

CERTIFICATION OF ENROLLMENT  
**ENGROSSED THIRD SUBSTITUTE HOUSE BILL 1091**

67th Legislature  
2021 Regular Session

Passed by the House April 25, 2021  
Yeas 54 Nays 43

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**Speaker of the House of  
Representatives**

Passed by the Senate April 25, 2021  
Yeas 26 Nays 23

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED THIRD SUBSTITUTE HOUSE BILL 1091** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**ENGROSSED THIRD SUBSTITUTE HOUSE BILL 1091**

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AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2021 Regular Session

**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** House Transportation (originally sponsored by Representatives Fitzgibbon, Slatter, Berry, Dolan, Bateman, Ramos, Simmons, Ramel, Senn, Peterson, Duerr, Ryu, Valdez, Callan, Kloba, Chopp, Ormsby, Frame, Macri, Pollet, Goodman, and Bergquist; by request of Office of the Governor)

READ FIRST TIME 02/22/21.

1 AN ACT Relating to reducing greenhouse gas emissions by reducing  
2 the carbon intensity of transportation fuel; amending RCW 80.50.060,  
3 46.17.365, 46.25.100, 46.20.202, 46.25.052, 46.25.060, 70A.15.3150,  
4 70A.15.3160, 19.112.110, and 19.112.120; reenacting and amending RCW  
5 80.50.020; adding a new section to chapter 82.04 RCW; adding a new  
6 section to chapter 43.21A RCW; adding a new chapter to Title 70A RCW;  
7 creating new sections; prescribing penalties; and providing  
8 expiration dates.

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

10 NEW SECTION. **Sec. 1.** (1) The legislature finds that rapid  
11 innovations in low carbon transportation technologies, including  
12 electric vehicles and clean transportation fuels, are at the  
13 threshold of widespread commercial deployment. In order to help  
14 prompt the use of clean fuels, other states have successfully  
15 implemented programs that reduce the carbon intensity of their  
16 transportation fuels. California and Oregon have both implemented low  
17 carbon fuel standards that are similar to the program created in this  
18 act, and both states have experienced biofuel sector growth and have  
19 successfully sited large biofuel projects that had originally been  
20 planned for Washington. Washington state has extensively studied the  
21 potential impact of a clean fuels program, and most projections show

1 that a low carbon fuel standard would decrease greenhouse gas and  
2 conventional air pollutant emissions, while positively impacting the  
3 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 (gCO<sub>2</sub>e/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. A credit may also be generated through other activities  
7 consistent with this chapter.

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

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

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

17 (9) "Greenhouse gas" has the same meaning as defined in RCW  
18 70A.45.010.

19 (10) "Military tactical vehicle" means a motor vehicle owned by  
20 the United States department of defense or the United States military  
21 services and that is used in combat, combat support, combat service  
22 support, tactical or relief operations, or training for such  
23 operations.

24 (11) "Motor vehicle" has the same meaning as defined in RCW  
25 46.04.320.

26 (12) "Price" means the amount of payment or compensation provided  
27 as consideration for a specified quantity of transportation fuel by a  
28 consumer or end user of the transportation fuel.

29 (13) "Regulated party" means a producer or importer of any amount  
30 of a transportation fuel that is ineligible to generate credits under  
31 this chapter.

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

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

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

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

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

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

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

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

25 (2) The clean fuels program adopted by the department must be  
26 designed such that:

27 (a) Regulated parties generate deficits and may reconcile the  
28 deficits, and thus comply with the clean fuels program standards for  
29 a compliance period, by obtaining and retiring credits;

30 (b) Regulated parties and credit generators may generate credits  
31 for fuels used as substitutes or alternatives for gasoline or diesel;

32 (c) Regulated parties, credit generators, and credit aggregators  
33 shall have opportunities to trade credits; and

34 (d) Regulated parties shall be allowed to carry over to the next  
35 compliance period a small deficit without penalty.

36 (3) The department shall, throughout a compliance period,  
37 regularly monitor the availability of fuels needed for compliance  
38 with the clean fuels program.

1 (4) (a) Under the clean fuels program, the department shall  
2 monthly calculate the volume-weighted average price of credits and,  
3 no later than the last day of the month immediately following the  
4 month for which the calculation is completed, post the formula and  
5 the nonaggregated data the department used for the calculation and  
6 the results of the calculation on the department's website.

7 (b) In completing the calculation required by this subsection,  
8 the department may exclude from the data set credit transfers without  
9 a price or other credit transfers made for a price that falls two  
10 standard deviations outside of the mean credit price for the month.  
11 Data posted on the department's website under this section may not  
12 include any individually identifiable information or information that  
13 would constitute a trade secret.

14 (5) (a) Except as provided in this section, the rules adopted  
15 under this section must reduce the greenhouse gas emissions  
16 attributable to each unit of the fuels to 20 percent below 2017  
17 levels by 2038 based on the following schedule:

18 (i) No more than 0.5 percent each year in 2023 and 2024;

19 (ii) No more than an additional one percent each year beginning  
20 in 2025 through 2027;

21 (iii) No more than an additional 1.5 percent each year beginning  
22 in 2028 through 2031; and

23 (iv) No change in 2032 and 2033.

24 (b) The rules must establish a start date for the clean fuels  
25 program of no later than January 1, 2023, except as provided in  
26 subsection (8) of this section.

27 (6) Beginning with the program year beginning in calendar year  
28 2028, the department may not increase the carbon intensity reductions  
29 required by the applicable clean fuels program standard adopted by  
30 the department under subsection (5) of this section beyond a 10  
31 percent reduction in carbon intensity until the department  
32 demonstrates that the following have occurred:

33 (a) At least a 15 percent net increase in the volume of in-state  
34 liquid biofuel production and the use of feedstocks grown or produced  
35 within the state relative to the start of the program; and

36 (b) At least one new or expanded biofuel production facility  
37 representing an increase in production capacity or producing, in  
38 total, in excess of 60,000,000 gallons of biofuels per year has or  
39 have received after July 1, 2021, all necessary siting, operating,  
40 and environmental permits post all timely and applicable appeals. As

1 part of the threshold of 60,000,000 gallons of biofuel under this  
2 subsection, at least one new facility producing at least 10,000,000  
3 gallons per year must have received all necessary siting, operating,  
4 and environmental permits. Timely and applicable appeals must be  
5 determined by the attorney general's office.

6 (7) Beginning with the program year beginning in calendar year  
7 2031, the department may not increase the carbon intensity reductions  
8 required by the applicable clean fuels program standard adopted by  
9 the department under subsection (5) of this section beyond a 10  
10 percent reduction in carbon intensity until the:

11 (a) Joint legislative audit and review committee report required  
12 in section 15 of this act has been completed; and

13 (b) 2033 regular legislative session has adjourned, in order to  
14 allow an opportunity for the legislature to amend the requirements of  
15 this chapter in light of the report required in (a) of this  
16 subsection.

17 (8) (a) In order to coordinate and synchronize the clean fuels  
18 program with other transportation-related investments, the department  
19 may not assign compliance obligations or allow the generation of  
20 credits under this chapter until a separate additive transportation  
21 revenue act becomes law, at which time the department of licensing  
22 must provide written notice to the chief clerk of the house of  
23 representatives, the secretary of the senate, and the office of the  
24 code reviser.

25 (b) For the purposes of this subsection, "additive transportation  
26 revenue act" means an act enacted after April 1, 2021, in which the  
27 state fuel tax under RCW 82.38.030 is increased by an additional and  
28 cumulative tax rate of at least five cents per gallon of fuel.

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

32 (10) To the extent the requirements of this chapter conflict with  
33 the requirements of chapter 19.112 RCW, the requirements of this  
34 chapter prevail.

