
HOUSE BILL 2663

State of Washington 59th Legislature 2006 Regular Session

By Representatives Holmquist, Morris, Orcutt, Sump, Ericksen, Dunshee, Buri, McDonald, Haler, B. Sullivan, Condotta, McCune, Kristiansen, Morrell, Green, Kretz, Ericks, Chandler, Wallace, Skinner, Crouse, Cox, Nixon, Rodne, Serben, Campbell, P. Sullivan, Simpson, Clibborn, Sells, Ahern, Hinkle, Moeller, Linville, Jarrett, Ormsby, Strow, Kilmer and Dunn

Read first time 01/11/2006. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to excise tax exemptions for alternative fuels;
2 amending RCW 82.38.020; adding a new section to chapter 82.38 RCW;
3 adding a new section to chapter 82.08 RCW; adding a new section to
4 chapter 82.12 RCW; providing an effective date; and providing an
5 expiration date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.38 RCW
8 to read as follows:

9 Alternative fuel is exempt from the tax imposed by this chapter if
10 the fuel is manufactured in this state.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW
12 to read as follows:

13 The tax levied by RCW 82.08.020 does not apply to sales of
14 alternative fuel, as defined in RCW 82.38.020, if the fuel is exempt
15 from special fuel tax under section 1 of this act.

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

1 The provisions of this chapter do not apply with respect to the use
2 of alternative fuel, as defined in RCW 82.38.020, if the fuel is exempt
3 from special fuel tax under section 1 of this act.

4 **Sec. 4.** RCW 82.38.020 and 2002 c 183 s 1 are each amended to read
5 as follows:

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

8 (1) "Alternative fuel" means alcohol fuel, biodiesel fuel, or
9 biodiesel feedstock, as those terms are defined in RCW 82.29A.135.

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

13 ~~((+2))~~ (3) "Blender" means a person who produces blended special
14 fuel outside the bulk transfer-terminal system.

15 ~~((+3))~~ (4) "Bond" means a bond duly executed with a corporate
16 surety qualified under chapter 48.28 RCW, which bond is payable to the
17 state of Washington conditioned upon faithful performance of all
18 requirements of this chapter, including the payment of all taxes,
19 penalties, and other obligations arising out of this chapter.

20 ~~((+4))~~ (5) "Bulk transfer-terminal system" means the special fuel
21 distribution system consisting of refineries, pipelines, vessels, and
22 terminals. Special fuel in a refinery, pipeline, vessel, or terminal
23 is in the bulk transfer-terminal system. Special fuel in the fuel tank
24 of an engine, motor vehicle, or in a railcar, trailer, truck, or other
25 equipment suitable for ground transportation is not in the bulk
26 transfer-terminal system.

27 ~~((+5))~~ (6) "Bulk transfer" means a transfer of special fuel by
28 pipeline or vessel.

29 ~~((+6))~~ (7) "Bulk storage" means the placing of special fuel into
30 a receptacle other than the fuel supply tank of a motor vehicle.

31 ~~((+7))~~ (8) "Department" means the department of licensing.

32 ~~((+8))~~ (9) "Dyed special fuel user" means a person authorized by
33 the internal revenue code to operate a motor vehicle on the highway
34 using dyed special fuel, in which the use is not exempt from the
35 special fuel tax.

36 ~~((+9))~~ (10) "Evasion" or "evade" means to diminish or avoid the

1 computation, assessment, or payment of authorized taxes or fees
2 through:

3 (a) A knowing: False statement; omission; misrepresentation of
4 fact; or other act of deception;

5 (b) An intentional: Failure to file a return or report; or other
6 act of deception; or

7 (c) The unlawful use of dyed special fuel.

8 ~~((+10+))~~ (11) "Export" means to obtain special fuel in this state
9 for sales or distribution outside the state.

10 ~~((+11+))~~ (12) "Highway" means every way or place open to the use of
11 the public, as a matter of right, for the purpose of vehicular travel.

12 ~~((+12+))~~ (13) "Import" means to bring special fuel into this state
13 by a means of conveyance other than the fuel supply tank of a motor
14 vehicle.

15 ~~((+13+))~~ (14) "International fuel tax agreement licensee" means a
16 special fuel user operating qualified motor vehicles in interstate
17 commerce and licensed by the department under the international fuel
18 tax agreement.

