
HOUSE BILL 2816

State of Washington 61st Legislature 2010 Regular Session

By Representatives Morris, Moeller, Chase, Kessler, Jacks, and Nelson

Read first time 01/14/10. Referred to Committee on Transportation.

1 AN ACT Relating to fuel taxes on exported fuel; amending RCW
2 82.36.020, 82.36.060, 82.36.230, 82.36.280, 82.36.300, 82.38.030,
3 82.38.080, 82.38.180, and 82.04.090; reenacting and amending RCW
4 43.84.092; adding new sections to chapter 82.36 RCW; adding a new
5 section to chapter 82.38 RCW; adding a new section to chapter 46.68
6 RCW; creating a new section; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that investing in
9 projects, such as the Washington state ferry system, which move people
10 and goods efficiently in the region along with promoting tourism
11 opportunities, helps to maintain a strong northwest economy. The state
12 is a regional producer of many products that have positive impacts on
13 the region's economy, but that also affect the infrastructure of the
14 region's transportation systems. Therefore, the legislature finds that
15 in order to invest in such projects and benefit the state's economic
16 interests, it is necessary, considering the volatile price of crude
17 oil, for the state to allow businesses that use crude oil in the
18 refining process to average their state tax burden to minimize the
19 temporary spikes in crude prices.

1 **Sec. 2.** RCW 82.36.020 and 2007 c 515 s 2 are each amended to read
2 as follows:

3 (1) There is (~~hereby~~) levied and imposed upon motor vehicle fuel
4 licensees, other than motor vehicle fuel distributors, a tax at the
5 rate computed in the manner provided in RCW 82.36.025 on each gallon of
6 motor vehicle fuel.

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

9 (a) Motor vehicle fuel is removed in this state from a terminal
10 (~~if the motor vehicle fuel is removed at the rack~~) unless the removal
11 is to a licensed exporter for direct delivery to a destination outside
12 of the (~~state~~) United States;

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

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

18 (ii) The removal is at the refinery rack or by bulk transfer unless
19 the removal is to a licensed exporter for direct delivery to a
20 destination outside of the (~~state~~) United States;

21 (c) Motor vehicle fuel enters into this state if either of the
22 following applies:

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

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

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

29 (e) Blended motor vehicle fuel is removed or sold in this state by
30 the blender of the fuel. The number of gallons of blended motor
31 vehicle fuel subject to the tax is the difference between the total
32 number of gallons of blended motor vehicle fuel removed or sold and the
33 number of gallons of previously taxed motor vehicle fuel used to
34 produce the blended motor vehicle fuel. Blended motor vehicle fuel
35 exported from this state to another state is taxed at the fuel tax rate
36 imposed by this chapter;

37 (f) Motor vehicle fuel is sold by a licensed motor vehicle fuel
38 supplier to a motor vehicle fuel distributor, motor vehicle fuel

1 importer, motor vehicle fuel exporter, motor vehicle fuel blender, or
2 international fuel tax agreement licensee and the motor vehicle fuel is
3 not removed from the bulk transfer-terminal system.

4 (3) The proceeds of the motor vehicle fuel excise tax (~~shall~~)
5 must be distributed as provided in RCW 46.68.090, except for funds
6 received from exported fuel sold. These funds must be distributed as
7 follows:

8 (a) Sixty percent must be distributed to the Puget Sound capital
9 construction account, created in RCW 47.60.505, to be used for the
10 construction and preservation of the Washington state ferry system;

11 (b) Forty percent must be distributed to the Columbia river
12 crossing account created in section 15 of this act to be used for the
13 construction and preservation of the Columbia river crossing. Any
14 excess funds after 2017 may be used for high capacity transportation as
15 provided in section 15 of this act.

16 **Sec. 3.** RCW 82.36.060 and 2007 c 515 s 10 are each amended to read
17 as follows:

18 (1) An application for a license issued under this chapter
19 (~~shall~~) must be made to the department on forms to be furnished by
20 the department and shall contain such information as the department
21 deems necessary.

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

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

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

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

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

36 (e) Whether the applicant has been adjudged guilty of a crime that
37 directly relates to the business for which the license is sought and

1 the time elapsed since the conviction is less than ten years, or has
2 suffered a judgment within the preceding five years in a civil action
3 involving fraud, misrepresentation, or conversion and in the case of a
4 corporation or partnership, all directors, officers, or partners.

5 (3) An applicant for a license as a motor vehicle fuel importer
6 must list on the application each state, province, or country from
7 which the applicant intends to import motor vehicle fuel and, if
8 required by the state, province, or country listed, must be licensed or
9 registered for motor vehicle fuel tax purposes in that state, province,
10 or country.

