

# HOUSE BILL REPORT

## SSB 5190

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**As Reported by House Committee On:**  
Transportation

**Title:** An act relating to fuel tax evasion.

**Brief Description:** Strengthening laws against fuel tax evasion.

**Sponsors:** Senate Committee on Highways & Transportation (originally sponsored by Senators Jacobsen, Horn, Haugen and Franklin).

**Brief History:**

**Committee Activity:**

Transportation: 3/25/03, 3/28/03 [DPA].

**Brief Summary of Substitute Bill**  
**(As Amended by House Committee)**

- Allows the Washington State Patrol (WSP) to seize any untaxed fuel imported into the state along with the conveyances that the fuel is transported in.
- Penalty for the single event of using dyed diesel for a taxable purpose is reduced from a felony to a misdemeanor.

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** Do pass as amended. Signed by 26 members: Representatives Murray, Chair; Rockefeller, Vice Chair; Simpson, Vice Chair; Ericksen, Ranking Minority Member; Jarrett, Assistant Ranking Minority Member; Anderson, Armstrong, Bailey, Campbell, Clibborn, Cooper, Dickerson, Flannigan, Hankins, Hatfield, Hudgins, Kristiansen, Lovick, Morris, Nixon, Romero, Shabro, Sullivan, Wallace, Wood and Woods.

**Staff:** Jerry Long (786-7306).

**Background:**

Under current law unlicensed importers of motor vehicle fuel are subject to a civil penalty of 100 percent of the fuel tax due, plus interest. In addition to the penalties,

unlicensed importers and manufacturers of motor vehicle fuel and special fuel may be subject to a criminal penalty of a class C felony.

Card lock facilities are authorized to sell tax free diesel to farmers, logging companies and construction companies licensed by the Department of Licensing (DOL) to purchase clear, tax free diesel fuel for non-highway equipment or for non-highway use. The fuel may be purchased by inserting a card into the pump which identifies the purchase as being exempt from the fuel tax. Fraud may occur when a person purchases this untaxed fuel and uses it for a taxable purpose.

Currently the state has a dyed diesel program in place where persons may purchase dyed diesel for tax exempt purposes, and which may be detected by law enforcement should it be used for taxable purposes. Dyed diesel can be purchased by anyone for use in non-highway equipment unless otherwise exempted by law. Currently dyed diesel infractions are punishable as a felony in this state.

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**Summary of Amended Bill:**

The WSP may seize any fuel imported into the state or manufactured in the state by a person that is not licensed and seize any conveyances in which the fuel is transported. The WSP and/or the DOL may enter into contracts for the transportation, handling, storage and sale of fuel seized and may deduct expenses from the proceeds. Seized conveyances are sold at public auction. Proceeds from the sales are deposited into the Motor Vehicle Account.

The statute allowing for the sale of untaxed clear diesel at card lock facilities to farmers, logging companies and construction companies is repealed.

The penalty for a single event of using dyed diesel for a taxable purpose is reduced from a felony to a gross misdemeanor. Multiple dyed diesel infractions remain a felony.

RCW 82.36.306 is repealed since coloring of marine fuel no longer exists.

**Amended Bill Compared to Substitute Bill:**

The amended bill corrects language and technical references, limits the states liability as to the property sold at auction and retains the sale of untaxed clear diesel at car lock facilities to farmers, loggers, and construction companies.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** The DOL and the WSP support the seizure of gasoline and conveyances that the fuel is shipped in and reducing the penalty for first time offenders from a felony to a misdemeanor.

**Testimony Against:** None.

**Testified:** Jeff Devere, Washington State Patrol; and Jeff Beach, Department of Licensing.