
SUBSTITUTE SENATE BILL 6264

State of Washington

63rd Legislature

2014 Regular Session

By Senate Energy, Environment & Telecommunications (originally sponsored by Senator Ericksen)

READ FIRST TIME 02/07/14.

1 AN ACT Relating to capping the amount of the greenhouse gas
2 reporting fee; and amending RCW 70.94.151.

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

4 **Sec. 1.** RCW 70.94.151 and 2010 c 146 s 2 are each amended to read
5 as follows:

6 (1) The board of any activated authority or the department, may
7 classify air contaminant sources, by ordinance, resolution, rule or
8 regulation, which in its judgment may cause or contribute to air
9 pollution, according to levels and types of emissions and other
10 characteristics which cause or contribute to air pollution, and may
11 require registration or reporting or both for any such class or
12 classes. Classifications made pursuant to this section may be for
13 application to the area of jurisdiction of such authority, or the state
14 as a whole or to any designated area within the jurisdiction, and shall
15 be made with special reference to effects on health, economic and
16 social factors, and physical effects on property.

17 (2) Except as provided in subsection (3) of this section, any
18 person operating or responsible for the operation of air contaminant
19 sources of any class for which the ordinances, resolutions, rules or

1 regulations of the department or board of the authority, require
2 registration or reporting shall register therewith and make reports
3 containing information as may be required by such department or board
4 concerning location, size and height of contaminant outlets, processes
5 employed, nature of the contaminant emission and such other information
6 as is relevant to air pollution and available or reasonably capable of
7 being assembled. In the case of emissions of greenhouse gases as
8 defined in RCW 70.235.010 the department shall adopt rules requiring
9 reporting of those emissions and set reporting fees not to exceed one
10 hundred dollars for entities required to report under subsection
11 (5)(a)(iii) of this section. The department or board may require that
12 (~~such~~) registration or reporting be accompanied by a fee, and may
13 determine the amount of such fee for such class or classes: PROVIDED,
14 That the amount of the fee shall only be to compensate for the costs of
15 administering such registration or reporting program which shall be
16 defined as initial registration and annual or other periodic reports
17 from the source owner providing information directly related to air
18 pollution registration, on-site inspections necessary to verify
19 compliance with registration requirements, data storage and retrieval
20 systems necessary for support of the registration program, emission
21 inventory reports and emission reduction credits computed from
22 information provided by sources pursuant to registration program
23 requirements, staff review, including engineering or other reliable
24 analysis for accuracy and currentness, of information provided by
25 sources pursuant to registration program requirements, clerical and
26 other office support provided in direct furtherance of the registration
27 program, and administrative support provided in directly carrying out
28 the registration program: PROVIDED FURTHER, That any such registration
29 made with either the board or the department shall preclude a further
30 registration and reporting with any other board or the department,
31 except that emissions of greenhouse gases as defined in RCW 70.235.010
32 must be reported as required under subsection (5) of this section.

33 All registration program and reporting fees collected by the
34 department shall be deposited in the air pollution control account.
35 All registration program fees collected by the local air authorities
36 shall be deposited in their respective treasuries.

37 (3) If a registration or report has been filed for a grain
38 warehouse or grain elevator as required under this section,

1 registration, reporting, or a registration program fee shall not, after
2 January 1, 1997, again be required under this section for the warehouse
3 or elevator unless the capacity of the warehouse or elevator as listed
4 as part of the license issued for the facility has been increased since
5 the date the registration or reporting was last made. If the capacity
6 of the warehouse or elevator listed as part of the license is
7 increased, any registration or reporting required for the warehouse or
8 elevator under this section must be made by the date the warehouse or
9 elevator receives grain from the first harvest season that occurs after
10 the increase in its capacity is listed in the license.

11 This subsection does not apply to a grain warehouse or grain
12 elevator if the warehouse or elevator handles more than ten million
13 bushels of grain annually.

14 (4) For the purposes of subsection (3) of this section:

15 (a) A "grain warehouse" or "grain elevator" is an establishment
16 classified in standard industrial classification (SIC) code 5153 for
17 wholesale trade for which a license is required and includes, but is
18 not limited to, such a licensed facility that also conducts cleaning
19 operations for grain;

20 (b) A "license" is a license issued by the department of
21 agriculture licensing a facility as a grain warehouse or grain elevator
22 under chapter 22.09 RCW or a license issued by the federal government
23 licensing a facility as a grain warehouse or grain elevator for
24 purposes similar to those of licensure for the facility under chapter
25 22.09 RCW; and

26 (c) "Grain" means a grain or a pulse.

27 (5)(a) The department shall adopt rules requiring persons to report
28 emissions of greenhouse gases as defined in RCW 70.235.010 where those
29 emissions from a single facility, source, or site, or from fossil fuels
30 sold in Washington by a single supplier meet or exceed ten thousand
31 metric tons of carbon dioxide equivalent annually. The department may
32 phase in the requirement to report greenhouse gas emissions until the
33 reporting threshold in this subsection is met, which must occur by
34 January 1, 2012. In addition, the rules must require that:

35 (i) Emissions of greenhouse gases resulting from the combustion of
36 fossil fuels be reported separately from emissions of greenhouse gases
37 resulting from the combustion of biomass;

1 (ii) Reporting will start in 2010 for 2009 emissions. Each annual
2 report must include emissions data for the preceding calendar year and
3 must be submitted to the department by October 31st of the year in
4 which the report is due. However, starting in 2011, a person who is
5 required to report greenhouse gas emissions to the United States
6 environmental protection agency under 40 C.F.R. Part 98, as adopted on
7 September 22, 2009, must submit the report required under this section
8 to the department concurrent with the submission to the United States
9 environmental protection agency. Except as otherwise provided in this
10 section, the data for emissions in Washington and any corrections
11 thereto that are reported to the United States environmental protection
12 agency must be the emissions data reported to the department; and

