CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1883

63rd Legislature
2013 Regular Session

Passed by the House April 22, 2013
Yeas 93 Nays 2

Speaker of the House of Representatives

Passed by the Senate April 15, 2013
Yeas 46 Nays 2

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1883** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

SUBSTITUTE HOUSE BILL 1883

AS AMENDED BY THE SENATE

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By House Transportation (originally sponsored by Representatives Fitzgibbon, Orcutt, Riccelli, Farrell, and Liias; by request of Department of Licensing)

READ FIRST TIME 02/28/13.

AN ACT Relating to simplifying and updating statutes related to fuel tax administration; amending RCW 82.38.010, 82.38.020, 82.38.030, 82.38.032, 82.38.035, 82.38.050, 82.38.060, 82.38.065, 82.38.066, 82.38.075, 82.38.080, 82.38.090, 82.38.110, 82.38.140, 82.38.150, 82.38.160, 82.38.170, 82.38.180, 82.38.190, 82.38.210, 82.38.220, 82.38.230, 82.38.235, 82.38.245, 82.38.260, 82.38.270, 82.38.280, 82.38.290, 82.38.310, 82.38.320, 82.38.360, 82.38.365, 82.38.370, 82.38.380, 82.38.385, 82.42.010, 82.42.020, 82.42.030, 82.42.040, 82.42.090, 82.42.110, 82.42.125, 19.112.110, 19.112.120, 35A.81.010, 36.70A.340, 43.06.400, 46.01.040, 46.09.310, 46.87.080, 47.02.070, 47.02.160, 47.10.040, 47.10.180, 47.10.310, 47.10.440, 47.10.714, 47.10.729, 47.10.756, 47.10.766, 47.10.793, 47.10.804, 47.10.815, 47.10.822, 47.10.838, 47.10.846, 47.10.864, 47.10.876, 47.10.883, 47.26.404, 47.26.424, 47.26.4252, 47.26.4254, 47.26.504, 47.56.771, 47.60.580, 79A.25.010, 79A.25.040, 79A.25.050, 82.04.4285, 82.08.0255, 82.80.010, 82.80.110, 82.80.120, 46.68.080, 46.68.090, and 82.12.0256; reenacting and amending RCW 82.38.120 and 46.09.520; adding new sections to chapter 82.38 RCW; adding new sections to chapter 82.42 RCW; decodifying RCW 82.38.800, 82.38.900, 82.38.910, 82.38.920, 82.38.930, 82.38.940, and 82.38.941; repealing RCW 82.36.010, 82.36.020, 82.36.022, 82.36.025, 82.36.026, 82.36.027, 82.36.028,

82.36.029, 82.36.031, 82.36.032, 82.36.035, 82.36.040, 82.36.044, 82.36.045, 82.36.047, 82.36.050, 82.36.060, 82.36.070, 82.36.075, 82.36.080, 82.36.090, 82.36.095, 82.36.100, 82.36.110, 82.36.120, 82.36.130, 82.36.140, 82.36.150, 82.36.160, 82.36.170, 82.36.180, 82.36.190, 82.36.200, 82.36.210, 82.36.230, 82.36.240, 82.36.245, 82.36.247, 82.36.250, 82.36.260, 82.36.270, 82.36.275, 82.36.280, 82.36.285, 82.36.290, 82.36.300, 82.36.310, 82.36.320, 82.36.330, 82.36.335, 82.36.340, 82.36.350, 82.36.370, 82.36.375, 82.36.380, 82.36.390, 82.36.400, 82.36.410, 82.36.415, 82.36.420, 82.36.430, 82.36.435, 82.36.440, 82.36.450, 82.36.460, 82.36.470, 82.36.475, 82.36.480, 82.36.485, 82.36.490, 82.36.495, 82.36.800, 82.36.900, 82.36.901, 82.38.045, 82.38.047, 82.38.130, 82.38.240, 82.38.250, 82.38.265, 82.38.350, 82.41.060, 82.42.050, 82.42.060, 82.42.070, 82.42.080, and 82.42.120; prescribing penalties; and providing an effective date.

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

PART I
MOTOR VEHICLE FUEL TAX--STATUTE CONSOLIDATION

Sec. 101. RCW 82.38.010 and 1979 c 40 s 1 are each amended to read as follows:

The purpose of this chapter is to ((~~supplement the Motor Vehicle Fuel Tax Act, chapter 82.36 RCW, by imposing~~)) impose a tax upon ((~~all~~)) fuels ((~~not taxed under said Motor Vehicle Fuel Tax Act~~)) used for the propulsion of motor vehicles upon the highways of this state.

