
SUBSTITUTE SENATE BILL 6052

State of Washington

68th Legislature

2024 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Nguyen, Conway, Hasegawa, Keiser, Kuderer, Llias, Pedersen, Saldaña, Stanford, and Valdez; by request of Office of the Governor)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to petroleum products supply and pricing;
2 amending RCW 19.86.140 and 42.56.330; adding a new chapter to Title
3 19 RCW; creating a new section; prescribing penalties; and declaring
4 an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The state of Washington finds and
7 declares that during an energy transition away from reliance on
8 fossil fuels, but until that transition is complete, petroleum-based
9 transportation fuels are of critical importance to the people and
10 businesses of the state. The legislature further finds and declares
11 that the Washington state government requires: A complete and
12 thorough understanding of the transportation fuels market, to enable
13 it to respond to possible shortages, price shocks, oversupplies, or
14 other disruptions. The legislature also finds that access to timely
15 data collection, analysis, evaluation, and reporting to serve
16 information and policy development needs of the governor, the
17 legislature, public agencies, market participants, and the public is
18 essential.

19 (2) Washington consumers, state and local agencies, businesses,
20 and policymakers, planners, and enforcement agencies lack access to
21 sufficient pricing and operational information held by refinery

1 operators, fuel suppliers, and others in the supply chain for
2 transportation fuels. Such pricing and operational information is
3 critical to understanding the relationship between the price and the
4 cost of production, identifying price and market manipulation, and
5 protecting Washington state consumers, government entities, and
6 businesses. Similar information is already available for other
7 critical fuels, such as electricity.

8 (3) To protect consumers, Washington state must collect detailed
9 pricing and operational information from refineries, fuel suppliers,
10 and others in the transportation fuels supply chain, analyze the
11 data, and provide summarized reports to the public and lawmakers to
12 expose relevant cost and pricing practices in the industry, and to
13 identify market manipulation, unfair or deceptive practices, and any
14 other manner by which market participants act to harm competition or
15 act contrary to the best interests of consumers in the state.

16 (4) Furthermore, to ensure that the market for transportation
17 fuels is free of anticompetitive and predatory conduct, the
18 legislature finds that additional legal consequences are needed to
19 ensure that transportation fuels industry practices do not harm
20 consumers.

21 NEW SECTION. **Sec. 2.** The definitions in this section apply
22 throughout this chapter unless the context clearly requires
23 otherwise.

24 (1) "Commission" means the utilities and transportation
25 commission.

26 (2) "Division" means the division of petroleum market oversight
27 established in section 3 of this act.

28 (3) "Export" means the sale or distribution of transportation
29 fuels outside of this state by a means of conveyance other than the
30 fuel supply tank of a motor vehicle.

31 (4) "Import" means to bring transportation fuels into this state
32 by a means of conveyance other than the fuel supply tank of a motor
33 vehicle.

34 (5) "Major marketer" means any person who sells transportation
35 fuels or crude oil intended in amounts determined by the commission
36 as having a major effect on transportation fuel supplies in
37 Washington.

38 (6) "Oil terminal operator" means a person who owns, operates, or
39 otherwise controls a terminal in this state.

1 (7) "Person" means any individual, partnership, association,
2 public or private corporation, limited liability company, or any
3 other type of legal or commercial entity, including their members,
4 managers, partners, directors, or officers.

5 (8) "Planned maintenance" means regular, periodic maintenance or
6 repair of one or more pieces of equipment within a refinery that
7 reduces output of transportation fuels at a level that may affect
8 market supply.

9 (9) "Refinery" means any industrial plant, regardless of
10 capacity, processing crude oil feedstock and manufacturing
11 transportation fuels in Washington.

12 (10) "Spot market transaction" means a single, bulk transaction
13 of at least 5,000 barrels, involving a maximum of one product and one
14 delivery, with title transfer occurring within one year.

15 (11) "Terminal" means a fuel storage and distribution facility
16 that has been assigned a terminal control number by the internal
17 revenue service.

18 (12)(a) "Transportation fuels" means gasoline, gasoline blending
19 components, and diesel.

20 (b) "Transportation fuels" does not include jet fuels and
21 maritime fuels.

22 (13)(a) "Turnaround" means a planned, periodic shutdown, total or
23 partial, of a refinery process unit or plant to perform maintenance,
24 overhaul, and repair operations and to inspect, test, and replace
25 process materials and equipment.

26 (b) "Turnaround" does not include:

27 (i) Unplanned maintenance; or

28 (ii) Planned maintenance.

29 (14) "Unbranded," as applied to fuel, means gasoline and diesel
30 fuel sold for wholesale or retail distribution to consumers without
31 proprietary additives or marketing under a brand name or trademark
32 owned or controlled by an independent refiner or an integrated
33 refining and marketing company.

34 (15) "Unplanned maintenance" means any maintenance or repair that
35 requires the shutdown of any part of the refinery that exceeds 72
36 hours oil out, oil in and was not scheduled as turnaround or planned
37 maintenance.

38 NEW SECTION. **Sec. 3.** (1)(a) The division of petroleum market
39 oversight is established within the commission.

1 (b) The division must operate with authority independent of the
2 commission's authority.

3 (c) The division must be led by a director, who is appointed by
4 the governor and holds office at the pleasure of the governor.

5 (d) The director of the division must employ and prescribe the
6 duties of other staff members as necessary to carry out the
7 provisions of this chapter. The staff must include, without
8 limitation, economists, individuals with expertise in transportation
9 fuels markets, and investigative staff with legal training.