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

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

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

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

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

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

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

19 (i) Neutrally consider the life-cycle emissions associated with  
20 transportation fuels with respect to the political jurisdiction in  
21 which the fuels originated and may not discriminate against fuels on  
22 the basis of having originated in another state or jurisdiction.  
23 Nothing in this subsection may be construed to prohibit inclusion or  
24 assessment of emissions related to fuel production, storage,  
25 transportation, or combustion or associated changes in land use in  
26 determining the carbon intensity of a fuel;

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

33 (iii) Include mechanisms for certifying electricity that has a  
34 carbon intensity of zero. This electricity must include, at minimum,  
35 electricity:

36 (A) For which a renewable energy credit or other environmental  
37 attribute has been retired or used; and

38 (B) Produced using a zero emission resource including, but not  
39 limited to, solar, wind, geothermal, or the industrial combustion of  
40 biomass consistent with RCW 70A.45.020(3), that is directly supplied



1 as a transportation fuel by the generator of the electricity to a  
2 metered customer for electric vehicle charging or refueling;

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

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

11 (c) If the department determines that it is necessary for  
12 purposes of accurately measuring greenhouse gas emissions associated  
13 with transportation fuels, the department may require transportation  
14 fuel suppliers to submit data or information to be used for purposes  
15 of calculating greenhouse gas emissions that is different from or  
16 additional to the greenhouse gas emissions data reported under RCW  
17 70A.15.2200(5)(a)(iii).

18 (d) If the department determines that it is necessary for  
19 purposes of accurately measuring greenhouse gas emissions associated  
20 with electricity supplied to retail customers or hydrogen production  
21 facilities by an electric utility, the department may require  
22 electric utilities participating in the clean fuels program to submit  
23 data or information to be used for purposes of calculating greenhouse  
24 gas emissions that is different from or additional to the fuel mix  
25 disclosure information submitted under chapter 19.29A RCW. To the  
26 extent practicable, rules adopted by the department may allow data  
27 requested of utilities to be submitted in a form and manner  
28 consistent with other required state or federal data submissions;

29 (2) Provisions allowing for the achievement of limits on the  
30 greenhouse gas emissions intensity of transportation fuels in section  
31 3 of this act to be achieved by any combination of credit generating  
32 activities capable of meeting such standards. Where such provisions  
33 would not produce results counter to the emission reduction goals of  
34 the program or prove administratively burdensome for the department,  
35 the rules should provide each participant in the clean fuels program  
36 with the opportunity to demonstrate appropriate carbon intensity  
37 values taking into account both emissions from production facilities  
38 and elsewhere in the production cycle, including changes in land use  
39 and permanent greenhouse gas sequestration activities;

1 (3) (a) Methods for assigning compliance obligations and methods  
2 for tracking tradable credits. The department may assign the  
3 generation of a credit when a fuel with associated life-cycle  
4 greenhouse gas emissions that are lower than the applicable per-unit  
5 standard adopted by the department under section 3 of this act is  
6 produced, imported, or dispensed for use in Washington, or when  
7 specified activities are undertaken that support the reduction of  
8 greenhouse gas emissions associated with transportation in  
9 Washington;

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

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

14 (4) Mechanisms to elect to participate in the clean fuels program  
15 for persons associated with the supply chains of transportation fuels  
16 that are eligible to generate credits consistent with subsection (3)  
17 of this section, including producers, importers, distributors, users,  
18 or retailers of such fuels, and electric vehicle manufacturers;

19 (5) Mechanisms for persons associated with the supply chains of  
20 transportation fuels that are used for purposes that are exempt from  
21 the clean fuels program compliance obligations including, but not  
22 limited to, fuels used by aircraft, vessels, railroad locomotives,  
23 and other exempt fuels specified in section 5 of this act, to elect  
24 to participate in the clean fuels program by earning credits for the  
25 production, import, distribution, use, or retail of exempt fuels with  
26 associated life-cycle greenhouse gas emissions lower than the per-  
27 unit standard established in section 3 of this act;

28 (6) Mechanisms that allow for the assignment of credits to an  
29 electric utility for electricity used within its utility service  
30 area, at minimum, for residential electric vehicle charging or  
31 fueling;

32 (7) Cost containment mechanisms.

33 (a) Cost containment mechanisms must include the credit clearance  
34 market specified in subsection (8) of this section and may also  
35 include, but are not limited to:

36 (i) Procedures similar to the credit clearance market required in  
37 subsection (8) of this section that provide a means of compliance  
38 with the clean fuels program requirements in the event that a  
39 regulated person has not been able to acquire sufficient volumes of  
40 credits at the end of a compliance period; or

1 (ii) Similar procedures that ensure that credit prices do not  
2 significantly exceed credit prices in other jurisdictions that have  
3 adopted similar programs to reduce the carbon intensity of  
4 transportation fuels.

5 (b) Any cost containment mechanisms must be designed to provide  
6 financial disincentive for regulated persons to rely on the cost  
7 containment mechanism for purposes of program compliance instead of  
8 seeking to generate or acquire sufficient credits under the program.

9 (c) The department shall harmonize the program's cost containment  
10 mechanisms with the cost containment rules in the states specified in  
11 section 7(1) of this act.

12 (d) The department shall consider mechanisms such as the  
13 establishment of a credit price cap or other alternative cost  
14 containment measures if deemed necessary to harmonize market credit  
15 costs with those in the states specified in section 7(1) of this act;

16 (8) (a) (i) A credit clearance market for any compliance period in  
17 which at least one regulated party reports that the regulated party  
18 has a net deficit balance at the end of the compliance period, after  
19 retirement of all credits held by the regulated party, that is  
20 greater than a small deficit. A regulated party described by this  
21 subsection is required to participate in the credit clearance market.

22 (ii) If a regulated party has a small deficit at the end of a  
23 compliance period, the regulated party shall notify the department  
24 that it will achieve compliance with the clean fuels program during  
25 the compliance period by either: (A) Participating in a credit  
26 clearance market; or (B) carrying forward the small deficit.

27 (b) For the purposes of administering a credit clearance market  
28 required by this section, the department shall:

29 (i) Allow any regulated party, credit generator, or credit  
30 aggregator that holds excess credits at the end of the compliance  
31 period to voluntarily participate in the credit clearance market as a  
32 seller by pledging a specified number of credits for sale in the  
33 market;

34 (ii) Require each regulated party participating in the credit  
35 clearance market as purchaser of credits to:

36 (A) Have retired all credits in the regulated party's possession  
37 prior to participating in the credit clearance market; and

38 (B) Purchase the specified number of the total pledged credits  
39 that the department has determined are that regulated party's pro  
40 rata share of the pledged credits;

1 (iii) Require all sellers to:

2 (A) Agree to sell pledged credits at a price no higher than a  
3 maximum price for credits;

4 (B) Accept all offers to purchase pledged credits at the maximum  
5 price for credits; and

6 (C) Agree to withhold any pledged credits from sale in any  
7 transaction outside of the credit clearance market until the end of  
8 the credit clearance market, or if no credit clearance market is held  
9 in a given year, then until the date on which the department  
10 announces it will not be held.

11 (c)(i) The department shall set a maximum price for credits in a  
12 credit clearance market, consistent with states that have adopted  
13 similar clean fuels programs, not to exceed \$200 in 2018 dollars for  
14 2023.

15 (ii) For 2024 and subsequent years, the maximum price may exceed  
16 \$200 in 2018 dollars, but only to the extent that a greater maximum  
17 price for credits is necessary to annually adjust for inflation,  
18 beginning on January 1, 2024, pursuant to the increase, if any, from  
19 the preceding calendar year in the consumer price index for all urban  
20 consumers, west region (all items), as published by the bureau of  
21 labor statistics of the United States department of labor.

22 (d) A regulated party that has a net deficit balance after the  
23 close of a credit clearance market:

24 (i) Must carry over the remaining deficits into the next  
25 compliance period; and

26 (ii) May not be subject to interest greater than five percent,  
27 penalties, or assertions of noncompliance that accrue based on the  
28 carryover of deficits under this subsection.

