
SUBSTITUTE HOUSE BILL 1028

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Environmental Affairs (originally sponsored by Representatives Pruitt, Horn, Rust, Heavey, Anderson, Wineberry, Phillips, Wang, Sprenkle, Jones, Prentice, Fraser, Nelson, G. Fisher, Jacobsen, R. Fisher, Valle, Roland, Hine and Brekke; by request of Governor Gardner).

Read first time March 6, 1991.

1 AN ACT Relating to reducing air contaminant emissions and improving
2 air quality; amending RCW 70.94.011, 70.94.030, 70.120.010, 70.120.020,
3 70.120.070, 70.120.080, 70.120.120, 70.120.150, 70.120.170, 46.16.015,
4 46.16.060, 46.16.063, 46.16.065, 46.16.070, 46.68.035, 46.16.085,
5 82.44.020, 43.84.090, 70.94.152, 70.94.155, 70.94.181, 70.94.205,
6 70.94.211, 70.94.430, 70.94.431, 70.94.860, 70.94.875, 70.94.745,
7 70.94.660, 70.94.670, 70.94.690, 70.94.650, 70.94.654, 70.94.775,
8 70.94.780, 70.94.750, 70.94.457, 70.94.470, 70.94.473, 70.94.483,
9 70.94.041, 70.94.656, 70.94.055, 70.94.092, 70.94.100, 70.94.130,
10 70.94.170, 70.94.231, 70.94.240, 70.94.331, 70.94.332, 70.94.385,
11 70.94.395, 70.94.405, 70.94.410, and 70.94.420; reenacting and amending
12 RCW 70.94.053; adding new sections to chapter 70.120 RCW; adding a new
13 section to chapter 43.19 RCW; adding new sections to chapter 80.28 RCW;
14 adding new sections to chapter 70.94 RCW; adding a new chapter to Title
15 82 RCW; adding a new chapter to Title 70 RCW; creating new sections;
16 repealing RCW 70.120.110, 70.120.140, 70.120.900, 70.94.232, 70.94.680,
17 70.94.740, 70.94.810, 70.94.815, 70.94.825, and 70.94.870; prescribing

1 penalties; making an appropriation; providing effective dates; and
2 declaring an emergency.

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

4 I.

5 PUBLIC POLICY, FINDINGS, AND INTENT

6 NEW SECTION. **Sec. 101.** The legislature finds that ambient air
7 pollution is the most serious environmental threat in Washington state.
8 Air pollution causes significant harm to human health; damages the
9 environment, including trees, crops, and animals; causes deterioration
10 of equipment and materials; contributes to water pollution; and
11 degrades the quality of life.

12 Over three million residents of Washington state live where air
13 pollution levels are considered unhealthy. Of all toxic chemicals
14 released into the environment more than half enter our breathing air.
15 Citizens of Washington state spend hundreds of millions of dollars
16 annually to offset health, environmental, and material damage caused by
17 air pollution. The legislature considers such air pollution levels,
18 costs, and damages to be unacceptable.

19 **Sec. 102.** RCW 70.94.011 and 1973 1st ex.s. c 193 s 1 are each
20 amended to read as follows:

21 It is declared to be the public policy (~~(of the state)~~) to
22 preserve, protect, and enhance the air quality for current and future
23 generations. Air is an essential resource that must be protected from
24 harmful levels of pollution. Improving air quality is a matter of
25 state-wide concern and is in the public interest. It is the intent of
26 this chapter to secure and maintain (~~(such)~~) levels of air quality (~~(as~~

1 will)) that protect human health and safety ((and)), including the most
2 sensitive members of the population, to comply with the requirements of
3 the federal clean air act, ((and,)) to ((the—greatest—degree
4 practicable,)) prevent injury to plant ((and)), animal life, and
5 property, to foster the comfort and convenience of ((its)) Washington's
6 inhabitants, to promote the economic and social development of the
7 state, and to facilitate the enjoyment of the natural attractions of
8 the state. ((The problems and effects of air pollution are frequently
9 regional and interjurisdictional in nature, and are dependent upon the
10 existence of urbanization and industrialization in areas having common
11 topography and recurring weather conditions conducive to the buildup of
12 air contaminants))

13 It is further the intent of this chapter to protect the public
14 welfare, to preserve visibility, to protect scenic, aesthetic,
15 historic, and cultural values, and to prevent air pollution problems
16 that interfere with the enjoyment of life, property, or natural
17 attractions.

18 Because of the extent of the air pollution problem the legislature
19 finds it necessary to return areas with poor air quality to levels
20 adequate to protect health and the environment as expeditiously as
21 possible but no later than December 31, 1995. Further, it is the
22 intent of this chapter to prevent any areas of the state with
23 acceptable air quality from reaching air contaminant levels that are
24 not protective of human health and the environment.

25 The legislature recognizes that air pollution control projects may
26 affect other environmental media. In selecting air pollution control
27 strategies state and local agencies shall support those strategies that
28 lessen the negative environmental impact of the project on all
29 environmental media, including air, water, and land.

1 The legislature further recognizes that energy efficiency and
2 energy conservation can help to reduce air pollution and shall
3 therefore be considered when making decisions on air pollution control
4 strategies and projects.

5 It is the policy of the state that the costs of protecting the air
6 resource and operating state and local air pollution control programs
7 shall be shared as equitably as possible among all sources whose
8 emissions cause air pollution.

9 It is also declared as public policy that regional air pollution
10 control programs are to be encouraged and supported to the extent
11 practicable as essential instruments for the securing and maintenance
12 of appropriate levels of air quality.

13 ~~((It is also declared to be the public policy of the state to~~
14 ~~provide for the people of the populous metropolitan regions in the~~
15 ~~state the means of obtaining air pollution control not adequately~~
16 ~~provided by existing agencies of local government. For reasons of the~~
17 ~~present and potential dramatic growth in population, urbanization, and~~
18 ~~industrialization, the special problem of air resource management,~~
19 ~~encompassing both corrective and preventive measures for the control of~~
20 ~~air pollution cannot be adequately met by the individual towns, cities,~~
21 ~~and counties of many metropolitan regions.~~

22 ~~In addition, the state is divided into two major areas, each having~~
23 ~~unique characteristics as to natural climatic and topographic features~~
24 ~~which may result in the different potentials for the accumulation and~~
25 ~~buildup of air contaminant concentrations. These two major areas are~~
26 ~~the area lying west of the Cascade Mountain crest and the area lying~~
27 ~~east of the Cascade Mountain crest. Within each of these major areas~~
28 ~~are regions which, because of the climate and topography and present~~
29 ~~and potential urbanization and industrial development may, through~~
30 ~~definitive evaluation be classed as regional air pollution areas.))~~

1 To these ends it is the purpose of this chapter to (~~provide for~~
2 a)) safeguard the public interest through an intensive, progressive,
3 and coordinated state-wide program of air pollution prevention and
4 control, to provide for an appropriate distribution of
5 responsibilities, and to encourage coordination and cooperation between
6 the state, regional, and local units of government, (~~and for~~
7 cooperation across jurisdictional lines in dealing with problems of air
8 pollution)) to improve cooperation between state and federal
9 government, public and private organizations, and the concerned
10 individual, as well as to provide for the use of all known, available,
11 and reasonable methods to reduce, prevent, and control air pollution.

12 The legislature recognizes that the problems and effects of air
13 pollution cross political boundaries, are frequently regional or
14 interjurisdictional in nature, and are dependent upon the existence of
15 human activity in areas having common topography and weather conditions
16 conducive to the buildup of air contaminants. In addition, the
17 legislature recognizes that air pollution levels are aggravated and
18 compounded by increased population, and its consequences. These
19 changes often result in increasingly serious problems for the public
20 and the environment.

21 The legislature further recognizes that air emissions from
22 thousands of small individual sources are major contributors to air
23 pollution in many regions of the state. As the population of a region
24 grows, small sources may contribute an increasing proportion of that
25 region's total air emissions. It is declared to be the policy of the
26 state to achieve significant reductions in emissions from those small
27 sources whose aggregate emissions constitute a significant contribution
28 to air pollution in a particular region.

29 It is the intent of the legislature that air pollution goals be
30 incorporated in the missions and actions of state agencies.

1 **Sec. 103.** RCW 70.94.030 and 1987 c 109 s 33 are each amended to
2 read as follows:

3 Unless a different meaning is plainly required by the context, the
4 following words and phrases as hereinafter used in this chapter shall
5 have the following meanings:

6 (1) "Air contaminant" means dust, fumes, mist, smoke, other
7 particulate matter, vapor, gas, odorous substance, or any combination
8 thereof.

9 (2) "Air pollution" is presence in the outdoor atmosphere of one or
10 more air contaminants in sufficient quantities and of such
11 characteristics and duration as is, or is likely to be, injurious to
12 human health, plant or animal life, or property, or which unreasonably
13 interfere with enjoyment of life and property.

14 (3) (~~("Person" means and includes an individual, firm, public or~~
15 ~~private corporation, association, partnership, political subdivision,~~
16 ~~municipality or government agency))~~ "Air quality standard" means an
17 established concentration, exposure time, and frequency of occurrence
18 of an air contaminant or multiple contaminants in the ambient air which
19 shall not be exceeded.

20 (4) "Ambient air" means the surrounding outside air.

21 (5) "Authority" means any air pollution control agency whose
22 jurisdictional boundaries are coextensive with the boundaries of one or
23 more counties.

24 (~~(5))~~ (6) "Board" means the board of directors of an authority.

25 (~~(6))~~ (7) "Control officer" means the air pollution control
26 officer of any authority.

27 (~~(7))~~ (8) "Department" means the department of ecology.

28 (9) "Emission" means a release of air contaminants into the
29 (~~(outdoor atmosphere of air contaminants))~~ ambient air.

30 (~~(8)~~) ~~"Department" means the state department of ecology.~~

1 ~~(9) "Ambient air" means the surrounding outside air.))~~

2 (10) "Emission standard" means a limitation on the release of an
3 air contaminant or multiple contaminants into the ambient air.

4 (11) "Multicounty authority" means an authority which consists of
5 two or more counties.

6 ~~((11) "Emission standard" means a limitation on the release of a~~
7 ~~contaminant or multiple contaminants into the ambient air.~~

8 ~~(12) "Air quality standard" means an established concentration,~~
9 ~~exposure time and frequency of occurrence of a contaminant or multiple~~
10 ~~contaminants in the ambient air which shall not be exceeded.~~

11 ~~(13) "Air quality objective" means the concentration and exposure~~
12 ~~time of a contaminant or multiple contaminants in the ambient air below~~
13 ~~which undesirable effects will not occur.))~~

14 (12) "Person" means an individual, firm, public or private
15 corporation, association, partnership, political subdivision of the
16 state, municipality, or governmental agency.

17 (13) "Silvicultural burning" means burning of wood fiber on forest
18 land consistent with the provisions of section 404 of this act.

19 II.

20 MOTOR VEHICLES AND FUELS

21 **Sec. 201.** RCW 70.120.010 and 1979 ex.s. c 163 s 1 are each amended
22 to read as follows:

23 Unless the context clearly requires otherwise, the definitions in
24 this section apply throughout this chapter.

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

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

27 (3) "Fleet" means ~~((a group of twenty five or more motor vehicles~~
28 ~~owned or leased concurrently by one person))~~ a group of fifteen or more

1 motor vehicles registered in the same name and whose owner has been
2 assigned a fleet identifier code by the department of licensing.

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

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

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

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

13 **Sec. 202.** RCW 70.120.020 and 1989 c 240 s 5 are each amended to
14 read as follows:

15 (1) The department shall conduct ~~((the following programs in a~~
16 ~~manner that will enhance the successful implementation of the air~~
17 ~~pollution control system established for motor vehicles by this~~
18 ~~chapter:~~

19 ~~(a) A voluntary motor vehicle emissions inspection program;~~

20 ~~(b)) a public educational program regarding the health effects of~~
21 ~~air pollution emitted by motor vehicles; the purpose, operation, and~~
22 ~~effect of emission control devices and systems; and the effect that~~
23 ~~proper maintenance of motor vehicle engines has on fuel economy and air~~
24 ~~pollution emission(~~~~(+and~~

25 ~~(e)) and a public notification program identifying the geographic~~
26 ~~areas of the state that are designated as being noncompliance areas and~~
27 ~~emission contributing areas and describing the requirements imposed~~
28 ~~under this chapter for those areas.~~

1 (2)(a) The department(~~(, the superintendent of public instruction,~~
2 ~~and the state board for community college education shall develop~~
3 ~~cooperatively, after consultation with automotive trades joint~~
4 ~~apprenticeship committees approved in accordance with RCW 49.04.040, a~~
5 ~~program for granting~~)) shall grant certificates of instruction to
6 persons who successfully complete a course of study, under general
7 requirements established by the director, in the maintenance of motor
8 vehicle engines, the use of engine and exhaust analysis equipment, and
9 the repair and maintenance of emission control devices. The director
10 may establish and implement procedures for granting certification to
11 persons who successfully complete other training programs or who have
12 received certification from public and private organizations which meet
13 the requirements established in this subsection, including programs on
14 clean fuel technology and maintenance.

15 (b) The department shall make available to the public a list of
16 those persons who have received certificates of instruction under
17 subsection (2)(a) of this section.

18 **Sec. 203.** RCW 70.120.070 and 1989 c 240 c 6 are each amended to
19 read as follows:

20 (1) Any person:

21 (a) Whose motor vehicle is tested pursuant to this chapter and
22 fails to comply with the emission standards established for the
23 vehicle; and

24 (b) Who, following such a test, expends more than four hundred
25 fifty dollars on a (~~(1980 or earlier model year motor vehicle or~~
26 ~~expends more than one hundred fifty dollars on a 1981 or later model~~
27 ~~year)) motor vehicle for repairs solely devoted to meeting the emission
28 standards and that are performed by a certified emission specialist
29 authorized by RCW 70.120.020(2)(a); and~~

1 (c) Whose vehicle fails a retest, may be issued a certificate of
2 acceptance if (i) the vehicle has been in use for more than five years
3 or fifty thousand miles, and (ii) any component of the vehicle
4 installed by the manufacturer for the purpose of reducing emissions, or
5 its appropriate replacement, is installed and operative(~~(-)~~); and

6 (d) To receive the certificate, the person must document compliance
7 with (b) and (c) of this subsection to the satisfaction of the
8 department.

9 (2) Persons who fail the initial tests shall be provided with
10 information regarding the availability of federal warranties and
11 certified emission specialists.

12 NEW SECTION. Sec. 204. (1) A task force is established for the
13 purposes of recommending a program to assist with vehicles failing to
14 comply with emission standards under RCW 70.120.120. The task force
15 shall be appointed by the speaker of house of representatives and the
16 president of the senate and shall consist of:

17 (a) Two members from the house committee on environmental affairs;

18 (b) Two members from the senate committee on environment and
19 natural resources; and

20 (c) Two members from the legislative committee on transportation.

21 (2) In developing recommendations, the task force shall consult
22 with representatives from the departments of ecology, licensing, social
23 and health services, and revenue, the Washington state patrol, vehicle
24 dealers and manufacturers, auto wreckers, and advocates for low-income
25 persons and senior citizens.

26 (3) By November 1, 1991, the task force shall report to the
27 appropriate standing committees of the legislature. The report shall
28 recommend methods to:

1 (a) Use public and private funds to provide credit toward
2 purchasing vehicles ten years or older from persons with vehicles not
3 meeting the emission standards under RCW 70.120.120 for the purpose of
4 permanently removing such vehicles from the road;

5 (b) Identify persons needing assistance with the provisions of RCW
6 70.120.120. In identifying such persons, the task force shall give
7 first consideration to persons with an income of less than one hundred
8 fifty percent of the federal poverty level;

9 (c) Prevent fraud or abuse of the program developed under this
10 section; and

11 (d) Share the cost of the program with new and used car dealers
12 licensed under chapter 46.70 RCW.

13 In the event that the task force determines a program to provide
14 credit toward the purchase of older, polluting vehicles, as described
15 under (a) of this subsection, does not provide an adequate benefit to
16 low-income persons, the task force shall include recommendations to
17 provide public funds for the repair of such vehicles.

18 **Sec. 205.** RCW 70.120.080 and 1979 ex.s. c 163 s 8 are each amended
19 to read as follows:

20 The director may authorize an owner or lessee of a fleet of motor
21 vehicles, or the owner's or lessee's agent, to inspect the vehicles in
22 the fleet and issue certificates of compliance for the vehicles in the
23 fleet if the director determines that: (1) The director's ((~~emission~~
24 ~~and~~)) inspection ((~~standards~~)) procedures will be complied with; and
25 (2) certificates will be issued only to vehicles in the fleet that meet
26 emission and equipment standards adopted under RCW 70.120.150 and only
27 when appropriate.

28 In addition, the director may authorize an owner or lessee of one
29 or more diesel motor vehicles with a gross vehicle weight rating in

1 excess of eight thousand five hundred pounds, or the owner's or
2 lessee's agent, to inspect the vehicles and issue certificates of
3 compliance for the vehicles. The inspections shall be conducted in
4 compliance with inspection procedures adopted by the department and
5 certificates of compliance shall only be issued to vehicles that meet
6 emission and equipment standards adopted under RCW 70.120.150.

7 The director shall establish by rule the fee for fleet or diesel
8 inspections provided for in this section. The fee shall be set at an
9 amount necessary to offset the department's cost to administer the
10 fleet and diesel inspection program authorized by this section.

11 Owners, leaseholders, or their agents conducting inspections under
12 this section shall pay only the fee established in this section and not
13 be subject to fees under RCW 70.120.170(4).

14 **Sec. 206.** RCW 70.120.120 and 1989 c 240 s 8 are each amended to
15 read as follows:

16 The director shall adopt rules implementing and enforcing this
17 chapter ~~((and RCW 46.16.015(2)(g)))~~ in accordance with chapter 34.05
18 RCW. ~~((Notwithstanding the provisions of chapter 34.05 RCW, any rule~~
19 ~~implementing and enforcing RCW 70.120.150(5) may not be adopted until~~
20 ~~it has been submitted to the standing committees on ecology of the~~
21 ~~house of representatives and senate for review and approval.))~~ The
22 ~~((standing committees))~~ department shall take into account when
23 considering proposed modifications of emission contributing boundaries,
24 as provided for in RCW 70.120.150(5), alternative ~~((plans for traffic~~
25 ~~rerouting and traffic bans))~~ transportation control and motor vehicle
26 emission reduction measures that ~~((may have been prepared))~~ are
27 required by local municipal corporations for the purpose of satisfying
28 federal emission guidelines.

1 **Sec. 207.** RCW 70.120.150 and 1989 c 240 s 2 are each amended to
2 read as follows:

3 The director:

4 (1) Shall adopt motor vehicle emission and equipment standards to:
5 Ensure that no less than seventy percent of the vehicles tested comply
6 with the standards on the first inspection conducted, meet federal
7 clean air act requirements, and protect human health and the
8 environment.

9 (2) Shall establish, by rule, an emission standard and a test
10 methodology to accurately measure the opacity of emissions from diesel
11 engines. The emission standard adopted by the department shall ensure
12 that properly maintained engines comply with the standards on the first
13 inspection conducted.

14 (3) Shall designate a geographic area as being a "noncompliance
15 area" for motor vehicle emissions if (a) the department's analysis of
16 ~~((the))~~ emission and ambient air quality data, ~~((recorded for))~~
17 covering a period of no less than one year, ~~((at the monitoring sites))~~
18 indicates that the standard has or will probably be exceeded, and (b)
19 the department determines that the primary source of the air
20 contaminant ~~((being monitored at the sites))~~ is motor vehicle
21 emissions.

22 ~~((+3))~~ (4) Shall reevaluate noncompliance areas if the United
23 States environmental protection agency modifies the relevant air
24 quality standards, and shall discontinue the program if compliance is
25 indicated and if the department determines that the area would continue
26 to be in compliance after the program is discontinued. The director
27 shall notify persons residing in noncompliance areas of the
28 reevaluation.

29 ~~((+4))~~ (5) Shall analyze information regarding the motor vehicle
30 traffic in a noncompliance area to determine the smallest land area

1 within whose boundaries are present registered motor vehicles that
2 contribute significantly to the violation of motor vehicle-related air
3 quality standards in the noncompliance area. The director shall
4 declare the area to be an "emission contributing area." An emission
5 contributing area established for a carbon monoxide or oxides of
6 nitrogen noncompliance area must contain the noncompliance area within
7 its boundaries. An emission contributing area established for an ozone
8 noncompliance area located in this state need not contain the ozone
9 noncompliance area within its boundaries if it can be proven that
10 vehicles registered in the area contribute significantly to violations
11 of the ozone air quality standard in the noncompliance area. An
12 emission contributing area may be established in this state for
13 violations of federal air quality standards for ozone in an adjacent
14 state if (a) the United States environmental protection agency
15 designates an area to be a "nonattainment area for ozone" under the
16 provisions of the federal Clean Air Act (42 U.S.C. 7401 et. seq.), and
17 ~~((the nonattainment area encompasses portions of both Washington~~
18 ~~and the adjacent state, and (c))~~) it can be proven that vehicles
19 registered in this state contribute significantly to the violation of
20 the federal air quality standards for ozone in the adjacent state's
21 ~~((portion of the))~~ nonattainment area.

22 ~~((+5))~~ (6) Shall, after consultation with the appropriate local
23 government entities, designate areas as being noncompliance areas or
24 emission contributing areas, and shall establish the boundaries of such
25 areas by rule. The director may also modify boundaries. In
26 establishing the external boundaries of an emission contributing area,
27 the director shall use the boundaries established for ZIP code service
28 areas by the United States postal service.

