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**SUBSTITUTE HOUSE BILL 1645**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on Technology, Energy & Communications (originally sponsored by Representatives B. Sullivan, Holmquist, Upthegrove, Dickerson, Blake, Kristiansen, Linville, Lantz, Morris, Orcutt, Lovick, Campbell, Chase, Nixon, Williams, Wood, Schual-Berke, Ormsby, Rodne, Sells, Hinkle, Simpson, Kagi, Schindler, Morrell, Kenney, P. Sullivan, Clibborn, Tom, Cody, O'Brien and Kilmer)

READ FIRST TIME 02/24/05.

1       AN ACT Relating to incentives for the use of clean-burning  
2 alternative fuels and equipment in student transportation programs;  
3 amending RCW 82.38.080; adding new sections to chapter 82.08 RCW;  
4 adding new sections to chapter 82.12 RCW; providing an effective date;  
5 providing a contingent expiration date; and declaring an emergency.

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

7       **Sec. 1.** RCW 82.38.080 and 1998 c 176 s 60 are each amended to read  
8 as follows:

9       (1) There is exempted from the tax imposed by this chapter, the use  
10 of fuel for:

11       (a) Street and highway construction and maintenance purposes in  
12 motor vehicles owned and operated by the state of Washington, or any  
13 county or municipality;

14       (b) Publicly owned fire fighting equipment;

15       (c) Special mobile equipment as defined in RCW 46.04.552;

16       (d) Power pumping units or other power take-off equipment of any  
17 motor vehicle which is accurately measured by metering devices that  
18 have been specifically approved by the department or which is  
19 established by any of the following formulae:

1 (i) Pumping propane, or fuel or heating oils or milk picked up from  
2 a farm or dairy farm storage tank by a power take-off unit on a  
3 delivery truck, at a rate determined by the department: PROVIDED, That  
4 claimant when presenting his or her claim to the department in  
5 accordance with this chapter, shall provide to the claim, invoices of  
6 propane, or fuel or heating oil delivered, or such other appropriate  
7 information as may be required by the department to substantiate his or  
8 her claim;

9 (ii) Operating a power take-off unit on a cement mixer truck or a  
10 load compactor on a garbage truck at the rate of twenty-five percent of  
11 the total gallons of fuel used in such a truck; or

12 (iii) The department is authorized to establish by rule additional  
13 formulae for determining fuel usage when operating other types of  
14 equipment by means of power take-off units when direct measurement of  
15 the fuel used is not feasible. The department is also authorized to  
16 adopt rules regarding the usage of on board computers for the  
17 production of records required by this chapter;

18 (e) Motor vehicles owned and operated by the United States  
19 government;

20 (f) Heating purposes;

21 (g) Moving a motor vehicle on a public highway between two pieces  
22 of private property when said moving is incidental to the primary use  
23 of the motor vehicle;

24 (h) Transportation services for persons with special transportation  
25 needs by a private, nonprofit transportation provider regulated under  
26 chapter 81.66 RCW;

27 (i) Vehicle refrigeration units, mixing units, or other equipment  
28 powered by separate motors from separate fuel tanks; and

29 (j) The operation of a motor vehicle as a part of or incidental to  
30 logging operations upon a highway under federal jurisdiction within the  
31 boundaries of a federal area if the federal government requires a fee  
32 for the privilege of operating the motor vehicle upon the highway, the  
33 proceeds of which are reserved for constructing or maintaining roads in  
34 the federal area, or requires maintenance or construction work to be  
35 performed on the highway for the privilege of operating the motor  
36 vehicle on the highway.

