
HOUSE BILL 1240

State of Washington

58th Legislature

2003 Regular Session

By Representatives Sullivan, Crouse, Wood, Morris, Grant, Schoesler, Quall, Ruderman and Schindler

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1 AN ACT Relating to tax incentives for biodiesel and alcohol fuel
2 production; amending RCW 82.29A.135 and 82.04.260; adding a new section
3 to chapter 84.36 RCW; adding a new chapter to Title 82 RCW; creating a
4 new section; providing effective dates; providing a contingent
5 effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** Unless the context clearly requires
8 otherwise, the definitions in this section apply throughout this
9 chapter.

10 (1) "Alcohol fuel" has the same meaning as provided in RCW
11 82.29A.135.

12 (2) "Applicant" means a person applying for a tax deferral under
13 this chapter.

14 (3) "Biodiesel fuel" means diesel fuel that consists of a mono
15 alkyl ester of long chain fatty acids derived from vegetable oils or
16 animal fats for use in compression-ignition engines and that meets the
17 requirements of the American society of testing and materials
18 specification D 6751 when blended with conventional diesel fuel.

19 (4) "Department" means the department of revenue.

1 (5) "Eligible area" means a county with fewer than one hundred
2 persons per square mile as determined annually by the office of
3 financial management and published by the department effective for the
4 period July 1st through June 30th.

5 (6)(a) "Eligible investment project" means an investment project in
6 an eligible area.

7 (b) The lessor or owner of a qualified building is not eligible for
8 a deferral unless the underlying ownership of the buildings, machinery,
9 and equipment vests exclusively in the same person, or unless the
10 lessor by written contract agrees to pass the economic benefit of the
11 deferral to the lessee in the form of reduced rent payments.

12 (c) "Eligible investment project" does not include any portion of
13 an investment project undertaken by a light and power business as
14 defined in RCW 82.16.010(5), other than that portion of a cogeneration
15 project that is used to generate power for consumption within the
16 manufacturing site of which the cogeneration project is an integral
17 part, or investment projects which have already received deferrals
18 under this chapter.

19 (7) "Investment project" means an investment in qualified buildings
20 or qualified machinery and equipment, including labor and services
21 rendered in the planning, installation, and construction of the
22 project.

23 (8) "Manufacturing" means the same as defined in RCW 82.04.120.
24 "Manufacturing" also includes computer programming, the production of
25 computer software, and other computer-related services, and the
26 activities performed by research and development laboratories and
27 commercial testing laboratories.

28 (9) "Person" has the meaning given in RCW 82.04.030.

29 (10) "Qualified buildings" means construction of new structures,
30 and expansion or renovation of existing structures for the purpose of
31 increasing floor space or production capacity used for manufacturing
32 and research and development activities, including plant offices and
33 warehouses or other facilities for the storage of raw material or
34 finished goods if such facilities are an essential or an integral part
35 of a factory, mill, plant, or laboratory used for manufacturing or
36 research and development. If a building is used partly for
37 manufacturing or research and development and partly for other

1 purposes, the applicable tax deferral shall be determined by
2 apportionment of the costs of construction under rules adopted by the
3 department.

4 (11) "Qualified machinery and equipment" means all new industrial
5 and research fixtures, equipment, and support facilities that are an
6 integral and necessary part of a manufacturing or research and
7 development operation. "Qualified machinery and equipment" includes:
8 Computers; software; data processing equipment; laboratory equipment;
9 manufacturing components such as belts, pulleys, shafts, and moving
10 parts; molds, tools, and dies; operating structures; and all equipment
11 used to control or operate the machinery.

12 (12) "Recipient" means a person receiving a tax deferral under this
13 chapter.

14 (13) "Research and development" means the development, refinement,
15 testing, marketing, and commercialization of a product, service, or
16 process before commercial sales have begun. As used in this
17 subsection, "commercial sales" excludes sales of prototypes or sales
18 for market testing if the total gross receipts from such sales of the
19 product, service, or process do not exceed one million dollars.

20 NEW SECTION. **Sec. 2.** (1) Application for deferral of taxes under
21 this chapter must be made before initiation of the construction of the
22 investment project or acquisition of equipment or machinery. The
23 application shall be made to the department in a form and manner
24 prescribed by the department. The application shall contain
25 information regarding the location of the investment project, the
26 applicant's average employment in the state for the prior year,
27 estimated or actual new employment related to the project, estimated or
28 actual wages of employees related to the project, estimated or actual
29 costs, time schedules for completion and operation, and other
30 information required by the department.