1 ~~((6))~~ (7) May make grants to units of government in support of
2 planning efforts to reduce motor vehicle emissions ~~((in areas where~~
3 ~~emission control inspections are not required))~~.

4 **Sec. 208.** RCW 70.120.170 and 1989 c 240 s 4 are each amended to
5 read as follows:

6 (1) The department shall administer a system for ~~((biennial))~~
7 emission inspections ~~((of emissions))~~ of all motor vehicles registered
8 within the boundaries of each emission contributing area. ~~((Persons~~
9 ~~residing within the boundaries of an emission contributing area shall~~
10 ~~register their motor vehicle within that area, unless business reasons~~
11 ~~require registration outside the area. Requests for exemption from~~
12 ~~inspection for business reasons shall be reviewed and approved by the~~
13 ~~director))~~ Under such system a motor vehicle shall be inspected
14 biennially except where an annual program would be required to meet
15 federal law and prevent federal sanctions. In addition, motor vehicles
16 shall be inspected at each change of registered owner.

17 (2) The director shall:

18 (a) Adopt procedures for conducting emission ~~((tests for))~~
19 inspections of motor vehicles. ~~((tests shall))~~ inspections may
20 include idle and high revolution per minute emission tests. The
21 emission test for diesel vehicles shall consist solely of a smoke
22 opacity test.

23 (b) Adopt criteria for calibrating emission testing equipment.
24 Electronic equipment used to test for emissions standards provided for
25 in this chapter shall be properly calibrated. The department shall
26 examine frequently the calibration of the emission testing equipment
27 used at the stations.

28 (c) Authorize, through contracts, the establishment and operation
29 of inspection stations for conducting ~~((the))~~ vehicle emission

1 (~~tests~~) inspections authorized in this chapter. No person contracted
2 to inspect motor vehicles may perform for compensation repairs on any
3 vehicles. No public body may establish or operate contracted
4 inspection stations. Any contracts must be let in accordance with the
5 procedures established for competitive bids in chapter 43.19 RCW.

6 (3) Subsection (2)(c) of this section does not apply to volunteer
7 motor vehicle inspections under RCW 70.120.020(1)(a) if the inspections
8 are conducted for the following purposes:

9 (a) Auditing;

10 (b) Contractor evaluation;

11 (c) Collection of data for establishing calibration and performance
12 standards; or

13 (d) Public information and education.

14 (4)(a) The director shall establish by rule the fee to be charged
15 for emission inspections. The inspection fee shall be a standard fee
16 applicable state-wide or throughout an emission contributing area and
17 shall be no greater than eighteen dollars. Surplus moneys collected
18 from fees over the amount due the contractor shall be paid to the state
19 and deposited in the general fund. Fees shall be set at the minimum
20 whole dollar amount required to (i) compensate the contractor or
21 inspection facility owner, and (ii) offset the general fund
22 appropriation to the department to cover the administrative costs of
23 the motor vehicle emission inspection program.

24 (b) Before each inspection, a person whose motor vehicle is to be
25 inspected shall pay to the inspection station the fee established under
26 this section. The person whose motor vehicle is inspected shall
27 receive the results of the inspection (~~test~~). If the inspected
28 (~~vehicle's emissions comply~~) vehicle complies with the standards
29 established by the director, the person shall receive a dated
30 certificate of compliance. If the inspected (~~vehicle's emissions do~~)

1 vehicle does not comply with those standards, one ((retest of the
2 vehicle's emission)) reinspection of the vehicle shall be afforded
3 without charge. All fee proceeds shall be deposited into the emission
4 inspection fee account, which is hereby created in the custody of the
5 state treasurer. Expenditures from the account may be used only for
6 contractor reimbursement. Only the director of ecology or the
7 director's designee may authorize expenditures from the account.
8 Quarterly the director shall transfer to the general fund that portion
9 of the account that is not needed for contractor reimbursement.

10 (5) All units of local government and agencies of the state with
11 motor vehicles garaged or regularly operated in an emissions
12 contributing area shall test the emissions of those vehicles
13 ((biennially)) annually to ensure that the vehicle's emissions comply
14 with the emission standards established by the director. All state
15 agencies outside of emission contributing areas with more than twenty
16 motor vehicles housed at a single facility or contiguous facilities
17 shall test the emissions of those vehicles annually to ensure that the
18 vehicles' emissions comply with standards established by the director.
19 A report of the results of the tests shall be submitted to the
20 department.

21 **Sec. 209.** RCW 46.16.015 and 1990 c 42 s 318 are each amended to
22 read as follows:

23 (1) Neither the department of licensing nor its agents may issue or
24 renew a motor vehicle license for any vehicle ((registered in an
25 emission contributing area, as that area is established under chapter
26 70.120 RCW)) or change the registered owner, for any ((year in which
27 the)) vehicle that is required to be ((tested)) inspected under chapter
28 70.120 RCW, unless the application for issuance or renewal is: (a)
29 Accompanied by a valid certificate of compliance or a valid certificate

1 of acceptance issued pursuant to chapter 70.120 RCW and the inspection
2 fee established by the director of ecology or proof of payment; or (b)
3 exempted from this requirement pursuant to subsection (2) of this
4 section. The certificates must have a date of validation which is
5 within (~~ninety days~~) six months of the date of application for the
6 vehicle license or license renewal. Certificates for fleet or owner
7 tested diesel vehicles may have a date of validation which is within
8 twelve months of the assigned license renewal date.

9 (2) Subsection (1) of this section does not apply to the following
10 vehicles:

11 (a) New motor vehicles whose equitable or legal title has never
12 been transferred to a person who in good faith purchases the vehicle
13 for purposes other than resale;

14 (b) Motor vehicles with a model year of 1967 or earlier;

15 (c) Motor vehicles that use propulsion units powered exclusively by
16 electricity;

17 (d) Motor vehicles fueled (~~exclusively~~) by propane, compressed
18 natural gas, or liquid petroleum gas, unless it is determined that
19 federal sanctions will be imposed as a result of this exemption;

20 (e) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles
21 as defined in RCW 46.04.332;

22 (~~f~~) (~~Motor vehicles powered by diesel engines;~~

23 ~~g~~) Farm vehicles as defined in RCW 46.04.181; or

24 (~~h~~) ~~Used vehicles which are offered for sale by a motor vehicle~~
25 ~~dealer licensed under chapter 46.70 RCW; or~~

26 ~~i~~) g) Motor vehicles exempted by the director of the department
27 of ecology.

28 The provisions of subparagraph (a) of this subsection may not be
29 construed as exempting from the provisions of subsection (1) of this

1 section applications for the renewal of licenses for motor vehicles
2 that are or have been leased.

3 (3) (~~The department of licensing shall mail to each owner of a~~
4 ~~vehicle registered within an emission contributing area a notice~~
5 ~~regarding the boundaries of the area and restrictions established under~~
6 ~~this section that apply to vehicles registered in such areas. The~~
7 ~~information for the notice shall be supplied to the department of~~
8 ~~licensing by the department of ecology.)) The department of ecology
9 shall provide information to motor vehicle owners regarding the
10 boundaries of emission contributing areas and restrictions established
11 under this section that apply to vehicles registered in such areas. In
12 addition the department of ecology shall provide information to motor
13 vehicle owners on the relationship between motor vehicles and air
14 pollution and steps motor vehicle owners should take to reduce motor
15 vehicle related air pollution. The department of licensing shall send
16 to all registered motor vehicle owners (~~who reside within the~~
17 ~~emissions area)) affected by the emission testing program notice that
18 they must have an emission test to renew their registration.~~~~

19 NEW SECTION. Sec. 210. A new section is added to chapter 70.120
20 RCW to read as follows:

21 By July 1, 1992, the department shall develop, in cooperation with
22 the departments of general administration and transportation, and the
23 state energy office, aggressive clean-fuel performance and clean-fuel
24 vehicle emissions specifications. To the extent possible, such
25 specifications shall be equivalent for all fuel types. In developing
26 such specifications the department shall consider the requirements of
27 the clean air act and the findings of the environmental protection
28 agency, other states, the American petroleum institute, the gas
29 research institute, and the motor vehicles manufacturers association.

1 NEW SECTION. **Sec. 211.** A new section is added to chapter 43.19

2 RCW to read as follows:

3 (1) At least thirty percent of all new vehicles purchased through
4 a state contract shall be clean-fuel vehicles. This requirement shall
5 take effect within twelve months of the time that two or more
6 manufacturers produce clean-fuel vehicles in the same weight class.

7 (2) The percentage of clean-fuel vehicles purchased through a state
8 contract shall increase at the rate of five percent each year.

9 (3) In meeting the procurement requirement established in this
10 section, preference shall be given to vehicles designed to operate
11 exclusively on clean fuels. Clean-fuel vehicles capable of operating
12 on other than clean fuels shall be considered equivalent to one-half of
13 a clean-fuel vehicle for the purposes of meeting the procurement
14 requirements of this section.

15 (4) Fuel purchased through a state contract shall be a clean fuel
16 when the fuel is purchased for the operation of a clean-fuel vehicle.

17 (5) (a) Weight classes are established by the following motor
18 vehicle types:

19 (i) Passenger cars;

20 (ii) Light duty trucks, trucks with a gross vehicle weight rating
21 by the vehicle manufacturer of less than eight thousand five hundred
22 pounds;

23 (iii) Heavy duty trucks, trucks with a gross vehicle weight rating
24 by the vehicle manufacturer of eight thousand five hundred pounds or
25 more.

26 (b) This subsection does not place an obligation upon the state or
27 its political subdivisions to purchase vehicles in any number or weight
28 class other than to meet the thirty percent requirement.

1 (6) For the purposes of this section, "clean fuels" and "clean-fuel
2 vehicles" shall be those fuels and vehicles meeting the specifications
3 provided for in section 210 of this act.

4 NEW SECTION. **Sec. 212.** A new section is added to chapter 70.120
5 RCW to read as follows:

6 The department, in cooperation with the departments of general
7 administration and transportation, the utilities and transportation
8 commission, and the state energy office, shall biennially prepare a
9 report to the legislature starting July 1, 1992, on:

10 (1) Progress of clean fuel and clean-fuel vehicle programs in
11 reducing automotive emissions;

12 (2) Recommendations for enhancing clean-fuel distribution systems;

13 (3) Efforts of the state, units of local government, and the
14 private sector to evaluate and utilize "clean fuel" or "clean-fuel
15 vehicles"; and

16 (4) Recommendations for changes in the existing program to make it
17 more effective and, if warranted, for expansion of the program.

18 NEW SECTION. **Sec. 213.** A new section is added to chapter 80.28
19 RCW to read as follows:

20 The legislature finds that compressed natural gas offers
21 significant potential to reduce vehicle emissions and to significantly
22 decrease dependence on petroleum-based fuels. The legislature also
23 finds that well-developed and convenient refueling systems are
24 imperative if compressed natural gas is to be widely used by the
25 public. The legislature declares that the development of compressed
26 natural gas refueling stations are in the public interest.

1 NEW SECTION. **Sec. 214.** A new section is added to chapter 80.28
2 RCW to read as follows:

3 The commission shall identify barriers to the development of
4 refueling stations for vehicles operating on compressed natural gas,
5 and shall develop policies to remove such barriers. In developing such
6 policies, the commission shall consider providing rate incentives to
7 encourage natural gas companies to invest in the infrastructure
8 required by such refueling stations.

9 NEW SECTION. **Sec. 215.** A new section is added to chapter 70.94
10 RCW to read as follows:

11 The department may disburse matching grants from funds provided by
12 the legislature from the air pollution control account, created in
13 section 242 of this act, to units of local government to partially
14 offset the additional cost of purchasing "clean fuel" and/or operating
15 "clean-fuel vehicles" provided that such vehicles are used for public
16 transit. The department may also disburse grants to vocational-
17 technical institutes for the purpose of establishing programs to
18 certify clean-fuel vehicle mechanics.

19 NEW SECTION. **Sec. 216.** A new section is added to chapter 70.94
20 RCW to read as follows:

21 No state agency, metropolitan planning organization, or local
22 government shall approve or fund a transportation plan, program, or
23 project unless a determination has been made that the plan, program, or
24 project conforms with the state implementation plan for air quality.

25 (1) "Conformity to the state implementation plan" means:

26 (a) Conformity to the state implementation plan's purpose of
27 eliminating or reducing the severity and number of violations of the

1 national ambient air quality standards and achieving expeditious
2 attainment of such standards; and

3 (b) Ensuring that a proposed transportation plan, program, or
4 project will not:

5 (i) Cause or contribute to any new violation of any standard in any
6 area;

7 (ii) Increase the frequency or severity of any existing violation
8 of any standard in any area; or

9 (iii) Delay timely attainment of any standard or any required
10 interim emission reductions or other milestones in any area.

11 Conformity determination shall be made by the state or local
12 government or metropolitan planning organization administering or
13 developing the plan, program, or project. The determination of
14 conformity shall be based on the most recent estimates of emissions,
15 and such estimates shall be determined from the most recent
16 population, employment, travel, and congestion estimates as determined
17 by the metropolitan planning organization or other agency authorized to
18 make such estimates.

19 (2) Plans and programs conform if:

20 (a) Emissions resulting from such plans and programs are consistent
21 with baseline emission inventories and emission reduction projections
22 and schedules assigned to those plans and programs in the state
23 implementation plan; and

24 (b) The plans and programs provide for the timely implementation of
25 the transportation provisions in the approved or promulgated state
26 implementation plan.

27 (3) A project conforms if:

28 (a) It is a control measure from the state implementation plan; or

1 (b) It comes from a conforming plan and program, and the design and
2 scope of such project has not changed significantly since the plan and
3 program from which the project derived was found to conform.

4 (c) A project other than one referred to in (a) and (b) of this
5 subsection conforms if it is demonstrated that the project either does
6 not contribute to increased emissions in the nonattainment area, or
7 that offsetting emission reductions for the project are specifically
8 provided for in the transportation plan and program, or are otherwise
9 enforceable through the state implementation plan, before the project
10 is approved.

11 (d) No later than eighteen months after the effective date of this
12 section, the director of the department of ecology and the secretary of
13 transportation, in consultation with other state, regional, and local
14 agencies as appropriate, shall adopt by rule criteria and guidance for
15 demonstrating and assuring conformity of plans, programs, and projects.

16 (4) A project with a scope that is limited to preservation or
17 maintenance, or both, shall be exempted from a conformity determination
18 requirement.

19 NEW SECTION. **Sec. 217.** Unless the context clearly requires
20 otherwise, the definitions in this section apply throughout this
21 chapter.

22 (1) "Phase 1 major employer" means a private or public employer
23 that employs one hundred or more full-time employees at a single work
24 site who begin their regular work day between 6:00 a.m. and 10:00 a.m.
25 on weekdays for at least six continuous months during the year.

26 (2) "Phase 2 major employer" means a private or public employer
27 that employs fifty to ninety-nine full-time employees at a single work
28 site who begin their regular work day between 6:00 a.m. and 10:00 a.m.
29 on weekdays for at least six continuous months during the year.

1 (3) "Major work site" means a building or group of buildings that
2 are on physically contiguous parcels of land or on parcels separated
3 solely by private or public roadways or rights of way, and at which
4 there are fifty or more full-time equivalent employees of one or more
5 employers, who begin their regular work day between 6:00 a.m. and 10:00
6 a.m. on weekdays, for at least six continuous months.

7 (4) "Commuter trip reduction zones" mean areas, such as census
8 tracts or combinations of census tracts, within a jurisdiction that are
9 characterized by similar employment density, population density, level
10 of transit service, parking availability, access to high occupancy
11 vehicle facilities, and other factors that are determined to affect the
12 level of single occupancy vehicle commuting.

13 (5) "Commute trip" means trips made from a worker's home to a work
14 site during the peak period of 6:00 a.m. to 10:00 a.m. on weekdays.

15 (6) "Proportion of single occupant vehicle commute trips" means the
16 number of commute trips made by single occupant automobiles divided by
17 the number of full-time equivalent employees.

18 (7) "Commuter trip vehicle miles traveled per employee" means the
19 sum of the individual vehicle commute trip lengths in miles over a set
20 period divided by the number of full-time equivalent employees during
21 that period.

22 (8) "Base year" means the year January 1, 1992, through December
23 31, 1992, on which goals for vehicle miles traveled and single occupant
24 vehicle trips shall be based. Base year goals may be determined using
25 the 1990 journey-to-work census data projected to the year 1992 and
26 shall be consistent with chapter 17, Laws of 1990 1st ex.s. The task
27 force shall establish a method to be used by jurisdictions to determine
28 reductions of vehicle miles traveled.

1 to implement commute trip reduction programs; (d) a commute trip
2 reduction program for employees of the county, city, or town; (e) a
3 review of local parking policies and ordinances as they relate to
4 employers and major work sites and any revisions necessary to comply
5 with commute trip reduction goals and guidelines; and (f) means for
6 determining base year values of the proportion of single occupant
7 vehicle commute trips and the commute trip vehicle miles traveled per
8 employee and progress toward meeting commute trip reduction plan goals
9 on an annual basis. Goals which are established shall take into
10 account existing transportation demand management efforts which are
11 made by phase 1 and phase 2 major employers. The goals for miles
12 traveled per employee for all phase 1 employers shall not be less than
13 a fifteen percent reduction from the base year value of the commuter
14 trip reduction zone in which their worksite is located by January 1,
15 1994, twenty-five percent reduction from the base year values by
16 January 1, 1996, and thirty-five percent reduction from the base year
17 values by January 1, 1998. The goals for miles traveled per employee
18 for all phase 2 employers shall not be less than a fifteen percent
19 reduction from the base year values of the commuter trip reduction zone
20 in which their worksite is located by January 1, 1996, twenty-five
21 percent reduction from the base year values by January 1, 1998, and
22 thirty-five percent reduction from the base year values by January 1,
23 2000.

24 (5) A county, city, or town may, as part of its commute trip
25 reduction plan, require commute trip reduction programs for other than
26 major employers for major work sites if the county, city, or town
27 determines such programs are necessary to address local transportation
28 or air quality problems.

29 (6) The commute trip reduction plans adopted by counties, cities,
30 and towns under this chapter shall be consistent with and may be

1 incorporated in applicable state or regional transportation plans and
2 local comprehensive plans and shall be coordinated, and consistent
3 with, the commute trip reduction plans of counties, cities, or towns
4 with which the county, city, or town has, in part, common borders or
5 related regional issues. Counties, cities, or towns adopting commute
6 trip reduction plans may enter into agreements through the interlocal
7 cooperation act with other jurisdictions, local transit agencies, or
8 regional transportation planning organizations to coordinate the
9 development and implementation of such plans. Counties, cities, or
10 towns adopting a commute trip reduction plan shall review it annually
11 and revise it as necessary to be consistent with applicable plans
12 developed under RCW 36.70A.070.

13 (7) Each county, city, or town implementing a commute trip
14 reduction program shall, by July 15, 1992, for phase 1 employers and by
15 July 15, 1994, for phase 2 employers submit a summary of its plan along
16 with certification of adoption to the commute trip reduction task force
17 established under section 221 of this act.

18 (8) Each county, city, or town implementing a commute trip
19 reduction program shall submit an annual progress report to the commute
20 trip reduction task force established under section 221 of this act.
21 The report shall be due July 1, 1993, and each July 1 thereafter
22 through July 1, 2000. The report shall describe progress in attaining
23 the applicable commute trip reduction goals for each commuter trip
24 reduction zone and shall highlight any problems being encountered in
25 achieving the goals. The information shall be reported in a form
26 established by the commute trip reduction task force.

27 (9) Each county, city, or town implementing a commute trip
28 reduction program shall count commute trips eliminated through work-at-
29 home options or alternative work schedules as one and two-tenths

1 vehicle trips eliminated for the purpose of meeting trip reduction
2 goals.

3 (10) Plans implemented under this section shall not apply to
4 commute trips for seasonal agricultural employees.

5 NEW SECTION. **Sec. 219.** (1) Not more than six months after the
6 adoption of the commute trip reduction plan by a jurisdiction, each
7 phase 1 and phase 2 major employer in that jurisdiction shall develop
8 a commute trip reduction program and shall submit a description of that
9 program to the jurisdiction for review. The program shall be
10 implemented not more than six months after submission to the
11 jurisdiction.

12 (2) A commute trip reduction program shall consist of, at a minimum
13 (a) designation of an on-site transportation coordinator; (b) regular
14 distribution of information to employees regarding alternatives to
15 single occupant vehicle commuting; (c) an annual survey of employee
16 commuting and reporting of progress toward meeting the single occupant
17 vehicle reduction goals to the county, city, or town consistent with
18 the method established in the commute trip reduction plan; and (d)
19 implementation of a set of measures designed to achieve the applicable
20 commute trip reduction goals adopted by the jurisdiction. Such
21 measures may include but are not limited to:

22 (i) Provision of preferential parking or reduced parking charges,
23 or both, for high occupancy vehicles;

24 (ii) Instituting or increasing parking charges for single occupant
25 vehicles;

26 (iii) Provision of commuter ride matching services to facilitate
27 employee ridesharing for commute trips;

28 (iv) Provision of subsidies for transit fares;

29 (v) Provision of vans for van pools;

- 1 (vi) Provision of subsidies for car pooling or van pooling;
- 2 (vii) Permitting the use of the employer's vehicles for car pooling
3 or van pooling;
- 4 (viii) Permitting flexible work schedules to facilitate employees'
5 use of transit, car pools, or van pools;
- 6 (ix) Cooperation with transportation providers to provide
7 additional regular or express service to the worksite;
- 8 (x) Construction of special loading and unloading facilities for
9 transit, car pool, and van pool users;
- 10 (xi) Provision of bicycle parking facilities, lockers, changing
11 areas, and showers for employees who bicycle or walk to work;
- 12 (xii) Provision of a program of parking incentives such as a rebate
13 for employees who do not use the parking facility;
- 14 (xiii) Establishment of a program to permit employees to work part
15 or full time at home or at an alternative worksite closer to their
16 homes;
- 17 (xiv) Establishment of a program of alternative work schedules such
18 as compressed work week schedules which reduce commuting; and
- 19 (xv) Implementation of other measures designed to facilitate the
20 use of high occupancy vehicles such as on-site day care facilities and
21 emergency taxi services.

