

SSB 6785 - H COMM AMD  
By Committee on Transportation

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 82.36.010 and 2001 c 270 s 1 are each amended to read  
4 as follows:

5 The definitions in this section apply throughout this chapter  
6 unless the context clearly requires otherwise.

7 (1) "Blended fuel" means a mixture of motor vehicle fuel and  
8 another liquid, other than a de minimis amount of the liquid, that can  
9 be used as a fuel to propel a motor vehicle.

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

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

17 (4) "Bulk transfer-terminal system" means the motor vehicle fuel  
18 distribution system consisting of refineries, pipelines, vessels, and  
19 terminals. Motor vehicle fuel in a refinery, pipeline, vessel, or  
20 terminal is in the bulk transfer-terminal system. Motor vehicle fuel  
21 in the fuel tank of an engine, motor vehicle, or in a railcar, trailer,  
22 truck, or other equipment suitable for ground transportation is not in  
23 the bulk transfer-terminal system.

24 (5) (~~"Dealer" means a person engaged in the retail sale of motor~~  
25 ~~vehicle fuel.~~

26 (+6)) "Department" means the department of licensing.

27 ((+7)) (6) "Director" means the director of licensing.

28 ((+8)) (7) "Evasion" or "evade" means to diminish or avoid the  
29 computation, assessment, or payment of authorized taxes or fees  
30 through:

1 (a) A knowing: False statement; misrepresentation of fact; or  
2 other act of deception; or  
3 (b) An intentional: Omission; failure to file a return or report;  
4 or other act of deception.  
5 ((+9+)) (8) "Export" means to obtain motor vehicle fuel in this  
6 state for sales or distribution outside the state.  
7 ((+10+)) (9) "Highway" means every way or place open to the use of  
8 the public, as a matter of right, for the purpose of vehicular travel.  
9 ((+11+)) (10) "Import" means to bring motor vehicle fuel into this  
10 state by a means of conveyance other than the fuel supply tank of a  
11 motor vehicle.  
12 (11) "International fuel tax agreement licensee" means a motor  
13 vehicle fuel user operating qualified motor vehicles in interstate  
14 commerce and licensed by the department under the international fuel  
15 tax agreement.  
16 (12) "Licensee" means a person holding a motor vehicle fuel  
17 supplier, motor vehicle fuel importer, motor vehicle fuel distributor,  
18 motor vehicle fuel exporter, motor vehicle fuel blender, or  
19 international fuel tax agreement license issued under this chapter.  
20 (13) (~~"Marine fuel dealer" means a person engaged in the retail~~  
21 ~~sale of motor vehicle fuel whose place of business and/or sale outlet~~  
22 ~~is located upon a navigable waterway.~~  
23 (+14+)) "Motor vehicle fuel blender" means a person who produces  
24 blended motor fuel outside the bulk transfer-terminal system.  
25 ((+15+)) (14) "Motor vehicle fuel distributor" means a person who  
26 acquires motor vehicle fuel from a supplier, distributor, or licensee  
27 for subsequent sale and distribution.  
28 ((+16+)) (15) "Motor vehicle fuel exporter" means a person who  
29 purchases motor vehicle fuel in this state and directly exports the  
30 fuel by a means other than the bulk transfer-terminal system to a  
31 destination outside of the state. If the exporter of record is acting  
32 as an agent, the person for whom the agent is acting is the exporter.  
33 If there is no exporter of record, the owner of the motor fuel at the  
34 time of exportation is the exporter.  
35 ((+17+)) (16) "Motor vehicle fuel importer" means a person who  
36 imports motor vehicle fuel into the state by a means other than the  
37 bulk transfer-terminal system. If the importer of record is acting as

1 an agent, the person for whom the agent is acting is the importer. If  
2 there is no importer of record, the owner of the motor vehicle fuel at  
3 the time of importation is the importer.

4 ~~((18))~~ (17) "Motor vehicle fuel supplier" means a person who  
5 holds a federal certificate of registry that is issued under the  
6 internal revenue code and authorizes the person to enter into federal  
7 tax-free transactions on motor vehicle fuel in the bulk transfer-  
8 terminal system.

9 ~~((19))~~ (18) "Motor vehicle" means a self-propelled vehicle  
10 designed for operation upon land utilizing motor vehicle fuel as the  
11 means of propulsion.

12 ~~((20))~~ (19) "Motor vehicle fuel" means gasoline and any other  
13 inflammable gas or liquid, by whatsoever name the gasoline, gas, or  
14 liquid may be known or sold, the chief use of which is as fuel for the  
15 propulsion of motor vehicles or motorboats.

16 ~~((21))~~ (20) "Person" means a natural person, fiduciary,  
17 association, or corporation. The term "person" as applied to an  
18 association means and includes the partners or members thereof, and as  
19 applied to corporations, the officers thereof.

20 ~~((22))~~ (21) "Position holder" means a person who holds the  
21 inventory position in motor vehicle fuel, as reflected by the records  
22 of the terminal operator. A person holds the inventory position in  
23 motor vehicle fuel if the person has a contractual agreement with the  
24 terminal for the use of storage facilities and terminating services at  
25 a terminal with respect to motor vehicle fuel. "Position holder"  
26 includes a terminal operator that owns motor vehicle fuel in their  
27 terminal.

28 ~~((23))~~ (22) "Rack" means a mechanism for delivering motor vehicle  
29 fuel from a refinery or terminal into a truck, trailer, railcar, or  
30 other means of nonbulk transfer.

31 ~~((24))~~ (23) "Refiner" means a person who owns, operates, or  
32 otherwise controls a refinery.

33 ~~((25))~~ (24) "Removal" means a physical transfer of motor vehicle  
34 fuel other than by evaporation, loss, or destruction.

35 ~~((26))~~ (25) "Terminal" means a motor vehicle fuel storage and  
36 distribution facility that has been assigned a terminal control number  
37 by the internal revenue service, is supplied by pipeline or vessel, and  
38 from which reportable motor vehicle fuel is removed at a rack.

1        ~~((27))~~ (26) "Terminal operator" means a person who owns,  
2 operates, or otherwise controls a terminal.

3        ~~((28))~~ (27) "Two-party exchange" or "buy-sell agreement" means a  
4 transaction in which taxable motor vehicle fuel is transferred from one  
5 licensed supplier to another licensed supplier under an exchange or  
6 buy-sell agreement whereby the supplier that is the position holder  
7 agrees to deliver taxable motor vehicle fuel to the other supplier or  
8 the other supplier's customer at the rack of the terminal at which the  
9 delivering supplier is the position holder.

10        **Sec. 2.** RCW 82.36.020 and 2001 c 270 s 2 are each amended to read  
11 as follows:

12        (1) There is hereby levied and imposed upon motor vehicle fuel  
13 ~~((users))~~ licensees, other than a motor vehicle fuel distributor, a tax  
14 at the rate computed in the manner provided in RCW 82.36.025 on each  
15 gallon of motor vehicle fuel.

16        (2) The tax imposed by subsection (1) of this section is imposed  
17 when any of the following occurs:

18        (a) Motor vehicle fuel is removed in this state from a terminal if  
19 the motor vehicle fuel is removed at the rack unless the removal is to  
20 a licensed exporter for direct delivery to a destination outside of the  
21 state;

22        (b) Motor vehicle fuel is removed in this state from a refinery if  
23 either of the following applies:

24        (i) The removal is by bulk transfer and the refiner or the owner of  
25 the motor vehicle fuel immediately before the removal is not a  
26 licensee; or

27        (ii) The removal is at the refinery rack unless the removal is to  
28 a licensed exporter for direct delivery to a destination outside of the  
29 state;

30        (c) Motor vehicle fuel enters into this state ~~((for sale,~~  
31 ~~consumption, use, or storage))~~ if either of the following applies:

32        (i) The entry is by bulk transfer and the importer is not a  
33 licensee; or

34        (ii) The entry is not by bulk transfer;

35        (d) Motor vehicle fuel is sold or removed in this state to an  
36 unlicensed entity unless there was a prior taxable removal, entry, or  
37 sale of the motor vehicle fuel;

1 (e) Blended motor vehicle fuel is removed or sold in this state by  
2 the blender of the fuel. The number of gallons of blended motor  
3 vehicle fuel subject to the tax is the difference between the total  
4 number of gallons of blended motor vehicle fuel removed or sold and the  
5 number of gallons of previously taxed motor vehicle fuel used to  
6 produce the blended motor vehicle fuel;

7 (f) Motor vehicle fuel is sold by a licensed motor vehicle fuel  
8 supplier to a motor vehicle fuel distributor, motor vehicle fuel  
9 importer, ~~((or))~~ motor vehicle fuel blender, or international fuel tax  
10 agreement licensee and the motor vehicle fuel is not removed from the  
11 bulk transfer-terminal system.

12 (3) The proceeds of the motor vehicle fuel excise tax shall be  
13 distributed as provided in RCW 46.68.090.

14 **Sec. 3.** RCW 82.36.025 and 2005 c 314 s 101 are each amended to  
15 read as follows:

16 (1) A motor vehicle fuel tax rate of twenty-three cents per gallon  
17 ~~((applies to the sale, distribution, or use of))~~ on motor vehicle fuel  
18 shall be imposed on motor vehicle fuel licensees, other than a motor  
19 vehicle fuel distributor.

20 (2) Beginning July 1, 2003, an additional and cumulative motor  
21 vehicle fuel tax rate of five cents per gallon ~~((applies to the sale,~~  
22 ~~distribution, or use of))~~ on motor vehicle fuel shall be imposed on  
23 motor vehicle fuel licensees, other than a motor vehicle fuel  
24 distributor. This subsection (2) expires when the bonds issued for  
25 transportation 2003 projects are retired.