Sec. 102. RCW 82.38.020 and 2002 c 183 s 1 are each amended to read as follows:

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

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

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

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

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

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

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

(7) "Department" means the department of licensing.

(8) "Distributor" means a person who acquires fuel outside the bulk transfer-terminal system for importation into Washington, from a terminal or refinery rack located within Washington for distribution within Washington, or for immediate export outside the state of Washington.

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

((~~(9)~~)) (10) "Evasion" or "evade" means to diminish or avoid the computation, assessment, or payment of authorized taxes or fees through:

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

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

(c) The unlawful use of dyed special fuel.

((~~(10)~~)) (11) "Exempt sale" means the sale of fuel to a person whose use of fuel is exempt from the fuel tax.

(12) "Export" means to obtain ((~~special~~)) fuel in this state for

sales or distribution outside the state. Fuel distributed to a federally recognized Indian tribal reservation located within the state of Washington is not considered exported outside this state.

((~~(11)~~)) (13) "Exporter" means a person who purchases fuel physically located in this state at the time of purchase and directly exports the fuel by a means other than the bulk transfer-terminal system to a destination outside of the state. If the exporter of record is acting as an agent, the person for whom the agent is acting is the exporter. If there is no exporter of record, the owner of the fuel at the time of exportation is the exporter.

(14) "Fuel" means motor vehicle fuel or special fuel.

(15) "Fuel user" means a person engaged in uses of fuel that are not specifically exempted from the fuel tax imposed under this chapter.

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

((~~(12)~~)) (17) "Import" means to bring ((~~special~~)) fuel into this state by a means of conveyance other than the fuel supply tank of a motor vehicle.

((~~(13)~~)) (18) "Importer" means a person who imports fuel into the state by a means other than the bulk transfer-terminal system. If the importer of record is acting as an agent, the person for whom the agent is acting is the importer. If there is no importer of record, the owner of the fuel at the time of importation is the importer.

(19) "International fuel tax agreement licensee" means a ((~~special~~)) fuel user operating qualified motor vehicles in interstate commerce and licensed by the department under the international fuel tax agreement.

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

~~(15)~~)) (20) "Licensee" means a person holding a license issued under this chapter.

((~~(16)~~)) (21) "Motor vehicle" means a self-propelled vehicle ((~~designed for operation upon land~~)) utilizing ((~~special~~)) fuel as ((~~the~~)) a means of propulsion.

((~~(17)~~)) (22) "Motor vehicle fuel" means gasoline and any other inflammable gas or liquid, by whatsoever name the gasoline, gas, or liquid may be known or sold the chief use of which is as a fuel for the propulsion of motor vehicles or vessels.

(23) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form.

((~~(18)~~)) (24) "Person" means ((~~a natural person, fiduciary, association, or corporation. The term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof~~)) any individual, partnership, association, public or private corporation, limited liability company, or any other type of legal or commercial entity, including their members, managers, partners, directors, or officers.

((~~(19)~~)) (25) "Position holder" means a person who holds the inventory position in ((~~special~~)) fuel, as reflected by the records of the terminal operator. A person holds the inventory position ((~~in special fuel~~)) if the person has a contractual agreement with the terminal for the use of storage facilities and terminating services ((~~at a terminal with respect to special fuel~~)). "Position holder" includes a terminal operator that owns ((~~special~~)) fuel in their terminal.

((~~(20)~~)) (26) "Rack" means a mechanism for delivering ((~~special~~)) fuel from a refinery or terminal into a truck, trailer, railcar, or other means of nonbulk transfer.

((~~(21)~~)) (27) "Refiner" means a person who owns, operates, or otherwise controls a refinery.

((~~(22)~~)) (28) "Removal" means a physical transfer of ((~~special~~)) fuel other than by evaporation, loss, or destruction.