11 (4) An applicant for a license as a motor vehicle fuel exporter
12 must list on the application each state, province, or country to which
13 the exporter intends to export motor vehicle fuel received in this
14 state by means of a transfer outside of the bulk transfer-terminal
15 system and, if required by the state, province, or country listed, must
16 be licensed or registered for motor vehicle fuel tax purposes in that
17 state, province, or country.

18 (5) An applicant for a license as a motor vehicle fuel supplier
19 must have a federal certificate of registry that is issued under the
20 internal revenue code and authorizes the applicant to enter into
21 federal tax-free transactions on motor vehicle fuel in the terminal
22 transfer system.

23 (6) After receipt of an application for a license, the director may
24 conduct an investigation to determine whether the facts set forth are
25 true. The director (~~shall~~) must require a fingerprint record check
26 of the applicant through the Washington state patrol criminal
27 identification system and the federal bureau of investigation before
28 issuance of a license. The results of the background investigation
29 including criminal history information may be released to authorized
30 department personnel as the director deems necessary. The department
31 (~~shall~~) must charge a license holder or license applicant a fee of
32 fifty dollars for each background investigation conducted.

33 An applicant who makes a false statement of a material fact on the
34 application may be prosecuted for false swearing as defined by RCW
35 9A.72.040.

36 (7) Except as provided by subsection (8) of this section, before
37 granting any license issued under this chapter, the department
38 (~~shall~~) must require applicant to file with the department, in

1 ((such)) the form ((~~as shall be~~)) prescribed by the department, a
2 corporate surety bond duly executed by the applicant as principal,
3 payable to the state and conditioned for faithful performance of all
4 the requirements of this chapter, including the payment of all taxes,
5 penalties, and other obligations arising out of this chapter. The
6 total amount of the bond or bonds ((~~shall~~)) must be fixed by the
7 department and may be increased or reduced by the department at any
8 time subject to the limitations herein provided. In fixing the total
9 amount of the bond or bonds, the department ((~~shall~~)) must require a
10 bond or bonds equivalent in total amount to twice the estimated monthly
11 excise tax determined in such manner as the department may deem proper.
12 If at any time the estimated excise tax to become due during the
13 succeeding month amounts to more than fifty percent of the established
14 bond, the department ((~~shall~~)) must require additional bonds or
15 securities to maintain the marginal ratio herein specified or ((~~shall~~))
16 must demand excise tax payments to be made weekly or semimonthly to
17 meet the requirements hereof.

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

21 No recoveries on any bond or the execution of any new bond
22 ((~~shall~~)) invalidates any bond and no revocation of any license
23 ((~~shall~~)) effects the validity of any bond but the total recoveries
24 under any one bond ((~~shall~~)) may not exceed the amount of the bond.

25 In lieu of any such bond or bonds in total amount as herein fixed,
26 a licensee may deposit with the state treasurer, under such terms and
27 conditions as the department may prescribe, a like amount of lawful
28 money of the United States or bonds or other obligations of the United
29 States, the state, or any county of the state, of an actual market
30 value not less than the amount so fixed by the department.

31 Any surety on a bond furnished by a licensee as provided herein
32 ((~~shall~~)) must be released and discharged from any and all liability to
33 the state accruing on such bond after the expiration of thirty days
34 from the date upon which such surety has lodged with the department a
35 written request to be released and discharged, but this provision
36 ((~~shall~~)) does not operate to relieve, release, or discharge the surety
37 from any liability already accrued or which ((~~shall~~)) will accrue
38 before the expiration of the thirty day period. The department

1 ((shall)) must promptly, upon receiving any such request, notify the
2 licensee who furnished the bond; and unless the licensee, on or before
3 the expiration of the thirty day period, files a new bond, or makes a
4 deposit in accordance with the requirements of this section, the
5 department ((shall forthwith)) must cancel the license. Whenever a new
6 bond is furnished by a licensee, the department ((shall)) must cancel
7 the old bond as soon as the department and the attorney general are
8 satisfied that all liability under the old bond has been fully
9 discharged.

10 The department may require a licensee to give a new or additional
11 surety bond or to deposit additional securities of the character
12 specified in this section if, in its opinion, the security of the
13 surety bond theretofore filed by ((such)) the licensee, or the market
14 value of the properties deposited as security by the licensee,
15 ((shall)) become impaired or inadequate; and upon the failure of the
16 licensee to give ((such)) the new or additional surety bond or to
17 deposit additional securities within thirty days after being requested
18 so to do by the department, the department ((shall forthwith)) must
19 cancel his or her license.

20 (8) The department may waive the requirements of subsection (7) of
21 this section for licensed distributors if, upon determination by the
22 department, the licensed distributor has sufficient resources, assets,
23 other financial instruments, or other means, to adequately make
24 payments on the estimated monthly motor vehicle fuel tax payments,
25 penalties, and interest arising out of this chapter. The department
26 ((shall)) must adopt rules to administer this subsection.

