
SUBSTITUTE HOUSE BILL 2310

State of Washington

66th Legislature

2020 Regular Session

By House Environment & Energy (originally sponsored by Representatives Fitzgibbon, Ramel, Macri, Doglio, Cody, Hudgins, and Pollet)

1 AN ACT Relating to reducing emissions from vehicles associated
2 with on-demand transportation services; amending RCW 70.120.010 and
3 70.94.015; and adding new sections to chapter 70.120 RCW.

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

5 **Sec. 1.** RCW 70.120.010 and 2011 c 171 s 108 are each amended to
6 read as follows:

7 (~~Unless the context clearly requires otherwise, the~~) The
8 definitions in this section apply throughout this chapter unless the
9 context clearly requires otherwise.

10 (1) "Department" means the department of ecology.

11 (2) "Director" means the director of the department of ecology.

12 (3) "Fleet" means a group of fifteen or more motor vehicles
13 registered in the same name and whose owner has been assigned a fleet
14 identifier code by the department of licensing.

15 (4) "Motor vehicle" means any self-propelled vehicle required to
16 be licensed pursuant to chapter 46.16A RCW.

17 (5) "Motor vehicle dealer" means a motor vehicle dealer, as
18 defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70
19 RCW.

1 (6) "Person" means an individual, firm, public or private
2 corporation, association, partnership, political subdivision of the
3 state, municipality, or governmental agency.

4 (7) The terms "air contaminant," "air pollution," "air quality
5 standard," "ambient air," "emission," and "emission standard" have
6 the meanings given them in RCW 70.94.030.

7 (8) (a) "Commercial transportation services provider" includes a
8 corporation, partnership, sole proprietorship, or other entity,
9 operating in Washington, that uses a digital network or software
10 application to connect passengers to vehicle operators for the
11 purpose of providing a prearranged ride.

12 (b) "Commercial transportation services provider" does not
13 include: (i) A taxicab company under chapter 81.72 RCW; (ii) a
14 charter party or excursion service carrier under chapter 81.70 RCW;
15 (iii) an auto transportation company under chapter 81.68 RCW; (iv) a
16 private, nonprofit transportation provider under chapter 81.66 RCW;
17 or (v) a limousine carrier under chapter 46.72A RCW.

18 (9) "Commercial transportation services provider passenger" or
19 "passenger" has the same meaning as defined in RCW 48.177.005.

20 (10) "Vehicle" means a vehicle that is used to provide
21 prearranged transportation services for compensation in connection
22 with and authorized by a commercial transportation services provider
23 or food delivery provider, and that meets all of the following:

24 (a) Has a passenger capacity of less than nine persons, including
25 a driver; and

26 (b) Is not operating as a taxicab regulated under chapter 81.72
27 RCW or as a limousine regulated under chapter 46.72A RCW.

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

30 (12) "Zero emission vehicle" means a vehicle that emits no
31 exhaust gas from the onboard source of power, other than water vapor.

32 (13) "Transportation application service provider" means a
33 commercial transportation services provider or a food delivery
34 provider.

35 (14) "Food delivery provider" includes a corporation,
36 partnership, sole proprietorship, or other entity operating in
37 Washington that uses a customer-facing digital network or software
38 application to prearrange for the delivery of prepared meals,
39 groceries, or other food to a customer, other than food sold and
40 transported directly by the entity.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.120

2 RCW to read as follows:

3 (1) By July 1, 2021, the department shall establish a baseline
4 for emissions of greenhouse gases for vehicles used on online-enabled
5 applications or platforms of transportation application service
6 providers on a per-delivery-mile traveled basis. The baseline
7 calculation must use data from calendar year 2018 and include:

8 (a) Miles driven with no passenger or customer food delivery in
9 the vehicle when the operator of the vehicle is logged in to a
10 provider's digital platform or software application; and

11 (b) Miles driven with one or more passengers or customer food
12 deliveries in the vehicle as a prearranged ride or delivery.

13 (2) Transportation application service providers must provide
14 information to the department covering individual calendar years,
15 consistent with a reporting schedule and criteria to be adopted by
16 rule by the department. The department may require transportation
17 application service providers to provide data regarding the number of
18 vehicles operating in Washington by city and by county. The
19 department must use the provided information to determine average
20 emissions of greenhouse gases per passenger-mile and per customer
21 delivery-mile including, but not limited to:

22 (a) The total miles driven by vehicles operated to provide
23 transportation application services in Washington state;

24 (b) The percent share of miles traveled by zero emission
25 vehicles;

26 (c) The miles-weighted average network-wide grams of carbon
27 dioxide equivalent per mile, for purposes of producing an estimate of
28 greenhouse gas emissions; and

29 (d) For commercial transportation services providers only, total
30 passenger-miles traveled using an average passengers-per-trip
31 estimate to account for trips where exact passenger head count data
32 was not captured.

