

2 **HB 1407** - H COMM AMD **ADOPTED 3/09/01**
3 By Committee on Transportation

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5 On page 8, after line 34, insert the following:

6 "Sec. 5. RCW 82.36.060 and 1998 c 176 s 18 are each amended to
7 read as follows:

8 (1) An application for a license issued under this chapter shall be
9 made to the department on forms to be furnished by the department and
10 shall contain such information as the department deems necessary.

11 (2) Every application for a license must contain the following
12 information to the extent it applies to the applicant:

13 (a) Proof as the department may require concerning the applicant's
14 identity, including but not limited to his or her fingerprints or those
15 of the officers of a corporation making the application;

16 (b) The applicant's form and place of organization including proof
17 that the individual, partnership, or corporation is licensed to do
18 business in this state;

19 (c) The qualification and business history of the applicant and any
20 partner, officer, or director;

21 (d) The applicant's financial condition or history including a bank
22 reference and whether the applicant or any partner, officer, or
23 director has ever been adjudged bankrupt or has an unsatisfied judgment
24 in a federal or state court;

25 (e) Whether the applicant has been adjudged guilty of a crime that
26 directly relates to the business for which the license is sought and
27 the time elapsed since the conviction is less than ten years, or has
28 suffered a judgment within the preceding five years in a civil action
29 involving fraud, misrepresentation, or conversion and in the case of a
30 corporation or partnership, all directors, officers, or partners.

31 (3) An applicant for a license as a motor vehicle fuel importer
32 must list on the application each state, province, or country from
33 which the applicant intends to import motor vehicle fuel and, if
34 required by the state, province, or country listed, must be licensed or
35 registered for motor vehicle fuel tax purposes in that state, province,
36 or country.

1 (4) An applicant for a license as a motor vehicle fuel exporter
2 must list on the application each state, province, or country to which
3 the exporter intends to export motor vehicle fuel received in this
4 state by means of a transfer outside of the bulk transfer-terminal
5 system and, if required by the state, province, or country listed, must
6 be licensed or registered for motor vehicle fuel tax purposes in that
7 state, province, or country.

8 (5) An applicant for a license as a motor vehicle fuel supplier
9 must have a federal certificate of registry that is issued under the
10 internal revenue code and authorizes the applicant to enter into
11 federal tax-free transactions on motor vehicle fuel in the terminal
12 transfer system.

13 (6) After receipt of an application for a license, the director may
14 conduct an investigation to determine whether the facts set forth are
15 true. The director shall require a fingerprint record check of the
16 applicant through the Washington state patrol criminal identification
17 system and the federal bureau of investigation before issuance of a
18 license. The results of the background investigation including
19 criminal history information may be released to authorized department
20 personnel as the director deems necessary. The department shall charge
21 a license holder or license applicant a fee of fifty dollars for each
22 background investigation conducted.

23 An applicant who makes a false statement of a material fact on the
24 application may be prosecuted for false swearing as defined by RCW
25 9A.72.040.

26 (7) Except as provided by subsection (8) of this section, before
27 granting any license issued under this chapter, the department shall
28 require applicant to file with the department, in such form as shall be
29 prescribed by the department, a corporate surety bond duly executed by
30 the applicant as principal, payable to the state and conditioned for
31 faithful performance of all the requirements of this chapter, including
32 the payment of all taxes, penalties, and other obligations arising out
33 of this chapter. The total amount of the bond or bonds shall be fixed
34 by the department and may be increased or reduced by the department at
35 any time subject to the limitations herein provided. In fixing the
36 total amount of the bond or bonds, the department shall require a bond
37 or bonds equivalent in total amount to twice the estimated monthly
38 excise tax determined in such manner as the department may deem proper.
39 If at any time the estimated excise tax to become due during the

1 succeeding month amounts to more than fifty percent of the established
2 bond, the department shall require additional bonds or securities to
3 maintain the marginal ratio herein specified or shall demand excise tax
4 payments to be made weekly or semimonthly to meet the requirements
5 hereof.

