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**SENATE BILL 5412**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Saldaña, Carlyle, Palumbo, Das, Nguyen, and McCoy

1 AN ACT Relating to reducing the greenhouse gas emissions  
2 associated with transportation fuels; amending RCW 46.17.365,  
3 46.25.100, 46.20.202, 46.25.052, 46.25.060, and 70.94.431; adding new  
4 sections to chapter 70.94 RCW; creating a new section; prescribing  
5 penalties; and providing an expiration date.

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

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

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

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

7 (b) Reduce greenhouse gas emissions associated with  
8 transportation fuels, which are the state's largest source of  
9 greenhouse gas emissions; and

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

12 NEW SECTION. **Sec. 2.** The definitions in this section apply  
13 throughout this section and sections 3 through 12 of this act unless  
14 the context clearly indicates otherwise.

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

17 (2) "Clean fuels program" means the requirements established by  
18 this act.

19 (3) "Credit" means a unit of measure equal to one metric ton of  
20 carbon dioxide equivalents.

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

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

28 (6) "Greenhouse gas" has the same meaning as defined in RCW  
29 70.235.010.

30 (7) "Motor vehicle" has the same meaning as defined in RCW  
31 46.04.320.

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

36 NEW SECTION. **Sec. 3.** (1) The department shall adopt rules that  
37 establish standards that reduce the greenhouse gas emissions per unit  
38 of fuel energy (carbon intensity) in transportation fuels used in

1 Washington. The rules adopted under this section must reduce the  
2 greenhouse gas emissions attributable to each unit of the fuels to  
3 ten percent below 2017 levels by 2028 and twenty percent below 2017  
4 levels by 2035. Transportation fuels exported from Washington are not  
5 subject to these greenhouse gas emissions reduction requirements. The  
6 rules must establish a start date for the clean fuels program of no  
7 later than January 1, 2021. To the extent the requirements of this  
8 act conflict with the requirements of chapter 19.112 RCW, the  
9 requirements of this act prevail.

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

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

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

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

27 (i) Address the efficiency of a fuel as used in a powertrain as  
28 compared to a reference fuel; and

29 (ii) Consider carbon intensity calculations for transportation  
30 fuels developed by national laboratories or used by similar programs  
31 in other states.

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

34 (i) Neutrally consider the life-cycle emissions associated with  
35 transportation fuels with respect to the political jurisdiction in  
36 which the fuels originated and may not discriminate against fuels on  
37 the basis of having originated in another state or jurisdiction.  
38 Nothing in this subsection may be construed to prohibit inclusion or  
39 assessment of emissions related to fuel production, storage,

1 transportation, or combustion in determining the carbon intensity of  
2 a fuel;

3 (ii) Measure greenhouse gas emissions associated with electricity  
4 based on a mix of generation resources specific to each electric  
5 utility participating in the clean fuels program; and

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

9 (c) If the department determines that it is necessary for  
10 purposes of accurately measuring greenhouse gas emissions associated  
11 with transportation fuels, the department may require transportation  
12 fuel suppliers to submit greenhouse gas emissions data that is  
13 different from or additional to the greenhouse gas emissions data  
14 reported under RCW 70.94.151(5)(a)(iii).

15 (d) If the department determines that it is necessary for  
16 purposes of accurately measuring greenhouse gas emissions associated  
17 with electricity supplied by an electric utility, the department may  
18 require electric utilities participating in the clean fuels program  
19 to submit greenhouse gas emissions data that is different from or  
20 additional to the fuel mix disclosure information submitted under  
21 chapter 19.29A RCW;

22 (2) Provisions allowing for the achievement of limits on the  
23 greenhouse gas emissions intensity of transportation fuels in section  
24 3 of this act to be achieved by any combination of credit generating  
25 activities capable of meeting such standards, consistent with the  
26 limitations of subsection (3)(a) of this section;

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

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

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

3 (4) Mechanisms to elect to participate in the clean fuels program  
4 for persons associated with the supply chains of transportation fuels  
5 with associated life-cycle greenhouse gas emissions lower than the  
6 per-unit standard established in section 3 of this act, including  
7 producers, importers, distributors, users, or retailers of such  
8 fuels;

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

18 (6) Cost containment mechanisms.