22 (3) Employers or owners of worksites may form or utilize existing
23 transportation management associations to assist members in developing
24 and implementing commute trip reduction programs.

25 NEW SECTION. **Sec. 220.** (1) Each jurisdiction implementing a
26 commute trip reduction plan under this chapter or as part of a plan or
27 ordinance developed under RCW 36.70A.070 shall review each employer's
28 initial commute trip reduction program to determine if the program is
29 likely to meet the applicable commute trip reduction goals. The

1 employer shall be notified by the jurisdiction of its findings. If the
2 jurisdiction finds that the program is not likely to meet the
3 applicable commute trip reduction goals, the jurisdiction will work
4 with the employer to modify the program as necessary. The jurisdiction
5 shall complete review of each employer's initial commute trip reduction
6 program within six months of receipt.

7 (2) Each jurisdiction shall annually review each employer's
8 progress toward meeting the applicable commute trip reduction goals.
9 If it appears an employer is not likely to meet the applicable commute
10 trip reduction goals, the jurisdiction shall work with the employer to
11 make modifications to the commute trip reduction program.

12 (3) If an employer fails to meet the applicable commute trip
13 reduction goals, the jurisdiction shall propose modifications to the
14 program and direct the employer to revise its program within thirty
15 days to incorporate those modifications or modifications which the
16 jurisdiction determines to be equivalent.

17 (4) Each jurisdiction implementing a commute trip reduction plan
18 pursuant to this chapter may impose civil penalties, in the manner
19 provided in chapter 7.80 RCW, for failure by an employer to implement
20 a commute trip reduction program or to modify its commute trip
21 reduction program as required in subsection (3) of this section.

22 NEW SECTION. **Sec. 221.** (1) A commute trip reduction task force
23 shall be established by the state energy office. The task force shall
24 be composed of one representative from the state energy office who
25 shall serve as chair; one representative from each of the departments
26 of transportation, ecology, community development, and general
27 administration; three representatives from counties, based on
28 recommendations from the Washington state association of counties;
29 three representatives from cities or towns, based on recommendations

1 from the association of Washington cities; three representatives from
2 transit agencies recommended by Washington state transit association;
3 three interested citizens; and six representatives from major
4 employers. The task force shall be dissolved on July 1, 2000.

5 (2) By January 1, 1992, the commute trip reduction task force shall
6 establish guidelines for commute trip reduction plans. The guidelines
7 are intended to ensure consistency in commute trip reduction plans and
8 goals among jurisdictions while fairly taking into account differences
9 in employment and housing density, employer size, existing and
10 anticipated levels of transit service, and other factors the task force
11 determines to be relevant. The guidelines shall include criteria for
12 establishing commuter trip reduction zones and the information
13 requirements for determining progress in meeting the commute trip
14 reduction goals. The task force may also develop alternative but
15 equivalent trip reduction criteria for phase 1 and phase 2 major
16 employers, which cannot meet the goals of this chapter because of the
17 unique nature of their business. For example, the task force may
18 develop alternate but equivalent criteria for major employers whose
19 major worksites change, yet contribute substantially to traffic
20 congestion in a trip reduction zone.

21 (3) The task force shall review the costs and benefits of commute
22 trip plans and programs and shall make recommendations to the
23 legislature by December 1, 1993, December 1, 1995, December 1, 1997,
24 and December 1, 1999. In assessing the costs and benefits, the task
25 force shall also consider the costs of not having implemented commute
26 trip reduction plans and programs. The recommendations shall address
27 the need for continuation, modification, or termination of any or all
28 requirements of this chapter.

1 NEW SECTION. **Sec. 222.** (1) A technical assistance team shall
2 be established under the direction of the state energy office and
3 include representatives of the departments of transportation and
4 ecology. The team shall provide staff support to the commute trip
5 reduction task force in carrying out the requirements of section 221 of
6 this act and to the department of general administration in carrying
7 out the requirements of section 225 of this act.

8 (2) The team shall provide technical assistance to counties,
9 cities, and towns, the department of general administration, other
10 state agencies, and other employers in developing and implementing
11 commute trip reduction plans and programs. The technical assistance
12 shall include: (a) Guidance in determining base and subsequent year
13 values of single occupant vehicle commuting proportion and commute trip
14 reduction vehicle miles traveled to be used in determining progress in
15 attaining plan goals; (b) developing model plans and programs
16 appropriate to different situations; and (c) providing consistent
17 training and informational materials for the implementation of commute
18 trip reduction programs. Model plans and programs, training, and
19 informational materials shall be developed in cooperation with
20 representatives of local governments, transit agencies, and employers.

21 NEW SECTION. **Sec. 223.** A portion of the funds made available
22 under section 242 of this act shall be used to fund the commute trip
23 reduction task force, the interagency technical assistance team, and
24 counties, cities, and towns implementing commute trip reduction plans.
25 Funds shall be provided to the counties in proportion to the number of
26 major employers and major worksites in each county. The counties shall
27 provide funds to cities and towns within the county which are
28 implementing commute trip reduction plans in proportion to the number
29 of major employers and major worksites within the city or town.

1 NEW SECTION. **Sec. 224.** The legislature hereby recognizes the
2 state's crucial leadership role in establishing and implementing
3 effective commute trip reduction programs. Therefore, it is the policy
4 of the state that the department of general administration and other
5 state agencies shall aggressively develop substantive programs to
6 reduce commuter trips by state employees. Implementation of these
7 programs will reduce energy consumption, congestion in urban areas, and
8 air and water pollution associated with automobile travel.

9 NEW SECTION. **Sec. 225.** (1) The director of general
10 administration, with the concurrence of an interagency task force
11 established for the purposes of this section, shall coordinate a
12 commute trip reduction plan for state agencies which are phase 1 major
13 employers by July 1, 1992, and for state agencies which are phase 2
14 major employers by July 1, 1994. The task force shall include
15 representatives of the state energy office, the departments of
16 transportation and ecology, and such other departments as the director
17 of general administration determines to be necessary to be generally
18 representative of state agencies. The state agency plan shall be
19 consistent with the requirements of sections 218 and 219 of this act
20 and shall be developed in consultation with state employees, local and
21 regional governments, local transit agencies, the business community,
22 and other interested groups. The plan shall consider and recommend
23 policies applicable to all state agencies including but not limited to
24 policies regarding parking and parking charges, employee incentives for
25 commuting by other than single occupant automobiles, flexible and
26 alternative work schedules, alternative worksites, and the use of
27 state-owned vehicles for car and van pools. The plan shall also
28 consider the costs and benefits to state agencies of achieving commute
29 trip reductions and consider mechanisms for funding state agency

1 commute trip reduction programs. The department shall, by July 15,
2 1992, for phase 1 major employers and by July 15, 1994, for phase 2
3 major employers submit a summary of its plan along with certification
4 of adoption to the commute trip reduction task force established under
5 section 221 of this act.

6 (2) Not more than three months after the adoption of the commute
7 trip reduction plan, each state agency shall, for each facility which
8 is a phase 1 or phase 2 major employer, develop a commute trip
9 reduction program. The program shall be designed to meet the goals of
10 the commute trip reduction plan of the county, city, or town or, if
11 there is no local commute trip reduction plan, the state. The program
12 shall be consistent with the policies of the state commute trip
13 reduction plan and section 219 of this act. The agency shall submit a
14 description of that program to the local jurisdiction implementing a
15 commute trip reduction plan or, if there is no local commute trip
16 reduction plan, to the department of general administration. The
17 program shall be implemented not more than three months after
18 submission to the department. Annual reports required in section
19 219(2)(c) of this act shall be submitted to the local jurisdiction
20 implementing a commute trip reduction plan and to the department of
21 general administration. An agency which is not meeting the applicable
22 commute trip reduction goals shall, to the extent possible, modify its
23 program to comply with the recommendations of the local jurisdiction or
24 the department of general administration.

25 (3) State agencies sharing a common location may develop and
26 implement a joint commute trip reduction program or may delegate the
27 development and implementation of the commute trip reduction program to
28 the department of general administration.

29 (4) The department of general administration in consultation with
30 the state technical assistance team shall review the initial commute

1 trip reduction program of each state agency subject to the commute trip
2 reduction plan for state agencies to determine if the program is likely
3 to meet the applicable commute trip reduction goals and notify the
4 agency of any deficiencies. If it is found that the program is not
5 likely to meet the applicable commute trip reduction goals, the team
6 will work with the agency to modify the program as necessary.

7 (5) For each agency subject to the state agency commute trip
8 reduction plan, the department of general administration in
9 consultation with the technical assistance team shall annually review
10 progress toward meeting the applicable commute trip reduction goals.
11 If it appears an agency is not meeting or is not likely to meet the
12 applicable commute trip reduction goals, the team shall work with the
13 agency to make modifications to the commute trip reduction program.

14 (6) The department of general administration shall submit an annual
15 progress report for state agencies subject to the state agency commute
16 trip reduction plan to the commute trip reduction task force
17 established under section 221 of this act. The report shall be due
18 April 1, 1993, and each April 1 through 2000. The report shall report
19 progress in attaining the applicable commute trip reduction goals for
20 each commuter trip reduction zone and shall highlight any problems
21 being encountered in achieving the goals. The information shall be
22 reported in a form established by the commute trip reduction task
23 force.

24 NEW SECTION. **Sec. 226.** Sections 217 through 225 of this act
25 shall constitute a new chapter in Title 70 RCW.

26 NEW SECTION. **Sec. 227.** The long-range health and environmental
27 goals for the state of Washington require the protection of the state's
28 air quality for the health, safety, and enjoyment of its people. It is

1 the purpose of this chapter to encourage the purchase of efficient, low
2 emission motor vehicles.

3 **Sec. 228.** RCW 46.16.060 and 1987 1st ex.s. c 9 s 3 are each
4 amended to read as follows:

5 (1) Except for vehicles already so taxed in RCW 46.16.070 and
6 46.16.085 or as otherwise specifically provided by law for the
7 licensing of vehicles, there shall be paid and collected annually for
8 each registration year or fractional part thereof and upon each vehicle
9 a license fee of twenty-three dollars, but effective with initial motor
10 vehicle registrations that expire in January, 1989, and thereafter, the
11 license fee shall be twenty-seven dollars and seventy-five cents;
12 however, if the vehicle was previously licensed in this state and has
13 not been registered in another jurisdiction in the intervening period,
14 the renewal license fee shall be nineteen dollars, but effective with
15 vehicle license renewals that expire in January, 1989, and thereafter,
16 the renewal license fee shall be twenty-three dollars and seventy-five
17 cents. The proceeds of such fees shall be distributed in accordance
18 with RCW 46.68.030. The fee for licensing each house-moving dolly
19 which is used exclusively for moving buildings or homes on the highway
20 under special permit as provided for in chapter 46.44 RCW shall be
21 twenty-five dollars, but effective with licenses that expire in
22 January, 1989, and thereafter, the fee shall be twenty-nine dollars and
23 seventy-five cents, and no other fee shall be charged for the load
24 carried thereon.

25 (2) For every vehicle taxed under subsection (1) of this section,
26 there shall be collected annually for each registration year or
27 fractional part thereof and upon each vehicle a clean air fee of two
28 dollars and fifty cents. The proceeds of such fees shall be deposited

1 in the air pollution control account established under section 242 of
2 this act.

3 (3) The department of licensing, county auditors, and other
4 authorized agents shall collect for any registration year any increase
5 in the fees authorized by this section for the months of that
6 registration year in which any such increase is effective in the same
7 manner and at the same time as such fees for that registration year
8 would otherwise be collected as provided by law.

9 **Sec. 229.** RCW 46.16.063 and 1980 c 60 s 2 are each amended to read
10 as follows:

11 In addition to other fees for the licensing of vehicles there shall
12 be paid and collected annually for each camper, travel trailer and
13 motor home as the same are defined in RCW 82.50.010 a fee of (~~one~~
14 ~~dollar~~) three dollars and fifty cents. Two dollars and fifty cents of
15 the fee is to be deposited in the air pollution control account under
16 section 242 of this act and one dollar of the fees is to be deposited
17 in the RV account of the motor vehicle fund.

18 **Sec. 230.** RCW 46.16.065 and 1975 1st ex.s. c 118 s 4 are each
19 amended to read as follows:

20 (1) In lieu of the fees provided in RCW 46.16.060, private
21 passenger car one or two-wheel trailers of two thousand pounds gross
22 weight or less, may be licensed upon the payment of a license fee in
23 the sum of four dollars and fifty cents or, if the vehicle was
24 previously licensed in this state and has not been registered in
25 another jurisdiction in the intervening period, a renewal license fee
26 in the sum of three dollars and twenty-five cents, but only if such
27 trailers are to be operated upon the public highway by the owners
28 thereof. It is the intention of the legislature that this reduced

1 license shall be issued only as to trailers operated for personal use
2 of the owners and not trailers held for rental to the public.

3 (2) Any trailer subject to the fee under subsection (1) of this
4 section shall pay an annual clean air fee of two dollars and fifty
5 cents. Proceeds of the fee are to be deposited in the air pollution
6 control account established under section 242 of this act.

7 **Sec. 231.** RCW 46.16.070 and 1990 c 42 s 105 are each amended to
8 read as follows:

9 (1) In lieu of all other vehicle licensing fees, unless
10 specifically exempt, and in addition to the excise tax prescribed in
11 chapter 82.44 RCW and the mileage fees prescribed for buses and stages
12 in RCW 46.16.125, there shall be paid and collected annually for each
13 motor truck, truck tractor, road tractor, tractor, bus, auto stage, or
14 for hire vehicle with seating capacity of more than six, based upon the
15 declared combined gross weight or declared gross weight thereof
16 pursuant to the provisions of chapter 46.44 RCW, the following
17 licensing fees by such gross weight:

18	4,000 lbs.	\$ ((37.00))	<u>39.50</u>
19	6,000 lbs.	\$ ((44.00))	<u>46.50</u>
20	8,000 lbs.	\$ ((55.00))	<u>57.50</u>
21	10,000 lbs.	\$ ((62.00))	<u>64.50</u>
22	12,000 lbs.	\$ ((72.00))	<u>74.50</u>
23	14,000 lbs.	\$ ((82.00))	<u>84.50</u>
24	16,000 lbs.	\$ ((92.00))	<u>94.50</u>
25	18,000 lbs.	\$ ((137.00))	<u>139.50</u>
26	20,000 lbs.	\$ ((152.00))	<u>154.50</u>
27	22,000 lbs.	\$ ((164.00))	<u>166.50</u>
28	24,000 lbs.	\$ ((177.00))	<u>179.50</u>

1	26,000 lbs.	. . . . .	\$ ((187.00))	<u>189.50</u>
2	28,000 lbs.	. . . . .	\$ ((220.00))	<u>222.50</u>
3	30,000 lbs.	. . . . .	\$ ((253.00))	<u>255.50</u>
4	32,000 lbs.	. . . . .	\$ ((304.00))	<u>306.50</u>
5	34,000 lbs.	. . . . .	\$ ((323.00))	<u>325.50</u>
6	36,000 lbs.	. . . . .	\$ ((350.00))	<u>352.50</u>
7	38,000 lbs.	. . . . .	\$ ((384.00))	<u>386.50</u>
8	40,000 lbs.	. . . . .	\$ ((439.00))	<u>441.50</u>
9	42,000 lbs.	. . . . .	\$ ((456.00))	<u>458.50</u>
10	44,000 lbs.	. . . . .	\$ ((466.00))	<u>468.50</u>
11	46,000 lbs.	. . . . .	\$ ((501.00))	<u>503.50</u>
12	48,000 lbs.	. . . . .	\$ ((522.00))	<u>524.50</u>
13	50,000 lbs.	. . . . .	\$ ((566.00))	<u>568.50</u>
14	52,000 lbs.	. . . . .	\$ ((595.00))	<u>597.50</u>
15	54,000 lbs.	. . . . .	\$ ((642.00))	<u>644.50</u>
16	56,000 lbs.	. . . . .	\$ ((677.00))	<u>679.50</u>
17	58,000 lbs.	. . . . .	\$ ((704.00))	<u>706.50</u>
18	60,000 lbs.	. . . . .	\$ ((750.00))	<u>752.50</u>
19	62,000 lbs.	. . . . .	\$ ((804.00))	<u>806.50</u>
20	64,000 lbs.	. . . . .	\$ ((822.00))	<u>824.50</u>
21	66,000 lbs.	. . . . .	\$ ((915.00))	<u>917.50</u>
22	68,000 lbs.	. . . . .	\$ ((954.00))	<u>956.50</u>
23	70,000 lbs.	. . . . .	\$((1,027.00))	<u>1,029.50</u>
24	72,000 lbs.	. . . . .	\$((1,098.00))	<u>1,100.50</u>
25	74,000 lbs.	. . . . .	\$((1,193.00))	<u>1,195.50</u>
26	76,000 lbs.	. . . . .	\$((1,289.00))	<u>1,291.50</u>
27	78,000 lbs.	. . . . .	\$((1,407.00))	<u>1,409.50</u>
28	80,000 lbs.	. . . . .	\$((1,518.00))	<u>1,520.50</u>

1 Every motor truck, truck tractor, and tractor exceeding 6,000
2 pounds empty scale weight registered under chapter 46.16, 46.87, or
3 46.88 RCW shall be licensed for not less than one hundred fifty percent
4 of its empty weight unless the amount would be in excess of the legal
5 limits prescribed for such a vehicle in RCW 46.44.041 or 46.44.042, in
6 which event the vehicle shall be licensed for the maximum weight
7 authorized for such a vehicle.

8 The following provisions apply when increasing gross or combined
9 gross weight for a vehicle licensed under this section:

10 (a) The new license fee will be one-twelfth of the fee listed above
11 for the new gross weight, multiplied by the number of months remaining
12 in the period for which licensing fees have been paid, including the
13 month in which the new gross weight is effective.

14 (b) Upon surrender of the current certificate of registration or
15 cab card, the new licensing fees due shall be reduced by the amount of
16 the licensing fees previously paid for the same period for which new
17 fees are being charged.

18 (2) The proceeds from the fees collected under subsection (1) of
19 this section shall be distributed in accordance with RCW 46.68.035.

20 **Sec. 232.** RCW 46.68.035 and 1990 c 42 s 106 are each amended to
21 read as follows:

22 All proceeds from combined vehicle licensing fees received by the
23 director for vehicles licensed under RCW 46.16.070(1) and 46.16.085(1)
24 shall be forwarded to the state treasurer to be distributed into
25 accounts according to the following method:

26 (1) The sum of two dollars for each vehicle shall be deposited into
27 the highway safety fund, except that for each vehicle registered by a
28 county auditor or agent to a county auditor pursuant to RCW 46.01.140,

1 the sum of two dollars shall be credited to the current county expense
2 fund.

3 (2) The remainder shall be distributed as follows:

4 (a) ~~((25.862))~~ 24.96 percent shall be deposited into the state
5 patrol highway account of the motor vehicle fund;

6 (b) ~~((1.661))~~ 1.6 percent shall be deposited into the Puget Sound
7 ferry operations account of the motor vehicle fund; ~~((and))~~

8 (c) 3.47 percent shall be deposited in the air pollution control
9 account established in section 242 of this act; and

10 (d) The remaining proceeds shall be deposited into the motor
11 vehicle fund.

12 **Sec. 233.** RCW 46.16.085 and 1989 c 156 s 2 are each amended to
13 read as follows:

14 (1) In lieu of all other licensing fees, an annual license fee of
15 thirty-six dollars shall be collected in addition to the excise tax
16 prescribed in chapter 82.44 RCW for: ~~((+1))~~ (a) Each trailer and
17 semitrailer not subject to the license fee under RCW 46.16.065 or the
18 capacity fees under RCW 46.16.080; ~~((+2))~~ (b) every pole trailer;
19 ~~((+3))~~ (c) every converter gear or auxiliary axle not licensed as a
20 combination under the provisions of RCW 46.16.083. The proceeds from
21 this fee shall be distributed in accordance with RCW 46.68.035. This
22 section does not pertain to travel trailers or personal use trailers
23 that are not used for commercial purposes or owned by commercial
24 enterprises.

25 (2) Trailers subject to the fee under subsection (1) of this
26 section shall pay an annual clean air fee of two dollars and fifty
27 cents. Proceeds of the fee are to be deposited in the air pollution
28 control account under section 242 of this act.

1 NEW SECTION. **Sec. 234.** Unless the context clearly requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) "Motor vehicle" means all motor vehicles of the type designed
5 primarily to be used upon the public streets and highways, for the
6 convenience or pleasure of the owner, or for the conveyance, for hire
7 or otherwise, of persons or property, including automobiles, light
8 trucks, fixed loads and facilities for human habitation; but shall not
9 include (a) dock and warehouse tractors and their cars or trailers,
10 lumber carriers of the type known as spiders, and all other automotive
11 equipment not designed primarily for use upon public streets, or
12 highways, (b) mobile home and travel trailers as defined in RCW
13 82.50.010, (c) farm vehicles as defined in RCW 46.04.181, (d) vehicles
14 carrying exempt licenses, (e) semitrailers as defined in RCW 46.04.530,
15 (f) trailers as defined in RCW 46.04.620, or (g) motor vehicles owned
16 by nonresident military personnel of the armed forces of the United
17 States stationed in the state of Washington provided personnel were
18 also nonresident at the time of their entry into military service.