26 (3) Beginning July 1, 2005, an additional and cumulative motor  
27 vehicle fuel tax rate of three cents per gallon ~~((applies to the sale,~~  
28 ~~distribution, or use of))~~ on motor vehicle fuel shall be imposed on  
29 motor vehicle fuel licensees, other than a motor vehicle fuel  
30 distributor.

31 (4) Beginning July 1, 2006, an additional and cumulative motor  
32 vehicle fuel tax rate of three cents per gallon ~~((applies to the sale,~~  
33 ~~distribution, or use of))~~ on motor vehicle fuel shall be imposed on  
34 motor vehicle fuel licensees, other than a motor vehicle fuel  
35 distributor.

36 (5) Beginning July 1, 2007, an additional and cumulative motor  
37 vehicle fuel tax rate of two cents per gallon ~~((applies to the sale,~~

1 ~~distribution, or use of~~) on motor vehicle fuel shall be imposed on  
2 motor vehicle fuel licensees, other than a motor vehicle fuel  
3 distributor.

4 (6) Beginning July 1, 2008, an additional and cumulative motor  
5 vehicle fuel tax rate of one and one-half cents per gallon (~~applies to~~  
6 ~~the sale, distribution, or use of~~) on motor vehicle fuel shall be  
7 imposed on motor vehicle fuel licensees, other than a motor vehicle  
8 fuel distributor.

9 **Sec. 4.** RCW 82.36.026 and 2001 c 270 s 3 are each amended to read  
10 as follows:

11 (1) A licensed supplier shall (~~remit~~) be liable for and pay tax  
12 to the department as provided in RCW 82.36.020. On a two-party  
13 exchange, or buy-sell agreement between two licensed suppliers, the  
14 receiving exchange partner or buyer (~~who~~) shall (~~the buyer shall~~  
15 remit) be liable for and pay the tax.

16 (2) A refiner shall (~~remit~~) be liable for and pay tax to the  
17 department on motor vehicle fuel removed from a refinery as provided in  
18 RCW 82.36.020(2)(b).

19 (3) (~~An~~) A licensed importer shall (~~remit~~) be liable for and  
20 pay tax to the department on motor vehicle fuel imported into this  
21 state as provided in RCW 82.36.020(2)(c).

22 (4) A licensed blender shall (~~remit~~) be liable for and pay tax to  
23 the department on the removal or sale of blended motor vehicle fuel as  
24 provided in RCW 82.36.020(2)(e).

25 (5) Nothing in this chapter shall prohibit the licensee liable for  
26 payment of the tax under this chapter from including as a part of the  
27 selling price an amount equal to the tax.

28 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.36 RCW  
29 to read as follows:

30 International fuel tax agreement licensees, or persons operating  
31 motor vehicles under other reciprocity agreements entered into with the  
32 state of Washington, are liable for and must pay the tax under RCW  
33 82.36.020 to the department on motor vehicle fuel used to operate motor  
34 vehicles on the highways of this state. This provision does not apply  
35 if the tax under RCW 82.36.020 has previously been imposed and paid by

1 the international fuel tax agreement licensee or if the use of such  
2 fuel is exempt from the tax under this chapter.

3 **Sec. 6.** RCW 82.36.027 and 1998 c 176 s 9 are each amended to read  
4 as follows:

5 A terminal operator is jointly and severally liable for  
6 ~~((remitting))~~ payment of the tax imposed under RCW 82.36.020(1) if, at  
7 the time of removal:

8 (1) The position holder with respect to the motor vehicle fuel is  
9 a person other than the terminal operator and is not a licensee;

10 (2) The terminal operator is not a licensee;

11 (3) The position holder has an expired internal revenue service  
12 notification certificate issued under 26 C.F.R. Part 48; or

13 (4) The terminal operator had reason to believe that information on  
14 the notification certificate was false.

15 **Sec. 7.** RCW 82.36.029 and 1998 c 176 s 10 are each amended to read  
16 as follows:

17 Upon the taxable removal of motor vehicle fuel by a licensed  
18 supplier and upon importation by a licensed importer, the licensee who  
19 acquired or removed the motor vehicle fuel, other than a motor vehicle  
20 fuel exporter, shall be entitled to a deduction from the tax liability  
21 on the gallonage of taxable motor vehicle fuel removed or imported in  
22 order to account for handling losses, as follows: For a motor vehicle  
23 fuel supplier ~~((acting as a distributor))~~, one-quarter of one percent;  
24 and for ~~((all other licensees))~~ a licensed importer, thirty one-  
25 hundredths of one percent. For those licensees required to file tax  
26 reports, the handling loss deduction shall be reported on tax reports  
27 filed with the department. ~~((For motor vehicle fuel distributors, the  
28 handling loss deduction shall be shown on the invoice provided to the  
29 motor vehicle fuel distributor by the seller.))~~

30 **Sec. 8.** RCW 82.36.031 and 1998 c 176 s 11 are each amended to read  
31 as follows:

32 For the purpose of determining the amount of liability for the tax  
33 imposed under this chapter, and to periodically update license  
34 information, each licensee, other than a motor vehicle fuel distributor  
35 and an international fuel tax agreement licensee, shall file monthly

1 tax reports with the department, on a form prescribed by the  
2 department. An international fuel tax licensee shall file quarterly  
3 tax reports with the department, on a form prescribed by the  
4 department.

5 A report shall be filed with the department even though no motor  
6 vehicle fuel tax is due for the reporting period. Each tax report  
7 shall contain a declaration by the person making the same, to the  
8 effect that the statements contained therein are true and made under  
9 penalties of perjury, which declaration has the same force and effect  
10 as a verification of the report and is in lieu of the verification.  
11 The report shall show information as the department may require for the  
12 proper administration and enforcement of this chapter. Tax reports  
13 shall be filed on or before the twenty-fifth day of the next succeeding  
14 calendar month following the period to which the reports relate. If  
15 the final filing date falls on a Saturday, Sunday, or legal holiday the  
16 next secular or business day shall be the final filing date.

17 The department, if it deems it necessary in order to ensure payment  
18 of the tax imposed under this chapter, or to facilitate the  
19 administration of this chapter, may require the filing of reports and  
20 tax remittances at shorter intervals than one month.

21 **Sec. 9.** RCW 82.36.045 and 1998 c 176 s 16 are each amended to read  
22 as follows:

23 (1) If the department determines that the tax reported by a  
24 licensee is deficient, the department shall assess the deficiency on  
25 the basis of information available to it, and shall add a penalty of  
26 two percent of the amount of the deficiency.

27 (2) If a licensee, or person acting as such, fails, neglects, or  
28 refuses to file a motor vehicle fuel tax report the department shall,  
29 on the basis of information available to it, determine the tax  
30 liability of the licensee or person for the period during which no  
31 report was filed. The department shall add the penalty provided in  
32 subsection (1) of this section to the tax. An assessment made by the  
33 department under this subsection or subsection (1) of this section is  
34 presumed to be correct. In any case, where the validity of the  
35 assessment is questioned, the burden is on the person who challenges  
36 the assessment to establish by a fair preponderance of evidence that it  
37 is erroneous or excessive, as the case may be.



1 (3) If a licensee or person acting as such files a false or  
2 fraudulent report with intent to evade the tax imposed by this chapter,  
3 the department shall add to the amount of deficiency a penalty equal to  
4 twenty-five percent of the deficiency, in addition to the penalty  
5 provided in subsections (1) and (2) of this section and all other  
6 penalties prescribed by law.

7 (4) Motor vehicle fuel tax, penalties, and interest payable under  
8 this chapter bears interest at the rate of one percent per month, or  
9 fraction thereof, from the first day of the calendar month after the  
10 amount or any portion of it should have been paid until the date of  
11 payment. If a licensee or person acting as such establishes by a fair  
12 preponderance of evidence that the failure to pay the amount of tax due  
13 was attributable to reasonable cause and was not intentional or  
14 willful, the department may waive the penalty. The department may  
15 waive the interest when it determines the cost of processing or  
16 collection of the interest exceeds the amount of interest due.

17 (5) Except in the case of a fraudulent report, neglect or refusal  
18 to make a report, or failure to pay or to pay the proper amount, the  
19 department shall assess the deficiency under subsection (1) or (2) of  
20 this section within five years from the last day of the succeeding  
21 calendar month after the reporting period for which the amount is  
22 proposed to be determined or within five years after the return is  
23 filed, whichever period expires later.

24 (6) Except in the case of violations of filing a false or  
25 fraudulent report, if the department deems mitigation of penalties and  
26 interest to be reasonable and in the best interest of carrying out the  
27 purpose of this chapter, it may mitigate such assessments upon whatever  
28 terms the department deems proper, giving consideration to the degree  
29 and extent of the lack of records and reporting errors. The department  
30 may ascertain the facts regarding recordkeeping and payment penalties  
31 in lieu of more elaborate proceedings under this chapter.

32 (7) A licensee or person acting as such against whom an assessment  
33 is made under subsection (1) or (2) of this section may petition for a  
34 reassessment within thirty days after service upon the licensee of  
35 notice of the assessment. If the petition is not filed within the  
36 thirty-day period, the amount of the assessment becomes final at the  
37 expiration of that period.

1        If a petition for reassessment is filed within the thirty-day  
2 period, the department shall reconsider the assessment and, if the  
3 petitioner has so requested in its petition, shall grant the petitioner  
4 an oral hearing and give the petitioner twenty days' notice of the time  
5 and place of the hearing. The department may continue the hearing from  
6 time to time. The decision of the department upon a petition for  
7 reassessment becomes final thirty days after service of notice upon the  
8 petitioner.

9        An assessment made by the department becomes due and payable when  
10 it becomes final. If it is not paid to the department when due and  
11 payable, the department shall add a penalty of ten percent of the  
12 amount of the tax.

13        (8) In a suit brought to enforce the rights of the state under this  
14 chapter, the assessment showing the amount of taxes, penalties,  
15 interest, and cost unpaid to the state is prima facie evidence of the  
16 facts as shown.