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

34 **Sec. 4.** RCW 82.36.230 and 1998 c 176 s 34 are each amended to read
35 as follows:

36 (1)(a) The provisions of this chapter requiring the payment of
37 taxes do not apply to motor vehicle fuel imported into the state in

1 interstate or foreign commerce and intended to be sold while in
2 interstate or foreign commerce, nor to motor vehicle fuel exported from
3 this state (~~by a licensee nor~~) to a destination outside the United
4 States to any motor vehicle fuel sold by a licensee to the armed forces
5 of the United States or to the national guard for use exclusively in
6 ships or for export from this state.

7 (b) A credit against the tax imposed by this chapter is provided to
8 the motor vehicle fuel exporter of record for motor vehicle fuel
9 exported for use in interstate commerce as follows:

10 (i) When exporting fuel to a state where the state motor vehicle
11 fuel tax rate is equal to or less than thirty-five cents per gallon,
12 the credit is equal to thirty-five cents per gallon of motor vehicle
13 fuel exported.

14 (ii) When exporting motor vehicle fuel to a state where the state
15 motor vehicle fuel tax rate is greater than thirty-five cents per
16 gallon, the credit per gallon of fuel exported is equal to the per
17 gallon motor vehicle fuel tax rate of the state to which the fuel is
18 exported but not to exceed thirty-seven and one-half cents.

19 (c) The licensee shall report such imports, exports to destinations
20 outside the United States to claim a credit for Washington state motor
21 vehicle fuel taxes paid, and sales to the department at such times, on
22 such forms, and in such detail as the department may require, otherwise
23 the exemption granted in this section is null and void, and all fuel
24 shall be considered distributed in this state fully subject to the
25 provisions of this chapter. Each invoice covering exempt sales
26 (~~shall~~) must have the statement "Ex Washington Motor Vehicle Fuel
27 Tax" clearly marked thereon.

28 (2) To claim any exemption from taxes or tax credit under this
29 section on account of sales by a licensee of motor vehicle fuel for
30 export, the purchaser (~~shall~~) must obtain from the selling licensee,
31 and such selling licensee must furnish the purchaser, an invoice giving
32 such details of the sale for export as the department may require,
33 copies of which (~~shall~~) must be furnished to the department and the
34 entity of the state or foreign jurisdiction of destination which is
35 charged by the laws of that state or foreign jurisdiction with the
36 control or monitoring, or both, of the sales or movement of motor
37 vehicle fuel in that state or foreign jurisdiction. For the purposes

1 of this section, motor vehicle fuel distributed to a federally
2 recognized Indian tribal reservation located within the state of
3 Washington is not considered exported outside this state.

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

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

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

33 **Sec. 5.** RCW 82.36.280 and 1998 c 176 s 36 are each amended to read
34 as follows:

35 Any person who uses any motor vehicle fuel for the purpose of
36 operating any internal combustion engine not used on or in conjunction
37 with any motor vehicle licensed to be operated over and along any of

1 the public highways of this state, and as the motive power thereof,
2 upon which motor vehicle fuel excise tax has been paid, (~~shall be~~) is
3 entitled to and (~~shall~~) must receive a refund of the amount of the
4 motor vehicle fuel excise tax paid on each gallon of motor vehicle fuel
5 so used, whether such motor vehicle excise tax has been paid either
6 directly to the vendor from whom the motor vehicle fuel was purchased
7 or indirectly by adding the amount of such excise tax to the price of
8 such fuel. No refund (~~shall~~) may be made for motor vehicle fuel
9 consumed by any motor vehicle as herein defined that is required to be
10 registered and licensed as provided in chapter 46.16 RCW; and is
11 operated over and along any public highway except that a refund (~~shall~~
12 ~~be~~) is allowed for motor vehicle fuel consumed:

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

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

19 (a) For fuel used in pumping fuel or heating oils by a power take-
20 off unit on a delivery truck, (~~refund shall be allowed~~) claimant is
21 allowed a refund for tax paid on fuel purchased at the rate of three-
22 fourths of one gallon for each one thousand gallons of fuel
23 delivered(~~:- PROVIDED, That~~). However, claimant when presenting his
24 or her claim to the department in accordance with the provisions of
25 this chapter, (~~shall~~) must provide (~~to said claim,~~) invoices of
26 fuel oil delivered, or such other appropriate information as may be
27 required by the department to substantiate his or her claim; or

28 (b) For fuel used in operating a power take-off unit on a cement
29 mixer truck or load compactor on a garbage truck, claimant (~~shall be~~)
30 is allowed a refund of twenty-five percent of the tax paid on all fuel
31 used in such a truck; and

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

1 **Sec. 6.** RCW 82.36.300 and 1998 c 176 s 37 are each amended to read
2 as follows:

3 Every person who (~~shall~~) exports any motor vehicle fuel for use
4 outside of (~~this state~~) the United States and who has paid the motor
5 vehicle fuel excise tax upon such motor vehicle fuel (~~shall be~~) is
6 entitled to and (~~shall~~) must receive a refund of the amount of the
7 motor vehicle fuel excise tax paid on each gallon of motor vehicle fuel
8 so exported. For the purposes of this section, motor vehicle fuel
9 distributed to a federally recognized Indian tribal reservation located
10 within the state of Washington is not considered exported outside this
11 state.

