

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2077

69th Legislature
2025 Regular Session

Passed by the House April 22, 2025
Yeas 52 Nays 45

**Speaker of the House of
Representatives**

Passed by the Senate April 26, 2025
Yeas 28 Nays 19

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2077** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2077

Passed Legislature - 2025 Regular Session

State of Washington

69th Legislature

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By House Finance (originally sponsored by Representatives Fitzgibbon and Macri)

1 AN ACT Relating to establishing a tax on certain business
2 activities related to surpluses generated under the zero-emission
3 vehicle program; amending RCW 42.56.270; adding a new chapter to
4 Title 82 RCW; creating new sections; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the zero-
7 emission vehicle program is a key policy supporting state efforts to
8 achieve greenhouse gas emissions reductions required in RCW
9 70A.45.020. The advanced clean cars and advanced clean cars II
10 components of the zero-emission vehicle program require manufacturers
11 of passenger cars and light duty trucks to achieve an escalating
12 minimum percentage of zero-emission vehicles for sale or lease in
13 Washington, or to obtain surplus credits from an auto manufacturer
14 that has exceeded this minimum compliance obligation. By providing
15 for the creation of these tradeable and bankable credits, the program
16 creates an incentive for vehicle manufacturers to maximize their
17 investments in developing and selling cleaner cars. The legislature
18 also finds that the creation of these tradeable and bankable credits
19 creates the opportunity for a financial windfall accruing to firms
20 that are not burdened by the legacy production of internal combustion
21 engine vehicles that make a compliance obligation more difficult

1 under the program. Therefore, it is the intent of the legislature to
2 address this unintended outcome by taxing the windfall profits from
3 the generation of surplus zero-emission vehicle credits and
4 reinvesting those funds in other programs and incentives that promote
5 cleaner vehicles that further state climate goals.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires
8 otherwise.

9 (1) "Banked" means a ZEV credit that a manufacturer has carried
10 over for use in future model years in which a manufacturer has a
11 shortfall or for use to offset a manufacturer's deficit carried over
12 from a previous model year.

13 (2) "Manufacturer" has the same meaning as in WAC 173-423-040, as
14 it existed as of January 1, 2025.

15 (3) "Model year" has the same meaning as in WAC 173-423-040, as
16 it existed as of January 1, 2025.

17 (4) "Pooled" means a ZEV credit that has been earned in
18 Washington and transferred to another state that implements a program
19 for zero-emission vehicles that is consistent with California motor
20 vehicle emissions standards and 42 U.S.C. Sec. 7507 (section 177 of
21 the federal clean air act).

22 (5) "Surplus" means when a manufacturer's zero-emission vehicle
23 requirement performance is above the applicable annual zero-emission
24 vehicle requirement, as calculated under the zero-emission vehicle
25 program rules adopted by the department of ecology.

26 (6)(a) "Zero-emission vehicle program" means a rule adopted by
27 the department of ecology under chapter 70A.30 RCW that requires
28 manufacturers to deliver a minimum percentage of zero-emission
29 vehicles in or into Washington that is applicable to passenger cars,
30 light duty trucks, and medium duty vehicles. "Zero-emission vehicle
31 program" includes the rule adopted by the department of ecology
32 codified in chapter 173-423 WAC, as it existed as of the effective
33 date of this section, and any successor rules adopted by the
34 department of ecology applicable to passenger cars, light duty
35 trucks, and medium duty vehicles.

36 (b) "Zero-emission vehicle program" does not include the advanced
37 clean trucks rule adopted by the department of ecology under chapter
38 70A.30 RCW or other successor rules adopted by the department under
39 chapter 70A.30 RCW applicable to heavy duty vehicles.

1 (7) "Zero-emission vehicle requirement" means a manufacturer's
2 zero-emission vehicle production required, expressed in whole
3 vehicles, for the applicable model year under the zero-emission
4 vehicle program.

5 (8) "ZEV credit" means a unit of measure generated when a
6 manufacturer delivers a zero-emission vehicle or qualifying plug-in
7 hybrid vehicle for sale in Washington or undertakes other activities
8 specified in rules adopted by the department of ecology to implement
9 chapter 70A.30 RCW.

