

By Senator Carlyle
CHERRY

E2SHB 1110 - S COMM AMD

By Committee on Environment, Energy & Technology

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that rapid
4 innovations in low-carbon transportation technologies, including
5 electric vehicles and clean transportation fuels, are at the
6 threshold of widespread commercial deployment. In order to help
7 prompt the use of clean fuels, other states have successfully
8 implemented programs that reduce the carbon intensity of their
9 transportation fuels. Without disruptions to fuel markets or
10 significant impacts to the costs of transportation fuels, California
11 and Oregon have both implemented low carbon fuel standards that are
12 similar to the program created in this act. Washington state has
13 extensively studied the potential impact of a clean fuels program,
14 and most projections show that a low carbon fuel standard would
15 decrease greenhouse gas and conventional air pollutant emissions,
16 while positively impacting the state's economy.

17 (2) The legislature further finds that the health and welfare of
18 the people of the state of Washington is threatened by the prospect
19 of crumbling or swamped coastlines, rising water, and more intense
20 forest fires caused by higher temperatures and related droughts, all
21 of which are intensified and made more frequent by the volume of
22 greenhouse gas emissions. As of 2015, the transportation sector
23 contributes forty-three percent of Washington's greenhouse gas
24 emissions, and the legislature's interest in the life cycle of the
25 fuels used in the state arises from a concern for the effects of the
26 production and use of these fuels on Washington's environment and
27 public health, including its air quality, snowpack, and coastline.

28 (3) The legislature finds that the people already pay the costs
29 of multiple taxes and regulatory mandates on each molecule of fossil
30 fuels used for transportation, including:

31 (a) The state oil spill response tax;

- 1 (b) The state oil spill administration tax;
- 2 (c) The state hazardous substance tax used to fund the state
3 toxics control account, the local toxics control account, and the
4 environmental legacy and stewardship account;
- 5 (d) The combined state and federal motor vehicle 67.8 cent taxes
6 to fund transportation projects;
- 7 (e) The federal leaking underground storage tank tax and the
8 state petroleum products tax for underground storage tanks;
- 9 (f) Applicable state and local sales taxes; and
- 10 (g) The federal renewable fuel standard.
- 11 (4) Therefore, it is the intent of the legislature to support the
12 deployment of clean transportation fuel technologies through a
13 carefully designed program that reduces the carbon intensity of fuel
14 used in Washington, in order to:
- 15 (a) Reduce levels of conventional air pollutants from diesel and
16 gasoline that are harmful to public health;
- 17 (b) Reduce greenhouse gas emissions associated with
18 transportation fuels, which are the state's largest source of
19 greenhouse gas emissions; and
- 20 (c) Create jobs and spur economic development based on innovative
21 clean fuel technologies.

22 NEW SECTION. **Sec. 2.** The definitions in this section apply
23 throughout this section and sections 3 through 13 and 21 of this act
24 unless the context clearly indicates otherwise.

25 (1) "Carbon dioxide equivalents" has the same meaning as defined
26 in RCW 70.235.010.

27 (2) "Clean fuels program" means the requirements established by
28 this act.

29 (3) "Cost" means an expense connected to the manufacture,
30 distribution, or other aspects of the provision of a transportation
31 fuel product.

32 (4) "Credit" means a unit of measure equal to one metric ton of
33 carbon dioxide equivalents.

34 (5) "Deficit" means a unit of measure generated when a
35 transportation fuel with a carbon intensity that is greater than the
36 applicable standard adopted by the department under section 3 of this
37 act is produced, imported, or dispensed for use in Washington, such
38 that one deficit is equal to one metric ton of carbon dioxide
39 equivalents.

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

3 (7) "Greenhouse gas" has the same meaning as defined in RCW
4 70.235.010.

5 (8) "Highly impacted community" has the same meaning as defined
6 in RCW 19.405.020 or an equivalent cumulative impacts analysis that
7 identifies the environmental health conditions of communities as a
8 factor of both environmental health hazards and vulnerable
9 populations as defined in RCW 19.405.020.

10 (9) "Military tactical vehicle" means a motor vehicle owned by
11 the United States department of defense or the United States military
12 services and that is used in combat, combat support, combat service
13 support, tactical or relief operations, or training for such
14 operations.

15 (10) "Motor vehicle" has the same meaning as defined in RCW
16 46.04.320.

17 (11) "Price" means the amount of payment or compensation provided
18 as consideration for a specified quantity of transportation fuel by a
19 consumer or end user of the transportation fuel.