10 (2) The division has the powers and duties to:

11 (a) Provide independent analysis and evaluation of the
12 transportation fuels markets for the protection of consumers by
13 identifying price manipulation, market manipulation, monopolistic
14 behaviors, and any other manner by which market participants act to
15 unfairly constrain the supply of transportation fuels or otherwise
16 harm competition;

17 (b) Provide guidance and recommendations to the commission
18 relating to the development of the assessment required by section 14
19 of this act and the transportation fuels transition plan described in
20 section 15 of this act;

21 (c) Provide guidance and recommendations to the governor, members
22 of the commission, and other divisions of the commission on issues
23 related to transportation fuels pricing and supply in Washington;

24 (d) Report its findings and recommendations to improve market
25 performance at least annually to the legislature, the governor, the
26 commission, the attorney general, the department of ecology, the
27 energy resilience and emergency management office of the department
28 of commerce, and the department of licensing;

29 (e) Subpoena witnesses, compel their attendance and testimony,
30 administer oaths and affirmations, take evidence and require by
31 subpoena the production of any books, papers, records, or other items
32 material to the performance of the division's duties or exercise of
33 its powers including, but not limited to, current and historical
34 pricing and sales data and contracts with other petroleum industry
35 participants; and

36 (f) Refer potential violations of this chapter to the attorney
37 general confidentially at any time.

38 NEW SECTION. **Sec. 4.** (1) Beginning January 1, 2026, a refinery
39 must submit the following information to the division monthly:

1 (a) The refinery's acquisition cost of crude oil, by volume and
2 country of origin;

3 (b) Imports of transportation fuels and ethanol, by acquisition
4 cost and volume;

5 (c) Exports of transportation fuels and ethanol, by volume and
6 sale price;

7 (d) Refinery outputs of transportation fuels, by volume,
8 including all gasoline sold unbranded;

9 (e) Refinery capacity, and utilization and method of
10 transportation of refinery receipts and distributions; and

11 (f) Washington weighted average prices and sales volumes of
12 transportation fuels sold through company-operated retail outlets, to
13 wholesale customers, and to other end-users.

14 (2) Beginning January 1, 2026, an oil terminal operator must
15 submit the following information to the division monthly:

16 (a) The acquisition cost of transportation fuels by volume, sales
17 by volume, including fees, surcharges, and taxes on transportation
18 fuels;

19 (b) The volume and sale price of transportation fuels;

20 (c) Imports of transportation fuels, by volume and acquisition
21 cost; and

22 (d) Exports of transportation fuels, by volume and sale price.

23 (3) Beginning January 1, 2026, a major marketer must submit the
24 following information to the division monthly:

25 (a) The acquisition cost of transportation fuels by volume, sales
26 by volume, including fees, surcharges, and taxes on transportation
27 fuels;

28 (b) Facility capacity, methods of transportation and
29 distribution, and sale of transportation fuels by volume and price;

30 (c) Imports of transportation fuels, by volume and acquisition
31 cost; and

32 (d) Exports of transportation fuels, by volume and sale price.

33 (4) A refinery, oil terminal operator, or major marketer
34 submitting information under this section must include the full names
35 of all persons or entities that directly or indirectly own 10 percent
36 or more of the refiner, oil terminal operator, or major marketer
37 submitting the information.

1 NEW SECTION. **Sec. 5.** (1) Beginning January 1, 2026, a refinery,
2 major marketer, or oil terminal operator must retain for division
3 review, for at least three years:

4 (a) Copies of all contracts or agreements entered into and any
5 amendments to such contracts or agreements, with another refinery,
6 oil terminal operator, major marketer, or other entity that trades in
7 transportation fuels; and

8 (b) Records of each transaction made under the contracts or
9 agreements in (a) of this subsection and the prices charged for those
10 transactions.

11 (2) Other entities, including, without limitation, proprietary
12 storage companies, that commercially trade in transportation fuels
13 must retain for division review, for at least three years:

14 (a) Copies of monthly transportation fuels inventory volume
15 records by type for each position holder by name of company; and

16 (b) Copies of all contracts or agreements entered into with any
17 refinery, oil terminal operator, major marketer, or other entity that
18 trades in transportation fuels.

19 (3) The requirements of this section apply regardless of whether
20 the entity takes possession of the transportation fuels, as
21 designated by the commission by rule.

22 NEW SECTION. **Sec. 6.** Beginning January 1, 2026, a refinery, oil
23 terminal operator, major marketer, or other entity that trades in
24 transportation fuels, completing a spot market transaction for
25 transportation fuels must submit the following information, for each
26 transaction, to the division monthly:

27 (1) The identity of the spot market;

28 (2) Whether the transaction was reported to the oil price
29 information service, or any other price reporting service, and the
30 time of the reporting;

31 (3) The date;

32 (4) The contract identification number;

33 (5) The position sequence number;

34 (6) The contract position identification number;

35 (7) The name, or nonanonymized identification, of the executing
36 trader;

37 (8) The counterparty, including company name and name or
38 nonanonymized identification of the executing trader;

39 (9) Whether the reporting entity is the seller or buyer;

- 1 (10) The broker, including company name and name or nonanonymized
2 identification of the executing broker;
- 3 (11) The type of transportation fuel bought or sold;
- 4 (12) The product name for each type of transportation fuel;
- 5 (13) The volume in thousands of barrels, or other specified unit
6 of measurement if unable to be indicated in thousands of barrels;
- 7 (14) The invoiced volume in thousands of barrels, or other
8 specified unit of measurement if unable to be indicated in thousands
9 of barrels;
- 10 (15) The date and time the transportation fuels are scheduled to
11 be delivered or were delivered;
- 12 (16) The delivery location specified in the contract and the
13 actual delivery location;
- 14 (17) The method of transportation for the delivery, such as
15 pipeline, marine vessel, or truck, and the name of the transport;
- 16 (18) The actual title transfer date;
- 17 (19) The contract subcycle, including descriptors such as "any,"
18 "L3," "FH," "BH," "C1," "C2," "C3," or "C4";
- 19 (20) The type of pricing method, including exchange of futures
20 for physical, fixed price, fixed date range, floating date range,
21 reference formula, oil price information service close, event-related
22 date range, such as seven days on and around delivery or discharge,
23 or any other utilized method of pricing;
- 24 (21) The contract price formula, including the differential from
25 any contract formula and the unit of measurement for any price
26 differential;
- 27 (22) The pricing start and end dates for each contract;
- 28 (23) The price value of the contract; and
- 29 (24) For exchange of futures for physical contracts, the name of
30 the futures product, the contract month of the futures product
31 expressed as the two-digit month and the two-digit year (MM-YY), and
32 the price value of the futures product.