12 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.36 RCW
13 to read as follows:

14 (1) Refunds, exemptions, and credits in this chapter are not
15 applicable to motor vehicle fuel or blended motor vehicle fuel exported
16 within the United States.

17 (2) This section does not apply to the credit in RCW 82.36.230.

18 **Sec. 8.** RCW 82.38.030 and 2007 c 515 s 21 are each amended to read
19 as follows:

20 (1) There is (~~hereby~~) levied and imposed upon special fuel
21 licensees, other than special fuel distributors, a tax at the rate of
22 twenty-three cents per gallon of special fuel, or each one hundred
23 cubic feet of compressed natural gas, measured at standard pressure and
24 temperature.

25 (2) Beginning July 1, 2003, an additional and cumulative tax rate
26 of five cents per gallon of special fuel, or each one hundred cubic
27 feet of compressed natural gas, measured at standard pressure and
28 temperature (~~shall be~~) is imposed on special fuel licensees, other
29 than special fuel distributors. This subsection (2) expires when the
30 bonds issued for transportation 2003 projects are retired.

31 (3) Beginning July 1, 2005, an additional and cumulative tax rate
32 of three cents per gallon of special fuel, or each one hundred cubic
33 feet of compressed natural gas, measured at standard pressure and
34 temperature (~~shall be~~) is imposed on special fuel licensees, other
35 than special fuel distributors.

1 (4) Beginning July 1, 2006, an additional and cumulative tax rate
2 of three cents per gallon of special fuel, or each one hundred cubic
3 feet of compressed natural gas, measured at standard pressure and
4 temperature (~~(shall be)~~) is imposed on special fuel licensees, other
5 than special fuel distributors.

6 (5) Beginning July 1, 2007, an additional and cumulative tax rate
7 of two cents per gallon of special fuel, or each one hundred cubic feet
8 of compressed natural gas, measured at standard pressure and
9 temperature (~~(shall be)~~) is imposed on special fuel licensees, other
10 than special fuel distributors.

11 (6) Beginning July 1, 2008, an additional and cumulative tax rate
12 of one and one-half cents per gallon of special fuel, or each one
13 hundred cubic feet of compressed natural gas, measured at standard
14 pressure and temperature (~~(shall be)~~) is imposed on special fuel
15 licensees, other than special fuel distributors.

16 (7) Taxes are imposed when:

17 (a) Special fuel is removed in this state from a terminal (~~(if the~~
18 ~~special fuel is removed at the rack)~~) unless the removal is to a
19 licensed exporter for direct delivery to a destination outside of the
20 (~~(state, or the removal is by)~~) United States or to a special fuel
21 supplier for direct delivery to an international fuel tax agreement
22 licensee under RCW 82.38.320;

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

25 (i) The removal is by bulk transfer and the refiner or the owner of
26 the special fuel immediately before the removal is not a 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, or the removal is)~~) to a special fuel supplier for direct
30 delivery to an international fuel tax agreement licensee under RCW
31 82.38.320;

32 (c) Special fuel enters into this state for sale, consumption, use,
33 or storage, unless the fuel enters this state for direct delivery to an
34 international fuel tax agreement licensee under RCW 82.38.320, if
35 either of the following applies:

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

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

1 (d) Special fuel is removed at the refinery rack or by bulk
2 transfer unless the removal is to a licensed exporter for direct
3 delivery to a destination outside of the United States;

4 (e) Special fuel is sold or removed in this state to an unlicensed
5 entity unless there was a prior taxable removal, entry, or sale of the
6 special fuel;

7 ~~((e))~~ (f) Blended special fuel is removed or sold in this state
8 by the blender of the fuel. The number of gallons of blended special
9 fuel subject to tax is the difference between the total number of
10 gallons of blended special fuel removed or sold and the number of
11 gallons of previously taxed special fuel used to produce the blended
12 special fuel. Blended special fuel exported from this state to another
13 state is taxed at the fuel tax rate imposed by this chapter;

14 ~~((f))~~ (g) Dyed special fuel is used on a highway, as authorized
15 by the internal revenue code, unless the use is exempt from the special
16 fuel tax;

17 ~~((g))~~ (h) Dyed special fuel is held for sale, sold, used, or is
18 intended to be used in violation of this chapter;

19 ~~((h))~~ (i) Special fuel purchased by an international fuel tax
20 agreement licensee under RCW 82.38.320 is used on a highway; and

21 ~~((i))~~ (j) Special fuel is sold by a licensed special fuel
22 supplier to a special fuel distributor, special fuel importer, special
23 fuel exporter, or special fuel blender and the special fuel is not
24 removed from the bulk transfer-terminal system.