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

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

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

33 NEW SECTION. **Sec. 3.** (1) The department shall adopt rules that
34 establish standards that reduce the greenhouse gas emissions per unit
35 of fuel energy (carbon intensity) in transportation fuels used in
36 Washington. The standards established by the rules must be based on
37 the carbon intensity of gasoline and gasoline substitutes and the
38 carbon intensity of diesel and diesel substitutes. The rules adopted
39 under this section must reduce the greenhouse gas emissions

1 attributable to each unit of the fuels to ten percent below 2017
2 levels by 2028 and twenty percent below 2017 levels by 2035. The
3 rules must establish a start date for the clean fuels program of no
4 later than January 1, 2022, or as soon thereafter as the conditions
5 in section 21 of this act occur. To the extent the requirements of
6 this act conflict with the requirements of chapter 19.112 RCW, the
7 requirements of this act prevail.

8 (2) The direction to the department to adopt rules under this
9 section is not an acknowledgment, denial, or limitation of any
10 authority of the department that existed prior to the effective date
11 of this section to adopt rules related to the greenhouse gas
12 emissions intensity of fuel under other provisions of this chapter
13 including, but not limited to, RCW 70.94.151 and 70.94.331.

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

17 (b) Electricity is not subject to the greenhouse gas emissions
18 reduction requirements in this section.

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

23 (1) Standards for greenhouse gas emissions attributable to the
24 transportation fuels throughout their life cycles, including but not
25 limited to emissions from the production, storage, transportation,
26 and combustion of transportation fuels and from changes in land use
27 associated with transportation fuels.

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

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

32 (ii) Consider carbon intensity calculations for transportation
33 fuels developed by national laboratories or used by similar programs
34 in other states.

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

37 (i) Neutrally consider the life-cycle emissions associated with
38 transportation fuels with respect to the political jurisdiction in
39 which the fuels originated and may not discriminate against fuels on

1 the basis of having originated in another state or jurisdiction.
2 Nothing in this subsection may be construed to prohibit inclusion or
3 assessment of emissions related to fuel production, storage,
4 transportation, or combustion or associated changes in land use in
5 determining the carbon intensity of a fuel. At minimum, the
6 department must consider associated changes in land use in
7 determining the carbon intensity of transportation fuel produced in
8 whole or in part from sugar cane;

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

15 (iii) Include procedures for setting and adjusting the amounts of
16 greenhouse gas emissions per unit of fuel energy that is assigned to
17 transportation fuels under this subsection.

18 (c) If the department determines that it is necessary for
19 purposes of accurately measuring greenhouse gas emissions associated
20 with transportation fuels, the department may require transportation
21 fuel suppliers to submit data or information to be used for purposes
22 of calculating greenhouse gas emissions that is different from or
23 additional to the greenhouse gas emissions data reported under RCW
24 70.94.151(5) (a) (iii).

25 (d) If the department determines that it is necessary for
26 purposes of accurately measuring greenhouse gas emissions associated
27 with electricity supplied to retail customers by an electric utility,
28 the department may require electric utilities participating in the
29 clean fuels program to submit data or information to be used for
30 purposes of calculating greenhouse gas emissions that is different
31 from or additional to the fuel mix disclosure information submitted
32 under chapter 19.29A RCW. To the extent practicable, rules adopted by
33 the department may allow data requested of utilities to be submitted
34 in a form and manner consistent with other required state or federal
35 data submissions. Under the program, zero associated lifecycle
36 greenhouse gas emissions must be attributed to electricity produced
37 from hydroelectric generation, including incremental hydroelectric
38 generation. Electricity from hydroelectric generation, including
39 incremental hydroelectric generation, that is used as transportation
40 fuel must be provided credit under the program. For the purposes of

1 this section, "incremental hydroelectric generation" means
2 electricity produced as a result of efficiency improvements from
3 hydroelectric generation projects where the additional generation
4 does not result in new water diversions or impoundments;

5 (2) Provisions allowing for the achievement of limits on the
6 greenhouse gas emissions intensity of transportation fuels in section
7 3 of this act to be achieved by any combination of credit generating
8 activities capable of meeting such standards, consistent with the
9 limitations of subsection (3)(a) of this section. Where such
10 provisions would not produce results counter to the emission
11 reduction goals of the program or prove administratively burdensome
12 for the department, the rules should provide each participant in the
13 clean fuels program with the opportunity to demonstrate appropriate
14 carbon intensity values taking into account both emissions from
15 production facilities and elsewhere in the production cycle;

16 (3)(a) Methods for assigning compliance obligations and methods
17 for tracking tradable credits. The department may assign the
18 generation of a credit when a fuel with associated life-cycle
19 greenhouse gas emissions that are lower than the applicable per-unit
20 standard adopted by the department under section 3 of this act is
21 produced, imported, or dispensed for use in Washington, or when
22 specified activities are undertaken that support the reduction of
23 greenhouse gas emissions associated with transportation in
24 Washington. Transportation fuels with associated greenhouse gas
25 emissions exceeding eighty percent of the 2017 levels established in
26 section 3 of this act are not eligible to generate credits under the
27 clean fuels program. Transportation fuels that are refined or
28 otherwise wholly or partly derived from palm oil are not eligible to
29 generate credits under the clean fuels program;

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

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

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

39 (5) Mechanisms for persons associated with the supply chains of
40 transportation fuels that are used for purposes that are exempt from

1 the clean fuels program compliance obligations, including but not
2 limited to electricity and fuels used by aircraft, vessels, railroad
3 locomotives, and other exempt fuels specified in section 5 of this
4 act, to elect to participate in the clean fuels program by earning
5 credits for the production, import, distribution, use, or retail of
6 exempt fuels with associated life-cycle greenhouse gas emissions
7 lower than the per-unit standard established in section 3 of this
8 act;

9 (6) Cost containment mechanisms.

