

**E3SHB 1091** - S COMM AMD  
By Committee on Ways & Means

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. California and Oregon have both implemented low  
10 carbon fuel standards that are similar to the program created in this  
11 act, and both states have experienced biofuel sector growth and have  
12 successfully sited large biofuel projects that had originally been  
13 planned for Washington. Washington state has extensively studied the  
14 potential impact of a clean fuels program, and most projections show  
15 that a low carbon fuel standard would decrease greenhouse gas and  
16 conventional air pollutant emissions, while positively impacting the  
17 state's economy.

18 (2) The legislature further finds that the health and welfare of  
19 the people of the state of Washington is threatened by the prospect  
20 of crumbling or swamped coastlines, rising water, and more intense  
21 forest fires caused by higher temperatures and related droughts, all  
22 of which are intensified and made more frequent by the volume of  
23 greenhouse gas emissions. As of 2017, the transportation sector  
24 contributes 45 percent of Washington's greenhouse gas emissions, and  
25 the legislature's interest in the life cycle of the fuels used in the  
26 state arises from a concern for the effects of the production and use  
27 of these fuels on Washington's environment and public health,  
28 including its air quality, snowpack, and coastline.

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

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

3 (b) Reduce greenhouse gas emissions associated with  
4 transportation fuels, which are the state's largest source of  
5 greenhouse gas emissions; and

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

8 NEW SECTION. **Sec. 2.** The definitions in this section apply  
9 throughout this chapter unless the context clearly indicates  
10 otherwise.

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

13 (2) "Carbon intensity" means the quantity of life-cycle  
14 greenhouse gas emissions, per unit of fuel energy, expressed in grams  
15 of carbon dioxide equivalent per megajoule (gCO<sub>2</sub>e/MJ).

16 (3) "Clean fuels program" means the requirements established  
17 under this chapter.

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

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

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

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

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

36 (9) "Greenhouse gas" has the same meaning as defined in RCW  
37 70A.45.010.

38 (10) "Military tactical vehicle" means a motor vehicle owned by  
39 the United States department of defense or the United States military

1 services and that is used in combat, combat support, combat service  
2 support, tactical or relief operations, or training for such  
3 operations.

4 (11) "Motor vehicle" has the same meaning as defined in RCW  
5 46.04.320.

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

9 (13) "Regulated party" means a producer or importer of any amount  
10 of a transportation fuel that is ineligible to generate credits under  
11 this act.

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

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

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

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

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

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

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

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

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

8 (a) Regulated parties generate deficits and may reconcile the  
9 deficits, and thus comply with the clean fuels program standards for  
10 a compliance period, by obtaining and retiring credits. This point of  
11 compliance for motor vehicle fuel is the same as described in chapter  
12 82.38 RCW;

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

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

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

19 (3) The department shall, throughout a compliance period,  
20 regularly monitor the availability of fuels needed for compliance  
21 with the clean fuels program.

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

28 (b) In completing the calculation required by this subsection,  
29 the department may exclude from the data set credit transfers without  
30 a price or other credit transfers made for a price that falls two  
31 standard deviations outside of the mean credit price for the month.  
32 Data posted on the department's website under this section may not  
33 include any individually identifiable information or information that  
34 would constitute a trade secret.

35 (5)(a) Except as provided in this section, the rules adopted  
36 under this section must reduce the greenhouse gas emissions  
37 attributable to each unit of the fuels to 20 percent below 2017  
38 levels by 2035 based on the following schedule:

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

1 (ii) No more than an additional 1.0 percent each year beginning  
2 in 2025 through 2027;

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

5 (iv) No more than an additional 2.5 percent each year beginning  
6 in 2032 through 2034.

7 (b) The rules adopted under this section must not establish a  
8 reduction level beyond 10 percent of greenhouse gas emissions  
9 attributable to each unit of the fuels without explicit legislative  
10 authorization enacted subsequent to January 1, 2029. By December 1,  
11 2028, the department must submit agency request legislation that if  
12 subsequently enacted would provide this authorization.

13 (c) The rules must establish a start date for the clean fuels  
14 program of no later than January 1, 2023, except as provided in  
15 subsection (6) of this section.

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

24 (b) For the purposes of this subsection, "additive transportation  
25 funding act" means an act in which the combined total of new state  
26 revenues deposited into the motor vehicle fund and multimodal  
27 transportation account exceed \$500,000,000 per biennium attributable  
28 solely to an increase in revenue from the enactment of the act.