33 (3) The department may use reasonable methods to adjust and
34 correct data and emission estimates including, but not limited to:

35 (a) Methods to apportion emissions between transportation
36 application service providers to account for: (i) Circumstances in
37 which multiple applications or platforms are simultaneously used by a
38 vehicle provider; or (ii) periods when vehicle providers are driving
39 primarily for purposes other than engaging with services provided by
40 the transportation application service provider, even though the

1 latter party may be recording data on the vehicle provider's
2 movement; and

3 (b) Methods to account for passenger-miles provided via zero-
4 emissions transportation or public transit, other than a motor
5 vehicle, offered in connection with a transportation application
6 service provider's digital network.

7 (4) The department may establish a baseline for a transportation
8 application service provider that begins operating in Washington
9 after calendar year 2018 with consideration of the baselines
10 established under subsection (1) of this section and the information
11 received by the department under subsection (2) of this section.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.120
13 RCW to read as follows:

14 (1) By July 1, 2022, the department shall adopt by rule and
15 implement mandatory annual goals and targets that begin in 2024 for
16 each transportation application service provider for the reduction
17 under the baseline established under section 2 of this act for
18 emissions of greenhouse gases per passenger-mile and food delivery-
19 mile driven. The department may establish alternate timelines for the
20 goals and targets for a commercial transportation services provider
21 that begins covered operations in Washington after calendar year
22 2018. The goals and targets must:

23 (a) Include annual targets and goals for increasing the
24 percentage of passenger-miles traveled and customer food delivery-
25 miles traveled using zero emission vehicles;

26 (b) Be technically and economically feasible;

27 (c) Be informed by data reported by transportation application
28 service providers to the department; and

29 (d) Be designed with consideration of the state greenhouse gas
30 emission limits of RCW 70.235.020 and the state vehicle miles
31 traveled goals of RCW 47.01.440.

32 (2) The department may delay implementation of the targets and
33 goals adopted under this section if the department finds that
34 unanticipated barriers exist to expanding the usage of zero emission
35 vehicles by transportation application service providers. No less
36 frequently than every two years, the department must review available
37 data related to barriers to usage of zero emission vehicles by
38 transportation application service providers, including data related

1 to current and future electric transportation adoption rates and
2 charging infrastructure utilization rates.

3 (3) (a) Beginning January 1, 2023, each transportation application
4 service provider must develop and submit to the department a
5 greenhouse gas emission reduction plan. The department may establish
6 alternate deadlines for the submission of a plan by a commercial
7 transportation services provider that begins operating in Washington
8 as a covered entity after calendar year 2018. The department shall
9 review the plan within one hundred eighty days of receipt of the
10 plan, including a review of the plan for compliance with subsections
11 (4) and (5) of this section, and decide whether to approve the plan.
12 If a plan is rejected, the department shall provide the reasons for
13 rejecting the plan to the transportation application service
14 provider. The transportation application service provider must submit
15 a new plan within sixty days after receipt of the letter of
16 disapproval. Each transportation application service provider must
17 implement a greenhouse gas emission reduction plan by January 1,
18 2024.

19 (b) A transportation application service provider must submit a
20 plan amendment to the department no less than forty-five days before
21 the transportation application service provider plans to begin
22 implementing a substantial change to the transportation application
23 service provider's plan. Within forty-five days of receipt of a plan
24 amendment, the department must decide whether to approve the plan
25 amendment and must provide the reasons for rejecting the plan
26 amendment.

27 (4) Greenhouse gas emission reduction plans must contain
28 proposals for meeting the goals and targets established in subsection
29 (1) of this section through, at a minimum:

30 (a) Increasing the proportion of vehicles used to complete trips
31 that are zero emission vehicles;

32 (b) Increasing the proportion of vehicle miles completed by zero
33 emission vehicles relative to the proportion of overall vehicle
34 miles;

35 (c) Decreasing the average gram-per-mile greenhouse gas emission
36 rates for vehicle miles traveled; and

37 (d) Increasing the proportion of passenger-miles traveled or
38 customer food delivery-miles traveled relative to overall vehicle
39 miles traveled.

1 (5) Plans developed under this section by each transportation
2 application service provider must also:

3 (a) Consider incentives to encourage increasing the share of:

4 (i) Total miles traveled by passengers whose walking, biking, or
5 other active or zero emission modes of transportation are facilitated
6 using vehicles on an online-enabled application or platform; and

7 (ii) Total miles traveled by food deliveries by walking, biking,
8 or other active or zero emission modes of transportation; and

9 (b) Outline actions that a transportation application service
10 provider will take to ensure that the plan will not result in
11 negative financial outcomes for drivers relative to existing
12 operational conditions.

