
HOUSE BILL 2235

State of Washington

57th Legislature

2001 Regular Session

By Representatives Cooper, Ericksen, Berkey, Barlean, Lovick, Dunshee, Crouse, Poulsen, Fromhold, Jarrett, Rockefeller, Edmonds, Morris, Marine, Murray and Linville

Read first time 04/06/2001. Referred to Committee on Transportation.

1 AN ACT Relating to providing incentives to reduce air pollution
2 from diesel fuels; amending RCW 82.36.010, 82.34.010, and 82.34.020;
3 adding a new section to chapter 82.36 RCW; and providing an expiration
4 date.

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

6 **Sec. 1.** RCW 82.36.010 and 1998 c 176 s 6 are each amended to read
7 as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Blended fuel" means a mixture of motor vehicle fuel and
11 another liquid, other than a de minimus amount of the liquid, that can
12 be used as a fuel to propel a motor vehicle.

13 (2) "Bond" means a bond duly executed with a corporate surety
14 qualified under chapter 48.28 RCW, which bond is payable to the state
15 of Washington conditioned upon faithful performance of all requirements
16 of this chapter, including the payment of all taxes, penalties, and
17 other obligations arising out of this chapter.

18 (3) "Bulk transfer" means a transfer of motor vehicle fuel by
19 pipeline or vessel.

1 (4) "Bulk transfer-terminal system" means the motor vehicle fuel
2 distribution system consisting of refineries, pipelines, vessels, and
3 terminals. Motor vehicle fuel in a refinery, pipeline, vessel, or
4 terminal is in the bulk transfer-terminal system. Motor vehicle fuel
5 in the fuel tank of an engine, motor vehicle, or in a railcar, trailer,
6 truck, or other equipment suitable for ground transportation is not in
7 the bulk transfer-terminal system.

8 (5) "Dealer" means a person engaged in the retail sale of motor
9 vehicle fuel.

10 (6) "Department" means the department of licensing.

11 (7) "Director" means the director of licensing.

12 (8) "Evasion" or "evade" means to diminish or avoid the
13 computation, assessment, or payment of authorized taxes or fees
14 through:

15 (a) A knowing: False statement; misrepresentation of fact; or
16 other act of deception; or

17 (b) An intentional: Omission; failure to file a return or report;
18 or other act of deception.

19 (9) "Export" means to obtain motor vehicle fuel in this state for
20 sales or distribution outside the state.

21 (10) "Highway" means every way or place open to the use of the
22 public, as a matter of right, for the purpose of vehicular travel.

23 (11) "Import" means to bring motor vehicle fuel into this state by
24 a means of conveyance other than the fuel supply tank of a motor
25 vehicle.

26 (12) "Licensee" means a person holding a license issued under this
27 chapter.

28 (13) "Marine fuel dealer" means a person engaged in the retail sale
29 of motor vehicle fuel whose place of business and/or sale outlet is
30 located upon a navigable waterway.

31 (14) "Motor vehicle fuel blender" means a person who produces
32 blended motor fuel outside the bulk transfer-terminal system.

33 (15) "Motor vehicle fuel distributor" means a person who acquires
34 motor vehicle fuel from a supplier, distributor, or licensee for
35 subsequent sale and distribution.

36 (16) "Motor vehicle fuel exporter" means a person who purchases
37 motor vehicle fuel in this state and directly exports the fuel by a
38 means other than the bulk transfer-terminal system to a destination
39 outside of the state. If the exporter of record is acting as an agent,

1 the person for whom the agent is acting is the exporter. If there is
2 no exporter of record, the owner of the motor fuel at the time of
3 exportation is the exporter.

4 (17) "Motor vehicle fuel importer" means a person who imports motor
5 vehicle fuel into the state by a means other than the bulk transfer-
6 terminal system. If the importer of record is acting as an agent, the
7 person for whom the agent is acting is the importer. If there is no
8 importer of record, the owner of the motor vehicle fuel at the time of
9 importation is the importer.

10 (18) "Motor vehicle fuel supplier" means a person who owns and
11 stores motor vehicle fuel in a terminal facility or who refines and
12 stores motor vehicle fuel at a refinery.

13 (19) "Motor vehicle" means a self-propelled vehicle designed for
14 operation upon land utilizing motor vehicle fuel as the means of
15 propulsion.