10 (a) Cost containment mechanisms may include, but are not limited
11 to:

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

15 (ii) Similar procedures that provide a means of compliance with
16 the clean fuels program requirements in the event that a regulated
17 person has not been able to acquire sufficient volumes of credits at
18 the end of a compliance period.

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

23 (7) Authority for the department to designate an entity to
24 aggregate and use unclaimed credits associated with persons that
25 elect not to participate in the clean fuels program under subsection
26 (4) of this section.

27 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and
28 4 of this act must include exemptions for, at minimum, the following
29 transportation fuels:

30 (a) Fuels used in volumes below thresholds adopted by the
31 department;

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

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

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

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

3 (ii) Dyed special fuel used in vehicles that are not designed
4 primarily to transport persons or property, that are not designed to
5 be primarily operated on highways, and that are used primarily for
6 construction work including, but not limited to, mining and timber
7 harvest operations; and

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

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

16 (3) The department may adopt rules to specify the standards for
17 persons to qualify for the exemptions provided in this section. The
18 department may implement the exemptions under subsection (2) of this
19 section to align with the implementation of exemptions for similar
20 fuels exempt from chapter 82.38 RCW.

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

27 (a) Mismatched incentives across programs;

28 (b) Fuel shifting between markets; or

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

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

35 NEW SECTION. **Sec. 6.** (1) The rules adopted under sections 3 and
36 4 of this act may allow the generation of credits from activities
37 that support the reduction of greenhouse gas emissions associated
38 with transportation in Washington, including but not limited to:

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

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

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

6 (iii) Direct air capture projects;

7 (b) The fueling of electric vehicles using electricity certified
8 by the department to have a carbon intensity of zero. Such
9 electricity must include, at minimum:

10 (i) Electricity for which a renewable energy credit or other
11 environmental attribute has been retired or used only for purposes of
12 the clean fuels program; and

13 (ii) Electricity produced using a zero emission resource,
14 including but not limited to solar, wind, geothermal, or the
15 industrial combustion of biomass consistent with RCW 70.235.020(3),
16 that is directly supplied as a transportation fuel by the generator
17 of the electricity;

18 (c) The provision of zero emission vehicle refueling
19 infrastructure, including but not limited to fast charging battery
20 electric vehicle infrastructure and hydrogen electric vehicle
21 refueling infrastructure; and

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

25 (2) The rules adopted by the department may establish limits for
26 the number of credits that may be earned each year by persons
27 participating in the program for some or all of the activities
28 specified in subsection (1) of this section.

29 (3) The rules adopted by the department may provide the
30 opportunity for the department to evaluate transportation fuels using
31 a third-party screening protocol that assesses social, environmental,
32 or labor impacts associated with a fuel.

33 NEW SECTION. **Sec. 7.** (1) Except where otherwise provided in
34 sections 2 through 11 of this act, the department should seek to
35 adopt rules that are harmonized with the regulatory standards,
36 exemptions, reporting obligations, and other clean fuels program
37 compliance requirements of other states that:

1 (a) Have adopted low carbon fuel standards or similar greenhouse
2 gas emissions requirements applicable specifically to transportation
3 fuels; and

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

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

8 (2) In adopting rules under sections 3 and 4 of this act, the
9 department must consider whether actions taken or credits generated
10 under the clean fuels program are eligible for purposes of compliance
11 with the clean air rule, chapter 173-442 WAC as it existed as of
12 October 16, 2016, and whether actions taken or emissions reduction
13 units generated under the clean air rule may be used for purposes of
14 compliance with this section.

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

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

23 (c) Other persons must register with the department to generate
24 credits from other activities that support the reduction of
25 greenhouse gas emissions associated with transportation in
26 Washington.

27 (2) Each transaction transferring ownership of transportation
28 fuels for which clean fuels program participation is mandated or has
29 been chosen must be accompanied by documentation, in a format
30 approved by the department, that assigns the clean fuels program
31 compliance responsibility associated with the fuels, including the
32 assignment of associated credits.

33 (3) The department may adopt rules requiring the periodic
34 reporting of information to the department by persons associated with
35 the supply chains of transportation fuels participating in the clean
36 fuels program. To the extent practicable, the rules must establish
37 reporting procedures and timelines that are consistent with similar
38 programs in other states that reduce the greenhouse gas emission
39 intensity of transportation fuel and with procedures and timelines of

1 state programs requiring similar information to be reported by
2 regulated parties, including electric utilities.

