
SENATE BILL 6419

State of Washington 64th Legislature 2016 Regular Session

By Senators Ranker, Nelson, Rolfes, Frockt, and Chase

Read first time 01/20/16. Referred to Committee on Energy,
Environment & Telecommunications.

1 AN ACT Relating to air pollution emission control devices;
2 amending RCW 70.94.015; reenacting and amending RCW 43.21B.300;
3 adding new sections to chapter 70.120A RCW; creating a new section;
4 and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that a key component
7 of preventing unhealthy air pollution levels is the air pollution
8 emission control devices installed on all new vehicles sold or
9 registered in the state. Under federal and state clean air laws,
10 motor vehicle manufacturers must demonstrate that the vehicles they
11 produce meet applicable emission standards and certify that the
12 vehicles and all emission control devices are produced in compliance
13 with these standards. A manufacturer providing a false certification
14 and making large numbers of vehicle sales in the state would be
15 responsible for the emission of large quantities of excess air
16 pollutants, threatening public health and violating ambient air
17 quality standards, and harming owners of the vehicles through lost
18 resale value and the cost and inconvenience of obtaining repairs or
19 other methods of ensuring the vehicle meets applicable emission
20 control requirements.

1 Therefore, it is the intent and purpose of this act to ensure
2 that the entire responsibility for correcting such failures is placed
3 upon the vehicle manufacturer and that there are adequate remedies to
4 protect public health, to fully compensate vehicle owners for their
5 damages, and to deter such violations in the future.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.120A
7 RCW to read as follows:

8 In addition to or as an alternate to any other penalty provided
9 by law, a person who violates any of the provisions of this chapter
10 or the rules adopted pursuant to this chapter shall incur a civil
11 penalty in an amount not to exceed ten thousand dollars per vehicle.
12 The penalties provided in this section must be imposed pursuant to
13 RCW 43.21B.300.

14 **Sec. 3.** RCW 43.21B.300 and 2010 c 210 s 12 and 2010 c 84 s 4 are
15 each reenacted and amended to read as follows:

16 (1) Any civil penalty provided in RCW 18.104.155, 70.94.431,
17 70.95.315, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.46.270,
18 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 90.76 RCW
19 shall be imposed by a notice in writing, either by certified mail
20 with return receipt requested or by personal service, to the person
21 incurring the penalty from the department or the local air authority,
22 describing the violation with reasonable particularity. For penalties
23 issued by local air authorities, within thirty days after the notice
24 is received, the person incurring the penalty may apply in writing to
25 the authority for the remission or mitigation of the penalty. Upon
26 receipt of the application, the authority may remit or mitigate the
27 penalty upon whatever terms the authority in its discretion deems
28 proper. The authority may ascertain the facts regarding all such
29 applications in such reasonable manner and under such rules as it may
30 deem proper and shall remit or mitigate the penalty only upon a
31 demonstration of extraordinary circumstances such as the presence of
32 information or factors not considered in setting the original
33 penalty.

34 (2) Any penalty imposed under this section may be appealed to the
35 pollution control hearings board in accordance with this chapter if
36 the appeal is filed with the hearings board and served on the
37 department or authority thirty days after the date of receipt by the
38 person penalized of the notice imposing the penalty or thirty days

1 after the date of receipt of the notice of disposition by a local air
2 authority of the application for relief from penalty.

3 (3) A penalty shall become due and payable on the later of:

4 (a) Thirty days after receipt of the notice imposing the penalty;

5 (b) Thirty days after receipt of the notice of disposition by a
6 local air authority on application for relief from penalty, if such
7 an application is made; or

8 (c) Thirty days after receipt of the notice of decision of the
9 hearings board if the penalty is appealed.

10 (4) If the amount of any penalty is not paid to the department
11 within thirty days after it becomes due and payable, the attorney
12 general, upon request of the department, shall bring an action in the
13 name of the state of Washington in the superior court of Thurston
14 county, or of any county in which the violator does business, to
15 recover the penalty. If the amount of the penalty is not paid to the
16 authority within thirty days after it becomes due and payable, the
17 authority may bring an action to recover the penalty in the superior
18 court of the county of the authority's main office or of any county
19 in which the violator does business. In these actions, the procedures
20 and rules of evidence shall be the same as in an ordinary civil
21 action.