33 NEW SECTION. **Sec. 7.** (1) Beginning January 1, 2026, a refinery
34 must report quarterly all the following information, at a minimum,
35 regarding planned maintenance, unplanned maintenance, or turnaround
36 completed during the previous quarter:

- 37 (a) A brief description of the completed work;
- 38 (b) The start and return-to-service dates;
- 39 (c) The individual process units involved;

1 (d) The name and operational capacity of each process unit
2 involved;

3 (e) The daily decrease in output of transportation fuels;

4 (f) The quantity of contractual supply obligations for
5 transportation fuels due during the planned maintenance or
6 turnaround;

7 (g) The drawdown of inventory levels of transportation fuels
8 produced by the process unit that are controlled by the refinery on-
9 site and at other storage locations in this state during the planned
10 maintenance event or turnaround, and the levels of such inventories
11 immediately before the planned maintenance or turnaround began; and

12 (h) Imports of transportation fuels produced by the process unit
13 in preparation for or during the planned maintenance or turnaround.

14 (2) For unplanned maintenance, a refinery must submit the
15 following additional information:

16 (a) The name and operational capacity of each process unit
17 involved in the unplanned outage;

18 (b) The daily decrease in output of transportation fuels from
19 each process unit affected by the unplanned outage;

20 (c) The inventory levels of transportation fuels produced by the
21 process unit affected by the unplanned maintenance that is controlled
22 by the refinery on-site and at other storage locations in this state
23 during the unplanned maintenance;

24 (d) A description of the reason for the unplanned maintenance;

25 (e) The duration of production reduction;

26 (f) The return-to-service date;

27 (g) The total decreased output of transportation fuels from each
28 affected process unit;

29 (h) The total increased output of transportation fuels from other
30 process units, by type of product, to partially compensate for the
31 reduced output from the process units affected by the unplanned
32 maintenance or outage;

33 (i) The amount of material obtained from other sources that
34 compensated for the decrease described in (g) of this subsection and
35 enabled the refinery to cover the loss of that production; and

36 (j) The drawdown of inventory levels of transportation fuels
37 produced by the process unit that are controlled by the refinery on-
38 site and at other storage locations in this state during the
39 unplanned maintenance event.

1 (3) The division may request additional information from a
2 refinery, as necessary, to assess the effect of the planned
3 maintenance, unplanned maintenance, or turnaround on the prices of
4 transportation fuels in this state.

5 (4) Information required under this section must be reported no
6 later than 30 days after the end of each quarter.

7 (5) Information collected under this section is confidential
8 information exempt from public disclosure, as provided in section 18
9 of this act and RCW 42.56.330, and must comply with the cybersecurity
10 requirements in section 17 of this act.

11 NEW SECTION. **Sec. 8.** A refinery, oil terminal operator, or
12 major marketer required to submit information under this chapter may
13 instead, submit a report made to any other governmental agency if:

14 (1) The alternative report or reports contain all the information
15 or data required under this chapter; and

16 (2) The reporting entity clearly identifies the specific
17 provision of this chapter to which the alternate report is
18 responsive.

19 NEW SECTION. **Sec. 9.** (1) The division, utilizing its own staff
20 and other support staff having expertise and experience in, or with,
21 the petroleum industry, and in consultation with the energy
22 resilience and emergency management office of the department of
23 commerce, must gather, analyze, and interpret the information
24 submitted to it under this chapter and other information relating to
25 the supply and price of transportation fuels, including, but not
26 limited to, all of the following:

27 (a) The nature, cause, and extent of any transportation fuels
28 shortage or condition affecting supply;

29 (b) The economic and environmental impacts of any transportation
30 fuels shortage or condition affecting supply;

31 (c) Transportation fuels demand and supply forecasting
32 methodologies utilized by the transportation fuels industry in
33 Washington;

34 (d) The prices, including sales to unbranded retail markets, and
35 any significant changes in prices charged by the transportation fuels
36 industry for transportation fuels sold in Washington and the reasons
37 for those changes;

1 (e) The profits, both before and after taxes, of the industry as
2 a whole and of major firms within it, and where in the supply chain
3 these profits are realized, including a comparison with other major
4 industry groups and major firms within them as to profits, return on
5 equity and capital, and price-earnings ratio;

6 (f) The emerging trends relating to supply, demand, and prices of
7 transportation fuels; and

8 (g) The nature and extent of efforts of the transportation fuels
9 industry to expand refinery capacity and to make acquisitions of
10 additional supplies of transportation fuels.

11 (2) The commission must analyze the impacts of state and federal
12 laws and policies upon the supply and prices of transportation fuels.

13 (3) The division must quarterly prepare and make available to the
14 public a summary report based on the data collected under this
15 chapter. The division must aggregate information used in a report
16 prepared under this subsection to the extent necessary to maintain
17 confidentiality of all specific confidential information exempt from
18 public disclosure and protected as confidential under section 18 of
19 this act and RCW 42.56.330, including critical energy infrastructure
20 information protected under the cybersecurity requirements
21 established in section 17 of this act.

22 (4) Within 30 days of the end of each quarter, the commission
23 must post the following information obtained from the division on its
24 internet website:

25 (a) The gross transportation fuels refining margin calculated by
26 the division, separated by month, as a volume-weighted gross refining
27 margin in aggregate for all the combined refineries in this state;

28 (b) The net transportation fuels refining margin calculated by
29 the commission, separated by month, as a volume-weighted net refining
30 margin in aggregate for all the combined refineries in this state;
31 and

32 (c) The average retail price of gasoline by regional markets
33 within the state, and a breakdown of that average price into retail
34 margin and costs, distribution margin (from the rack to the stations)
35 and costs, wholesale margin (from the refinery to the rack) and
36 costs, and refinery margin and costs.

37 (5) The definitions in this subsection apply throughout this
38 section unless the context clearly requires otherwise.