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

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

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

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

32 (7) Authority for the department to designate an entity to  
33 aggregate and use unclaimed credits associated with persons that  
34 elect not to participate in the clean fuels program under subsection  
35 4 of this section.

36 NEW SECTION. **Sec. 5.** (1) The rules adopted under sections 3 and  
37 4 of this act must include exemptions for, at minimum, the following  
38 transportation fuels:

1 (a) Fuels used in volumes below thresholds adopted by the  
2 department; and

3 (b) Fuels used for the propulsion of all aircraft, vessels, and  
4 railroad locomotives.

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

11 (a) Mismatched incentives across programs;

12 (b) Fuel shifting between markets; or

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

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

19 NEW SECTION. **Sec. 6.** (1) Except where otherwise provided in  
20 sections 2 through 10 of this act, the department should seek to  
21 adopt rules that are harmonized with the regulatory standards,  
22 exemptions, reporting obligations, and other clean fuels program  
23 compliance requirements of other states that:

24 (a) Have adopted low carbon fuel standards or similar greenhouse  
25 gas emissions requirements applicable specifically to transportation  
26 fuels; and

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

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

31 (2) In adopting rules under sections 3 and 4 of this act, the  
32 department must consider whether actions taken or credits generated  
33 under the clean fuels program are eligible for purposes of compliance  
34 with the clean air rule, chapter 173-442 WAC as it existed as of  
35 October 16, 2016, and whether actions taken or emissions reduction  
36 units generated under the clean air rule may be used for purposes of  
37 compliance with this section.

1        NEW SECTION.    **Sec. 7.**    (1)(a) Each producer or importer of any  
2 amount of a transportation fuel that is ineligible to generate  
3 credits consistent with the requirements of section 4(3) of this act  
4 must register with the department.

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

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

13        (2) Each transaction transferring ownership of transportation  
14 fuels for which clean fuels program participation is mandated or has  
15 been chosen must be accompanied by documentation, in a format  
16 approved by the department, that assigns the clean fuels program  
17 compliance responsibility associated with the fuels, including the  
18 assignment of associated credits.

19        (3) The department may adopt rules requiring the periodic  
20 reporting of information to the department by producers and importers  
21 of transportation fuels participating in the clean fuels program.

22        (4) RCW 70.94.205 applies to records or information submitted to  
23 the department under sections 2 through 12 of this act.

24        NEW SECTION.    **Sec. 8.**    (1)(a) Fifty percent of the revenues  
25 generated by an electric utility from credits earned under the clean  
26 fuels program must be expended by the electric utility on  
27 transportation electrification projects.

28        (b) Sixty percent of the revenues described in (a) of this  
29 subsection, or thirty percent of the revenues generated by an  
30 electric utility from credits earned under the clean fuels program,  
31 must be expended by the electric utility on transportation  
32 electrification projects located within a federally designated  
33 nonattainment or maintenance area, a federally designated  
34 nonattainment or maintenance area that existed as of the effective  
35 date of this section, or an area designated by the department as  
36 being at risk of nonattainment, if such a nonattainment or  
37 maintenance area is within the service area of the utility.

38        (2) The department may adopt requirements for the expenditure of  
39 revenues from credits earned under the clean fuels program that are

1 applicable to the fifty percent of revenues not subject to the  
2 requirements of subsection (1) of this section. Any requirements for  
3 the expenditure of revenues from credits earned under the clean fuels  
4 program must be developed in consultation with electric utilities.