6 The total amount of the bond or bonds required of any licensee
7 shall never be less than five thousand dollars nor more than one
8 hundred thousand dollars.

9 No recoveries on any bond or the execution of any new bond shall
10 invalidate any bond and no revocation of any license shall effect the
11 validity of any bond but the total recoveries under any one bond shall
12 not exceed the amount of the bond.

13 In lieu of any such bond or bonds in total amount as herein fixed,
14 a licensee may deposit with the state treasurer, under such terms and
15 conditions as the department may prescribe, a like amount of lawful
16 money of the United States or bonds or other obligations of the United
17 States, the state, or any county of the state, of an actual market
18 value not less than the amount so fixed by the department.

19 Any surety on a bond furnished by a licensee as provided herein
20 shall be released and discharged from any and all liability to the
21 state accruing on such bond after the expiration of thirty days from
22 the date upon which such surety has lodged with the department a
23 written request to be released and discharged, but this provision shall
24 not operate to relieve, release, or discharge the surety from any
25 liability already accrued or which shall accrue before the expiration
26 of the thirty day period. The department shall promptly, upon
27 receiving any such request, notify the licensee who furnished the bond;
28 and unless the licensee, on or before the expiration of the thirty day
29 period, files a new bond, or makes a deposit in accordance with the
30 requirements of this section, the department shall forthwith cancel the
31 license. Whenever a new bond is furnished by a licensee, the
32 department shall cancel the old bond as soon as the department and the
33 attorney general are satisfied that all liability under the old bond
34 has been fully discharged.

35 The department may require a licensee to give a new or additional
36 surety bond or to deposit additional securities of the character
37 specified in this section if, in its opinion, the security of the
38 surety bond theretofore filed by such licensee, or the market value of
39 the properties deposited as security by the licensee, shall become

1 impaired or inadequate; and upon the failure of the licensee to give
2 such new or additional surety bond or to deposit additional securities
3 within thirty days after being requested so to do by the department,
4 the department shall forthwith cancel his or her license.

5 (8) The department may waive the requirements of subsection (7) of
6 this section for licensed distributors if, upon determination by the
7 department, the licensed distributor has sufficient resources, assets,
8 other financial instruments, or other means, to adequately make
9 payments on the estimated monthly motor vehicle fuel tax payments,
10 penalties, and interest arising out of this chapter. The department
11 shall adopt rules to administer this subsection."

12
13 Renumber sections following consecutively and correct any internal
14 references accordingly.

15 On page 10, after line 30, insert the following:

16 "**Sec. 7.** RCW 82.38.110 and 1998 c 176 s 63 are each amended to
17 read as follows:

18 (1) Application for a license issued under this chapter shall be
19 made to the department. The application shall be filed upon a form
20 prepared and furnished by the department and shall contain such
21 information as the department deems necessary.

22 (2) Every application for a special fuel license, other than an
23 application for a dyed special fuel user or international fuel tax
24 agreement license, must contain the following information to the extent
25 it applies to the applicant:

26 (a) Proof as the department shall require concerning the
27 applicant's identity, including but not limited to his or her
28 fingerprints or those of the officers of a corporation making the
29 application;

30 (b) The applicant's form and place of organization including proof
31 that the individual, partnership, or corporation is licensed to do
32 business in this state;

33 (c) The qualification and business history of the applicant and any
34 partner, officer, or director;

35 (d) The applicant's financial condition or history including a bank
36 reference and whether the applicant or any partner, officer, or

1 director has ever been adjudged bankrupt or has an unsatisfied judgment
2 in a federal or state court;

3 (e) Whether the applicant has been adjudged guilty of a crime that
4 directly relates to the business for which the license is sought and
5 the time elapsed since the conviction is less than ten years, or has
6 suffered a judgment within the preceding five years in a civil action
7 involving fraud, misrepresentation, or conversion and in the case of a
8 corporation or partnership, all directors, officers, or partners.