39 (a) "Gross transportation fuels refining margin" means the
40 difference, expressed in dollars per barrel, between the volume-

1 weighted average price of wholesale transportation fuels sold by a
2 refinery in this state and the average price of crude oil received by
3 the refinery.

4 (b) "Net transportation fuels refining margin" means the
5 difference, expressed in dollars per barrel, between the gross
6 transportation fuels refining margin and the refinery's operational
7 costs.

8 (c) "Operational costs" means costs, expressed in dollars per
9 barrel, necessarily incurred by the refinery to produce
10 transportation fuels meeting Washington specifications including,
11 without limitation, costs of labor, electricity, natural gas,
12 chemicals, maintenance, hydrogen, and other intermediate crude oil
13 products, federal renewable identification numbers, obligation costs,
14 logistics costs, taxes and fees, and additive costs.

15 NEW SECTION. **Sec. 10.** (1) The division, in consultation with
16 the department of ecology, must adopt a methodology for refiners to
17 use to provide separate quantification of the volume-weighted fees or
18 estimated valuations of costs embedded in all wholesale sales of
19 transportation fuels associated with the Washington clean fuels
20 program established under chapter 70A.535 RCW and the Washington cap
21 and invest program established under chapter 70A.65 RCW, for each
22 volume-weighted average price for:

- 23 (a) Unbranded rack sales;
- 24 (b) Branded rack sales;
- 25 (c) Bulk sales;
- 26 (d) Spot pipeline sales; and
- 27 (e) Dealer tankwagon sales.

28 (2) The division must provide an opportunity for public input
29 regarding the development of the methodology.

30 (3) Beginning 60 days after the division adopts the methodology,
31 the quantification must be included in the reports required in
32 section 9 of this act.

33 NEW SECTION. **Sec. 11.** (1) By January 1, 2027, and quarterly
34 thereafter, the division must publish and submit to the governor and
35 the legislature a summary, an analysis, and an interpretation of the
36 information submitted to it under this chapter, consistent with the
37 confidentiality requirements of section 18 of this act and RCW
38 42.56.330, and the cybersecurity requirements of section 17 of this

1 act. Any person may submit comments in writing regarding the accuracy
2 or sufficiency of the information submitted.

3 (2) The division must prepare a biennial assessment of the
4 information provided under this chapter.

5 (3) The division may use reasonable means necessary and available
6 to it to seek and obtain any facts, figures, and other information
7 from any source for the purpose of preparing and providing reports to
8 the governor and the legislature. The commission must specifically
9 include in the reports its analysis of any unsuccessful attempts in
10 obtaining information from potential sources, including the lack of
11 cooperation or refusal to provide information.

12 (4) Whenever the commission fails to provide any report required
13 under this section within the specified time, it must provide to all
14 members of the legislature and the governor, within five days of the
15 specified time, a detailed written explanation of the cause of any
16 delay.

17 NEW SECTION. **Sec. 12.** (1) By August 1, 2024, the commission
18 must post on its internet website information about transportation
19 fuels including, but not limited to:

20 (a) A comparison between the retail price of Washington gasoline
21 and diesel, the retail price of Oregon gasoline and diesel, the
22 retail price of California gasoline and diesel, and the national
23 average retail price of gasoline and diesel over time for the past
24 two decades;

25 (b) The relationship between the price of Washington
26 transportation fuels and the price of crude oil for the past two
27 decades;

28 (c) A comparison between the cost components of a gallon of
29 Washington retail gasoline and the cost components of the national
30 average price of retail gasoline including, but not limited to,
31 taxes, crude oil, refining margin, and rack-to-retail margin;

32 (d) A description of how transportation fuels are produced and
33 distributed in Washington including, but not limited to, an
34 explanation of crude oil and the global crude oil market,
35 transportation networks for the import, export, and movement of crude
36 oil and refined products; and

37 (e) A description of the major factors affecting gasoline prices
38 in Washington.

1 (2) The information provided on the website must be designed and
2 displayed in a manner that facilitates understanding by the general
3 public and must include, to the extent practicable, visual
4 representations of data and plain language descriptions.

5 (3) The information contained on the website must be drawn from
6 publicly available data and secondary sources and must be
7 appropriately referenced.

8 NEW SECTION. **Sec. 13.** (1) The commission must notify those
9 persons who have failed to timely provide the information specified
10 and required by the division under this chapter. If, within five
11 business days after being notified of the failure to provide the
12 specified information, the person willfully fails to supply the
13 specified information, the person is subject to a civil penalty of
14 not less than \$5,000 nor more than \$20,000 per day for each day the
15 submission of information is refused or delayed, up to a maximum
16 penalty of \$500,000 per submission.

17 (2) A person who willfully makes any false statement,
18 representation, or certification in any record, report, plan, or
19 other document filed with the commission is subject to a civil
20 penalty not to exceed \$40,000, as well as all other civil and
21 criminal liability provided under applicable law.

22 (3) The administration of civil penalties under this section is
23 subject to the procedures provided in section 19 of this act, and to
24 the procedures for judicial review under the administrative procedure
25 act, chapter 34.05 RCW.

26 (4) In addition to any civil penalty provided for by this
27 section, if a person fails to timely provide the information
28 specified and required by the commission under this act, the
29 commission may petition a court for an order compelling the person to
30 provide that information.

31 (5) For purposes of this section, "person" means, in addition to
32 the definition contained in section 2 of this act, any responsible
33 corporate officer.