31 (2) The department shall rule on the application within sixty days.
32 The department shall keep a running total of all deferrals granted
33 under this chapter during each fiscal biennium.

34 NEW SECTION. **Sec. 3.** (1) The department shall issue a sales and
35 use tax deferral certificate for state and local sales and use taxes
36 due under chapters 82.08, 82.12, and 82.14 RCW on each eligible

1 investment project that is located in an eligible area as defined in
2 section 1 of this act, if the investment project is undertaken for the
3 purpose of manufacturing biodiesel or alcohol fuel.

4 (2) This section expires July 1, 2009.

5 NEW SECTION. **Sec. 4.** (1) For the purposes of this section,
6 "eligible investment project" means an investment project located
7 anywhere within the state that is undertaken for the purpose of
8 manufacturing biodiesel fuel if at least fifty percent of the feedstock
9 is derived from recycled vegetable oils or animal fats.

10 (2) The department shall issue a sales and use tax deferral
11 certificate for state and local sales and use taxes due under chapters
12 82.08, 82.12, and 82.14 RCW on each eligible investment project.

13 (3) All other provisions and eligibility requirements of this
14 chapter apply to applicants eligible under this section.

15 (4) This section expires July 1, 2009.

16 NEW SECTION. **Sec. 5.** (1) For the purposes of this section:

17 (a) "Eligible area" means a designated community empowerment zone
18 approved under RCW 43.31C.020 or a county containing a community
19 empowerment zone.

20 (b) "Eligible investment project" means an investment project
21 undertaken for the purpose of manufacturing biodiesel or alcohol fuel
22 that is located in an eligible area.

23 (c) "Qualified employment position" means a permanent full-time
24 employee employed in the eligible investment project during the entire
25 year.

26 (2) In addition to the provisions of RCW 82.60.040, the department
27 shall issue a sales and use tax deferral certificate for state and
28 local sales and use taxes due under chapters 82.08, 82.12, and 82.14
29 RCW, on each eligible investment project that is located in an eligible
30 area, if the applicant establishes that at the time the project is
31 operationally complete:

32 (a) The applicant will hire at least one qualified employment
33 position for each seven hundred fifty thousand dollars of investment on
34 which a deferral is requested; and

35 (b) The positions will be filled by persons who at the time of hire
36 are residents of the community empowerment zone. As used in this

1 subsection, "resident" means the person makes his or her home in the
2 community empowerment zone. A mailing address alone is insufficient to
3 establish that a person is a resident for the purposes of this section.
4 The persons must be hired after the date the application is filed with
5 the department.

6 (3) All other provisions and eligibility requirements of this
7 chapter apply to applicants eligible under this section.

8 (4) The qualified employment position must be filled by the end of
9 the calendar year following the year in which the project is certified
10 as operationally complete. If a person does not meet the requirements
11 for qualified employment positions by the end of the second calendar
12 year following the year in which the project is certified as
13 operationally complete, all deferred taxes are immediately due.

14 NEW SECTION. **Sec. 6.** (1) Each recipient of a deferral granted
15 under this chapter after June 30, 2003, shall submit a report to the
16 department on December 31st of the year in which the investment project
17 is certified by the department as having been operationally completed,
18 and on December 31st of each of the seven succeeding calendar years.
19 The report shall contain information, as required by the department,
20 from which the department may determine whether the recipient is
21 meeting the requirements of this chapter. If the recipient fails to
22 submit a report or submits an inadequate report, the department may
23 declare the amount of deferred taxes outstanding to be immediately
24 assessed and payable.

25 (2) If, on the basis of a report under this section or other
26 information, the department finds that an investment project is not
27 eligible for tax deferral under this chapter, the amount of deferred
28 taxes outstanding for the project are immediately due.

29 (3) Deferred taxes need not be repaid if the department determines,
30 in accordance with the provisions of subsection (1) of this section,
31 that the recipient has met the requirements of this chapter for the
32 seven calendar years following the certification by the department that
33 the investment project has been operationally completed.

34 NEW SECTION. **Sec. 7.** The employment security department shall
35 make, and certify to the department of revenue, all determinations of
36 employment and wages as requested by the department under this chapter.