((~~(23) "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles, except that it does not include motor vehicle fuel as defined in chapter 82.36 RCW, nor does it include dyed special fuel as defined by federal regulations, unless the use is in violation of this chapter. If a person holds for sale, sells, purchases, or uses any dyed special fuel in violation of this chapter, all dyed special fuel held for sale, sold, purchased, stored, or used by that person is considered special fuel, and the person is subject to all presumptions, reporting, and~~

~~recordkeeping requirements and other obligations which apply to special fuel, along with payment of any applicable taxes, penalties, or interest for illegal use.~~

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

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

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

~~(27) "Special fuel~~)) (29) "Special fuel" means diesel fuel, propane, natural gas, kerosene, biodiesel, and any other combustible liquid or gas by whatever name the liquid or gas may be known or sold for the generation of power to propel a motor vehicle on the highways, except it does not include motor vehicle fuel.

(30) "Supplier" means a person who holds a federal certificate of registry issued under the internal revenue code and authorizes the person to engage in tax-free transactions ((~~on special~~)) of fuel in the bulk transfer-terminal system.

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

~~(29)~~)) (31) "Terminal" means a ((~~special~~)) fuel storage and distribution facility that has been assigned a terminal control number by the internal revenue service((~~, is supplied by pipeline or vessel, and from which reportable special fuel is removed at a rack~~)).

((~~(30)~~)) (32) "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

((~~(31)~~)) (33) "Two-party exchange" or "buy-sell agreement" means a transaction in which taxable ((~~special~~)) fuel is transferred from one licensed supplier to another licensed supplier ((~~under an exchange or buy-sell agreement~~)) whereby the supplier that is the position holder

agrees to deliver taxable ((~~special~~)) fuel to the other supplier or the other supplier's customer at the ((~~rack of the~~)) terminal at which the delivering supplier is the position holder.

Sec. 103. RCW 82.38.030 and 2007 c 515 s 21 are each amended to read as follows:

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

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

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

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

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

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

(7) Taxes are imposed when:

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

(b) ((~~Special~~)) Fuel is removed in this state from a refinery if either of the following applies:

(i) The removal is by bulk transfer and the refiner or the owner of the ((~~special~~)) fuel immediately before the removal is not a ((~~licensee~~)) licensed supplier; or

(ii) The removal is at the refinery rack unless the removal is to a licensed ((~~exporter~~)) supplier or distributor for direct delivery to a destination outside of the state, or the removal is to a ((~~special fuel~~)) licensed supplier for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

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

(i) The entry is by bulk transfer and the importer is not a ((~~licensee~~)) licensed supplier; or

(ii) The entry is not by bulk transfer;

(d) ((~~Special~~)) Fuel enters this state by means outside the bulk transfer-terminal system and is delivered directly to a licensed terminal unless the owner is a licensed distributor or supplier.

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

((~~(e)~~)) (f) Blended ((~~special~~)) fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended ((~~special~~)) fuel subject to tax is the difference between the total number of gallons of blended ((~~special~~)) fuel removed or sold and the number of gallons of previously taxed ((~~special~~)) fuel used to produce the blended ((~~special~~)) fuel;

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

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

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

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

Sec. 104. RCW 82.38.032 and 2007 c 515 s 22 are each amended to read as follows:

International fuel tax agreement licensees, or persons operating motor vehicles under other reciprocity agreements entered into with the state of Washington, are liable for and must pay the tax under RCW 82.38.030 to the department on ((~~special~~)) fuel used to operate motor vehicles on the highways of this state. This provision does not apply if the tax under RCW 82.38.030 has previously been imposed and paid by the international fuel tax agreement licensee or if the use of such fuel is exempt from the tax under this chapter.

Sec. 105. RCW 82.38.035 and 2007 c 515 s 23 are each amended to read as follows:

(1) A licensed supplier ((~~shall be~~)) is liable for and must pay tax on ((~~special~~)) fuel ((~~to the department~~)) as provided in RCW 82.38.030(7) (a) and (i). On a two-party exchange, or buy-sell agreement between two licensed suppliers, the receiving exchange partner or buyer shall be liable for and pay the tax.

(2) A refiner ((~~shall be~~)) is liable for and must pay tax ((~~to the department on special~~)) on fuel removed from a refinery as provided in RCW 82.38.030(7)(b).

(3) A licensed ((~~importer shall be~~)) distributor is liable for and must pay tax ((~~to the department on special fuel imported into this state~~)) on fuel as provided in RCW 82.38.030(7)(c).

(4) A licensed blender ((~~shall be~~)) is liable for and must pay tax ((~~to the department on the removal or sale of blended special~~)) on fuel as provided in RCW 82.38.030(7)((~~(e)~~)) (f).