17        (9) A notice of assessment required by this section must be served  
18 personally or by certified or registered mail. If it is served by  
19 mail, service shall be made by deposit of the notice in the United  
20 States mail, postage prepaid, addressed to the respondent at the most  
21 current address furnished to the department.

22        ~~((10) The tax imposed by this chapter, if required to be collected  
23 by the seller, is held in trust by the licensee until paid to the  
24 department, and a licensee who appropriates or converts the tax  
25 collected to his or her own use or to any use other than the payment of  
26 the tax to the extent that the money required to be collected is not  
27 available for payment on the due date as prescribed in this chapter is  
28 guilty of a felony, or gross misdemeanor in accordance with the theft  
29 and anticipatory provisions of Title 9A RCW. A person, partnership,  
30 corporation, or corporate officer who fails to collect the tax imposed  
31 by this section, or who has collected the tax and fails to pay it to  
32 the department in the manner prescribed by this chapter, is personally  
33 liable to the state for the amount of the tax.))~~

34        **Sec. 10.** RCW 82.36.060 and 2001 c 270 s 5 are each amended to read  
35 as follows:

36        (1) An application for a license issued under this chapter shall be

1 made to the department on forms to be furnished by the department and  
2 shall contain such information as the department deems necessary.

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

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

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

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

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

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

23 (3) An applicant for a license as a motor vehicle fuel importer  
24 must list on the application each state, province, or country from  
25 which the applicant intends to import motor vehicle fuel and, if  
26 required by the state, province, or country listed, must be licensed or  
27 registered for motor vehicle fuel tax purposes in that state, province,  
28 or country.

29 (4) An applicant for a license as a motor vehicle fuel exporter  
30 must list on the application each state, province, or country to which  
31 the exporter intends to export motor vehicle fuel received in this  
32 state by means of a transfer outside of the bulk transfer-terminal  
33 system and, if required by the state, province, or country listed, must  
34 be licensed or registered for motor vehicle fuel tax purposes in that  
35 state, province, or country.

36 (5) An applicant for a license as a motor vehicle fuel supplier  
37 must have a federal certificate of registry that is issued under the

1 internal revenue code and authorizes the applicant to enter into  
2 federal tax-free transactions on motor vehicle fuel in the terminal  
3 transfer system.

4 (6) After receipt of an application for a license, the director may  
5 conduct an investigation to determine whether the facts set forth are  
6 true. The director shall require a fingerprint record check of the  
7 applicant through the Washington state patrol criminal identification  
8 system and the federal bureau of investigation before issuance of a  
9 license. The results of the background investigation including  
10 criminal history information may be released to authorized department  
11 personnel as the director deems necessary. The department shall charge  
12 a license holder or license applicant a fee of fifty dollars for each  
13 background investigation conducted.

14 An applicant who makes a false statement of a material fact on the  
15 application may be prosecuted for false swearing as defined by RCW  
16 9A.72.040.

17 (7) Except as provided by subsection (8) of this section, before  
18 granting any license issued under this chapter, the department shall  
19 require applicant to file with the department, in such form as shall be  
20 prescribed by the department, a corporate surety bond duly executed by  
21 the applicant as principal, payable to the state and conditioned for  
22 faithful performance of all the requirements of this chapter, including  
23 the payment of all taxes, penalties, and other obligations arising out  
24 of this chapter. The total amount of the bond or bonds shall be fixed  
25 by the department and may be increased or reduced by the department at  
26 any time subject to the limitations herein provided. In fixing the  
27 total amount of the bond or bonds, the department shall require a bond  
28 or bonds equivalent in total amount to twice the estimated monthly  
29 excise tax determined in such manner as the department may deem proper.  
30 If at any time the estimated excise tax to become due during the  
31 succeeding month amounts to more than fifty percent of the established  
32 bond, the department shall require additional bonds or securities to  
33 maintain the marginal ratio herein specified or shall demand excise tax  
34 payments to be made weekly or semimonthly to meet the requirements  
35 hereof.

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

1 No recoveries on any bond or the execution of any new bond shall  
2 invalidate any bond and no revocation of any license shall effect the  
3 validity of any bond but the total recoveries under any one bond shall  
4 not exceed the amount of the bond.

5 In lieu of any such bond or bonds in total amount as herein fixed,  
6 a licensee may deposit with the state treasurer, under such terms and  
7 conditions as the department may prescribe, a like amount of lawful  
8 money of the United States or bonds or other obligations of the United  
9 States, the state, or any county of the state, of an actual market  
10 value not less than the amount so fixed by the department.

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

27 The department may require a licensee to give a new or additional  
28 surety bond or to deposit additional securities of the character  
29 specified in this section if, in its opinion, the security of the  
30 surety bond theretofore filed by such licensee, or the market value of  
31 the properties deposited as security by the licensee, shall become  
32 impaired or inadequate; and upon the failure of the licensee to give  
33 such new or additional surety bond or to deposit additional securities  
34 within thirty days after being requested so to do by the department,  
35 the department shall forthwith cancel his or her license.

36 (8) The department may waive the requirements of subsection (7) of  
37 this section for licensed distributors if, upon determination by the  
38 department, the licensed distributor has sufficient resources, assets,

1 other financial instruments, or other means, to adequately make  
2 payments on the estimated monthly motor vehicle fuel tax payments,  
3 penalties, and interest arising out of this chapter. The department  
4 shall adopt rules to administer this subsection.

5 (9) An application for an international fuel tax agreement license  
6 must be made to the department. The application must be filed upon a  
7 form prescribed by the department and contain such information as the  
8 department may require. The department shall charge a fee of ten  
9 dollars per set of international fuel tax agreement decals issued to  
10 each applicant or licensee. The department shall transmit the fee to  
11 the state treasurer for deposit in the motor vehicle fund.

12 **Sec. 11.** RCW 82.36.080 and 1998 c 176 s 20 are each amended to  
13 read as follows:

14 (1) It shall be unlawful for any person to engage in business in  
15 this state as any of the following unless the person is the holder of  
16 an uncanceled license issued by the department authorizing the person  
17 to engage in that business:

- 18 (a) Motor vehicle fuel supplier;
- 19 (b) Motor vehicle fuel distributor;
- 20 (c) Motor vehicle fuel exporter;
- 21 (d) Motor vehicle fuel importer; (~~(or)~~)
- 22 (e) Motor vehicle fuel blender; or
- 23 (f) International fuel tax agreement licensee.

24 (2) A person engaged in more than one activity for which a license  
25 is required must have a separate license classification for each  
26 activity, but a motor vehicle fuel supplier is not required to obtain  
27 a separate license classification for any other activity for which a  
28 license is required.

29 (3) If any person acts as a licensee without first securing the  
30 license required herein the excise tax shall be immediately due and  
31 payable on account of all motor vehicle fuel distributed or used by the  
32 person. The director shall proceed forthwith to determine from the  
33 best available sources, the amount of the tax, and the director shall  
34 immediately assess the tax in the amount found due, together with a  
35 penalty of one hundred percent of the tax, and shall make a certificate  
36 of such assessment and penalty. In any suit or proceeding to collect  
37 the tax or penalty, or both, such certificate shall be prima facie

1 evidence that the person therein named is indebted to the state in the  
2 amount of the tax and penalty therein stated. Any tax or penalty so  
3 assessed may be collected in the manner prescribed in this chapter with  
4 reference to delinquency in payment of the tax or by an action at law,  
5 which the attorney general shall commence and prosecute to final  
6 determination at the request of the director. The foregoing remedies  
7 of the state shall be cumulative and no action taken pursuant to this  
8 section shall relieve any person from the penal provisions of this  
9 chapter.

10 **Sec. 12.** RCW 82.36.160 and 1998 c 176 s 27 are each amended to  
11 read as follows:

12 Every licensee shall maintain in the office of his or her principal  
13 place of business in this state, for a period of five years, records of  
14 motor vehicle fuel received, sold, distributed, or used by the  
15 licensee, in such form as the director may prescribe, together with  
16 invoices, bills of lading, and other pertinent papers as may be  
17 required under the provisions of this chapter.

18 ~~((Every dealer purchasing motor vehicle fuel taxable under this  
19 chapter for the purpose of resale, shall maintain within this state,  
20 for a period of two years a record of motor vehicle fuels received, the  
21 amount of tax paid to the licensee as part of the purchase price,  
22 together with delivery tickets, invoices, and bills of lading, and such  
23 other records as the director shall require.))~~

24 **Sec. 13.** RCW 82.36.180 and 1998 c 176 s 30 are each amended to  
25 read as follows:

26 The director, or duly authorized agents, may make such examinations  
27 of the records, stocks, facilities, and equipment of any licensee,  
28 ~~((and service stations,))~~ and make such other investigations as deemed  
29 necessary in carrying out the provisions of this chapter. If such  
30 examinations or investigations disclose that any reports of licensees  
31 theretofore filed with the director pursuant to the requirements of  
32 this chapter have shown incorrectly the gallonage of motor vehicle fuel  
33 distributed or the tax ~~((accruing))~~ liability thereon, the director may  
34 make such changes in subsequent reports and payments of such licensees  
35 as deemed necessary to correct the errors disclosed.

1 Every such licensee or such other person not maintaining records in  
2 this state so that an audit of such records may be made by the director  
3 or a duly authorized representative shall be required to make the  
4 necessary records available to the director upon request and at a  
5 designated office within this state; or, in lieu thereof, the director  
6 or a duly authorized representative shall proceed to any out-of-state  
7 office at which the records are prepared and maintained to make such  
8 examination.