16 (20) "Motor vehicle fuel" means gasoline and any other inflammable
17 gas or liquid, by whatsoever name the gasoline, gas, or liquid may be
18 known or sold, the chief use of which is as fuel for the propulsion of
19 motor vehicles or motorboats.

20 (21) "Person" means a natural person, fiduciary, association, or
21 corporation. The term "person" as applied to an association means and
22 includes the partners or members thereof, and as applied to
23 corporations, the officers thereof.

24 (22) "Position holder" means a person who holds the inventory
25 position in motor vehicle fuel, as reflected by the records of the
26 terminal operator. A person holds the inventory position in motor
27 vehicle fuel if the person has a contractual agreement with the
28 terminal for the use of storage facilities and terminating services at
29 a terminal with respect to motor vehicle fuel. "Position holder"
30 includes a terminal operator that owns motor vehicle fuel in their
31 terminal.

32 (23) "Rack" means a mechanism for delivering motor vehicle fuel
33 from a refinery or terminal into a truck, trailer, railcar, or other
34 means of nonbulk transfer.

35 (24) "Refiner" means a person who owns, operates, or otherwise
36 controls a refinery.

37 (25) "Removal" means a physical transfer of motor vehicle fuel
38 other than by evaporation, loss, or destruction.

1 (26) "Terminal" means a motor vehicle fuel storage and distribution
2 facility that has been assigned a terminal control number by the
3 internal revenue service, is supplied by pipeline or vessel, and from
4 which reportable motor vehicle fuel is removed at a rack.

5 (27) "Terminal operator" means a person who owns, operates, or
6 otherwise controls a terminal.

7 (28) "Two-party exchange" or "buy-sell agreement" means a
8 transaction in which taxable motor vehicle fuel is transferred from one
9 licensed supplier to another licensed supplier under an exchange or
10 buy-sell agreement whereby the supplier that is the position holder
11 agrees to deliver taxable motor vehicle fuel to the other supplier or
12 the other supplier's customer at the rack of the terminal at which the
13 delivering supplier is the position holder.

14 (29) "Ultralow sulfur fuel" means diesel fuel with a sulfur content
15 of thirty parts per million or less.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.36 RCW
17 to read as follows:

18 Motor vehicle operators using ultralow sulfur fuel, as defined in
19 RCW 82.36.010, will receive a motor vehicle fuel tax refund of five
20 cents for each gallon of motor vehicle fuel used, whether the vehicle
21 fuel tax has been paid to the vendor from whom the motor vehicle fuel
22 was purchased or indirectly by adding the tax to the price of the fuel.

23 This section expires September 1, 2006.

24 **Sec. 3.** RCW 82.34.010 and 1988 c 127 s 36 are each amended to read
25 as follows:

26 Unless a different meaning is plainly required by the context, the
27 following words as hereinafter used in this chapter shall have the
28 following meanings:

29 (1) "Facility" shall mean an "air pollution control facility" or a
30 "water pollution control facility" as herein defined: (a) "Air
31 pollution control facility" includes any treatment works, control
32 devices and disposal systems, machinery, equipment, structures,
33 property or any part or accessories thereof, installed or acquired for
34 the primary purpose of reducing, controlling or disposing of industrial
35 waste which if released to the outdoor atmosphere could cause air
36 pollution. "Air pollution control facility" shall not mean any motor
37 vehicle air pollution control devices used to control the emission of

1 air contaminants from any motor vehicle, except for particulate traps
2 and catalysts retrofitted on heavy-duty diesel engines with a model
3 year of 2004 or earlier. Emissions by motor vehicles powered by heavy-
4 duty diesel engines shall, as necessary, be considered "industrial
5 waste" to carry out the intent of this chapter. (b) "Water pollution
6 control facility" includes any treatment works, control device or
7 disposal system, machinery, equipment, structures, property or any
8 accessories thereof installed or acquired for the primary purpose of
9 reducing, controlling or disposing of sewage and industrial waste which
10 if released to a water course could cause water pollution: PROVIDED,
11 That the word "facility" shall not be construed to include any control
12 device, machinery, equipment, structure, disposal system or other
13 property installed or constructed: For a municipal corporation other
14 than for coal-fired, steam electric generating plants constructed and
15 operated pursuant to chapter 54.44 RCW for which an application for a
16 certificate was made no later than December 31, 1969, together with any
17 air or water pollution control facility improvement which may be made
18 hereafter to such plants; or for the primary purpose of connecting any
19 commercial establishment with the waste collecting facilities of public
20 or privately owned utilities: PROVIDED FURTHER, That the word
21 "facility" shall not include any control device, machinery, equipment,
22 structure, disposal system, or other property installed or constructed
23 with the proceeds derived from the sale of industrial revenue bonds
24 issued under chapter 39.84 RCW.