1 NEW SECTION. **Sec. 8.** Chapter 82.32 RCW applies to the
2 administration of this chapter.

3 NEW SECTION. **Sec. 9.** Applications, reports, and any other
4 information received by the department under this chapter shall not be
5 confidential and shall be subject to disclosure.

6 NEW SECTION. **Sec. 10.** If the department determines that an
7 investment project for which an exemption is granted under this chapter
8 competes with an investment project for which a deferral is granted
9 under this chapter, the department shall study the impacts on the
10 project for which a deferral is granted.

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 84.36 RCW
12 to read as follows:

13 (1) For the purposes of this section:

14 (a) "Alcohol fuel" means any alcohol made from a product other than
15 petroleum or natural gas, which is used alone or in combination with
16 gasoline or other petroleum products for use as a fuel for motor
17 vehicles, farm implements, and machines or implements of husbandry.

18 (b) "Biodiesel fuel" means diesel fuel that consists of a mono
19 alkyl ester of long chain fatty acids derived from vegetable oils or
20 animal fats for use in compression-ignition engines and that meets the
21 requirements of the American Society of Testing and Materials
22 specification D 6751 when blended with conventional diesel fuel.

23 (2) All buildings, machinery, equipment, and other personal
24 property which is used primarily for the manufacturing of alcohol fuel
25 or biodiesel fuel, the land upon which this property is located, and
26 land that is reasonably necessary in the manufacturing of alcohol fuel
27 or biodiesel fuel, but not land necessary for growing of crops, which
28 together comprise a new alcohol or biodiesel manufacturing facility or
29 an addition to an existing alcohol or biodiesel manufacturing facility,
30 are exempt from property taxation for the six assessment years
31 following the date on which the facility or the addition to the
32 existing facility becomes operational.

33 For alcohol or biodiesel manufacturing facilities which produce
34 alcohol or biodiesel for use as alcohol fuel or biodiesel fuel and
35 alcohol or biodiesel used for other purposes, the amount of the

1 property tax exemption shall be based upon an annually determined
2 percentage of the total gallons of alcohol or biodiesel produced that
3 is sold or used as alcohol fuel or biodiesel fuel.

4 (3) Claims for exemptions authorized by this section shall be filed
5 with the county assessor on forms prescribed by the department of
6 revenue and furnished by the assessor. Once filed, the exemption is
7 valid for six years and shall not be renewed. The assessor shall
8 verify and approve claims as the assessor determines to be justified
9 and in accordance with this section. No claims may be filed after
10 December 31, 2009.

11 The department of revenue may promulgate such rules, pursuant to
12 chapter 34.05 RCW, as necessary to properly administer this section.

13 **Sec. 12.** RCW 82.29A.135 and 1985 c 371 s 3 are each amended to
14 read as follows:

15 (1) For the purposes of this section((~~7~~)):

16 (a) "Alcohol fuel" means any alcohol made from a product other than
17 petroleum or natural gas, which is used alone or in combination with
18 gasoline or other petroleum products for use as a fuel for motor
19 vehicles, farm implements, and machines or implements of husbandry.

20 (b) "Biodiesel fuel" means diesel fuel that consists of a mono
21 alkyl ester of long chain fatty acids derived from vegetable oils or
22 animal fats for use in compression-ignition engines and that meets the
23 requirements of the American Society of Testing and Materials
24 specification D 6751 when blended with conventional diesel fuel.

25 (2) All leasehold interests in buildings, machinery, equipment, and
26 other personal property which is used primarily for the manufacturing
27 of alcohol fuel or biodiesel fuel, the land upon which ((~~such~~)) this
28 property is located, and land that is reasonably necessary in the
29 manufacturing of alcohol fuel or biodiesel fuel, but not land necessary
30 for growing of crops, which together comprise a new alcohol or
31 biodiesel manufacturing facility or an addition to an existing alcohol
32 or biodiesel manufacturing facility, are exempt from leasehold taxes
33 for a period of six years from the date on which the facility or the
34 addition to the existing facility becomes operational.

35 For alcohol or biodiesel manufacturing facilities which produce
36 alcohol or biodiesel for use as alcohol fuel or biodiesel fuel and
37 alcohol or biodiesel used for other purposes, the amount of the

1 leasehold tax exemption shall be based upon an annually determined
2 percentage of the total gallons of alcohol or biodiesel produced that
3 is sold and used as alcohol fuel or biodiesel fuel.

