

Proposed 2nd Substitute House Bill 1091

By Representative Fitzgibbon

Original Bill: Reducing greenhouse gas emissions by reducing the carbon intensity of transportation fuel.

Proposed 2nd Substitute House Bill (H-0820.1/21) compared to the Substitute House Bill (H-0434.2):

- Exempts Clean Fuels Program (Program) credit transactions from the state Business & Occupation Tax, and provides that this exemption is not subject to tax preference performance statement requirements;
- Specifies that credits for zero emission vehicle infrastructure must be allotted on the basis of capacity.
- Specifies that electricity with a carbon intensity above zero is eligible to generate credits if its carbon intensity is below the applicable Ecology-adopted carbon intensity reduction standard;
- Delays the Ecology-contracted analysis forecasting the Program's impact on gasoline and diesel prices from December 2021 to July, 2022;
- Requires, rather than authorizes, Ecology to adopt rules governing utility expenditures of Program revenues including through the Clean Fuels Reward Program, and directs Ecology to consult with the Utilities and Transportation Commission in adopting rules; and
- Adds a Null and Void Clause;

<i>Committee:</i>	<i>House Appropriations Committee</i>
<i>Staff:</i>	<i>Jacob Lipson (786-7196), Office of Program Research</i>
<i>Date:</i>	<i>February 8, 2021</i>
<i>Draft:</i>	<i>H-0820.1/21</i>

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-0820.1/21

ATTY/TYPIST: ML:lel

BRIEF DESCRIPTION: Reducing greenhouse gas emissions by reducing the carbon intensity of transportation fuel.

Proposed 2nd Substitute House Bill 1091

By Representative Fitzgibbon

1 AN ACT Relating to reducing greenhouse gas emissions by reducing
2 the carbon intensity of transportation fuel; amending RCW 46.17.365,
3 46.25.100, 46.20.202, 46.25.052, 46.25.060, 70A.15.3150, 70A.15.3160,
4 19.112.110, and 19.112.120; adding a new section to chapter 82.04
5 RCW; adding a new chapter to Title 70A RCW; creating a new section;
6 prescribing penalties; and providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that rapid
9 innovations in low carbon transportation technologies, including
10 electric vehicles and clean transportation fuels, are at the
11 threshold of widespread commercial deployment. In order to help
12 prompt the use of clean fuels, other states have successfully
13 implemented programs that reduce the carbon intensity of their
14 transportation fuels. California and Oregon have both implemented low
15 carbon fuel standards that are similar to the program created in this
16 act; after enacting their programs, neither state has experienced
17 disruptions to fuel markets or significant impacts to the costs of
18 transportation fuels, and both states have experienced biofuel sector
19 growth and have successfully sited large biofuel projects that had
20 originally been planned for Washington. Washington state has
21 extensively studied the potential impact of a clean fuels program,

1 and most projections show that a low carbon fuel standard would
2 decrease greenhouse gas and conventional air pollutant emissions,
3 while positively impacting the state's economy.

4 (2) The legislature further finds that the health and welfare of
5 the people of the state of Washington is threatened by the prospect
6 of crumbling or swamped coastlines, rising water, and more intense
7 forest fires caused by higher temperatures and related droughts, all
8 of which are intensified and made more frequent by the volume of
9 greenhouse gas emissions. As of 2017, the transportation sector
10 contributes 45 percent of Washington's greenhouse gas emissions, and
11 the legislature's interest in the life cycle of the fuels used in the
12 state arises from a concern for the effects of the production and use
13 of these fuels on Washington's environment and public health,
14 including its air quality, snowpack, and coastline.

15 (3) Therefore, it is the intent of the legislature to support the
16 deployment of clean transportation fuel technologies through a
17 carefully designed program that reduces the carbon intensity of fuel
18 used in Washington, in order to:

19 (a) Reduce levels of conventional air pollutants from diesel and
20 gasoline that are harmful to public health;

21 (b) Reduce greenhouse gas emissions associated with
22 transportation fuels, which are the state's largest source of
23 greenhouse gas emissions; and

24 (c) Create jobs and spur economic development based on innovative
25 clean fuel technologies.

26 NEW SECTION. **Sec. 2.** The definitions in this section apply
27 throughout this chapter unless the context clearly indicates
28 otherwise.

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

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

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

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

1 (5) "Credit" means a unit of measure generated when a
2 transportation fuel with a carbon intensity that is less than the
3 applicable standard adopted by the department under section 3 of this
4 act is produced, imported, or dispensed for use in Washington, such
5 that one credit is equal to one metric ton of carbon dioxide
6 equivalents.

7 (6) "Deficit" means a unit of measure generated when a
8 transportation fuel with a carbon intensity that is greater than the
9 applicable standard adopted by the department under section 3 of this
10 act is produced, imported, or dispensed for use in Washington, such
11 that one deficit is equal to one metric ton of carbon dioxide
12 equivalents.

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

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

16 (9) (a) "Green hydrogen" means hydrogen produced using: (i)
17 Electricity that meets the carbon neutrality standard of RCW
18 19.405.040 by 2030 and carbon-free standard of RCW 19.405.040 by 2045
19 for the energy input into the production process; and (ii) renewable
20 resources for the source of the hydrogen.

21 (b) "Green hydrogen" includes renewable hydrogen.

22 (10) "Greenhouse gas" has the same meaning as defined in RCW
23 70A.45.010.

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

29 (12) "Motor vehicle" has the same meaning as defined in RCW
30 46.04.320.

31 (13) "Price" means the amount of payment or compensation provided
32 as consideration for a specified quantity of transportation fuel by a
33 consumer or end user of the transportation fuel.

34 (14) "Renewable hydrogen" means hydrogen produced using renewable
35 resources both as the source for the hydrogen and the source for the
36 energy input into the production process.

37 (15) "Renewable resource" means: (a) Water; (b) wind; (c) solar
38 energy; (d) geothermal energy; (e) renewable natural gas as defined
39 in RCW 54.04.190; (f) renewable hydrogen; (g) wave, ocean, or tidal
40 power; (h) biodiesel fuel that is not derived from crops raised on

land cleared from old growth or first growth forests where the clearing occurred after December 7, 2006; or (i) biomass energy.

(16)(a) "Tactical support equipment" means equipment using a portable engine, including turbines, that meets military specifications, owned by the United States military services or its allies, and that is used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(b) "Tactical support equipment" includes, but is not limited to, engines associated with portable generators, aircraft start carts, heaters, and lighting carts.

(17) "Transportation fuel" means electricity and any liquid or gaseous fuel sold, supplied, offered for sale, or used for the propulsion of a motor vehicle or that is intended for use for transportation purposes.