10 NEW SECTION. **Sec. 3.** (1) By October 31st of each year, the
11 department of ecology must transmit to the department the following
12 information related to each manufacturer's zero-emission vehicle
13 program activities during the preceding model year, using information
14 reported to the department of ecology under chapter 70A.30 RCW:

15 (a) Beginning with implementation of the zero-emission vehicle
16 program for purposes of model year 2024, the number of surplus ZEV
17 credits banked by each manufacturer for use in complying with the
18 requirements of the zero-emission vehicle program during a future
19 model year, and the model year of each banked credit. The information
20 reported under this subsection (1)(a) must include any banked ZEV
21 credits that were generated prior to model year 2024 that continued
22 to be banked during implementation of the program in model year 2024
23 and in subsequent model years; and

24 (b) Beginning with implementation of the zero-emission vehicle
25 program for purposes of model year 2024, for each purchase or sale of
26 zero-emission vehicle credits by the manufacturer:

27 (i) The date of the purchase or sale;

28 (ii) The identity of the other manufacturer involved in the
29 purchase or sale transaction;

30 (iii) The volume of zero-emission vehicle credits included in the
31 purchase or sale; and

32 (iv) The model year of the credits purchased or sold.

33 (2) Beginning with implementation of the zero-emission vehicle
34 program for purposes of model year 2024, each manufacturer must
35 record and report to the department, in a form and manner prescribed
36 by the department, the price, per credit and in total, of the zero-
37 emission vehicle credits included in transactions specified in
38 subsection (1)(b) of this section and in such a way that it
39 identifies the specific transaction reported by the department of

ecology to the department. A manufacturer that sold credits associated with model year 2023 vehicles prior to the effective date of this section must report to the department the price per credit, and number of such credits sold, at the same time that it is required to report any sales of model year 2024 credits. Manufacturers must report the information required under this subsection by October 31st for the previous model year of the zero-emission vehicle program.

(3) Unaggregated information pertaining to the price of zero-emission vehicle credits in an individual zero-emission vehicle credit transaction is financial, commercial, and proprietary information exempt from public disclosure under chapter 42.56 RCW. Information related to the price of zero-emission vehicle credits in an individual zero-emission vehicle credit transaction under subsection (2) of this section must be aggregated by a time period no more frequent than the calendar quarter in which the transaction occurred, and in a manner that does not disclose the price of a ZEV credit in a specific transaction.

NEW SECTION. **Sec. 4.** (1) Beginning the effective date of this section for purposes of model year 2024 program implementation, an excise tax is imposed on the banking and sale of surplus ZEV credits as verified by the department of ecology for each model year. The excise tax imposed under this section does not apply to pooled surplus ZEV credits.

(a) For a ZEV credit sold to another manufacturer, the amount of the tax with respect to such sale is equal to the credit sales price reported under section 3 of this act multiplied by a rate of two percent.

(b) For a ZEV credit banked by a manufacturer, and thus considered sold under this chapter, the amount of tax with respect to the privilege of holding a banked ZEV credit for use in a future model year is equal to the average ZEV credit price calculated by the department under subsection (3) of this section, multiplied by the rate of 10 percent. For purposes of the tax imposed under this chapter, a banked ZEV credit held at the start of the next model year is considered sold.

(2) For each year of zero-emission vehicle program implementation that a ZEV credit is banked or continues to be banked, the manufacturer must pay the tax specified in subsection (1)(b) of this section. The tax in subsection (1)(b) of this section applies to

1 banked credits that were generated prior to model year 2024 that
2 continue to be banked during implementation of the program for
3 purposes of model year 2024 or subsequent model years.

4 (3) Based on the ZEV credit sales prices reported to the
5 department under section 3 of this act:

6 (a) For each model year, the department must calculate the
7 average ZEV credit price and share this information with the
8 department of ecology for publication. The average ZEV credit price
9 for a model year must be calculated by aggregating the reported sales
10 prices of ZEV credits under section 3 of this act by all
11 manufacturers that reported transactions for the model year. If there
12 were no transactions of ZEV credits reported to the department for a
13 specific model year, the department must apply the average ZEV credit
14 price for the most recent model year for which such data are
15 available for purposes of that specific model year.

16 (b) Beginning November 1, 2026, and each year thereafter, the
17 department must calculate the amount of the tax by each manufacturer
18 due under this section. The department must notify the manufacturer
19 of their tax liability for the most recent reporting year no later
20 than January 31st of the immediately following calendar year, except
21 that the department may notify the manufacturer of their tax
22 liability for both model year 2024 and model year 2025 no later than
23 January 31, 2027.