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

32 (8) 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 (8) (a) (i) A credit clearance market for any compliance period in  
34 which at least one regulated party reports that the regulated party  
35 has a net deficit balance at the end of the compliance period, after  
36 retirement of all credits held by the regulated party, that is  
37 greater than a small deficit. A regulated party described by this  
38 subsection is required to participate in the credit clearance market.

39 (ii) If a regulated party has a small deficit at the end of a  
40 compliance period, the regulated party shall notify the department



1 that it will achieve compliance with the clean fuels program during  
2 the compliance period by either: (A) Participating in a credit  
3 clearance market; or (B) carrying forward the small deficit.

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

6 (i) Allow any regulated party, credit generator, or credit  
7 aggregator to hold excess credits at the end of the compliance period  
8 to voluntarily participate in the credit clearance market as a seller  
9 by pledging a specified number of credits for sale in the market;

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

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

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

17 (iii) Require all sellers to:

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

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

22 (C) Agree to withhold any pledged credits at the maximum price  
23 for credits.

24 (c) (i) The department shall set the maximum price for credits in  
25 a credit clearance market, which may not exceed \$200 for 2028.

26 (ii) For 2029 and subsequent years, the maximum price may exceed  
27 \$200, but only to the extent that a greater maximum price for credits  
28 is necessary to annually adjust for inflation, beginning on January  
29 1, 2025, pursuant to the increase, if any, from the preceding  
30 calendar year in the consumer price index for all urban consumers,  
31 west region (all items), as published by the bureau of labor  
32 statistics of the United States department of labor.

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

35 (i) Must carry over the remaining deficits into the next  
36 compliance period; and

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

1 (e) If a regulated party has been required under (a) of this  
2 subsection to participate as a purchaser in two consecutive credit  
3 clearance markets and continues to have a net deficit balance after  
4 the close of the second consecutive credit clearance market, the  
5 department shall complete, no later than two months after the close  
6 of the second credit clearance market, an analysis of the root cause  
7 of an inability of the regulated party to retire the remaining  
8 deficits. The department may recommend and implement any remedy that  
9 the department determines is necessary to address the root cause  
10 identified in the analysis, including but not limited to issuing a  
11 deferral, provided that the remedy implemented does not:

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

15 (ii) Compel a person to sell credits.

16 (f) If credits sold in a credit clearance market are subsequently  
17 invalidated as a result of fraud or any other form of noncompliance  
18 on the part of the generator of the credit, the department may not  
19 pursue civil penalties against, or require credit replacement by, the  
20 regulated party that purchased the credits unless the regulated party  
21 was a party to the fraud or other form of noncompliance.

22 (g) The department may not disclose the deficit balances or pro  
23 rata share purchase requirements of a regulated party that  
24 participates in the credit clearance market.

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

29 (10)(a) The legislature intends to promote a growing and  
30 sustainable economy and to avoid leakage of emissions from low carbon  
31 fuel production to other locations. The legislature further intends  
32 to see innovative new businesses locate and grow in Washington that  
33 contribute to Washington's prosperity and environmental objectives.  
34 Consistent with the intent of the legislature to avoid the leakage of  
35 emissions to other jurisdictions, in achieving the state's greenhouse  
36 gas limits in RCW 70A.45.020, the state intends to pursue the limits  
37 in a manner that recognizes that the siting and placement of new best  
38 in class low carbon fuel production facilities that provide for the  
39 displacement of more carbon-intensive processes is in the economic  
40 and environmental interests of the state of Washington.

1 (b) For new or expanded low carbon fuel production facilities  
2 that require review under chapter 43.21C RCW, the department must  
3 evaluate the net cumulative greenhouse gas emissions of the facility.  
4 In evaluating the greenhouse gas emissions from a low carbon fuel  
5 production facility, the department shall net its direct greenhouse  
6 gas emissions with reductions associated with its fuel product  
7 compared to the carbon intensity requirements established under this  
8 chapter.

9 (c) The limits in RCW 70A.45.020 may not be the basis for denial  
10 of a permit application or for judicial review of the grant of a  
11 permit for a new or expanded facility.