19 (2) "New motor vehicle dealer" means the initial retail seller of
20 motor vehicles as defined in subsection (1) of this section.

21 (3) "Motor vehicle leasing company" means a company bringing a new
22 motor vehicle into the state of Washington for the purpose of leasing
23 a new motor vehicle to a lessee in the state of Washington.

24 (4) "Motor vehicle rental company" means a company bringing a new
25 motor vehicle into the state of Washington for rental purposes.

26 NEW SECTION. **Sec. 235.** An excise tax is imposed on the
27 privilege of selling by manufacturers or the distribution companies of
28 manufacturers new motor vehicles to the new motor vehicle dealers in

1 the state. The excise tax shall be an amount computed by section 236
2 of this act.

3 NEW SECTION. **Sec. 236.** (1) The tax under section 235 of this
4 act will be based on a vehicle's emissions of hydrocarbons, carbon
5 monoxide, oxides of nitrogen and carbon dioxide weighted by the
6 estimated emissions control costs relative to the weighted emissions of
7 other new motor vehicles in the class. The state energy office shall
8 calculate the tax for each new vehicle based on its total weighted
9 emissions relative to other vehicles in the same class. The state
10 energy office shall establish a standard acceptable weighted emission
11 quantity for the state equal to one hundred fifteen percent of the
12 average weighted emissions quantity for new motor vehicles in the
13 class. The fee for each new vehicle whose weighted emissions exceed
14 the standard acceptable weighted emissions shall be one hundred twenty-
15 five dollars. In calculating a schedule of taxes the state energy
16 office shall, in consultation with the department of ecology, utilize
17 the estimated control costs for each pollutant and emissions as
18 provided by the manufacturer. The schedule shall be updated annually,
19 in order to incorporate new information on emissions and control costs.
20 The tax shall be adjusted annually to account for inflation as
21 determined by the state office of the economic and revenue forecast
22 council.

23 (2) The manufacturers of motor vehicles sold in the state shall, by
24 July 1 of each year, submit to the energy office the emissions of
25 hydrocarbons, carbon monoxide, oxides of nitrogen, and fuel economy of
26 the vehicles manufactured by them for the following model year as
27 provided to the United States environmental protection agency.

1 (3) The tax on motor vehicles for which the emissions and fuel
2 economy are not submitted to the energy office by July 1 shall be the
3 maximum tax.

4 NEW SECTION. **Sec. 237.** The excise tax imposed by section 235
5 of this act is due and payable by the vehicle manufacturer or the
6 distribution company of the vehicle manufacturer to the department of
7 revenue or its agents quarterly as determined by the department of
8 revenue. Automobiles, light trucks with gross vehicle weight less than
9 eight thousand five hundred pounds, and trucks with gross vehicle
10 weight greater than eight thousand five hundred pounds shall be
11 considered separate classes for the purposes of the emissions fee
12 imposed by section 235 of this act.

13 NEW SECTION. **Sec. 238.** (1) Each new motor vehicle dealer in
14 the state shall before the twenty-fifth day of February, May, August,
15 and November of each year, commencing with November 1991, advise the
16 department of revenue of the make, model, body type, engine type, and
17 displacement and transmission type as specified on the United States
18 environmental protection agency fuel economy label of the new motor
19 vehicles delivered to them by vehicle manufacturers or the distribution
20 companies of manufacturers during the preceding calendar quarter ending
21 on the last day of March, June, September, and December, respectively.
22 The department of revenue may collect the excise tax imposed by section
23 235(1) of this act based upon the information provided by the new motor
24 vehicle dealers.

25 (2) Chapter 82.32 RCW applies to the tax imposed by this chapter,
26 in addition to any other provisions of law for the payment and
27 enforcement of the tax imposed by this chapter. The department of

1 revenue shall by rule provide for the effective administration of this
2 chapter.

3 NEW SECTION. **Sec. 239.** The state energy office shall publish
4 by September 1 of each year, for each new automobile and truck make,
5 model, body type, engine type and displacement, and transmission type,
6 the emissions excise tax for that vehicle, the weighted emissions for
7 that vehicle, and the maximum and minimum weighted emissions for
8 vehicles of the same vehicle class as defined by the United States
9 environmental protection agency. This information shall be distributed
10 to all new motor vehicle dealers with a form for the display of this
11 information on new vehicles being offered for sale. Failure to display
12 this information on each new vehicle using the prescribed form shall
13 result in a fine of two hundred fifty dollars for each violation to be
14 assessed against the motor vehicle dealer.

15 NEW SECTION. **Sec. 240.** (1) Credit shall be allowed, in
16 accordance with rules of the department, against the taxes imposed in
17 this chapter for any emissions tax paid to another state with respect
18 to the same new motor vehicle. The amount of the credit shall not
19 exceed the tax liability arising under this chapter with respect to
20 that new motor vehicle.

21 (2) For purposes of this section:

22 (a) An emissions tax for which a credit is allowed is a tax which
23 any part of which is based upon the new motor vehicle's quantity of
24 estimated emissions as determined by state or federal standards.

25 (b) "State" means (i) a state of the United States other than
26 Washington, or any political subdivision of such other state, (ii) the
27 District of Columbia, and (iii) any foreign country or political
28 subdivision thereof.

1 **Sec. 241.** RCW 82.44.020 and 1990 c 42 s 302 are each amended to
2 read as follows:

3 (1) An excise tax is imposed for the privilege of using in the
4 state any motor vehicle, except those operated under reciprocal
5 agreements, the provisions of RCW 46.16.160 as now or hereafter
6 amended, or dealer's licenses. The annual amount of such excise tax
7 shall be two percent of the value of such vehicle.

8 (2) An additional excise tax is imposed, in addition to any other
9 tax imposed by this section, for the privilege of using in the state
10 any such motor vehicle, and the annual amount of such additional excise
11 shall be two-tenths of one percent of the value of such vehicle.

12 (3) Effective October, 1991, motor vehicle registrations, an
13 additional excise tax is imposed in addition to another tax imposed by
14 this section for the privilege of using in this state a new motor
15 vehicle upon which the tax imposed by section 235 of this act has not
16 been paid by the manufacturer.

17 (a) An amount based on a vehicle's emissions of hydrocarbons,
18 carbon monoxide, oxides of nitrogen, and carbon dioxide weighted by the
19 estimated emissions control costs relative to the weighted emissions of
20 other new motor vehicles in the class. The state energy office shall
21 calculate the tax for each new vehicle based on its total weighted
22 emissions relative to other vehicles in the same class. The state
23 energy office shall establish a standard acceptable weighted emissions
24 quantity for the state equal to one hundred fifteen percent of the
25 average weighted emissions quantity for new motor vehicles in the
26 class. The fee for each new vehicle whose weighted emissions exceed
27 the standard acceptable weighted emissions shall be one hundred twenty-
28 five dollars. In calculating a schedule of taxes the state energy
29 office shall, in consultation with the department of ecology, utilize
30 estimated control costs for each pollutant and emissions as provided by

1 the manufacturer. The schedule shall be updated annually, in order to
2 incorporate new information on emissions and control costs. The tax
3 shall be adjusted annually to account for inflation as determined by
4 the state office of the economic and revenue forecast council.

5 (b) For the purposes of this subsection, the term "motor vehicle"
6 means all motor vehicles of the type designed primarily to be used upon
7 the public streets and highways, for the convenience or pleasure of the
8 owner, or for the conveyance, for hire or otherwise, of persons or
9 property, including automobiles, light trucks, fixed loads and
10 facilities for human habitation; but shall not include (i) dock and
11 warehouse tractors and their cars or trailers, lumber carriers or the
12 type known as spikers and all other automotive equipment not designed
13 primarily for use upon public streets, or highways; (ii) mobile homes
14 and travel trailers as defined in RCW 46.04.302; (iii) farm vehicles as
15 defined in RCW 46.04.181; (iv) semitrailers as defined in RCW
16 46.04.530; (v) trailers as defined in RCW 46.04.620; or (vi) motor
17 vehicles owned by nonresident military personnel of the armed forces of
18 the United States stationed in the state of Washington provided the
19 personnel were also nonresident at the time of their entry into
20 military service.

21 (c) The taxes collected pursuant to this subsection shall be
22 deposited into the air pollution control account established in section
23 242 of this act.

24 (d) There shall be allowed as a credit against the tax imposed in
25 this subsection not to exceed the amount of the tax imposed by this
26 subsection, for the amount of an emissions fee or tax paid to another
27 state on the same new motor vehicle. For purposes of this subsection
28 an emissions fee or tax for which a credit is allowed is a fee or tax
29 which any part of which is based upon the new motor vehicle's quantity

1 of estimated emissions per mile as determined by state or federal
2 standards.

3 (i) An emissions tax for which a credit is allowed is a tax which
4 any part of which is based upon the new motor vehicle's quantity of
5 estimated emissions as determined by state or federal standards.

6 (ii) "State" means a state of the United States other than
7 Washington, or any political subdivision of such other state, the
8 District of Columbia, and any foreign country or political subdivision
9 thereof.

10 (4) In no case shall the total tax be less than two dollars except
11 for proportionally registered vehicles.

12 ~~((4))~~ (5) Washington residents, as defined in RCW 46.16.028, who
13 license motor vehicles in another state or foreign country and avoid
14 Washington motor vehicle excise taxes are liable for such unpaid excise
15 taxes. The department of revenue may assess and collect the unpaid
16 excise taxes under chapter 82.32 RCW, including the penalties and
17 interest provided therein.

18 NEW SECTION. Sec. 242. (1)(a) The air pollution control
19 account is established in the state treasury. All receipts from
20 sections 228 through 233, 235, 404, 408, and 507 of this act and RCW
21 70.94.483 shall be deposited into the account. Moneys in the account
22 may be spent only after appropriation. Expenditures from the account
23 may be used only by the department and local air authorities to develop
24 and implement the provisions of this chapter and chapters 70.94 and
25 70.120 RCW.

26 (b) The amounts collected and allocated in accordance with this
27 section shall be expended upon appropriation except as otherwise
28 provided in this section and in accordance with the following
29 limitations:

1 Portions of moneys received by the department of ecology from the
2 air pollution control account shall be distributed by the department to
3 local authorities based on:

4 (i) The level and extent of air quality problems within such
5 authority's jurisdiction;

6 (ii) The costs associated with implementing air pollution
7 regulatory programs by such authority; and

8 (iii) The amount of funding available to such authority from other
9 sources, whether state, federal, or local, that could be used to
10 implement such programs.

11 All interest earned on revenues deposited shall be credited to the
12 account. The moneys deposited into the air pollution control account
13 from revenues under section 239 of this act subject to appropriation
14 may be used by the state energy office for provisions of sections 217
15 through 225 of this act.

16 (c) The air operating permit account is created in the custody of
17 the state treasurer. All receipts paid to the department of revenue
18 under section 301 of this act shall be deposited into the account.
19 Expenditures from the account may be used only for the direct and
20 indirect costs of implementing the air operating permit program under
21 section 301 of this act. Only the director of the department of
22 ecology or the director's designee may authorize expenditures from the
23 account. The account is subject to the allotment procedures under
24 chapter 43.88 RCW, but no appropriation is required for such
25 expenditures.

26 (2) On the first day of the months of January, April, July, and
27 October of each year the department of revenue shall deposit all excise
28 taxes collected under this chapter into the air pollution control
29 account.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

NEW SECTION. **Sec. 301.** A new section is added to chapter 70.94 RCW to read as follows:

The department of ecology, or board of an authority, shall require renewable permits for the operation of air contaminant sources subject to the following conditions and limitations:

(1) Unless a different meaning is plainly required by the context, the following words and phrases shall have the following meanings:

(a) "Lowest achievable emission rate" (LAER) means for any source that rate of emissions which reflects:

(i) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or

(ii) The most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent.

In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

(b) "Best available control technology" (BACT) means technology which will result in an emission limitation, including a visible emission standard, based on the maximum degree of reduction for each air pollutant subject to this regulation which would be emitted from any proposed new or modified source which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such sources or modification through application of production processes, available methods, systems, and techniques, including fuel cleaning or

1 treatment or innovative fuel combustion techniques for control of such
2 air pollutant. In no event shall application of the best available
3 technology result in emissions of any air pollutant which would exceed
4 the emissions allowed by any applicable standard under 40 C.F.R. Part
5 60 and Part 61. If the reviewing agency determines that technological
6 or economic limitations on the application of measurement methodology
7 to a particular class of sources would make the imposition of an
8 emission standard infeasible, it may instead prescribe a design,
9 equipment, work practice, or operational standard, or combination
10 thereof, to meet the requirement of best available control technology.
11 Such standard shall, to the degree possible, set forth the emission
12 reduction achievable by implementation of such design, equipment, work
13 practice, or operation and shall provide for compliance by means which
14 achieve equivalent results. The requirement of RCW 70.94.152 that a
15 new source will provide "all known available and reasonable methods of
16 emission control" is interpreted to mean the same as best available
17 control technology.

18 (c) "Best available retrofit technology" (BART) means any emission
19 limitation based on the degree of reduction achievable through the
20 application of the best system of continuous emission reduction for
21 each pollutant which is emitted by source. The emission limitation
22 must be established, on a case-by-case basis, taking into consideration
23 the technology available, the costs of compliance, the energy and
24 nonair quality environmental impacts of compliance, any pollution
25 control equipment in use or in existence at the source, the remaining
26 useful life of the source, and the degree of improvement in public
27 health, environmental protection, or visibility which may reasonably be
28 anticipated to result from the use of such technology. If an emission
29 limitation is not feasible, a design, equipment, work practice,
30 operational standard, or combination thereof, may be required. Such

1 standards shall, to the degree possible, set forth the emission
2 reductions achieved and provide for compliance by prescribing
3 appropriate conditions in a permit.

4 (d) "Reasonably available control technology" (RACT) means the
5 lowest emission limit that a particular source or source category is
6 capable of meeting by the application of control technology that is
7 reasonably available considering technological and economic
8 feasibility. RACT is determined on a case-by-case basis for an
9 individual source or source category taking into account the impact of
10 the source upon air quality, the availability of additional controls,
11 the emission reduction to be achieved by additional controls, the
12 impact of additional controls on air quality, and the capital and
13 operating costs of the additional controls. RACT requirements for any
14 source or source category may be adopted as an order or regulation
15 after public involvement per WAC 173-403-110.

16 (e) "Source" means all of the emissions units including
17 quantifiable fugitive emissions, that are located on one or more
18 contiguous or adjacent properties, and are under the control of the
19 same person, or persons under common control, whose activities are
20 ancillary to the production of a single product or functionally related
21 group of products.

22 (f) "New source" means a source which commences construction after
23 the effective date of this section. Addition to, enlargement,
24 modification, replacement, restart after a period of five years of
25 nonoperation, or any alteration of any process or source which may
26 increase emissions or ambient air concentrations of any contaminant for
27 which federal or state ambient or emission standards have been
28 established shall be construed as construction or installation or
29 establishment of a new source. In addition every major modification
30 shall be construed as construction.

1 (2) Permits shall be issued for a term of five years. A permit may
2 be modified or amended during its term at the request of the permittee,
3 or for any reason allowed by the federal clean air act. The rules
4 adopted pursuant to subsection (3) of this section shall include rules
5 for permit amendments and modifications.

6 (3)(a) Rules establishing content and minimum requirements for a
7 state-wide operating permit program and the process for permit
8 application and renewal consistent with federal requirements shall be
9 established by the department by January 1, 1993. The rules shall
10 provide that every proposed permit must be reviewed prior to issuance
11 by a professional engineer or staff under the direct supervision of a
12 professional engineer in the employ of the permitting authority. The
13 permit program established by these rules shall be administered by the
14 department and delegated local air authorities.

15 (b) The board of any local air pollution control authority may
16 apply to the department of ecology for a delegation order authorizing
17 the local authority to administer the operating permit program within
18 that authority's territorial jurisdiction. The department shall, by
19 order, approve such delegation, if the department finds that the local
20 authority has the technical and financial resources, to discharge the
21 responsibilities of a permitting authority under Title V of the federal
22 clean air act. A delegation request shall include adequate information
23 about the local authority's resources to enable the department to make
24 the findings required by this subsection; provided, any delegation
25 order issued under this subsection shall take effect ninety days after
26 the environmental protection agency authorizes the local authority to
27 issue operating permits under Title V of the federal clean air act.

28 (4) "Best available control technology" (BACT) is required for new
29 sources in areas where ambient air quality standards are not being

1 exceeded for those pollutants causing the area to exceed such
2 standards.

3 "Lowest achievable emission rate" (LAER) is required for new
4 sources in areas where ambient air quality standards are being exceeded
5 for those pollutants causing the area to exceed such standards.

6 "Reasonably available control technology" (RACT) is required for
7 existing sources in areas where ambient air quality standards are not
8 being exceeded.

9 "Best available retrofit technology" (BART) is required for
10 existing sources in areas where ambient air quality standards are being
11 exceeded.

12 In establishing technical standards, defined in subsection (2) of
13 this section, the permitting authority shall consider and, if found to
14 be appropriate, give credit for waste reduction within the process.

15 (5) Operating permits shall apply to all sources (a) where required
16 by the federal clean air act, and (b) for any source that may cause or
17 contribute to air pollution in such quantity as can reasonably be
18 demonstrated by the department or board of any authority to create a
19 threat to the public health or welfare. Subsection (5)(b) of this
20 section applies only in areas exceeding or threatening to exceed
21 federal or state air quality standards. For purposes of this section
22 areas threatening to exceed air quality standards shall mean areas
23 projected by the department to exceed such standards within five years.
24 Prior to identifying threatened areas the department shall hold a
25 public hearing or hearings within the proposed areas.

26 (6) Sources operated by government agencies are not exempt under
27 this section.

28 (7) By October 1, 1993, or ninety days after the United States
29 environmental protection agency approves the state operating permit
30 program, whichever is later, any person required to have a permit shall

1 submit to the permitting agency a compliance plan and permit
2 application, signed by a responsible official, certifying the accuracy
3 of the information submitted. Existing sources shall be allowed to
4 operate under presently applicable standards and conditions provided
5 that such sources submit complete and timely permit applications.

6 (8) All proposed permits shall be subject to public notice and
7 comment. The rules adopted pursuant to subsection (3) of this section
8 shall specify procedures for public notice and comment. Such
9 procedures shall provide the permitting agency with an opportunity to
10 respond to comments received from interested parties prior to the time
11 that the proposed permit is submitted to the environmental protection
12 agency for review pursuant to section 505(a) of the federal clean air
13 act. In the event that the environmental protection agency objects to
14 a proposed permit pursuant to section 505(b) of the federal clean air
15 act, the permitting authority shall not issue the permit, unless the
16 permittee consents to the changes required by the environmental
17 protection agency.

18 (9) The procedures contained in chapter 43.21B RCW shall apply to
19 permit appeals. The pollution control hearings board may stay the
20 effectiveness of any permit issued under this section during the
21 pendency of an appeal filed by the permittee, if the permittee
22 demonstrates that compliance with the permit during the pendency of the
23 appeal would require significant expenditures that would not be
24 necessary in the event that the permittee prevailed on the merits of
25 the appeal.

26 (10) After the effective date of any permit program promulgated
27 under this section, it shall be unlawful for any person to: (a)
28 Operate a permitted source in violation of any requirement of a permit
29 issued under this section; or (b) fail to submit a permit application

1 at the time required by rules adopted under subsection (3) of this
2 section.

3 (11) Each air operating permit shall state the origin of and
4 specific legal authority for each requirement included therein. Every
5 requirement in an operating permit shall be based upon the most
6 stringent of the following requirements:

7 (a) The federal clean air act and rules implementing that act,
8 including provision of an approved state implementation plan;

9 (b) This chapter and rules adopted thereunder; and

10 (c) Permits issued by a local air pollution control authority or
11 any resolution or bylaws adopted by that authority.

12 (12) Consistent with the provisions of the federal clean air act,
13 the permitting authority may issue general permits covering categories
14 of permitted sources, and temporary permits authorizing emissions from
15 similar operations at multiple temporary locations.

16 (13) Permitted sources within the territorial jurisdiction of an
17 authority delegated the operating permit program shall file their
18 permit applications with that authority, except that permit
19 applications for sources regulated on a state-wide basis pursuant to
20 RCW 70.94.395 shall be filed with the department. Permitted sources
21 outside the territorial jurisdiction of a delegated authority shall
22 file their applications with the department.

23 (14) When issuing operating permits to coal fired electric
24 generating plants, the permitting authority shall give consideration to
25 the federal time lines for the implementation of required control
26 technology.

27 (15)(a) Each source emitting one hundred tons or more per year of
28 a regulated pollutant shall pay an interim assessment of ten dollars
29 multiplied by the annual emissions of each regulated pollutant during
30 calendar years 1991 and 1992. "Regulated pollutant" shall have the

1 same meaning as defined in section 502(b) of the federal clean air act
2 amendments of 1990.

3 (b) Fees collected under (a) of this subsection shall be
4 distributed as follows: Eighty percent to the department and twenty
5 percent to delegated local air authorities.

6 (16) Each permitted source identified in subsection (5) of this
7 section shall pay an annual fee based on the following calculation:
8 Each ton of permitted regulated pollutant multiplied by the fee under
9 subsections (17) and (18) of this section. The department or the
10 delegated local authority shall endeavor to ensure that the permit
11 process recognizes variability in emissions from the source such that
12 permitted emissions are not substantially greater than actual
13 emissions. Fees adopted by the department of ecology as provided under
14 subsection (17) of this section shall be paid directly to the
15 department of revenue as provided under subsection (19) of this
16 section. Fees adopted by delegated local air authorities under
17 subsection (18) of this section shall be paid directly to the delegated
18 local air authority.