NEW SECTION. **Sec. 3.** (1) The department shall adopt rules that establish standards that reduce carbon intensity in transportation fuels used in Washington. The standards established by the rules must be based on the carbon intensity of gasoline and gasoline substitutes and the carbon intensity of diesel and diesel substitutes. The standards:

(a) Must reduce the overall, aggregate carbon intensity of transportation fuels used in Washington;

(b) May only require carbon intensity reductions at the aggregate level of all transportation fuels and may not require a reduction in carbon intensity to be achieved by any individual type of transportation fuel;

(c) Must assign a compliance obligation to fuels whose carbon intensity exceeds the standards adopted by the department, consistent with the requirements of section 4 of this act; and

(d) Must assign credits that can be used to satisfy or offset compliance obligations to fuels whose carbon intensity is below the standards adopted by the department and that elect to participate in the program, consistent with the requirements of section 4 of this act.

(2)(a) The rules adopted under this section must reduce the greenhouse gas emissions attributable to each unit of the fuels to 10 percent below 2017 levels by 2028 and 20 percent below 2017 levels by 2035.

(b) The rules must establish a start date for the clean fuels program of no later than January 1, 2023.

(c) By December 31, 2031, the department must adopt updated rules that reduce the greenhouse gas emissions attributable to each unit of transportation fuels applicable to each year through 2050. The department must adopt rules that set the greenhouse gas emissions attributable to each unit of transportation fuel in the year 2050 so that total emissions from transportation sources in 2050 are consistent with the state achieving the emissions limits established in RCW 70A.45.020.

(3) Transportation fuels exported from Washington are not subject to the greenhouse gas emissions reduction requirements in this section.

(4) To the extent the requirements of this chapter conflict with the requirements of chapter 19.112 RCW, the requirements of this chapter prevail.

NEW SECTION. **Sec. 4.** The rules adopted by the department to achieve the greenhouse gas emissions reductions per unit of fuel energy specified in section 3 of this act must include, but are not limited to, the following:

(1) Standards for greenhouse gas emissions attributable to the transportation fuels throughout their life cycles, including but not limited to emissions from the production, storage, transportation, and combustion of transportation fuels and from changes in land use associated with transportation fuels and any permanent greenhouse gas sequestration activities.

(a) The rules adopted by the department under this subsection (1) may:

(i) Include provisions to address the efficiency of a fuel as used in a powertrain as compared to a reference fuel;

(ii) Consider carbon intensity calculations for transportation fuels developed by national laboratories or used by similar programs in other states; and

(iii) Consider changes in land use and any permanent greenhouse gas sequestration activities associated with the production of any type of transportation fuel.

(b) The rules adopted by the department under this subsection (1) must:

1 (i) Neutrally consider the life-cycle emissions associated with
2 transportation fuels with respect to the political jurisdiction in
3 which the fuels originated and may not discriminate against fuels on
4 the basis of having originated in another state or jurisdiction.
5 Nothing in this subsection may be construed to prohibit inclusion or
6 assessment of emissions related to fuel production, storage,
7 transportation, or combustion or associated changes in land use in
8 determining the carbon intensity of a fuel;

9 (ii) Measure greenhouse gas emissions associated with electricity
10 and green hydrogen based on a mix of generation resources specific to
11 each electric utility participating in the clean fuels program. The
12 department may apply an asset-controlling supplier emission factor
13 certified or approved by a similar program to reduce the greenhouse
14 gas emissions associated with transportation fuels in another state;

15 (iii) Include mechanisms for certifying electricity that has a
16 carbon intensity of zero. This electricity must include, at minimum,
17 electricity:

18 (A) For which a renewable energy credit or other environmental
19 attribute has been retired or used only for purposes of the clean
20 fuels program; and

21 (B) Produced using a zero emission resource including, but not
22 limited to, solar, wind, geothermal, or the industrial combustion of
23 biomass consistent with RCW 70A.45.020(3), that is directly supplied
24 as a transportation fuel by the generator of the electricity;

25 (iv) Allow the generation of credits associated with electricity
26 with a carbon intensity lower than that of standard adopted by the
27 department. The department may not require electricity to have a
28 carbon intensity of zero in order to be eligible to generate credits
29 from use as a transportation fuel; and

30 (v) Include procedures for setting and adjusting the amounts of
31 greenhouse gas emissions per unit of fuel energy that is assigned to
32 transportation fuels under this subsection.

33 (c) If the department determines that it is necessary for
34 purposes of accurately measuring greenhouse gas emissions associated
35 with transportation fuels, the department may require transportation
36 fuel suppliers to submit data or information to be used for purposes
37 of calculating greenhouse gas emissions that is different from or
38 additional to the greenhouse gas emissions data reported under RCW
39 70A.15.2200(5)(a)(iii).

1 (d) If the department determines that it is necessary for
2 purposes of accurately measuring greenhouse gas emissions associated
3 with electricity supplied to retail customers or green hydrogen
4 production facilities by an electric utility, the department may
5 require electric utilities participating in the clean fuels program
6 to submit data or information to be used for purposes of calculating
7 greenhouse gas emissions that is different from or additional to the
8 fuel mix disclosure information submitted under chapter 19.29A RCW.
9 To the extent practicable, rules adopted by the department may allow
10 data requested of utilities to be submitted in a form and manner
11 consistent with other required state or federal data submissions;

12 (2) Provisions allowing for the achievement of limits on the
13 greenhouse gas emissions intensity of transportation fuels in section
14 3 of this act to be achieved by any combination of credit generating
15 activities capable of meeting such standards, consistent with the
16 limitations of subsection (3)(a) of this section. Where such
17 provisions would not produce results counter to the emission
18 reduction goals of the program or prove administratively burdensome
19 for the department, the rules should provide each participant in the
20 clean fuels program with the opportunity to demonstrate appropriate
21 carbon intensity values taking into account both emissions from
22 production facilities and elsewhere in the production cycle,
23 including changes in land use and permanent greenhouse gas
24 sequestration activities;

25 (3)(a) Methods for assigning compliance obligations and methods
26 for tracking tradable credits. The department may assign the
27 generation of a credit when a fuel with associated life-cycle
28 greenhouse gas emissions that are lower than the applicable per-unit
29 standard adopted by the department under section 3 of this act is
30 produced, imported, or dispensed for use in Washington, or when
31 specified activities are undertaken that support the reduction of
32 greenhouse gas emissions associated with transportation in
33 Washington. Transportation fuels with associated greenhouse gas
34 emissions exceeding 80 percent of the 2017 levels established in
35 section 3 of this act are not eligible to generate credits under the
36 clean fuels program;

37 (b) Mechanisms that allow credits to be traded and to be banked
38 for future compliance periods; and

39 (c) Procedures for verifying the validity of credits and deficits
40 generated under the clean fuels program;

1 (4) Mechanisms to elect to participate in the clean fuels program
2 for persons associated with the supply chains of transportation fuels
3 that are eligible to generate credits consistent with subsection (3)
4 of this section, including producers, importers, distributors, users,
5 or retailers of such fuels;

6 (5) Mechanisms for persons associated with the supply chains of
7 transportation fuels that are used for purposes that are exempt from
8 the clean fuels program compliance obligations including, but not
9 limited to, fuels used by aircraft, vessels, railroad locomotives,
10 and other exempt fuels specified in section 5 of this act, to elect
11 to participate in the clean fuels program by earning credits for the
12 production, import, distribution, use, or retail of exempt fuels with
13 associated life-cycle greenhouse gas emissions lower than the per-
14 unit standard established in section 3 of this act;

15 (6) Mechanisms that allow for the assignment of credits to an
16 electric utility for electricity used, at minimum, for residential
17 electric vehicle charging or fueling;

18 (7) Cost containment mechanisms.