25 (8) Blended motor vehicle fuel exported from this state to another
26 is taxed at the fuel tax rate imposed by this chapter.

27 **Sec. 9.** RCW 82.38.080 and 2009 c 352 s 1 are each amended to read
28 as follows:

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

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

34 (b) Publicly owned firefighting equipment;

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

36 (d) Power pumping units or other power take-off equipment of any

1 motor vehicle which is accurately measured by metering devices that
2 have been specifically approved by the department or which is
3 established by any of the following formulae:

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

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

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

21 (e) Motor vehicles owned and operated by the United States
22 government;

23 (f) Heating purposes;

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

27 (h) Transportation services for persons with special transportation
28 needs by a private, nonprofit transportation provider regulated under
29 chapter 81.66 RCW;

30 (i) Vehicle refrigeration units, mixing units, or other equipment
31 powered by separate motors from separate fuel tanks;

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

1 performed on the highway for the privilege of operating the motor
2 vehicle on the highway; (~~and~~)

3 (k) Waste vegetable oil as defined under RCW 82.08.0205 if the oil
4 is used to manufacture biodiesel; and

5 (1) Special fuel exported for direct delivery to a destination
6 outside the United States.

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

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

12 (i) The person otherwise liable for the tax is a licensee other
13 than a dyed special fuel user or international fuel tax agreement
14 licensee;

15 (ii) For a removal from a terminal, the terminal is a licensed
16 terminal; and

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

19 (b) If it is an entry or removal from a terminal or refinery of
20 taxable special fuel transferred to a refinery or terminal within the
21 state and the persons involved, including the terminal operator, are
22 licensed; and

23 (c)(i) If it is a special fuel that, under contract of sale, is
24 shipped to a point outside (~~this state~~) the United States by a
25 supplier by means of any of the following:

26 (A) Facilities operated by the supplier;

27 (B) Delivery by the supplier to a carrier, customs broker, or
28 forwarding agent, whether hired by the purchaser or not, for shipment
29 to the (~~out-of-state~~) out-of-country point;

30 (C) Delivery by the supplier to a vessel clearing from port of this
31 state for a port outside (~~this state~~) the United States and actually
32 exported from this state in the vessel.

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

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

37 (B) "Forwarding agent" means a person or firm engaged in the

1 business of preparing property for shipment or arranging for its
2 shipment.

3 (3) A credit against the tax imposed by this chapter is provided to
4 the special fuel exporter of record for special fuel exported for use
5 in interstate commerce as follows:

6 (a) When exporting special fuel to a state where the state fuel tax
7 rate is equal to or less than thirty-five cents per gallon, the credit
8 is equal to thirty-five cents per gallon of motor vehicle fuel
9 exported.

10 (b) When exporting special fuel to a state where the state fuel tax
11 rate is greater than thirty-five cents per gallon, the credit per
12 gallon of fuel exported is equal to the per gallon fuel tax rate of the
13 state to which the fuel is exported but not to exceed thirty-seven and
14 one-half cents.

15 (4)(a) Notwithstanding any provision of law to the contrary, every
16 privately owned urban passenger transportation system and carriers as
17 defined by chapters 81.68 and 81.70 RCW (~~shall be~~) is exempt from the
18 provisions of this chapter requiring the payment of special fuel taxes.
19 For the purposes of this section "privately owned urban passenger
20 transportation system" means every privately owned transportation
21 system having as its principal source of revenue the income from
22 transporting persons for compensation by means of motor vehicles or
23 trackless trolleys, each having a seating capacity for over fifteen
24 persons over prescribed routes in such a manner that the routes of such
25 motor vehicles or trackless trolleys, either alone or in conjunction
26 with routes of other such motor vehicles or trackless trolleys subject
27 to routing by the same transportation system, (~~shall~~) may not extend
28 for a distance exceeding twenty-five road miles beyond the corporate
29 limits of the county in which the original starting points of such
30 motor vehicles are located(~~:-PROVIDED, That~~) . However, no refunds
31 or credits (~~shall~~) may be granted on special fuel used by any
32 privately owned urban transportation vehicle, or vehicle operated
33 pursuant to chapters 81.68 and 81.70 RCW, on any trip where any portion
34 of the trip is more than twenty-five road miles beyond the corporate
35 limits of the county in which the trip originated.