29 (e) If a regulated party has been required under (a) of this  
30 subsection to participate as a purchaser in two consecutive credit  
31 clearance markets and continues to have a net deficit balance after  
32 the close of the second consecutive credit clearance market, the  
33 department shall complete, no later than two months after the close  
34 of the second credit clearance market, an analysis of the root cause  
35 of an inability of the regulated party to retire the remaining  
36 deficits. The department may recommend and implement any remedy that  
37 the department determines is necessary to address the root cause  
38 identified in the analysis including, but not limited to, issuing a  
39 deferral, provided that the remedy implemented does not:

1 (i) Require a regulated party to purchase credits for an amount  
2 that exceeds the maximum price for credits in the most recent credit  
3 clearance market; or

4 (ii) Compel a person to sell credits.

5 (f) If credits sold in a credit clearance market are subsequently  
6 invalidated as a result of fraud or any other form of noncompliance  
7 on the part of the generator of the credit, the department may not  
8 pursue civil penalties against, or require credit replacement by, the  
9 regulated party that purchased the credits unless the regulated party  
10 was a party to the fraud or other form of noncompliance.

11 (g) The department may not disclose the deficit balances or pro  
12 rata share purchase requirements of a regulated party that  
13 participates in the credit clearance market;

14 (9) Authority for the department to designate an entity to  
15 aggregate and use unclaimed credits associated with persons that  
16 elect not to participate in the clean fuels program under subsection  
17 (4) of this section.

18 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and  
19 4 of this act must include exemptions for, at minimum, the following  
20 transportation fuels:

21 (a) Fuels used in volumes below thresholds adopted by the  
22 department;

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

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

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

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

32 (ii) Dyed special fuel used in vehicles that are not designed  
33 primarily to transport persons or property, that are not designed to  
34 be primarily operated on highways, and that are used primarily for  
35 construction work including, but not limited to, mining and timber  
36 harvest operations; and

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

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

7 (3) The department may adopt rules to specify the standards for  
8 persons to qualify for the exemptions provided in this section. The  
9 department may implement the exemptions under subsection (2) of this  
10 section to align with the implementation of exemptions for similar  
11 fuels exempt from chapter 82.38 RCW.

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

18 (a) Mismatched incentives across programs;

19 (b) Fuel shifting between markets; or

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

21 (5) Nothing in this chapter precludes the department from  
22 adopting rules under sections 3 and 4 of this act that allow the  
23 generation of credits associated with electric or alternative  
24 transportation infrastructure that existed prior to the effective  
25 date of this section or to the start date of program requirements.  
26 The department must apply the same baseline years to credits  
27 associated with electric or alternative transportation infrastructure  
28 that apply to gasoline and diesel liquid fuels in any market-based  
29 program enacted by the legislature that establishes a cap on  
30 greenhouse gas emissions.

31 NEW SECTION. **Sec. 6.** (1) The rules adopted under sections 3 and  
32 4 of this act may allow the generation of credits from activities  
33 that support the reduction of greenhouse gas emissions associated  
34 with transportation in Washington, including but not limited to:

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

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

1 (ii) Project-based refinery greenhouse gas mitigation including,  
2 but not limited to, process improvements, renewable hydrogen use, and  
3 carbon capture and sequestration; or

4 (iii) Direct air capture projects;

5 (b) Investments and activities that support deployment of  
6 machinery and equipment used to produce gaseous and liquid fuels from  
7 nonfossil feedstocks, and derivatives thereof;

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

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

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

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

23 (3) The rules adopted under sections 3 and 4 of this act must  
24 allow the generation of credits from state transportation investments  
25 funded in an omnibus transportation appropriations act for activities  
26 and projects that reduce greenhouse gas emissions and decarbonize the  
27 transportation sector. These include, but are not limited to: (a)  
28 Electrical grid and hydrogen fueling infrastructure investments; (b)  
29 ferry operating and capital investments; (c) electrification of the  
30 state ferry fleet; (d) alternative fuel vehicle rebate programs; (e)  
31 transit grants; (f) infrastructure and other costs associated with  
32 the adoption of alternative fuel use by transit agencies; (g) bike  
33 and pedestrian grant programs and other activities; (h) complete  
34 streets and safe walking grants and allocations; (i) rail funding;  
35 and (j) multimodal investments.

36 (4) The rules adopted by the department may establish limits for  
37 the number of credits that may be earned each year by persons  
38 participating in the program for some or all of the activities  
39 specified in subsections (1) and (2) of this section. The department  
40 must limit the number of credits that may be earned each year under

1 subsection (3) of this section to 10 percent of the total program  
2 credits. Any limits established under this subsection must take into  
3 consideration the return on investment required in order for an  
4 activity specified in subsection (2) of this section to be  
5 financially viable.

6 NEW SECTION. **Sec. 7.** (1) Except where otherwise provided in  
7 this chapter, the department shall seek to adopt rules that are  
8 harmonized with the regulatory standards, exemptions, reporting  
9 obligations, and other clean fuels program compliance requirements  
10 and methods for credit generation of other states that:

11 (a) Have adopted low carbon fuel standards or similar greenhouse  
12 gas emissions requirements applicable specifically to transportation  
13 fuels; and

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

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

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

25 (3) The department must conduct a biennial review of innovative  
26 technologies and pathways that reduce carbon and increase credit  
27 generation opportunities and must modify rules or guidance as needed  
28 to maintain stable credit markets.

29 (4) In any reports to the legislature under section 10 of this  
30 act, on the department's website, or in other public documents or  
31 communications that refer to assumed public health benefits  
32 associated with the program created in this chapter, the department  
33 must distinguish between public health benefits from small  
34 particulate matter and other conventional pollutant reductions  
35 achieved primarily as a result of vehicle emission standards  
36 established under chapter 70A.30 RCW, and the incremental benefits to  
37 air pollution attributable to the program created under this chapter.



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

5        (b) Electric vehicle manufacturers and producers, importers,  
6 distributors, users, and retailers of transportation fuels that are  
7 eligible to generate credits consistent with section 4(3) of this act  
8 must register with the department if they elect to participate in the  
9 clean fuels program.

10        (c) Other persons must register with the department to generate  
11 credits from other activities that support the reduction of  
12 greenhouse gas emissions associated with transportation in  
13 Washington.

14        (2) Each transaction transferring ownership of transportation  
15 fuels for which clean fuels program participation is mandated must be  
16 accompanied by documentation, in a format approved by the department,  
17 that assigns the clean fuels program compliance responsibility  
18 associated with the fuels, including the assignment of associated  
19 credits. The department may also require documentation assigning  
20 clean fuels program compliance responsibility associated with fuels  
21 for which program participation has been elected.

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

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

33        NEW SECTION.    **Sec. 9.**    (1)(a) Fifty percent of the revenues  
34 generated by an electric utility from credits earned from the  
35 electricity supplied to retail customers by an electric utility under  
36 the clean fuels program must be expended by the electric utility on  
37 transportation electrification projects, which may include projects  
38 to support the production and provision of hydrogen and other gaseous

1 fuels produced from nonfossil feedstocks, and derivatives thereof as  
2 a transportation fuel.

3 (b) Sixty percent of the revenues described in (a) of this  
4 subsection, or 30 percent of the revenues generated by an electric  
5 utility from credits earned from the electricity supplied to retail  
6 customers by an electric utility under the clean fuels program, must  
7 be expended by the electric utility on transportation electrification  
8 projects, which may include projects to support the production and  
9 provision of hydrogen and other gaseous fuels produced from nonfossil  
10 feedstocks, and derivatives thereof as a transportation fuel, located  
11 within or directly benefiting a federally designated nonattainment or  
12 maintenance area, a federally designated nonattainment or maintenance  
13 area that existed as of January 1, 2021, a disproportionately  
14 impacted community identified by the department of health, or an area  
15 designated by the department as being at risk of nonattainment, if  
16 such a nonattainment or maintenance area or disproportionately  
17 impacted community is within the service area of the utility.