19 (a) Cost containment mechanisms may include, but are not limited
20 to:

21 (i) A credit clearance market designed to make credits available
22 for sale to regulated persons after the conclusion of a compliance
23 period at a department-determined price;

24 (ii) Similar procedures that provide a means of compliance with
25 the clean fuels program requirements in the event that a regulated
26 person has not been able to acquire sufficient volumes of credits at
27 the end of a compliance period; or

28 (iii) Similar procedures that ensure that credit prices do not
29 significantly exceed credit prices in other jurisdictions that have
30 adopted similar programs to reduce the carbon intensity of
31 transportation fuels.

32 (b) Any cost containment mechanisms must be designed to provide
33 financial disincentive for regulated persons to rely on the cost
34 containment mechanism for purposes of program compliance instead of
35 seeking to generate or acquire sufficient credits under the program;

36 (8) Authority for the department to designate an entity to
37 aggregate and use unclaimed credits associated with persons that
38 elect not to participate in the clean fuels program under subsection
39 (4) of this section.

1 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and
2 4 of this act must include exemptions for, at minimum, the following
3 transportation fuels:

4 (a) Fuels used in volumes below thresholds adopted by the
5 department;

6 (b) Fuels used for the propulsion of all aircraft, vessels, and
7 railroad locomotives; and

8 (c) Fuels used for the operation of military tactical vehicles
9 and tactical support equipment.

10 (2) (a) The rules adopted under sections 3 and 4 of this act must
11 exempt the following transportation fuels from greenhouse gas
12 emission intensity reduction requirements until January 1, 2028:

13 (i) Special fuel used off-road in vehicles used primarily to
14 transport logs;

15 (ii) Dyed special fuel used in vehicles that are not designed
16 primarily to transport persons or property, that are not designed to
17 be primarily operated on highways, and that are used primarily for
18 construction work including, but not limited to, mining and timber
19 harvest operations; and

20 (iii) Dyed special fuel used for agricultural purposes exempt
21 from chapter 82.38 RCW.

22 (b) Prior to January 1, 2028, fuels identified in this subsection
23 (2) are eligible to generate credits, consistent with subsection (5)
24 of this section. Beginning January 1, 2028, the fuels identified in
25 this subsection (2) are subject to the greenhouse gas emission
26 intensity reduction requirements applicable to transportation fuels
27 specified in section 3 of this act.

28 (3) The department may adopt rules to specify the standards for
29 persons to qualify for the exemptions provided in this section. The
30 department may implement the exemptions under subsection (2) of this
31 section to align with the implementation of exemptions for similar
32 fuels exempt from chapter 82.38 RCW.

33 (4) The rules adopted under sections 3 and 4 of this act may
34 include exemptions in addition to those described in subsections (1)
35 and (2) of this section, but only if such exemptions are necessary,
36 with respect to the relationship between the program and similar
37 greenhouse gas emissions requirements or low carbon fuel standards,
38 in order to avoid:

39 (a) Mismatched incentives across programs;

40 (b) Fuel shifting between markets; or

(c) Other results that are counter to the intent of this chapter.

(5) Nothing in this chapter precludes the department from adopting rules under sections 3 and 4 of this act that allow the generation of credits associated with electric or alternative transportation infrastructure that existed prior to the effective date of this section or to the start date of program requirements.

NEW SECTION. **Sec. 6.** (1) The rules adopted under sections 3 and 4 of this act may allow the generation of credits from activities that support the reduction of greenhouse gas emissions associated with transportation in Washington, including but not limited to:

(a) Carbon capture and sequestration projects, including but not limited to:

(i) Innovative crude oil production projects that include carbon capture and sequestration;

(ii) Refinery investments in carbon capture and sequestration; or

(iii) Direct air capture projects;

(b) The fueling of battery or fuel cell electric vehicles by a commercial entity that is not an electric utility, which may include, but is not limited to, the fueling of vehicles using electricity certified by the department to have a carbon intensity of zero; and

(c) The use of smart vehicle charging technology that results in the fueling of an electric vehicle during times when the carbon intensity of grid electricity is comparatively low.

(2)(a) The rules adopted under sections 3 and 4 of this act must allow the generation of credits based on capacity for zero emission vehicle refueling infrastructure, including DC fast charging infrastructure and hydrogen refueling infrastructure.

(b) The rules adopted under sections 3 and 4 of this act may allow the generation of credits from the provision of low-carbon fuel infrastructure not specified in (a) of this subsection.

(3) The rules adopted by the department may establish limits for the number of credits that may be earned each year by persons participating in the program for some or all of the activities specified in subsections (1) and (2) of this section. Any limits established under this subsection must take into consideration the return on investment required in order for an activity specified in subsection (2) of this section to be financially viable.

1 NEW SECTION. **Sec. 7.** (1) Except where otherwise provided in
2 this chapter, the department shall seek to adopt rules that are
3 harmonized with the regulatory standards, exemptions, reporting
4 obligations, and other clean fuels program compliance requirements of
5 other states that:

6 (a) Have adopted low carbon fuel standards or similar greenhouse
7 gas emissions requirements applicable specifically to transportation
8 fuels; and

9 (b)(i) Supply, or have the potential to supply, significant
10 quantities of transportation fuel to Washington markets; or

11 (ii) To which Washington supplies, or has the potential to
12 supply, significant quantities of transportation fuel.

13 (2) The department must establish and periodically consult a
14 stakeholder advisory panel, including representatives of forestland
15 and agricultural landowners, for purposes of soliciting input on how
16 to best incentivize and allot credits for the sequestration of
17 greenhouse gases through activities on agricultural and forestlands
18 in a manner that is consistent with the goals and requirements of
19 this chapter.

20 NEW SECTION. **Sec. 8.** (1)(a) Each producer or importer of any
21 amount of a transportation fuel that is ineligible to generate
22 credits consistent with the requirements of section 4(3) of this act
23 must register with the department.

24 (b) Producers, importers, distributors, users, and retailers of
25 transportation fuels that are eligible to generate credits consistent
26 with section 4(3) of this act must register with the department if
27 they elect to participate in the clean fuels program.

28 (c) Other persons must register with the department to generate
29 credits from other activities that support the reduction of
30 greenhouse gas emissions associated with transportation in
31 Washington.

32 (2) Each transaction transferring ownership of transportation
33 fuels for which clean fuels program participation is mandated must be
34 accompanied by documentation, in a format approved by the department,
35 that assigns the clean fuels program compliance responsibility
36 associated with the fuels, including the assignment of associated
37 credits. The department may also require documentation assigning
38 clean fuels program compliance responsibility associated with fuels
39 for which program participation has been elected.

