



Legislation Text

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AN ORDINANCE relating to commute trip reduction; amending Ordinance 10733, Section 1, as amended, and K.C.C. 14.60.010, Ordinance 10733, Section 2, as amended, and K.C.C. 14.60.020, Ordinance 10733, Section 3, as amended, and K.C.C. 14.60.030, Ordinance 10733, Section 4, as amended, and K.C.C. 14.60.040, Ordinance 10733, Section 5, as amended, and K.C.C. 14.60.050, Ordinance 10733, Section 6, as amended, and K.C.C. 14.60.060, Ordinance 10733, Section 6, as amended, and K.C.C. 14.60.070, Ordinance 10733, Section 8, as amended, and K.C.C. 14.60.080 and Ordinance 10733, Section 10, as amended, and K.C.C. 14.60.100, recodifying K.C.C. 14.60.010, K.C.C. 14.60.020, K.C.C. 14.60.030, K.C.C. 14.60.040, K.C.C. 14.60.050, K.C.C. 14.60.060, K.C.C. 14.60.070, K.C.C. 14.60.080, K.C.C. 14.60.100 and K.C.C. 28.94.110 and adding a new chapter to K.C.C. Title 28.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. There is hereby established a new chapter in K.C.C. Title 28. This new chapter shall contain K.C.C. 14.60.010, as recodified by this ordinance, K.C.C. 14.60.020, as recodified by this ordinance, K.C.C. 14.60.030, as recodified by this ordinance, K.C.C. 14.60.040, as recodified by this ordinance, K.C.C. 14.60.050, as recodified by this ordinance, K.C.C. 14.60.060, as recodified by this ordinance, K.C.C. 14.60.070, as recodified by this ordinance, K.C.C. 14.60.080, as recodified by this ordinance, K.C.C. 14.60.100 as recodified by this ordinance, and K.C.C. 28.94.110, as recodified by this ordinance.

SECTION 2. K.C.C. 14.60.010, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 3. Ordinance 10733, Section 1, as amended, and K.C.C. 14.60.010 are each hereby amended to read as follows:

The following definitions ~~((shall))~~ apply ~~((in the interpretation and enforcement of))~~ to this chapter unless the context clearly requires otherwise:

A. "Affected employee" means a full-time employee who begins ~~((his or her))~~ the employee's regular work day at a single work site between 6:00 a.m. and 9:00 a.m. ~~((f)), inclusive((g)),~~ on two or more weekdays for at least twelve contiguous months and who is not an independent contractor. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

B. "Affected employer" means an employer that employs one hundred or more affected employees at a single work site covered by the ~~((CTR))~~ commute trip reduction ~~((P))~~plan. Construction work sites are excluded from this definition when the expected duration of the construction is less than two years.

C. "Alternative commute mode" means any means of transportation to and from work other than driving a single-occupant motor vehicle, including scheduled work from home and work schedules that result in fewer commute trips.

D. "Baseline measurement" means the survey of affected employees conducted by an affected employer to determine the drive-alone rate and ~~((VMT))~~ vehicle miles travelled per affected employee.

E. "Carpool" means a motor vehicle occupied by two to six people who are at least sixteen years old traveling together for their commute trip that results in the reduction of at least one motor vehicle commute trip.

F. "Commute trips" mean trips made from a worker's home to a work site for a regularly scheduled work day beginning between 6:00 a.m. and 9:00 a.m. ~~((f)), inclusive((g)),~~ on weekdays.

G. ~~((CTR))~~ Commute trip reduction plan means the county's commute trip reduction plan, as adopted

~~((by Ordinance 17034))~~ in K.C.C. 14.60.020, to regulate and administer the ~~((CTR))~~ commute trip reduction programs of affected employers' worksites within unincorporated King County.

H. "~~((CTR))~~ Commute trip reduction program" means an affected employer's program, approved by the director, including strategies to reduce affected employees' ~~((VMT))~~ vehicle miles travelled per employee and drive-alone rate.

I. "Director" means the director of the department of transportation or ~~((his or her authorized))~~ the director's designee.

