

# HOUSE BILL REPORT

## ESHB 2326

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As Amended by Senate

**Title:** An act relating to gasohol.

**Brief Description:** Eliminating gasohol tax exemption.

**Sponsors:** By House Committee on Transportation (originally sponsored by Representatives R. Fisher, Heavey, Cooke, Schmidt, Sheldon and Springer).

**Brief History:**

Reported by House Committee on:  
Transportation, February 1, 1994, DPS;  
Passed House, February 10, 1994, 88-7;  
Amended by Senate.

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 26 members: Representatives R. Fisher, Chair; Brown, Vice Chair; Jones, Vice Chair; Schmidt, Ranking Minority Member; Mielke, Assistant Ranking Minority Member; Backlund; Brough; Brumsickle; Cothorn; Eide; Finkbeiner; Forner; Hansen; Heavey; Horn; Johanson; J. Kohl; R. Meyers; Orr; Patterson; Quall; Romero; Sheldon; Shin; Wood and Zellinsky.

**Minority Report:** Do not pass. Signed by 1 member: Representative Fuhrman.

**Staff:** Roger Horn (786-7839).

**Background:** In 1980 and 1981, legislation was passed that exempted alcohol used in motor fuel from the motor fuel tax. The legislation also provided a tax credit of 60 percent of the amount of tax exempted if the alcohol/gasoline mixture (gasohol) contains at least 9.5 percent alcohol by volume.

The gasohol exemption and credit were scheduled to sunset in 1992, but were extended to 1999 in legislation passed during the 1991 legislative session. ESB 5342, passed in 1993, limits the exemption and credit to fuel containing alcohol produced by a manufacturer that sold less than eight million gallons of alcohol for use as fuel in the prior calendar year.

Pursuant to the provisions of the 1990 federal Clean Air Act amendments, the use of fuel oxygenated with alcohol or ether-based additives is now required in King, Pierce, Snohomish and Clark counties from November through February and in Spokane County from September through February. The required level of additive for oxygenation is 2.7 percent by weight which translates to about 7.7 percent by volume for gasohol.

The most common ether-based oxygenate is methyl tertiary butyl ether (MTBE) which is produced primarily from crude oil or natural gas. The gasohol exemption and credit apply to alcohol used as a feedstock in the production of an ether-based additive. Alcohol generally is not used in the production of MTBE.

The federal government provides a gasohol exemption on the 14.1 cent federal gas tax ranging from 3.0 cents to 5.4 cents per gallon depending on alcohol content.

Based on the November 1993 revenue forecast, \$57 million will be claimed in gasohol exemptions and credits in the 1993-95 biennium and \$70 million in the 1995-97 biennium.

**Summary of Bill:** The fuel tax exemption and credit for alcohol used as motor vehicle fuel is repealed. From May 1, 1994 through June 30, 1995, increased gas tax revenue resulting from the repeal is placed in the newly created gasohol exemption holding account. Revenue from the account may only be used for state highway construction. If a court finds that the bill is subject to the provisions of Initiative 601, it shall be submitted for a vote of the people at the next general election. A ballot title is provided.

**EFFECT OF SENATE AMENDMENT(S):** The current law exemption and credit for alcohol used as fuel are repealed and replaced with an exemption and credit with the following provisions:

Only alcohol from a manufacturer that produced four million gallons or less of fuel alcohol in the prior year qualifies for the exemption (eight million gallons under current law).

To qualify for the exemption, a company that was not in continuous production during the prior year must have a fuel alcohol production capacity of four million gallons or less.

Alcohol is no longer eligible for the exemption if the producer has sold over 4 million gallons of fuel alcohol in the current year.

Only alcohol produced by a company whose primary feedstock is food processing waste, brewery waste, or wood and paper processing waste is eligible for the exemption.

An alcohol tax credit of 30 percent of the exemption amount (60 percent under current law) is provided for gasohol containing at least 10 percent alcohol.

The exemption is not allowed in all of Eastern Washington or all of Western Washington during or one month prior to an oxygenation mandate period anywhere in that region.

A distributor may not claim the alcohol exemption on more than five million gallons of qualified alcohol in a calendar year.

The total amount of exemption and credit in a calendar year may not exceed \$5 million. From the effective date of the bill until December 31, 1994, the cap is \$2.5 million.

Gas tax revenue resulting from limiting the exemption and credit is placed into the gasohol exemption holding account for the remainder of the current biennium, to be used only for highway construction.

The bill shall be submitted for a vote of the people at the next general election if a court finds that the bill does not comply with provisions of Initiative 601. A ballot title is provided.

A sunset date of December 31, 1999, is provided (same as current law).

The bill takes effect May 1, 1994.

**Fiscal Note:** Requested January 17, 1994.

**Effective Date:** The bill takes effect May 1, 1994.

**Testimony For:** With federal and state mandates requiring the use of oxygenated fuel in non-attainment areas, an exemption to encourage the use of alcohol is unnecessary. The state, counties and cities need revenue for Category C highway improvements and local road projects.

**Testimony Against:** The exemption for alcohol has been successful in increasing the amount of alcohol used as fuel. Increased gasohol use improves air quality, reduces dependence on foreign oil, stimulates economic development, and provides a market for waste products. It would be better to narrow the exemption rather than to repeal it.

**Witnesses:** Helga Morgenstern, Department of Transportation (pro); Mike Ryherd, Time Oil Company (con); Tom Koehler, Northwest Renewable Fuels Council (con); Eric Berger, County Road Administration Board (pro); and Robert J. Clark, Washington State Grange (con).

**VOTE ON FINAL PASSAGE:**

Yeas 88; Nays 7; Excused 3

Nays: Representatives Ballard, Chandler, Fuhrman, Lisk, McMorris, Schoesler, Sheahan

Excused: Representatives Dunshee, Riley, Wineberry