(3) The department may adopt rules requiring the periodic reporting of information to the department by persons associated with the supply chains of transportation fuels participating in the clean fuels program. To the extent practicable, the rules must establish reporting procedures and timelines that are consistent with similar programs in other states that reduce the greenhouse gas emission intensity of transportation fuel and with procedures and timelines of state programs requiring similar information to be reported by regulated parties, including electric utilities.

(4) RCW 70A.15.2510 applies to records or information submitted to the department under this chapter.

NEW SECTION. **Sec. 9.** (1)(a) Fifty percent of the revenues generated by an electric utility from credits earned from the electricity supplied to retail customers by an electric utility under the clean fuels program must be expended by the electric utility on transportation electrification projects, which may include projects to support the production and provision of renewable and green hydrogen as a transportation fuel or used in the production of a transportation fuel.

(b) Sixty percent of the revenues described in (a) of this subsection, or 30 percent of the revenues generated by an electric utility from credits earned from the electricity supplied to retail customers by an electric utility under the clean fuels program, must be expended by the electric utility on transportation electrification projects, which may include projects to support the production and provision of renewable and green hydrogen as a transportation fuel or used in the production of a transportation fuel, located within or directly benefiting a federally designated nonattainment or maintenance area, a federally designated nonattainment or maintenance area that existed as of the effective date of this section, a disproportionately impacted community identified by the department of health, or an area designated by the department as being at risk of nonattainment, if such a nonattainment or maintenance area or disproportionately impacted community is within the service area of the utility.

(2) For the 50 percent of revenues not subject to the requirements of subsection (1) of this section, the department, in consultation with the utilities and transportation commission, must adopt requirements for the expenditure of revenues from credits

1 earned from the electricity supplied to retail customers by an
2 electric utility under the clean fuels program. The department must
3 require that at least some portion of the 50 percent of revenues
4 subject to this subsection be used by each electric utility for the
5 establishment of a clean fuel reward program that provides a price
6 reduction on new electric vehicle purchases or leases in Washington.
7 Any requirements for the expenditure of revenues from credits earned
8 from the electricity supplied to retail customers by an electric
9 utility under the clean fuels program must be developed in
10 consultation with electric utilities.

11 (3) Electric utilities that participate in the clean fuels
12 program must annually provide information to the department
13 accounting for and briefly describing all expenditures of revenues
14 generated from credits earned under the clean fuels program.

15 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2025, and each May
16 1st thereafter, the department must post a report on the department's
17 website that includes the following information regarding the
18 previous calendar year of clean fuels program activities:

19 (a) The program-wide number of credits and deficits generated by
20 entities participating in the clean fuels program;

21 (b) The volumes of each transportation fuel and average price per
22 credit used to comply with the requirements of the clean fuels
23 program;

24 (c) The best estimate or range in probable costs or cost savings
25 attributable to the clean fuels program per gallon of gasoline and
26 per gallon of diesel, as determined by an independent consultant
27 whose services the department has contracted. The estimate or range
28 in probable costs or cost savings from the independent consultant
29 must be announced in a press release to the news media at the time
30 that the report under this subsection (1) is posted to the
31 department's website, and must be simultaneously reported to the
32 transportation committees of the house of representatives and the
33 senate;

34 (d) The total greenhouse gas emissions reductions attributable to
35 the clean fuels program; and

36 (e) The range in the probable cost per ton of greenhouse gas
37 emissions reductions attributable to fuels supported by the clean
38 fuels program, taking into account the information in (c) and (d) of
39 this subsection.

(2) Nothing in this section prohibits the department from posting information described in subsection (1) of this section on a more frequent basis than once per year.

(3) By May 1, 2025, and each May 1st thereafter, the department must submit the report required under subsection (1) of this section to the appropriate committees of the house of representatives and senate.

(4) The department must contract for an ex ante independent analysis of the information specified in subsection (1)(c) of this section for each year of the program through 2035. The analysis required in this subsection must be completed and submitted to the appropriate committees of the legislature by July 1, 2022.

NEW SECTION. **Sec. 11.** (1) In consultation with the department and the department of agriculture, the department of commerce must develop a periodic fuel supply forecast to project the availability of fuels necessary for compliance with clean fuels program requirements.

(2) Based upon the estimates in subsection (3) of this section, the fuel supply forecast must include a prediction by the department of commerce regarding whether sufficient credits will be available to comply with clean fuels program requirements.

(3) The fuel supply forecast for each upcoming compliance period must include, but is not limited to, the following:

(a) An estimate of the volume of each transportation fuel available in Washington;

(b) An estimate of the total banked credits and deficits from previous compliance periods; and

(c) An estimate of the number of credits needed to meet the applicable clean fuels program requirements during the forecasted compliance period.

(4) The department of commerce must finalize a fuel supply forecast for an upcoming compliance period by no later than 90 days prior to the start of the compliance period.

NEW SECTION. **Sec. 12.** (1) The department may require that persons that are required or elect to register or report under this chapter pay a fee. If the department elects to require program participants to pay a fee, the department must, after an opportunity for public review and comment, adopt rules to establish a process to

determine the payment schedule and the amount of the fee charged. The amount of the fee must be set so as to equal but not exceed the projected direct and indirect costs to the department for developing and implementing the program and the projected direct and indirect costs to the department of commerce to carry out its responsibilities under section 11 of this act. The department and the department of commerce must prepare a biennial workload analysis and provide an opportunity for public review of and comment on the workload analysis. The department shall enter into an interagency agreement with the department of commerce to implement this section.

(2) The clean fuels program account is created in the state treasury. All receipts from fees and penalties received under the program created in this chapter must be deposited into the account. Moneys in the account may be spent only after appropriation. The department may only use expenditures from the account for carrying out the program created in this chapter.

NEW SECTION. **Sec. 13.** (1) By December 1, 2029, the joint legislative audit and review committee must analyze the impacts of the initial five years of clean fuels program implementation and must submit a report summarizing the analysis to the legislature. The analysis must include, at minimum, the following components:

(a) Costs and benefits, including environmental and public health costs and benefits, associated with this chapter for categories of persons participating in the clean fuels program or that are most impacted by air pollution, as defined in consultation with the departments of ecology and health and as measured on a census tract scale. This component of the analysis must, at minimum, assess the costs and benefits of changes in the following metrics since the start of the program:

(i) Levels of greenhouse gas emissions and criteria air pollutants for which the United States environmental protection agency has established national ambient air quality standards;

(ii) Fuel prices; and

(iii) Total employment in categories of industries generating credits or deficits. The categories of industries assessed must include but are not limited to electric utilities, oil refineries, and other industries involved in the production of high carbon fuels, industries involved in the delivery and sale of high carbon fuels,

1 biofuel refineries, and industries involved in the delivery and sale
2 of low carbon fuels;

3 (b) An evaluation of the information calculated and provided by
4 the department under section 10(1) of this act; and

5 (c) A summary of the estimated total statewide costs and benefits
6 attributable to the clean fuels program, including state agency
7 administrative costs and regulated entity compliance costs. For
8 purposes of calculating the benefits of the program, the summary may
9 rely, in part, on a constant value of the social costs attributable
10 to greenhouse gas emissions, as identified in contemporary
11 internationally accepted estimates of such global social cost. This
12 summary must include an estimate of the total statewide costs of the
13 program per ton of greenhouse gas emissions reductions achieved by
14 the clean fuels program.