12 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and  
13 4 of this act must include exemptions for, at minimum, the following  
14 transportation fuels:

15 (a) Fuels used in volumes below thresholds adopted by the  
16 department;

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

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

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

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

26 (ii) Dyed special fuel used in vehicles that are not designed  
27 primarily to transport persons or property, that are not designed to  
28 be primarily operated on highways, and that are used primarily for  
29 construction work including, but not limited to, mining and timber  
30 harvest operations; and

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

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

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

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

12 (a) Mismatched incentives across programs;

13 (b) Fuel shifting between markets; or

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

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

25 NEW SECTION. **Sec. 6.** (1) The rules adopted under sections 3 and  
26 4 of this act may allow the generation of credits from activities  
27 that support the reduction of greenhouse gas emissions associated  
28 with transportation in Washington, including but not limited to:

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

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

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

36 (iii) Direct air capture projects;

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

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

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

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

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

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

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

28 (a) Have adopted low carbon fuel standards or similar greenhouse  
29 gas emissions requirements applicable specifically to transportation  
30 fuels; and

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

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

35 (2) The department must establish and periodically consult a  
36 stakeholder advisory panel, including representatives of forestland  
37 and agricultural landowners, for purposes of soliciting input on how  
38 to best incentivize and allot credits for the sequestration of  
39 greenhouse gases through activities on agricultural and forestlands

1 in a manner that is consistent with the goals and requirements of  
2 this chapter.

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

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

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

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

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

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

37 (3) The department may adopt rules requiring the periodic  
38 reporting of information to the department by persons associated with  
39 the supply chains of transportation fuels participating in the clean

1 fuels program. To the extent practicable, the rules must establish  
2 reporting procedures and timelines that are consistent with similar  
3 programs in other states that reduce the greenhouse gas emission  
4 intensity of transportation fuel and with procedures and timelines of  
5 state programs requiring similar information to be reported by  
6 regulated parties, including electric utilities.

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

9 NEW SECTION. **Sec. 9.** (1)(a) Fifty percent of the revenues  
10 generated by an electric utility from credits earned from the  
11 electricity supplied to retail customers by an electric utility under  
12 the clean fuels program must be expended by the electric utility on  
13 transportation electrification projects, which may include projects  
14 to support the production and provision of hydrogen and other gaseous  
15 fuels produced from nonfossil feedstocks, and derivatives thereof as  
16 a transportation fuel.

17 (b) Sixty percent of the revenues described in (a) of this  
18 subsection, or 30 percent of the revenues generated by an electric  
19 utility from credits earned from the electricity supplied to retail  
20 customers by an electric utility under the clean fuels program, must  
21 be expended by the electric utility on transportation electrification  
22 projects, which may include projects to support the production and  
23 provision of hydrogen and other gaseous fuels produced from nonfossil  
24 feedstocks, and derivatives thereof as a transportation fuel, located  
25 within or directly benefiting a federally designated nonattainment or  
26 maintenance area, a federally designated nonattainment or maintenance  
27 area that existed as of January 1, 2021, a disproportionately  
28 impacted community identified by the department of health, or an area  
29 designated by the department as being at risk of nonattainment, if  
30 such a nonattainment or maintenance area or disproportionately  
31 impacted community is within the service area of the utility.

32 (2) The 50 percent of revenues not subject to the requirements of  
33 subsection (1) of this section must be used for activities and  
34 projects jointly determined by the department and the Washington  
35 state department of transportation based on those with the highest  
36 impact on reducing greenhouse gas emissions and decarbonizing the  
37 transportation sector. These include, but are not limited to: (a)  
38 Electrical grid and hydrogen fueling infrastructure investments; (b)  
39 electrification of the state ferry fleet; (c) alternative fuel

1 vehicle rebate programs; and (d) infrastructure and other costs  
2 associated with the adoption of alternative fuel use by transit  
3 agencies.

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

8 NEW SECTION. **Sec. 10.** (1) Beginning May 1, 2025, and each May  
9 1st thereafter, the department must post a report on the department's  
10 website that includes the following information regarding the  
11 previous calendar year of clean fuels program activities:

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

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

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

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

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

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

38 (3) By May 1, 2025, and each May 1st thereafter, the department  
39 must submit the report required under subsection (1) of this section



1 to the appropriate committees of the house of representatives and  
2 senate.

3 (4) The department must contract for a one-time ex ante  
4 independent analysis of the information specified in subsection  
5 (1)(c) of this section covering each year of the program through  
6 2035. The analysis must be informed by input from stakeholders,  
7 including regulated industries, and informed by experience from other  
8 jurisdictions. The analysis must impute price impacts using multiple  
9 analytical methodologies and must make clear how the assumptions or  
10 factors considered differed in each methodology used and price impact  
11 imputed. The analysis required in this subsection must be completed  
12 and submitted to the appropriate committees of the legislature by  
13 July 1, 2022.