34 NEW SECTION. **Sec. 14.** (1)(a) On or before July 1, 2026, and
35 every three years thereafter, the division, in collaboration with the
36 energy resilience and emergency management office of the department
37 of commerce, must submit an assessment to the legislature, and to the
38 governor that:

1 (i) Identifies methods to ensure a reliable supply of affordable
2 transportation fuels in Washington. The assessment must consider the
3 potential benefits to Washington transportation fuel consumers of
4 creating estimates for the level of transportation fuels at the state
5 level and, to the extent feasible, at regional and local levels, and
6 individual refineries if relevant, that should be held in reserve by
7 refiners to prevent shortages that result in sharp increases in the
8 price of transportation fuels. The assessment must consider all
9 factors causing price fluctuation in retail transportation fuels
10 prices when recommending adequate reserve levels. The division must
11 consider all relevant evidence from any reasonably available source
12 including, but not limited to, information about imports, by amount,
13 source, if known, and data received by the commission under existing
14 laws, economic and business experts, and information from any local,
15 state, and federal agencies. The energy resilience and emergency
16 management office of the department of commerce must transmit to the
17 legislature any proposals it deems appropriate for mandatory reserve
18 levels and the terms of a program to implement reserve levels;

19 (ii) Evaluates the price of transportation fuels, including
20 branded and unbranded retail prices, alternate formulations of
21 transportation fuels with lower carbon impact, and other products
22 suitable for production from refineries in Washington. This
23 evaluation must consider the market demand for these products at
24 three, seven, 10, and 20-year intervals from the date of the
25 assessment. This evaluation must include both of the following:

26 (A) An examination of whether branded fuel additives have any
27 impact and, if so, how much on fuel efficiency and vehicle emissions;
28 and

29 (B) An assessment of the presence and availability of retail
30 outlets, including monitoring changes in availability of retail
31 outlets that contribute to increasing retail prices in local and
32 regional areas;

33 (iii) Considers different levels of supply conditions and
34 assesses the impact of potential refinery closures in Washington;

35 (iv) Includes an analysis of the impacts on production of
36 refinery planned maintenance, unplanned maintenance, and turnaround,
37 utilizing the reports provided by refineries as directed in section 7
38 of this act. Notwithstanding any other law, the department of labor
39 and industries must disclose to the division, upon request, any
40 information the department has received to ensure all aspects of

1 refinery safety are incorporated into the analysis. All information
2 designated confidential must be treated as confidential by the
3 division;

4 (v) Evaluates the utility and feasibility of alternative methods
5 to maintain adequate supplies of transportation fuels, including
6 delivery alternatives for fuel and components of fuel, such as
7 delivery by rail, and other solutions beyond the activities of
8 refineries, oil terminal operators, major marketers, and other
9 entities; and

10 (vi) Proposes solutions to mitigate any impacts described in the
11 assessment. The solutions must include an assessment of the
12 employment impacts and the cost and cost-effectiveness of any
13 proposal, including cost impacts to all impacted sectors, both public
14 and private. The assessment must include recommendations and
15 alternatives.

16 (b) The first assessment must include the evaluation of
17 transportation fuels refining.

18 (2) The assessment must be developed in a public process. The
19 assessment must be available to the public within the proceeding
20 docket and must be approved by a vote of the commission at its
21 business meeting.

22 (3) The division may enter into contracts to perform the
23 assessment required in subsection (1) of this section.

24 (4) The division must provide input to and otherwise support the
25 commission in preparation of the assessment required by subsection
26 (1) of this section.

27 NEW SECTION. **Sec. 15.** On or before January 1, 2027, the
28 division and the department of ecology, considering findings of the
29 assessment conducted under section 14 of this act, must prepare a
30 transportation fuels transition plan. The commission and the
31 department of ecology must determine the contents of the plan, but
32 the plan must include, at a minimum, a discussion of how to ensure
33 that the supply of transportation fuels is affordable, reliable,
34 equitable, and adequate to meet demand, and an evaluation of the
35 readiness of the electrical grid to serve as the main source of
36 energy for the transportation sector and identify shortcomings where
37 actions must be taken to strengthen grid reliability. The plan must
38 be prepared in consultation with a multistakeholder, multiagency work
39 group convened by the division and the department of ecology to

1 identify mechanisms to plan for and monitor progress toward the
2 state's reliable, safe, equitable, and affordable transition away
3 from petroleum fuels in line with declining in-state petroleum
4 demand, RCW 70A.45.020, and chapter 70A.65 RCW. The work group must
5 consist of members representing interests that include, but are not
6 limited to, environmental justice, labor, environmental protection,
7 land use, and public health, members representing the state's fuel
8 producers and refiners, and members representing relevant state,
9 regional, and local agencies.

10 NEW SECTION. **Sec. 16.** (1) In connection with any investigation
11 or action authorized under this act, the division may:

12 (a) Inspect and copy books, records, and other items described in
13 (e) of this subsection;

14 (b) Hear complaints;

15 (c) Administer oaths;

16 (d) Certify to all official acts;

17 (e) Issue subpoenas for the attendance of witnesses and the
18 production of papers, books, accounts, documents, any writing as
19 defined by the Washington state court rules of evidence, tangible
20 things, and testimony pertinent or material to any inquiry,
21 investigation, hearing, proceeding, or action conducted in any part
22 of the state;

23 (f) Promulgate interrogatories pertinent or material to any
24 inquiry, investigation, hearing, proceeding, or action;

25 (g) Divulge information or evidence related to the investigation
26 of unlawful activity discovered from interrogatory answers, papers,
27 books, accounts, documents, and any other item described in (e) of
28 this subsection, or testimony, to the attorney general or to any
29 prosecuting attorney of this state, any other state, or the United
30 States who has a responsibility for investigating the unlawful
31 activity investigated or discovered, or to any governmental agency
32 responsible for enforcing laws related to the unlawful activity
33 investigated or discovered, if the attorney general, prosecuting
34 attorney, or agency to which the information or evidence is divulged
35 agrees to maintain the confidentiality of the information received to
36 the extent required by this section; and

37 (h) Present information or evidence obtained or developed from
38 the investigation of unlawful activity to a court or at an
39 administrative hearing in connection with any action or proceeding.

1 (2) The division must use reasonable means necessary and
2 available including, but not limited to, the authority under
3 subsection (1)(e) and (f) of this section, to seek and obtain any
4 facts, figures, and other information from any source for the purpose
5 of preparing the assessment under section 14 of this act. The
6 division must specifically report in the assessment any ongoing or
7 unsuccessful attempts to obtain information from potential sources,
8 including the lack of cooperation or refusal to provide information.