15 (2) This section expires June 30, 2030.

16 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.04
17 RCW to read as follows:

18 (1) This chapter does not apply to amounts received from the
19 generation, purchase, sale, transfer, or retirement of credits under
20 chapter 70A.--- RCW (the new chapter created in section 24 of this
21 act).

22 (2) The provisions of RCW 82.32.805 and 82.32.808 do not apply
23 to subsection (1) of this section.

24 **Sec. 15.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each
25 amended to read as follows:

26 (1) A person applying for a motor vehicle registration and paying
27 the vehicle license fee required in RCW 46.17.350(1) (a), (d), (e),
28 (h), (j), (n), and (o) shall pay a motor vehicle weight fee in
29 addition to all other fees and taxes required by law.

30 (a) For vehicle registrations that are due or become due before
31 July 1, 2016, the motor vehicle weight fee:

32 (i) Must be based on the motor vehicle scale weight;

33 (ii) Is the difference determined by subtracting the vehicle
34 license fee required in RCW 46.17.350 from the license fee in
35 Schedule B of RCW 46.17.355, plus two dollars; and

36 (iii) Must be distributed under RCW 46.68.415.

37 (b) For vehicle registrations that are due or become due on or
38 after July 1, 2016, the motor vehicle weight fee:

(i) Must be based on the motor vehicle scale weight as follows:

WEIGHT	FEE
4,000 pounds	\$ 25.00
6,000 pounds	\$ 45.00
8,000 pounds	\$ 65.00
16,000 pounds and over	\$ 72.00;

(ii) If the resultant motor vehicle scale weight is not listed in the table provided in (b)(i) of this subsection, must be increased to the next highest weight; and

(iii) Must be distributed under RCW 46.68.415 unless prior to July 1, 2023, the actions described in (b)(iii)(A) or (B) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in this subsection must be distributed to the connecting Washington account created under RCW 46.68.395.

(A) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(B) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(C) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(2) A person applying for a motor home vehicle registration shall, in lieu of the motor vehicle weight fee required in subsection (1) of this section, pay a motor home vehicle weight fee of seventy-five dollars in addition to all other fees and taxes required by law. The motor home vehicle weight fee must be distributed under RCW 46.68.415.

(3) Beginning July 1, 2022, in addition to the motor vehicle weight fee as provided in subsection (1) of this section, the

1 department, county auditor or other agent, or subagent appointed by
2 the director must require an applicant to pay an additional weight
3 fee of ten dollars, which must be distributed to the multimodal
4 transportation account under RCW 47.66.070 unless prior to July 1,
5 2023, the actions described in (a) or (b) of this subsection occur,
6 in which case the portion of the revenue that is the result of the
7 fee increased in this subsection must be distributed to the
8 connecting Washington account created under RCW 46.68.395.

9 (a) Any state agency files a notice of rule making under chapter
10 34.05 RCW, absent explicit legislative authorization enacted
11 subsequent to July 1, 2015, for a rule regarding a fuel standard
12 based upon or defined by the carbon intensity of fuel, including a
13 low carbon fuel standard or clean fuel standard.

14 (b) Any state agency otherwise enacts, adopts, orders, or in any
15 way implements a fuel standard based upon or defined by the carbon
16 intensity of fuel, including a low carbon fuel standard or clean fuel
17 standard, without explicit legislative authorization enacted
18 subsequent to July 1, 2015.

19 (c) Nothing in this subsection acknowledges, establishes, or
20 creates legal authority for the department of ecology or any other
21 state agency to enact, adopt, order, or in any way implement a fuel
22 standard based upon or defined by the carbon intensity of fuel,
23 including a low carbon fuel standard or clean fuel standard.

24 (4) The department shall:

25 (a) Rely on motor vehicle empty scale weights provided by vehicle
26 manufacturers, or other sources defined by the department, to
27 determine the weight of each motor vehicle; and

28 (b) Adopt rules for determining weight for vehicles without
29 manufacturer empty scale weights.

30 **Sec. 16.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each
31 amended to read as follows:

32 (1) When a person has been disqualified from operating a
33 commercial motor vehicle, the person is not entitled to have the
34 commercial driver's license or commercial learner's permit restored
35 until after the expiration of the appropriate disqualification period
36 required under RCW 46.25.090 or until the department has received a
37 drug and alcohol assessment and evidence is presented of satisfactory
38 participation in or completion of any required drug or alcohol
39 treatment program for ending the disqualification under RCW

46.25.090(7). After expiration of the appropriate period and upon payment of a requalification fee of twenty dollars until June 30, 2016, and thirty-five dollars beginning July 1, 2016, or one hundred fifty dollars if the person has been disqualified under RCW 46.25.090(7), the person may apply for a new, duplicate, or renewal commercial driver's license or commercial learner's permit as provided by law. If the person has been disqualified for a period of one year or more, the person shall demonstrate that he or she meets the commercial driver's license or commercial learner's permit qualification standards specified in RCW 46.25.060.

(2) The fees under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 208, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW, absent explicit legislative authorization enacted subsequent to July 1, 2015, for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard, without explicit legislative authorization enacted subsequent to July 1, 2015.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

Sec. 17. RCW 46.20.202 and 2017 c 310 s 3 are each amended to read as follows:

(1) The department may enter into a memorandum of understanding with any federal agency for the purposes of facilitating the crossing of the border between the state of Washington and the Canadian province of British Columbia.

1 (2) The department may enter into an agreement with the Canadian
2 province of British Columbia for the purposes of implementing a
3 border-crossing initiative.

4 (3)(a) The department may issue an enhanced driver's license or
5 identicard for the purposes of crossing the border between the state
6 of Washington and the Canadian province of British Columbia to an
7 applicant who provides the department with proof of: United States
8 citizenship, identity, and state residency. The department shall
9 continue to offer a standard driver's license and identicard. If the
10 department chooses to issue an enhanced driver's license, the
11 department must allow each applicant to choose between a standard
12 driver's license or identicard, or an enhanced driver's license or
13 identicard.

14 (b) The department shall implement a one-to-many biometric
15 matching system for the enhanced driver's license or identicard. An
16 applicant for an enhanced driver's license or identicard shall submit
17 a biometric identifier as designated by the department. The biometric
18 identifier must be used solely for the purpose of verifying the
19 identity of the holders and for any purpose set out in RCW 46.20.037.
20 Applicants are required to sign a declaration acknowledging their
21 understanding of the one-to-many biometric match.

22 (c) The enhanced driver's license or identicard must include
23 reasonable security measures to protect the privacy of Washington
24 state residents, including reasonable safeguards to protect against
25 unauthorized disclosure of data about Washington state residents. If
26 the enhanced driver's license or identicard includes a radio
27 frequency identification chip, or similar technology, the department
28 shall ensure that the technology is encrypted or otherwise secure
29 from unauthorized data access.