37 (2) There is exempted from the tax imposed by this chapter the

1 removal or entry of special fuel under the following circumstances and  
2 conditions:

3 (a) If it is the removal from a terminal or refinery of, or the  
4 entry or sale of, a special fuel if all of the following apply:

5 (i) The person otherwise liable for the tax is a licensee other  
6 than a dyed special fuel user or international fuel tax agreement  
7 licensee;

8 (ii) For a removal from a terminal, the terminal is a licensed  
9 terminal; and

10 (iii) The special fuel satisfies the dyeing and marking  
11 requirements of this chapter;

12 (b) If it is an entry or removal from a terminal or refinery of  
13 taxable special fuel transferred to a refinery or terminal and the  
14 persons involved, including the terminal operator, are licensed; and

15 (c)(i) If it is a special fuel that, under contract of sale, is  
16 shipped to a point outside this state by a supplier by means of any of  
17 the following:

18 (A) Facilities operated by the supplier;

19 (B) Delivery by the supplier to a carrier, customs broker, or  
20 forwarding agent, whether hired by the purchaser or not, for shipment  
21 to the out-of-state point;

22 (C) Delivery by the supplier to a vessel clearing from port of this  
23 state for a port outside this state and actually exported from this  
24 state in the vessel.

25 (ii) For purposes of this subsection (2)(c):

26 (A) "Carrier" means a person or firm engaged in the business of  
27 transporting for compensation property owned by other persons, and  
28 includes both common and contract carriers; and

29 (B) "Forwarding agent" means a person or firm engaged in the  
30 business of preparing property for shipment or arranging for its  
31 shipment.

32 (3) Notwithstanding any provision of law to the contrary, every  
33 urban passenger transportation system and carriers as defined by  
34 chapters 81.68 and 81.70 RCW shall be exempt from the provisions of  
35 this chapter requiring the payment of special fuel taxes. For the  
36 purposes of this section "urban passenger transportation system" means  
37 every transportation system, publicly or privately owned, having as its  
38 principal source of revenue the income from transporting persons for

1 compensation by means of motor vehicles and/or trackless trolleys, each  
2 having a seating capacity for over fifteen persons over prescribed  
3 routes in such a manner that the routes of such motor vehicles and/or  
4 trackless trolleys, either alone or in conjunction with routes of other  
5 such motor vehicles and/or trackless trolleys subject to routing by the  
6 same transportation system, shall not extend for a distance exceeding  
7 twenty-five road miles beyond the corporate limits of the county in  
8 which the original starting points of such motor vehicles are located:  
9 PROVIDED, That no refunds or credits shall be granted on special fuel  
10 used by any urban transportation vehicle or vehicle operated pursuant  
11 to chapters 81.68 and 81.70 RCW on any trip where any portion of said  
12 trip is more than twenty-five road miles beyond the corporate limits of  
13 the county in which said trip originated.

14 (4)(a) Notwithstanding any provision of law to the contrary, every  
15 student transportation program, whether operated by a school district  
16 or a commercial chartered bus service, is exempt from the provisions of  
17 this chapter requiring the payment of special fuel taxes on the  
18 biodiesel fuel portion of a biodiesel blend, on natural gas, and on  
19 liquefied petroleum gas.

20 (b) For the purposes of this section, the following definitions  
21 apply:

22 (i) "Biodiesel fuel" means a mono alkyl ester of long chain fatty  
23 acids derived from vegetable oils or animal fats for use in  
24 compression-ignition engines and that meets the requirements of the  
25 American society of testing and materials specification D 6751 in  
26 effect as of January 1, 2003.

27 (ii) "Biodiesel blend" means fuel that contains at least twenty  
28 percent biodiesel fuel by volume.

29 NEW SECTION. Sec. 2. A new section is added to chapter 82.08 RCW  
30 to read as follows:

31 (1) The tax levied by RCW 82.08.020 does not apply to sales of new  
32 alternative fuel vehicles to be used primarily in a student  
33 transportation program, whether operated by a school district or a  
34 commercial chartered bus service.

35 (2) The tax levied by RCW 82.08.020 does not apply to sales of  
36 tangible personal property, or for labor and services rendered in

1 respect to installing, repairing, cleaning, altering, or improving the  
2 property, including repair and replacement parts, if:

3 (a) The property is used to convert vehicles for the purpose of  
4 operating on alternative fuels;

5 (b) The conversion is performed on a vehicle or engine for which a  
6 United States environmental protection agency certificate of conformity  
7 or a certification from the California air resources board has been  
8 issued for the model year and exhaust and evaporative emissions test  
9 groups of the vehicle or engine; and

10 (c) The vehicles are used primarily in a student transportation  
11 program, whether operated by a school district or a commercial  
12 chartered bus service.