9 **Sec. 14.** RCW 82.36.230 and 1998 c 176 s 34 are each amended to  
10 read as follows:

11 The provisions of this chapter requiring the payment of taxes do  
12 not apply to motor vehicle fuel imported into the state in interstate  
13 or foreign commerce and intended to be sold while in interstate or  
14 foreign commerce, nor to motor vehicle fuel exported from this state by  
15 a licensee nor to any motor vehicle fuel sold by a licensee to the  
16 armed forces of the United States or to the national guard for use  
17 exclusively in ships or for export from this state. The licensee shall  
18 report such imports, exports and sales to the department at such times,  
19 on such forms, and in such detail as the department may require,  
20 otherwise the exemption granted in this section is null and void, and  
21 all fuel shall be considered distributed in this state fully subject to  
22 the provisions of this chapter. Each invoice covering exempt sales  
23 shall have the statement "Ex Washington Motor Vehicle Fuel Tax" clearly  
24 marked thereon.

25 To claim any exemption from taxes under this section on account of  
26 sales by a licensee of motor vehicle fuel for export, the purchaser  
27 shall obtain from the selling licensee, and such selling licensee must  
28 furnish the purchaser, an invoice giving such details of the sale for  
29 export as the department may require, copies of which shall be  
30 furnished the department and the entity of the state or foreign  
31 jurisdiction of destination which is charged by the laws of that state  
32 or foreign jurisdiction with the control or monitoring, or both, of the  
33 sales or movement of motor vehicle fuel in that state or foreign  
34 jurisdiction. For the purposes of this section, motor vehicle fuel  
35 distributed to a federally recognized Indian tribal reservation located  
36 within the state of Washington is not considered exported outside this  
37 state.



1 To claim any refund of taxes previously paid on account of sales of  
2 motor vehicle fuel to the armed forces of the United States or to the  
3 national guard, the licensee shall be required to execute an exemption  
4 certificate in such form as shall be furnished by the department,  
5 containing a certified statement by an authorized officer of the armed  
6 forces having actual knowledge of the purpose for which the exemption  
7 is claimed. The provisions of this section exempting motor vehicle  
8 fuel sold to the armed forces of the United States or to the national  
9 guard from the tax imposed hereunder do not apply to any motor vehicle  
10 fuel sold to contractors purchasing such fuel either for their own  
11 account or as the agents of the United States or the national guard for  
12 use in the performance of contracts with the armed forces of the United  
13 States or the national guard.

14 The provisions of this section relating to refunds of taxes do not  
15 apply to motor vehicle fuel distributors.

16 The department may at any time require of any licensee any  
17 information the department deems necessary to determine the validity of  
18 the claimed exemption, and failure to supply such data will constitute  
19 a waiver of all right to the exemption claimed. The department is  
20 hereby empowered with full authority to promulgate rules and  
21 regulations and to prescribe forms to be used by licensees in reporting  
22 to the department so as to prevent evasion of the tax imposed by this  
23 chapter.

24 Upon request from the officials to whom are entrusted the  
25 enforcement of the motor vehicle fuel tax law of any other state, the  
26 District of Columbia, the United States, its territories and  
27 possessions, the provinces, or the Dominion of Canada, the department  
28 may forward to such officials any information which the department may  
29 have relative to the import or export of any motor vehicle fuel by any  
30 licensee: PROVIDED, That such governmental unit furnish like  
31 information to this state.

32 NEW SECTION. Sec. 15. A new section is added to chapter 82.36 RCW  
33 to read as follows:

34 Motor vehicle fuel that is used exclusively for racing and is  
35 illegal for use on the public highways of this state under state or  
36 federal law is exempt from the tax imposed under this chapter.

1       **Sec. 16.** RCW 82.36.275 and 1969 ex.s. c 281 s 27 are each amended  
2 to read as follows:

3       Notwithstanding RCW 82.36.240, every urban passenger transportation  
4 system shall receive a refund of the amount of the motor vehicle fuel  
5 tax paid on each gallon of motor vehicle fuel used(~~(, whether such~~  
6 ~~vehicle fuel tax has been paid either directly to the vendor from whom~~  
7 ~~the motor vehicle fuel was purchased or indirectly by adding the amount~~  
8 ~~of such tax to the price of such fuel)~~).

9       For the purposes of this section "urban passenger transportation  
10 system" means every transportation system, publicly or privately owned,  
11 having as its principal source of revenue the income from transporting  
12 persons for compensation by means of motor vehicles and/or trackless  
13 trolleys, each having a seating capacity for over fifteen persons, over  
14 prescribed routes in such a manner that the routes of such motor  
15 vehicles and/or trackless trolleys (either alone or in conjunction with  
16 routes of other such motor vehicles and/or trackless trolleys subject  
17 to routing by the same transportation system) do not extend for a  
18 distance exceeding fifteen road miles beyond the corporate limits of  
19 the city in which the original starting points of such motor vehicles  
20 are located: PROVIDED, That no refunds authorized by this section  
21 shall be granted on fuel used by any urban transportation vehicle on  
22 any trip where any portion of said trip is more than fifteen road miles  
23 beyond the corporate limits of the city in which said trip originated.

24       **Sec. 17.** RCW 82.36.280 and 1998 c 176 s 36 are each amended to  
25 read as follows:

26       Any person who uses any motor vehicle fuel for the purpose of  
27 operating any internal combustion engine not used on or in conjunction  
28 with any motor vehicle licensed to be operated over and along any of  
29 the public highways, and as the motive power thereof, upon which motor  
30 vehicle fuel excise tax has been paid, shall be entitled to and shall  
31 receive a refund of the amount of the motor vehicle fuel excise tax  
32 paid on each gallon of motor vehicle fuel so used(~~(, whether such motor~~  
33 ~~vehicle excise tax has been paid either directly to the vendor from~~  
34 ~~whom the motor vehicle fuel was purchased or indirectly by adding the~~  
35 ~~amount of such excise tax to the price of such fuel)~~). No refund shall  
36 be made for motor vehicle fuel consumed by any motor vehicle as herein

1 defined that is required to be registered and licensed as provided in  
2 chapter 46.16 RCW; and is operated over and along any public highway  
3 except that a refund shall be allowed for motor vehicle fuel consumed:

4 (1) In a motor vehicle owned by the United States that is operated  
5 off the public highways for official use; and

6 (2) By auxiliary equipment not used for motive power, provided such  
7 consumption is accurately measured by a metering device that has been  
8 specifically approved by the department or is established by either of  
9 the following formulae:

10 (a) For fuel used in pumping fuel or heating oils by a power take-  
11 off unit on a delivery truck, refund shall be allowed claimant for tax  
12 paid on fuel purchased at the rate of three-fourths of one gallon for  
13 each one thousand gallons of fuel delivered: PROVIDED, That claimant  
14 when presenting his or her claim to the department in accordance with  
15 the provisions of this chapter, shall provide to said claim, invoices  
16 of fuel oil delivered, or such other appropriate information as may be  
17 required by the department to substantiate his or her claim; or

18 (b) For fuel used in operating a power take-off unit on a cement  
19 mixer truck or load compactor on a garbage truck, claimant shall be  
20 allowed a refund of twenty-five percent of the tax paid on all fuel  
21 used in such a truck; and

22 (c) The department is authorized to establish by rule additional  
23 formulae for determining fuel usage when operating other types of  
24 equipment by means of power take-off units when direct measurement of  
25 the fuel used is not feasible. The department is also authorized to  
26 adopt rules regarding the usage of on board computers for the  
27 production of records required by this chapter.

28 **Sec. 18.** RCW 82.36.285 and 1996 c 244 s 5 are each amended to read  
29 as follows:

30 A private, nonprofit transportation provider regulated under  
31 chapter 81.66 RCW shall receive a refund of the amount of the motor  
32 vehicle fuel tax paid on each gallon of motor vehicle fuel used to  
33 provide transportation services for persons with special transportation  
34 needs(~~(, whether the vehicle fuel tax has been paid either directly to~~  
35 ~~the vendor from whom the motor vehicle fuel was purchased or indirectly~~  
36 ~~by adding the amount of the tax to the price of the fuel)).~~

1       **Sec. 19.** RCW 82.36.290 and 1961 c 15 s 82.36.290 are each amended  
2 to read as follows:

3       Every person who purchases and uses any motor vehicle fuel as an  
4 ingredient for manufacturing or for cleaning or dyeing or for some  
5 other similar purpose and upon which the motor vehicle fuel excise tax  
6 has been paid shall be entitled to and shall receive a refund of the  
7 amount of the motor vehicle fuel excise tax paid on each gallon of  
8 motor vehicle fuel so used(~~(, whether such motor vehicle excise tax has  
9 been paid either directly to the vendor from whom the motor vehicle  
10 fuel was purchased or indirectly by adding the amount of such excise  
11 tax to the price of such fuel)~~)).

12       **Sec. 20.** RCW 82.36.320 and 1961 c 15 s 82.36.320 are each amended  
13 to read as follows:

14       Any person claiming refund on motor vehicle fuel used other than in  
15 motor vehicles as herein provided(~~(, and any person purchasing motor  
16 vehicle fuel from a dealer who is claiming refund on account of the  
17 sale of such fuel under RCW 82.36.305)~~) may be required by the director  
18 to also furnish information regarding the amount of motor vehicle fuel  
19 purchased from other sources or for other purposes during the period  
20 reported for which no refund is claimed.

21       **Sec. 21.** RCW 82.36.340 and 1961 c 15 s 82.36.340 are each amended  
22 to read as follows:

23       The director may in order to establish the validity of any claim  
24 for refund require the claimant(~~(, or, in the case of a dealer filing  
25 a claim for refund as provided by RCW 82.36.305, the person to whom  
26 such fuel was sold,~~) to furnish such additional proof of the validity  
27 of the claim as the director may determine, and may examine the books  
28 and records of the claimant or said person to whom the fuel was sold  
29 for such purpose. The records shall be sufficient to substantiate the  
30 accuracy of the claim and shall be in such form and contain such  
31 information as the director may require. The failure to maintain such  
32 records or to accede to a demand for an examination of such records may  
33 be deemed by the director as sufficient cause for denial of all right  
34 to the refund claimed on account of the transaction in question.