3 (4) RCW 70.94.205 applies to records or information submitted to
4 the department under sections 2 through 13 of this act.

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

12 (b) Sixty percent of the revenues described in (a) of this
13 subsection, or thirty percent of the revenues generated by an
14 electric utility from credits earned from the electricity supplied to
15 retail customers by an electric utility under the clean fuels
16 program, must be expended by the electric utility on transportation
17 electrification projects, which may include projects to support the
18 production and provision of renewable hydrogen as a transportation
19 fuel, directly benefiting a highly impacted community within the
20 service area of the utility.

21 (2) The department may adopt requirements for the expenditure of
22 revenues from credits earned from the electricity supplied to retail
23 customers by an electric utility under the clean fuels program that
24 are applicable to the fifty percent of revenues not subject to the
25 requirements of subsection (1) of this section. Any requirements for
26 the expenditure of revenues from credits earned from the electricity
27 supplied to retail customers by an electric utility under the clean
28 fuels program must be developed in consultation with electric
29 utilities.

30 (3) Electric utilities that elect to participate in the clean
31 fuels program must annually provide information to the department
32 accounting for and briefly describing all expenditures of revenues
33 generated from credits earned under the clean fuels program.

34 (4) The definitions in this subsection apply throughout this
35 section unless the context clearly requires otherwise.

36 (a) "Renewable hydrogen" means hydrogen produced using renewable
37 resources both as the source for the hydrogen and the source for the
38 energy input into the production process.

1 (b) "Renewable resource" means: (i) Water; (ii) wind; (iii) solar
2 energy; (iv) geothermal energy; (v) renewable natural gas as defined
3 in RCW 54.04.190; (vi) renewable hydrogen; (vii) wave, ocean, or
4 tidal power; (viii) biodiesel fuel that is not derived from crops
5 raised on land cleared from old growth or first growth forests; or
6 (ix) biomass energy.

7 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2024, and each May
8 1st thereafter, the department must post a report on the department's
9 web site that includes the following information regarding the
10 previous calendar year of clean fuels program activities:

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

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

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

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

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

31 (2) By December 1, 2023, and each December 1st thereafter, the
32 department must submit recommendations to the appropriate committees
33 of the house of representatives and senate, in the form of draft
34 legislation, for any changes to sections 2 through 13 of this act
35 that are needed in order to more efficiently achieve the greenhouse
36 gas emissions reduction goals of the clean fuels program.

37 (3) The department must identify the sources of information it
38 relied upon in each report submitted under this section, including
39 peer-reviewed science.

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

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

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

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

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

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

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

22 (5) The department of commerce must identify the sources of
23 information it relied upon in each fuel supply forecast submitted
24 under this section, including peer-reviewed science.

25 NEW SECTION. **Sec. 12.** (1) The department may require that
26 persons that are required or elect to register or report under
27 sections 2 through 13 of this act pay a fee. If the department elects
28 to require program participants to pay a fee, the department must,
29 after an opportunity for public review and comment, adopt rules to
30 establish a process to determine the payment schedule and the amount
31 of the fee charged. The amount of the fee must be set so as to equal
32 but not exceed the projected direct and indirect costs to the
33 department for developing and implementing the program and the
34 projected direct and indirect costs to the department of commerce to
35 carry out its responsibilities under section 11 of this act. The
36 department and the department of commerce must prepare a biennial
37 workload analysis and provide an opportunity for public review of and
38 comment on the workload analysis. The department shall enter into an

1 interagency agreement with the department of commerce to implement
2 this section.

3 (2) The clean fuels program account is created in the state
4 treasury. All receipts from fees and penalties received under the
5 program created in this section and sections 2 through 11 of this act
6 must be deposited into the account. Moneys in the account may be
7 spent only after appropriation. The department may only use
8 expenditures from the account for carrying out the program created in
9 this section and sections 2 through 11 of this act.

10 NEW SECTION. **Sec. 13.** (1) By December 1, 2028, the joint
11 legislative audit and review committee must analyze the impacts of
12 the initial five years of clean fuels program implementation and must
13 submit a report summarizing the analysis to the legislature. The
14 analysis must include, at minimum, the following components:

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

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

26 (ii) Fuel prices; and

27 (iii) Total employment in categories of industries generating
28 credits or deficits. The categories of industries assessed must
29 include but are not limited to electric utilities, oil refineries,
30 and other industries involved in the production of high carbon fuels,
31 industries involved in the delivery and sale of high carbon fuels,
32 biofuel refineries, and industries involved in the delivery and sale
33 of low carbon fuels;

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

36 (c) A summary of the estimated total statewide costs and benefits
37 attributable to the clean fuels program, including state agency
38 administrative costs and regulated entity compliance costs. For
39 purposes of calculating the benefits of the program, the summary may

1 rely, in part, on a constant value of the social costs attributable
2 to greenhouse gas emissions, as identified in contemporary
3 internationally accepted estimates of such global social cost. This
4 summary must include an estimate of the total statewide costs of the
5 program per ton of greenhouse gas emissions reductions achieved by
6 the clean fuels program.