13 (3) For the purposes of this section, the following definitions  
14 apply:

15 (a) "Alternative fuel" means natural gas (compressed or liquid) or  
16 liquefied petroleum gas (commonly called propane).

17 (b) "New alternative fuel vehicle" means a new motor vehicle, as  
18 defined in RCW 46.96.020, originally designed and equipped by the  
19 manufacturer to operate exclusively on an alternative fuel.

20 (c) "Primarily" means at least fifty percent of total use.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW  
22 to read as follows:

23 (1) The provisions of this chapter do not apply in respect to the  
24 use of new alternative fuel vehicles to be used primarily in a student  
25 transportation program, whether operated by a school district or a  
26 commercial chartered bus service.

27 (2) The provisions of this chapter do not apply in respect to the  
28 use of tangible personal property, or of labor and services rendered in  
29 respect to installing, repairing, cleaning, altering, or improving the  
30 property, if:

31 (a) The property is used to convert vehicles for the purpose of  
32 operating on alternative fuels;

33 (b) The conversion is performed on a vehicle or engine for which a  
34 United States environmental protection agency certificate of conformity  
35 or a certification from the California air resources board has been  
36 issued for the model year and exhaust and evaporative emissions test  
37 groups of the vehicle or engine; and

1 (c) The vehicles are used primarily in a student transportation  
2 program, whether operated by a school district or a commercial  
3 chartered bus service.

4 (3) For the purposes of this section, the definitions in section 2  
5 of this act apply.

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.08 RCW  
7 to read as follows:

8 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
9 emissions control equipment, or for labor and services rendered in  
10 respect to installing, repairing, cleaning, altering, or improving the  
11 equipment, including repair and replacement parts, if the equipment is  
12 used to retrofit diesel vehicles that are used primarily in a student  
13 transportation program, whether operated by a school district or a  
14 commercial chartered bus service.

15 (2) For the purposes of this section, the following definitions  
16 apply:

17 (a) "Emissions control equipment" means a device with an oxidation  
18 catalyst, particulate filter, crankcase ventilation filter, or other  
19 means of reducing emissions from diesel vehicles, and that has been  
20 verified under the federal environmental protection agency's voluntary  
21 diesel retrofit program.

22 (b) "Primarily" has the same meaning as provided in section 2 of  
23 this act.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.12 RCW  
25 to read as follows:

26 (1) The provisions of this chapter do not apply in respect to the  
27 use of emissions control equipment, or of labor and services rendered  
28 in respect to installing, repairing, cleaning, altering, or improving  
29 the equipment, if the equipment is used to retrofit vehicles that are  
30 used primarily in a student transportation program, whether operated by  
31 a school district or a commercial chartered bus service.

32 (2) For the purposes of this section, the definitions in section 4  
33 of this act apply.

34 NEW SECTION. **Sec. 6.** (1) This act expires the earlier of July 1,  
35 2015, or July 1st of the year following the year in which the

1 department of licensing estimates that the aggregate volume of  
2 alternative fuels sold at retail for vehicular purposes represents  
3 twenty percent of the aggregate volume of all fuels sold at retail for  
4 vehicular purposes.

5 (2) In order to calculate the percentage of alternative fuel sales  
6 in subsection (1) of this section, the department of licensing may use  
7 as a proxy the estimated portion of the tax base of the special fuels  
8 tax under chapter 82.38 RCW relating to fuels other than diesel fuel.  
9 If exact volumes are unknown, the department may use reasonable methods  
10 to derive estimates of volumes. To make the calculation, the  
11 department shall convert fuel volumes to gasoline-equivalent gallons,  
12 using the method utilized by the United States department of energy in  
13 reporting such comparisons as of January 1, 2005.

14 (3) The department of licensing is authorized to promulgate rules  
15 necessary to implement this section.

16 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of the  
18 state government and its existing public institutions, and takes effect  
19 July 1, 2005.

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