24 (c) Once the average ZEV credit price has been calculated and is
25 published to the department of ecology's website, the amount is
26 considered final and cannot be altered based on amended information
27 received by the department from the department of ecology or a
28 participating manufacturer.

29 (4) Penalties and interest under chapter 82.32 RCW will apply to
30 any tax liability not paid by the due date of the notice of tax
31 liability under subsection (3) of this section.

32 (5) The proceeds from the tax imposed under this chapter must be
33 deposited as follows:

34 (a) 30 percent to the electric vehicle incentive account created
35 in RCW 43.330.365;

36 (b) (i) Until June 30, 2027, 70 percent to the state general fund;
37 and

38 (ii) Beginning July 1, 2027, 70 percent to the carbon emissions
39 reduction account created in RCW 70A.65.240.

1 NEW SECTION. **Sec. 5.** (1) Except as otherwise provided by law
2 and to the extent not inconsistent with the provisions of this
3 chapter, chapter 82.32 RCW applies to the administration of taxes
4 imposed under this chapter.

5 (2) The department may adopt any rules it considers useful in
6 administering the tax under this chapter.

7 NEW SECTION. **Sec. 6.** The tax imposed under section 4 of this
8 act does not apply to a manufacturer that banks or sells credits
9 associated with zero-emission vehicles or qualifying plug-in hybrid
10 zero-emission vehicles in an amount below a total of 25,000 zero-
11 emission vehicles or plug-in hybrid zero-emission vehicles that are
12 banked or sold for a model year by the manufacturer. A manufacturer
13 that banks or sells ZEV credits, in total, for a model year of zero-
14 emission vehicle program implementation in an amount equal to or
15 exceeding the ZEV credits associated with 25,000 zero-emission
16 vehicles or plug-in hybrid zero-emission vehicles must pay the tax
17 imposed under this chapter on each credit banked or sold by the
18 manufacturer for that model year.

19 NEW SECTION. **Sec. 7.** RCW 82.32.805 and 82.32.808 do not apply
20 to this act.

21 NEW SECTION. **Sec. 8.** Sections 2 through 6 of this act
22 constitute a new chapter in Title 82 RCW.

23 **Sec. 9.** RCW 42.56.270 and 2023 c 340 s 11 are each amended to
24 read as follows:

25 The following financial, commercial, and proprietary information
26 is exempt from disclosure under this chapter:

27 (1) Valuable formulae, designs, drawings, computer source code or
28 object code, and research data obtained by any agency within five
29 years of the request for disclosure when disclosure would produce
30 private gain and public loss;

31 (2) Financial information supplied by or on behalf of a person,
32 firm, or corporation for the purpose of qualifying to submit a bid or
33 proposal for (a) a ferry system construction or repair contract as
34 required by RCW 47.60.680 through 47.60.750; (b) highway construction
35 or improvement as required by RCW 47.28.070; or (c) alternative

1 public works contracting procedures as required by RCW 39.10.200
2 through 39.10.905;

3 (3) Financial and commercial information and records supplied by
4 private persons pertaining to export services provided under chapters
5 43.163 and 53.31 RCW, and by persons pertaining to export projects
6 under RCW 43.23.035;

7 (4) Financial and commercial information and records supplied by
8 businesses or individuals during application for loans or program
9 services provided by chapters 43.325, 43.163, 43.160, 43.330, 43.168,
10 and 43.181 RCW and RCW 43.155.160, or during application for economic
11 development loans or program services provided by any local agency;

12 (5) Financial information, business plans, examination reports,
13 and any information produced or obtained in evaluating or examining a
14 business and industrial development corporation organized or seeking
15 certification under chapter 31.24 RCW;

16 (6) Financial and commercial information supplied to the state
17 investment board by any person when the information relates to the
18 investment of public trust or retirement funds and when disclosure
19 would result in loss to such funds or in private loss to the
20 providers of this information;

21 (7) Financial and valuable trade information under RCW 51.36.120;

22 (8) Financial, commercial, operations, and technical and research
23 information and data submitted to or obtained by the clean Washington
24 center in applications for, or delivery of, program services under
25 chapter 70.95H RCW;

