

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2660

54th Legislature
1996 Regular Session

Passed by the House February 5, 1996
Yeas 96 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate February 28, 1996
Yeas 43 Nays 3

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2660** 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**

HOUSE BILL 2660

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By Representatives Cairnes and R. Fisher; by request of Department of Licensing

Read first time 01/16/96. Referred to Committee on Transportation.

1 AN ACT Relating to refunds and credits of certain motor vehicle
2 fees and special fuel taxes; amending RCW 46.87.150, 46.87.310,
3 46.87.330, and 82.38.190; and providing an effective date.

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

5 **Sec. 1.** RCW 46.87.150 and 1987 c 244 s 28 are each amended to read
6 as follows:

7 Whenever a person has been required to pay a fee or tax pursuant to
8 this chapter that amounts to an overpayment of ((five)) ten dollars or
9 more, the person is entitled to a refund of the entire amount of such
10 overpayment, regardless of whether or not a refund of the overpayment
11 has been requested. Nothing in this subsection precludes anyone from
12 applying for a refund of such overpayment if the overpayment is less
13 than ((five)) ten dollars. Conversely, if the department or its agents
14 has failed to charge and collect the full amount of fees or taxes
15 pursuant to this chapter, which underpayment is in the amount of
16 ((five)) ten dollars or more, the department shall charge and collect
17 such additional amount as will constitute full payment of the fees and
18 taxes due.

1 **Sec. 2.** RCW 46.87.310 and 1993 c 307 s 15 are each amended to read
2 as follows:

3 Any owner whose application for proportional registration has been
4 accepted shall preserve the records on which the application is based
5 for a period of four years following the preceding year or period upon
6 which the application is based. These records shall be complete and
7 shall include, but not be limited to, the following: Copies of
8 proportional registration applications and supplements for all
9 jurisdictions in which the fleet is prorated; proof of proportional or
10 full registration with other jurisdictions; vehicle license or trip
11 permits; temporary authorization permits; documents establishing the
12 latest purchase year and cost of each fleet vehicle in ready-for-the-
13 road condition; weight certificates indicating the unladen, ready-for-
14 the-road, weight of each vehicle in the fleet; periodic summaries of
15 mileage by fleet and by individual vehicles; individual trip reports,
16 driver's daily logs, or other source documents maintained for each
17 individual trip that provide trip dates, points of origin and
18 destinations, total miles traveled, miles traveled in each
19 jurisdiction, routes traveled, vehicle equipment number, driver's full
20 name, and all other information pertinent to each trip. Upon request
21 of the department, the owner shall make the records available to the
22 department at its designated office for audit as to accuracy of
23 records, computations, and payments. The department shall assess and
24 collect any unpaid fees and taxes found to be due the state and provide
25 credits or refunds for overpayments of Washington fees and taxes as
26 determined in accordance with formulas and other requirements
27 prescribed in this chapter. If the owner fails to maintain complete
28 records as required by this section, the department shall attempt to
29 reconstruct or reestablish such records. However, if the department is
30 unable to do so and the missing or incomplete records involve mileages
31 accrued by vehicles while they are part of the fleet, the department
32 may assess an amount not to exceed the difference between the
33 Washington proportional fees and taxes paid and one hundred percent of
34 the fees and taxes. Further, if the owner fails to maintain complete
35 records as required by this section, or if the department determines
36 that the owner should have registered more vehicles in this state under
37 this chapter, the department may deny the owner the right of any
38 further benefits provided by this chapter until any final audit or
39 assessment made under this chapter has been satisfied.

1 The department may audit the records of any owner and may make
2 arrangements with agencies of other jurisdictions administering motor
3 vehicle registration laws for joint audits of any such owner. No
4 assessment for deficiency or claim for credit may be made for any
5 period for which records are no longer required. Any fees, taxes,
6 penalties, or interest found to be due and owing the state upon audit
7 shall bear interest at the rate of one percent per month, or fraction
8 thereof, from the first day of the calendar month after the amount
9 should have been paid until the date of payment. If the audit
10 discloses a deliberate and willful intent to evade the requirements of
11 payment under RCW 46.87.140, a penalty of ten percent shall also be
12 assessed.

13 If the audit discloses that an overpayment to the state in excess
14 of ((five)) ten dollars has been made, the department shall certify the
15 overpayment to the state treasurer who shall issue a warrant for the
16 overpayment to the vehicle operator. Overpayments shall bear interest
17 at the rate of eight percent per annum from the date on which the
18 overpayment is incurred until the date of payment.

19 **Sec. 3.** RCW 46.87.330 and 1987 c 244 s 46 are each amended to read
20 as follows:

21 An owner of proportionally registered vehicles against whom an
22 assessment is made under RCW ((46.87.140 or)) 46.87.310 may petition
23 for reassessment thereof within thirty days after service of notice of
24 the assessment upon the owner of the proportionally registered
25 vehicles. If the petition is not filed within the thirty-day period,
26 the amount of the assessment becomes final at the expiration of that
27 time period.