(5) A licensed dyed special fuel user ((~~shall be~~)) is liable for

and must pay tax ((~~to the department on the use of dyed special~~)) on fuel as provided in RCW 82.38.030(7)((~~(f)~~)) (g).

(6) ((~~Nothing in this chapter prohibits the licensee liable for payment of the tax under this chapter from including as a part of the selling price an amount equal to such tax~~)) A terminal operator is jointly and severally liable for and must pay tax on fuel if, at the time of removal:

(a) The position holder of the fuel is a person other than the terminal operator and is not a licensee;

(b) The terminal operator is not a licensee;

(c) The position holder has an expired internal revenue notification certificate;

(d) The terminal operator has reason to believe that information on the internal revenue notification certificate is false.

(7) A terminal operator is jointly and severally liable for and must pay tax on special fuel if the special fuel is removed and is not dyed or marked in accordance with internal revenue service requirements, and the terminal operator provides a person with a bill of lading, shipping paper, or similar document indicating the special fuel is dyed or marked in accordance with internal revenue service requirements.

(8) International fuel tax agreement licensees, or persons operating motor vehicles under other reciprocity agreements entered into with the state of Washington, are liable for and must pay tax on fuel used to operate motor vehicles on state highways.

(9) Dyed special fuel users are liable for and must pay tax on dyed special fuel used on state highways unless the use of the fuel is exempt from the tax.

Sec. 106. RCW 82.38.050 and 2007 c 515 s 24 are each amended to read as follows:

(1) A lessor ((~~who is engaged regularly in the business of leasing or renting for compensation motor vehicles and equipment he owns without drivers to carriers or other lessees for interstate operation, may be deemed to be the special fuel user when he supplies or pays for the special fuel consumed in such vehicles, and such lessor may be issued an international fuel tax agreement license when application and bond have been properly filed with and approved by the department for~~

~~such license. Any lessee may exclude motor vehicles of which he or she is the lessee from reports and liabilities pursuant to this chapter, but only if the motor vehicles in question have been leased from a lessor holding a valid international fuel tax agreement license.~~

~~When the license has been secured, such lessor shall make and assign to each motor vehicle leased for interstate operation a photocopy of such license to be carried in the cab compartment of the motor vehicle and on which shall be typed or printed on the back the unit or motor number of the motor vehicle to which it is assigned and the name of the lessee. Such lessor shall be responsible for the proper use of such photocopy of the license issued and its return to the lessor with the motor vehicle to which it is assigned~~)) leasing motor vehicles without drivers to lessees for interstate operation, may be the fuel user when the lessor supplies or pays for the fuel consumed in the motor vehicles. Any lessee may exclude motor vehicles from reports and liabilities pursuant to this chapter, but only if the excluded motor vehicles have been leased from a lessor holding a valid international fuel tax agreement license.

(2) The lessor ((~~shall be~~)) is responsible for fuel tax licensing and reporting((~~, as required by this chapter, on~~)) for the operation of ((~~all~~)) motor vehicles leased ((~~to others~~)) for less than thirty days.

Sec. 107. RCW 82.38.060 and 1996 c 90 s 1 are each amended to read as follows:

((~~In the event the tax on special fuel imported into this state in the fuel supply tanks of motor vehicles for taxable use on Washington highways can be more accurately determined on a mileage basis the department is authorized to approve and adopt such basis. When a special fuel user imports special fuel into or exports special fuel from the state of Washington in the fuel supply tanks of motor vehicles, the amount of special fuel consumed in such vehicles on Washington highways shall be deemed to be such proportion of the total amount of such special fuel consumed in his entire operations within and without this state as the total number of miles traveled on the public highways within this state bears to the total number of miles traveled within and without the state. The department may also adopt such mileage basis for determining the taxable use of special fuel used in motor vehicles which travel regularly over prescribed courses on and~~

~~off the highways within the state of Washington. In the absence of records showing the number of miles actually operated per gallon of special fuel consumed, fuel consumption shall be calculated at the rate of one gallon for every: (1) Four miles traveled by vehicles over forty thousand pounds gross vehicle weight; (2) seven miles traveled by vehicles twelve thousand one to forty thousand pounds gross vehicle weight; (3) ten miles traveled by vehicles six thousand one to twelve thousand pounds gross vehicle weight; and (4) sixteen miles traveled by vehicles six thousand pounds or less gross vehicle weight~~)) If tax on fuel placed in the fuel supply tanks of motor vehicles for taxable use on Washington highways can be more accurately determined on a mileage basis the department is authorized to adopt such basis. In the absence of records showing the number of miles actually operated per gallon of fuel consumed, fuel consumption must be calculated by the department.

