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HOUSE BILL 2138

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Morris, Dunn, Sheldon, Mason, Gombosky, Blalock, O'Brien, Costa, Cooper, Wood and Lantz

Read first time 02/24/97. Referred to Committee on Transportation Policy & Budget.

1 AN ACT Relating to an exemption from the special fuel tax; amending  
2 RCW 82.38.080, 35A.82.010, and 82.38.150; and reenacting and amending  
3 RCW 82.08.0255 and 82.12.0256.

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

5 **Sec. 1.** RCW 82.38.080 and 1996 c 244 s 6 are each amended to read  
6 as follows:

7 There is exempted from the tax imposed by this chapter, the use of  
8 fuel for: (1) Street and highway construction and maintenance purposes  
9 in motor vehicles owned and operated by the state of Washington, or any  
10 county or municipality; (2) publicly owned fire fighting equipment; (3)  
11 special mobile equipment as defined in RCW 46.04.552; (4) power pumping  
12 units or other power take-off equipment of any motor vehicle which is  
13 accurately measured by metering devices that have been specifically  
14 approved by the department or which is established by either of the  
15 following formulae: (a) Pumping propane, or fuel or heating oils or  
16 milk picked up from a farm or dairy farm storage tank by a power take-  
17 off unit on a delivery truck, at the rate of three-fourths of one  
18 gallon for each one thousand gallons of fuel delivered or milk picked  
19 up: PROVIDED, That claimant when presenting his claim to the

1 department in accordance with the provisions of this chapter, shall  
2 provide to said claim, invoices of propane, or fuel or heating oil  
3 delivered, or such other appropriate information as may be required by  
4 the department to substantiate his claim; or (b) operating a power  
5 take-off unit on a cement mixer truck or a load compactor on a garbage  
6 truck at the rate of twenty-five percent of the total gallons of fuel  
7 used in such a truck; and (c) the department is authorized to establish  
8 by rule additional formulae for determining fuel usage when operating  
9 other types of equipment by means of power take-off units when direct  
10 measurement of the fuel used is not feasible. The department is also  
11 authorized to adopt rules regarding the usage of on board computers for  
12 the production of records required by this chapter; (5) motor vehicles  
13 owned and operated by the United States government; (6) heating  
14 purposes; (7) moving a motor vehicle on a public highway between two  
15 pieces of private property when said moving is incidental to the  
16 primary use of the motor vehicle; (8) transportation services for  
17 persons with special transportation needs by a private, nonprofit  
18 transportation provider regulated under chapter 81.66 RCW; ~~((and))~~ (9)  
19 motor vehicles that are: (a) Owned and operated by an institution of  
20 higher education; and (b) used solely in research and development  
21 activities for the testing of alternative fuels to power vehicles; and  
22 (10) notwithstanding any provision of law to the contrary, every urban  
23 passenger transportation system and carriers as defined by chapters  
24 81.68 and 81.70 RCW shall be exempt from the provisions of this chapter  
25 requiring the payment of special fuel taxes. For the purposes of this  
26 section "urban passenger transportation system" means every  
27 transportation system, publicly or privately owned, having as its  
28 principal source of revenue the income from transporting persons for  
29 compensation by means of motor vehicles and/or trackless trolleys, each  
30 having a seating capacity for over fifteen persons over prescribed  
31 routes in such a manner that the routes of such motor vehicles and/or  
32 trackless trolleys, either alone or in conjunction with routes of other  
33 such motor vehicles and/or trackless trolleys subject to routing by the  
34 same transportation system, shall not extend for a distance exceeding  
35 twenty-five road miles beyond the corporate limits of the county in  
36 which the original starting points of such motor vehicles are located:  
37 PROVIDED, That no refunds or credits shall be granted on fuel used by  
38 any urban transportation vehicle or vehicle operated pursuant to  
39 chapters 81.68 and 81.70 RCW on any trip where any portion of said trip

1 is more than twenty-five road miles beyond the corporate limits of the  
2 county in which said trip originated.

3 **Sec. 2.** RCW 35A.82.010 and 1995 c 274 s 4 are each amended to read  
4 as follows:

5 A code city shall collect, receive and share in the distribution of  
6 state collected and distributed excise taxes to the same extent and  
7 manner as general laws relating thereto apply to any class of city or  
8 town including, but not limited to, funds distributed to cities under  
9 RCW 82.36.020 relating to motor vehicle fuel tax, RCW 82.38.290  
10 relating to use fuel tax, and RCW 82.36.275 and 82.38.080(~~(+9)~~) (10).

11 **Sec. 3.** RCW 82.08.0255 and 1983 1st ex.s. c 35 s 2 and 1983 c 108  
12 s 1 are each reenacted and amended to read as follows:

13 (1) The tax levied by RCW 82.08.020 shall not apply to sales of:

14 (a) Motor vehicle fuel used in aircraft by the manufacturer thereof  
15 for research, development, and testing purposes; and

16 (b) Motor vehicle and special fuel if:

17 (i) The fuel is purchased for the purpose of public transportation  
18 and the purchaser is entitled to a refund or an exemption under RCW  
19 82.36.275 or 82.38.080(~~(+9)~~) (10); or

20 (ii) The fuel is purchased by a private, nonprofit transportation  
21 provider certified under chapter 81.66 RCW and the purchaser is  
22 entitled to a refund or an exemption under RCW 82.36.285 or  
23 82.38.080(8); or

24 (iii) The fuel is taxable under chapter 82.36 or 82.38 RCW.