18 (2)(a) Each electric utility must spend 50 percent of revenues  
19 not subject to the requirements of subsection (1) of this section on  
20 one or more transportation electrification programs or projects it  
21 selects from a list of types of programs and projects jointly  
22 developed by the department and the Washington state department of  
23 transportation. The department and the Washington state department of  
24 transportation must develop the list based on those with the highest  
25 impact on reducing greenhouse gas emissions and decarbonizing the  
26 transportation sector. The types of transportation electrification  
27 projects or programs placed on the list must include, but are not  
28 limited to:

29 (i) Provision of new or used zero emissions vehicles at no cost  
30 or at a discount to nonprofit service providers, transit agencies, or  
31 public fleets for the purpose of providing transportation services  
32 for low-income or vulnerable populations or to reduce transportation  
33 costs for the nonprofits, transit agencies, or public fleets serving  
34 low-income or vulnerable populations;

35 (ii) Construction, operation, or maintenance of, or funding for  
36 charging infrastructure, including smart charging infrastructure, or  
37 hydrogen fueling infrastructure;

38 (iii) Expanding grid capacity to enable transportation  
39 electrification investments directly associated with expenditures  
40 permitted by this chapter; and

1 (iv) Partnership programs with public and private vehicle fleet  
2 owners to enable increased electrification of transportation.

3 (b) Under (a) of this subsection, electric utilities should  
4 consider programs or projects that expand low and moderate-income  
5 customer access to zero emissions transportation, when prioritizing  
6 program expenditures.

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

11 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2025, and each May  
12 1st thereafter, the department must post a report on the department's  
13 website that includes the following information regarding the  
14 previous calendar year of clean fuels program activities:

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

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

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

30 (d) The total greenhouse gas emissions reductions attributable to  
31 the clean fuels program isolated from the greenhouse gas emissions  
32 reductions attributable to other state and national programs on the  
33 same fuels; and

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

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

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

8 (4) The department must contract for a one-time ex ante  
9 independent analysis of the information specified in subsection  
10 (1)(c) of this section covering each year of the program through  
11 2038. The analysis must be informed by input from stakeholders,  
12 including regulated industries, and informed by experience from other  
13 jurisdictions. The analysis must impute price impacts using multiple  
14 analytical methodologies and must make clear how the assumptions or  
15 factors considered differed in each methodology used and price impact  
16 imputed. The analysis required in this subsection must be completed  
17 and submitted to the appropriate committees of the legislature by  
18 July 1, 2022.

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

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

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

30 (a) An estimate of the potential volumes of gasoline, gasoline  
31 substitutes, and gasoline alternatives, and diesel, diesel  
32 substitutes, and diesel alternatives available to Washington. In  
33 developing this estimate, the department of commerce must consider,  
34 but is not limited to considering:

35 (i) The existing and future vehicle fleet in Washington; and

36 (ii) Any constraints that might be preventing access to available  
37 and cost-effective low carbon fuels by Washington, such as geographic  
38 and logistical factors, and alleviating factors to the constraints;

1 (b) An estimate of the total banked credits and carried over  
2 deficits held by regulated parties, credit generators, and credit  
3 aggregators at the beginning of the compliance period, and an  
4 estimate of the total credits attributable to fuels described in (a)  
5 of this subsection;

6 (c) An estimate of the number of credits needed to meet the  
7 applicable clean fuels program requirements during the forecasted  
8 compliance period; and

9 (d) A comparison in the estimates of (a) and (b) of this  
10 subsection with the estimate in (c) of this subsection, for the  
11 purpose of indicating the availability of fuels and banked credits  
12 needed for compliance with the requirements of this chapter.

13 (4) The department of commerce, in coordination with the  
14 department, may appoint a forecast review team of relevant experts to  
15 participate in the fuel supply forecast or examination of data  
16 required by this section. The department of commerce must finalize a  
17 fuel supply forecast for an upcoming compliance period by no later  
18 than 90 days prior to the start of the compliance period.

19 NEW SECTION. **Sec. 12.** (1) No later than 30 calendar days before  
20 the commencement of a compliance period, the department shall issue  
21 an order declaring a forecast deferral if the fuel supply forecast  
22 under section 11 of this act projects that the amount of credits that  
23 will be available during the forecast compliance period will be less  
24 than 100 percent of the credits projected to be necessary for  
25 regulated parties to comply with the scheduled applicable clean fuels  
26 program standard adopted by the department for the forecast  
27 compliance period.

28 (2) An order declaring a forecast deferral under this section  
29 must set forth:

30 (a) The duration of the forecast deferral;

31 (b) The types of fuel to which the forecast deferral applies; and

32 (c) Which of the following methods the department has selected  
33 for deferring compliance with the scheduled applicable clean fuels  
34 program standard during the forecast deferral:

35 (i) Temporarily adjusting the scheduled applicable clean fuels  
36 program standard to a standard identified in the order that better  
37 reflects the forecast availability of credits during the forecast  
38 compliance period and requiring regulated parties to comply with the  
39 temporary standard;

1 (ii) Requiring regulated parties to comply only with the clean  
2 fuels program standard applicable during the compliance period prior  
3 to the forecast compliance period; or

4 (iii) Suspending deficit accrual for part or all of the forecast  
5 deferral period.

6 (3)(a) In implementing a forecast deferral, the department may  
7 take an action for deferring compliance with the clean fuels program  
8 standard other than, or in addition to, selecting a method under  
9 subsection (2)(c) of this section only if the department determines  
10 that none of the methods under subsection (2)(c) of this section will  
11 provide a sufficient mechanism for containing the costs of compliance  
12 with the clean fuels program standards during the forecast deferral.

13 (b) If the department makes the determination specified in (a) of  
14 this subsection, the department shall:

15 (i) Include in the order declaring a forecast deferral the  
16 determination and the action to be taken; and

17 (ii) Provide written notification and justification of the  
18 determination and the action to:

19 (A) The governor;

20 (B) The president of the senate;

21 (C) The speaker of the house of representatives;

22 (D) The majority and minority leaders of the senate; and

23 (E) The majority and minority leaders of the house of  
24 representatives.

25 (4) The duration of a forecast deferral may not be less than one  
26 calendar quarter or longer than one compliance period. Only the  
27 department may terminate, by order, a forecast deferral before the  
28 expiration date of the forecast deferral. Termination of a forecast  
29 deferral is effective on the first day of the next calendar quarter  
30 after the date that the order declaring the termination is adopted.

31 NEW SECTION. **Sec. 13.** (1) The director of the department may  
32 issue an order declaring an emergency deferral of compliance with the  
33 carbon intensity standard established under section 3 of this act no  
34 later than 15 calendar days after the date the department determines,  
35 in consultation with the governor's office and the department of  
36 commerce, that:

37 (a) Extreme and unusual circumstances exist that prevent the  
38 distribution of an adequate supply of renewable fuels needed for  
39 regulated parties to comply with the clean fuels program taking into

1 consideration all available methods of obtaining sufficient credits  
2 to comply with the standard;

3 (b) The extreme and unusual circumstances are the result of a  
4 natural disaster, an act of God, a significant supply chain  
5 disruption or production facility equipment failure, or another event  
6 that could not reasonably have been foreseen or prevented and not the  
7 lack of prudent planning on the part of the suppliers of the fuels to  
8 the state; and

9 (c) It is in the public interest to grant the deferral such as  
10 when a deferral is necessary to meet projected temporary shortfalls  
11 in the supply of the renewable fuel in the state and that other  
12 methods of obtaining compliance credits are unavailable to compensate  
13 for the shortage of renewable fuel supply.