1           **Sec. 22.** RCW 82.36.370 and 1998 c 176 s 42 are each amended to  
2 read as follows:

3           (1) A refund shall be made in the manner provided in this chapter  
4 or a credit given to a licensee, other than a motor vehicle fuel  
5 distributor, allowing for the excise tax paid or accrued on all motor  
6 vehicle fuel which is lost or destroyed, while (~~applicant shall be the~~  
7 ~~owner thereof~~) the licensee was the owner, through fire, lightning,  
8 flood, wind storm, or explosion.

9           (2) A refund shall be made in the manner provided in this chapter  
10 or a credit given allowing for the excise tax paid or accrued on all  
11 motor vehicle fuel of five hundred gallons or more which is lost or  
12 destroyed, while (~~applicant~~) the licensee, other than a motor vehicle  
13 fuel distributor, shall be the owner thereof, through leakage or other  
14 casualty except evaporation, shrinkage or unknown causes: PROVIDED,  
15 That the director shall be notified in writing as to the full  
16 circumstances surrounding such loss or destruction and the amount of  
17 the loss or destruction within thirty days from the day of discovery of  
18 such loss or destruction.

19           (3) Recovery for such loss or destruction under either subsection  
20 (1) or (2) must be susceptible to positive proof thereby enabling the  
21 director to conduct such investigation and require such information as  
22 the director may deem necessary.

23           In the event that the director is not satisfied that the fuel was  
24 lost or destroyed as claimed, wherefore required information or proof  
25 as required hereunder is not sufficient to substantiate the accuracy of  
26 the claim, the director may deem as sufficient cause the denial of all  
27 right relating to the refund or credit for the excise tax on motor  
28 vehicle fuel alleged to be lost or destroyed.

29           **Sec. 23.** RCW 82.36.380 and 2003 c 358 s 13 are each amended to  
30 read as follows:

31           (1) It is unlawful for a person or corporation to:

32           (a) Evade a tax or fee imposed under this chapter;

33           (b) File a false statement of a material fact on a motor fuel  
34 license application or motor fuel refund application;

35           (c) Act as a motor fuel importer, motor fuel blender, or motor fuel  
36 supplier unless the person holds an uncanceled motor fuel license

1 issued by the department authorizing the person to engage in that  
2 business;

3 (d) Knowingly assist another person to evade a tax or fee imposed  
4 by this chapter;

5 (e) Knowingly operate a conveyance for the purpose of hauling,  
6 transporting, or delivering motor vehicle fuel in bulk and not possess  
7 an invoice, bill of sale, or other statement showing the name, address,  
8 and tax license number of the seller or consignor, the destination, the  
9 name, address, and tax license number of the purchaser or consignee,  
10 and the number of gallons.

11 (2) A violation of subsection (1) of this section is a class C  
12 felony under chapter 9A.20 RCW. In addition to other penalties and  
13 remedies provided by law, the court shall order a person or corporation  
14 found guilty of violating subsection (1) of this section to:

15 (a) Pay the tax or fee evaded plus interest, commencing at the date  
16 the tax or fee was first due, at the rate of twelve percent per year,  
17 compounded monthly; and

18 (b) Pay a penalty of one hundred percent of the tax evaded, to the  
19 multimodal transportation account of the state.

20 (3) The tax imposed by this chapter is held in trust by the  
21 licensee until paid to the department, and a licensee who appropriates  
22 the tax to his or her own use or to any use other than the payment of  
23 the tax on the due date as prescribed in this chapter is guilty of a  
24 felony or gross misdemeanor in accordance with the theft and  
25 anticipatory provisions of Title 9A RCW. A person, partnership,  
26 corporation, or corporate officer who fails to pay to the department  
27 the tax imposed by this chapter is personally liable to the state for  
28 the amount of the tax.

29 **Sec. 24.** RCW 82.36.450 and 1995 c 320 s 2 are each amended to read  
30 as follows:

31 ~~((The department of licensing may enter into an agreement with any~~  
32 ~~federally recognized Indian tribe located on a reservation within this~~  
33 ~~state regarding the imposition, collection, and use of this state's~~  
34 ~~motor vehicle fuel tax, or the budgeting or use of moneys in lieu~~  
35 ~~thereof, upon terms substantially the same as those in the consent~~  
36 ~~decree entered by the federal district court (Eastern District of~~  
37 ~~Washington) in *Confederated Tribes of the Colville Reservation v. DOL,*~~

1 ~~et al., District Court No. CY 92-248-JLO.))~~ (1) The governor may enter  
2 into an agreement with any federally recognized Indian tribe located on  
3 a reservation within this state regarding payment of motor vehicle fuel  
4 taxes included in the price of fuel delivered to a retail station owned  
5 and operated by a tribe, tribal enterprise, or tribal member licensed  
6 by the tribe to operate a retail station located on reservation or  
7 trust property. The agreement must be between the governor and the  
8 tribe, and must provide that:

9 (a) The tribal retailer will pass on to the retail customer one  
10 hundred percent of any state fuel tax included in the price of the  
11 motor vehicle fuel;

12 (b) The tribal retailer will acquire all motor vehicle fuel only  
13 from persons or companies who are properly licensed in Washington state  
14 as a motor vehicle fuel distributor, supplier, or importer in  
15 accordance with this chapter, or a tribal distributor, supplier, or  
16 importer lawfully doing business in Indian country;

17 (c) The tribe will expend fuel tax proceeds or amounts equivalent  
18 thereto, on essential governmental services, including but not limited  
19 to: Planning, construction, and maintenance of roads, bridges, and  
20 boat ramps; transit services and facilities; transportation planning;  
21 police services; and other highway related purposes;

22 (d) The provisions of this section do not repeal existing  
23 state/tribal fuel tax agreements or consent decrees in existence on the  
24 effective date of this act, but the state and the tribe may agree to  
25 substitute a compact negotiated under this section for an existing  
26 agreement or consent decree.

27 (2) The department of licensing shall prepare and submit an annual  
28 report to the legislature on the status of existing agreements and any  
29 ongoing negotiations with tribes.

30 NEW SECTION. Sec. 25. A new section is added to chapter 82.36 RCW  
31 to read as follows:

32 It is the intent and purpose of this chapter that the tax shall be  
33 imposed at the time and place of the first taxable event and upon the  
34 first taxable person within this state. Any person whose activities  
35 would otherwise require payment of the tax imposed by RCW 82.36.020 but  
36 who is exempt from the tax nevertheless has a precollection obligation  
37 for the tax that must be imposed on the first taxable event within this

1 state. Failure to pay the tax with respect to a taxable event shall  
2 not prevent tax liability from arising by reason of a subsequent  
3 taxable event.

4 **Sec. 26.** RCW 82.38.030 and 2005 c 314 s 102 are each amended to  
5 read as follows:

6 (1) There is hereby levied and imposed upon special fuel (~~((users))~~)  
7 licensees, other than a special fuel distributor, a tax at the rate of  
8 twenty-three cents per gallon of special fuel, or each one hundred  
9 cubic feet of compressed natural gas, measured at standard pressure and  
10 temperature.

11 (2) Beginning July 1, 2003, an additional and cumulative tax rate  
12 of five cents per gallon of special fuel, or each one hundred cubic  
13 feet of compressed natural gas, measured at standard pressure and  
14 temperature shall be imposed on special fuel (~~((users))~~) licensees, other  
15 than a special fuel distributor. This subsection (2) expires when the  
16 bonds issued for transportation 2003 projects are retired.

17 (3) Beginning July 1, 2005, an additional and cumulative tax rate  
18 of three cents per gallon of special fuel, or each one hundred cubic  
19 feet of compressed natural gas, measured at standard pressure and  
20 temperature shall be imposed on special fuel (~~((users))~~) licensees, other  
21 than a special fuel distributor.

22 (4) Beginning July 1, 2006, an additional and cumulative tax rate  
23 of three cents per gallon of special fuel, or each one hundred cubic  
24 feet of compressed natural gas, measured at standard pressure and  
25 temperature shall be imposed on special fuel (~~((users))~~) licensees, other  
26 than a special fuel distributor.

27 (5) Beginning July 1, 2007, an additional and cumulative tax rate  
28 of two cents per gallon of special fuel, or each one hundred cubic feet  
29 of compressed natural gas, measured at standard pressure and  
30 temperature shall be imposed on special fuel (~~((users))~~) licensees, other  
31 than a special fuel distributor.

32 (6) Beginning July 1, 2008, an additional and cumulative tax rate  
33 of one and one-half cents per gallon of special fuel, or each one  
34 hundred cubic feet of compressed natural gas, measured at standard  
35 pressure and temperature shall be imposed on special fuel (~~((users))~~)  
36 licensees, other than a special fuel distributor.