30 (d) The requirements of this subsection are in addition to the
31 requirements otherwise imposed on applicants for a driver's license
32 or identicard. The department shall adopt such rules as necessary to
33 meet the requirements of this subsection. From time to time the
34 department shall review technological innovations related to the
35 security of identity cards and amend the rules related to enhanced
36 driver's licenses and identicards as the director deems consistent
37 with this section and appropriate to protect the privacy of
38 Washington state residents.

39 (e) Notwithstanding RCW 46.20.118, the department may make images
40 associated with enhanced drivers' licenses or identicards from the

1 negative file available to United States customs and border agents
2 for the purposes of verifying identity.

3 (4) Beginning on July 23, 2017, the fee for an enhanced driver's
4 license or enhanced identicard is twenty-four dollars, which is in
5 addition to the fees for any regular driver's license or identicard.
6 If the enhanced driver's license or enhanced identicard is issued,
7 renewed, or extended for a period other than six years, the fee for
8 each class is four dollars for each year that the enhanced driver's
9 license or enhanced identicard is issued, renewed, or extended.

10 (5) The enhanced driver's license and enhanced identicard fee
11 under this section must be deposited into the highway safety fund
12 unless prior to July 1, 2023, the actions described in (a) or (b) of
13 this subsection occur, in which case the portion of the revenue that
14 is the result of the fee increased in section 209, chapter 44, Laws
15 of 2015 3rd sp. sess. must be distributed to the connecting
16 Washington account created under RCW 46.68.395.

17 (a) Any state agency files a notice of rule making under chapter
18 34.05 RCW, absent explicit legislative authorization enacted
19 subsequent to July 1, 2015, for a rule regarding a fuel standard
20 based upon or defined by the carbon intensity of fuel, including a
21 low carbon fuel standard or clean fuel standard.

22 (b) Any state agency otherwise enacts, adopts, orders, or in any
23 way implements a fuel standard based upon or defined by the carbon
24 intensity of fuel, including a low carbon fuel standard or clean fuel
25 standard, without explicit legislative authorization enacted
26 subsequent to July 1, 2015.

27 (c) Nothing in this subsection acknowledges, establishes, or
28 creates legal authority for the department of ecology or any other
29 state agency to enact, adopt, order, or in any way implement a fuel
30 standard based upon or defined by the carbon intensity of fuel,
31 including a low carbon fuel standard or clean fuel standard.

32 **Sec. 18.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each
33 amended to read as follows:

34 (1) The department may issue a CLP to an applicant who is at
35 least eighteen years of age and holds a valid Washington state
36 driver's license and who has:

37 (a) Submitted an application on a form or in a format provided by
38 the department;

1 (b) Passed the general knowledge examination required for
2 issuance of a CDL under RCW 46.25.060 for the commercial motor
3 vehicle classification in which the applicant operates or expects to
4 operate; and

5 (c) Paid the appropriate examination fee or fees and an
6 application fee of ten dollars until June 30, 2016, and forty dollars
7 beginning July 1, 2016.

8 (2) A CLP must be marked "commercial learner's permit" or "CLP,"
9 and must be, to the maximum extent practicable, tamperproof. Other
10 than a photograph of the applicant, it must include, but not be
11 limited to, the information required on a CDL under RCW 46.25.080(1).

12 (3) The holder of a CLP may drive a commercial motor vehicle on a
13 highway only when in possession of a valid driver's license and
14 accompanied by the holder of a valid CDL who has the proper CDL
15 classification and endorsement or endorsements necessary to operate
16 the commercial motor vehicle. The CDL holder must at all times be
17 physically present in the front seat of the vehicle next to the CLP
18 holder or, in the case of a passenger vehicle, directly behind or in
19 the first row behind the driver and must have the CLP holder under
20 observation and direct supervision.

21 (4) A CLP may be classified in the same manner as a CDL under RCW
22 46.25.080(2)(a).

23 (5) CLPs may be issued with only P, S, or N endorsements as
24 described in RCW 46.25.080(2)(b).

25 (a) The holder of a CLP with a P endorsement must have taken and
26 passed the P endorsement knowledge examination. The holder of a CLP
27 with a P endorsement is prohibited from operating a commercial motor
28 vehicle carrying passengers other than authorized employees or
29 representatives of the department and the federal motor carrier
30 safety administration, examiners, other trainees, and the CDL holder
31 accompanying the CLP holder as required under subsection (2) of this
32 section. The P endorsement must be class specific.

33 (b) The holder of a CLP with an S endorsement must have taken and
34 passed the S endorsement knowledge examination. The holder of a CLP
35 with an S endorsement is prohibited from operating a school bus with
36 passengers other than authorized employees or representatives of the
37 department and the federal motor carrier safety administration,
38 examiners, other trainees, and the CDL holder accompanying the CLP
39 holder as required under subsection (2) of this section.

1 (c) The holder of a CLP with an N endorsement must have taken and
2 passed the N endorsement knowledge examination. The holder of a CLP
3 with an N endorsement may only operate an empty tank vehicle and is
4 prohibited from operating any tank vehicle that previously contained
5 hazardous materials and has not been purged of any residue.

6 (6) A CLP may be issued with appropriate restrictions as
7 described in RCW 46.25.080(2)(c). In addition, a CLP may be issued
8 with the following restrictions:

9 (a) "P" restricts the driver from operating a bus with
10 passengers;

11 (b) "X" restricts the driver from operating a tank vehicle that
12 contains cargo; and

13 (c) Any restriction as established by rule of the department.

14 (7) The holder of a CLP is not authorized to operate a commercial
15 motor vehicle transporting hazardous materials.

16 (8) A CLP may not be issued for a period to exceed one hundred
17 eighty days. The department may renew the CLP for one additional one
18 hundred eighty-day period without requiring the CLP holder to retake
19 the general and endorsement knowledge examinations.

20 (9) The department must transmit the fees collected for CLPs to
21 the state treasurer for deposit in the highway safety fund unless
22 prior to July 1, 2023, the actions described in (a) or (b) of this
23 subsection occur, in which case the portion of the revenue that is
24 the result of the fee increased in section 206, chapter 44, Laws of
25 2015 3rd sp. sess. must be distributed to the connecting Washington
26 account created under RCW 46.68.395.

27 (a) Any state agency files a notice of rule making under chapter
28 34.05 RCW, absent explicit legislative authorization enacted
29 subsequent to July 1, 2015, for a rule regarding a fuel standard
30 based upon or defined by the carbon intensity of fuel, including a
31 low carbon fuel standard or clean fuel standard.

32 (b) Any state agency otherwise enacts, adopts, orders, or in any
33 way implements a fuel standard based upon or defined by the carbon
34 intensity of fuel, including a low carbon fuel standard or clean fuel
35 standard, without explicit legislative authorization enacted
36 subsequent to July 1, 2015.