J. "Drive-alone rate" means the percentage of affected employee commute trips made by single occupants of motor vehicles, including motorcycles.

K. "Employer" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district or other individual or entity, whether public, nonprofit or private, that employs workers.

L. "Exemption" means a waiver from ~~((CTR))~~ commute trip reduction program requirements granted to an employer by the county based on unique conditions that apply to the employer or worksite.

M. "Full-time employee" means a person other than an independent contractor, whose position is scheduled to be employed on a continuous basis for fifty-two weeks for an average of at least thirty-five hours per week.

N. "Good faith effort" means that an employer has met the minimum requirement identified in RCW 70.94.531.

O. "Mode" means the means of transportation used by employees, such as single-occupant motor vehicle including motorcycle, rideshare vehicle such as carpool or vanpool, transit, bicycle and walking.

P. "Single work site" means a building or group of buildings occupied by one or more major employers which are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way.

Q. "Transit" means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, ferry, rail, shared-ride taxi, shuttle bus or vanpool.

R. "Vanpool" means a vehicle occupied by seven to fifteen people traveling together for their commute trip that results in the reduction of a minimum of one motor vehicle trip. A vanpool trip counts as zero vehicle trips.

S. "~~((VMT))~~ vehicle miles travelled per employee" means the sum of the distance in miles of individual vehicle commute trips made by affected employees over a set period divided by the number of affected employees during that period.

T. "Week" means a seven day calendar period, starting on Monday and continuing through Sunday.

U. "Weekday" means any day of the week except Saturday or Sunday.

SECTION 4. The 2011 King County Commute Trip Reduction Plan, which is Attachment A to Ordinance 17034, is hereby adopted in accordance with K.C.C. 14.60.020.

SECTION 5. K.C.C. 14.60.020, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 6. Ordinance 10733, Section 2, as amended, and K.C.C. 14.60.020 are each hereby amended to read as follows:

A. ~~((The 2011 King County))~~ A ~~((C))~~ commute ~~((T))~~ trip ~~((R))~~ reduction ~~((P))~~ plan ~~((, which is Attachment A to Ordinance 17034, is hereby))~~ shall be adopted by ordinance.

B. The ~~((CTR))~~ commute trip reduction plan lists the county's goals for reducing ~~((VMT))~~ vehicle miles travelled per employee and the drive-alone rate for the unincorporated urban area and for two affected employers. The director shall set goals for reducing ~~((VMT))~~ vehicle miles travelled per employee and the drive-alone rate for any affected employer not listed in the ~~((CTR))~~ commute trip reduction plan.

C. The department of transportation website shall include a notice of the adoption of the ~~((CTR))~~ commute trip reduction plan and an explanation of its applicability to affected employers. The director shall

notify the affected employers listed in the ((CTR)) commute trip reduction plan and any other employer who becomes an affected employer of the ((CTR)) commute trip reduction plan and its requirements.

SECTION 7. K.C.C. 14.60.030, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 8. Ordinance 10733, Section 3, as amended, and K.C.C. 14.60.030 are each hereby amended to read as follows:

This chapter applies to any affected employer at any single work site within unincorporated King County. An ((E))employee((s-will)) shall be counted only at their primary work site. It is the responsibility of the employer to notify the director of a change in status as an affected employer. An employer that becomes an affected employer after March 14, 2011, must identify itself to the director as an affected employer within ninety calendar days after becoming an affected employer. An affected employer shall continue to be treated as an affected employer for twelve months after it notifies the director that it no longer employs one hundred or more affected employees and expects not to employ one hundred or more affected employees for the next twelve months. If the employer no longer employs one hundred or more affected employees at the end of the twelve month period, that employer is no longer an affected employer. If an employer becomes an affected employer within twelve months after it ceased to be an affected employer, the employer shall be treated as if it was continuously an affected employer. If an employer becomes an affected employer more than twelve months after it ceased to be an affected employer, that employer shall be treated as a new affected.