37 (7) Taxes are imposed when:



1 (a) Special fuel is removed in this state from a terminal if the  
2 special fuel is removed at the rack unless the removal is to a licensed  
3 exporter for direct delivery to a destination outside of the state, or  
4 the removal is ~~((to))~~ by a special fuel ~~((distributor))~~ supplier for  
5 direct delivery to an international fuel tax agreement licensee under  
6 RCW 82.38.320;

7 (b) Special fuel is removed in this state from a refinery if either  
8 of the following applies:

9 (i) The removal is by bulk transfer and the refiner or the owner of  
10 the special fuel immediately before the removal is not a licensee; or

11 (ii) The removal is at the refinery rack unless the removal is to  
12 a licensed exporter for direct delivery to a destination outside of the  
13 state, or the removal is to a special fuel ~~((distributor))~~ supplier for  
14 direct delivery to an international fuel tax agreement licensee under  
15 RCW 82.38.320;

16 (c) Special fuel enters into this state ~~((for sale, consumption,~~  
17 ~~use, or storage)), unless the fuel enters this state for direct  
18 delivery to an international fuel tax agreement licensee under RCW  
19 82.38.320, if either of the following applies:~~

20 (i) The entry is by bulk transfer and the importer is not a  
21 licensee; or

22 (ii) The entry is not by bulk transfer;

23 (d) Special fuel is sold or removed in this state to an unlicensed  
24 entity unless there was a prior taxable removal, entry, or sale of the  
25 special fuel;

26 (e) Blended special fuel is removed or sold in this state by the  
27 blender of the fuel. The number of gallons of blended special fuel  
28 subject to tax is the difference between the total number of gallons of  
29 blended special fuel removed or sold and the number of gallons of  
30 previously taxed special fuel used to produce the blended special fuel;

31 (f) Dyed special fuel is used on a highway, as authorized by the  
32 internal revenue code, unless the use is exempt from the special fuel  
33 tax;

34 (g) Dyed special fuel is held for sale, sold, used, or is intended  
35 to be used in violation of this chapter;

36 (h) Special fuel purchased by an international fuel tax agreement  
37 licensee under RCW 82.38.320 is used on a highway; and

1 (i) Special fuel is sold by a licensed special fuel supplier to a  
2 special fuel distributor, special fuel importer, or special fuel  
3 blender and the special fuel is not removed from the bulk transfer-  
4 terminal system.

5 ~~((8) The tax imposed by this chapter, if required to be collected  
6 by the licensee, is held in trust by the licensee until paid to the  
7 department, and a licensee who appropriates or converts the tax  
8 collected to his or her own use or to any use other than the payment of  
9 the tax to the extent that the money required to be collected is not  
10 available for payment on the due date as prescribed in this chapter is  
11 guilty of a felony, or gross misdemeanor in accordance with the theft  
12 and anticipatory provisions of Title 9A RCW. A person, partnership,  
13 corporation, or corporate officer who fails to collect the tax imposed  
14 by this section, or who has collected the tax and fails to pay it to  
15 the department in the manner prescribed by this chapter, is personally  
16 liable to the state for the amount of the tax.))~~

17 **Sec. 27.** RCW 82.38.032 and 1998 c 176 s 52 are each amended to  
18 read as follows:

19 ~~((The tax under RCW 82.38.030, if not previously imposed and paid,  
20 must be paid over to the department by special fuel users and persons  
21 licensed under the international fuel tax agreement or other fuel tax  
22 reciprocity agreements entered into with the state of Washington, on  
23 the use of special fuel to operate motor vehicles on the highways of  
24 this state, unless the use is exempt from the tax under this chapter.))~~  
25 International fuel tax agreement licensees, or persons operating motor  
26 vehicles under other reciprocity agreements entered into with the state  
27 of Washington, are liable for and must pay the tax under RCW 82.38.030  
28 to the department on special fuel used to operate motor vehicles on the  
29 highways of this state. This provision does not apply if the tax under  
30 RCW 82.38.030 has previously been imposed and paid by the international  
31 fuel tax agreement licensee or if the use of such fuel is exempt from  
32 the tax under this chapter.

33 **Sec. 28.** RCW 82.38.035 and 2005 c 314 s 107 are each amended to  
34 read as follows:

35 (1) A licensed supplier shall ~~((remit))~~ be liable for and pay tax  
36 on special fuel to the department as provided in RCW 82.38.030(7)(a).

1 On a two-party exchange, or buy-sell agreement between two licensed  
2 suppliers, the receiving exchange partner or buyer shall (~~remit~~) be  
3 liable for and pay the tax.

4 (2) A refiner shall (~~remit~~) be liable for and pay tax to the  
5 department on special fuel removed from a refinery as provided in RCW  
6 82.38.030(7)(b).

7 (3) (~~An~~) A licensed importer shall (~~remit~~) be liable for and  
8 pay tax to the department on special fuel imported into this state as  
9 provided in RCW 82.38.030(7)(c).

10 (4) A licensed blender shall (~~remit~~) be liable for and pay tax to  
11 the department on the removal or sale of blended special fuel as  
12 provided in RCW 82.38.030(7)(e).

13 (5) A licensed dyed special fuel user shall (~~remit~~) be liable for  
14 and pay tax to the department on the use of dyed special fuel as  
15 provided in RCW 82.38.030(7)(f).

16 (6) Nothing in this chapter prohibits the licensee liable for  
17 payment of the tax under this chapter from including as a part of the  
18 selling price an amount equal to such tax.

19 **Sec. 29.** RCW 82.38.050 and 1990 c 250 s 82 are each amended to  
20 read as follows:

21 (~~Except as otherwise provided in this chapter, every special fuel~~  
22 ~~user shall be liable for the tax on special fuel used in motor vehicles~~  
23 ~~leased to the user for thirty days or more and operated on the highways~~  
24 ~~of this state to the same extent and in the same manner as special fuel~~  
25 ~~used in his own motor vehicles and operated on the highways of this~~  
26 ~~state:—PROVIDED, That~~) A lessor who is engaged regularly in the  
27 business of leasing or renting for compensation motor vehicles and  
28 equipment he owns without drivers to carriers or other lessees for  
29 interstate operation, may be deemed to be the special fuel user when he  
30 supplies or pays for the special fuel consumed in such vehicles, and  
31 such lessor may be issued ((a)) an international fuel tax agreement  
32 license ((~~as a special fuel user~~)) when application and bond have been  
33 properly filed with and approved by the department for such license.  
34 Any lessee may exclude motor vehicles of which he or she is the lessee  
35 from reports and liabilities pursuant to this chapter, but only if the  
36 motor vehicles in question have been leased from a lessor holding a  
37 valid (~~special fuel user's~~) international fuel tax agreement license.

1       (~~Every such lessor shall file with the application for a special~~  
2 ~~fuel user's license one copy of the lease form or service contract the~~  
3 ~~lessor enters into with the various lessees of the lessor's motor~~  
4 ~~vehicles.~~) When the ((~~special fuel user's~~)) license has been secured,  
5 such lessor shall make and assign to each motor vehicle leased for  
6 interstate operation a photocopy of such license to be carried in the  
7 cab compartment of the motor vehicle and on which shall be typed or  
8 printed on the back the unit or motor number of the motor vehicle to  
9 which it is assigned and the name of the lessee. Such lessor shall be  
10 responsible for the proper use of such photocopy of the license issued  
11 and its return to the lessor with the motor vehicle to which it is  
12 assigned.

13       The lessor shall be responsible for fuel tax licensing and  
14 reporting, as required by this chapter, on the operation of all motor  
15 vehicles leased to others for less than thirty days.

16       **Sec. 30.** RCW 82.38.100 and 1999 c 270 s 2 are each amended to read  
17 as follows:

18       (1) Any special fuel user operating a motor vehicle into this state  
19 for commercial purposes may make application for a trip permit that  
20 shall be good for a period of three consecutive days beginning and  
21 ending on the dates specified on the face of the permit issued, and  
22 only for the vehicle for which it is issued.

23       (2) Every permit shall identify, as the department may require, the  
24 vehicle for which it is issued and shall be completed in its entirety,  
25 signed, and dated by the operator before operation of the vehicle on  
26 the public highways of this state. Correction of data on the permit  
27 such as dates, vehicle license number, or vehicle identification number  
28 invalidates the permit. A violation of, or a failure to comply with,  
29 this subsection is a gross misdemeanor.

30       (3) For each permit issued, there shall be collected a filing fee  
31 of one dollar, an administrative fee of ten dollars, and an excise tax  
32 of nine dollars. Such fees and tax shall be in lieu of the special  
33 fuel tax otherwise assessable against the permit holder for importing  
34 and using special fuel in a motor vehicle on the public highways of  
35 this state, and no report of mileage shall be required with respect to  
36 such vehicle. Trip permits will not be issued if the applicant has

1 outstanding fuel taxes, penalties, or interest owing to the state or  
2 has had a special fuel license revoked for cause and the cause has not  
3 been removed.

4 (4) Blank permits may be obtained from field offices of the  
5 department of transportation, (~~Washington state patrol,~~) department  
6 of licensing, or other agents appointed by the department. The  
7 department may appoint county auditors or businesses as agents for the  
8 purpose of selling trip permits to the public. County auditors or  
9 businesses so appointed may retain the filing fee collected for each  
10 trip permit to defray expenses incurred in handling and selling the  
11 permits.

12 (5) A surcharge of five dollars is imposed on the issuance of trip  
13 permits. The portion of the surcharge paid by motor carriers must be  
14 deposited in the motor vehicle fund for the purpose of supporting  
15 vehicle weigh stations, weigh-in-motion programs, and the commercial  
16 vehicle information systems and networks program. The remaining  
17 portion of the surcharge must be deposited in the motor vehicle fund  
18 for the purpose of supporting congestion relief programs. All other  
19 fees and excise taxes collected by the department for trip permits  
20 shall be credited and deposited in the same manner as the special fuel  
21 tax collected under this chapter and shall not be subject to exchange,  
22 refund, or credit.

23 **Sec. 31.** RCW 82.38.130 and 1998 c 176 s 65 are each amended to  
24 read as follows:

25 The department may revoke the license of any licensee for any of  
26 the grounds constituting cause for denial of a license set forth in RCW  
27 82.38.120 or for other reasonable cause. Before revoking such license  
28 the department shall notify the licensee to show cause within twenty  
29 days of the date of the notice why the license should not be revoked:  
30 PROVIDED, That at any time prior to and pending such hearing the  
31 department may, in the exercise of reasonable discretion, suspend such  
32 license.