7 (2) This section expires June 30, 2029.

8 **Sec. 14.** RCW 43.157.010 and 2017 c 288 s 2 are each amended to
9 read as follows:

10 The definitions in this section apply throughout this chapter and
11 RCW 28A.525.166, 43.21A.350, and 90.58.100, unless the context
12 requires otherwise:

13 (1) "Applicant" means a person applying to the department for
14 designation of a development project as a project of statewide
15 significance.

16 (2) "Aviation biofuels production facility" means a facility
17 primarily for the processing of nonfossil biogenic feedstocks to
18 produce aviation fuels that meet the fuel quality technical standards
19 of the American society for testing materials for aviation fuels and
20 coproducts.

21 (3) "Department" means the department of commerce.

22 (4) "Manufacturing" shall have the meaning assigned it in RCW
23 82.62.010.

24 (5) (a) "Project of statewide significance" means:

25 (i) A border crossing project that involves both private and
26 public investments carried out in conjunction with adjacent states or
27 provinces;

28 (ii) A development project that will provide a net environmental
29 benefit;

30 (iii) A development project in furtherance of the
31 commercialization of innovations;

32 (iv) A private industrial development with private capital
33 investment in manufacturing or research and development;

34 (v) An aviation biofuels production facility; (~~(e)~~)

35 (vi) A project to construct a renewable fuels production facility
36 that will be capable of producing more than one hundred million
37 gallons of renewable energy products annually; or

38 (vii) A project designated by the legislature and codified under
39 this chapter.

1 (b) To qualify for designation under RCW 43.157.030 as a project
2 of statewide significance:

3 (i) The project must be completed after January 1, 2009;

4 (ii) The applicant must submit an application to the department
5 for designation as a project of statewide significance to the
6 department of commerce; and

7 (iii) Except for an aviation biofuels production facility, the
8 project must have:

9 (A) In counties with a population less than or equal to twenty
10 thousand, a capital investment of five million dollars;

11 (B) In counties with a population greater than twenty thousand
12 but no more than fifty thousand, a capital investment of ten million
13 dollars;

14 (C) In counties with a population greater than fifty thousand but
15 no more than one hundred thousand, a capital investment of fifteen
16 million dollars;

17 (D) In counties with a population greater than one hundred
18 thousand but no more than two hundred thousand, a capital investment
19 of twenty million dollars;

20 (E) In counties with a population greater than two hundred
21 thousand but no more than four hundred thousand, a capital investment
22 of thirty million dollars;

23 (F) In counties with a population greater than four hundred
24 thousand but no more than one million, a capital investment of forty
25 million dollars;

26 (G) In counties with a population greater than one million, a
27 capital investment of fifty million dollars;

28 (H) In rural counties as defined by RCW 82.14.370, projected
29 full-time employment positions after completion of construction of
30 fifty or greater;

31 (I) In counties other than rural counties as defined by RCW
32 82.14.370, projected full-time employment positions after completion
33 of construction of one hundred or greater; or

34 (J) Been qualified by the director of the department as a project
35 of statewide significance either because:

36 (I) The economic circumstances of the county merit the additional
37 assistance such designation will bring;

38 (II) The impact on a region due to the size and complexity of the
39 project merits such designation;

1 (III) The project resulted from or is in furtherance of
2 innovation activities at a public research institution in the state
3 or is in or resulted from innovation activities within an innovation
4 partnership zone; or

5 (IV) The project will provide a net environmental benefit as
6 evidenced by plans for design and construction under green building
7 standards or for the creation of renewable energy technology or
8 components or under other environmental criteria established by the
9 director in consultation with the director of the department of
10 ecology.

11 A project may be qualified under this subsection (5)(b)(iii)(J)
12 only after consultation on the availability of staff resources of the
13 office of regulatory assistance.

14 (6) "Research and development" shall have the meaning assigned it
15 in RCW 82.62.010.

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

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

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

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

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

28 (iii) Must be distributed under RCW 46.68.415.

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

31 (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;

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

4 (iii) Must be distributed under RCW 46.68.415 unless prior to
5 July 1, 2023, the actions described in (b)(iii)(A) or (B) of this
6 subsection occur, in which case the portion of the revenue that is
7 the result of the fee increased in this subsection must be
8 distributed to the connecting Washington account created under RCW
9 46.68.395.