4 (3) Claims for exemptions authorized by this section shall be filed
5 with the department of revenue on forms prescribed by the department of
6 revenue and furnished by the department of revenue. Once filed, the
7 exemption is valid for six years and shall not be renewed. The
8 department of revenue shall verify and approve (~~such~~) claims as the
9 department of revenue determines to be justified and in accordance with
10 this section. No claims may be filed after December 31, (~~1992~~) 2009.

11 The department of revenue may promulgate such rules, pursuant to
12 chapter 34.05 RCW, as are necessary to properly administer this
13 section.

14 **Sec. 13.** RCW 82.04.260 and 2001 2nd sp.s. c 25 s 2 are each
15 amended to read as follows:

16 (1) Upon every person engaging within this state in the business of
17 manufacturing:

18 (a) Wheat into flour, barley into pearl barley, soybeans into
19 soybean oil, canola into canola oil, canola meal, or canola byproducts,
20 or sunflower seeds into sunflower oil; as to such persons the amount of
21 tax with respect to such business shall be equal to the value of the
22 flour, pearl barley, oil, canola meal, or canola byproduct
23 manufactured, multiplied by the rate of 0.138 percent;

24 (b) Seafood products which remain in a raw, raw frozen, or raw
25 salted state at the completion of the manufacturing by that person; as
26 to such persons the amount of tax with respect to such business shall
27 be equal to the value of the products manufactured, multiplied by the
28 rate of 0.138 percent;

29 (c) By canning, preserving, freezing, processing, or dehydrating
30 fresh fruits and vegetables, or selling at wholesale fresh fruits and
31 vegetables canned, preserved, frozen, processed, or dehydrated by the
32 seller and sold to purchasers who transport in the ordinary course of
33 business the goods out of this state; as to such persons the amount of
34 tax with respect to such business shall be equal to the value of the
35 products canned, preserved, frozen, processed, or dehydrated multiplied
36 by the rate of 0.138 percent. As proof of sale to a person who

1 transports in the ordinary course of business goods out of this state,
2 the seller shall annually provide a statement in a form prescribed by
3 the department and retain the statement as a business record; (~~and~~)

4 (d) Dairy products that as of September 20, 2001, are identified in
5 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts
6 from the manufacturing of the dairy products such as whey and casein;
7 or selling the same to purchasers who transport in the ordinary course
8 of business the goods out of state; as to such persons the tax imposed
9 shall be equal to the value of the products manufactured multiplied by
10 the rate of 0.138 percent. As proof of sale to a person who transports
11 in the ordinary course of business goods out of this state, the seller
12 shall annually provide a statement in a form prescribed by the
13 department and retain the statement as a business record; and

14 (e) Alcohol fuel or biodiesel fuel, as those terms are defined in
15 RCW 82.29A.135; as to such persons the amount of tax with respect to
16 the business shall be equal to the value of alcohol fuel or biodiesel
17 fuel manufactured, multiplied by the rate of 0.138 percent.

18 (2) Upon every person engaging within this state in the business of
19 splitting or processing dried peas; as to such persons the amount of
20 tax with respect to such business shall be equal to the value of the
21 peas split or processed, multiplied by the rate of 0.138 percent.

22 (3) Upon every nonprofit corporation and nonprofit association
23 engaging within this state in research and development, as to such
24 corporations and associations, the amount of tax with respect to such
25 activities shall be equal to the gross income derived from such
26 activities multiplied by the rate of 0.484 percent.

27 (4) Upon every person engaging within this state in the business of
28 slaughtering, breaking and/or processing perishable meat products
29 and/or selling the same at wholesale only and not at retail; as to such
30 persons the tax imposed shall be equal to the gross proceeds derived
31 from such sales multiplied by the rate of 0.138 percent.

32 (5) Upon every person engaging within this state in the business of
33 making sales, at retail or wholesale, of nuclear fuel assemblies
34 manufactured by that person, as to such persons the amount of tax with
35 respect to such business shall be equal to the gross proceeds of sales
36 of the assemblies multiplied by the rate of 0.275 percent.