37 (c) Nothing in this subsection acknowledges, establishes, or
38 creates legal authority for the department of ecology or any other
39 state agency to enact, adopt, order, or in any way implement a fuel

standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

Sec. 19. RCW 46.25.060 and 2020 c 78 s 2 are each amended to read as follows:

(1)(a) No person may be issued a commercial driver's license unless that person:

(i) Is a resident of this state;

(ii) Has successfully completed a course of instruction in the operation of a commercial motor vehicle that has been approved by the director or has been certified by an employer as having the skills and training necessary to operate a commercial motor vehicle safely;

(iii) If he or she does not hold a valid commercial driver's license of the appropriate classification, has been issued a commercial learner's permit under RCW 46.25.052; and

(iv) Has passed a knowledge and skills examination for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. Part 383, subparts F, G, and H, in addition to other requirements imposed by state law or federal regulation. The department may not allow the person to take the skills examination during the first fourteen days after initial issuance of the person's commercial learner's permit. The examinations must be prescribed and conducted by the department.

(b) In addition to the fee charged for issuance or renewal of any license, the applicant shall pay a fee of no more than ten dollars until June 30, 2016, and thirty-five dollars beginning July 1, 2016, for the classified knowledge examination, classified endorsement knowledge examination, or any combination of classified license and endorsement knowledge examinations. The applicant shall pay a fee of no more than one hundred dollars until June 30, 2016, and two hundred fifty dollars beginning July 1, 2016, for each classified skill examination or combination of classified skill examinations conducted by the department.

(c) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills examination specified by this section under the following conditions:

(i) The examination is the same which would otherwise be administered by the state;

1 (ii) The third party has entered into an agreement with the state
2 that complies with the requirements of 49 C.F.R. Sec. 383.75; and

3 (iii) The director has adopted rules as to the third party
4 testing program and the development and justification for fees
5 charged by any third party.

6 (d) If the applicant's primary use of a commercial driver's
7 license is for any of the following, then the applicant shall pay a
8 fee of no more than seventy-five dollars until June 30, 2016, and two
9 hundred twenty-five dollars beginning July 1, 2016, for the
10 classified skill examination or combination of classified skill
11 examinations whether conducted by the department or a third-party
12 tester:

13 (i) Public benefit not-for-profit corporations that are federally
14 supported head start programs; or

15 (ii) Public benefit not-for-profit corporations that support
16 early childhood education and assistance programs as described in RCW
17 43.216.505.

18 (e) Beginning July 1, 2016, if the applicant's primary use of a
19 commercial driver's license is to drive a school bus, the applicant
20 shall pay a fee of no more than one hundred dollars for the
21 classified skill examination or combination of classified skill
22 examinations conducted by the department.

23 (f) Beginning July 1, 2016, payment of the examination fees under
24 this subsection entitles the applicant to take the examination up to
25 two times in order to pass.

26 (2)(a) The department may waive the skills examination and the
27 requirement for completion of a course of instruction in the
28 operation of a commercial motor vehicle specified in this section for
29 a commercial driver's license applicant who meets the requirements of
30 49 C.F.R. Sec. 383.77. For current or former military service members
31 that meet the requirements of 49 C.F.R. Sec. 383.77, the department
32 may also waive the requirements for a knowledge test for commercial
33 driver's license applicants. Beginning December 1, 2021, the
34 department shall provide an annual report to the house and senate
35 transportation committees and the joint committee on veterans' and
36 military affairs of the legislature on the number and types of
37 waivers granted pursuant to this subsection.

38 (b) An applicant who operates a commercial motor vehicle for
39 agribusiness purposes is exempt from the course of instruction
40 completion and employer skills and training certification

1 requirements under this section. By January 1, 2010, the department
2 shall submit recommendations regarding the continuance of this
3 exemption to the transportation committees of the legislature. For
4 purposes of this subsection (2)(b), "agribusiness" means a private
5 carrier who in the normal course of business primarily transports:

6 (i) Farm machinery, farm equipment, implements of husbandry, farm
7 supplies, and materials used in farming;

8 (ii) Agricultural inputs, such as seed, feed, fertilizer, and
9 crop protection products;

10 (iii) Unprocessed agricultural commodities, as defined in RCW
11 17.21.020, where such commodities are produced by farmers, ranchers,
12 vineyardists, or orchardists; or

13 (iv) Any combination of (b)(i) through (iii) of this subsection.

14 The department shall notify the transportation committees of the
15 legislature if the federal government takes action affecting the
16 exemption provided in this subsection (2)(b).

17 (3) A commercial driver's license or commercial learner's permit
18 may not be issued to a person while the person is subject to a
19 disqualification from driving a commercial motor vehicle, or while
20 the person's driver's license is suspended, revoked, or canceled in
21 any state, nor may a commercial driver's license be issued to a
22 person who has a commercial driver's license issued by any other
23 state unless the person first surrenders all such licenses, which
24 must be returned to the issuing state for cancellation.

25 (4) The fees under this section must be deposited into the
26 highway safety fund unless prior to July 1, 2023, the actions
27 described in (a) or (b) of this subsection occur, in which case the
28 portion of the revenue that is the result of the fee increased in
29 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be
30 distributed to the connecting Washington account created under RCW
31 46.68.395.

32 (a) Any state agency files a notice of rule making under chapter
33 34.05 RCW, absent explicit legislative authorization enacted
34 subsequent to July 1, 2015, for a rule regarding a fuel standard
35 based upon or defined by the carbon intensity of fuel, including a
36 low carbon fuel standard or clean fuel standard.

37 (b) Any state agency otherwise enacts, adopts, orders, or in any
38 way implements a fuel standard based upon or defined by the carbon
39 intensity of fuel, including a low carbon fuel standard or clean fuel

1 standard, without explicit legislative authorization enacted
2 subsequent to July 1, 2015.

3 (c) Nothing in this subsection acknowledges, establishes, or
4 creates legal authority for the department of ecology or any other
5 state agency to enact, adopt, order, or in any way implement a fuel
6 standard based upon or defined by the carbon intensity of fuel,
7 including a low carbon fuel standard or clean fuel standard.

8 **Sec. 20.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended
9 to read as follows:

10 (1) Any person who knowingly violates any of the provisions of
11 this chapter (~~(of)~~), chapter 70A.25 or 70A.--- (the new chapter
12 created in section 24 of this act) RCW, RCW 70A.45.080, or any
13 ordinance, resolution, or regulation in force pursuant thereto is
14 guilty of a gross misdemeanor and upon conviction thereof shall be
15 punished by a fine of not more than ten thousand dollars, or by
16 imprisonment in the county jail for up to three hundred sixty-four
17 days, or by both for each separate violation.

18 (2) Any person who negligently releases into the ambient air any
19 substance listed by the department of ecology as a hazardous air
20 pollutant, other than in compliance with the terms of an applicable
21 permit or emission limit, and who at the time negligently places
22 another person in imminent danger of death or substantial bodily harm
23 is guilty of a gross misdemeanor and shall, upon conviction, be
24 punished by a fine of not more than ten thousand dollars, or by
25 imprisonment for up to three hundred sixty-four days, or both.