9 (3) For purposes of the assessment prepared under section 14 of
10 this act, the commission may impose a civil penalty whenever a person
11 fails to timely provide the information specified in that section and
12 any other information the commission deems necessary to conduct the
13 assessment. A civil penalty under this subsection will be imposed
14 under the procedures set forth in section 13 of this act.

15 (4) Section 13 (1) through (3) of this act apply to a person who
16 willfully submits or makes any false statement to the division.

17 (5) The commission must conduct a public meeting in December of
18 each year to provide an opportunity for the public to provide input
19 on transportation fuels prices.

20 NEW SECTION. **Sec. 17.** (1) The requirements in this section
21 apply to all state agencies that have authorized access to the data
22 being collected in this chapter. Each agency is responsible for
23 implementing information technology infrastructure and procedures to
24 protect critical energy infrastructure information that if
25 compromised or released, could result in supply disruptions,
26 negatively affect economic security, national security, or public
27 health or safety, or result in other potentially negative
28 consequences, or any combination of those matters.

29 (2) (a) The commission must contract with an independent
30 consultant with experience in developing information technology
31 architecture to protect critical energy infrastructure information,
32 in coordination with the office of cybersecurity within the
33 consolidated technology services agency created in chapter 43.105 RCW
34 and the energy resilience and emergency management office of the
35 department of commerce, to provide recommendations on standards for
36 each of the authorized state agencies to adopt to secure the critical
37 energy infrastructure information in this chapter. The standards must
38 be consistent with federal standards for energy sector data security.

1 (b) In identifying these standards, the consultant must seek
2 input from the transportation fuels industry to make final
3 recommendations to the state for implementing information technology
4 infrastructure and procedures to protect critical energy
5 infrastructure information.

6 (c) By September 1, 2025, each of the authorized state agencies
7 must establish the cybersecurity standards necessary to protect the
8 critical energy infrastructure information in this chapter. These
9 standards must be reviewed and updated annually to address the
10 dynamic nature of cybersecurity risks.

11 (3) Each agency with authorized access to the critical energy
12 infrastructure information in this chapter must implement program
13 activities, including data governance, information protection,
14 response, access control and monitoring, system management, and other
15 necessary requirements, in addition to receive an annual audit.

16 (4) (a) The auditor must coordinate with the office of
17 cybersecurity within the consolidated technology services agency
18 created in chapter 43.105 RCW to develop a risk-based compliance
19 oversight evaluation for state agencies, in coordination with the
20 energy resilience and emergency management office of the department
21 of commerce.

22 (b) In developing the risk-based compliance oversight evaluation,
23 the independent consultant must provide guidance by using existing
24 federal infrastructure protection audit processes and established
25 cybersecurity requirements to protect critical energy infrastructure
26 information.

27 (c) By September 1, 2025, the auditor, in coordination with the
28 office of cybersecurity within the consolidated technology services
29 agency created in chapter 43.105 RCW and the energy resilience and
30 emergency management office of the department of commerce, must
31 establish the audit requirements necessary to protect the critical
32 energy infrastructure information in this chapter. The audit
33 requirements must be reviewed annually and include any updates from
34 additional standards included in subsection (2) of this section.

35 (5) (a) The auditor must contract with an independent consultant
36 with experience in maintaining information technology architecture
37 and programs to protect critical energy infrastructure information,
38 to conduct an annual audit of each authorized agency's cybersecurity
39 robustness and must provide a report based on the risk-based
40 compliance oversight evaluation.

1 (b) The annual audit findings must be provided to the authorized
2 agencies and the auditor within 60 days of the audit's completion.
3 The recipient agency has 60 days to respond to the auditor, providing
4 evidence that any noted deficiencies have been addressed and provide
5 documentation noting how deficiencies will be addressed in the
6 future.

7 (6) If an authorized agency is found to have a high-risk
8 deficiency from the audit and is unable to correct it within 60 days,
9 the authorized agency must lose access to the critical energy
10 infrastructure information in this chapter until the independent
11 consultant returns to review the evidence that the deficiency was
12 addressed.

13 (7) The definitions in this subsection apply throughout this
14 section unless the context clearly requires otherwise.

15 (a) "Auditor" means the office of the state auditor.

16 (b) (i) "Critical energy infrastructure information" means
17 information related to:

18 (A) Energy assets, systems, and networks that provide functions
19 necessary for essential services; or

20 (B) A system or asset of the bulk-power system, whether physical
21 or virtual, refining systems, or transmission and distribution
22 systems, of any critical energy and electric supply, including,
23 without limitation, electricity, natural gas, and petroleum sectors,
24 the incapacity or destruction of which would negatively affect
25 national security, social or economic security, public health or
26 safety, or any combination of those matters.

27 (ii) "Critical energy infrastructure information" includes,
28 without limitation, data meeting the description in (a) and (b) of
29 this subsection and designated as "category 3 and 4" as defined in
30 policy established in accordance with RCW 43.105.054.

31 (c) "High-risk deficiency" means risks associated with the loss
32 of confidentiality, integrity, or availability where there is at
33 least a credible scenario of cyberattack to cause impacts to
34 sensitive industry business or stakeholder impact, potential to cause
35 disruptions, or potential to cause harm to national security.

36 NEW SECTION. **Sec. 18.** (1) Except as provided in subsection (2)
37 of this section, because public disclosure of information or data
38 provided under this chapter could result in unfair competitive
39 disadvantage to the person supplying the information or could

1 adversely affect market competition, information provided, disclosed,
2 or presented to the division, the commission, or any other state
3 agency, or otherwise obtained by the division, the commission, or any
4 other state agency under this act, is confidential and exempt from
5 public disclosure. This information must be held in confidence or
6 aggregated to the extent necessary to ensure confidentiality.