36 (b) Every publicly owned and operated urban passenger
37 transportation system is exempt from the provisions of this chapter
38 that require the payment of special fuel taxes. For the purposes of

1 this subsection, "publicly owned and operated urban passenger
2 transportation systems" include public transportation benefit areas
3 under chapter 36.57A RCW, metropolitan municipal corporations under
4 chapter 36.56 RCW, city-owned transit systems under chapter 35.58 RCW,
5 county public transportation authorities under chapter 36.57 RCW,
6 unincorporated transportation benefit areas under chapter 36.57 RCW,
7 and regional transit authorities under chapter 81.112 RCW.

8 **Sec. 10.** RCW 82.38.180 and 2007 c 515 s 29 are each amended to
9 read as follows:

10 (1) Any person who has purchased special fuel on which tax has been
11 paid may file a claim with the department for a refund of the tax for:

12 ~~((+1))~~ (a) Taxes previously paid on special fuel used for purposes
13 other than for the propulsion of motor vehicles upon the public
14 highways in this state.

15 ~~((+2))~~ (b) Taxes previously paid on special fuel exported for use
16 outside of ~~((this state))~~ the United States. ~~((Special fuel carried
17 from this state in the fuel tank of a motor vehicle is deemed to be
18 exported from this state.))~~ Special fuel distributed to a federally
19 recognized Indian tribal reservation located within the state of
20 Washington is not considered exported outside this state.

21 ~~((+3))~~ (c) Tax, penalty, or interest erroneously or illegally
22 collected or paid.

23 ~~((+4))~~ (d) Taxes previously paid on all special fuel which is lost
24 or destroyed, while the licensee ~~((shall be))~~ is the owner thereof,
25 through fire, lightning, flood, wind storm, or explosion.

26 ~~((+5))~~ (e) Taxes previously paid on all special fuel of five
27 hundred gallons or more which is lost or destroyed while the licensee
28 ~~((shall be))~~ is the owner thereof, through leakage or other casualty
29 except evaporation, shrinkage, or unknown causes.

30 ~~((+6))~~ (f) Taxes previously paid on special fuel that is
31 inadvertently mixed with dyed special fuel.

32 (2) Recovery for such loss or destruction under either subsection
33 ~~((+4))~~ (1)(d), ~~((+5))~~ (e), or ~~((+6))~~ (f) of this section must be
34 susceptible to positive proof thereby enabling the department to
35 conduct such investigation and require such information as it may deem
36 necessary. In the event that the department is not satisfied that the
37 fuel was lost, destroyed, or contaminated as claimed because

1 information or proof as required hereunder is not sufficient to
2 substantiate the accuracy of the claim, it may deem such as sufficient
3 cause to deny all right relating to the refund or credit for the excise
4 tax paid on special fuel alleged to be lost or destroyed.

5 (3) No refund or claim for credit (~~((shall))~~) may be approved by the
6 department unless the gallons of special fuel claimed as nontaxable
7 satisfy the conditions specifically set forth in this section and the
8 nontaxable event or use occurred during the period covered by the
9 refund claim. Refunds or claims for credit (~~((shall))~~) are not (~~((be))~~)
10 allowed for anticipated nontaxable use or events.

11 NEW SECTION. Sec. 11. A new section is added to chapter 82.38 RCW
12 to read as follows:

13 (1) Refunds, exemptions, and credits in this chapter are not
14 applicable to special fuel or blended special fuel exported within the
15 United States.

16 (2) This section does not apply to the credit in RCW 82.38.080.

17 **Sec. 12.** RCW 82.04.090 and 2001 c 20 s 1 are each amended to read
18 as follows:

19 (1) Except as otherwise provided in this section, "value proceeding
20 or accruing" means the consideration, whether money, credits, rights,
21 or other property expressed in terms of money, actually received or
22 accrued. The term shall be applied, in each case, on a cash receipts
23 or accrual basis according to which method of accounting is regularly
24 employed in keeping the books of the taxpayer. However, persons
25 operating grain warehouses licensed under chapter 22.09 RCW may elect
26 to report the value proceeding or accruing from grain warehouse
27 operations on either a cash receipts or accrual basis. The department
28 of revenue may provide by regulation that the value proceeding or
29 accruing from sales on the installment plan under conditional contracts
30 of sale may be reported as of the dates when the payments become due.

31 (2)(a) For persons primarily engaged in petroleum refining, the
32 "value proceeding or accruing" for the manufacturing, wholesale sale,
33 or retail sale of fuel means the leveled fuel price multiplied by the
34 volume of fuel sold.

35 (b) For the purposes of this subsection (2), the following
36 definitions apply.

1 (i) "Fuel" means motor gasoline, diesel fuel, and aviation
2 gasoline.

3 (ii) "Leveled fuel price" means the average of the wholesale or
4 retail fuel price for the west coast for the prior forty-eight months
5 as published by the federal energy information administration or its
6 successor agency.