19 (17)(a) By October 1, 1992, the department shall adopt, by rule, a
20 fee schedule to recover its cost of supporting an operating permit
21 program delegated to a local air authority. Such rules may include the
22 costs of the following permit program activities:

23 (i) Oversight of a local air authority delegated the operating
24 permit program;

25 (ii) Ambient air monitoring, modeling, and reporting;

26 (iii) Training;

27 (iv) Data management and quality assurance;

28 (v) Development of state implementation plans;

29 (vi) Emission inventories;

30 (vii) Technical assistance;

1 (viii) Rule making and guidelines; and

2 (ix) Any other activities, consistent with the federal act, that
3 may be identified by the department.

4 (b) By October 1, 1992, the department shall adopt, by rule, a fee
5 schedule to include the direct and indirect costs of implementing an
6 air operating permit program. Such rules shall apply only to those
7 areas not having an activated authority or not having a delegated local
8 air authority, and those sources regulated on a state-wide basis
9 pursuant to RCW 70.94.395.

10 (c) Fees adopted under subsection (17) (a) and (b) of this section
11 shall be reviewed biennially and adjusted, by rule, as warranted. Fee
12 changes shall be made to account for inflation by methods provided in
13 the federal clean air act and shall not necessitate a change in rules.

14 (d) Fees schedules adopted under subsection (17) (a) and (b) of
15 this section shall, to the maximum extent possible, be structured in a
16 manner to avoid duplication with fees adopted under this subsection.

17 (18) By October 1, 1992, each delegated local air authority shall
18 adopt, by resolution, a fee schedule to cover the costs of implementing
19 the air operating permit program as required under subsection (5) of
20 this section. Prior to adopting a fee schedule, each delegated local
21 air authority shall provide for adequate:

22 (a) Notice of all public hearings relating to the air operating
23 permit fee schedule; and

24 (b) Opportunity for public review and comment of the fee schedule.

25 (19) The department shall determine the persons liable for the fee,
26 compute the fee, and provide by November 1 of each year, the identity
27 of the fee payer with the computation of the fee to the department of
28 revenue for collection. The department of revenue shall collect the
29 fee computed by the department from the fee payers identified by the
30 department. The administrative, collection, and penalty provisions of

1 chapter 82.32 RCW shall apply to the collection of the fee by the
2 department of revenue. The department shall provide technical
3 assistance to the department of revenue for decisions made by the
4 department of revenue pursuant to RCW 82.32.160 and 82.32.170. All
5 fees collected shall be deposited in the air pollution control account.

6 All fees identified in subsections (15) and (17) of this section
7 shall be due and payable on March 1 of each year for each source for
8 which permit fees are assessed under subsection (15) of this section.

9 (20) For sources or source categories not required to obtain
10 permits under subsection (5) of this section, the department or local
11 authority may establish by rule control technology requirements. If
12 control technology rule revisions are made by the department or local
13 authority under this subsection, the department or local authority
14 shall consider the remaining useful life of control equipment
15 previously installed on existing sources before requiring technology
16 changes. The department or any local air authority may issue a general
17 permit, as authorized under the federal clean air act, for such
18 sources.

19 **Sec. 302.** RCW 70.94.152 and 1973 1st ex.s. c 193 s 2 are each
20 amended to read as follows:

21 (1) The department of ecology or board of any authority may require
22 notice of the construction, installation, or establishment of any new
23 air contaminant sources except single family and duplex dwellings. The
24 department of ecology or board may require such notice to be
25 accompanied by a fee and determine the amount of such fee: PROVIDED,
26 That the amount of the fee may not exceed the cost of reviewing the
27 plans, specifications, and other information and administering such
28 notice: PROVIDED FURTHER, That any such notice given or notice of
29 construction application submitted to either the board or to the

1 department of ecology shall preclude a further ~~((notice))~~ submittal of
2 a duplicate application to ~~((be given to))~~ any ~~((other))~~ board or to
3 the department of ecology. Within thirty days of ~~((its))~~ receipt of
4 ~~((such notice))~~ a notice of construction application, the department of
5 ecology or board may require, as a condition precedent to the
6 construction, installation, ~~((or))~~ establishment, or modification, of
7 the air contaminant source or sources covered thereby, the submission
8 of plans, specifications, and such other information as it deems
9 necessary ~~((in order))~~ to determine whether the proposed construction,
10 installation, ~~((or))~~ establishment, or modification, will be in accord
11 with applicable rules and regulations in force ~~((pursuant to))~~ under
12 this chapter, and will provide all known available and reasonable
13 methods of emission control. If on the basis of plans, specifications,
14 or other information required ~~((pursuant to))~~ under this section the
15 department of ecology or board determines that the proposed
16 construction, installation, ~~((or))~~ establishment, or modification, will
17 not be in accord with this chapter or the applicable ordinances,
18 resolutions, rules, and regulations adopted ~~((pursuant thereto))~~ under
19 this chapter, or will not provide all known available and reasonable
20 means of emission control, it shall issue an order for the prevention
21 of the construction, installation, ~~((or))~~ establishment, or
22 modification of the air contaminant source or sources. If on the basis
23 of plans, specifications, or other information required ~~((pursuant to))~~
24 under this section, the department of ecology or board determines that
25 the proposed construction, installation, ~~((or))~~ establishment, or
26 modification will be in accord with this chapter, and the applicable
27 ordinances, resolutions, rules, and regulations adopted ~~((pursuant~~
28 ~~thereto and will provide all known available and reasonable methods of~~
29 ~~emission control))~~ under this chapter, it shall issue ~~((an order of~~
30 ~~approval of))~~ a permit for the construction, installation, ~~((and))~~

1 establishment, or modification of the air contaminant source or
2 sources, which ~~((order))~~ permit may provide such conditions ~~((of~~
3 ~~operation))~~ as are reasonably necessary to assure the maintenance of
4 compliance with this chapter and the applicable ordinances,
5 resolutions, rules, and regulations adopted ~~((pursuant thereto))~~ under
6 this chapter.

7 (2) For the purposes of this chapter, addition to or enlargement or
8 replacement of an air contaminant source, or any major alteration
9 ~~((therein))~~ of a source, shall be construed as construction or
10 installation or establishment of a new air contaminant source. The
11 determination~~((,))~~ required under subsection (1) of this section~~((, of~~
12 ~~whether a proposed construction, installation, or establishment will be~~
13 ~~in accord with this chapter and the applicable ordinances, resolutions,~~
14 ~~rules, and regulations adopted pursuant thereto))~~ shall include a
15 determination of whether the operation of the new air contaminant
16 source at the location proposed will cause any ambient air quality
17 standard to be exceeded. For the purposes of this section, "source"
18 shall be limited to the part of the facility or plant being
19 constructed, installed, established, or modified.

20 (3) Nothing in this section shall be construed to authorize the
21 department of ecology or board to require the use of emission control
22 equipment or other equipment, machinery, or devices of any particular
23 type, from any particular supplier, or produced by any particular
24 manufacturer.

25 (4) Any features, machines, and devices constituting parts of or
26 called for by plans, specifications, or other information submitted
27 pursuant to subsection (1) ~~((hereof))~~ of this section shall be
28 maintained and operate in good working order.

29 (5) The absence of an ordinance, resolution, rule, or regulation,
30 or the failure to issue ~~((an order pursuant to this section))~~ a permit

1 under this section shall not relieve any person from his or her
2 obligation to comply with ~~((any))~~ applicable emission control
3 requirements or with any other provision of law.

4 (6) The department or appropriate local authority shall provide in
5 writing to any source for which notice of construction decisions will
6 be delayed more than ninety days after a complete application is
7 received, (a) the causes of the delay and (b) the time period that will
8 elapse before a decision is rendered including a reasonable schedule of
9 time requirements and steps necessary for the department or local
10 authority to reach such decision.

11 NEW SECTION. Sec. 303. A new section is added to chapter 70.94
12 RCW to read as follows:

13 All sources not subject to permits under section 301 of this act
14 but emitting more than ten tons of a criteria air contaminant or one
15 ton of a hazardous air pollutant, as identified by the federal clean
16 air act, per year shall be required to develop emission reduction plans
17 for the reduction of air contaminant emissions. A person with multiple
18 facilities may submit a single plan for one or more of those
19 facilities. The department shall adopt rules for preparation, format,
20 and approval process for these plans. The rules shall be, to the
21 extent possible, consistent with rules adopted by the department under
22 chapter 114, Laws of 1990. Where applicable hazardous substance
23 reduction plans required by chapter 114, Laws of 1990 shall constitute
24 full or partial compliance with these requirements. The rules shall
25 require the plan to address, where applicable, at a minimum the
26 following options: Process changes, product substitution, equipment
27 modifications, hazardous substance use reduction, recycling, and energy
28 efficiency. The plan shall contain but not be limited to a written
29 policy articulating corporate management or agency director support for

1 the plan and an executive summary documenting the scope, objectives,
2 and methods of emission reduction chosen. The appropriate local air
3 authority or the department shall approve the emission reduction plan
4 consistent with rules adopted under this section. Sources that
5 voluntarily install best available control technology and best
6 management practices for all emission points are exempt from the plans
7 under this subsection. Specific levels, quantities, or percentage
8 emission reduction shall not be required by these plans. Failure to
9 submit an adequate plan may result in penalties as provided for in RCW
10 70.94.430 and 70.94.431.

11 **Sec. 304.** RCW 70.94.155 and 1981 c 224 s 1 are each amended to
12 read as follows:

13 (1) As used in subsection (3) of this section, the term "bubble"
14 means an air pollution control system which permits aggregate
15 measurements of allowable emissions, for a single category of
16 pollutant, for emissions points from a specified emissions-generating
17 facility or facilities. Individual point source emissions levels from
18 such specified facility or facilities may be modified provided that the
19 aggregate limit for the specified sources is not exceeded.

20 (2) Whenever any regulation relating to emission standards or other
21 requirements for the control of emissions is adopted which provides for
22 compliance with such standards or requirements no later than a
23 specified time after the date of adoption of the regulation, the
24 appropriate activated air pollution control authority or, if there be
25 none, the department of ecology shall, by permit or regulatory order,
26 issue to air contaminant sources subject to the standards or
27 requirements, schedules of compliance setting forth timetables for the
28 achievement of compliance as expeditiously as practicable, but in no
29 case later than the time specified in the regulation. Interim dates in

1 such schedules for the completion of steps of progress toward
2 compliance shall be as enforceable as the final date for full
3 compliance therein.

4 (3) Wherever requirements necessary for the attainment of air
5 quality standards or, where such standards are not exceeded, for the
6 maintenance of air quality can be achieved through the use of a control
7 program involving the bubble concept, such program may be authorized by
8 a regulatory order or orders or permit issued to the air contaminant
9 source or sources involved. Such order or permit shall only be
10 authorized after the control program involving the bubble concept is
11 accepted by United States environmental protection agency as part of an
12 approved state implementation plan. Any such order or permit provision
13 shall restrict total emissions within the bubble to no more than would
14 otherwise be allowed in the aggregate for all emitting processes
15 covered. The orders or permits provided for by this subsection shall
16 be issued by the department or the authority with jurisdiction. If the
17 bubble involves interjurisdictional approval, concurrence in the total
18 program must be secured from each regulatory entity concerned.

19 **Sec. 305.** RCW 70.94.181 and 1983 c 3 s 176 are each amended to
20 read as follows:

21 (1) Any person who owns or is in control of any plant, building,
22 structure, establishment, process or equipment may apply to the
23 department of ecology (~~((where it has regulatory authority under RCW~~
24 ~~70.94.390, 70.94.395, 70.94.410, and 70.94.420,))~~) or appropriate local
25 authority board for a variance from rules or regulations governing the
26 quality, nature, duration or extent of discharges of air contaminants.
27 The application shall be accompanied by such information and data as
28 the department of ecology or board may require. The department of
29 ecology or board may grant such variance, provided that variances to

1 state rules shall require the department's approval prior to being
2 issued by a local authority board. The total time period for a
3 variance and renewal of such variance shall not exceed one year.
4 Variances may be issued by either the department or a local board but
5 only after public hearing or due notice, if ((it)) the department or
6 board finds that:

7 (a) The emissions occurring or proposed to occur do not endanger
8 public health or safety or the environment; and

9 (b) Compliance with the rules or regulations from which variance is
10 sought would produce serious hardship without equal or greater benefits
11 to the public.

12 (2) No variance shall be granted pursuant to this section until the
13 department of ecology or board has considered the relative interests of
14 the applicant, other owners of property likely to be affected by the
15 discharges, and the general public.

16 (3) Any variance or renewal thereof shall be granted within the
17 requirements of subsection (1) ~~((and for time periods))~~ of this section
18 and under conditions consistent with the reasons therefor, and within
19 the following limitations:

20 (a) If the variance is granted on the ground that there is no
21 practicable means known or available for the adequate prevention,
22 abatement or control of the pollution involved, it shall be only until
23 the necessary means for prevention, abatement or control become known
24 and available, and subject to the taking of any substitute or alternate
25 measures that the department of ecology or board may prescribe.

26 ~~((If the application for variance shows that there is no~~
27 ~~automobile fragmentizer within a reasonable distance of the wrecking~~
28 ~~yard for which the variance is sought, a variance will be granted for~~
29 ~~a period not to exceed three years for commercial burning of automobile~~
30 ~~hulks, subject to such conditions as the department of ecology may~~

1 ~~impose as to climatic conditions and hours during which burning of such~~
2 ~~hulks may be carried out: PROVIDED, HOWEVER, That any variance granted~~
3 ~~hereunder shall be of no force and effect after July 1, 1970.~~

4 (e)) If the variance is granted on the ground that compliance with
5 the particular requirement or requirements from which variance is
6 sought will require the taking of measures which, because of their
7 extent or cost, must be spread over a considerable period of time, it
8 shall be for a period not to exceed such reasonable time as, in the
9 view of the department of ecology or board is requisite for the taking
10 of the necessary measures. A variance granted on the ground specified
11 herein shall contain a timetable for the taking of action in an
12 expeditious manner and shall be conditioned on adherence to such
13 timetable.

14 ((d)) (c) If the variance is granted on the ground that it is
15 justified to relieve or prevent hardship of a kind other than that
16 provided for in ((item)) (a)((, (b))) and ((e)) (b) of this
17 ((subparagraph)) subsection, it shall be for not more than one year.

18 (4) Any variance granted pursuant to this section may be renewed on
19 terms and conditions and for periods which would be appropriate on
20 initial granting of a variance. If complaint is made to the department
21 of ecology or board on account of the variance, no renewal thereof
22 shall be granted unless following a public hearing on the complaint on
23 due notice the ((state board)) department or board finds that renewal
24 is justified. No renewal shall be granted except on application
25 therefor. Any such application shall be made at least sixty days prior
26 to the expiration of the variance. Immediately upon receipt of an
27 application for renewal, the department of ecology or board shall give
28 public notice of such application in accordance with rules ((and
29 regulations)) of the department of ecology or board.

1 (5) A variance or renewal shall not be a right of the applicant or
2 holder thereof but shall be granted at the discretion of the department
3 of ecology or board. However, any applicant adversely affected by the
4 denial or the terms and conditions of the granting of an application
5 for a variance or renewal of a variance by the department of ecology or
6 board may obtain judicial review thereof under the provisions of
7 chapter 34.05 RCW as now or hereafter amended.

8 (6) Nothing in this section and no variance or renewal granted
9 pursuant hereto shall be construed to prevent or limit the application
10 of the emergency provisions and procedures of RCW 70.94.710 through
11 70.94.730 to any person or his or her property.

12 (7) An application for a variance, or for the renewal thereof,
13 submitted to the department of ecology or board pursuant to this
14 section shall be approved or disapproved by the department or board
15 within sixty-five days of receipt unless the applicant and the
16 department of ecology or board agree to a continuance.

17 (8) Variances approved under this section shall not be included in
18 orders or permits provided for in section 301 of this act or RCW
19 70.94.152 until such time as the variance has been accepted by the
20 United States environmental protection agency as part of an approved
21 state implementation plan.

22 **Sec. 306.** RCW 70.94.205 and 1973 1st ex.s. c 193 s 4 are each
23 amended to read as follows:

24 Whenever any records or other information, other than ambient air
25 quality data or emission data, furnished to or obtained by the
26 department of ecology or the board of any authority (~~pursuant to any~~
27 ~~sections in chapter 70.94 RCW~~) under this chapter, relate to processes
28 or production unique to the owner or operator, or is likely to affect
29 adversely the competitive position of such owner or operator if

1 released to the public or to a competitor, and the owner or operator of
2 such processes or production so certifies, such records or information
3 shall be only for the confidential use of the department of ecology or
4 board. Nothing herein shall be construed to prevent the use of records
5 or information by the department of ecology or board in compiling or
6 publishing analyses or summaries relating to the general condition of
7 the outdoor atmosphere: PROVIDED, That such analyses or summaries do
8 not reveal any information otherwise confidential under the provisions
9 of this section: PROVIDED FURTHER, That emission data furnished to or
10 obtained by the department of ecology or board shall be correlated with
11 applicable emission limitations and other control measures and shall be
12 available for public inspection during normal business hours at offices
13 of the department of ecology or board.

14 NEW SECTION. **Sec. 307.** A new section is added to chapter 70.94
15 RCW to read as follows:

16 The department shall establish a technical assistance unit within
17 its air quality program, consistent with the federal clean air act, to
18 provide the regulated community, especially small businesses with:

19 (1) Information on air pollution laws, regulations, compliance
20 methods, and technologies;

21 (2) Information on air pollution prevention methods and
22 technologies, and prevention of accidental releases;

23 (3) Assistance in obtaining permits and developing emission
24 reduction plans;

25 (4) Information on the health and environmental effects of air
26 pollution.

27 No representatives of the department designated as part of the
28 technical assistance unit created in this section may have any
29 enforcement authority. Staff of the technical assistance unit who

1 provide on-site consultation at an industrial or commercial facility
2 and who observe violations of air quality rules shall immediately
3 inform the owner or operator of the facility of such violations. On-
4 site consultation visits shall not be regarded as an inspection or
5 investigation and no notices or citations may be issued or civil
6 penalties assessed during such a visit. However, violations shall be
7 reported to the appropriate enforcement agency and the facility owner
8 or operator shall be notified that the violations will be reported. No
9 enforcement action shall be taken by the enforcement agency for
10 violations reported by technical assistance unit staff unless and until
11 the facility owner or operator has been provided reasonable time to
12 correct the violation. Violations that place any person in imminent
13 danger of death or substantial bodily harm or cause physical damage to
14 the property of another in an amount exceeding one thousand dollars may
15 result in immediate enforcement action by the appropriate enforcement
16 agency.

17 **Sec. 308.** RCW 70.94.211 and 1974 ex.s. c 69 s 4 are each amended
18 to read as follows:

19 Whenever the board or the control officer has reason to believe
20 that any provision of this chapter or any ordinance, resolution, rule
21 or regulation relating to the control or prevention of air pollution
22 has been violated, such board or control officer may cause written
23 notice to be served upon the alleged violator or violators. The notice
24 shall specify the provision of this chapter or the ordinance,
25 resolution, rule or regulation alleged to be violated, and the facts
26 alleged to constitute a violation thereof, and may include an order
27 directing that necessary corrective action be taken within a reasonable
28 time. In lieu of an order, the board or the control officer may
29 require that the alleged violator or violators appear before the board

1 for a hearing, or in addition to or in place of an order or hearing,
2 the board may initiate action pursuant to RCW 70.94.425, 70.94.430,
3 70.94.431, and 70.94.435.

4 **Sec. 309.** RCW 70.94.430 and 1984 c 255 s 1 are each amended to
5 read as follows:

6 (1) Any person who knowingly violates any of the provisions of
7 ~~((this))~~ chapter 70.94 or 70.120 RCW, or any ordinance, resolution,
8 ~~((rule))~~ or regulation in force pursuant thereto shall be guilty of a
9 ~~((misdemeanor))~~ crime and upon conviction thereof shall be punished by
10 a fine of not more than ~~((one))~~ ten thousand dollars, or by
11 imprisonment in the county jail for not more than ~~((ninety days))~~ one
12 year, or by both ~~((fine and imprisonment))~~ for each separate violation.

13 ~~((Any person who wilfully violates any of the provisions of this~~
14 ~~chapter or any ordinance, resolution, rule or regulation in force~~
15 ~~pursuant thereto shall be guilty of a gross misdemeanor. Upon~~
16 ~~conviction the offender shall be punished by a fine of not less than~~
17 ~~one hundred dollars for each offense or by imprisonment for a term of~~
18 ~~not more than one year or by both fine and imprisonment.~~

19 ~~In case of a continuing violation, whether or not wilfully~~
20 ~~committed, each day's continuance shall be a separate and distinct~~
21 ~~violation.))~~

22 (2) Any person who negligently releases into the ambient air any
23 substance listed by the department of ecology as a hazardous air
24 pollutant, other than in compliance with the terms of an applicable
25 permit or emission limit, and who at the time negligently places
26 another person in imminent danger of death or substantial bodily harm
27 shall be guilty of a crime and shall, upon conviction, be punished by
28 a fine of not more than ten thousand dollars, or by imprisonment for
29 not more than one year, or both.