22 (5) All penalties recovered shall be paid into the state treasury
23 and credited to the general fund except those penalties imposed
24 pursuant to RCW 18.104.155, which shall be credited to the
25 reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431,
26 the disposition of which shall be governed by that provision, RCW
27 70.105.080, which shall be credited to the hazardous waste control
28 and elimination account created by RCW 70.105.180, RCW 90.56.330,
29 which shall be credited to the coastal protection fund created by RCW
30 90.48.390, ~~((and))~~ RCW 90.76.080, which shall be credited to the
31 underground storage tank account created by RCW 90.76.100, and
32 section 2 of this act, which shall be credited to the motor vehicle
33 emission control subaccount created in RCW 70.94.015(4).

34 **Sec. 4.** RCW 70.94.015 and 1998 c 321 s 33 are each amended to
35 read as follows:

36 (1) The air pollution control account is established in the state
37 treasury. All receipts collected by or on behalf of the department
38 from RCW 70.94.151(2), and receipts from nonpermit program sources
39 under RCW 70.94.152(1) and 70.94.154(7), and all receipts from RCW

1 (~~70.94.650, 70.94.660, 82.44.020(2), and 82.50.405~~) 70.94.6528 and
2 70.94.6534 shall be deposited into the account. Moneys in the account
3 may be spent only after appropriation. Expenditures from the account
4 may be used only to develop and implement the provisions of chapters
5 70.94 and 70.120 RCW.

6 (2)(a) The amounts collected and allocated in accordance with
7 this section shall be expended upon appropriation except as otherwise
8 provided in this section and in accordance with the following
9 limitations:

10 (b) Portions of moneys received by the department of ecology from
11 the air pollution control account shall be distributed by the
12 department to local authorities based on:

13 (~~(a)~~) (i) The level and extent of air quality problems within
14 such authority's jurisdiction;

15 (~~(b)~~) (ii) The costs associated with implementing air pollution
16 regulatory programs by such authority; and

17 (~~(c)~~) (iii) The amount of funding available to such authority
18 from other sources, whether state, federal, or local, that could be
19 used to implement such programs.

20 (3) The air operating permit account is created in the custody of
21 the state treasurer. All receipts collected by or on behalf of the
22 department from permit program sources under RCW 70.94.152(1),
23 70.94.161, 70.94.162, and 70.94.154(7) shall be deposited into the
24 account. Expenditures from the account may be used only for the
25 activities described in RCW 70.94.152(1), 70.94.161, 70.94.162, and
26 70.94.154(7). Moneys in the account may be spent only after
27 appropriation.

28 (4) The motor vehicle emission control subaccount of the air
29 pollution control account is created in the custody of the state
30 treasurer. Except for actions brought pursuant to chapter 19.86 RCW,
31 all receipts collected by or on behalf of the state or other
32 authorities for violations of chapter 70.120A RCW must be deposited
33 into the account. Moneys in the account may be spent only after
34 appropriation and may be spent to support compliance and enforcement
35 of chapter 70.120 RCW, to mitigate and respond to adverse public
36 health and environmental effects of increased air pollution emissions
37 from motor vehicles, to assist motor vehicle owners to obtain full
38 and fair remedies for damages caused by vehicle manufacturer
39 violations of chapter 70.120A RCW, and to assist motor vehicle
40 dealers who may suffer economic damages or incur legal fees and costs

1 in proceedings related to vehicle manufacturer violations of chapter
2 70.120A RCW.

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

5 (1) A motor vehicle manufacturer may not falsely certify that the
6 vehicles it produces meet applicable emission standards or otherwise
7 misrepresent that the vehicles meet applicable emission standards.

8 (2) The legislature finds that a violation of this section is a
9 matter vitally affecting the public interest for the purpose of
10 applying the consumer protection act, chapter 19.86 RCW. Such a
11 violation is not reasonable in relation to the development and
12 preservation of business, is an unfair and deceptive act in trade or
13 commerce, and is an unfair method of competition for the purpose of
14 applying the consumer protection act, chapter 19.86 RCW.

15 NEW SECTION. **Sec. 6.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

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