9 (3) An applicant for a license as a special fuel importer must list
10 on the application each state, province, or country from which the
11 applicant intends to import fuel and, if required by the state,
12 province, or country listed, must be licensed or registered for special
13 fuel tax purposes in that state, province, or country.

14 (4) An applicant for a license as a special fuel exporter must list
15 on the application each state, province, or country to which the
16 exporter intends to export special fuel received in this state by means
17 of a transfer outside the bulk transfer-terminal system and, if
18 required by the state, province, or country listed, must be licensed or
19 registered for special fuel tax purposes in that state, province, or
20 country.

21 (5) An applicant for a license as a special fuel supplier must have
22 a federal certificate of registry that is issued under the internal
23 revenue code and authorizes the applicant to enter into federal tax-
24 free transactions on special fuel in the terminal transfer system.

25 (6) After receipt of an application for a license, the director
26 shall conduct an investigation to determine whether the facts set forth
27 are true. The director shall require a fingerprint record check of the
28 applicant through the Washington state patrol criminal identification
29 system and the federal bureau of investigation before issuance of a
30 license. The results of the background investigation including
31 criminal history information may be released to authorized department
32 personnel as the director deems necessary. The department shall charge
33 a license holder or license applicant a fee of fifty dollars for each
34 background investigation conducted.

35 (7) An applicant who makes a false statement of a material fact on
36 the application may be prosecuted for false swearing as defined by RCW
37 9A.72.040.

38 (8) A special fuel license may not be issued to any person or
39 continued in force unless such person has furnished bond, as defined in

1 RCW 82.38.020, in such form as the department may require, to secure
2 his or her compliance with this chapter, and the payment of any and all
3 taxes, interest, and penalties due and to become due hereunder. The
4 requirement of furnishing a bond may be waived: (a) For special fuel
5 distributors who only deliver special fuel into the fuel tanks of
6 marine vessels((7)); (b) for dyed special fuel users ((and)); (c) for
7 persons issued licenses under the international fuel tax agreement; or
8 (d) for licensed special fuel distributors who, upon determination by
9 the department, have sufficient resources, assets, other financial
10 instruments, or other means to adequately make payments on the
11 estimated monthly motor vehicle fuel tax payments, penalties, and
12 interest arising out of this chapter. The department shall adopt rules
13 to administer this section.

14 (9) The department may require a licensee to post a bond if the
15 licensee, after having been licensed, has failed to file timely reports
16 or has failed to remit taxes due, or when an investigation or audit
17 indicates problems severe enough that the department, in its
18 discretion, determines that a bond is required to protect the interests
19 of the state. The department may also adopt rules prescribing
20 conditions that, in the department's discretion, require a bond to
21 protect the interests of the state.

22 (10) The total amount of the bond or bonds required of any licensee
23 shall be equivalent to three times the estimated monthly fuel tax,
24 determined in such manner as the department may deem proper: PROVIDED,
25 That those licensees having held a special fuel license for five or
26 more years without having said license suspended or revoked by the
27 department shall be permitted to reduce the amount of their bond to
28 twice the estimated monthly tax liability: PROVIDED FURTHER, That the
29 total amount of the bond or bonds shall never be less than five hundred
30 dollars nor more than one hundred thousand dollars.

31 (11) An application for a dyed special fuel user license must be
32 made to the department. The application must be filed upon a form
33 prescribed by the department and contain such information as the
34 department deems necessary.

35 (12) An application for an international fuel tax agreement license
36 must be made to the department. The application must be filed upon a
37 form prescribed by the department and contain such information as the
38 department may require."

1 Correct the title.

EFFECT: Allows licensed fuel tax distributors to use their credit and assets as security in lieu of bond requirements.

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