38 (1) The total carbon pollution tax collected during the reporting
39 period;

1 (2) The revenue foregone by the state resulting from the phase-
2 ins described in section 6 of this act, with a separate amount given
3 for section 6(2)(a) (i), (ii), (iii), (iv), and (v) of this act;

4 (3) Costs directly associated with administration of the carbon
5 pollution tax shown both in dollar amounts and as a percentage of the
6 state general fund; and

7 (4) The overall net revenue gain or loss calculated by comparison
8 of subsections (1) and (2) of this section in dollar amounts and as a
9 percentage of the state general fund.

10 NEW SECTION. **Sec. 10.** OFFSETS AND SEQUESTRATION. Credits
11 assigned under this subsection may be banked, traded, or sold when
12 accompanied by written documentation prescribed in rules adopted by
13 the department.

14 (1) The department of ecology shall adopt by rule the protocols
15 for establishing offset projects and securing offset credits that can
16 be submitted to the department to reduce tax liability under this
17 chapter by any person. Each year, a person may not submit credits
18 generated consistent with this section in an amount that exceeds
19 eight percent of the taxable emissions that year by the person.

20 (2) Life-cycle assessment protocols, physical measurements,
21 models, and other methods to measure, estimate, and verify carbon
22 sequestration and emission offsets must require that offset projects
23 result in greenhouse gas emission reductions or removals from the
24 atmosphere that are real, quantifiable, permanent, verifiable, and
25 enforceable, and that would occur in addition to other existing
26 requirements. The offset protocols must, where available, use
27 established criteria, methods to determine baseline assumptions,
28 emission factors, and monitoring methods. The protocols must:

29 (a) Specify the amount of greenhouse gas emission reductions and
30 removals achieved by the offset project type, in relation to a
31 project baseline that estimates business-as-usual performance or
32 practices for the offset project type, and accounting for any
33 uncertainty in quantification protocols;

34 (b) Ensure greenhouse gas emission reductions and removals are
35 durable as defined by the particular offset protocol, including the
36 length of time for which credits can be earned or that a carbon
37 sequestration strategy can store carbon; and

38 (c) Specify the data collection and monitoring procedures
39 required for each offset or sequestration project type.

1 (3) The department of ecology shall coordinate the review,
2 development, and approval of offset protocols with any jurisdiction
3 that has in place a greenhouse gas emissions reduction program or tax
4 that allows for substantially similar offsets credits or allowances.

5 (4) Until January 1, 2024, an offset credit may only be created
6 for the following offset types and only if offset protocols have been
7 adopted by rule by the department of ecology:

8 (a) Projects that prevent greenhouse gas emissions through
9 anaerobic digestion of organic wastes;

10 (b) Projects that reduce emissions of ozone depleting substances
11 or their substitutes;

12 (c) Projects that capture methane from mining and other resource
13 extraction and transmission projects; and

14 (d) Projects that sequester biogenic or atmospheric carbon
15 through forestry and agricultural practices. In reviewing,
16 developing, and approving offset protocols for forestry and
17 agricultural practices, the department of ecology must, in
18 consultation with the department of natural resources and the
19 department of agriculture, develop protocols unique to Washington and
20 that accredit the widest possible range of forestry and agriculture
21 projects that sequester carbon.

22 (5) An offset project proponent must apply to register a project
23 with the department of ecology within one year of commencing the
24 project.

25 (6) The department of ecology shall submit a report to the
26 legislature by September 1, 2023, that describes any decision of the
27 department to expand or modify the eligible project categories
28 starting in 2024.