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

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

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

25 (2) A person applying for a motor home vehicle registration
26 shall, in lieu of the motor vehicle weight fee required in subsection
27 (1) of this section, pay a motor home vehicle weight fee of seventy-
28 five dollars in addition to all other fees and taxes required by law.
29 The motor home vehicle weight fee must be distributed under RCW
30 46.68.415.

31 (3) Beginning July 1, 2022, in addition to the motor vehicle
32 weight fee as provided in subsection (1) of this section, the
33 department, county auditor or other agent, or subagent appointed by
34 the director must require an applicant to pay an additional weight
35 fee of ten dollars, which must be distributed to the multimodal
36 transportation account under RCW 47.66.070 unless prior to July 1,
37 2023, the actions described in (a) or (b) of this subsection occur,
38 in which case the portion of the revenue that is the result of the
39 fee increased in this subsection must be distributed to the
40 connecting Washington account created under RCW 46.68.395.

1 (a) Any state agency files a notice of rule making under chapter
2 34.05 RCW, absent explicit legislative authorization enacted
3 subsequent to July 1, 2015, for a rule regarding a fuel standard
4 based upon or defined by the carbon intensity of fuel, including a
5 low carbon fuel standard or clean fuel standard.

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

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

16 (4) The department shall:

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

20 (b) Adopt rules for determining weight for vehicles without
21 manufacturer empty scale weights.

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

24 (1) When a person has been disqualified from operating a
25 commercial motor vehicle, the person is not entitled to have the
26 commercial driver's license or commercial learner's permit restored
27 until after the expiration of the appropriate disqualification period
28 required under RCW 46.25.090 or until the department has received a
29 drug and alcohol assessment and evidence is presented of satisfactory
30 participation in or completion of any required drug or alcohol
31 treatment program for ending the disqualification under RCW
32 46.25.090(7). After expiration of the appropriate period and upon
33 payment of a requalification fee of twenty dollars until June 30,
34 2016, and thirty-five dollars beginning July 1, 2016, or one hundred
35 fifty dollars if the person has been disqualified under RCW
36 46.25.090(7), the person may apply for a new, duplicate, or renewal
37 commercial driver's license or commercial learner's permit as
38 provided by law. If the person has been disqualified for a period of
39 one year or more, the person shall demonstrate that he or she meets

1 the commercial driver's license or commercial learner's permit
2 qualification standards specified in RCW 46.25.060.

3 (2) The fees under this section must be deposited into the
4 highway safety fund unless prior to July 1, 2023, the actions
5 described in (a) or (b) of this subsection occur, in which case the
6 portion of the revenue that is the result of the fee increased in
7 section 208, chapter 44, Laws of 2015 3rd sp. sess. must be
8 distributed to the connecting Washington account created under RCW
9 46.68.395.

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

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

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

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

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

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

34 (3)(a) The department may issue an enhanced driver's license or
35 identicard for the purposes of crossing the border between the state
36 of Washington and the Canadian province of British Columbia to an
37 applicant who provides the department with proof of: United States
38 citizenship, identity, and state residency. The department shall
39 continue to offer a standard driver's license and identicard. If the

1 department chooses to issue an enhanced driver's license, the
2 department must allow each applicant to choose between a standard
3 driver's license or identicard, or an enhanced driver's license or
4 identicard.

5 (b) The department shall implement a one-to-many biometric
6 matching system for the enhanced driver's license or identicard. An
7 applicant for an enhanced driver's license or identicard shall submit
8 a biometric identifier as designated by the department. The biometric
9 identifier must be used solely for the purpose of verifying the
10 identity of the holders and for any purpose set out in RCW 46.20.037.
11 Applicants are required to sign a declaration acknowledging their
12 understanding of the one-to-many biometric match.

13 (c) The enhanced driver's license or identicard must include
14 reasonable security measures to protect the privacy of Washington
15 state residents, including reasonable safeguards to protect against
16 unauthorized disclosure of data about Washington state residents. If
17 the enhanced driver's license or identicard includes a radio
18 frequency identification chip, or similar technology, the department
19 shall ensure that the technology is encrypted or otherwise secure
20 from unauthorized data access.

21 (d) The requirements of this subsection are in addition to the
22 requirements otherwise imposed on applicants for a driver's license
23 or identicard. The department shall adopt such rules as necessary to
24 meet the requirements of this subsection. From time to time the
25 department shall review technological innovations related to the
26 security of identity cards and amend the rules related to enhanced
27 driver's licenses and identicards as the director deems consistent
28 with this section and appropriate to protect the privacy of
29 Washington state residents.

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

34 (4) Beginning on July 23, 2017, the fee for an enhanced driver's
35 license or enhanced identicard is twenty-four dollars, which is in
36 addition to the fees for any regular driver's license or identicard.
37 If the enhanced driver's license or enhanced identicard is issued,
38 renewed, or extended for a period other than six years, the fee for
39 each class is four dollars for each year that the enhanced driver's
40 license or enhanced identicard is issued, renewed, or extended.