7 (iii) "Petroleum refining" means refining crude petroleum into
8 refined petroleum by fractionation, straight distillation of crude oil,
9 cracking, or similar methods.

10 NEW SECTION. Sec. 13. A new section is added to chapter 82.36 RCW
11 to read as follows:

12 (1) A motor vehicle special fuel importer of record for crude oil
13 imported for use only in Washington state may be credited against the
14 export tax imposed by this chapter, an amount equal to two and one-half
15 cents per gallon.

16 (2) The amount of the credit provided in subsection (1) of this
17 section may not exceed the tax otherwise due under this chapter for the
18 tax reporting period.

19 (3) A credit earned during one calendar year may be carried over to
20 be credited against taxes incurred in the subsequent calendar year.
21 Credit may not be claimed against taxes due for any tax reporting
22 period ending before the credit was earned.

23 (4) No refunds may be granted for credits under this section.

24 (5) A credit under this section must be claimed through the tax
25 reports required under RCW 82.38.150.

26 NEW SECTION. Sec. 14. A new section is added to chapter 82.38 RCW
27 to read as follows:

28 (1) A motor vehicle fuel importer of record for crude oil imported
29 for use only in Washington state may be credited against the export tax
30 imposed by this chapter, an amount equal to two and one-half cents per
31 gallon.

32 (2) The amount of the credit provided in subsection (1) of this
33 section may not exceed the tax otherwise due under this chapter for the
34 tax reporting period.

35 (3) A credit earned during one calendar year may be carried over to

1 be credited against taxes incurred in the subsequent calendar year.
2 Credit may not be claimed against taxes due for any tax reporting
3 period ending before the credit was earned.

4 (4) No refunds may be granted for credits under this section.

5 (5) A credit under this section must be claimed through the tax
6 reports required under RCW 82.38.150.

7 NEW SECTION. **Sec. 15.** A new section is added to chapter 46.68 RCW
8 to read as follows:

9 (1) The Columbia river crossing account is created in the motor
10 vehicle fund. Money in the account may be spent only after
11 appropriation. Expenditures from the account must be used only for
12 projects or improvements on the Columbia river crossing between Oregon
13 and Washington and to pay the principal and interest on the bonds
14 authorized for construction or improvements.

15 (2) Upon completion of the project, moneys deposited in this
16 account must only be used to pay the principal and interest on the
17 bonds authorized, and any funds in the account in excess of the amount
18 necessary to make the principal and interest payments may be used for
19 preservation on the Columbia river bridge.

20 (3) After fiscal year 2017, any excess funds in the account may
21 also be used for high capacity transportation to relieve congestion on
22 the state's roadways.

23 **Sec. 16.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and
24 2009 c 451 s 8 are each reenacted and amended to read as follows:

25 (1) All earnings of investments of surplus balances in the state
26 treasury shall be deposited to the treasury income account, which
27 account is hereby established in the state treasury.

28 (2) The treasury income account shall be utilized to pay or receive
29 funds associated with federal programs as required by the federal cash
30 management improvement act of 1990. The treasury income account is
31 subject in all respects to chapter 43.88 RCW, but no appropriation is
32 required for refunds or allocations of interest earnings required by
33 the cash management improvement act. Refunds of interest to the
34 federal treasury required under the cash management improvement act
35 fall under RCW 43.88.180 and shall not require appropriation. The
36 office of financial management shall determine the amounts due to or

1 from the federal government pursuant to the cash management improvement
2 act. The office of financial management may direct transfers of funds
3 between accounts as deemed necessary to implement the provisions of the
4 cash management improvement act, and this subsection. Refunds or
5 allocations shall occur prior to the distributions of earnings set
6 forth in subsection (4) of this section.

7 (3) Except for the provisions of RCW 43.84.160, the treasury income
8 account may be utilized for the payment of purchased banking services
9 on behalf of treasury funds including, but not limited to, depository,
10 safekeeping, and disbursement functions for the state treasury and
11 affected state agencies. The treasury income account is subject in all
12 respects to chapter 43.88 RCW, but no appropriation is required for
13 payments to financial institutions. Payments shall occur prior to
14 distribution of earnings set forth in subsection (4) of this section.

