

POLICY NOTE

Legislators introduce a bill to stop consumers from finding out about the new CO2 emissions tax

By Todd Myers, Director, Center for the Environment

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Key Findings

1. As lawmakers intended, Washington's new tax on CO2 emissions is driving up the cost of gasoline, diesel and other fossil fuels.
2. By April, the tax on CO2 emissions had increased the price of gas by 39 cents per gallon, and increased the price of diesel by 47 cents per gallon.
3. Now some lawmakers want to stop consumers from learning about the tax, introducing SB 5766, which would ban petroleum companies from listing the cost of the tax separately on consumer invoices.
4. The proposal is undemocratic, it works against the purpose of a carbon tax, which is encourage consumers to choose other forms of energy.
5. If lawmakers think the tax on CO2 emissions that they imposed is too high, they have several ways to reducing the impact on consumers, without banning access to accurate information.

Introduction

As intended, Washington state's new tax on CO2 emissions is increasing the price of gasoline, diesel and other fossil fuels.¹ Some of the legislators who supported that tax increase, however, now want to prevent the public from learning about it. They have proposed a bill² that would prevent fuel suppliers from making the cost of that tax clear to consumers.

The CO2 emissions tax is in addition the current federal gas tax of 18.3 cents per gallon and the state gas tax of 49.4 cents per gallon. The federal tax on diesel is 24.3 cents a gallon, plus a state tax of 49.4 cents a gallon.

The new carbon tax system requires companies that emit carbon to buy state-issued allowances to do so, paying a price determined by a public auction. The state's first auction of CO2 allowances occurred at the end of February, with the average price reaching \$48.50 per metric ton (MT) of carbon. We noted that at that price it would add about 39 cents to a gallon of gasoline and 47 cents per gallon for diesel for consumers at the pump.³

Many fuel suppliers had been charging less than that for the first two months of the year because the actual price of the CO2 allowances wasn't known. As a result, they appear to be increasing prices above the allowance price to recover the costs from undercharging during the first two months.

New CO2 emissions tax as listed on a petroleum company's invoice

Federal LUST Tax	0.001000	US\$	1 GAL
FedSuperfundRecovery	0.003905	US\$	1 GAL
FedOilSpill Recovery	0.002143	US\$	1 GAL
Federal Excise Tax	0.243000	US\$	1 GAL
WA ST SpecialFuel Tax	0.494000	US\$	1 GAL
WA Petroleum Prod Tax	0.150	%	
WA Hazardous Substance Tax	0.028571	US\$	1 GAL
WA Cap at the Rack	0.560000	US\$	1 GAL
WA Low Carbon Fuel Standard	0.015000	US\$	1 GAL

1 "State's needlessly restrictive CO2 law drives prices up," by Todd Myers, blogpost, March 8, 2023, at <https://www.washingtonpolicy.org/publications/detail/states-needlessly-restrictive-co2-law-drives-prices-up>.

2 SB 5766, "To improve the administrability of emissions exemptions and business practices under the climate commitment act," Washington State Legislature, introduced April 3, 2023, at <https://app.leg.wa.gov/bills/summary?BillNumber=5766&Initiative=false&Year=2023>.

3 "State's needlessly restrictive CO2 law drives prices up," by Todd Myers, blogpost, March 8, 2023, at <https://www.washingtonpolicy.org/publications/detail/states-needlessly-restrictive-co2-law-drives-prices-up>.

For example, invoices from British Petroleum (BP) show a line item for the state's cap-and-trade CO2 tax – listed as “WA Cap at the Rack” – for diesel without the 5% biodiesel blend, of 56 cents per gallon, which translates to about \$55 per MT of CO2. They also added 1.5 cents per gallon for the state's new Low Carbon Fuel Standard.

BP is not alone in adding the cost of the CO2 tax. Other fuel suppliers, including those who sell propane, are increasing their costs in response to the tax. BP's increase is notable, however, because the company lobbied for the CO2 tax.

Text of SB 5766

The high prices are already causing alarm among some legislators who voted for the CO2 tax. As a result, two senators have introduced [Senate Bill 5766](#) to fix some minor flaws with the implementation of the CO2 tax. Section 3 of that bill, though, would prohibit fuel suppliers from listing the cost of the CO2 tax on invoices like the one I provided above. The text of Section 3 is shown below.⁴

Text of SB 5766, Section 3 - ban on informing consumers of CCA CO2 emissions tax

NEW SECTION. Sec. 3. A new section is added to chapter 70A.65 RCW to read as follows:

(1) A business may not include a separate charge or costs on any invoice or other billing statement indicating that the charge or cost, or any portion thereof, is imposed or collected in relation to this chapter.

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

An undemocratic idea

There are several problems with this idea.

First, this is undemocratic. There is no compelling reason why consumers should not know the cost of the taxes imposed by the state. As you can see from the portion of the invoice above, there are many taxes which are itemized. Singling out the tax on CO2 emissions makes no sense and is clearly about politicians wanting to hide the cost of their own policies.

Second, the purpose of imposing a tax on CO2 is to raise the cost of fossil fuels. Those who want to reduce emissions should want those costs to be transparent to encourage people to conserve. Hiding the costs undermines the purpose of the tax.

⁴ SB 5766, Section 3.



WPC Center for the Environment Director **Todd Myers's** experience includes work on a range of environmental issues, including climate policy, forest health, old-growth forests, and salmon recovery. A former member of the executive team at the Washington State Department of Natural Resources, he is a member of the Puget Sound Salmon Recovery Council. He is the author of "Time to Think Small: How nimble environmental technologies can solve the planet's biggest problems," which outlines how small technologies are empowering people to protect threatened wildlife species, reduce CO2 emissions, and reduce ocean plastic. His previous book "Eco-Fads: How the Rise of Trendy Environmentalism Is Harming the Environment" documented how our environmental policies are driven by a desire to look good rather than to help the environment. He has a bachelor's degree in politics from Whitman College and a master's degree in Russian/International Studies from the Jackson School of International Studies at the University of Washington.

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Finally, the section says this is about consumer protection and implies listing the tax is "deceptive." The governor and staff from the Department of Ecology have made similar claims.

The irony is that hiding the cost is the truly deceptive practice. California and Oregon are both very open about the fact that taxes on CO2 emissions increase prices. They specifically estimate those costs, using the same method I do. Washington legislators would pretend these costs don't exist and propose using the force of law to hide the impact.

Conclusion

If legislators think the tax on CO2 emissions is raising prices too rapidly, there are several things they can do to fix that. They could lower the price cap to prevent high prices. Senator Mullet, one of the sponsors of the bill to prevent listing the CO2 tax, also offered a bill to do just that, limiting the price to 20 percent above California's CO2 price. Washington's CO2 price is currently about 75 percent higher than California's.⁵

The legislature could allow fuel suppliers and other covered entities more leeway in spending on projects that reduce CO2 emissions (commonly known as "offsets"). Lawmakers could also change the cap level to allow more time for the economy to decarbonize.

Any of these options would prevent prices from jumping as rapidly as they have and increasing costs to Washington's economy. Any of those options would be better than trying to hide the cost of the state's CO2 policy.

⁵ SB 5769, "An Act relating to the price ceiling under chapter 70A.65 Revised Code of Washington," Washington State Legislature, introduced April 7, 2023, at <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Senate%20Bills/5769.pdf?q=20230406152253>.