29 (7) The department of ecology shall adopt rules setting out the
30 criteria and procedures for the recognition of offset credits. The
31 rules must incorporate the following criteria and limitations:

32 (a) The offset project proponent must be registered to conduct
33 business in Washington, or have a designated agent legally qualified
34 to receive service of process, and is responsible for all statements
35 and information required for recognition of the credit;

36 (b) A single offset credit must represent a reduction or removal
37 of one metric ton of carbon dioxide equivalent that results from a
38 clearly identified action or decision. A credit:

39 (i) May be created only for an offset project or activity that
40 commenced on or after January 1, 2020;

1 (ii) May be awarded only for the portion of the emission
2 reductions or removals that would not have occurred under the project
3 baseline;

4 (iii) Must not derive from emissions otherwise subject to a
5 compliance obligation under the program;

6 (iv) Must result from actions that are not already required by
7 law, regulation, court order, or legally binding agreement; and

8 (v) Is not allowed if the offset credit has been claimed in any
9 other external greenhouse gas emission trading program;

10 (c) The geographic boundary for an offset project must be within
11 the United States, Canada, or Mexico;

12 (d) The offset project's greenhouse gas reduction or removal must
13 be quantified and verified by an independent third-party verifier
14 accredited by the department; and

15 (e) Offset credits generated from offset projects are not valid
16 until approved by the department of ecology.

17 (8) The offset credit must be registered and tracked with the
18 department of ecology.

19 (9) All information on offset protocols, projects, and credits
20 must be made public and posted on the department of ecology's web
21 site.

22 (10) The department of ecology must invalidate offset credits if
23 they are found to be fraudulent through a process adopted by rule by
24 the department of ecology. The offset credit buyer is liable if the
25 offset credits are invalidated. If some or all of the offset credits
26 are invalidated, a person with tax liability under this chapter must,
27 within six months of that invalidation, pay the tax owed under this
28 chapter for which invalid offset credits had been used.

29 NEW SECTION. **Sec. 11.** RULE MAKING. (1) The directors of the
30 department, the department of ecology, and of the department of
31 licensing must adopt such rules and regulations as necessary for the
32 implementation and proper administration of this chapter and may
33 coordinate concerning the process, timelines, and documentation
34 related to such rule making, as necessary.

35 (2) The department, the department of ecology, and the department
36 of licensing may commence administrative work, including rule making,
37 necessary to implement this chapter, beginning July 1, 2019.

1 NEW SECTION. **Sec. 12.** This chapter may be known and cited as
2 the carbon pollution tax and rebate act.

3 NEW SECTION. **Sec. 13.** (1) As of the effective date of this
4 section, chapter 173-442 WAC and associated amendments to chapter
5 173-441 WAC previously adopted by the department of ecology may not
6 be enforced by the department of ecology. If the tax imposed under
7 this chapter is invalidated, the department of ecology is directed to
8 enforce chapter 173-442 WAC and associated amendments to chapter
9 173-441 WAC.

10 (2) As of the effective date of this section, a state agency may
11 not:

12 (a) File a notice of rule making under chapter 34.05 RCW for a
13 rule regarding a fuel standard based upon or defined by the carbon
14 intensity of fuel, including a low carbon fuel standard; or

15 (b) Otherwise enact, adopt, order, or in any way implement a fuel
16 standard based upon or defined by the carbon intensity of fuel,
17 including a low carbon fuel standard or clean fuel standard.

18 (3) (a) The tax imposed under this chapter may not be imposed if
19 the United States congress establishes a tax on carbon dioxide or
20 greenhouse gas emissions in an amount that equals or exceeds the rate
21 for a given year under section 5 of this act and that covers all of
22 the sources and type of emissions subject to the tax.

23 (b) If the United States congress establishes a tax on carbon
24 dioxide or greenhouse gas emissions:

25 (i) In an amount that does not exceed the rate of the tax for a
26 given year under section 5 of this act, the rate of the tax is
27 reduced by the amount of the rate of the federal tax; and

28 (ii) That does not cover all of the sources or types of emissions
29 covered under this chapter, the tax under this chapter is imposed
30 only on the sources or types of emissions not covered by the federal
31 tax.

32 NEW SECTION. **Sec. 14.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

36 NEW SECTION. **Sec. 15.** The provisions of RCW 82.32.805 and
37 82.32.808 do not apply to this act.

1 NEW SECTION. **Sec. 16.** Sections 1 through 13 of this act
2 constitute a new chapter in Title 82 RCW.

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