33 The department shall cancel any special fuel license immediately  
34 upon surrender thereof by the holder.

35 Any surety on a bond furnished by a licensee as provided in this  
36 chapter shall be released and discharged from any and all liability to  
37 the state accruing on such bond after the expiration of forty-five days

1 from the date which such surety shall have lodged with the department  
2 a written request to be released and discharged, but this provision  
3 shall not operate to relieve, release, or discharge the surety from any  
4 liability already accrued or which shall accrue before the expiration  
5 of the forty-five day period. The department shall promptly, upon  
6 receiving any such request, notify the licensee who furnished the bond,  
7 and unless the licensee, on or before the expiration of the forty-five  
8 day period, files a new bond, in accordance with this section, the  
9 department ((forthwith)) shall cancel the ((~~special fuel dealer's or~~  
10 ~~special fuel user's~~)) license.

11 The department may require a new or additional surety bond of the  
12 character specified in RCW 82.38.020(3) if, in its opinion, the  
13 security of the surety bond therefor filed by such licensee, shall  
14 become impaired or inadequate. Upon failure of the licensee to give  
15 such new or additional surety bond within forty-five days after being  
16 requested to do so by the department, or after he or she shall fail or  
17 refuse to file reports and remit or pay taxes at the intervals fixed by  
18 the department, the department forthwith shall cancel his or her  
19 license.

20 **Sec. 32.** RCW 82.38.140 and 1998 c 176 s 66 are each amended to  
21 read as follows:

22 (1) Every licensee and every person importing, manufacturing,  
23 refining, ((~~dealing in,~~)) transporting, blending, or storing special  
24 fuel in this state shall keep for a period of not less than five years  
25 open to inspection at all times during the business hours of the day to  
26 the department or its authorized representatives, a complete record of  
27 all special fuel purchased or received and all of such products sold,  
28 delivered, or used by them. Such records shall show:

29 (a) The date of each receipt;

30 (b) The name and address of the person from whom purchased or  
31 received;

32 (c) The number of gallons received at each place of business or  
33 place of storage in the state of Washington;

34 (d) The date of each sale or delivery;

35 (e) The number of gallons sold, delivered, or used for taxable  
36 purposes;

1 (f) The number of gallons sold, delivered, or used for any purpose  
2 not subject to the tax imposed in this chapter;

3 (g) The name, address, and special fuel license number of the  
4 purchaser if the special fuel tax is not collected on the sale or  
5 delivery;

6 (h) The inventories of special fuel on hand at each place of  
7 business at the end of each month.

8 (2)(a) All international fuel tax agreement licensees and dyed  
9 special fuel users authorized to use dyed special fuel on highway in  
10 vehicles licensed for highway operation shall maintain detailed mileage  
11 records on an individual vehicle basis.

12 (b) Such operating records shall show both on-highway and off-  
13 highway usage of special fuel on a daily basis for each vehicle.

14 (c) In the absence of operating records that show both on-highway  
15 and off-highway usage of special fuel on a daily basis for each  
16 vehicle, fuel consumption must be computed under RCW 82.38.060.

17 (3) The department may require a person other than a licensee  
18 engaged in the business of selling, purchasing, distributing, storing,  
19 transporting, or delivering special fuel to submit periodic reports to  
20 the department regarding the disposition of the fuel. The reports must  
21 be on forms prescribed by the department and must contain such  
22 information as the department may require.

23 (4) Every person operating any conveyance for the purpose of  
24 hauling, transporting, or delivering special fuel in bulk shall have  
25 and possess during the entire time the person is hauling special fuel,  
26 an invoice, bill of sale, or other statement showing the name, address,  
27 and license number of the seller or consigner, the destination, name,  
28 and address of the purchaser or consignee, license number, if  
29 applicable, and the number of gallons. The person hauling such special  
30 fuel shall at the request of any law enforcement officer or authorized  
31 representative of the department, or other person authorized by law to  
32 inquire into, or investigate those types of matters, produce for  
33 inspection such invoice, bill of sale, or other statement and shall  
34 permit such official to inspect and gauge the contents of the vehicle.

35 **Sec. 33.** RCW 82.38.150 and 1998 c 176 s 67 are each amended to  
36 read as follows:

37 For the purpose of determining the amount of liability for the tax

1 herein imposed, and to periodically update license information, each  
2 licensee, other than a special fuel distributor, an international fuel  
3 tax agreement licensee, or a dyed special fuel user, shall file monthly  
4 tax reports with the department, on forms prescribed by the department.

5 Dyed special fuel users whose estimated yearly tax liability is two  
6 hundred fifty dollars or less, shall file a report yearly, and dyed  
7 special fuel users whose estimated yearly tax liability is more than  
8 two hundred fifty dollars, shall file reports quarterly. Special fuel  
9 users licensed under the international fuel tax agreement shall file  
10 reports quarterly. Special fuel distributors subject to the pollution  
11 liability insurance agency fee and reporting requirements shall remit  
12 pollution liability insurance agency returns and any associated payment  
13 due to the department annually.

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

35 Subject to the written approval of the department, tax reports may  
36 cover a period ending on a day other than the last day of the calendar  
37 month. Taxpayers granted approval to file reports in this manner will



1 file such reports on or before the twenty-fifth day following the end  
2 of the reporting period. No change to this reporting period will be  
3 made without the written authorization of the department.

4 If the final filing date falls on a Saturday, Sunday, or legal  
5 holiday the next secular or business day shall be the final filing  
6 date. Such reports shall be considered filed or received on the date  
7 shown by the post office cancellation mark stamped upon an envelope  
8 containing such report properly addressed to the department, or on the  
9 date it was mailed if proof satisfactory to the department is available  
10 to establish the date it was mailed.

11 The department, if it deems it necessary in order to insure payment  
12 of the tax imposed by this chapter, or to facilitate the administration  
13 of this chapter, has the authority to require the filing of reports and  
14 tax remittances at shorter intervals than one month if, in its opinion,  
15 an existing bond has become insufficient.

16 **Sec. 34.** RCW 82.38.180 and 1998 c 176 s 71 are each amended to  
17 read as follows:

18 Any person who has purchased special fuel on which tax has been  
19 ~~paid ((a special fuel tax either directly or to the vendor from whom it~~  
20 ~~was purchased))~~ may file a claim with the department for a refund of  
21 the tax ~~((so paid and shall be reimbursed and repaid the amount of))~~  
22 for:

23 (1) ~~((Any))~~ Taxes previously paid on special fuel used for purposes  
24 other than for the propulsion of motor vehicles upon the public  
25 highways in this state.

26 (2) ~~((Any))~~ Taxes previously paid on special fuel exported for use  
27 outside of this state. Special fuel carried from this state in the  
28 fuel tank of a motor vehicle is deemed to be exported from this state.  
29 Special fuel distributed to a federally recognized Indian tribal  
30 reservation located within the state of Washington is not considered  
31 exported outside this state.

32 (3) ~~((Any))~~ Tax, penalty, or interest erroneously or illegally  
33 collected or paid.

34 (4) ~~((Any))~~ Taxes previously paid on all special fuel which is lost  
35 or destroyed, while ~~((applicant))~~ the licensee, other than a special  
36 fuel distributor, shall be the owner thereof, through fire, lightning,  
37 flood, wind storm, or explosion.

1 (5) (~~Any~~) Taxes previously paid on all special fuel of five  
2 hundred gallons or more which is lost or destroyed while (~~applicant~~)  
3 the licensee, other than a special fuel distributor, shall be the owner  
4 thereof, through leakage or other casualty except evaporation,  
5 shrinkage, or unknown causes.

6 (6) (~~Any~~) Taxes previously paid on special fuel that is  
7 inadvertently mixed with dyed special fuel.

8 Recovery for such loss or destruction under either subsection (4),  
9 (5), or (6) of this section must be susceptible to positive proof  
10 thereby enabling the department to conduct such investigation and  
11 require such information as (~~they~~) it may deem necessary. In the  
12 event that the department is not satisfied that the fuel was lost,  
13 destroyed, or contaminated as claimed because information or proof as  
14 required hereunder is not sufficient to substantiate the accuracy of  
15 the claim, (~~they~~) it may deem such as sufficient cause to deny all  
16 right relating to the refund or credit for the excise tax paid on  
17 special fuel alleged to be lost or destroyed.

18 No refund or claim for credit shall be approved by the department  
19 unless the gallons of special fuel claimed as nontaxable satisfy the  
20 conditions specifically set forth in this section and the nontaxable  
21 event or use occurred during the period covered by the refund claim.  
22 Refunds or claims for credit (~~by sellers or users of special fuel~~)  
23 shall not be allowed for anticipated nontaxable use or events.

24 **Sec. 35.** RCW 82.38.270 and 2003 c 358 s 14 are each amended to  
25 read as follows:

26 (1) It is unlawful for a person or corporation to:

27 (a) Have dyed diesel in the fuel supply tank of a vehicle that is  
28 licensed or required to be licensed for highway use or maintain dyed  
29 diesel in bulk storage for highway use, unless the person or  
30 corporation maintains an uncanceled dyed diesel user license or is  
31 otherwise exempted by this chapter;

32 (b) Evade a tax or fee imposed under this chapter;

33 (c) File a false statement of a material fact on a special fuel  
34 license application or special fuel refund application;

35 (d) Act as a special fuel importer, special fuel blender, or  
36 special fuel supplier unless the person holds an uncanceled special

1 fuel license issued by the department authorizing the person to engage  
2 in that business;

3 (e) Knowingly assist another person to evade a tax or fee imposed  
4 by this chapter;

5 (f) Knowingly operate a conveyance for the purpose of hauling,  
6 transporting, or delivering special fuel in bulk and not possess an  
7 invoice, bill of sale, or other statement showing the name, address,  
8 and tax license number of the seller or consignor, the destination, the  
9 name, address, and tax license number of the purchaser or consignee,  
10 and the number of gallons.

11 (2)(a) A single violation of subsection (1)(a) of this section is  
12 a gross misdemeanor under chapter 9A.20 RCW.

13 (b) Multiple violations of subsection (1)(a) of this section and  
14 violations of subsection (1)(b) through (f) of this section are a class  
15 C felony under chapter 9A.20 RCW.

