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SENATE BILL 5159

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State of Washington

61st Legislature

2009 Regular Session

By Senators King, Haugen, Swecker, Sheldon, Kastama, Kauffman, Berkey, and Shin

Read first time 01/15/09. Referred to Committee on Transportation.

1 AN ACT Relating to the time period for motor vehicle fuel excise  
2 tax and special fuel tax refunds; amending RCW 82.36.330 and 82.38.190;  
3 and creating a new section.

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

5 **Sec. 1.** RCW 82.36.330 and 2003 c 53 s 401 are each amended to read  
6 as follows:

7 (1) Upon the approval of the director of the claim for refund, the  
8 state treasurer shall draw a warrant upon the state treasury for the  
9 amount of the claim in favor of the person making such claim and the  
10 warrant shall be paid from the excise tax collected on motor vehicle  
11 fuel(~~(:—PROVIDED, That)~~). However, the state treasurer shall deduct  
12 from each marine use refund claim an amount equivalent to one cent per  
13 gallon and shall deposit the same in the coastal protection fund  
14 created by RCW 90.48.390.

15 (2) Applications for refunds of excise tax shall be filed in the  
16 office of the director not later than the close of the last business  
17 day of a period (~~(thirteen months)~~) five years from the date of  
18 purchase of such motor fuel, and if not filed within this period the

1 right to refund shall be forever barred, except that such limitation  
2 shall not apply to claims for loss or destruction of motor vehicle fuel  
3 as provided by the provisions of RCW 82.36.370.

4 (3) The department shall pay interest of one percent on any refund  
5 payable under this chapter that is issued more than thirty state  
6 business days after the receipt of a claim properly filed and completed  
7 in accordance with this section. After the end of the thirty business-  
8 day period, additional interest shall accrue at the rate of one percent  
9 on the amount payable for each thirty calendar-day period, until the  
10 refund is issued.

11 (4) Any person or the member of any firm or the officer or agent of  
12 any corporation who makes any false statement in any claim required for  
13 the refund of excise tax, as provided in this chapter, or who collects  
14 or causes to be repaid to him or her or to any other person any such  
15 refund without being entitled to the same under the provisions of this  
16 chapter is guilty of a gross misdemeanor.

17 **Sec. 2.** RCW 82.38.190 and 1998 c 176 s 74 are each amended to read  
18 as follows:

19 (1) Claims under RCW 82.38.180 shall be filed with the department  
20 on forms prescribed by the department and shall show the date of filing  
21 and the period covered in the claim, the number of gallons of special  
22 fuel used for purposes subject to tax refund, and such other facts and  
23 information as may be required. Every such claim shall be supported by  
24 an invoice or invoices issued to or by the claimant, as may be  
25 prescribed by the department, and such other information as the  
26 department may require. The requirement to provide invoices may be  
27 waived for small refund amounts, as determined by the department.  
28 Claims for refund of special fuel tax must be for at least twenty  
29 dollars.

30 (2) Any amount determined to be refundable by the department under  
31 RCW 82.38.180 shall first be credited on any amounts then due and  
32 payable from a person to whom the refund is due, and the department  
33 shall then certify the balance thereof to the state treasurer, who  
34 shall thereupon draw his or her warrant for the certified amount to the  
35 person.

36 (3) No refund or credit shall be approved by the department unless

1 a written claim for refund or credit stating the specific grounds upon  
2 which the claim is founded is filed with the department:

3 (a) Within (~~thirteen months~~) five years from the date of purchase  
4 or from the last day of the month following the close of the reporting  
5 period for which the refundable amount or credit is due with respect to  
6 refunds or credits allowable under RCW 82.38.180 (1), (2), (4), and  
7 (5), and if not filed within this period the right to refund shall be  
8 forever barred.

9 (b) Within five years from the last day of the month following the  
10 close of the reporting period for which the overpayment is due with  
11 respect to the refunds or credits allowable under RCW 82.38.180(3).  
12 The department shall refund any amount paid that has been verified by  
13 the department to be more than ten dollars over the amount actually due  
14 for the reporting period. Payment credits shall not be carried forward  
15 and applied to subsequent tax returns for a person licensed under this  
16 chapter.

17 (4) Within thirty days after disallowing any claim in whole or in  
18 part, the department shall serve written notice of its action on the  
19 claimant.

20 (5) Interest shall be paid upon any refundable amount or credit due  
21 under RCW 82.38.180(3) at the rate of one percent per month from the  
22 last day of the calendar month following the reporting period for which  
23 the refundable amount or credit is due.

24 The interest shall be paid:

25 (a) In the case of a refund, to the last day of the calendar month  
26 following the date upon which the person making the overpayment, if he  
27 or she has not already filed a claim, is notified by the department  
28 that a claim may be filed or the date upon which the claim is approved  
29 by the department, whichever date is earlier.

30 (b) In the case of a credit, to the same date as that to which  
31 interest is computed on the tax or amount against which the credit is  
32 applied.

33 If the department determines that any overpayment has been made  
34 intentionally or by reason of carelessness, it shall not allow any  
35 interest thereon.

36 (6) The department shall pay interest of one percent on any refund  
37 payable under RCW 82.38.180 (1), (2), or (6) that is issued more than  
38 thirty state business days after the receipt of a claim properly filed

1 and completed in accordance with this section. After the end of the  
2 thirty business-day period, additional interest shall accrue at the  
3 rate of one percent on the amount payable for each thirty calendar-day  
4 period, until the refund is issued.

5 (7) No injunction or writ of mandate or other legal or equitable  
6 process shall issue in any suit, action or proceeding in any court  
7 against this state or against any officer of the state to prevent or  
8 enjoin the collection under this chapter of any tax or any amount of  
9 tax required to be collected.

10 NEW SECTION. **Sec. 3.** This act applies to motor vehicle fuel and  
11 special fuel purchased on or after the effective date of this act.

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