28 If a petition for reassessment is filed within the thirty-day
29 period, the department shall reconsider the assessment and, if the
30 petitioner has so requested in the petition, shall grant the petitioner
31 an oral hearing and give the petitioner ten days notice of the time and
32 place of the hearing. The department may continue the hearing from
33 time to time. The decision of the department upon a petition for
34 reassessment becomes final thirty days after service upon the
35 petitioner of notice of the decision.

36 Every assessment made under ((this chapter)) RCW 46.87.310 becomes
37 due and payable at the time it is served on the owner. If the

1 assessment is not paid in full when it becomes final, the department
2 shall add a penalty of ten percent of the amount of the assessment.

3 Any notice of assessment, reassessment, oral hearing, or decision
4 required by this section shall be served personally or by mail. If
5 served by mail, service is deemed to have been accomplished on the date
6 the notice was deposited in the United States mail, postage prepaid,
7 addressed to the owner of the proportionally registered vehicles at the
8 owner's address as it appears in the proportional registration records
9 of the department.

10 No injunction or writ of mandate or other legal or equitable
11 process may be issued in any suit, action, or proceeding in any court
12 against any officer of the state to prevent or enjoin the collection
13 under this chapter of any fee or tax or any amount of fee or tax
14 required to be collected, except as specifically provided for in
15 chapter 34.05 RCW.

16 **Sec. 4.** RCW 82.38.190 and 1979 c 40 s 14 are each amended to read
17 as follows:

18 (1) Claims under RCW 82.38.180 shall be filed with the department
19 on forms prescribed by the department and shall show the date of filing
20 and the period covered in the claim, the number of gallons of special
21 fuel used for purposes subject to tax refund, and such other facts and
22 information as may be required. Every such claim shall be supported by
23 an invoice or invoices issued to or by the claimant, as may be
24 prescribed by the department, and such other information as the
25 department may require.

26 (2) Any amount determined to be refundable by the department under
27 RCW 82.38.180 shall first be credited on any amounts then due and
28 payable from the special fuel dealer or special fuel user or to any
29 person to whom the refund is due, and the department shall then certify
30 the balance thereof to the state treasurer, who shall thereupon draw
31 his warrant for such certified amount to such special fuel dealer or
32 special fuel user or any person: PROVIDED, HOWEVER, That the
33 department shall deduct fifty cents from all such refunds as a filing
34 fee, which fee shall be deducted from the warrant issued in payment of
35 such refund to defray expenses in furnishing the claim forms and other
36 forms provided for in this chapter.

1 (3) No refund or credit shall be approved by the department unless
2 a written claim for refund or credit stating the specific grounds upon
3 which the claim is founded is filed with the department:

4 (a) Within thirteen months from the date of purchase or from the
5 last day of the month following the close of the reporting period for
6 which the refundable amount or credit is due with respect to refunds or
7 credits allowable under RCW 82.38.180, subsections (1), (2), (4) and
8 (5), and if not filed within this period the right to refund shall be
9 forever barred.

10 (b) Within three years from the last day of the month following the
11 close of the reporting period for which the overpayment is due with
12 respect to the refunds or credits allowable under RCW 82.38.180(3).
13 The department shall refund any amount paid that has been verified by
14 the department to be more than ten dollars over the amount actually due
15 for the reporting period. Payment credits shall not be carried forward
16 and applied to subsequent tax returns.

17 (4) Within thirty days after disallowing any claim in whole or in
18 part, the department shall serve written notice of its action on the
19 claimant.

20 (5) Interest shall be paid upon any refundable amount or credit due
21 under RCW 82.38.180(3) at the rate of one percent per month from the
22 last day of the calendar month following the reporting period for which
23 the refundable amount or credit is due.

24 The interest shall be paid:

25 (a) In the case of a refund, to the last day of the calendar month
26 following the date upon which the person making the overpayment, if he
27 has not already filed a claim, is notified by the department that a
28 claim may be filed or the date upon which the claim is approved by the
29 department, whichever date is earlier.

30 (b) In the case of a credit, to the same date as that to which
31 interest is computed on the tax or amount against which the credit is
32 applied.

33 If the department determines that any overpayment has been made
34 intentionally or by reason of carelessness, it shall not allow any
35 interest thereon.

36 (6) No injunction or writ of mandate or other legal or equitable
37 process shall issue in any suit, action or proceeding in any court
38 against this state or against any officer of the state to prevent or

1 enjoin the collection under this chapter of any tax or any amount of
2 tax required to be collected.

3 NEW SECTION. **Sec. 5.** This act takes effect July 1, 1996.

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