SECTION 9. K.C.C. 14.60.040, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 10. Ordinance 10733, Section 4, as amended, and K.C.C. 14.60.040 are each hereby amended to read as follows:

A. An affected employer is required to make a good faith effort, as defined in RCW 70.94.534(2), to develop and implement a ((CTR)) commute trip reduction program that will encourage its employees to reduce

((VMT)) vehicle miles travelled per employee and the drive-alone rate. The employer's ((€TR)) commute trip reduction program description shall be prepared according to a format provided by the director. The employer's ((€TR)) commute trip reduction program must meet the requirements of RCW 70.94.531.

B. When approving the ((€TR)) commute trip reduction program, the director shall list all records to be maintained to document the employer's program and progress toward reducing ((VMT)) vehicle miles travelled per employee and the drive-alone rate. Records shall be retained for a minimum of forty-eight months.

SECTION 11. K.C.C. 14.60.050, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 12. Ordinance 10733, Section 5, as amended, and K.C.C. 14.60.050 are each hereby amended to read as follows:

A. Not more than ninety days after the director determines that an employer has become an affected employer, the affected employer shall perform a baseline measurement consistent with the rules established by the state ((€))Department of ((€))Transportation under RCW 70.90.537. The director shall use this baseline measurement to set ((€TR)) commute trip reduction program goals for the affected employer and shall notify the employer of these ((€TR)) commute trip reduction R program goals. The affected employer shall then have ninety days to develop a ((€TR)) commute trip reduction program in consultation with the director and to submit it to the director for approval.

B. The director shall approve or disapprove the affected employer's ((€TR)) commute trip reduction program within ninety days. When approving an affected employer's ((€TR)) commute trip reduction program, the director shall establish the employer's reporting date and a schedule for conducting ((€TR)) commute trip reduction program surveys of affected employees. Every two years on the affected employer's reporting date, the affected employer shall submit a ((€TR)) commute trip reduction program report using a format provided by the director. The employer shall implement its ((€TR)) commute trip reduction program within ninety days after the director approves it.

C. In response to recommended modifications, the employer shall submit a revised ((CTR)) commute trip reduction program, including the requested modifications or equivalent measures, within thirty days of receipt. The director shall review the revised ((CTR)) commute trip reduction program and notify the employer of acceptance or rejection within thirty days. If a revised program is not accepted, the director has the discretion to require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. The director shall issue a final decision on the required program within ten working days of the conference.

D. At least thirty days before a ((CTR)) commute trip reduction program is to be implemented, a ((CTR)) commute trip reduction program report is due or program modifications are to be implemented, an employer may request an extension of up to ninety days to complete this action. The director shall grant all or part of the extension request or deny the request within ten working days of receipt. If the director fails to respond within ten working days, the extension is automatically granted for thirty calendar days.

E. The director shall complete review of the employer's ((CTR)) commute trip reduction program report, survey results, modification request or exemption request within thirty calendar days of receipt. The director shall notify the employer of the decision to approve or disapprove the employer's ((CTR)) commute trip reduction program report, survey results, modification request or exemption request including the cause for disapproval. If the director does not notify the employer by the deadlines in this section, the employer's ((CTR)) commute trip reduction program report, survey results, modification request or exemption request shall be deemed accepted.

SECTION 13. K.C.C. 14.60.060, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 14. Ordinance 10733, Section 6, as amended, and K.C.C. 14.60.060 are each hereby amended to read as follows:

A. If an employer meets either or both of its goals for reducing ((VMT)) vehicle miles travelled per

employee and the drive-alone rate, the employer has satisfied the objectives of the ((CTR)) commute trip reduction plan and will not be required to modify ((the)) its v program.

B. If an employer makes a good faith effort, as defined in RCW 70.94.534(2), but has not met its goal, no additional modifications to the ((CTR)) commute trip reduction program are required. An employer is presumed to act in good faith if failure to implement a ((CTR)) commute trip reduction program is the result of an inability to reach agreement with a union, provided that the employer requests the union to approve any ((CTR)) commute trip reduction program provision that is subject to collective bargaining and the employer advises the union that the employer is subject to this chapter.