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

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

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

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

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

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

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

30 (b) Passed the general knowledge examination required for
31 issuance of a CDL under RCW 46.25.060 for the commercial motor
32 vehicle classification in which the applicant operates or expects to
33 operate; and

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

37 (2) A CLP must be marked "commercial learner's permit" or "CLP,"
38 and must be, to the maximum extent practicable, tamperproof. Other

1 than a photograph of the applicant, it must include, but not be
2 limited to, the information required on a CDL under RCW 46.25.080(1).

3 (3) The holder of a CLP may drive a commercial motor vehicle on a
4 highway only when in possession of a valid driver's license and
5 accompanied by the holder of a valid CDL who has the proper CDL
6 classification and endorsement or endorsements necessary to operate
7 the commercial motor vehicle. The CDL holder must at all times be
8 physically present in the front seat of the vehicle next to the CLP
9 holder or, in the case of a passenger vehicle, directly behind or in
10 the first row behind the driver and must have the CLP holder under
11 observation and direct supervision.

12 (4) A CLP may be classified in the same manner as a CDL under RCW
13 46.25.080(2)(a).

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

16 (a) The holder of a CLP with a P endorsement must have taken and
17 passed the P endorsement knowledge examination. The holder of a CLP
18 with a P endorsement is prohibited from operating a commercial motor
19 vehicle carrying passengers other than authorized employees or
20 representatives of the department and the federal motor carrier
21 safety administration, examiners, other trainees, and the CDL holder
22 accompanying the CLP holder as required under subsection (2) of this
23 section. The P endorsement must be class specific.

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

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

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

39 (a) "P" restricts the driver from operating a bus with
40 passengers;

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

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

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

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

10 (9) The department must transmit the fees collected for CLPs to
11 the state treasurer for deposit in the highway safety fund unless
12 prior to July 1, 2023, the actions described in (a) or (b) of this
13 subsection occur, in which case the portion of the revenue that is
14 the result of the fee increased in section 206, chapter 44, Laws of
15 2015 3rd sp. sess. must be distributed to the connecting Washington
16 account created under RCW 46.68.395.

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

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

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

32 **Sec. 19.** RCW 46.25.060 and 2015 3rd sp.s. c 44 s 207 are each
33 amended to read as follows:

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

36 (i) Is a resident of this state;

37 (ii) Has successfully completed a course of instruction in the
38 operation of a commercial motor vehicle that has been approved by the

1 director or has been certified by an employer as having the skills
2 and training necessary to operate a commercial motor vehicle safely;

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

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

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

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

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

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

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

36 (d) If the applicant's primary use of a commercial driver's
37 license is for any of the following, then the applicant shall pay a
38 fee of no more than seventy-five dollars until June 30, 2016, and two
39 hundred twenty-five dollars beginning July 1, 2016, for the
40 classified skill examination or combination of classified skill

1 examinations whether conducted by the department or a third-party
2 tester:

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

5 (ii) Public benefit not-for-profit corporations that support
6 early childhood education and assistance programs as described in RCW
7 (~~43.215.405(2)~~) 43.216.505(2).

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

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

16 (2)(a) The department may waive the skills examination and the
17 requirement for completion of a course of instruction in the
18 operation of a commercial motor vehicle specified in this section for
19 a commercial driver's license applicant who meets the requirements of
20 49 C.F.R. Sec. 383.77.

21 (b) An applicant who operates a commercial motor vehicle for
22 agribusiness purposes is exempt from the course of instruction
23 completion and employer skills and training certification
24 requirements under this section. By January 1, 2010, the department
25 shall submit recommendations regarding the continuance of this
26 exemption to the transportation committees of the legislature. For
27 purposes of this subsection (2)(b), "agribusiness" means a private
28 carrier who in the normal course of business primarily transports:

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

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

33 (iii) Unprocessed agricultural commodities, as defined in RCW
34 17.21.020, where such commodities are produced by farmers, ranchers,
35 vineyardists, or orchardists; or

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

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

1 (3) A commercial driver's license or commercial learner's permit
2 may not be issued to a person while the person is subject to a
3 disqualification from driving a commercial motor vehicle, or while
4 the person's driver's license is suspended, revoked, or canceled in
5 any state, nor may a commercial driver's license be issued to a
6 person who has a commercial driver's license issued by any other
7 state unless the person first surrenders all such licenses, which
8 must be returned to the issuing state for cancellation.

9 (4) The fees under this section must be deposited into the
10 highway safety fund unless prior to July 1, 2023, the actions
11 described in (a) or (b) of this subsection occur, in which case the
12 portion of the revenue that is the result of the fee increased in
13 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be
14 distributed to the connecting Washington account created under RCW
15 46.68.395.