26 (9) Financial and commercial information requested by the public
27 stadium authority from any person or organization that leases or uses
28 the stadium and exhibition center as defined in RCW 36.102.010;

29 (10)(a) Financial information, including but not limited to
30 account numbers and values, and other identification numbers supplied
31 by or on behalf of a person, firm, corporation, limited liability
32 company, partnership, or other entity related to an application for a
33 horse racing license submitted pursuant to RCW 67.16.260(1)(b),
34 cannabis producer, processor, or retailer license, liquor license,
35 gambling license, or lottery retail license;

36 (b) Internal control documents, independent auditors' reports and
37 financial statements, and supporting documents: (i) Of house-banked
38 social card game licensees required by the gambling commission
39 pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted
40 by tribes with an approved tribal/state compact for class III gaming;

1 (c) Valuable formulae or financial or proprietary commercial
2 information records received during a consultative visit or while
3 providing consultative services to a licensed cannabis business in
4 accordance with RCW 69.50.561;

5 (11) Proprietary data, trade secrets, or other information that
6 relates to: (a) A vendor's unique methods of conducting business; (b)
7 data unique to the product or services of the vendor; or (c)
8 determining prices or rates to be charged for services, submitted by
9 any vendor to the department of social and health services or the
10 health care authority for purposes of the development, acquisition,
11 or implementation of state purchased health care as defined in RCW
12 41.05.011;

13 (12)(a) When supplied to and in the records of the department of
14 commerce:

15 (i) Financial and proprietary information collected from any
16 person and provided to the department of commerce pursuant to RCW
17 43.330.050(8);

18 (ii) Financial or proprietary information collected from any
19 person and provided to the department of commerce or the office of
20 the governor in connection with the siting, recruitment, expansion,
21 retention, or relocation of that person's business and until a siting
22 decision is made, identifying information of any person supplying
23 information under this subsection and the locations being considered
24 for siting, relocation, or expansion of a business; and

25 (iii) Financial or proprietary information collected from any
26 person and provided to the department of commerce pursuant to RCW
27 43.31.625 (3)(b) and (4);

28 (b) When developed by the department of commerce based on
29 information as described in (a)(i) of this subsection, any work
30 product is not exempt from disclosure;

31 (c) For the purposes of this subsection, "siting decision" means
32 the decision to acquire or not to acquire a site;

33 (d) If there is no written contact for a period of 60 days to the
34 department of commerce from a person connected with siting,
35 recruitment, expansion, retention, or relocation of that person's
36 business, information described in (a)(ii) of this subsection will be
37 available to the public under this chapter;

38 (13) Financial and proprietary information submitted to or
39 obtained by the department of ecology or the authority created under
40 chapter 70A.500 RCW to implement chapter 70A.500 RCW;

1 (14) Financial, commercial, operations, and technical and
2 research information and data submitted to or obtained by the life
3 sciences discovery fund authority in applications for, or delivery
4 of, grants under RCW 43.330.502, to the extent that such information,
5 if revealed, would reasonably be expected to result in private loss
6 to the providers of this information;

7 (15) Financial and commercial information provided as evidence to
8 the department of licensing as required by RCW 19.112.110 or
9 19.112.120, except information disclosed in aggregate form that does
10 not permit the identification of information related to individual
11 fuel licensees;

12 (16) Any production records, mineral assessments, and trade
13 secrets submitted by a permit holder, mine operator, or landowner to
14 the department of natural resources under RCW 78.44.085;

15 (17)(a) Farm plans developed by conservation districts, unless
16 permission to release the farm plan is granted by the landowner or
17 operator who requested the plan, or the farm plan is used for the
18 application or issuance of a permit;

19 (b) Farm plans developed under chapter 90.48 RCW and not under
20 the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject
21 to RCW 42.56.610 and 90.64.190;

22 (18) Financial, commercial, operations, and technical and
23 research information and data submitted to or obtained by a health
24 sciences and services authority in applications for, or delivery of,
25 grants under RCW 35.104.010 through 35.104.060, to the extent that
26 such information, if revealed, would reasonably be expected to result
27 in private loss to providers of this information;

28 (19) Information gathered under chapter 19.85 RCW or RCW
29 34.05.328 that can be identified to a particular business;