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

9 NEW SECTION. **Sec. 9.** (1) Beginning May 1, 2023, and each May  
10 1st thereafter, the department must post a report on the department's  
11 web site that includes the following information regarding the  
12 previous calendar year of clean fuels program activities:

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

15 (b) The volumes, and mean prices per unit of energy, of each  
16 transportation fuel used to comply with the requirements of the clean  
17 fuels program;

18 (c) The best estimate or range in probable costs or cost savings  
19 attributable to the clean fuels program per gallon of gasoline and  
20 per gallon of diesel;

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

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

27 (2) By December 1, 2022, and each December 1st thereafter, the  
28 department must submit recommendations to the appropriate committees  
29 of the house of representatives and senate, in the form of draft  
30 legislation, for any changes to sections 2 through 12 of this act  
31 that are needed in order to more efficiently achieve the greenhouse  
32 gas emissions reduction goals of the clean fuels program.

33 NEW SECTION. **Sec. 10.** (1) In consultation with the department  
34 and the department of agriculture, the department of commerce must  
35 develop a periodic fuel supply forecast to project the availability  
36 of fuels necessary for compliance with clean fuels program  
37 requirements.



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

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

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

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

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

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

17 NEW SECTION. **Sec. 11.** (1) The department may require that  
18 persons that are required or elect to register or report under  
19 sections 2 through 12 of this act pay a fee. The department shall,  
20 after an opportunity for public review and comment, adopt rules to  
21 establish a process to determine the payment schedule and the amount  
22 of the fee charged. The amount of the fee must be set so as to equal  
23 but not exceed the projected direct and indirect costs to the  
24 department for developing and implementing the program.

25 (2) The clean fuels program account is created in the state  
26 treasury. All receipts from fees and penalties received under the  
27 program created in this section and sections 2 through 10 of this act  
28 must be deposited into the account. Moneys in the account may be  
29 spent only after appropriation. The department may only use  
30 expenditures from the account for carrying out the program created in  
31 this section and sections 2 through 10 of this act.

32 NEW SECTION. **Sec. 12.** (1) By December 1, 2027, the joint  
33 legislative audit and review committee must analyze the impacts of  
34 the initial five years of clean fuels program implementation and must  
35 submit a report summarizing the analysis to the legislature. The  
36 analysis must include, at minimum, the following components:

37 (a) Costs and benefits, including environmental and public health  
38 costs and benefits, associated with this act for categories of

1 persons participating in the clean fuels program or that are most  
2 impacted by air pollution, as defined in consultation with the  
3 departments of ecology and health and as measured on a census tract  
4 scale. This component of the analysis must, at minimum, assess the  
5 costs and benefits of changes in the following metrics since the  
6 start of the program:

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

10 (ii) Fuel prices; and

11 (iii) Total employment in categories of industries generating  
12 credits or deficits. The categories of industries assessed must  
13 include but are not limited to electric utilities, oil refineries,  
14 and other industries involved in the production of high carbon fuels,  
15 industries involved in the delivery and sale of high carbon fuels,  
16 biofuel refineries, and industries involved in the delivery and sale  
17 of low carbon fuels;

18 (b) An evaluation of the information calculated and provided by  
19 the department under section 9(1) of this act; and

20 (c) A summary of the estimated total statewide costs and benefits  
21 attributable to the clean fuels program, including state agency  
22 administrative costs and regulated entity compliance costs. For  
23 purposes of calculating the benefits of the program, the summary may  
24 rely, in part, on a constant value of the social costs attributable  
25 to greenhouse gas emissions, as identified in contemporary  
26 internationally accepted estimates of such global social cost. This  
27 summary must include an estimate of the total statewide costs of the  
28 program per ton of greenhouse gas emissions reductions achieved by  
29 the clean fuels program.

30 (2) This section expires June 30, 2028.

31 **Sec. 13.** RCW 46.17.365 and 2015 3rd sp.s. c 44 s 202 are each  
32 amended to read as follows:

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

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

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

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

4 (iii) Must be distributed under RCW 46.68.415.