C. If an employer fails to make a good faith effort, as defined in RCW 70.94.534(2), and fails to meet the applicable ((VMT)) vehicle miles travelled reduction or drive-alone goal, the director shall notify the employer of potential modifications to the ((CTR)) commute trip reduction program and shall direct the employer to revise ((the)) its ((CTR)) commute trip reduction program within thirty days to incorporate the modifications to comply with the requirements of RCW 70.94.531. The employer shall submit a modified ((CTR)) commute trip reduction program to the director. The director shall review the revised program and notify the employer that it is accepted or rejected. The director has the discretion to require the employer to attend a conference with program review staff for the purpose of reaching consensus on a revised ((CTR)) commute trip reduction program. The director shall issue a final decision on the required program within ten working days of the conference.

SECTION 15. K.C.C. 14.60.070, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 16. Ordinance 10733, Section 6, as amended, and K.C.C. 14.60.070 are each hereby amended to read as follows:

A. Beginning one year after the director has approved its ((CTR)) commute trip reduction program, an employer may request a modification of ((CTR)) commute trip reduction program goals under the following

conditions:

1. The employer demonstrates that it requires employees to use the vehicles they drive to work during the work day for work purposes. Under this condition, the applicable goals will not be changed, but those employees who need daily access to the vehicles they drive to work will not be included in the calculations of proportion of ((VMT)) vehicle miles travelled per employee and the drive-alone rate used to determine the employer's progress toward program goals. The employer shall provide documentation indicating how many employees meet this condition and must demonstrate that no reasonable alternative commute mode exists for these employees and that the vehicles cannot reasonably be used for carpools or vanpools;

2. The employer demonstrates that it has significant numbers of its employees assigned to variable work schedules which makes it unreasonable to expect that such employees regularly participate in ((CTR)) commute trip reduction programs. The employer shall provide documentation indicating how many employees meet this condition and must demonstrate that no reasonable alternative commute mode program can be developed for these employees. Under this condition, the applicable goals will not be changed, but those employees who are assigned to variable work schedules will not be included in the calculations of the proportion of ((VMT)) vehicle miles travelled per employee and the drive-alone rate used to determine the employer's progress toward program goals; and

3. The employer demonstrates that opportunities for alternative commute modes do not exist due to factors related to the work site, its work force or characteristics of the business that are beyond the employer's control; and the employer clearly demonstrates why the work site is unable to achieve the applicable goal. The work site must also demonstrate that it has implemented all of the elements contained in its approved ((CTR)) commute trip reduction program.

B. An affected employer may request an exemption from all ((CTR)) commute trip reduction program requirements for a particular work site. The employer must demonstrate that it would experience undue hardship in complying with the program requirements as a result of the characteristics of its business, its work

force or its location or locations. The director may grant an exemption only if the employer demonstrates that it faces extraordinary circumstance, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive-alone trips and ~~((VMT))~~ vehicle miles travelled per employee.

C. The director shall approve or disapprove modification or exemption requests within thirty days of receipt. The director shall review annually all employers receiving modifications or exemptions and shall determine whether the exemptions will be in effect during the following program year.

SECTION 17. K.C.C. 14.60.080, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 18. Ordinance 10733, Section 8, as amended, and K.C.C. 14.60.080 are each hereby amended to read as follows:

Any affected employer may request reconsideration of a decision by the director. If the director denies the request for reconsideration in whole or in part, the director's final decision may be appealed in accordance with K.C.C. 20.22.080.

SECTION 19. K.C.C. 14.60.100, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.

SECTION 20. Ordinance 10733, Section 10, as amended, and K.C.C. 14.60.100 are each hereby amended to read as follows:

The director of the department of transportation is hereby instructed and authorized to adopt such administrative rules and procedures as are necessary to implement the provisions of this ~~((act))~~ chapter.

SECTION 21. K.C.C. 28.94.110, as amended by this ordinance, is hereby recodified as a new section in the new chapter established in section 1 of this ordinance.