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HOUSE BILL 3188

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State of Washington                      60th Legislature                      2008 Regular Session

By Representatives Roach, Hurst, McCune, and Dunn

Read first time 01/23/08. Referred to Committee on Finance.

1            AN ACT Relating to exempting waste vegetable oil from excise tax;  
2 amending RCW 82.38.080; adding a new section to chapter 82.08 RCW;  
3 adding a new section to chapter 82.12 RCW; and providing an effective  
4 date.

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

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

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

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

13            (b) Publicly owned fire fighting equipment;

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

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

37 (k) Waste vegetable oil as defined under section 2 of this act if  
38 the oil is used to manufacture biodiesel.

1 (2) There is exempted from the tax imposed by this chapter the  
2 removal or entry of special fuel under the following circumstances and  
3 conditions:

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

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

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

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

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

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

19 (A) Facilities operated by the supplier;

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

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

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

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

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

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

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

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

17 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
18 waste vegetable oil that is used by a person in the production of  
19 biodiesel for personal use.

20 (2) This exemption is available only if the buyer provides the  
21 seller with an exemption certificate in a form and manner prescribed by  
22 the department.

23 (3) For the purposes of this section, the following definitions  
24 apply:

25 (a) "Waste vegetable oil" means used cooking oil gathered from  
26 restaurants or commercial food processors; and

27 (b) "Personal use" means the person does not engage in the business  
28 of selling biodiesel at wholesale or retail.

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

31 The provisions of this chapter do not apply with respect to the use  
32 of waste vegetable oil that is used by a person in the production of  
33 biodiesel for personal use. The definitions in section 2 of this act  
34 apply to this section.

1        NEW SECTION.   **Sec. 4.**   This act takes effect July 1, 2008.

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