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

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

8	WEIGHT	FEE
9	4,000 pounds	\$ 25.00
10	6,000 pounds	\$ 45.00
11	8,000 pounds	\$ 65.00
12	16,000 pounds and over	\$ 72.00;

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

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

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

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

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

37 (2) A person applying for a motor home vehicle registration  
38 shall, in lieu of the motor vehicle weight fee required in subsection

1 (1) of this section, pay a motor home vehicle weight fee of seventy-  
2 five dollars in addition to all other fees and taxes required by law.  
3 The motor home vehicle weight fee must be distributed under RCW  
4 46.68.415.

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

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

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

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

30 (4) The department shall:

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

34 (b) Adopt rules for determining weight for vehicles without  
35 manufacturer empty scale weights.

36 **Sec. 14.** RCW 46.25.100 and 2015 3rd sp.s. c 44 s 208 are each  
37 amended to read as follows:

38 (1) When a person has been disqualified from operating a  
39 commercial motor vehicle, the person is not entitled to have the

1 commercial driver's license or commercial learner's permit restored  
2 until after the expiration of the appropriate disqualification period  
3 required under RCW 46.25.090 or until the department has received a  
4 drug and alcohol assessment and evidence is presented of satisfactory  
5 participation in or completion of any required drug or alcohol  
6 treatment program for ending the disqualification under RCW  
7 46.25.090(7). After expiration of the appropriate period and upon  
8 payment of a requalification fee of twenty dollars until June 30,  
9 2016, and thirty-five dollars beginning July 1, 2016, or one hundred  
10 fifty dollars if the person has been disqualified under RCW  
11 46.25.090(7), the person may apply for a new, duplicate, or renewal  
12 commercial driver's license or commercial learner's permit as  
13 provided by law. If the person has been disqualified for a period of  
14 one year or more, the person shall demonstrate that he or she meets  
15 the commercial driver's license or commercial learner's permit  
16 qualification standards specified in RCW 46.25.060.

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

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

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

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

1       **Sec. 15.** RCW 46.20.202 and 2017 c 310 s 3 are each amended to  
2 read as follows:

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

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

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

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

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

36       (d) The requirements of this subsection are in addition to the  
37 requirements otherwise imposed on applicants for a driver's license  
38 or identicard. The department shall adopt such rules as necessary to  
39 meet the requirements of this subsection. From time to time the  
40 department shall review technological innovations related to the

1 security of identity cards and amend the rules related to enhanced  
2 driver's licenses and identicards as the director deems consistent  
3 with this section and appropriate to protect the privacy of  
4 Washington state residents.

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

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

16 (5) The enhanced driver's license and enhanced identicard fee  
17 under this section must be deposited into the highway safety fund  
18 unless prior to July 1, 2023, the actions described in (a) or (b) of  
19 this subsection occur, in which case the portion of the revenue that  
20 is the result of the fee increased in section 209, chapter 44, Laws  
21 of 2015 3rd sp. sess. must be distributed to the connecting  
22 Washington account created under RCW 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. 16.** RCW 46.25.052 and 2015 3rd sp.s. c 44 s 206 are each  
39 amended to read as follows:

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

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

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

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

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

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

26 (4) A CLP may be classified in the same manner as a CDL under RCW  
27 46.25.080(2)(a).

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

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

38 (b) The holder of a CLP with an S endorsement must have taken and  
39 passed the S endorsement knowledge examination. The holder of a CLP  
40 with an S endorsement is prohibited from operating a school bus with



1 passengers other than authorized employees or representatives of the  
2 department and the federal motor carrier safety administration,  
3 examiners, other trainees, and the CDL holder accompanying the CLP  
4 holder as required under subsection (2) of this section.