1 (3) Any person who knowingly releases into the ambient air any
2 substance listed by the department of ecology as a hazardous air
3 pollutant, other than in compliance with the terms of an applicable
4 permit or emission limit, and who knows at the time that he or she
5 thereby places another person in imminent danger of death or
6 substantial bodily harm or causes physical damage to the property of
7 another in an amount exceeding ten thousand dollars, shall be guilty of
8 a crime and shall, upon conviction, be punished by a fine of not less
9 than fifty thousand dollars, or by imprisonment for not more than five
10 years, or both.

11 (4) Any person who knowingly fails to disclose a potential conflict
12 of interest under RCW 70.94.100 shall be guilty of a gross misdemeanor,
13 and upon conviction thereof shall be punished by a fine or not more
14 than five thousand dollars.

15 **Sec. 310.** RCW 70.94.431 and 1990 c 157 s 1 are each amended to
16 read as follows:

17 (1) In addition to or as an alternate to any other penalty provided
18 by law, any person who violates any of the provisions of chapter 70.94
19 RCW, chapter 70.120 RCW, or any of the rules ((and regulations of the
20 department or the board shall)) in force under such chapters may incur
21 a civil penalty in an amount not to exceed ((one)) ten thousand dollars
22 per day for each violation. Each such violation shall be a separate
23 and distinct offense, and in case of a continuing violation, each day's
24 continuance shall be a separate and distinct violation. ((For the
25 purposes of this subsection, the maximum daily fine imposed by a local
26 board for violations of standards by a specific emissions unit is one
27 thousand dollars.))

28 Any person who fails to take action as specified by an order issued
29 pursuant to this chapter shall be liable for a civil penalty of not

1 more than ten thousand dollars for each day of continued noncompliance.

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

8 The maximum penalty amounts established in this section may be
9 increased annually to account for inflation as determined by the state
10 office of the economic and revenue forecast council.

11 ~~((2) Further, the person is subject to a fine of up to five~~
12 ~~thousand dollars to be levied by the director of the department of~~
13 ~~ecology if requested by the board of a local authority or if the~~
14 ~~director determines that the penalty is needed for effective~~
15 ~~enforcement of this chapter. A local board shall not make such a~~
16 ~~request until notice of violation and compliance order procedures have~~
17 ~~been exhausted, if such procedures are applicable. For the purposes of~~
18 ~~this subsection, the maximum daily fine imposed by the department of~~
19 ~~ecology for violations of standards by a specific emissions unit is~~
20 ~~five thousand dollars.))~~

21 (3) Each act of commission or omission which procures, aids or
22 abets in the violation shall be considered a violation under the
23 provisions of this section and subject to the same penalty. The
24 penalties provided in this section shall be imposed pursuant to RCW
25 43.21B.300.

26 (4) All penalties recovered under this section by the department
27 shall be paid into the state treasury and credited to the ~~((general~~
28 ~~fund))~~ air pollution control account established in section 224 of this
29 act or, if recovered by the authority, shall be paid into the treasury
30 of the authority and credited to its funds. If a prior penalty for the

1 same violation has been paid to a local authority, the penalty imposed
2 by the department under subsection ~~((+2))~~ (1) of this section shall be
3 reduced by the amount of the payment. ~~((Notwithstanding any other
4 provisions of this chapter, no penalty may be levied for the violation
5 of any opacity standard in an amount exceeding four hundred dollars per
6 day.))~~

7 (5) To secure the penalty incurred under this section, the state or
8 the authority shall have a lien on any vessel used or operated in
9 violation of this chapter which shall be enforced as provided in RCW
10 60.36.050.

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

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

20 **Sec. 311.** RCW 70.94.860 and 1984 c 164 s 2 are each amended to
21 read as follows:

22 The department of ecology may accept delegation of ~~((the prevention
23 of significant deterioration program pursuant to Part C, Subpart 1 of))~~
24 programs as provided for in the federal clean air act. Subject to
25 federal approval, the department may, in turn, delegate ((this)) such
26 programs to the local authority with jurisdiction in a given area.

27 **Sec. 312.** RCW 70.94.875 and 1985 c 456 s 3 are each amended to
28 read as follows:

1 The department of ecology, in consultation with the ((joint
2 ~~legislative committee on science and technology or the~~)) appropriate
3 committees of the house of representatives and of the senate, shall:

4 (1) Continue evaluation of information and research on acid
5 deposition in the Pacific Northwest region;

6 (2) Establish critical levels of acid deposition and lake, stream,
7 and soil acidification; and

8 (3) Notify the legislature if acid deposition or lake, stream, and
9 soil acidification reaches the levels established under subsection (2)
10 of this section.

11 IV.

12 OUTDOOR BURNING

13 **Sec. 401.** RCW 70.94.745 and 1972 ex.s. c 136 s 2 are each amended
14 to read as follows:

15 It shall be the responsibility and duty of the department of
16 natural resources, department of ecology, department of agriculture,
17 fire districts, and local air pollution control authorities to
18 establish, through regulations, ordinances, or policy, a limited
19 burning program for the people of this state, consisting of a one-
20 permit system, until such time as ((~~an~~)) alternate technology or
21 methods of disposing of the organic refuse ((~~described in this chapter~~
22 ~~shall~~)) have been developed ((~~which is~~)) that are reasonably economical
23 and less harmful to the environment. It is the policy of this state to
24 ((~~encourage the fostering and development of such~~)) foster and
25 encourage development of alternate methods or technology for disposing
26 of or reducing the amount of organic refuse.

1 NEW SECTION. **Sec. 402.** A new section is added to chapter 70.94
2 RCW to read as follows:

3 (1) Consistent with the policy of the state to reduce outdoor
4 burning to the greatest extent practical:

5 (a) Outdoor burning shall not be allowed in any area of the state
6 where federal or state ambient air quality standards are exceeded for
7 pollutants emitted by outdoor burning.

8 (b) Outdoor burning shall not be allowed in any urban growth area
9 as defined by RCW 36.70A.030, or any city of the state having a
10 population greater than ten thousand people if such cities are
11 threatened to exceed state or federal air quality standards, and
12 alternative disposal practices consistent with good solid waste
13 management are reasonably available or practices eliminating production
14 of organic refuse are reasonably available. In no event shall such
15 burning be allowed after December 31, 2000.

16 (2) "Outdoor burning" means the combustion of material of any type
17 in an open fire or in an outdoor container without providing for the
18 control of combustion or the control of emissions from the combustion.

19 (3) This section shall not apply to silvicultural burning used to
20 improve or maintain fire dependent ecosystems for rare plants or
21 animals within state, federal, and private natural area preserves,
22 natural resource conservation areas, parks, and other wildlife areas.

23 NEW SECTION. **Sec. 403.** A new section is added to chapter 70.94
24 RCW to read as follows:

25 (1) The department of natural resources shall administer a program
26 to reduce state-wide emissions from silvicultural forest burning so as
27 to achieve the following minimum objectives:

28 (a) Twenty percent reduction by December 31, 1994 providing a
29 ceiling for emissions until December 31, 2000; and

1 (b) Fifty percent reduction by December 31, 2000 providing a
2 ceiling for emissions thereafter.

3 Reductions shall be calculated from the average annual emissions
4 level from calendar years 1985 to 1989, using the same methodology for
5 both reduction and base year calculations. The average annual
6 emissions level from calendar years 1985 to 1989 shall constitute an
7 emissions ceiling until December 31, 1994.

8 (2) The department of natural resources, within twelve months after
9 the effective date of this section, shall develop a plan, in
10 consultation with the department of ecology, public and private land
11 owners, engaged in silvicultural forest burning, and representatives of
12 the public to carry out the program as described in this section.

13 The plan shall recognize the variations in silvicultural forest
14 burning including, but not limited to, a landowner's responsibility to
15 abate an extreme fire hazard under chapter 76.04 RCW and other
16 objectives of burning, including abating and preventing a fire hazard,
17 geographic region, climate, elevation and slope, proximity to populated
18 areas, and diversity of land ownership. The plan shall establish
19 priorities that the department of natural resources shall use to
20 allocate allowable emissions, including but not limited to,
21 silvicultural burning used to improve or maintain fire dependent
22 ecosystems for rare plants or animals within state, federal, and
23 private natural area preserves, natural resource conservation areas,
24 parks, and other wildlife areas.

25 The emission reductions in this section are to apply to all forest
26 lands including those owned and managed by the United States. If the
27 United States does not participate in implementing the plan, the
28 departments of natural resources and ecology shall use all appropriate
29 and available methods or enforcement powers to ensure participation.
30 Until such time as satisfactory participation occurs, the contribution

1 of emissions from such lands shall be deleted from the calculation of
2 the base period and the percentage reductions.

3 The plan shall include a tracking system designed to measure the
4 degree of progress toward the emission reductions goals set in this
5 section. Emissions are to be determined by the department of natural
6 resources using the Pacific northwest research station's smoke
7 management system information model. The department of natural
8 resources shall report annually to the department of ecology and the
9 legislature on the status of the plan, emission reductions and progress
10 toward meeting the objectives specified in this section, and the goals
11 of this chapter and chapter 76.04 RCW.

12 (3) If the December 31, 1994, emission reductions targets in this
13 section are not met, the department of natural resources, in
14 consultation with the department of ecology, shall use its authority
15 granted in this chapter and chapter 76.04 RCW to immediately limit
16 emissions from such burning to the 1994 target levels and limit
17 silvicultural forest burning in subsequent years to achieve equal
18 annual incremental reductions so as to achieve the December 31, 2000,
19 target level. If, as a result of the program established in this
20 section, the emission reductions are met in 1994, but are not met by
21 December 31, 2000, the department of natural resources in consultation
22 with the department of ecology shall immediately limit silvicultural
23 forest burning to reduce emissions from such burning to the December
24 31, 2000, target level in all subsequent years.

25 **Sec. 404.** RCW 70.94.660 and 1971 ex.s. c 232 s 2 are each amended
26 to read as follows:

27 (1) The department of natural resources shall have the
28 responsibility for issuing and regulating burning permits required by
29 it relating to the following activities (~~declared to be~~) for the

1 protection of life or property and/or ~~((in))~~ for the public health,
2 safety, and welfare:

3 ~~((1))~~ (a) Abating a forest fire hazard;

4 ~~((2))~~ (b) Prevention of a fire hazard;

5 ~~((3))~~ (c) Instruction of public officials in methods of forest
6 fire fighting; ~~((and~~

7 ~~(4))~~ (d) Any silvicultural operation to improve the forest lands
8 of the state; and

9 (e) Silvicultural burning used to improve or maintain fire
10 dependent ecosystems for rare plants or animals within state, federal,
11 and private natural area preserves, natural resource conservation
12 areas, parks, and other wildlife areas.

13 (2) The department of natural resources shall not retain such
14 authority, but it shall be the responsibility of the appropriate fire
15 protection agency for permitting and regulating outdoor burning on
16 lands where the department of natural resources does not have fire
17 protection responsibility.

18 (3) Permit fees shall be assessed for silvicultural burning under
19 the jurisdiction of the department of natural resources and collected
20 by the department of natural resources as provided for in this section.
21 All fees shall be deposited in the air pollution control account,
22 created in section 242 of this act. The legislature shall appropriate
23 to the department of natural resources funds from the air pollution
24 control account to enforce and administer the program under section 403
25 of this act and RCW 70.94.660, 70.94.670, and 70.94.690. Fees shall be
26 set by rule by the department of natural resources at the level
27 necessary to cover the costs of the program and for research into
28 alternatives to burning.

1 **Sec. 405.** RCW 70.94.670 and 1971 ex.s. c 232 s 3 are each amended
2 to read as follows:

3 The department of natural resources in granting burning permits for
4 fires for the purposes set forth in RCW 70.94.660 shall condition the
5 issuance and use of such permits to comply with air quality standards
6 established by the department of ecology after full consultation with
7 the department of natural resources. Such burning shall not cause the
8 state air quality standards (~~((for suspended particulate matter))~~) to be
9 exceeded in the ambient air up to two thousand feet above ground level
10 over critical areas designated by the department of ecology, otherwise
11 subject to air pollution from other sources. Air quality standards
12 (~~((for suspended particulate matter))~~) shall be established and published
13 by the department of ecology which shall also establish a procedure for
14 advising the department of natural resources when (~~((the))~~) and where air
15 contaminant levels exceed(~~((s))~~) or threaten(~~((s))~~) to exceed the ambient
16 air standards over such critical areas. The (~~((suspended particulate~~
17 ~~matter))~~) air quality shall be quantitatively measured by the department
18 of ecology or the appropriate local air pollution control authority at
19 established (~~((primary air mass stations or primary ground level))~~)
20 monitoring stations over such designated areas. Further, such
21 permitted burning shall not cause damage to public health or the
22 environment. All permits issued under this section shall be subject to
23 all applicable fees, permitting, penalty, and enforcement provisions of
24 this chapter. The department of natural resources shall set forth
25 smoke dispersal objectives designed consistent with this section to
26 minimize any air pollution (~~((from smoke))~~) from such burning and the
27 procedures necessary to meet those objectives.

28 The department of natural resources shall encourage more intense
29 utilization in logging and alternative silviculture practices to reduce
30 (~~((forest fire hazards and shall encourage development and use of~~

1 ~~procedures and equipment to burn forest debris in a manner that will~~
2 ~~produce less smoke~~) the need for burning. The department of natural
3 resources shall, whenever practical, ~~((encourage))~~ require development
4 and use of alternative acceptable disposal methods subject to the
5 following priorities: (1) slash production minimization, (2) slash
6 utilization, (3) nonburning disposal, (4) silvicultural burning. Such
7 alternative methods shall be evaluated as to the relative impact on
8 air, water, and land pollution, public health, and their financial
9 feasibility.

10 The department of natural resources shall not issue burning permits
11 and shall revoke previously issued permits at any time in any area
12 where the department of ecology or local board has declared a stage of
13 impaired air quality as defined in RCW 70.94.473.

14 **Sec. 406.** RCW 70.94.690 and 1971 ex.s. c 232 s 5 are each amended
15 to read as follows:

16 In the regulation of outdoor burning not included in RCW 70.94.660
17 requiring permits from the department of natural resources, said
18 department and the state, local, or regional air pollution control
19 authorities will cooperate in regulating such burning so as to minimize
20 insofar as possible duplicate inspections and separate permits while
21 still accomplishing the objectives and responsibilities of the
22 respective agencies. Permits issued by the department of natural
23 resources shall include any applicable local authority's burning
24 regulations in effect for lands where the department of natural
25 resources shall issue such permits.

26 Permits shall be withheld by the department of natural resources
27 when so requested by the department of ecology if a forecast, alert,
28 warning, or emergency condition exists as defined in the episode
29 criteria of the department of ecology.

1 NEW SECTION. **Sec. 407.** A new section is added to chapter 70.94
2 RCW to read as follows:

3 Nothing contained in this chapter shall prohibit fires necessary:
4 (1) To promote the regeneration of rare and endangered plants found
5 within natural area preserves as identified under chapter 79.70 RCW;
6 and (2) for Indian ceremonies or for the sending of smoke signals if
7 part of a religious ritual. Permits issued for burning under this
8 section shall be drafted to minimize emissions including denial of
9 permission to burn during periods of adverse meteorological conditions.

10 **Sec. 408.** RCW 70.94.650 and 1971 ex.s. c 232 s 1 are each amended
11 to read as follows:

12 (1) Any person who proposes to set fires in the course of ~~((the~~
13 ~~following:~~

14 ~~((1)))~~ (a) weed abatement,

15 ~~((2)))~~ (b) instruction in methods of fire fighting (except forest
16 fires), or

17 ~~((3) Disease prevention relating to))~~ (c) agricultural activities,
18 shall, prior to carrying out the same, obtain a permit from an air
19 pollution control authority or the department of ecology, as
20 appropriate. Each such authority and the department of ecology shall,
21 by rule or ordinance, establish a permit system to carry out the
22 provisions of this section except as provided in RCW 70.94.660.
23 General criteria of state-wide applicability for ruling on such permits
24 shall be established by the department, by rule ~~((or regulation)),~~
25 after consultation with the various air pollution control authorities.
26 Permits shall be issued under this section based on seasonal operations
27 or by individual operations, or both ~~((:—PROVIDED, That))~~. All permits
28 so issued shall be conditioned to insure that the public interest in
29 air, water, and land pollution and safety to life and property is fully

1 considered. In addition to any other requirements established by the
2 department to protect air quality pursuant to other laws, applicants
3 for permits must show that the setting of fires as requested is the
4 most reasonable procedure to follow in safeguarding life or property
5 under all circumstances or is otherwise reasonably necessary to
6 successfully carry out the enterprise in which the applicant is engaged
7 ~~((in))~~, or both. All burning permits will be designed to minimize air
8 pollution insofar as practical. Nothing in this section shall relieve
9 the applicant from obtaining permits, licenses, or other approvals
10 required by any other law(~~(: PROVIDED FURTHER, That)~~). An application
11 for a permit to set fires in the course of agricultural burning for
12 controlling diseases, insects, ((and)) weed abatement or development of
13 physiological conditions conducive to increased crop yield, shall be
14 ((granted)) acted upon within ((fourteen)) seven days from the date
15 such application is filed(~~(: PROVIDED, That nothing herein shall~~
16 ~~prevent a householder from setting fire in the course of burning~~
17 ~~leaves, clippings or trash when otherwise permitted locally. Nothing~~
18 ~~contained herein shall prohibit Indian campfires or the sending of~~
19 ~~smoke signals if part of a religious ritual))~~).

20 (2) Except as provided in RCW 70.94.780 permit fees shall be
21 assessed for outdoor burning under this section and shall be collected
22 by the department of ecology or the appropriate local air authority at
23 the time the permit is issued. All fees collected shall be deposited
24 in the air pollution control account created in section 242 of this
25 act. Fees shall be set by rule by the permitting agency at the level
26 necessary to cover the costs of administering and enforcing the permit
27 programs, to provide funds for research into alternative methods to
28 reduce emissions from such burning, and to the extent possible be
29 consistent with fees charged for such burning permits in neighboring
30 states.

1 The permitting agency shall provide, to the extent possible, in its
2 rules developed under this subsection for lesser fees for permittees
3 who use best management practices to minimize air contaminant
4 emissions. After fees are established by rule, any increases in such
5 fees shall be limited to annual inflation adjustments as determined by
6 the state office of the economic and revenue forecast council.

7 (3) Conservation districts and the Washington State University
8 agricultural extension program in conjunction with the department shall
9 develop public education material for the agricultural community
10 identifying the health and environmental affects of agricultural
11 outdoor burning and providing technical assistance in alternatives to
12 agricultural outdoor burning.

13 (4) An agricultural burning practices and research task force shall
14 be established under the direction of the department. The task force
15 shall be composed of a representative from the department who shall
16 serve as chair; one representative of eastern Washington local air
17 authorities; three representatives of the agricultural community from
18 different agricultural pursuits; one representative of the department
19 of agriculture; two representatives from universities or colleges
20 knowledgeable in agricultural issues; one representative of the public
21 health or medical community; and one representative of the conservation
22 districts. The task force shall identify best management practices for
23 reducing air contaminant emissions from agricultural activities and
24 provide such information to the department and local air authorities.
25 The task force shall identify research needs related to minimizing
26 emissions from agricultural burning and alternatives to such burning.
27 Further, the task force shall make recommendations to the department on
28 priorities for spending funds provided through this chapter for
29 research into alternative methods to reduce emissions from agricultural
30 burning.

1 **Sec. 409.** RCW 70.94.654 and 1973 1st ex.s. c 193 s 6 are each
2 amended to read as follows:

3 Whenever the department of ecology shall find that any fire
4 protection agency, county, or conservation district which is outside
5 the jurisdictional boundaries of an activated air pollution control
6 authority is capable of effectively administering the issuance and
7 enforcement of permits for any or all of the kinds of burning
8 identified in RCW 70.94.650 (~~((1) and (3))~~) and desirous of doing so,
9 the department of ecology may delegate (~~(all)~~) powers necessary for the
10 issuance (~~(and)~~) or enforcement, or both, of permits for any or all of
11 the kinds of burning to the fire protection agency, county(~~(: PROVIDED,~~
12 ~~That))~~), or conservation district. Such delegation may be withdrawn by
13 the department of ecology upon ((a)) its finding that the fire
14 protection agency, county, or conservation district is not effectively
15 administering the permit program.

16 **Sec. 410.** RCW 70.94.775 and 1974 ex.s. c 164 s 1 are each amended
17 to read as follows:

18 No person shall cause or allow any outdoor fire:

19 (1) Containing garbage, dead animals, asphalt, petroleum products,
20 paints, rubber products, plastics, or any substance other than natural
21 vegetation (~~(which)~~) that normally emits dense smoke or obnoxious odors
22 (~~((except as provided in RCW 70.94.650: PROVIDED, That))~~). Agricultural
23 heating devices (~~(which)~~) that otherwise meet the requirements of this
24 chapter shall not be considered outdoor fires under this section;

25 (2) During a forecast, alert, warning or emergency condition as
26 defined in RCW 70.94.715 or impaired air quality condition as defined
27 in RCW 70.94.473;

28 (3) In any area which has been designated by the department of
29 ecology or board of an activated authority as an area exceeding or

1 threatening to exceed state or federal ambient air quality standards ((
2 or after July 1, 1976, state ambient air quality goals for
3 particulates)), except instructional fires permitted by RCW
4 70.94.650(2).

5 **Sec. 411.** RCW 70.94.780 and 1973 1st ex.s. c 193 s 10 are each
6 amended to read as follows:

7 In addition to any other powers granted to them by law, the fire
8 protection agency, county, or conservation district authorized to issue
9 burning permits ((may)) shall regulate or prohibit outdoor burning ((in
10 order)) as necessary to prevent or abate the nuisances caused by such
11 burning. No fire protection agency, county, or conservation district
12 may issue a burning permit in an area where the department or local
13 board has declared any stage of impaired air quality per RCW 70.94.473
14 or any stage of an air pollution episode. All burning permits issued
15 shall be subject to all applicable fee, permitting, penalty, and
16 enforcement provisions of this chapter. The permitted burning shall
17 not cause damage to public health or the environment.