25 (2) "Industrial waste" shall mean any liquid, gaseous, radioactive
26 or solid waste substance or combinations thereof resulting from any
27 process of industry, manufacture, trade or business, or from the
28 development or recovery of any natural resources.

29 (3) "Treatment works" or "control device" shall mean any machinery,
30 equipment, structure or property which is installed, constructed or
31 acquired for the primary purpose of controlling air or water pollution
32 and shall include, but shall not be limited to such devices as
33 precipitators, scrubbers, towers, filters, baghouses, incinerators,
34 evaporators, reservoirs, aerators used for the purpose of treating,
35 stabilizing, incinerating, holding, removing or isolating sewage and
36 industrial wastes.

37 (4) "Disposal system" shall mean any system containing treatment
38 works or control devices and includes but is not limited to pipelines,
39 outfalls, conduits, pumping stations, force mains, solids handling

1 equipment, instrumentation and monitoring equipment, ducts, fans,
2 vents, hoods and conveyors and all other construction, devices,
3 appurtenances and facilities used for collecting or conducting, sewage
4 and industrial waste to a point of disposal, treatment or isolation
5 except that which is necessary to manufacture of products.

6 (5) "Certificate" shall mean a pollution control tax exemption and
7 credit certificate for which application has been made not later than
8 December 31, 1969, except as follows:

9 (a) With respect to a facility required to be installed, such
10 application will be deemed timely made if made not later than November
11 30, 1981, and within one year after the effective date of specific
12 requirements for such facility promulgated by the appropriate control
13 agency.

14 (b) With respect to a water pollution control facility for which an
15 application was made in anticipation of specific requirements for such
16 facility being promulgated by the appropriate control agency, an
17 application will be deemed timely made if made during November, 1981,
18 and subsequently denied, and if an appeal of the agency's denial of the
19 application was filed in a timely manner.

20 (c) With respect to a facility for which plans and specifications
21 were approved by the appropriate control agency, an application will be
22 deemed timely made if made during November, 1981, and subsequently
23 denied, and if an appeal of the agency's denial of the application was
24 filed in a timely manner.

25 (d) With respect to the particulate and catalysts retrofitted on
26 heavy-duty diesel engines with a model year of 2004 or earlier, as
27 provided in RCW 82.34.050, an application will be deemed timely made if
28 made not later than September 1, 2006.

29 (e) For the purposes of (a), (b), and (c) of this subsection,
30 "facility" means a facility installed in an industrial, manufacturing,
31 waste disposal, utility, or other commercial establishment which is in
32 operation or under construction as of July 30, 1967.

33 (6) "Appropriate control agency" shall mean the department of
34 ecology; or the operating local or regional air pollution control
35 agency within whose jurisdiction a facility is or will be located, or
36 the department of ecology, where the facility is not or will not be
37 located within the area of an operating local or regional air pollution
38 control agency, or where the department of ecology has assumed
39 jurisdiction.

1 (7) "Department" shall mean the department of revenue.

2 **Sec. 4.** RCW 82.34.020 and 1981 2nd ex.s. c 9 s 2 are each amended
3 to read as follows:

4 An application for a certificate shall be filed with the department
5 not later than November 30, 1981, except that applications for
6 certificates described in RCW 82.34.010(5)(d) shall be filed not later
7 than September 1, 2006, and in such manner and in such form as may be
8 prescribed by the department. The application shall contain estimated
9 or actual costs, plans and specifications of the facility including all
10 materials incorporated or to be incorporated therein and a list
11 describing, and showing the cost, of all equipment acquired or to be
12 acquired by the applicant for the purpose of pollution control,
13 together with the operating procedure for the facility, or a time
14 schedule for the acquisition and installation or attachment of the
15 facility and the proposed operating procedure for such facility.

--- END ---