14 (2) If the director of the department makes the determination  
15 required under subsection (1) of this section, such a temporary  
16 extreme and unusual deferral is permitted only if:

17 (a) The deferral applies only for the shortest time necessary to  
18 address the extreme and unusual circumstances;

19 (b) The deferral is effective for the shortest practicable time  
20 period the director of the department determines necessary to permit  
21 the correction of the extreme and unusual circumstances; and

22 (c) The director has given public notice of a proposed deferral.

23 (3) An order declaring an emergency deferral under this section  
24 must set forth:

25 (a) The duration of the emergency deferral;

26 (b) The types of fuel to which the emergency deferral applies;

27 (c) Which of the following methods the department has selected  
28 for deferring compliance with the clean fuels program during the  
29 emergency deferral:

30 (i) Temporarily adjusting the scheduled applicable carbon  
31 intensity standard to a standard identified in the order that better  
32 reflects the availability of credits during the emergency deferral  
33 and requiring regulated parties to comply with the temporary  
34 standard;

35 (ii) Allowing for the carryover of deficits accrued during the  
36 emergency deferral into the next compliance period without penalty;  
37 or

38 (iii) Suspending deficit accrual during the emergency deferral  
39 period.

1 (4) An emergency deferral may be terminated prior to the  
2 expiration date of the emergency deferral if new information becomes  
3 available indicating that the shortage that provided the basis for  
4 the emergency deferral has ended. The director of the department  
5 shall consult with the department of commerce and the governor's  
6 office in making an early termination decision. Termination of an  
7 emergency deferral is effective 15 calendar days after the date that  
8 the order declaring the termination is adopted.

9 (5)(a) In addition to the emergency deferral specified in  
10 subsection (1) of this section, the department may issue a full or  
11 partial deferral for one calendar quarter of a person's obligation to  
12 furnish credits for compliance under section 4 of this act if it  
13 finds that the person is unable to comply with the requirements of  
14 this chapter due to reasons beyond the person's reasonable control.  
15 The department may initiate a deferral under this subsection at its  
16 own discretion or at the request of a person regulated under this  
17 chapter. The department may renew issued deferrals. In evaluating  
18 whether to issue a deferral under this subsection, the department may  
19 consider the results of the fuel supply forecast in section 11 of  
20 this act, but is not bound in its decision-making discretion by the  
21 results of the forecast.

22 (b) If the department issues a deferral pursuant to this  
23 subsection, the department may:

24 (i) Direct the person subject to the deferral to file a progress  
25 report on achieving full compliance with the requirements of this  
26 chapter within an amount of time determined to be reasonable by the  
27 department; and

28 (ii) Direct the person to take specific actions to achieve full  
29 compliance with the requirements of this chapter.

30 (c) The issuance of a deferral under this subsection does not  
31 permanently relieve the deferral recipient of the obligation to  
32 comply with the requirements of this chapter.

33 NEW SECTION. **Sec. 14.** (1) The department may require that  
34 persons that are required or elect to register or report under this  
35 chapter pay a fee. If the department elects to require program  
36 participants to pay a fee, the department must, after an opportunity  
37 for public review and comment, adopt rules to establish a process to  
38 determine the payment schedule and the amount of the fee charged. The  
39 amount of the fee must be set so as to equal but not exceed the



1 projected direct and indirect costs to the department for developing  
2 and implementing the program and the projected direct and indirect  
3 costs to the department of commerce to carry out its responsibilities  
4 under section 11 of this act. The department and the department of  
5 commerce must prepare a biennial workload analysis and provide an  
6 opportunity for public review of and comment on the workload  
7 analysis. The department shall enter into an interagency agreement  
8 with the department of commerce to implement this section.

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

15 (3) All rule making authorized under this act must be conducted  
16 according to the standards for significant legislative rules provided  
17 in RCW 34.05.328.

18 NEW SECTION.

**Sec. 15.**

(1) By December 1, 2030, the joint  
19 legislative audit and review committee must analyze the impacts of  
20 the initial five years of clean fuels program implementation and must  
21 submit a report summarizing the analysis to the legislature. The  
22 analysis must include, at minimum, the following components:

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

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

34 (ii) Fuel prices; and

35 (iii) Total employment in categories of industries generating  
36 credits or deficits. The categories of industries assessed must  
37 include but are not limited to electric utilities, oil refineries,  
38 and other industries involved in the production of high carbon fuels,  
39 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;

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 (d) An evaluation of the impacts of the program on low-income  
16 households; and

17 (e) The outcomes of proposals to site biofuel facilities through  
18 the energy facility site evaluation council review process that is  
19 allowed by RCW 80.50.060(2).

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

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

23 (1) This chapter does not apply to amounts received from the  
24 generation, purchase, sale, transfer, or retirement of credits under  
25 chapter 70A.--- RCW (the new chapter created in section 29 of this  
26 act).

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

29 **Sec. 17.** RCW 80.50.020 and 2010 c 152 s 1 are each reenacted and  
30 amended to read as follows:

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

33 (1) "Alternative energy resource" includes energy facilities of  
34 the following types: (a) Wind; (b) solar energy; (c) geothermal  
35 energy; (d) landfill gas; (e) wave or tidal action; or (f) biomass  
36 energy based on solid organic fuels from wood, forest, or field  
37 residues, or dedicated energy crops that do not include wood pieces

1 that have been treated with chemical preservatives such as creosote,  
2 pentachlorophenol, or copper-chrome-arsenic.

3 (2) "Applicant" means any person who makes application for a site  
4 certification pursuant to the provisions of this chapter.

5 (3) "Application" means any request for approval of a particular  
6 site or sites filed in accordance with the procedures established  
7 pursuant to this chapter, unless the context otherwise requires.

8 (4) "Associated facilities" means storage, transmission,  
9 handling, or other related and supporting facilities connecting an  
10 energy plant with the existing energy supply, processing, or  
11 distribution system, including, but not limited to, communications,  
12 controls, mobilizing or maintenance equipment, instrumentation, and  
13 other types of ancillary transmission equipment, off-line storage or  
14 venting required for efficient operation or safety of the  
15 transmission system and overhead, and surface or subsurface lines of  
16 physical access for the inspection, maintenance, and safe operations  
17 of the transmission facility and new transmission lines constructed  
18 to operate at nominal voltages of at least 115,000 volts to connect a  
19 thermal power plant or alternative energy facilities to the northwest  
20 power grid. However, common carrier railroads or motor vehicles shall  
21 not be included.

22 (5) "Biofuel" (~~(has the same meaning as defined in RCW~~  
23 ~~43.325.010)~~) means a liquid or gaseous fuel derived from organic  
24 matter intended for use as a transportation fuel including, but not  
25 limited to, biodiesel, renewable diesel, ethanol, renewable natural  
26 gas, and renewable propane.

27 (6) "Certification" means a binding agreement between an  
28 applicant and the state which shall embody compliance to the siting  
29 guidelines, in effect as of the date of certification, which have  
30 been adopted pursuant to RCW 80.50.040 as now or hereafter amended as  
31 conditions to be met prior to or concurrent with the construction or  
32 operation of any energy facility.

33 (7) "Construction" means on-site improvements, excluding  
34 exploratory work, which cost in excess of two hundred fifty thousand  
35 dollars.

36 (8) "Council" means the energy facility site evaluation council  
37 created by RCW 80.50.030.

38 (9) "Counsel for the environment" means an assistant attorney  
39 general or a special assistant attorney general who shall represent  
40 the public in accordance with RCW 80.50.080.

1 (10) "Electrical transmission facilities" means electrical power  
2 lines and related equipment.

3 (11) "Energy facility" means an energy plant or transmission  
4 facilities: PROVIDED, That the following are excluded from the  
5 provisions of this chapter:

6 (a) Facilities for the extraction, conversion, transmission or  
7 storage of water, other than water specifically consumed or  
8 discharged by energy production or conversion for energy purposes;  
9 and

10 (b) Facilities operated by and for the armed services for  
11 military purposes or by other federal authority for the national  
12 defense.