18 Any entity authorized to issue a permit under this section may
19 charge a fee at the level necessary to recover the costs of
20 administering and enforcing the permit program.

21 **Sec. 412.** RCW 70.94.750 and 1972 ex.s. c 136 s 3 are each amended
22 to read as follows:

23 The following outdoor fires described in this section may be burned
24 subject to the provisions of ((the program established pursuant to RCW
25 70.94.755 for any area)) this chapter and also subject to city
26 ordinances, county resolutions, ((and)) rules ((and regulations)) of
27 fire districts and laws, and rules ((and regulations)) enforced by the

1 department of natural resources if a permit has been issued by a fire
2 protection agency, county, or conservation district:

3 (1) Fires consisting of leaves, clippings, prunings and other yard
4 and gardening refuse originating on lands immediately adjacent and in
5 close proximity to a human dwelling and burned on such lands by the
6 property owner or his or her designee.

7 (2) Fires consisting of residue of a natural character such as
8 trees, stumps, shrubbery or other natural vegetation arising from land
9 clearing projects or agricultural pursuits for pest or disease control;
10 provided the fires described in this subsection may be prohibited in
11 those areas having a general population density of one thousand or more
12 persons per square mile.

13 V.

14 WOODSTOVES AND FIREPLACES

15 **Sec. 501.** RCW 70.94.457 and 1987 c 405 s 4 are each amended to
16 read as follows:

17 (~~Before January 1, 1988,~~) The department of ecology shall
18 establish by rule under chapter 34.05 RCW:

19 (1) State-wide emission performance standards for new wood stoves.
20 Notwithstanding any other provision of this chapter which allows an
21 authority to adopt more stringent emission standards, no authority
22 shall adopt any emission standard for new wood stoves other than the
23 state-wide standard adopted by the department under this section.

24 (a) (~~For new wood stoves sold after July 1, 1988, the state-wide~~
25 ~~performance standard, by rule, shall be the equivalent of and~~
26 ~~consistent with state-wide emission standards in effect in bordering~~
27 ~~states on or before January 1, 1987. For solid fuel burning devices~~
28 ~~for which bordering states have not established emission standards, the~~

1 department may temporarily exempt or establish, by rule, state-wide
2 standards including emission levels and test procedures for such
3 devices and such emission levels and test procedures shall be
4 equivalent to emission levels per pound per hour burned for other new
5 wood stoves regulated by this subsection)) After January 1, 1993, no
6 solid fuel burning device shall be offered for sale that has
7 particulate air contaminant emissions exceeding four and one-half grams
8 per hour, except that catalytic wood stoves shall not have contaminant
9 emissions exceeding two and one-half grams per hour.

10 (b) After January 1, 1995, no solid fuel burning device shall be
11 offered for sale that has particulate air contaminant emissions
12 exceeding two and one-half grams per hour, except that catalytic wood
13 stoves shall not have contaminant emissions exceeding one and four-
14 tenths gram per hour.

15 (c) After January 1, 1993, no fireplace, except masonry fireplaces,
16 shall be offered for sale unless such fireplace meets the 1988 United
17 States environmental protection agency standards for wood stoves.

18 (d) After January 1, 1995, no fireplace, except masonry fireplaces,
19 shall be offered for sale unless such fireplace meets the 1990 United
20 States environmental protection agency standards for wood stoves.

21 (e) Subsection (1) (a) and (b) of this section shall not apply to
22 fireplaces.

23 ((~~b~~)) (f) Notwithstanding (a) of this subsection, the department
24 is authorized to adopt, by rule, emission standards adopted by the
25 United States environmental protection agency for new wood stoves sold
26 at retail. For solid fuel burning devices for which the United States
27 environmental protection agency has not established emission standards,
28 the department may ((temporarily)) exempt or establish, by rule, state-
29 wide standards including emission levels and test procedures for such
30 devices and such emission levels and test procedures shall be

1 equivalent to emission levels per pound per hour burned for other new
2 wood stoves and fireplaces regulated under this subsection.

3 (2) A program to:

4 (a) Determine whether a new ~~((wood stove))~~ solid fuel burning
5 device complies with the state-wide emission performance standards
6 established in subsection (1) of this section; and

7 (b) Approve the sale of ~~((stoves))~~ devices that comply with the
8 state-wide emission performance standards.

9 **Sec. 502.** RCW 70.94.470 and 1987 c 405 s 5 are each amended to
10 read as follows:

11 (1) ~~((Before January 1, 1988,))~~ The department shall establish, by
12 rule under chapter 34.05 RCW, ~~((state wide opacity levels for~~
13 ~~residential solid fuel burning devices as follows:~~

14 ~~((a) A state wide opacity level of twenty percent for the purpose of~~
15 ~~public education;~~

16 ~~((b) Until July 1, 1990, a state wide opacity level of forty percent~~
17 ~~for the purpose of enforcement on a complaint basis; and~~

18 ~~((c) After July 1, 1990, a))~~ (a) state-wide opacity level of twenty
19 percent for residential solid fuel burning devices for the purpose of
20 enforcement on a complaint basis and (b) after July 1, 1995, a state-
21 wide opacity of ten percent for purposes of enforcement on a complaint
22 basis.

23 (2) Notwithstanding any other provision of this chapter which may
24 allow an authority to adopt a more stringent opacity level, no
25 authority shall adopt or enforce an opacity level~~((:~~

26 ~~((a) Lower than forty percent until July 1, 1990; and~~

27 ~~((b) Lower than twenty percent after July 1, 1990))~~ for solid fuel
28 burning devices other than established in this section.

1 NEW SECTION. **Sec. 503.** A new section is added to chapter 70.94
2 RCW to read as follows:

3 After January 1, 1992, no used solid fuel burning device shall be
4 installed in new or existing buildings unless such device is either
5 Oregon department of environmental quality phase II or United States
6 environmental protection agency certified or a pellet stove either
7 certified or exempt from certification by the United States
8 environmental protection agency.

9 (1) By July 1, 1992, the state building code council shall adopt
10 rules requiring an adequate source of heat other than woodstoves in all
11 new and substantially remodeled residential and commercial
12 construction. This rule shall apply to areas designated by a county to
13 be an urban growth area under chapter 36.70A RCW.

14 (2) For purposes of this section, "substantially remodeled" means
15 any alteration or restoration of a building exceeding sixty percent of
16 the appraised value of such building within a twelve-month period.

17 **Sec. 504.** RCW 70.94.473 and 1990 c 128 s 2 are each amended to
18 read as follows:

19 (1) Any person in a residence or commercial establishment which has
20 an adequate source of heat without burning wood shall:

21 (a) Not burn wood in any solid fuel burning device whenever the
22 department has determined under RCW 70.94.715 that any air pollution
23 episode exists in that area;

24 (b) Not burn wood in any solid fuel burning device except those
25 which (~~meet the standards set forth in RCW 70.94.457,~~) are either
26 Oregon department of environmental quality phase II or United States
27 environmental protection agency certified or certified by the
28 department under RCW 70.94.457(1)(b) or a pellet stove either certified
29 or issued an exemption (~~certificate~~) by the United States

1 environmental protection agency in accordance with Title 40, Part 60 of
2 the code of federal regulations, in the geographical area and for the
3 period of time that a first stage of impaired air quality has been
4 determined, by the department or any authority, for that area. A first
5 stage of impaired air quality is reached when particulates ten microns
6 and smaller in diameter are at an ambient level of seventy-five
7 micrograms per cubic meter measured on a twenty-four hour average or
8 when carbon monoxide is at an ambient level of eight parts of
9 contaminant per million parts of air by volume measured on an eight-
10 hour average; and

11 (c) Not burn wood in any solid fuel burning device, including those
12 which meet the standards set forth in RCW 70.94.457, in a geographical
13 area and for the period of time that a second stage of impaired air
14 quality has been determined by the department or any authority, for
15 that area. A second stage of impaired air quality is reached when
16 particulates ten microns and smaller in diameter are at an ambient
17 level of one hundred five micrograms per cubic meter measured on a
18 twenty-four hour average.

19 (2) (~~When~~) If a local air authority exercises the limitation on
20 solid fuel burning devices specified under RCW 70.94.477(2), a single
21 stage of impaired air quality applies in the geographical area defined
22 by the authority in accordance with RCW 70.94.477(2) and is reached
23 when particulates ten microns and smaller in diameter are at an ambient
24 level of ninety micrograms per cubic meter measured on a twenty-four
25 hour average or when carbon monoxide is at an ambient level of eight
26 parts of contaminant per million parts of air by volume measured on an
27 eight-hour average.

28 (~~When~~) If this single stage of impaired air quality is reached,
29 no person in a residence or commercial establishment (~~which~~) that has
30 an adequate source of heat without burning wood shall burn wood in any

1 solid fuel burning device, including those which meet the standards set
2 forth in RCW 70.94.457.

3 **Sec. 505.** RCW 70.94.483 and 1990 c 128 s 5 are each amended to
4 read as follows:

5 (1) The wood stove education and enforcement account is hereby
6 created in the general fund. Money placed in the account shall include
7 all money received under subsection (2) of this section and any other
8 money appropriated by the legislature. Money in the account shall be
9 spent for the purposes of the wood stove education program established
10 under RCW 70.94.480 and for enforcement of the wood stove program, and
11 shall be subject to legislative appropriation.

12 (2) The department of ecology, with the advice of the advisory
13 committee, shall set a flat fee(~~(, not to exceed fifteen))~~ of thirty
14 dollars, on the retail sale, as defined in RCW 82.04.050, of each solid
15 fuel burning device, excepting masonry fireplaces, after January 1,
16 (~~(1988))~~ 1992. The fee shall be imposed upon the consumer and shall
17 not be subject to the retail sales tax provisions of chapters 82.08 and
18 82.12 RCW. The fee may be adjusted annually above (~~(fifteen))~~ thirty
19 dollars (~~((according to changes in the consumer price index after~~
20 January 1, 1989)) to account for inflation as determined by the state
21 office of the economic and revenue forecast council. The fee shall be
22 collected by the department of revenue in conjunction with the retail
23 sales tax under chapter 82.08 RCW. If the seller fails to collect the
24 fee herein imposed or fails to remit the fee to the department of
25 revenue in the manner prescribed in chapter 82.08 RCW, the seller shall
26 be personally liable to the state for the amount of the fee. The
27 collection provisions of chapter 82.32 RCW shall apply. The department
28 of revenue shall deposit fees collected under this section in the wood
29 stove education and enforcement account.

1 **Sec. 506.** RCW 70.94.041 and 1983 c 3 s 175 are each amended to
2 read as follows:

3 Except as otherwise provided in this section, any building or
4 structure listed on the national register of historic sites,
5 structures, or buildings established pursuant to 80 Stat. 915, 16
6 U.S.C. Sec. 470a, or on the state register established pursuant to RCW
7 (~~(43.51A.080)~~) 27.34.220, shall be permitted to burn wood as it would
8 have when it was a functioning facility as an authorized exception to
9 the provisions of this chapter. Such burning of wood shall not be
10 exempted from the provisions of RCW 70.94.710 through 70.94.730.

11 NEW SECTION. **Sec. 507.** A new section is added to chapter 70.94
12 RCW to read as follows:

13 (1) Any federal, state, or private land manager providing cordwood
14 to the public shall pay to the department of revenue a fee equivalent
15 to three dollars for each cord of wood removed by the public.

16 (2) All moneys collected from this fee shall be deposited into the
17 air pollution control account.

18 (3) Any private land manager whose forest land holdings in this
19 state are less than five hundred acres shall be exempt from the fee
20 imposed in this section.

21 (4) For the purposes of this section, "cordwood" means any split or
22 unsplit logs or branches of any length, other than artificially
23 compressed sawdust or pelletized fuel, that are to be used or sold for
24 residential space heating.

25 **Sec. 508.** RCW 70.94.656 and 1990 c 113 s 1 are each amended to
26 read as follows:

27 It is hereby declared to be the policy of this state that strong
28 efforts should be made to minimize adverse effects on air quality from

1 the open burning of field and turf grasses grown for seed. To such end
2 this section is intended to promote the development of economical and
3 practical alternate agricultural practices to such burning, and to
4 provide for interim regulation of such burning until practical
5 alternates are found.

6 (1) The department shall approve of a study or studies for the
7 exploration and identification of economical and practical alternate
8 agricultural practices to the open burning of field and turf grasses
9 grown for seed. Prior to the issuance of any permit for such burning
10 under RCW 70.94.650, there shall be collected a fee not to exceed one
11 dollar per acre of crop to be burned. Any such fees received by any
12 authority shall be transferred to the department of ecology. The
13 department of ecology shall deposit all such acreage fees in a special
14 grass seed burning research account, hereby created, in the state
15 treasury. All earnings of investments of balances in the special grass
16 seed burning research account shall be credited to the general fund.
17 The department shall allocate moneys annually from this account for the
18 support of any approved study or studies as provided for in this
19 subsection. For the conduct of any such study or studies, the
20 department may contract with public or private entities: PROVIDED,
21 That whenever the department of ecology shall conclude that sufficient
22 reasonably available alternates to open burning have been developed,
23 and at such time as all costs of any studies have been paid, the grass
24 seed burning research account shall be dissolved, and any money
25 remaining therein shall revert to the general fund.

26 The fee collected under this subsection shall constitute the
27 research portion of fees required under RCW 70.94.650 for open burning
28 of grass grown for seed.

29 (2) Whenever on the basis of information available to it, the
30 department after public hearings have been conducted wherein testimony

1 will be received and considered from interested parties wishing to
2 testify shall conclude that any procedure, program, technique, or
3 device constitutes a practical alternate agricultural practice to the
4 open burning of field or turf grasses grown for seed, the department
5 shall, by order, certify approval of such alternate. Thereafter, in
6 any case which any such approved alternate is reasonably available, the
7 open burning of field and turf grasses grown for seed shall be
8 disallowed and no permit shall issue therefor.

9 (3) Until approved alternates become available, the department or
10 the authority may limit the number of acres on a pro rata basis among
11 those affected for which permits to burn will be issued in order to
12 effectively control emissions from this source.

13 (4) Permits issued for burning of field and turf grasses may be
14 conditioned to minimize emissions insofar as practical, including
15 denial of permission to burn during periods of adverse meteorological
16 conditions.

17 VI.

18 GLOBAL WARMING AND OZONE DEPLETION

19 NEW SECTION. **Sec. 601.** The legislature finds that:

20 (1) The release of chlorofluorocarbons and other ozone-depleting
21 chemicals into the atmosphere contributes to the destruction of
22 stratospheric ozone and threatens plant and animal life with harmful
23 overexposure to ultraviolet radiation;

24 (2) The technology and equipment to extract and recover
25 chlorofluorocarbons and other ozone-depleting chemicals from air
26 conditioners, refrigerators, and other appliances are available;

27 (3) A number of nonessential consumer products contain ozone-
28 depleting chemicals; and

1 (4) Unnecessary releases of chlorofluorocarbons and other ozone-
2 depleting chemicals from these sources should be eliminated.

3 NEW SECTION. **Sec. 602.** A new section is added to chapter 70.94
4 RCW to read as follows:

5 (1) Regulated refrigerant means a class I or class II substance as
6 listed in Title VI of section 602 of the federal clean air act
7 amendments of November 15, 1990.

8 (2) A person who services or repairs or disposes of a motor vehicle
9 air conditioning system; commercial or industrial air conditioning,
10 heating, or refrigeration system; or consumer appliance shall use
11 refrigerant extraction equipment to recover regulated refrigerant that
12 would otherwise be released into the atmosphere. This subsection does
13 not apply to off-road commercial equipment.

14 (3) Upon request, the department shall provide information and
15 assistance to persons interested in collecting, transporting, or
16 recycling regulated refrigerants.

17 (4) The willful release of regulated refrigerant from a source
18 listed in subsection (2) of this section is prohibited.

19 NEW SECTION. **Sec. 603.** A new section is added to chapter 70.94
20 RCW to read as follows:

21 No person may sell, offer for sale, or purchase any of the
22 following:

23 (1) A regulated refrigerant in a container designed for consumer
24 recharge of a motor vehicle air conditioning system or consumer
25 appliance during repair or service. This subsection does not apply to
26 a regulated refrigerant purchased for the recharge of the air
27 conditioning system of off-road commercial or agricultural equipment
28 and sold or offered for sale at an establishment which specializes in

1 the sale of off-road commercial or agricultural equipment or parts or
2 service for such equipment;

3 (2) A cleaning spray designed for noncommercial or nonindustrial
4 cleaning of electronic or photographic equipment that contains
5 chlorofluorocarbons or other ozone-depleting chemicals; and

6 (3) Nonessential consumer products that contain chlorofluorocarbons
7 or other ozone-depleting chemicals, and for which substitutes are
8 readily available. Products affected under this subsection shall
9 include, but are not limited to, party streamers, tire inflators, air
10 horns, and noise makers.

11 NEW SECTION. **Sec. 604.** A new section is added to chapter 70.94
12 RCW to read as follows:

13 The department shall adopt rules to implement sections 602 and 603
14 of this act. Rules shall include but not be limited to minimum
15 performance specifications for refrigerant extraction equipment, as
16 well as procedures for enforcing sections 602 and 603 of this act.
17 Enforcement provisions adopted by the department shall not include
18 penalties or fines in areas where equipment to collect or recycle
19 regulated refrigerants is not readily available.

20 VII.

21 MISCELLANEOUS SECTIONS

22 **Sec. 701.** RCW 70.94.053 and 1987 c 505 s 60 and 1987 c 109 s 34
23 are each reenacted and amended to read as follows:

24 (1) In each county of the state there is hereby created an air
25 pollution control authority, which shall bear the name of the county
26 within which it is located. The boundaries of each authority shall be
27 coextensive with the boundaries of the county within which it is

1 located. An authority shall include all incorporated and
2 unincorporated areas of the county within which it is located.

3 (2) All authorities which are presently (~~or may hereafter be~~
4 ~~within counties of the first class, class A or class AA, are hereby~~
5 ~~designated as~~) activated authorities ((and)) shall carry out the
6 duties and exercise the powers provided in this chapter. Those
7 activated authorities ((~~hereby activated~~)) which encompass contiguous
8 counties ((~~located in one or the other of the two major areas~~
9 ~~determined in RCW 70.94.011~~)) are declared to be and directed to
10 function as a multicounty authority.

11 (3) Except as provided in RCW 70.94.232, all other air pollution
12 control authorities are hereby designated as inactive authorities.

13 (4) The boards of those authorities designated as activated
14 authorities by this chapter shall be comprised of such appointees
15 and/or county commissioners or other officers as is provided in RCW
16 70.94.100. ((~~The first meeting of the boards of those authorities~~
17 ~~designated as activated authorities by this chapter shall be on or~~
18 ~~before sixty days after June 8, 1967.~~

19 (~~5) The department is directed to conduct the necessary evaluations~~
20 ~~and delineate appropriate air pollution regions throughout the state,~~
21 ~~taking into consideration:~~

22 (~~a) The natural climatic and topographic features affecting the~~
23 ~~potential for buildup of air contaminant concentrations.~~

24 (~~b) The degree of urbanization and industrialization and the~~
25 ~~existence of activities which are likely to cause air pollution.~~

26 (~~c) The county boundaries as related to the air pollution regions~~
27 ~~and the practicality of administering air pollution control programs.))~~

28 **Sec. 702.** RCW 70.94.055 and 1967 c 238 s 5 are each amended to
29 read as follows:

1 The board of county commissioners of any county (~~other than a~~
2 ~~first class, class A or class AA county~~) may activate an air pollution
3 control authority following a public hearing on its own motion, or upon
4 a filing of a petition signed by one hundred property owners within the
5 county. If the board of county commissioners determines as a result of
6 the public hearing that:

7 (1) Air pollution exists or is likely to occur; and

8 (2) The city or town ordinances, or county resolutions, or their
9 enforcement, are inadequate to prevent or control air pollution, they
10 (~~shall~~) may by resolution activate an air pollution control authority
11 or combine with a contiguous county or counties to form a multicounty
12 air pollution control authority.

13 **Sec. 703.** RCW 70.94.092 and 1975 1st ex.s. c 106 s 1 are each
14 amended to read as follows:

15 Notwithstanding the provisions of RCW 1.16.030, the budget year of
16 each activated authority shall be the fiscal year beginning July 1st
17 and ending on the following June 30th. (~~The current budget year shall~~
18 ~~be terminated June 30, 1975, and a budget for the fiscal year beginning~~
19 ~~July 1, 1975, shall be adopted pursuant to this section as now or~~
20 ~~hereafter amended.)) On or before the fourth Monday in June of each
21 year, each activated authority shall adopt a budget for the following
22 fiscal year. The activated authority budget shall contain adequate
23 funding and provide for staff sufficient to carry out the provisions of
24 all applicable ordinances, resolutions, and local regulations related
25 to the reduction, prevention, and control of air pollution. The
26 legislature acknowledges the need for the state to provide reasonable
27 funding to local authorities to carry out the requirements of this
28 chapter. The budget shall contain an estimate of all revenues to be
29 collected during the following budget year, including any surplus funds~~

1 remaining unexpended from the preceding year. The remaining funds
2 required to meet budget expenditures, if any, shall be designated as
3 "supplemental income" and shall be obtained from the component cities,
4 towns, and counties in the manner provided in this chapter. The
5 affirmative vote of three-fourths of all members of the board shall be
6 required to authorize emergency expenditures.