25 (2) Any person who has paid the tax imposed by RCW 82.08.020 on the  
26 sale of special fuel delivered in this state shall be entitled to a  
27 credit or refund of such tax with respect to fuel subsequently  
28 established to have been actually transported and used outside this  
29 state by persons engaged in interstate commerce. The tax shall be  
30 claimed as a credit or refunded through the tax reports required under  
31 RCW 82.38.150.

32 **Sec. 4.** RCW 82.12.0256 and 1983 1st ex.s. c 35 s 3 and 1983 c 108  
33 s 2 are each reenacted and amended to read as follows:

34 The provisions of this chapter shall not apply in respect to the  
35 use of:

1 (1) Motor vehicle fuel used in aircraft by the manufacturer thereof  
2 for research, development, and testing purposes; and

3 (2) Special fuel purchased in this state upon which a refund is  
4 obtained as provided in RCW 82.38.180(2); and

5 (3) Motor vehicle and special fuel if:

6 (a) The fuel is used for the purpose of public transportation and  
7 the purchaser is entitled to a refund or an exemption under RCW  
8 82.36.275 or 82.38.080(~~(+9)~~) (10); or

9 (b) The fuel is purchased by a private, nonprofit transportation  
10 provider certified under chapter 81.66 RCW and the purchaser is  
11 entitled to a refund or an exemption under RCW 82.36.285 or  
12 82.38.080(8); or

13 (c) The fuel is taxable under chapter 82.36 or 82.38 RCW:  
14 PROVIDED, That the use of motor vehicle and special fuel upon which a  
15 refund of the applicable fuel tax is obtained shall not be exempt under  
16 this subsection (3)(c), and the director of licensing shall deduct from  
17 the amount of such tax to be refunded the amount of tax due under this  
18 chapter and remit the same each month to the department of revenue.

19 **Sec. 5.** RCW 82.38.150 and 1996 c 104 s 11 are each amended to read  
20 as follows:

21 For the purpose of determining the amount of liability for the tax  
22 herein imposed, and to periodically update license information, each  
23 special fuel dealer and each special fuel user shall file tax reports  
24 with the department, on forms prescribed by the department. Special  
25 fuel dealers shall file the reports at the intervals as shown in the  
26 following schedule:

27	Estimated Yearly	
28	Tax Liability	Reporting Frequency
29	\$ 0 - \$100	Yearly
30	\$101 - 250	Semi-yearly
31	\$251 - 499	Quarterly
32	\$500 and over	Monthly

33 Special fuel users whose estimated yearly tax liability is two  
34 hundred fifty dollars or less, shall file a report yearly, and special  
35 fuel users whose estimated yearly tax liability is more than two  
36 hundred fifty dollars, shall file reports quarterly.

1       The department shall establish the reporting frequency for each  
2 applicant at the time the special fuel license is issued. If it  
3 becomes apparent that any special fuel licensee is not reporting in  
4 accordance with the above schedule, the department shall change the  
5 licensee's reporting frequency by giving thirty days' notice to the  
6 licensee by mail to the licensee's address of record. A report shall  
7 be filed with the department even though no special fuel was used, or  
8 tax is due, for the reporting period. Each tax report shall contain a  
9 declaration by the person making the same, to the effect that the  
10 statements contained therein are true and are made under penalties of  
11 perjury, which declaration shall have the same force and effect as a  
12 verification of the report and is in lieu of such verification. The  
13 report shall show such information as the department may reasonably  
14 require for the proper administration and enforcement of this chapter.  
15 For counties within which an additional excise tax on special fuel has  
16 been levied by that jurisdiction under RCW 82.80.010, the report must  
17 show the quantities of special fuel sold, distributed, or withdrawn  
18 from bulk storage by the reporting dealer or user within the county's  
19 boundaries and the tax liability from its levy. The special fuel  
20 dealer or special fuel user shall file the report on or before the  
21 twenty-fifth day of the next succeeding calendar month following the  
22 period to which it relates.

23       Subject to the written approval of the department, tax reports may  
24 cover a period ending on a day other than the last day of the calendar  
25 month. Taxpayers granted approval to file reports in this manner will  
26 file such reports on or before the twenty-fifth day following the end  
27 of the reporting period. No change to this reporting period will be  
28 made without the written authorization of the department.

29       If the final filing date falls on a Saturday, Sunday, or legal  
30 holiday the next secular or business day shall be the final filing  
31 date. Such reports shall be considered filed or received on the date  
32 shown by the post office cancellation mark stamped upon an envelope  
33 containing such report properly addressed to the department, or on the  
34 date it was mailed if proof satisfactory to the department is available  
35 to establish the date it was mailed.

36       The department, if it deems it necessary in order to insure payment  
37 of the tax imposed by this chapter, or to facilitate the administration  
38 of this chapter, has the authority to require the filing of reports and

1 tax remittances at shorter intervals than one month if, in its opinion,  
2 an existing bond has become insufficient.

3 The department may permit any special fuel user whose sole use of  
4 special fuel is in motor vehicles or equipment exempt from tax as  
5 provided in RCW 82.38.075 and 82.38.080 (1), (2), (3), (8), and (~~(9)~~)  
6 (10), in lieu of the reports required in this section, to submit  
7 reports annually or as requested by the department, in such form as the  
8 department may require.

9 A special fuel user whose sole use of special fuel is for purposes  
10 other than the propulsion of motor vehicles upon the public highways of  
11 this state shall not be required to submit the reports required in this  
12 section.

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