13 (iii) Emissions of carbon dioxide associated with the complete
14 combustion or oxidation of liquid motor vehicle fuel, special fuel, or
15 aircraft fuel that is sold in Washington where the annual emissions
16 associated with that combustion or oxidation equal or exceed ten
17 thousand metric tons be reported to the department. Each person who is
18 required to file periodic tax reports of motor vehicle fuel sales under
19 RCW 82.36.031 or special fuel sales under RCW 82.38.150, or each
20 distributor of aircraft fuel required to file periodic tax reports
21 under RCW 82.42.040 must report to the department the annual emissions
22 of carbon dioxide from the complete combustion or oxidation of the
23 fuels listed in those reports as sold in the state of Washington. The
24 department shall not require suppliers to use additional data to
25 calculate greenhouse gas emissions other than the data the suppliers
26 report to the department of licensing. The rules may allow this
27 information to be aggregated when reported to the department. The
28 department and the department of licensing shall enter into an
29 interagency agreement to ensure proprietary and confidential
30 information is protected if the departments share reported information.
31 Any proprietary or confidential information exempt from disclosure when
32 reported to the department of licensing is exempt from disclosure when
33 shared by the department of licensing with the department under this
34 provision.

35 (b)(i) Except as otherwise provided in this subsection, the rules
36 adopted by the department under (a) of this subsection must be
37 consistent with the regulations adopted by the United States

1 environmental protection agency in 40 C.F.R. Part 98 on September 22,
2 2009.

3 (ii) The department may by rule include additional gases to the
4 definition of "greenhouse gas" in RCW 70.235.010 only if the gas has
5 been designated as a greenhouse gas by the United States congress or by
6 the United States environmental protection agency. Prior to including
7 additional gases to the definition of "greenhouse gas" in RCW
8 70.235.010, the department shall notify the appropriate committees of
9 the legislature. Decisions to amend the rule to include additional
10 gases must be made prior to December 1st of any year and the amended
11 rule may not take effect before the end of the regular legislative
12 session in the next year.

13 (iii) The department may by rule exempt persons who are required to
14 report greenhouse gas emissions to the United States environmental
15 protection agency and who emit less than ten thousand metric tons
16 carbon dioxide equivalent annually.

17 (iv) The department must establish a methodology for persons who
18 are not required to report under this section to voluntarily report
19 their greenhouse gas emissions.

20 (c) The department shall review and if necessary update its rules
21 whenever the United States environmental protection agency adopts final
22 amendments to 40 C.F.R. Part 98 to ensure consistency with federal
23 reporting requirements for emissions of greenhouse gases. However, the
24 department shall not amend its rules in a manner that conflicts with
25 (a) of this subsection.

26 (d) The department shall share any reporting information reported
27 to it with the local air authority in which the person reporting under
28 the rules adopted by the department operates.

29 (e) The fee provisions in subsection (2) of this section apply to
30 reporting of emissions of greenhouse gases. Persons required to report
31 under (a) of this subsection who fail to report or pay the fee required
32 in subsection (2) of this section are subject to enforcement penalties
33 under this chapter. The department shall enforce the reporting rule
34 requirements unless it approves a local air authority's request to
35 enforce the requirements for persons operating within the authority's
36 jurisdiction. However, neither the department nor a local air
37 authority approved under this section are authorized to assess

1 enforcement penalties on persons required to report under (a) of this
2 subsection until six months after the department adopts its reporting
3 rule in 2010.

4 (f) The energy facility site evaluation council shall,
5 simultaneously with the department, adopt rules that impose greenhouse
6 gas reporting requirements in site certifications on owners or
7 operators of a facility permitted by the energy facility site
8 evaluation council. The greenhouse gas reporting requirements imposed
9 by the energy facility site evaluation council must be the same as the
10 greenhouse gas reporting requirements imposed by the department. The
11 department shall share any information reported to it from facilities
12 permitted by the energy facility site evaluation council with the
13 council, including notice of a facility that has failed to report as
14 required. The energy facility site evaluation council shall contract
15 with the department to monitor the reporting requirements adopted under
16 this section.

17 (g) The inclusion or failure to include any person, source, classes
18 of persons or sources, or types of emissions of greenhouse gases into
19 the department's rules for reporting under this section does not
20 indicate whether such a person, source, or category is appropriate for
21 inclusion in state, regional, or national greenhouse gas reduction
22 programs or strategies. Furthermore, aircraft fuel purchased in the
23 state may not be considered equivalent to aircraft fuel combusted in
24 the state.

25 (h)(i) The definitions in RCW 70.235.010 apply throughout this
26 subsection (5) unless the context clearly requires otherwise.

27 (ii) For the purpose of this subsection (5), the term "supplier"
28 includes: (A) A motor vehicle fuel supplier or a motor vehicle fuel
29 importer, as those terms are defined in RCW 82.36.010; (B) a special
30 fuel supplier or a special fuel importer, as those terms are defined in
31 RCW 82.38.020; and (C) a distributor of aircraft fuel, as those terms
32 are defined in RCW 82.42.010.

33 (iii) For the purpose of this subsection (5), the term "person"
34 includes: (A) An owner or operator, as those terms are defined by the
35 United States environmental protection agency in its mandatory
36 greenhouse gas reporting regulation in 40 C.F.R. Part 98, as adopted on

1 September 22, 2009; and (B) a supplier.

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