19 ~~((+14+))~~ (15) "Lessor" means a person: (a) Whose principal
20 business is the bona fide leasing or renting of motor vehicles without
21 drivers for compensation to the general public; and (b) who maintains
22 established places of business and whose lease or rental contracts
23 require the motor vehicles to be returned to the established places of
24 business.

25 ~~((+15+))~~ (16) "Licensee" means a person holding a license issued
26 under this chapter.

27 ~~((+16+))~~ (17) "Motor vehicle" means a self-propelled vehicle
28 designed for operation upon land utilizing special fuel as the means of
29 propulsion.

30 ~~((+17+))~~ (18) "Natural gas" means naturally occurring mixtures of
31 hydrocarbon gases and vapors consisting principally of methane, whether
32 in gaseous or liquid form.

33 ~~((+18+))~~ (19) "Person" means a natural person, fiduciary,
34 association, or corporation. The term "person" as applied to an
35 association means and includes the partners or members thereof, and as
36 applied to corporations, the officers thereof.

37 ~~((+19+))~~ (20) "Position holder" means a person who holds the
38 inventory position in special fuel, as reflected by the records of the

1 terminal operator. A person holds the inventory position in special
2 fuel if the person has a contractual agreement with the terminal for
3 the use of storage facilities and terminating services at a terminal
4 with respect to special fuel. "Position holder" includes a terminal
5 operator that owns special fuel in their terminal.

6 ~~((+20+))~~ (21) "Rack" means a mechanism for delivering special fuel
7 from a refinery or terminal into a truck, trailer, railcar, or other
8 means of nonbulk transfer.

9 ~~((+21+))~~ (22) "Refiner" means a person who owns, operates, or
10 otherwise controls a refinery.

11 ~~((+22+))~~ (23) "Removal" means a physical transfer of special fuel
12 other than by evaporation, loss, or destruction.

13 ~~((+23+))~~ (24) "Special fuel" means and includes all combustible
14 gases and liquids suitable for the generation of power for propulsion
15 of motor vehicles, except that it does not include motor vehicle fuel
16 as defined in chapter 82.36 RCW, nor does it include dyed special fuel
17 as defined by federal regulations, unless the use is in violation of
18 this chapter. If a person holds for sale, sells, purchases, or uses
19 any dyed special fuel in violation of this chapter, all dyed special
20 fuel held for sale, sold, purchased, stored, or used by that person is
21 considered special fuel, and the person is subject to all presumptions,
22 reporting, and recordkeeping requirements and other obligations which
23 apply to special fuel, along with payment of any applicable taxes,
24 penalties, or interest for illegal use.

25 ~~((+24+))~~ (25) "Special fuel distributor" means a person who
26 acquires special fuel from a supplier, distributor, or licensee for
27 subsequent sale and distribution.

28 ~~((+25+))~~ (26) "Special fuel exporter" means a person who purchases
29 special fuel in this state and directly exports the fuel by a means
30 other than the bulk transfer-terminal system to a destination outside
31 of the state.

32 ~~((+26+))~~ (27) "Special fuel importer" means a person who imports
33 special fuel into the state by a means other than the bulk transfer-
34 terminal system. If the importer of record is acting as an agent, the
35 person for whom the agent is acting is the importer. If there is no
36 importer of record, the owner of the special fuel at the time of
37 importation is the importer.

1 ~~((+27))~~ (28) "Special fuel supplier" means a person who holds a
2 federal certificate issued under the internal revenue code and
3 authorizes the person to tax-free transactions on special fuel in the
4 bulk transfer-terminal system.

5 ~~((+28))~~ (29) "Special fuel user" means a person engaged in uses of
6 special fuel that are not specifically exempted from the special fuel
7 tax imposed under this chapter.

8 ~~((+29))~~ (30) "Terminal" means a special fuel storage and
9 distribution facility that has been assigned a terminal control number
10 by the internal revenue service, is supplied by pipeline or vessel, and
11 from which reportable special fuel is removed at a rack.

12 ~~((+30))~~ (31) "Terminal operator" means a person who owns,
13 operates, or otherwise controls a terminal.

14 ~~((+31))~~ (32) "Two-party exchange" or "buy-sell agreement" means a
15 transaction in which taxable special fuel is transferred from one
16 licensed supplier to another licensed supplier under an exchange or
17 buy-sell agreement whereby the supplier that is the position holder
18 agrees to deliver taxable special fuel to the other supplier or the
19 other supplier's customer at the rack of the terminal at which the
20 delivering supplier is the position holder.

21 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2006.

22 NEW SECTION. **Sec. 6.** This act expires July 1, 2015.

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