13 (12) "Energy plant" means the following facilities together with  
14 their associated facilities:

15 (a) Any nuclear power facility where the primary purpose is to  
16 produce and sell electricity;

17 (b) Any nonnuclear stationary thermal power plant with generating  
18 capacity of three hundred fifty thousand kilowatts or more, measured  
19 using maximum continuous electric generating capacity, less minimum  
20 auxiliary load, at average ambient temperature and pressure, and  
21 floating thermal power plants of one hundred thousand kilowatts or  
22 more suspended on the surface of water by means of a barge, vessel,  
23 or other floating platform;

24 (c) Facilities which will have the capacity to receive liquefied  
25 natural gas in the equivalent of more than one hundred million  
26 standard cubic feet of natural gas per day, which has been  
27 transported over marine waters;

28 (d) Facilities which will have the capacity to receive more than  
29 an average of fifty thousand barrels per day of crude or refined  
30 petroleum or liquefied petroleum gas which has been or will be  
31 transported over marine waters, except that the provisions of this  
32 chapter shall not apply to storage facilities unless occasioned by  
33 such new facility construction;

34 (e) Any underground reservoir for receipt and storage of natural  
35 gas as defined in RCW 80.40.010 capable of delivering an average of  
36 more than one hundred million standard cubic feet of natural gas per  
37 day; (~~and~~)

38 (f) Facilities capable of processing more than twenty-five  
39 thousand barrels per day of petroleum or biofuel into refined

1 products except where such biofuel production is undertaken at  
2 existing industrial facilities; and

3 (g) Facilities capable of producing more than one thousand five  
4 hundred barrels per day of refined biofuel but less than twenty-five  
5 thousand barrels of refined biofuel.

6 (13) "Independent consultants" means those persons who have no  
7 financial interest in the applicant's proposals and who are retained  
8 by the council to evaluate the applicant's proposals, supporting  
9 studies, or to conduct additional studies.

10 (14) "Land use plan" means a comprehensive plan or land use  
11 element thereof adopted by a unit of local government pursuant to  
12 chapter 35.63, 35A.63, 36.70, or 36.70A RCW, or as otherwise  
13 designated by chapter 325, Laws of 2007.

14 (15) "Person" means an individual, partnership, joint venture,  
15 private or public corporation, association, firm, public service  
16 company, political subdivision, municipal corporation, government  
17 agency, public utility district, or any other entity, public or  
18 private, however organized.

19 (16) "Preapplicant" means a person considering applying for a  
20 site certificate agreement for any transmission facility.

21 (17) "Preapplication process" means the process which is  
22 initiated by written correspondence from the preapplicant to the  
23 council, and includes the process adopted by the council for  
24 consulting with the preapplicant and with cities, towns, and counties  
25 prior to accepting applications for all transmission facilities.

26 (18) "Secretary" means the secretary of the United States  
27 department of energy.

28 (19) "Site" means any proposed or approved location of an energy  
29 facility, alternative energy resource, or electrical transmission  
30 facility.

31 (20) "Thermal power plant" means, for the purpose of  
32 certification, any electrical generating facility using any fuel for  
33 distribution of electricity by electric utilities.

34 (21) "Transmission facility" means any of the following together  
35 with their associated facilities:

36 (a) Crude or refined petroleum or liquid petroleum product  
37 transmission pipeline of the following dimensions: A pipeline larger  
38 than six inches minimum inside diameter between valves for the  
39 transmission of these products with a total length of at least  
40 fifteen miles;

1 (b) Natural gas, synthetic fuel gas, or liquefied petroleum gas  
2 transmission pipeline of the following dimensions: A pipeline larger  
3 than fourteen inches minimum inside diameter between valves, for the  
4 transmission of these products, with a total length of at least  
5 fifteen miles for the purpose of delivering gas to a distribution  
6 facility, except an interstate natural gas pipeline regulated by the  
7 United States federal power commission.

8 (22) "Zoning ordinance" means an ordinance of a unit of local  
9 government regulating the use of land and adopted pursuant to chapter  
10 35.63, 35A.63, 36.70, or 36.70A RCW or Article XI of the state  
11 Constitution, or as otherwise designated by chapter 325, Laws of  
12 2007.

13 **Sec. 18.** RCW 80.50.060 and 2007 c 325 s 2 are each amended to  
14 read as follows:

15 (1) ~~((The))~~ Except for biofuel refineries specified in RCW  
16 80.50.020(12)(g), the provisions of this chapter apply to the  
17 construction of energy facilities which includes the new construction  
18 of energy facilities and the reconstruction or enlargement of  
19 existing energy facilities where the net increase in physical  
20 capacity or dimensions resulting from such reconstruction or  
21 enlargement meets or exceeds those capacities or dimensions set forth  
22 in RCW 80.50.020 ~~((+7))~~ (12) and ~~((+15))~~ (21). No construction of  
23 such energy facilities may be undertaken, except as otherwise  
24 provided in this chapter, after July 15, 1977, without first  
25 obtaining certification in the manner provided in this chapter.

26 (2) The provisions of this chapter apply to the construction,  
27 reconstruction, or enlargement of a new or existing biofuel refinery  
28 specified in RCW 80.50.020(12)(g) or a new or existing energy  
29 facility that exclusively uses alternative energy resources and  
30 chooses to receive certification under this chapter, regardless of  
31 the generating capacity of the project.

32 (3) (a) The provisions of this chapter apply to the construction,  
33 reconstruction, or modification of electrical transmission facilities  
34 when:

35 (i) The facilities are located in a national interest electric  
36 transmission corridor as specified in RCW 80.50.045;

37 (ii) An applicant chooses to receive certification under this  
38 chapter, and the facilities are: (A) Of a nominal voltage of at least  
39 one hundred fifteen thousand volts and are located in a completely

1 new corridor, except for the terminus of the new facility or  
2 interconnection of the new facility with the existing grid, and the  
3 corridor is not otherwise used for electrical transmission  
4 facilities; and (B) located in more than one jurisdiction that has  
5 promulgated land use plans or zoning ordinances; or

6 (iii) An applicant chooses to receive certification under this  
7 chapter, and the facilities are: (A) Of a nominal voltage in excess  
8 of one hundred fifteen thousand volts; and (B) located outside an  
9 electrical transmission corridor identified in (a)(i) and (ii) of  
10 this subsection (3).

11 (b) For the purposes of this subsection, "modify" means a  
12 significant change to an electrical transmission facility and does  
13 not include the following: (i) Minor improvements such as the  
14 replacement of existing transmission line facilities or supporting  
15 structures with equivalent facilities or structures; (ii) the  
16 relocation of existing electrical transmission line facilities; (iii)  
17 the conversion of existing overhead lines to underground; or (iv) the  
18 placing of new or additional conductors, supporting structures,  
19 insulators, or their accessories on or replacement of supporting  
20 structures already built.

21 (4) The provisions of this chapter shall not apply to normal  
22 maintenance and repairs which do not increase the capacity or  
23 dimensions beyond those set forth in RCW 80.50.020 (~~((7))~~) (12) and  
24 (~~((15))~~) (21).

25 (5) Applications for certification of energy facilities made  
26 prior to July 15, 1977, shall continue to be governed by the  
27 applicable provisions of law in effect on the day immediately  
28 preceding July 15, 1977, with the exceptions of RCW 80.50.190 and  
29 80.50.071 which shall apply to such prior applications and to site  
30 certifications prospectively from July 15, 1977.

31 (6) Applications for certification shall be upon forms prescribed  
32 by the council and shall be supported by such information and  
33 technical studies as the council may require.

34 **Sec. 19.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each  
35 amended to read as follows:

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

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

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

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

7 (iii) Must be distributed under RCW 46.68.415.