30 (20) Financial and commercial information submitted to or
31 obtained by the University of Washington, other than information the
32 university is required to disclose under RCW 28B.20.150, when the
33 information relates to investments in private funds, to the extent
34 that such information, if revealed, would reasonably be expected to
35 result in loss to the University of Washington consolidated endowment
36 fund or to result in private loss to the providers of this
37 information;

38 (21) Market share data submitted by a manufacturer under RCW
39 70A.500.190(4);

1 (22) Financial information supplied to the department of
2 financial institutions, when filed by or on behalf of an issuer of
3 securities for the purpose of obtaining the exemption from state
4 securities registration for small securities offerings provided under
5 RCW 21.20.880 or when filed by or on behalf of an investor for the
6 purpose of purchasing such securities;

7 (23) Unaggregated or individual notices of a transfer of crude
8 oil that is financial, proprietary, or commercial information,
9 submitted to the department of ecology pursuant to RCW
10 90.56.565(1)(a), and that is in the possession of the department of
11 ecology or any entity with which the department of ecology has shared
12 the notice pursuant to RCW 90.56.565;

13 (24) Financial institution and retirement account information,
14 and building security plan information, supplied to the liquor and
15 cannabis board pursuant to RCW 69.50.325, 69.50.331, 69.50.342, and
16 69.50.345, when filed by or on behalf of a licensee or prospective
17 licensee for the purpose of obtaining, maintaining, or renewing a
18 license to produce, process, transport, or sell cannabis as allowed
19 under chapter 69.50 RCW;

20 (25) Cannabis transport information, vehicle and driver
21 identification data, and account numbers or unique access identifiers
22 issued to private entities for traceability system access, submitted
23 by an individual or business to the liquor and cannabis board under
24 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and
25 69.50.345 for the purpose of cannabis product traceability.
26 Disclosure to local, state, and federal officials is not considered
27 public disclosure for purposes of this section;

28 (26) Financial and commercial information submitted to or
29 obtained by the retirement board of any city that is responsible for
30 the management of an employees' retirement system pursuant to the
31 authority of chapter 35.39 RCW, when the information relates to
32 investments in private funds, to the extent that such information, if
33 revealed, would reasonably be expected to result in loss to the
34 retirement fund or to result in private loss to the providers of this
35 information except that (a) the names and commitment amounts of the
36 private funds in which retirement funds are invested and (b) the
37 aggregate quarterly performance results for a retirement fund's
38 portfolio of investments in such funds are subject to disclosure;

39 (27) Proprietary financial, commercial, operations, and technical
40 and research information and data submitted to or obtained by the

1 liquor and cannabis board in applications for cannabis research
2 licenses under RCW 69.50.372, or in reports submitted by cannabis
3 research licensees in accordance with rules adopted by the liquor and
4 cannabis board under RCW 69.50.372;

5 (28) Trade secrets, technology, proprietary information, and
6 financial considerations contained in any agreements or contracts,
7 entered into by a licensed cannabis business under RCW 69.50.395,
8 which may be submitted to or obtained by the state liquor and
9 cannabis board;

10 (29) Financial, commercial, operations, and technical and
11 research information and data submitted to or obtained by the Andy
12 Hill cancer research endowment program in applications for, or
13 delivery of, grants under chapter 43.348 RCW, to the extent that such
14 information, if revealed, would reasonably be expected to result in
15 private loss to providers of this information;

16 (30) Proprietary information filed with the department of health
17 under chapter 69.48 RCW;

18 (31) Records filed with the department of ecology under chapter
19 70A.515 RCW that a court has determined are confidential valuable
20 commercial information under RCW 70A.515.130; ~~((and))~~

21 (32) Unaggregated financial, proprietary, or commercial
22 information submitted to or obtained by the liquor and cannabis board
23 in applications for licenses under RCW 66.24.140 or 66.24.145, or in
24 any reports or remittances submitted by a person licensed under RCW
25 66.24.140 or 66.24.145 under rules adopted by the liquor and cannabis
26 board under chapter 66.08 RCW; and

27 (33) Unaggregated or individual information submitted to the
28 department of revenue under section 3 of this act pertaining to the
29 sales price of zero-emission vehicle credits in transactions between
30 manufacturers.

31 NEW SECTION. Sec. 10. This act applies to ZEV credits banked or
32 sold after the effective date of this act and thereafter.

33 NEW SECTION. Sec. 11. If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of
3 the state government and its existing public institutions, and takes
4 effect immediately.

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