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

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

13 (a) "P" restricts the driver from operating a bus with  
14 passengers;

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

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

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

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

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

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

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

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

6 **Sec. 17.** RCW 46.25.060 and 2015 3rd sp.s. c 44 s 207 are each  
7 amended to read as follows:

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

10 (i) Is a resident of this state;

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

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

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

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

36 (c) The department may authorize a person, including an agency of  
37 this or another state, an employer, a private driver training  
38 facility, or other private institution, or a department, agency, or

1 instrumentality of local government, to administer the skills  
2 examination specified by this section under the following conditions:

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

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

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

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

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

19 (ii) Public benefit not-for-profit corporations that support  
20 early childhood education and assistance programs as described in RCW  
21 (~~43.215.405(2)~~) 43.216.505(2).

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

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

30 (2)(a) The department may waive the skills examination and the  
31 requirement for completion of a course of instruction in the  
32 operation of a commercial motor vehicle specified in this section for  
33 a commercial driver's license applicant who meets the requirements of  
34 49 C.F.R. Sec. 383.77.

35 (b) An applicant who operates a commercial motor vehicle for  
36 agribusiness purposes is exempt from the course of instruction  
37 completion and employer skills and training certification  
38 requirements under this section. By January 1, 2010, the department  
39 shall submit recommendations regarding the continuance of this  
40 exemption to the transportation committees of the legislature. For

1 purposes of this subsection (2)(b), "agribusiness" means a private  
2 carrier who in the normal course of business primarily transports:

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

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

7 (iii) Unprocessed agricultural commodities, as defined in RCW  
8 17.21.020, where such commodities are produced by farmers, ranchers,  
9 vineyardists, or orchardists; or

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

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

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

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

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

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

39 (c) Nothing in this subsection acknowledges, establishes, or  
40 creates legal authority for the department of ecology or any other

1 state agency to enact, adopt, order, or in any way implement a fuel  
2 standard based upon or defined by the carbon intensity of fuel,  
3 including a low carbon fuel standard or clean fuel standard.

4 **Sec. 18.** RCW 70.94.431 and 2013 c 51 s 6 are each amended to  
5 read as follows:

6 (1) (a) Except as provided in RCW 43.05.060 through 43.05.080 and  
7 43.05.150, and in addition to or as an alternate to any other penalty  
8 provided by law, any person who violates any of the provisions of  
9 this chapter, chapter 70.120 RCW, chapter 70.310 RCW, or any of the  
10 rules in force under such chapters may incur a civil penalty in an  
11 amount not to exceed ten thousand dollars per day for each violation.  
12 Each such violation shall be a separate and distinct offense, and in  
13 case of a continuing violation, each day's continuance shall be a  
14 separate and distinct violation.

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

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

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

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

33 (4) Except as provided in section 11 of this act, all penalties  
34 recovered under this section by the department shall be paid into the  
35 state treasury and credited to the air pollution control account  
36 established in RCW 70.94.015 or, if recovered by the authority, shall  
37 be paid into the treasury of the authority and credited to its funds.  
38 If a prior penalty for the same violation has been paid to a local

1 authority, the penalty imposed by the department under subsection (1)  
2 of this section shall be reduced by the amount of the payment.

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

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

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

16 (8) By January 1, 1992, the department shall develop rules for  
17 excusing excess emissions from enforcement action if such excess  
18 emissions are unavoidable. The rules shall specify the criteria and  
19 procedures for the department and local air authorities to determine  
20 whether a period of excess emissions is excusable in accordance with  
21 the state implementation plan.

22 NEW SECTION. **Sec. 19.** Sections 2 through 12 of this act are  
23 each added to chapter 70.94 RCW and codified with the subchapter  
24 heading of "clean fuels."

25 NEW SECTION. **Sec. 20.** If any provision of this act or its  
26 application to any person or circumstance is held invalid, the  
27 remainder of the act or the application of the provision to other  
28 persons or circumstances is not affected.

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