Sec. 108. RCW 82.38.065 and 2002 c 183 s 3 are each amended to read as follows:

A person may operate or maintain a licensed or required to be licensed motor vehicle with dyed special fuel in the fuel supply tank only if the use is authorized by the internal revenue code and the person is either the holder of ((~~an uncanceled~~)) a dyed special fuel user license or the use is exempt from the special fuel tax. A person may maintain dyed special fuel for a taxable use in bulk storage if the person is the holder of ((~~an uncanceled~~)) a dyed special fuel user license issued under this chapter. ((~~The special fuel tax set forth in RCW 82.38.030 is imposed on users of dyed special fuel authorized by the internal revenue code to operate on-highway motor vehicles using dyed special fuel, unless the use is exempt from the special fuel tax. It is unlawful for any person to sell, use, hold for sale, or hold for intended use dyed special fuel in a manner in violation of this chapter.~~))

Sec. 109. RCW 82.38.066 and 1998 c 176 s 57 are each amended to read as follows:

(1) Special fuel ((~~that is dyed~~)) satisfies the dyeing and marking requirements of this chapter if it meets the dyeing and marking requirements of the internal revenue service, including, but not limited to, requirements respecting type, dosage, and timing.

(2) ((~~Marking must meet the marking requirements of the internal revenue service.~~

~~(3) As required by the internal revenue service,~~)) Notice is required with respect to dyed special fuel. A notice stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" must be:

(a) Provided by the terminal operator to a person who receives dyed special fuel at a terminal rack ((~~of that terminal operator~~));

(b) Provided by a seller of dyed special fuel to ((~~its~~)) the buyer if the special fuel is located outside the bulk transfer-terminal system and is not sold from a retail pump posted in accordance with the requirements of this subsection; or

(c) Posted by a seller on a retail pump ((~~where it sells dyed special fuel for use by its buyer~~)) dispensing dyed special fuel and provided by the seller of dyed special fuel to the buyer at the retail pump.

Sec. 110. RCW 82.38.075 and 1983 c 212 s 1 are each amended to read as follows:

((~~In order~~)) (1) To encourage the use of nonpolluting fuels, an annual license fee in lieu of the tax imposed by RCW 82.38.030 ((~~shall be~~)) is imposed upon the use of natural gas ((~~as defined in this chapter or on liquified petroleum gas, commonly called propane, which is used in any motor vehicle, as defined in RCW 46.04.320, which shall be based upon the following schedule as adjusted by the formula set out below~~)) or propane used in any motor vehicle. The annual license fee must be based upon the following schedule and formula:

VEHICLE TONNAGE (GVW)			FEE
0	-	6,000	$ 45
6,001	-	10,000	$ 45
10,001	-	18,000	$ 80
18,001	-	28,000	$110
28,001	-	36,000	$150
36,001	and above		$250

(2) To determine the ((~~actual annual license fee imposed by this section for a registration year, the appropriate dollar amount set out~~

~~in the above schedule shall be multiplied by the motor vehicle fuel tax rate in cents per gallon as established by RCW 82.36.025~~)) annual license fee for a registration year, the appropriate dollar amount in the schedule is multiplied by the fuel tax rate per gallon effective on July 1st of the preceding calendar year and the product ((~~thereof shall be~~)) is divided by 12 cents.

(3) The department ((~~of licensing, in addition to the foregoing fee, shall charge a further fee of five dollars as a handling charge for each license issued.~~

~~The director of licensing shall be authorized to prorate the vehicle tonnage fee so that the annual license required by this section~~)), in addition to the resulting fee, must charge an additional fee of five dollars as a handling charge for each license issued.

(4) The vehicle tonnage fee must be prorated so the annual license will correspond with the staggered vehicle licensing system.

(5) A decal or other identifying device issued upon payment of ((~~these annual fees shall~~)) the annual fee must be displayed as prescribed by the department as authority to purchase this fuel.

(6) Persons selling or dispensing natural gas or propane may not sell or dispense this fuel for their own use or the use of others into tanks of vehicles powered by this fuel which do not display a valid decal or other identifying device ((~~as provided in this section~~)).

(7) Vehicles registered in jurisdictions outside the state of Washington are exempt from this section.