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

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

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

25 (a) An estimate of the potential volumes of gasoline, gasoline  
26 substitutes, and gasoline alternatives, and diesel, diesel  
27 substitutes, and diesel alternatives available to Washington. In  
28 developing this estimate, the department of commerce must consider,  
29 but is not limited to considering:

30 (i) The existing and future vehicle fleet in Washington; and  
31 (ii) Any constraints that might be preventing access to available  
32 and cost-effective low carbon fuels by Washington, such as geographic  
33 and logistical factors, and alleviating factors to the constraints;

34 (b) An estimate of the total banked credits and carried over  
35 deficits held by regulated parties, credit generators, and credit  
36 aggregators at the beginning of the compliance period, and an  
37 estimate of the total credits attributable to fuels described in (a)  
38 of this subsection;

1 (c) An estimate of the number of credits needed to meet the  
2 applicable clean fuels program requirements during the forecasted  
3 compliance period; and

4 (d) A comparison in the estimates of (a) and (b) of this  
5 subsection with the estimate in (c) of this subsection, for the  
6 purpose of indicating the availability of fuels needed for compliance  
7 with the requirements of this chapter.

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

14 NEW SECTION. **Sec. 12.** (1) No later than 30 calendar days before  
15 the commencement of a compliance period, the department shall issue  
16 an order declaring a forecast deferral if the fuel supply forecast  
17 under section 10 of this act projects that the amount of credits that  
18 will be available during the forecast compliance period will be less  
19 than 100 percent of the credits projected to be necessary for  
20 regulated parties to comply with the scheduled applicable clean fuels  
21 program standard adopted by the department for the forecast  
22 compliance period.

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

25 (a) The duration of the forecast deferral;

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

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

30 (i) Temporarily adjusting the scheduled applicable clean fuels  
31 program standard to a standard identified in the order that better  
32 reflects the forecast availability of credits during the forecast  
33 compliance period and requiring regulated parties to comply with the  
34 temporary standard;

35 (ii) Requiring regulated parties to comply only with the clean  
36 fuels program standard applicable during the compliance period prior  
37 to the forecast compliance period; or

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

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

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

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

12 (ii) Provide written notification and justification of the  
13 determination and the action to:

14 (A) The governor;

15 (B) The president of the senate;

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

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

18 (E) The majority and minority leaders of the house of  
19 representatives.

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

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

32 (a) Extreme and unusual circumstances exist that prevent the  
33 distribution of an adequate supply of renewable fuels needed for  
34 regulated parties to comply with the clean fuels program taking into  
35 consideration all available methods of obtaining sufficient credits  
36 to comply with the standard;

37 (b) The extreme and unusual circumstances are the result of a  
38 natural disaster, an act of God, a significant supply chain  
39 disruption or production facility equipment failure, or another event

1 that could not reasonably have been foreseen or prevented and not the  
2 lack of prudent planning on the part of the suppliers of the fuels to  
3 the state; and

4 (c) It is in the public interest to grant the deferral such as  
5 when a deferral is necessary to meet projected temporary shortfalls  
6 in the supply of the renewable fuel in the state and that other  
7 methods of obtaining compliance credits are unavailable to compensate  
8 for the shortage of renewable fuel supply.

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

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

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

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

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

20 (a) The duration of the emergency deferral;

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

22 (c) Which of the following methods the department has selected  
23 for deferring compliance with the clean fuels program during the  
24 emergency deferral:

25 (i) Temporarily adjusting the scheduled applicable carbon  
26 intensity standard to a standard identified in the order that better  
27 reflects the availability of credits during the emergency deferral  
28 and requiring regulated parties to comply with the temporary  
29 standard;

30 (ii) Allowing for the carryover of deficits accrued during the  
31 emergency deferral into the next compliance period without penalty;  
32 or

33 (iii) Suspending deficit accrual during the emergency deferral  
34 period.

35 (4) An emergency deferral may be terminated prior to the  
36 expiration date of the emergency deferral if new information becomes  
37 available indicating that the shortage that provided the basis for  
38 the emergency deferral has ended. The director of the department  
39 shall consult with the department of commerce and the governor's  
40 office in making an early termination decision. Termination of an

1 emergency deferral is effective 15 calendar days after the date that  
2 the order declaring the termination is adopted.