7 **Sec. 704.** RCW 70.94.100 and 1989 c 150 s 1 are each amended to
8 read as follows:

9 (1) The governing body of each authority shall be known as the
10 board of directors.

11 (2) In the case of an authority comprised of one county the board
12 shall be comprised of two appointees of the city selection committee
13 ~~((as hereinafter provided))~~, at least one of whom shall represent the
14 city having the most population in the county, and two representatives
15 to be designated by the board of county commissioners. In the case of
16 an authority comprised of two ~~((or))~~, three, four, or five counties,
17 the board shall be comprised of one appointee ~~((of the city selection
18 committee of))~~ from each county ~~((as hereinafter provided))~~, who shall
19 represent the city having the most population in such county, to be
20 designated by the mayor and city council of such city, and one
21 representative from each county to be designated by the board of county
22 commissioners of each county making up the authority. ~~((In the case of
23 an authority comprised of four or five counties, the board shall be
24 comprised of one appointee of the city selection committee of each
25 county as hereinafter provided who shall represent the city having the
26 most population in such county, and one representative from each county
27 to be designated by the board of county commissioners of each county
28 making up the authority.))~~ In the case of an authority comprised of
29 six or more counties, the board shall be comprised of one

1 representative from each county to be designated by the board of county
2 commissioners of each county making up the authority, and ~~((one))~~ three
3 appointees, one each from ~~((each city with over one hundred thousand~~
4 ~~population))~~ the three largest cities within the local authority's
5 jurisdiction to be appointed by the mayor and city council of such
6 city.

7 (3) If the board of an authority otherwise would consist of an even
8 number, the members selected as above provided shall agree upon and
9 elect an additional member who shall be either a member of the
10 governing body of one of the towns, cities or counties comprising the
11 authority, or a private citizen residing in the authority. ~~((All board~~
12 ~~members shall hold office at the pleasure of the appointing body.))~~

13 (4) The terms of office of board members shall be four years.

14 (5) Wherever a member of a board has a potential conflict of
15 interest in an action before the board, the member shall declare to the
16 board the nature of the potential conflict prior to participating in
17 the action review. The board shall, if the potential conflict of
18 interest, in the judgment of a majority of the board, may prevent the
19 member from a fair and objective review of the case, remove the member
20 from participation in the action.

21 **Sec. 705.** RCW 70.94.130 and 1969 ex.s. c 168 s 15 are each amended
22 to read as follows:

23 The board shall exercise all powers of the authority except as
24 otherwise provided. The board shall conduct its first meeting within
25 thirty days after all of its members have been appointed or designated
26 as provided in RCW 70.94.100. The board shall meet at least ten times
27 per year. All meetings shall be publicly announced prior to their
28 occurrence. All meetings shall be open to the public. A majority of
29 the board shall constitute a quorum for the transaction of business and

1 shall be necessary for any action taken by the board. The board shall
2 elect from its members a (~~chairman~~) chair and such other officers as
3 may be necessary. Any member of the board may designate a regular
4 alternate to serve on the board in his or her place with the same
5 authority as the member when he or she is unable to attend. Each
6 member of the board, or his or her representative, shall receive from
7 the authority (~~twenty-five dollars per day~~) compensation consistent
8 with such authority's rates (but not to exceed one thousand dollars per
9 year) for (~~each full day~~) time spent in the performance of (~~his~~)
10 duties under this chapter, plus the actual and necessary expenses
11 incurred by (~~him~~) the member in such performance. The board may
12 appoint (~~an executive director~~) a control officer, and any other
13 personnel, and shall determine their salaries, and pay same, together
14 with any other proper indebtedness, from authority funds.

15 **Sec. 706.** RCW 70.94.170 and 1969 ex.s. c 168 s 21 are each amended
16 to read as follows:

17 Any activated authority which has adopted an ordinance, resolution,
18 or valid rules and regulations as provided herein for the control and
19 prevention of air pollution shall appoint a full time control officer,
20 (~~who~~) whose sole responsibility shall be to observe and enforce the
21 provisions of this chapter and all orders, ordinances, resolutions, or
22 rules and regulations of such activated authority pertaining to the
23 control and prevention of air pollution.

24 **Sec. 707.** RCW 70.94.231 and 1969 ex.s. c 168 s 29 are each amended
25 to read as follows:

26 Upon the date that an authority begins to exercise its powers and
27 functions, all (~~districts formed as a district under chapter 70.94 RCW~~
28 ~~prior to June 8, 1967 which previously were wholly or partially~~

1 ~~composed of one or more cities or towns located within such activated~~
2 ~~authority shall be considered to be dissolved but its))~~ rules and
3 regulations in force on such date shall remain in effect until
4 superseded by the rules and regulations of the authority as provided in
5 RCW 70.94.230. ~~((In such event, the board of any such district shall~~
6 ~~proceed to wind up the affairs of the district in the same manner as if~~
7 ~~the district were dissolved as provided in RCW 70.94.260.))~~

8 **Sec. 708.** RCW 70.94.240 and 1969 ex.s. c 168 s 30 are each amended
9 to read as follows:

10 The board of any authority ~~((shall))~~ may appoint an air pollution
11 control advisory council to advise and consult with such board, and the
12 control officer in effectuating the purposes of this chapter. The
13 council shall consist of at least five appointed members who are
14 residents of the authority and who are preferably skilled and
15 experienced in the field of air pollution control, ~~((two))~~ chemistry,
16 meteorology, public health, or a related field, at least one of whom
17 shall serve as a representative~~((s))~~ of industry and one of whom shall
18 serve as a representative of the environmental community. The
19 ~~((chairman))~~ chair of the board of any such authority shall serve as ex
20 officio member of the council and be its ~~((chairman))~~ chair. Each
21 member of the council shall receive from the authority per diem and
22 travel expenses in an amount not to exceed that provided for the state
23 board in this chapter (but not to exceed one thousand dollars per year)
24 for each full day spent in the performance of his or her duties under
25 this chapter.

26 **Sec. 709.** RCW 70.94.331 and 1988 c 106 s 1 are each amended to
27 read as follows:

1 (1) The department shall have all the powers as provided in RCW
2 70.94.141.

3 (2) The department, in addition to any other powers vested in it by
4 law after consideration at a public hearing held in accordance with
5 chapters 42.30 ((RCW)) and ((chapter)) 34.05 RCW shall:

6 (a) Adopt rules ((and regulations)) establishing air quality
7 objectives and air quality standards;

8 (b) Adopt emission standards which shall constitute minimum
9 emission standards throughout the state. An authority may enact more
10 stringent emission standards, except for emission performance standards
11 for new wood stoves and opacity levels for residential solid fuel
12 burning devices which shall be state-wide, but in no event may less
13 stringent standards be enacted by an authority without the prior
14 approval of the department after public hearing and due notice to
15 interested parties;

16 (c) Adopt by rule ((and regulation)) air quality standards and
17 emission standards for the control or prohibition of emissions to the
18 outdoor atmosphere of radionuclides, dust, fumes, mist, smoke, other
19 particulate matter, vapor, gas, odorous substances, or any combination
20 thereof. Such requirements may be based upon a system of
21 classification by types of emissions or types of sources of emissions,
22 or combinations thereof, which it determines most feasible for the
23 purposes of this chapter. However, an industry, or the air pollution
24 control authority having jurisdiction, can choose, subject to the
25 submittal of appropriate data that the industry has quantified, to have
26 any limit on the opacity of emissions from a source whose emission
27 standard is stated in terms of a weight of particulate per unit volume
28 of air (e.g., grains per dry standard cubic foot) be based on the
29 applicable particulate emission standard for that source, such that any
30 violation of the opacity limit accurately indicates a violation of the

1 applicable particulate emission standard. Any alternative opacity
2 limit provided by this section that would result in increasing air
3 contaminants emissions in any nonattainment area shall only be granted
4 if equal or greater emission reductions are provided for by the same
5 source obtaining the revised opacity limit. A reasonable fee may be
6 assessed to the industry to which the alternate opacity standard would
7 apply. The fee shall cover only those costs to the air pollution
8 control authority which are directly related to the determination on
9 the acceptability of the alternate opacity standard, including testing,
10 oversight and review of data.

11 (3) The air quality standards and emission standards may be for the
12 state as a whole or may vary from area to area or source to source,
13 except that emission performance standards for new wood stoves and
14 opacity levels for residential solid fuel burning devices shall be
15 state-wide, as may be appropriate to facilitate the accomplishment of
16 the objectives of this chapter and to take necessary or desirable
17 account of varying local conditions of population concentration, the
18 existence of actual or ((reasonable)) reasonably foreseeable air
19 pollution, topographic and meteorologic conditions and other pertinent
20 variables.

21 (4) The department is directed to cooperate with the appropriate
22 agencies of the United States or other states or any interstate
23 agencies or international agencies with respect to the control of air
24 pollution and air contamination, or for the formulation for the
25 submission to the legislature of interstate air pollution control
26 compacts or agreements.

27 (5) The department is directed to conduct or cause to be conducted
28 a continuous surveillance program to monitor the quality of the ambient
29 atmosphere as to concentrations and movements of air contaminants and

1 conduct or cause to be conducted a program to determine the quantity of
2 emissions to the atmosphere.

3 (6) The department shall enforce the air quality standards and
4 emission standards throughout the state except where a local authority
5 is enforcing the state regulations or its own regulations which are
6 more stringent than those of the state.

7 (7) The department shall encourage local units of government to
8 handle air pollution problems within their respective jurisdictions;
9 and, on a cooperative basis provide technical and consultative
10 assistance therefor.

11 (8) The department shall have the power to require the addition to
12 or deletion of a county or counties from an existing authority in order
13 to carry out the purposes of this chapter(~~(:—PROVIDED, HOWEVER,~~
14 ~~That))~~).No such addition or deletion shall be made without the
15 concurrence of any existing authority involved. Such action shall only
16 be taken after a public hearing held pursuant to the provisions of
17 chapter 34.05 RCW.

18 **Sec. 710.** RCW 70.94.332 and 1987 c 109 s 18 are each amended to
19 read as follows:

20 Whenever the department of ecology has reason to believe that any
21 provision of this chapter or any rule or regulation adopted by it or
22 being enforced by it under RCW 70.94.410 relating to the control or
23 prevention of air pollution has been violated, it may cause written
24 notice to be served upon the alleged violator or violators. The notice
25 shall specify the provision of this chapter or the rule or regulation
26 alleged to be violated, and the facts alleged to constitute a violation
27 thereof, and may include an order that necessary corrective action be
28 taken within a reasonable time. In lieu of an order, the department
29 may require that the alleged violator or violators appear before it for

1 the purpose of providing the department information pertaining to the
2 violation or the charges complained of. In addition to or in place of
3 an order or hearing, the department may initiate action pursuant to RCW
4 70.94.425, 70.94.430, 70.94.431, and 70.94.435.

5 **Sec. 711.** RCW 70.94.385 and 1987 c 109 s 41 are each amended to
6 read as follows:

7 (1) Any authority may apply to the department for state financial
8 aid. The department shall ~~((by rule and regulation))~~ annually
9 establish the ~~((ratio))~~ amount of state funds ~~((to))~~ available for the
10 local ~~((funds))~~ authorities taking into consideration available federal
11 and state funds. The establishment of funding amounts shall be
12 consistent with federal requirements and local maintenance of effort
13 necessary to carry out the provisions of this chapter. Any such aid
14 shall be expended from the general fund or from ~~((such))~~ other
15 appropriations as the legislature may provide for this purpose:
16 PROVIDED, That federal funds shall be utilized to the maximum unless
17 otherwise approved by the department: PROVIDED FURTHER, That the
18 ~~((ratio))~~ amount of state funds provided to local ~~((funds of))~~
19 authorities during the previous year shall not be ((changed)) reduced
20 without a public notice or public hearing held by the department if
21 requested by the affected local authority, unless such changes are the
22 direct result of a reduction in the available federal funds for air
23 pollution control programs.

24 (2) Before any such application is approved and financial aid is
25 given or approved by the department, the authority shall demonstrate to
26 the satisfaction of the department that it is fulfilling the
27 requirements of ~~((RCW 70.94.380, or,))~~ this chapter. If the department
28 has not adopted ambient air quality standards and objectives as
29 permitted by RCW 70.94.331, the authority shall demonstrate to the

1 satisfaction of the department that it is acting in good faith and
2 doing all that is possible and reasonable to control and prevent air
3 pollution within its jurisdictional boundaries and to carry out the
4 purposes of this chapter.

5 (3) The department shall adopt rules ~~((and regulations))~~ requiring
6 the submission of such information by each authority including the
7 submission of its proposed budget and a description of its program in
8 support of the application for state financial aid as necessary to
9 enable the department to determine the need for state aid.

10 **Sec. 712.** RCW 70.94.395 and 1987 c 109 s 43 are each amended to
11 read as follows:

12 If the department finds, after public hearing upon due notice to
13 all interested parties, that the emissions from a particular type or
14 class of air contaminant source should be regulated on a state-wide
15 basis in the public interest and for the protection of the welfare of
16 the citizens of the state, it may adopt and enforce rules ~~((and
17 regulations))~~ to control and/or prevent the emission of air
18 contaminants from such source~~((:—PROVIDED, That))~~. An authority may,
19 after public hearing and a finding by the board of a need for more
20 stringent rules ~~((and regulations))~~ than those adopted by the
21 department under this section, propose the adoption of such rules ~~((and
22 regulations))~~ by the department for the control of emissions from the
23 particular type or class ~~((or))~~ of air contaminant source within the
24 geographical area of the authority. The department shall hold a public
25 hearing and shall adopt the proposed rules ~~((and regulations))~~ within
26 the area of the requesting authority, unless it finds that the proposed
27 rules ~~((and regulations))~~ are inconsistent with the rules ~~((and
28 regulations))~~ adopted by the department under this section~~((:—
29 PROVIDED, FURTHER, That))~~. When such standards are adopted by the

1 department it shall delegate solely to the requesting authority all
2 powers necessary for their enforcement at the request of the
3 authority(~~(:— PROVIDED, That the department may delegate the~~
4 ~~responsibility for the enforcement of such rules and regulations to any~~
5 ~~authority which it deems capable of enforcing such regulations:~~
6 ~~PROVIDED FURTHER, That)~~). If after public hearing the department finds
7 that the regulation on a state-wide basis of a particular type (~~(of)~~)
8 or class of air contaminant source is no longer required for the public
9 interest and the protection of the welfare of the citizens of the
10 state, the department may relinquish exclusive jurisdiction over such
11 source.

12 **Sec. 713.** RCW 70.94.405 and 1987 c 109 s 45 are each amended to
13 read as follows:

14 At any time after an authority has been activated for no less than
15 one year, the department may, on its own motion, conduct a hearing held
16 in accordance with chapters 42.30 ((RCW)) and ((chapter)) 34.05 RCW,
17 ((as now or hereafter amended)) to determine whether or not the air
18 pollution prevention and control program of such authority is being
19 carried out in good faith and is as effective as possible ((under the
20 circumstances)). If at such hearing the department finds that such
21 authority is not carrying out its air pollution control or prevention
22 program in good faith, ((or)) is not doing all that is possible and
23 reasonable to control and/or prevent air pollution within the
24 geographical area over which it has jurisdiction, or is not carrying
25 out the provisions of this chapter, it shall set forth in a report or
26 order to the appropriate authority: (1) Its recommendations as to how
27 air pollution prevention and/or control might be more effectively
28 accomplished; and (2) guidelines which will assist the authority in
29 carrying out the recommendations of the department.

1 **Sec. 714.** RCW 70.94.410 and 1987 c 109 s 46 are each amended to
2 read as follows:

3 (1) If, after thirty days from the time that the department issues
4 a report or order to an authority under RCW 70.94.400 and 70.94.405,
5 such authority has not taken ~~((any))~~ action which indicates that it is
6 attempting in good faith to implement the recommendations or actions of
7 the department as set forth in the report or order, the department may,
8 by order, declare as null and void any or all ordinances, resolutions,
9 rules or regulations of such authority relating to the control and/or
10 prevention of air pollution, and at such time the department shall
11 become the sole body with authority to make and enforce rules and
12 regulations for the control and/or prevention of air pollution within
13 the geographical area of such authority. ~~((In))~~ If this ~~((connection))~~
14 occurs, the department may assume all those powers which are given to
15 it by law to effectuate the purposes of this chapter. The department
16 may, by order, continue in effect and enforce ~~((those))~~ provisions of
17 the ordinances, resolutions, or rules ~~((and regulations))~~ of such
18 authority which are not less stringent than those requirements which
19 the department may have found applicable to the area under RCW
20 70.94.331, until such time as the department adopts its own rules ~~((and~~
21 ~~regulations))~~. Any rules ~~((and regulations))~~ promulgated by the
22 department shall be subject to the provisions of chapter 34.05 RCW ~~((as~~
23 ~~it now appears or may hereinafter be amended))~~. Any enforcement actions
24 shall be subject to RCW 43.21B.300 or 43.21B.310.

25 (2) No provision of this chapter is intended to prohibit any
26 authority from reestablishing its air pollution control program which
27 meets with the approval of the department and which complies with the
28 purposes of this chapter and with applicable rules ~~((and regulations))~~
29 and orders of the department.

1 (3) Nothing in this chapter shall prevent the department from
2 withdrawing the exercise of its jurisdiction over an authority upon its
3 own motion(~~(:—PROVIDED, That)~~) if the department has found at a
4 hearing held in accordance with chapters 42.30 ((RCW)) and ((chapter))
5 34.05 RCW ((as now or hereafter amended)), that the air pollution
6 prevention and control program of such authority will be carried out in
7 good faith ((~~or~~)), that such program will do all that is possible and
8 reasonable to control and/or prevent air pollution within the
9 geographical area over which it has jurisdiction, and that the program
10 complies with the provisions of this chapter. Upon the withdrawal of
11 the department, the department shall prescribe certain recommendations
12 as to how air pollution prevention and/or control is to be effectively
13 accomplished and guidelines which will assist the authority in carrying
14 out the recommendations of the department.

15 **Sec. 715.** RCW 70.94.420 and 1987 c 109 s 47 are each amended to
16 read as follows:

17 ((~~(1)~~)) It is declared to be the intent of the legislature of the
18 state of Washington that any state department or agency having
19 jurisdiction over any building, installation, ((~~or~~)) other property, or
20 other activity creating or likely to create significant air pollution
21 shall cooperate with the department and with air pollution control
22 agencies in preventing and/or controlling the pollution of the air in
23 any area insofar as the discharge of ((~~the matter~~)) air contaminants
24 from or by such building, installation, ((~~or~~)) other property, or
25 activity may cause or contribute to pollution of the air in such area.
26 Such state department or agency shall comply with the provisions of
27 this chapter and with any ordinance, resolution, rule or regulation
28 issued hereunder in the same manner as any other person subject to such
29 laws((~~or~~)) or rules ((~~or regulations~~)).

1 (~~(2) In addition to its other powers and duties prescribed by law,~~
2 ~~the department may establish classes of potential pollution sources for~~
3 ~~which any state department or agency having jurisdiction over any~~
4 ~~building, installation, or other property, which is not located within~~
5 ~~the geographical boundaries of any authority which has an air pollution~~
6 ~~control and/or prevention program in effect, shall, before discharging~~
7 ~~any matter into the air, obtain a permit from the department for such~~
8 ~~discharge, such permits to be issued for a specified period of time to~~
9 ~~be determined by the department and subject to revocation if the~~
10 ~~department finds that such discharge is endangering the health and~~
11 ~~welfare of any persons. Such permits may also be required for any such~~
12 ~~building, installation, or other property which is located within the~~
13 ~~geographical boundaries of any authority which has an air pollution~~
14 ~~control and prevention program in effect if the standards set by the~~
15 ~~department for state departments and agencies are more stringent than~~
16 ~~those of the authority. In connection with the issuance of any permits~~
17 ~~under this section, there shall be submitted to the department such~~
18 ~~plans, specifications, and other information as it deems relevant~~
19 ~~thereto and under such other conditions as it may prescribe.))~~)

20 NEW SECTION. **Sec. 716.** There is appropriated the sum of
21 dollars, or as much thereof as may be necessary, for the
22 biennium ending June 30, 1993, which represent fifty percent of the
23 fees under sections 234 through 240 of this act, to the water quality
24 account from the air pollution control account, for the purposes of
25 this act.

26 NEW SECTION. **Sec. 717.** Sections 602 and 603 of this act shall
27 take effect on July 1, 1992. Sections 202 through 209 of this act
28 shall take effect on January 1, 1993.

1 The remainder of this act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and shall take
4 effect immediately, except for sections 234 through 240 and 242 of this
5 act which shall take effect October 1, 1991.

6 NEW SECTION. **Sec. 718.** The following acts or parts of acts are
7 each repealed:

8 (1) RCW 70.120.110 and 1989 c 240 s 7, 1985 c 7 s 131, & 1979 ex.s.
9 c 163 s 12;

10 (2) RCW 70.120.140 and 1987 c 505 s 62 & 1980 c 176 s 5;

11 (3) RCW 70.120.900 and 1989 c 240 s 9;

12 (4) RCW 70.94.232 and 1983 c 3 s 177 & 1967 c 238 s 40;

13 (5) RCW 70.94.680 and 1971 ex.s. c 232 s 4;

14 (6) RCW 70.94.740 and 1972 ex.s. c 136 s 1;

15 (7) RCW 70.94.810 and 1984 c 277 s 3;

16 (8) RCW 70.94.815 and 1984 c 277 s 5;

17 (9) RCW 70.94.825 and 1984 c 277 s 7; and

18 (10) RCW 70.94.870 and 1984 c 164 s 3.

19 NEW SECTION. **Sec. 719.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.