16 (3) In addition to other penalties and remedies provided by law,  
17 the court shall order a person or corporation found guilty of violating  
18 subsection (1)(b) through (f) of this section to:

19 (a) Pay the tax or fee evaded plus interest, commencing at the date  
20 the tax or fee was first due, at the rate of twelve percent per year,  
21 compounded monthly; and

22 (b) Pay a penalty of one hundred percent of the tax evaded, to the  
23 multimodal transportation account of the state.

24 (4) The tax imposed by this chapter is held in trust by the  
25 licensee until paid to the department, and a licensee who appropriates  
26 the tax to his or her own use or to any use other than the payment of  
27 the tax on the due date as prescribed in this chapter is guilty of a  
28 felony or gross misdemeanor in accordance with the theft and  
29 anticipatory provisions of Title 9A RCW. A person, partnership,  
30 corporation, or corporate officer who fails to pay to the department  
31 the tax imposed by this chapter is personally liable to the state for  
32 the amount of the tax.

33 **Sec. 36.** RCW 82.38.310 and 1995 c 320 s 3 are each amended to read  
34 as follows:

35 ~~((The department of licensing may enter into an agreement with any~~  
36 ~~federally recognized Indian tribe located on a reservation within this~~  
37 ~~state regarding the imposition, collection, and use of this state's~~

1 ~~special fuel tax, or the budgeting or use of moneys in lieu thereof,~~  
2 ~~upon terms substantially the same as those in the consent decree~~  
3 ~~entered by the federal district court (Eastern District of Washington)~~  
4 ~~in *Confederated Tribes of the Colville Reservation v. DOL, et al.*,~~  
5 ~~District Court No. CY 92-248-JLO.)~~ (1) The governor may enter into an  
6 agreement with any federally recognized Indian tribe located on a  
7 reservation within this state regarding payment of special fuel taxes  
8 included in the price of fuel delivered to a retail station owned and  
9 operated by a tribe, tribal enterprise, or tribal member licensed by  
10 the tribe to operate a retail station located on reservation or trust  
11 property. The agreement must be between the governor and the tribe,  
12 and must provide that:

13 (a) The tribal retailer will pass on to the retail customer one  
14 hundred percent of any state fuel tax included in the price of the  
15 special fuel;

16 (b) The tribal retailer will acquire all special fuel only from  
17 persons or companies who are properly licensed in Washington state as  
18 a special fuel distributor, supplier, or importer in accordance with  
19 this chapter, or a tribal distributor, supplier, or importer lawfully  
20 doing business in Indian country;

21 (c) The tribe will expend fuel tax proceeds or amounts equivalent  
22 thereto, on essential governmental services, including but not limited  
23 to: Planning, construction, and maintenance of roads, bridges, and  
24 boat ramps; transit services and facilities; transportation planning;  
25 police services; and other highway related purposes;

26 (d) The provisions of this section do not repeal existing  
27 state/tribal fuel tax agreements or consent decrees in existence on the  
28 effective date of this act, but the state and the tribe may agree to  
29 substitute a compact negotiated under this section for an existing  
30 agreement or consent decree.

31 (2) The department of licensing shall prepare and submit an annual  
32 report to the legislature on the status of existing agreements and any  
33 ongoing negotiations with tribes.

34 **Sec. 37.** RCW 82.38.320 and 1998 c 176 s 83 are each amended to  
35 read as follows:

36 (1) An international fuel tax agreement licensee who meets the  
37 qualifications in subsection (2) of this section may be given special

1 authorization by the department to purchase special fuel delivered into  
2 bulk storage without payment of the special fuel tax at the time the  
3 fuel is purchased. The special authorization applies only to full  
4 truck-trailer loads filled at a terminal rack and delivered directly to  
5 the bulk storage facilities of the special authorization holder. The  
6 licensee shall pay special fuel tax on the fuel at the time the  
7 licensee files their international fuel tax agreement tax return and  
8 accompanying schedule with the department. The accompanying schedule  
9 shall be provided in a form and manner determined by the department and  
10 shall contain information on purchases and usage of all nondyed special  
11 fuel purchased during the reporting period. In addition, by the  
12 fifteenth day of the month following the month in which fuel under the  
13 special authorization was purchased, the licensee must report to the  
14 department, the name of the seller and the number of gallons purchased  
15 for each purchase of such fuel, and any other information as the  
16 department may require.

17 (2) To receive or maintain special authorization under subsection  
18 (1) of this section, the following conditions regarding the  
19 international fuel tax agreement licensee must apply:

20 (a) During the period encompassing the four consecutive calendar  
21 quarters immediately preceding the fourth calendar quarter of the  
22 previous year, the number of gallons consumed outside the state of  
23 Washington as reported on the licensee's international fuel tax  
24 agreement tax returns must have been equal to at least twenty percent  
25 of the nondyed special fuel gallons, including fuel used on-road and  
26 off-road, purchased by the licensee in the state of Washington, as  
27 reported on the accompanying schedules required under subsection (1) of  
28 this section;

29 (b) The licensee must have been licensed under the provisions of  
30 the international fuel tax agreement during each of the four  
31 consecutive calendar quarters immediately preceding the fourth calendar  
32 quarter of the previous year; and

33 (c) The licensee has not violated the reporting requirements of  
34 this section.

35 (3) Only a licensed special fuel supplier or special fuel importer  
36 may sell special fuel to a special authorization holder in the manner  
37 prescribed by this section.

1        ~~(4) A special fuel ((distributor)) supplier or importer who sells~~  
2 special fuel under the special authorization provisions of this section  
3 is not liable for the special fuel tax on the fuel. ~~((By the fifteenth~~  
4 ~~day of the month following the month in which the fuel was sold, the~~  
5 ~~special fuel distributor shall report to the department, the name and~~  
6 ~~special authorization number of the purchaser and the number of gallons~~  
7 ~~sold for each purchase of such special fuel, and any other information~~  
8 ~~as the department may require.))~~ The special fuel supplier or importer  
9 will report such sales, in a manner prescribed by the department, at  
10 the time the special fuel supplier or importer submits the monthly tax  
11 report.

12        ~~((4) A supplier selling special fuel under the provisions of this~~  
13 ~~section shall not be responsible for taxes due for special fuel~~  
14 ~~purchased under the provisions of this section.~~

15        ~~(5) An international fuel tax agreement licensee who qualifies for~~  
16 ~~a special authorization under this section for calendar year 1999 is~~  
17 ~~not subject to the special fuel user requirements of RCW 82.38.289.))~~

18        NEW SECTION. Sec. 38. A new section is added to chapter 82.38 RCW  
19 to read as follows:

20        It is the intent and purpose of this chapter that the tax shall be  
21 imposed at the time and place of the first taxable event and upon the  
22 first taxable person within this state. Any person whose activities  
23 would otherwise require payment of the tax imposed by RCW 82.38.030 but  
24 who is exempt from the tax nevertheless has a precollection obligation  
25 for the tax that must be imposed on the first taxable event within this  
26 state. Failure to pay the tax with respect to a taxable event shall  
27 not prevent tax liability from arising by reason of a subsequent  
28 taxable event.

29        NEW SECTION. Sec. 39. The office of financial management, with  
30 the cooperation of the department of licensing, Washington oil  
31 marketers association, and western states petroleum association, shall  
32 prepare and submit a report to the legislative transportation  
33 committees documenting the methodology used to repeal RCW 82.36.035(6)  
34 and 82.38.160(3) effective June 1, 2007. The report must be completed  
35 and submitted no later than December 1, 2006.

1        NEW SECTION.    **Sec. 40.**    The following acts or parts of acts are  
2 each repealed:

3        (1) RCW 82.36.044 (Credit for worthless accounts receivable--  
4 Report--Adjustment) and 1998 c 176 s 15;

5        (2) RCW 82.36.273 (Refunds to licensee for fuel purchased by exempt  
6 person--Exception--Invoice or proof) and 1998 c 176 s 35;

7        (3) RCW 82.36.305 (Refunds to dealer delivering fuel exclusively  
8 for marine use--Limitations--Supporting certificate) and 1965 ex.s. c  
9 79 s 12 & 1961 c 15 s 82.36.305;

10       (4) RCW 82.36.360 (Separate invoices for nontaxed fuel) and 1961 c  
11 15 s 82.36.360;

12       (5) RCW 82.36.373 (Refund for worthless accounts receivable--  
13 Rules--Apportionment after receipt) and 1998 c 176 s 43;

14       (6) RCW 82.36.407 (Tax liability of user--Payment--Exceptions) and  
15 1998 c 176 s 48;

16       (7) RCW 82.38.070 (Credit for sales for which no consideration was  
17 received--Report--Adjustment) and 1998 c 176 s 58, 1990 c 250 s 83, &  
18 1971 ex.s. c 175 s 8;

19       (8) RCW 82.38.071 (Refund for worthless accounts receivable--  
20 Rules--Apportionment after receipt) and 1998 c 176 s 59;

21       (9) RCW 82.38.081 (Exemptions--Motor vehicle fuel used for racing)  
22 and 1998 c 115 s 6;

23       (10) RCW 82.38.185 (Refunds--Tax paid purchased by exempt person--  
24 Application) and 1998 c 176 s 73; and

25       (11) RCW 82.38.285 (Tax liability of user--Exceptions) and 1998 c  
26 176 s 81.

27       NEW SECTION.    **Sec. 41.**    If any provision of this act or its  
28 application to any person or circumstance is held invalid, the  
29 remainder of the act or the application of the provision to other  
30 persons or circumstances is not affected.

31       NEW SECTION.    **Sec. 42.**    This act is necessary for the immediate  
32 preservation of the public peace, health, or safety, or support of the  
33 state government and its existing public institutions, and takes effect  
34 immediately."

35       Correct the title.

--- END ---