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

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

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

31 **Sec. 20.** RCW 70.94.431 and 2019 c 284 s 5 are each amended to
32 read as follows:

33 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and
34 43.05.150, and in addition to or as an alternate to any other penalty
35 provided by law, any person who violates any of the provisions of
36 this chapter, chapter 70.120 or 70.310 RCW, RCW 70.235.080, or any of
37 the rules in force under such chapters or section may incur a civil
38 penalty in an amount not to exceed ten thousand dollars per day for
39 each violation. Each such violation shall be a separate and distinct

1 offense, and in case of a continuing violation, each day's
2 continuance shall be a separate and distinct violation.

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

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

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

16 (3) Each act of commission or omission which procures, aids or
17 abets in the violation shall be considered a violation under the
18 provisions of this section and subject to the same penalty. The
19 penalties provided in this section shall be imposed pursuant to RCW
20 43.21B.300.

21 (4) (~~All~~) Except as provided in section 12 of this act, all
22 penalties recovered under this section by the department shall be
23 paid into the state treasury and credited to the air pollution
24 control account established in RCW 70.94.015 or, if recovered by the
25 authority, shall be paid into the treasury of the authority and
26 credited to its funds. If a prior penalty for the same violation has
27 been paid to a local authority, the penalty imposed by the department
28 under subsection (1) of this section shall be reduced by the amount
29 of the payment.

30 (5) To secure the penalty incurred under this section, the state
31 or the authority shall have a lien on any vessel used or operated in
32 violation of this chapter which shall be enforced as provided in RCW
33 60.36.050.

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

38 (7) In addition to other penalties provided by this chapter,
39 persons knowingly under-reporting emissions or other information used
40 to set fees, or persons required to pay emission or permit fees who

1 are more than ninety days late with such payments may be subject to a
2 penalty equal to three times the amount of the original fee owed.

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

9 NEW SECTION. **Sec. 21.** (1) In order to ensure adequate funding
10 for transportation needs in the future and to augment the revenue
11 increase from this act with the other needed resources for
12 transportation infrastructure investments, the department may not
13 require a reduction in the carbon intensity of transportation fuel
14 under section 3 of this act, and section 3 of this act does not take
15 effect, until an additive transportation funding act is enacted after
16 January 1, 2020.

17 (2) For the purposes of this section, "additive transportation
18 funding act" means an act in which:

19 (a) The combined total of new revenues deposited into the motor
20 vehicle fund and the multimodal transportation account exceed two
21 billion dollars per biennium; and

22 (b) Funding is provided in an amount sufficient, in conjunction
23 with a plan that includes additional identified and committed sources
24 of revenue, to complete replacements of the Interstate 5 bridge that
25 crosses the Columbia river and the US 2 trestle.

26 (3) The director of the department must provide written notice of
27 the effective date of section 3 of this act to affected parties, the
28 chief clerk of the house of representatives, the secretary of the
29 senate, the office of the code reviser, and others as deemed
30 appropriate by the department.

31 NEW SECTION. **Sec. 22.** Sections 2 through 13 and 21 of this act
32 are each added to chapter 70.94 RCW and codified with the subchapter
33 heading of "clean fuels."

34 NEW SECTION. **Sec. 23.** If any provision of this act or its
35 application to any person or circumstance is held invalid, the
36 remainder of the act or the application of the provision to other
37 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 24.** If specific funding for the purposes of
2 this act, referencing this act by bill or chapter number, is not
3 provided by June 30, 2020, in the omnibus appropriations act, this
4 act is null and void."

E2SHB 1110 - S COMM AMD

By Committee on Environment, Energy & Technology

5 On page 1, line 2 of the title, after "fuels;" strike the
6 remainder of the title and insert "amending RCW 43.157.010,
7 46.17.365, 46.25.100, 46.20.202, 46.25.052, 46.25.060, and 70.94.431;
8 adding new sections to chapter 70.94 RCW; creating new sections;
9 prescribing penalties; providing a contingent effective date; and
10 providing an expiration date."

EFFECT: Makes the Clean Fuels Program contingent upon enacting a transportation funding act that includes (1) new revenues to the motor vehicle fund and multimodal transportation account that exceed two billion dollars and (2) sufficient funding and a plan to complete replacements of the I-5 bridge over the Columbia River and the US 2 trestle.

Delays the start date for the Clean Fuels Program one year, from January 1, 2021, to January 1, 2022, or as soon thereafter as the contingent effective conditions occur.

Delays by one year reporting dates for the Department of Ecology and the Joint Legislative Audit and Review Committee.

Allows the Department of Ecology to adopt rules to provide the opportunity to evaluate transportation fuels using a third-party screening protocol that assesses social, environmental, or labor impacts associated with a fuel.

Modifies how utilities can spend revenue generated by credits by replacing "federally designated nonattainment or maintenance areas" with highly impacted communities.

Defines highly impacted community.

Establishes that a renewable fuels production facility producing more than 100 million gallons of renewable energy products per year is a project of statewide significance.

Makes technical corrections.

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