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

10 (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;

11  
12  
13  
14  
15  
16 (ii) If the resultant motor vehicle scale weight is not listed in  
17 the table provided in (b)(i) of this subsection, must be increased to  
18 the next highest weight; and

19 (iii) Must be distributed under RCW 46.68.415 unless prior to  
20 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this  
21 subsection occur, in which case the portion of the revenue that is  
22 the result of the fee increased in this subsection must be  
23 distributed to the connecting Washington account created under RCW  
24 46.68.395.

25 (A) Any state agency files a notice of rule making under chapter  
26 34.05 RCW, absent explicit legislative authorization enacted  
27 subsequent to July 1, 2015, for a rule regarding a fuel standard  
28 based upon or defined by the carbon intensity of fuel, including a  
29 low carbon fuel standard or clean fuel standard.

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

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



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

3 (2) A person applying for a motor home vehicle registration  
4 shall, in lieu of the motor vehicle weight fee required in subsection  
5 (1) of this section, pay a motor home vehicle weight fee of seventy-  
6 five dollars in addition to all other fees and taxes required by law.  
7 The motor home vehicle weight fee must be distributed under RCW  
8 46.68.415.

9 (3) Beginning July 1, 2022, in addition to the motor vehicle  
10 weight fee as provided in subsection (1) of this section, the  
11 department, county auditor or other agent, or subagent appointed by  
12 the director must require an applicant to pay an additional weight  
13 fee of ten dollars, which must be distributed to the multimodal  
14 transportation account under RCW 47.66.070 unless prior to July 1,  
15 2023, the actions described in (a) or (b) of this subsection occur,  
16 in which case the portion of the revenue that is the result of the  
17 fee increased in this subsection must be distributed to the  
18 connecting Washington account created under RCW 46.68.395.

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

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

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

34 (4) The department shall:

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

38 (b) Adopt rules for determining weight for vehicles without  
39 manufacturer empty scale weights.

1       **Sec. 20.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each  
2 amended to read as follows:

3       (1) When a person has been disqualified from operating a  
4 commercial motor vehicle, the person is not entitled to have the  
5 commercial driver's license or commercial learner's permit restored  
6 until after the expiration of the appropriate disqualification period  
7 required under RCW 46.25.090 or until the department has received a  
8 drug and alcohol assessment and evidence is presented of satisfactory  
9 participation in or completion of any required drug or alcohol  
10 treatment program for ending the disqualification under RCW  
11 46.25.090(7). After expiration of the appropriate period and upon  
12 payment of a requalification fee of twenty dollars until June 30,  
13 2016, and thirty-five dollars beginning July 1, 2016, or one hundred  
14 fifty dollars if the person has been disqualified under RCW  
15 46.25.090(7), the person may apply for a new, duplicate, or renewal  
16 commercial driver's license or commercial learner's permit as  
17 provided by law. If the person has been disqualified for a period of  
18 one year or more, the person shall demonstrate that he or she meets  
19 the commercial driver's license or commercial learner's permit  
20 qualification standards specified in RCW 46.25.060.

21       (2) The fees under this section must be deposited into the  
22 highway safety fund unless prior to July 1, 2023, the actions  
23 described in (a) or (b) of this subsection occur, in which case the  
24 portion of the revenue that is the result of the fee increased in  
25 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be  
26 distributed to the connecting Washington account created under RCW  
27 46.68.395.

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

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

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

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

3 **Sec. 21.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to  
4 read as follows:

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

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

12 (3) (a) The department may issue an enhanced driver's license or  
13 identicard for the purposes of crossing the border between the state  
14 of Washington and the Canadian province of British Columbia to an  
15 applicant who provides the department with proof of: United States  
16 citizenship, identity, and state residency. The department shall  
17 continue to offer a standard driver's license and identicard. If the  
18 department chooses to issue an enhanced driver's license, the  
19 department must allow each applicant to choose between a standard  
20 driver's license or identicard, or an enhanced driver's license or  
21 identicard.

22 (b) The department shall implement a one-to-many biometric  
23 matching system for the enhanced driver's license or identicard. An  
24 applicant for an enhanced driver's license or identicard shall submit  
25 a biometric identifier as designated by the department. The biometric  
26 identifier must be used solely for the purpose of verifying the  
27 identity of the holders and for any purpose set out in RCW 46.20.037.  
28 Applicants are required to sign a declaration acknowledging their  
29 understanding of the one-to-many biometric match.

30 (c) The enhanced driver's license or identicard must include  
31 reasonable security measures to protect the privacy of Washington  
32 state residents, including reasonable safeguards to protect against  
33 unauthorized disclosure of data about Washington state residents. If  
34 the enhanced driver's license or identicard includes a radio  
35 frequency identification chip, or similar technology, the department  
36 shall ensure that the technology is encrypted or otherwise secure  
37 from unauthorized data access.

38 (d) The requirements of this subsection are in addition to the  
39 requirements otherwise imposed on applicants for a driver's license

1 or identicard. The department shall adopt such rules as necessary to  
2 meet the requirements of this subsection. From time to time the  
3 department shall review technological innovations related to the  
4 security of identity cards and amend the rules related to enhanced  
5 driver's licenses and identicards as the director deems consistent  
6 with this section and appropriate to protect the privacy of  
7 Washington state residents.

8 (e) Notwithstanding RCW 46.20.118, the department may make images  
9 associated with enhanced drivers' licenses or identicards from the  
10 negative file available to United States customs and border agents  
11 for the purposes of verifying identity.

12 (4) Beginning on July 23, 2017, the fee for an enhanced driver's  
13 license or enhanced identicard is twenty-four dollars, which is in  
14 addition to the fees for any regular driver's license or identicard.  
15 If the enhanced driver's license or enhanced identicard is issued,  
16 renewed, or extended for a period other than six years, the fee for  
17 each class is four dollars for each year that the enhanced driver's  
18 license or enhanced identicard is issued, renewed, or extended.

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

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

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

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

1       **Sec. 22.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each  
2 amended to read as follows:

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

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

8       (b) Passed the general knowledge examination required for  
9 issuance of a CDL under RCW 46.25.060 for the commercial motor  
10 vehicle classification in which the applicant operates or expects to  
11 operate; and

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

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

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

28       (4) A CLP may be classified in the same manner as a CDL under RCW  
29 46.25.080(2)(a).

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

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

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

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

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

16 (a) "P" restricts the driver from operating a bus with  
17 passengers;

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

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

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

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

27 (9) The department must transmit the fees collected for CLPs to  
28 the state treasurer for deposit in the highway safety fund unless  
29 prior to July 1, 2023, the actions described in (a) or (b) of this  
30 subsection occur, in which case the portion of the revenue that is  
31 the result of the fee increased in section 206, chapter 44, Laws of  
32 2015 3rd sp. sess. must be distributed to the connecting Washington  
33 account created under RCW 46.68.395.

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

39 (b) Any state agency otherwise enacts, adopts, orders, or in any  
40 way implements a fuel standard based upon or defined by the carbon

1 intensity of fuel, including a low carbon fuel standard or clean fuel  
2 standard, without explicit legislative authorization enacted  
3 subsequent to July 1, 2015.

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

9 **Sec. 23.** RCW 46.25.060 and 2020 c 78 s 2 are each amended to  
10 read as follows:

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

13 (i) Is a resident of this state;

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

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

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

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

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

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

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

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

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

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

22 (ii) Public benefit not-for-profit corporations that support  
23 early childhood education and assistance programs as described in RCW  
24 43.216.505.

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

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

33 (2)(a) The department may waive the skills examination and the  
34 requirement for completion of a course of instruction in the  
35 operation of a commercial motor vehicle specified in this section for  
36 a commercial driver's license applicant who meets the requirements of  
37 49 C.F.R. Sec. 383.77. For current or former military service members  
38 that meet the requirements of 49 C.F.R. Sec. 383.77, the department  
39 may also waive the requirements for a knowledge test for commercial  
40 driver's license applicants. Beginning December 1, 2021, the



1 department shall provide an annual report to the house and senate  
2 transportation committees and the joint committee on veterans' and  
3 military affairs of the legislature on the number and types of  
4 waivers granted pursuant to this subsection.