13 (6) The department may allow plans to achieve credit towards the
14 goals and targets established in subsection (1) of this section
15 through the provision, funding, or other financial support of
16 transportation electrification infrastructure by the transportation
17 application service provider.

18 (7) Plans required under this section must be updated and
19 resubmitted to the department by January 1, 2025, and each January
20 1st of odd-numbered years thereafter, with implementation of
21 resubmitted plans commencing January 1, 2026, and each January 1st of
22 even-numbered years thereafter.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.120
24 RCW to read as follows:

25 (1) The department may determine, assess, and collect annual fees
26 from each transportation application service provider sufficient to
27 cover the direct and indirect costs of administering and enforcing
28 the provisions of this section and sections 2 and 3 of this act.

29 (2) The annual fee assessed to each transportation application
30 service provider must be calculated by dividing the department's
31 administrative costs associated with transportation application
32 service providers by the provider's proportional share of total
33 number of miles of service provided by all transportation application
34 service providers during the preceding calendar year.

35 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.120
36 RCW to read as follows:

1 (1) The department may adopt rules to implement, administer, and
2 enforce sections 2 through 4 of this act. In adopting rules under
3 this section, the department must ensure, to the extent practicable:

4 (a) Minimal negative impact on low-income and moderate-income
5 drivers;

6 (b) For commercial transportation service providers only, that
7 the program complements and supports the planning goals of RCW
8 36.70A.020; and

9 (c) That the program supports a goal of providing clean mobility
10 for low-income and moderate-income individuals.

11 (2) By September 30, 2026, and every two years thereafter, the
12 department must submit a brief report to the appropriate committees
13 of the legislature that addresses:

14 (a) The greenhouse gas emission and vehicle miles traveled
15 reductions achieved under plans implemented consistent with this
16 chapter; and

17 (b) The efficacy and sufficiency of financial incentives created
18 by the legislature to encourage and facilitate the replacement of
19 high-utilization transportation application service provider vehicles
20 with zero emission vehicles.

21 (3) A transportation application service provider that submits
22 information or records to the department under this chapter may
23 request that the information or records be made available only for
24 the confidential use of the department, the director, the appropriate
25 division of the department, or other city, county, or state agencies
26 under data-sharing agreements approved by the department that provide
27 the same protections as would be afforded to the information or
28 records if the information or records remained solely in the
29 possession of the department. The director shall give consideration
30 to the request and if this action is not detrimental to the public
31 interest and is otherwise in accord with the policies and purposes of
32 chapter 43.21A RCW, the director must grant the request for the
33 information to remain confidential as authorized in RCW 43.21A.160.

34 (4) The department may not make public information that would
35 constitute an invasion of privacy consistent with the standard
36 established in RCW 42.56.050 including, at minimum, information that
37 would allow identification of individuals receiving services from
38 transportation application service providers.

1 **Sec. 6.** RCW 70.94.015 and 2019 c 284 s 6 are each amended to
2 read as follows:

3 (1) The air pollution control account is established in the state
4 treasury. All receipts collected by or on behalf of the department
5 from RCW 70.94.151(2), and receipts from nonpermit program sources
6 under RCW 70.94.152(1) and 70.94.154(7), and all receipts from RCW
7 70.94.6528 (~~and~~), 70.94.6534, and section 4 of this act shall be
8 deposited into the account. Moneys in the account may be spent only
9 after appropriation. Expenditures from the account may be used only
10 to develop and implement the provisions of this chapter, chapter(~~s~~
11 ~~70.94 and~~) 70.120 RCW, and RCW 70.235.080.

12 (2) The amounts collected and allocated in accordance with this
13 section shall be expended upon appropriation except as otherwise
14 provided in this section and in accordance with the following
15 limitations:

16 Portions of moneys received by the department of ecology from the
17 air pollution control account shall be distributed by the department
18 to local authorities based on:

19 (a) The level and extent of air quality problems within such
20 authority's jurisdiction;

21 (b) The costs associated with implementing air pollution
22 regulatory programs by such authority; and

23 (c) The amount of funding available to such authority from other
24 sources, whether state, federal, or local, that could be used to
25 implement such programs.

26 (3) The air operating permit account is created in the custody of
27 the state treasurer. All receipts collected by or on behalf of the
28 department from permit program sources under RCW 70.94.152(1),
29 70.94.161, 70.94.162, and 70.94.154(7) shall be deposited into the
30 account. Expenditures from the account may be used only for the
31 activities described in RCW 70.94.152(1), 70.94.161, 70.94.162, and
32 70.94.154(7). Moneys in the account may be spent only after
33 appropriation.

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