7 (2) The division may disclose information deemed confidential
8 under this chapter to members of the commission, other divisions of
9 the commission, the attorney general, the department of commerce, the
10 department of ecology, or the department of licensing if the
11 receiving entity is in compliance with the cybersecurity requirements
12 in section 17 of this act and has a data sharing agreement in place
13 in accordance with section 24 of this act and agrees to keep the
14 information confidential, except that the attorney general may
15 present the information to a court or administrative tribunal to
16 support an enforcement action but must submit confidential
17 information under seal where permissible. If the attorney general
18 requests the assistance of the division in connection with any
19 investigation, the division must provide information to the attorney
20 general under this subsection and any other assistance that is
21 feasible.

22 (3) For purposes of the division's annual reports under this
23 chapter, the division must aggregate data or otherwise anonymize and
24 generalize information as needed to mitigate the risk that public
25 disclosure of the specific information would result in unfair
26 competitive disadvantage to the person supplying the information or
27 would adversely affect market competition, or has the potential to
28 negatively impact national security.

29 (4) Any person with knowledge of the information collected in
30 this chapter must report any mishandling, loss, or compromise of
31 confidential information to the person's supervisor or security
32 office immediately. Failure to report under this subsection (4) may
33 result in disciplinary action, monetary fine, loss of employment, or
34 imprisonment.

35 (5)(a) Any person who knowingly discloses, misuses, or abuses
36 information determined confidential by the commission is subject to
37 the following penalties, not to exceed:

- 38 (i) Disciplinary action;
- 39 (ii) A monetary fine of \$10,000;
- 40 (iii) Loss of employment; or

1 (iv) Imprisonment.

2 (b) The penalties in (a) of this subsection must be based on the
3 confidential information involved, the intended use of the
4 information, and the harm caused by the mishandling.

5 NEW SECTION. **Sec. 19.** (1) The commission may issue a civil
6 penalty to any person or entity on whom an administrative civil
7 penalty may be imposed under this chapter. The notice of appeal must
8 allege the act or failure to act for which the civil penalty is
9 proposed, the provision of law authorizing civil liability, and the
10 civil penalty amount.

11 (2) The notice must be served by personal notice or certified
12 mail and must inform the party so served that a hearing will be
13 conducted within 60 days after the party has been served. The hearing
14 must be before the commission. An appellant may waive the right to a
15 hearing, in which case the commission may not conduct a hearing.

16 (3) After any hearing, the commission may adopt, with or without
17 revision, the proposed decision and order of the director.

18 (4) Orders setting an administrative civil penalty are effective
19 and final upon issuance thereof, and any payment must be made within
20 30 days. Copies of these orders must be served by personal service or
21 by registered mail upon the party served with the complaint and upon
22 other persons who appeared at the hearing and requested a copy.

23 (5) In determining the amount of the administrative civil
24 penalty, the commission must take into consideration the nature,
25 circumstance, extent, and gravity of the violation or violations,
26 whether the violation is susceptible to removal or resolution, the
27 cost to the state in pursuing the enforcement action, and, with
28 respect to the violator, the ability to pay, the effect on ability to
29 continue in business, any voluntary removal or resolution efforts
30 undertaken, any prior history of violations, the degree of
31 culpability, economic savings, if any, resulting from the violation,
32 and such other matters as justice may require.

33 NEW SECTION. **Sec. 20.** (1)(a) It is unlawful for a person to
34 make deceptive environmental marketing claims, whether explicit or
35 implied, regarding transportation fuels.

36 (b) It is a defense to any suit or complaint brought under this
37 section that the person's environmental marketing claims conform to
38 the standards or are consistent with the examples contained in the

1 guides for the use of environmental marketing claims published by the
2 federal trade commission.

3 (2) The legislature finds that the practices covered by this
4 section are matters vitally affecting the public interest for the
5 purpose of applying the consumer protection act, chapter 19.86 RCW. A
6 violation of this section is not reasonable in relation to the
7 development and preservation of business and is an unfair or
8 deceptive act in trade or commerce and an unfair method of
9 competition for purposes of applying the consumer protection act,
10 chapter 19.86 RCW.

11 (3) For the purposes of this section:

12 (a) "Environmental marketing claim" means a claim about the
13 environmental attributes of a product, package, or service in
14 connection with the marketing, offering for sale, or sale of such
15 item or service to individuals, or in business-to-business
16 transactions.

17 (b) "Environmental marketing claim" includes, without limitation:

18 (i) A claim made in labeling, advertising, promotional materials,
19 and all other forms of marketing in any medium, whether asserted
20 directly or by implication, through words, symbols, logos,
21 depictions, product brand names, or any other means; and

22 (ii) Any claim described as deceptive in the guides for the use
23 of environmental marketing claims, published by the federal trade
24 commission, as those guides existed on the effective date of this
25 section.

26 **Sec. 21.** RCW 19.86.140 and 2021 c 228 s 2 are each amended to
27 read as follows:

28 Every person who shall violate the terms of any injunction issued
29 as in this chapter provided, shall forfeit and pay a civil penalty of
30 not more than \$125,000.

31 Every individual who violates RCW 19.86.030 or 19.86.040 shall
32 pay a civil penalty of not more than \$180,000. Every person, other
33 than an individual, who violates RCW 19.86.030 or 19.86.040 shall pay
34 a civil penalty of not more than \$900,000.

35 Every person who violates RCW 19.86.020 shall forfeit and pay a
36 civil penalty of not more than \$7,500 for each violation: PROVIDED,
37 That nothing in this paragraph shall apply to any radio or television
38 broadcasting station which broadcasts, or to any publisher, printer
39 or distributor of any newspaper, magazine, billboard or other

1 advertising medium who publishes, prints or distributes, advertising
2 in good faith without knowledge of its false, deceptive or misleading
3 character.

4 For unlawful acts or practices that target or impact specific
5 individuals or communities based on demographic characteristics
6 including, but not limited to, age, race, national origin,
7 citizenship or immigration status, sex, sexual orientation, presence
8 of any sensory, mental, or physical disability, religion, veteran
9 status, or status as a member of the armed forces, as that term is
10 defined in 10 U.S.C. Sec. 101, an enhanced penalty of \$5,000 shall
11 apply. Furthermore, for unlawful acts or practices relating to the
12 sale of transportation fuels, an enhanced penalty of up to three
13 times the profit gained or loss avoided as a result of such unlawful
14 acts or practices shall apply.