5 (b) An applicant who operates a commercial motor vehicle for  
6 agribusiness purposes is exempt from the course of instruction  
7 completion and employer skills and training certification  
8 requirements under this section. By January 1, 2010, the department  
9 shall submit recommendations regarding the continuance of this  
10 exemption to the transportation committees of the legislature. For  
11 purposes of this subsection (2)(b), "agribusiness" means a private  
12 carrier who in the normal course of business primarily transports:

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

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

17 (iii) Unprocessed agricultural commodities, as defined in RCW  
18 17.21.020, where such commodities are produced by farmers, ranchers,  
19 vineyardists, or orchardists; or

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

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

24 (3) A commercial driver's license or commercial learner's permit  
25 may not be issued to a person while the person is subject to a  
26 disqualification from driving a commercial motor vehicle, or while  
27 the person's driver's license is suspended, revoked, or canceled in  
28 any state, nor may a commercial driver's license be issued to a  
29 person who has a commercial driver's license issued by any other  
30 state unless the person first surrenders all such licenses, which  
31 must be returned to the issuing state for cancellation.

32 (4) The fees under this section must be deposited into the  
33 highway safety fund unless prior to July 1, 2023, the actions  
34 described in (a) or (b) of this subsection occur, in which case the  
35 portion of the revenue that is the result of the fee increased in  
36 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be  
37 distributed to the connecting Washington account created under RCW  
38 46.68.395.

39 (a) Any state agency files a notice of rule making under chapter  
40 34.05 RCW, absent explicit legislative authorization enacted

1 subsequent to July 1, 2015, for a rule regarding a fuel standard  
2 based upon or defined by the carbon intensity of fuel, including a  
3 low carbon fuel standard or clean fuel standard.

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

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

14 **Sec. 24.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended  
15 to read as follows:

16 (1) Any person who knowingly violates any of the provisions of  
17 this chapter (~~(of)~~), chapter 70A.25 or 70A.--- (the new chapter  
18 created in section 29 of this act) RCW, RCW 70A.45.080, or any  
19 ordinance, resolution, or regulation in force pursuant thereto is  
20 guilty of a gross misdemeanor and upon conviction thereof shall be  
21 punished by a fine of not more than ten thousand dollars, or by  
22 imprisonment in the county jail for up to three hundred sixty-four  
23 days, or by both for each separate violation.

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

32 (3) Any person who knowingly releases into the ambient air any  
33 substance listed by the department of ecology as a hazardous air  
34 pollutant, other than in compliance with the terms of an applicable  
35 permit or emission limit, and who knows at the time that he or she  
36 thereby places another person in imminent danger of death or  
37 substantial bodily harm, is guilty of a class C felony and shall,  
38 upon conviction, be punished by a fine of not less than fifty

1 thousand dollars, or by imprisonment for not more than five years, or  
2 both.

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

7 **Sec. 25.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended  
8 to read as follows:

9 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and  
10 43.05.150, and in addition to or as an alternate to any other penalty  
11 provided by law, any person who violates any of the provisions of  
12 this chapter, chapter 70A.25 (~~(of)~~), 70A.450, or 70A.--- (the new  
13 chapter created in section 29 of this act) RCW, RCW 70A.45.080, or  
14 any of the rules in force under such chapters or section may incur a  
15 civil penalty in an amount not to exceed ten thousand dollars per day  
16 for each violation. Each such violation shall be a separate and  
17 distinct offense, and in case of a continuing violation, each day's  
18 continuance shall be a separate and distinct violation.

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

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

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

32 (3) Each act of commission or omission which procures, aids or  
33 abets in the violation shall be considered a violation under the  
34 provisions of this section and subject to the same penalty. The  
35 penalties provided in this section shall be imposed pursuant to RCW  
36 43.21B.300.

37 (4) All penalties recovered under this section by the department  
38 shall be paid into the state treasury and credited to the air  
39 pollution control account established in RCW 70A.15.1010 or, if

1 recovered by the authority, shall be paid into the treasury of the  
2 authority and credited to its funds. If a prior penalty for the same  
3 violation has been paid to a local authority, the penalty imposed by  
4 the department under subsection (1) of this section shall be reduced  
5 by the amount of the payment.

6 (5) To secure the penalty incurred under this section, the state  
7 or the authority shall have a lien on any vessel used or operated in  
8 violation of this chapter which shall be enforced as provided in RCW  
9 60.36.050.

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

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

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

25 **Sec. 26.** RCW 19.112.110 and 2013 c 225 s 601 are each amended to  
26 read as follows:

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

35 (2) Special fuel licensees under chapter 82.38 RCW, as determined  
36 by the department of licensing, must provide evidence to the  
37 department of licensing that at least five percent of total annual  
38 diesel fuel sold in Washington is biodiesel or renewable diesel fuel,  
39 when the director determines, and publishes this determination in the

1 Washington State Register, that both in-state oil seed crushing  
2 capacity and feedstock grown in Washington state can satisfy a  
3 three-percent requirement.

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

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

10 (5) To the extent that the requirements of this section conflict  
11 with the requirements of chapter 70A.--- (the new chapter created in  
12 section 29 of this act) RCW, the requirements of chapter 70A.--- (the  
13 new chapter created in section 29 of this act) RCW prevail.

14 **Sec. 27.** RCW 19.112.120 and 2013 c 225 s 602 are each amended to  
15 read as follows:

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

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

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

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

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

6 (6) To the extent that the requirements of this section conflict  
7 with the requirements of chapter 70A.--- (the new chapter created in  
8 section 29 of this act) RCW, the requirements of chapter 70A.--- (the  
9 new chapter created in section 29 of this act) RCW prevail.

10 NEW SECTION. Sec. 28. A new section is added to chapter 43.21A  
11 RCW to read as follows:

12 (1) The department, in coordination with the department of  
13 commerce and other agencies as appropriate, must develop  
14 recommendations for potential improvements to the permitting  
15 processes for industrial projects and facilities in Washington that  
16 would contribute to achieving greenhouse gas emissions limits  
17 established under RCW 70A.45.020 while maintaining standards for the  
18 protection of the environment and the preservation of tribal  
19 consultation and treaty rights. The department must provide increased  
20 clarity on areas in the state that may be suitable for siting  
21 projects that have a lower potential for negative environmental  
22 impacts, especially to highly impacted communities as defined in RCW  
23 19.405.020 and identify strategies for minimizing and mitigating  
24 negative environmental impacts where possible. The department must  
25 provide clear guidance and direction intended to improve project  
26 proposals, recommend policy and administrative improvements necessary  
27 to improve the permitting process, and recommend any additional  
28 studies needed. The department shall convene businesses, local  
29 governments, community organizations, and environmental and labor  
30 stakeholders, and consult with tribes.

31 (2) The department and the department of commerce shall produce  
32 and submit to the governor and the legislature an interim progress  
33 report with initial policy proposal recommendations for the 2022  
34 legislative session by December 1, 2021, and a final report including  
35 findings, recommendations, and further policy proposals by December  
36 1, 2022.

37 (3) This section expires June 30, 2023.

1        NEW SECTION.     **Sec. 29.**     Sections 1 through 15 of this act  
2 constitute a new chapter in Title 70A RCW.

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

7        NEW SECTION.     **Sec. 31.**     If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected. In the event that there is  
11 litigation on the provisions of section 3(6) of this act or any other  
12 provision of this act, it is the intent of the legislature that the  
13 remainder of the act shall continue to be enforced and if such  
14 provisions are held invalid, the remainder of the act shall not be  
15 affected.

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