26 (3) Any person who knowingly releases into the ambient air any
27 substance listed by the department of ecology as a hazardous air
28 pollutant, other than in compliance with the terms of an applicable
29 permit or emission limit, and who knows at the time that he or she
30 thereby places another person in imminent danger of death or
31 substantial bodily harm, is guilty of a class C felony and shall,
32 upon conviction, be punished by a fine of not less than fifty
33 thousand dollars, or by imprisonment for not more than five years, or
34 both.

35 (4) Any person who knowingly fails to disclose a potential
36 conflict of interest under RCW 70A.15.2000 is guilty of a gross
37 misdemeanor, and upon conviction thereof shall be punished by a fine
38 of not more than five thousand dollars.

1 **Sec. 21.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended
2 to read as follows:

3 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and
4 43.05.150, and in addition to or as an alternate to any other penalty
5 provided by law, any person who violates any of the provisions of
6 this chapter, chapter 70A.25 ~~((or))~~, 70A.450, or 70A.--- (the new
7 chapter created in section 24 of this act) RCW, RCW 70A.45.080, or
8 any of the rules in force under such chapters or section may incur a
9 civil penalty in an amount not to exceed ten thousand dollars per day
10 for each violation. Each such violation shall be a separate and
11 distinct offense, and in case of a continuing violation, each day's
12 continuance shall be a separate and distinct violation.

13 (b) Any person who fails to take action as specified by an order
14 issued pursuant to this chapter shall be liable for a civil penalty
15 of not more than ten thousand dollars for each day of continued
16 noncompliance.

17 (2)(a) Penalties incurred but not paid shall accrue interest,
18 beginning on the ninety-first day following the date that the penalty
19 becomes due and payable, at the highest rate allowed by RCW 19.52.020
20 on the date that the penalty becomes due and payable. If violations
21 or penalties are appealed, interest shall not begin to accrue until
22 the thirty-first day following final resolution of the appeal.

23 (b) The maximum penalty amounts established in this section may
24 be increased annually to account for inflation as determined by the
25 state office of the economic and revenue forecast council.

26 (3) Each act of commission or omission which procures, aids or
27 abets in the violation shall be considered a violation under the
28 provisions of this section and subject to the same penalty. The
29 penalties provided in this section shall be imposed pursuant to RCW
30 43.21B.300.

31 (4) All penalties recovered under this section by the department
32 shall be paid into the state treasury and credited to the air
33 pollution control account established in RCW 70A.15.1010 or, if
34 recovered by the authority, shall be paid into the treasury of the
35 authority and credited to its funds. If a prior penalty for the same
36 violation has been paid to a local authority, the penalty imposed by
37 the department under subsection (1) of this section shall be reduced
38 by the amount of the payment.

39 (5) To secure the penalty incurred under this section, the state
40 or the authority shall have a lien on any vessel used or operated in

violation of this chapter which shall be enforced as provided in RCW 60.36.050.

(6) Public or private entities that are recipients or potential recipients of department grants, whether for air quality related activities or not, may have such grants rescinded or withheld by the department for failure to comply with provisions of this chapter.

(7) In addition to other penalties provided by this chapter, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(8) The department shall develop rules for excusing excess emissions from enforcement action if such excess emissions are unavoidable. The rules shall specify the criteria and procedures for the department and local air authorities to determine whether a period of excess emissions is excusable in accordance with the state implementation plan.

Sec. 22. RCW 19.112.110 and 2013 c 225 s 601 are each amended to read as follows:

(1) Special fuel licensees under chapter 82.38 RCW, as determined by the department of licensing, must provide evidence to the department of licensing that at least two percent of the total annual diesel fuel sold in Washington is biodiesel or renewable diesel fuel, following the earlier of: (a) November 30, 2008; or (b) when a determination is made by the director, published in the Washington State Register, that feedstock grown in Washington state can satisfy a two-percent requirement.

(2) Special fuel licensees under chapter 82.38 RCW, as determined by the department of licensing, must provide evidence to the department of licensing that at least five percent of total annual diesel fuel sold in Washington is biodiesel or renewable diesel fuel, when the director determines, and publishes this determination in the Washington State Register, that both in-state oil seed crushing capacity and feedstock grown in Washington state can satisfy a three-percent requirement.

(3) The requirements of subsections (1) and (2) of this section may take effect no sooner than one hundred eighty days after the determination has been published in the Washington State Register.

1 (4) The director and the director of licensing must each adopt
2 rules, in coordination with each other, for enforcing and carrying
3 out the purposes of this section.

4 (5) To the extent that the requirements of this section conflict
5 with the requirements of chapter 70A.--- (the new chapter created in
6 section 24 of this act) RCW, the requirements of chapter 70A.--- (the
7 new chapter created in section 24 of this act) RCW prevail.

8 **Sec. 23.** RCW 19.112.120 and 2013 c 225 s 602 are each amended to
9 read as follows:

10 (1) By December 1, 2008, motor vehicle fuel licensees under
11 chapter 82.38 RCW, as determined by the department of licensing, must
12 provide evidence to the department of licensing that at least two
13 percent of total gasoline sold in Washington, measured on a quarterly
14 basis, is denatured ethanol.

15 (2) If the director of ecology determines that ethanol content
16 greater than two percent of the total gasoline sold in Washington
17 will not jeopardize continued attainment of the federal clean air
18 act's national ambient air quality standard for ozone pollution in
19 Washington and the director of agriculture determines and publishes
20 this determination in the Washington State Register that sufficient
21 raw materials are available within Washington to support economical
22 production of ethanol at higher levels, the director of agriculture
23 may require by rule that licensees provide evidence to the department
24 of licensing that denatured ethanol comprises between two percent and
25 at least ten percent of total gasoline sold in Washington, measured
26 on a quarterly basis.

27 (3) The requirements of subsections (1) and (2) of this section
28 may take effect no sooner than one hundred eighty days after the
29 determination has been published in the Washington State Register.

30 (4) The director and the director of licensing must each adopt
31 rules, in coordination with each other, for enforcing and carrying
32 out the purposes of this section.

33 (5) Nothing in this section is intended to prohibit the
34 production, sale, or use of motor fuel for use in federally
35 designated flexibly fueled vehicles capable of using E85 motor fuel.
36 Nothing in this section is intended to limit the use of high octane
37 gasoline not blended with ethanol for use in aircraft.

38 (6) To the extent that the requirements of this section conflict
39 with the requirements of chapter 70A.--- (the new chapter created in

1 section 24 of this act) RCW, the requirements of chapter 70A.--- (the
2 new chapter created in section 24 of this act) RCW prevail.

3 NEW SECTION. **Sec. 24.** Sections 1 through 13 of this act
4 constitute a new chapter in Title 70A RCW.

5 NEW SECTION. **Sec. 25.** If specific funding for the purposes of
6 this act, referencing this act by bill or chapter number, is not
7 provided by June 30, 2021, in the omnibus appropriations act, this
8 act is null and void.

9 NEW SECTION. **Sec. 26.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

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