15 (4) Monthly, the state treasurer shall distribute the earnings
16 credited to the treasury income account. The state treasurer shall
17 credit the general fund with all the earnings credited to the treasury
18 income account except:

19 The following accounts and funds shall receive their proportionate
20 share of earnings based upon each account's and fund's average daily
21 balance for the period: The aeronautics account, the aircraft search
22 and rescue account, the budget stabilization account, the capitol
23 building construction account, the Cedar River channel construction and
24 operation account, the Central Washington University capital projects
25 account, the charitable, educational, penal and reformatory
26 institutions account, the cleanup settlement account, the Columbia
27 river basin water supply development account, the Columbia river
28 crossing account, the common school construction fund, the county
29 arterial preservation account, the county criminal justice assistance
30 account, the county sales and use tax equalization account, the data
31 processing building construction account, the deferred compensation
32 administrative account, the deferred compensation principal account,
33 the department of licensing services account, the department of
34 retirement systems expense account, the developmental disabilities
35 community trust account, the drinking water assistance account, the
36 drinking water assistance administrative account, the drinking water
37 assistance repayment account, the Eastern Washington University capital
38 projects account, the education construction fund, the education legacy

1 trust account, the election account, the energy freedom account, the
2 energy recovery act account, the essential rail assistance account, The
3 Evergreen State College capital projects account, the federal forest
4 revolving account, the ferry bond retirement fund, the freight
5 congestion relief account, the freight mobility investment account, the
6 freight mobility multimodal account, the grade crossing protective
7 fund, the public health services account, the health system capacity
8 account, the personal health services account, the high capacity
9 transportation account, the state higher education construction
10 account, the higher education construction account, the highway bond
11 retirement fund, the highway infrastructure account, the highway safety
12 account, the high occupancy toll lanes operations account, the
13 industrial insurance premium refund account, the judges' retirement
14 account, the judicial retirement administrative account, the judicial
15 retirement principal account, the local leasehold excise tax account,
16 the local real estate excise tax account, the local sales and use tax
17 account, the medical aid account, the mobile home park relocation fund,
18 the motor vehicle fund, the motorcycle safety education account, the
19 multimodal transportation account, the municipal criminal justice
20 assistance account, the municipal sales and use tax equalization
21 account, the natural resources deposit account, the oyster reserve land
22 account, the pension funding stabilization account, the perpetual
23 surveillance and maintenance account, the public employees' retirement
24 system plan 1 account, the public employees' retirement system combined
25 plan 2 and plan 3 account, the public facilities construction loan
26 revolving account beginning July 1, 2004, the public health
27 supplemental account, the public transportation systems account, the
28 public works assistance account, the Puget Sound capital construction
29 account, the Puget Sound ferry operations account, the Puyallup tribal
30 settlement account, the real estate appraiser commission account, the
31 recreational vehicle account, the regional mobility grant program
32 account, the resource management cost account, the rural arterial trust
33 account, the rural Washington loan fund, the site closure account, the
34 small city pavement and sidewalk account, the special category C
35 account, the special wildlife account, the state employees' insurance
36 account, the state employees' insurance reserve account, the state
37 investment board expense account, the state investment board commingled
38 trust fund accounts, the state patrol highway account, the state route

1 number 520 corridor account, the supplemental pension account, the
2 Tacoma Narrows toll bridge account, the teachers' retirement system
3 plan 1 account, the teachers' retirement system combined plan 2 and
4 plan 3 account, the tobacco prevention and control account, the tobacco
5 settlement account, the transportation 2003 account (nickel account),
6 the transportation equipment fund, the transportation fund, the
7 transportation improvement account, the transportation improvement
8 board bond retirement account, the transportation infrastructure
9 account, the transportation partnership account, the traumatic brain
10 injury account, the tuition recovery trust fund, the University of
11 Washington bond retirement fund, the University of Washington building
12 account, the urban arterial trust account, the volunteer firefighters'
13 and reserve officers' relief and pension principal fund, the volunteer
14 firefighters' and reserve officers' administrative fund, the Washington
15 fruit express account, the Washington judicial retirement system
16 account, the Washington law enforcement officers' and firefighters'
17 system plan 1 retirement account, the Washington law enforcement
18 officers' and firefighters' system plan 2 retirement account, the
19 Washington public safety employees' plan 2 retirement account, the
20 Washington school employees' retirement system combined plan 2 and 3
21 account, the Washington state health insurance pool account, the
22 Washington state patrol retirement account, the Washington State
23 University building account, the Washington State University bond
24 retirement fund, the water pollution control revolving fund, and the
25 Western Washington University capital projects account. Earnings
26 derived from investing balances of the agricultural permanent fund, the
27 normal school permanent fund, the permanent common school fund, the
28 scientific permanent fund, and the state university permanent fund
29 shall be allocated to their respective beneficiary accounts. All
30 earnings to be distributed under this subsection (4) shall first be
31 reduced by the allocation to the state treasurer's service fund
32 pursuant to RCW 43.08.190.

33 (5) In conformance with Article II, section 37 of the state
34 Constitution, no treasury accounts or funds shall be allocated earnings
35 without the specific affirmative directive of this section.

36 NEW SECTION. **Sec. 17.** If any provision of this act or its

1 application to any person or circumstance is held invalid, the
2 remainder of the act or the application of the provision to other
3 persons or circumstances is not affected.

4 NEW SECTION. **Sec. 18.** This act takes effect August 1, 2010.

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