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

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

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

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

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

27 NEW SECTION. **Sec. 14.** (1) The department may require that  
28 persons that are required or elect to register or report under this  
29 chapter pay a fee. If the department elects to require program  
30 participants to pay a fee, the department must, after an opportunity  
31 for public review and comment, adopt rules to establish a process to  
32 determine the payment schedule and the amount of the fee charged. The  
33 amount of the fee must be set so as to equal but not exceed the  
34 projected direct and indirect costs to the department for developing  
35 and implementing the program and the projected direct and indirect  
36 costs to the department of commerce to carry out its responsibilities  
37 under section 11 of this act. The department and the department of  
38 commerce must prepare a biennial workload analysis and provide an  
39 opportunity for public review of and comment on the workload

1 analysis. The department shall enter into an interagency agreement  
2 with the department of commerce to implement 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 chapter must be deposited into the account.  
6 Moneys in the account may be spent only after appropriation. The  
7 department may only use expenditures from the account for carrying  
8 out the program created in this chapter.

9 NEW SECTION. **Sec. 15.** (1) By December 1, 2029, the joint  
10 legislative audit and review committee must analyze the impacts of  
11 the initial five years of clean fuels program implementation and must  
12 submit a report summarizing the analysis to the legislature. The  
13 analysis must include, at minimum, the following components:

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

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

25 (ii) Fuel prices; and

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

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

35 (c) A summary of the estimated total statewide costs and benefits  
36 attributable to the clean fuels program, including state agency  
37 administrative costs and regulated entity compliance costs. For  
38 purposes of calculating the benefits of the program, the summary may  
39 rely, in part, on a constant value of the social costs attributable

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

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

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

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

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

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

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

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

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

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

27 (iii) Must be distributed under RCW 46.68.415.

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

30 (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. 18.** 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. 19.** 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. 20.** 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. 21.** RCW 46.25.060 and 2020 c 78 s 2 are each amended to  
33 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 43.216.505.

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. For current or former military service members  
21 that meet the requirements of 49 C.F.R. Sec. 383.77, the department  
22 may also waive the requirements for a knowledge test for commercial  
23 driver's license applicants. Beginning December 1, 2021, the  
24 department shall provide an annual report to the house and senate  
25 transportation committees and the joint committee on veterans' and  
26 military affairs of the legislature on the number and types of  
27 waivers granted pursuant to this subsection.

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

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

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



1 (iii) Unprocessed agricultural commodities, as defined in RCW  
2 17.21.020, where such commodities are produced by farmers, ranchers,  
3 vineyardists, or orchardists; or

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

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

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

16 (4) The fees under this section must be deposited into the  
17 highway safety fund unless prior to July 1, 2023, the actions  
18 described in (a) or (b) of this subsection occur, in which case the  
19 portion of the revenue that is the result of the fee increased in  
20 section 207, chapter 44, Laws of 2015 3rd sp. sess. must be  
21 distributed to the connecting Washington account created under RCW  
22 46.68.395.

23 (a) Any state agency files a notice of rule making under chapter  
24 34.05 RCW, absent explicit legislative authorization enacted  
25 subsequent to July 1, 2015, for a rule regarding a fuel standard  
26 based upon or defined by the carbon intensity of fuel, including a  
27 low carbon fuel standard or clean fuel standard.

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

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

38 **Sec. 22.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended  
39 to read as follows:

1 (1) Any person who knowingly violates any of the provisions of  
2 this chapter ((~~the~~)), chapter 70A.25 or 70A.--- (the new chapter  
3 created in section 26 of this act) RCW, RCW 70A.45.080, or any  
4 ordinance, resolution, or regulation in force pursuant thereto is  
5 guilty of a gross misdemeanor and upon conviction thereof shall be  
6 punished by a fine of not more than ten thousand dollars, or by  
7 imprisonment in the county jail for up to three hundred sixty-four  
8 days, or by both for each separate violation.

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

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

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

30 **Sec. 23.** RCW 70A.15.3160 and 2020 c 20 s 1112 are each amended  
31 to read as follows:

32 (1)(a) Except as provided in RCW 43.05.060 through 43.05.080 and  
33 43.05.150, and in addition to or as an alternate to any other penalty  
34 provided by law, any person who violates any of the provisions of  
35 this chapter, chapter 70A.25 ((~~the~~)), 70A.450, or 70A.--- (the new  
36 chapter created in section 26 of this act) RCW, RCW 70A.45.080, or  
37 any of the rules in force under such chapters or section may incur a  
38 civil penalty in an amount not to exceed ten thousand dollars per day  
39 for each violation. Each such violation shall be a separate and

1 distinct 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 penalties recovered under this section by the department  
22 shall be paid into the state treasury and credited to the air  
23 pollution control account established in RCW 70A.15.1010 or, if  
24 recovered by the authority, shall be paid into the treasury of the  
25 authority and credited to its funds. If a prior penalty for the same  
26 violation has been paid to a local authority, the penalty imposed by  
27 the department under subsection (1) of this section shall be reduced  
28 by the amount of the payment.