37 (6) Upon every person engaging within this state in the business of

1 manufacturing nuclear fuel assemblies, as to such persons the amount of
2 tax with respect to such business shall be equal to the value of the
3 products manufactured multiplied by the rate of 0.275 percent.

4 (7) Upon every person engaging within this state in the business of
5 acting as a travel agent or tour operator; as to such persons the
6 amount of the tax with respect to such activities shall be equal to the
7 gross income derived from such activities multiplied by the rate of
8 0.275 percent.

9 (8) Upon every person engaging within this state in business as an
10 international steamship agent, international customs house broker,
11 international freight forwarder, vessel and/or cargo charter broker in
12 foreign commerce, and/or international air cargo agent; as to such
13 persons the amount of the tax with respect to only international
14 activities shall be equal to the gross income derived from such
15 activities multiplied by the rate of 0.275 percent.

16 (9) Upon every person engaging within this state in the business of
17 stevedoring and associated activities pertinent to the movement of
18 goods and commodities in waterborne interstate or foreign commerce; as
19 to such persons the amount of tax with respect to such business shall
20 be equal to the gross proceeds derived from such activities multiplied
21 by the rate of 0.275 percent. Persons subject to taxation under this
22 subsection shall be exempt from payment of taxes imposed by chapter
23 82.16 RCW for that portion of their business subject to taxation under
24 this subsection. Stevedoring and associated activities pertinent to
25 the conduct of goods and commodities in waterborne interstate or
26 foreign commerce are defined as all activities of a labor, service or
27 transportation nature whereby cargo may be loaded or unloaded to or
28 from vessels or barges, passing over, onto or under a wharf, pier, or
29 similar structure; cargo may be moved to a warehouse or similar holding
30 or storage yard or area to await further movement in import or export
31 or may move to a consolidation freight station and be stuffed,
32 unstuffed, containerized, separated or otherwise segregated or
33 aggregated for delivery or loaded on any mode of transportation for
34 delivery to its consignee. Specific activities included in this
35 definition are: Wharfage, handling, loading, unloading, moving of
36 cargo to a convenient place of delivery to the consignee or a
37 convenient place for further movement to export mode; documentation
38 services in connection with the receipt, delivery, checking, care,

1 custody and control of cargo required in the transfer of cargo;
2 imported automobile handling prior to delivery to consignee; terminal
3 stevedoring and incidental vessel services, including but not limited
4 to plugging and unplugging refrigerator service to containers,
5 trailers, and other refrigerated cargo receptacles, and securing ship
6 hatch covers.

7 (10) Upon every person engaging within this state in the business
8 of disposing of low-level waste, as defined in RCW 43.145.010; as to
9 such persons the amount of the tax with respect to such business shall
10 be equal to the gross income of the business, excluding any fees
11 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
12 percent.

13 If the gross income of the taxpayer is attributable to activities
14 both within and without this state, the gross income attributable to
15 this state shall be determined in accordance with the methods of
16 apportionment required under RCW 82.04.460.

17 (11) Upon every person engaging within this state as an insurance
18 agent, insurance broker, or insurance solicitor licensed under chapter
19 48.17 RCW; as to such persons, the amount of the tax with respect to
20 such licensed activities shall be equal to the gross income of such
21 business multiplied by the rate of 0.484 percent.

22 (12) Upon every person engaging within this state in business as a
23 hospital, as defined in chapter 70.41 RCW, that is operated as a
24 nonprofit corporation or by the state or any of its political
25 subdivisions, as to such persons, the amount of tax with respect to
26 such activities shall be equal to the gross income of the business
27 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
28 percent thereafter. The moneys collected under this subsection shall
29 be deposited in the health services account created under RCW
30 43.72.900.

31 NEW SECTION. **Sec. 14.** Section 11 of this act applies to taxes
32 levied for collection in 2004 and thereafter.

33 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of the
35 state government and its existing public institutions, and takes effect

1 July 1, 2003, except for section 3 of this act, which takes effect July
2 1, 2004.

3 NEW SECTION. **Sec. 16.** Section 3 of this act is null and void and
4 does not take effect July 1, 2004, if the legislature passes and the
5 governor signs any bill into law during the 2003 or 2004 legislative
6 session that extends the termination date in RCW 82.60.050.

7 NEW SECTION. **Sec. 17.** Sections 1 through 10, 15, and 16 of this
8 act constitute a new chapter in Title 82 RCW.

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