15 For the purpose of this section the superior court issuing any
16 injunction shall retain jurisdiction, and the cause shall be
17 continued, and in such cases the attorney general acting in the name
18 of the state may petition for the recovery of civil penalties.

19 With respect to violations of RCW 19.86.030 and 19.86.040, the
20 attorney general, acting in the name of the state, may seek recovery
21 of such penalties in a civil action.

22 By December 1, (~~2022~~) 2026, and every five years thereafter,
23 the office of the attorney general shall evaluate the efficacy of the
24 maximum civil penalty amounts established in this section in
25 deterring violations of the consumer protection act and the
26 difference, if any, between the current penalty amounts and the
27 penalty amounts adjusted for inflation, and provide the legislature
28 with a report of its findings and any recommendations in compliance
29 with RCW 43.01.036.

30 **Sec. 22.** RCW 42.56.330 and 2017 c 333 s 6 are each amended to
31 read as follows:

32 The following information relating to public utilities and
33 transportation is exempt from disclosure under this chapter:

34 (1) Records filed with the utilities and transportation
35 commission or attorney general under RCW 80.04.095, chapter 19.---
36 RCW (the new chapter created in section 25 of this act), or RCW
37 81.77.210 that a court has determined are confidential under RCW
38 80.04.095 or 81.77.210;

1 (2) The addresses, telephone numbers, electronic contact
2 information, and customer-specific utility usage and billing
3 information in increments less than a billing cycle of the customers
4 of a public utility contained in the records or lists held by the
5 public utility of which they are customers, except that this
6 information may be released to the division of child support or the
7 agency or firm providing child support enforcement for another state
8 under Title IV-D of the federal social security act, for the
9 establishment, enforcement, or modification of a support order;

10 (3) The names, residential addresses, residential telephone
11 numbers, and other individually identifiable records held by an
12 agency in relation to a vanpool, carpool, or other ride-sharing
13 program or service. Participants' names, general locations, and point
14 of contact may be disclosed to other persons who apply for ride-
15 matching services and who need that information in order to identify
16 potential riders or drivers with whom to share rides;

17 (4) The personally identifying information of current or former
18 participants or applicants in a paratransit or other transit service
19 operated for the benefit of persons with disabilities or elderly
20 persons;

21 (5) The personally identifying information of persons who acquire
22 and use transit passes or other fare payment media including, but not
23 limited to, stored value smart cards and magnetic strip cards, except
24 that an agency may disclose personally identifying information to a
25 person, employer, educational institution, or other entity that is
26 responsible, in whole or in part, for payment of the cost of
27 acquiring or using a transit pass or other fare payment media for the
28 purpose of preventing fraud. As used in this subsection, "personally
29 identifying information" includes acquisition or use information
30 pertaining to a specific, individual transit pass or fare payment
31 media.

32 (a) Information regarding the acquisition or use of transit
33 passes or fare payment media may be disclosed in aggregate form if
34 the data does not contain any personally identifying information.

35 (b) Personally identifying information may be released to law
36 enforcement agencies if the request is accompanied by a court order;

37 (6) Any information obtained by governmental agencies that is
38 collected by the use of a motor carrier intelligent transportation
39 system or any comparable information equipment attached to a truck,
40 tractor, or trailer; however, the information may be given to other

1 governmental agencies or the owners of the truck, tractor, or trailer
2 from which the information is obtained. As used in this subsection,
3 "motor carrier" has the same definition as provided in RCW 81.80.010;

4 (7) The personally identifying information of persons who acquire
5 and use transponders or other technology to facilitate payment of
6 tolls. This information may be disclosed in aggregate form as long as
7 the data does not contain any personally identifying information. For
8 these purposes aggregate data may include the census tract of the
9 account holder as long as any individual personally identifying
10 information is not released. Personally identifying information may
11 be released to law enforcement agencies only for toll enforcement
12 purposes. Personally identifying information may be released to law
13 enforcement agencies for other purposes only if the request is
14 accompanied by a court order;

15 (8) The personally identifying information of persons who acquire
16 and use a driver's license or identicard that includes a radio
17 frequency identification chip or similar technology to facilitate
18 border crossing. This information may be disclosed in aggregate form
19 as long as the data does not contain any personally identifying
20 information. Personally identifying information may be released to
21 law enforcement agencies only for United States customs and border
22 protection enforcement purposes. Personally identifying information
23 may be released to law enforcement agencies for other purposes only
24 if the request is accompanied by a court order; and

25 (9) Personally identifying information included in safety
26 complaints submitted under chapter 81.61 RCW.

27 NEW SECTION. **Sec. 23.** (1) The commission must adopt rules to
28 implement this chapter.

29 (2) The commission may enter into contracts to implement this
30 chapter.

31 (3) The commission must provide administrative support, as
32 necessary, to the division established in section 3 of this act.

33 (4) (a) The commission may, by order or rule, modify the reporting
34 period for any individual item of information in section 4 of this
35 act.

36 (b) The commission must adopt rules prescribing the form and
37 manner of information required under section 4 of this act.

1 NEW SECTION. **Sec. 24.** The division, commission, department of
2 ecology, department of commerce, department of licensing, the
3 consolidated technology services agency, and the office of the state
4 auditor are authorized to enter into data-sharing agreements as
5 necessary to implement this chapter.

6 NEW SECTION. **Sec. 25.** Sections 1 through 20, 23, 24, and 29 of
7 this act constitute a new chapter in Title 19 RCW.

8 NEW SECTION. **Sec. 26.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 27.** If specific funding for the purposes of
13 this act, referencing this act by bill or chapter number, is not
14 provided by June 30, 2024, in the omnibus appropriations act, this
15 act is null and void.

16 NEW SECTION. **Sec. 28.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of
18 the state government and its existing public institutions, and takes
19 effect immediately.

20 NEW SECTION. **Sec. 29.** This act may be known and cited as the
21 oil industry accountability act.

--- END ---