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

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

37 (7) In addition to other penalties provided by this chapter,  
38 persons knowingly under-reporting emissions or other information used  
39 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 **Sec. 24.** RCW 19.112.110 and 2013 c 225 s 601 are each amended to  
10 read as follows:

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

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

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

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

33 (5) To the extent that the requirements of this section conflict  
34 with the requirements of chapter 70A.--- (the new chapter created in  
35 section 26 of this act) RCW, the requirements of chapter 70A.--- (the  
36 new chapter created in section 26 of this act) RCW prevail.

37 **Sec. 25.** RCW 19.112.120 and 2013 c 225 s 602 are each amended to  
38 read as follows:

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

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

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

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

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

29 (6) To the extent that the requirements of this section conflict  
30 with the requirements of chapter 70A.--- (the new chapter created in  
31 section 26 of this act) RCW, the requirements of chapter 70A.--- (the  
32 new chapter created in section 26 of this act) RCW prevail.

33 NEW SECTION. Sec. 26. Sections 1 through 15 of this act  
34 constitute a new chapter in Title 70A RCW.

35 NEW SECTION. Sec. 27. If specific funding for the purposes of  
36 this act, referencing this act by bill or chapter number, is not  
37 provided by June 30, 2021, in the omnibus appropriations act, this  
38 act is null and void.

1        NEW SECTION.    **Sec. 28.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected."

**E3SHB 1091** - S COMM AMD  
By Committee on Ways & Means

5        On page 1, line 2 of the title, after "fuel;" strike the  
6 remainder of the title and insert "amending RCW 46.17.365, 46.25.100,  
7 46.20.202, 46.25.052, 46.25.060, 70A.15.3150, 70A.15.3160,  
8 19.112.110, and 19.112.120; adding a new section to chapter 82.04  
9 RCW; adding a new chapter to Title 70A RCW; creating a new section;  
10 prescribing penalties; providing a contingent effective date; and  
11 providing an expiration date."

EFFECT: (1) Removes the 2028 standard of 10 percent below 2017 levels and instead provides that the rules adopted by the Department of Ecology (Ecology) phase-in in carbon intensity reduction not to exceed .5% a year in 2023 and 2024, 1% a year beginning in 2025 through 2027, 1.5% a year in 2028 through 2031, and 2.5% a year beginning in 2032 through 2034.

(2) Removes the requirement that Ecology must update, prior to 2032, CFP rules to further reduce GHG emissions from each unit of transportation fuel for each year through 2050, consistent with statutory state emission reduction limits.

(3) Requires the passage of a separate additive transportation funding act generating more than \$500 million per biennium in revenue before Ecology may assign compliance obligations or allow for actual credit generation in order to coordinate and synchronize the clean fuels program with other transportation-related investments.

(4) Adds program design provisions, directs Ecology to regularly monitor the availability of fuels need for compliance and calculate the volume-weighted average price of credits monthly and post on its website.

(5) Removes the examples of cost containment mechanisms and the direction to design mechanisms to provide a financial disincentive for regulate persons to rely on the mechanisms for cost compliance and instead directs Ecology to hold a credit clearance market for any compliance period where at least one regulate party reports it has a net deficit balance.

(6) Directs Ecology to set the maximum price for credits in a credit clearance market, which may not exceed \$200 for 2028, and for 2029 and subsequent years may exceed \$200 as annually adjusted for inflation.

(7) Requires Ecology to evaluate the net cumulative GHG emissions, including any net displacement of global emissions, for new or expanded facilities that would require a SEPA review and would result in annual GHG over 25,000 MT per year.

(8) Removes broadband as one of the projects that may generate credits under the CFP.

(9) Requires 50 percent of revenues earned by an electric utility from generating credits under the clean fuels program to be used for activities and projects jointly determined by Ecology and the Washington state department of transportation that have the highest impact on reducing greenhouse gas emissions and decarbonizing the transportation sector.

(10) Adds that the annual report must calculate the total GHG emissions reductions of the CFP isolated from reductions attributable to other programs.

(11) Adds a new section requiring Ecology to issue an order declaring a forecast deferral if the fuel supply forecast projects that the amount of credits available during the compliance period will be less than 100 percent of the credits projected to be necessary to comply with the CFP.

--- END ---