(8) Any person selling or dispensing natural gas or propane into the tank of a motor vehicle powered by this fuel, except as prescribed in this chapter, is subject to the penalty provisions of this chapter.

Sec. 111. RCW 82.38.080 and 2009 c 352 s 1 are each amended to read as follows:

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

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

~~(b) Publicly owned firefighting equipment;~~

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

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

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

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

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

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

~~(f) Heating purposes;~~

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

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

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

~~(j) The operation of a motor vehicle as a part of or incidental to logging operations upon a highway under federal jurisdiction within the boundaries of a federal area if the federal government requires a fee for the privilege of operating the motor vehicle upon the highway, the proceeds of which are reserved for constructing or maintaining roads in~~

~~the federal area, or requires maintenance or construction work to be performed on the highway for the privilege of operating the motor vehicle on the highway; and~~

~~(k) Waste vegetable oil as defined under RCW 82.08.0205 if the oil is used to manufacture biodiesel.~~

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

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

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

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

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

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

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

~~(A) Facilities operated by the supplier;~~

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

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

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

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

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

~~(3)(a) Notwithstanding any provision of law to the contrary, every privately owned urban passenger transportation system and carriers as defined by chapters 81.68 and 81.70 RCW shall be exempt from the provisions of this chapter requiring the payment of special fuel taxes. For the purposes of this section "privately owned urban passenger transportation system" means every privately owned transportation system having as its principal source of revenue the income from transporting persons for compensation by means of motor vehicles or trackless trolleys, each having a seating capacity for over fifteen persons over prescribed routes in such a manner that the routes of such motor vehicles or trackless trolleys, either alone or in conjunction with routes of other such motor vehicles or trackless trolleys subject to routing by the same transportation system, shall not extend for a distance exceeding twenty-five road miles beyond the corporate limits of the county in which the original starting points of such motor vehicles are located: PROVIDED, That no refunds or credits shall be granted on special fuel used by any privately owned urban transportation vehicle, or vehicle operated pursuant to chapters 81.68 and 81.70 RCW, on any trip where any portion of the trip is more than twenty-five road miles beyond the corporate limits of the county in which the trip originated.~~

~~(b) Every publicly owned and operated urban passenger transportation system is exempt from the provisions of this chapter that require the payment of special fuel taxes. For the purposes of this subsection, "publicly owned and operated urban passenger transportation systems" include public transportation benefit areas under chapter 36.57A RCW, metropolitan municipal corporations under chapter 36.56 RCW, city-owned transit systems under chapter 35.58 RCW, county public transportation authorities under chapter 36.57 RCW, unincorporated transportation benefit areas under chapter 36.57 RCW, and regional transit authorities under chapter 81.112 RCW))~~ The following sales of special fuel are exempt from payment of the tax imposed by this chapter:

(a) Sales to the state of Washington, any county, or any municipality when the fuel is used for street and highway construction and maintenance purposes in motor vehicles owned and operated by the state, county, or municipality;

(b) Sales for use in publicly owned firefighting equipment;

(c) Sales to the United States government;

(d) Sales to a private, nonprofit transportation provider regulated under chapter 81.66 RCW when the fuel is for use in providing transportation services for persons with special transportation needs;

(e) Sales of waste vegetable oil as defined under RCW 82.08.0205, if the oil is used to manufacture biodiesel;

(f)(i) Sales to privately owned urban passenger transportation systems and carriers as defined in chapters 81.68 and 81.70 RCW. No exemption or refund may be granted for special fuel used by any privately owned urban transportation vehicle, or vehicle operated pursuant to chapters 81.68 and 81.70 RCW, on any trip where any portion of the trip is more than twenty-five road miles beyond the corporate limits of the county in which the trip originated.

(ii) For purposes of this subsection (1)(f), "privately owned urban passenger transportation system" means every privately owned transportation system having as its principal source of revenue the income from transporting persons for compensation by means of motor vehicles or trackless trolleys, each having a seating capacity for over fifteen persons over prescribed routes in such a manner that the routes of such motor vehicles or trackless trolleys, either alone or in conjunction with routes of other such motor vehicles or trackless trolleys subject to routing by the same transportation system, do not extend for a distance exceeding twenty-five road miles beyond the corporate limits of the county in which the original starting points of such motor vehicles or trackless trolleys are located; and

(g)(i) Sales to publicly owned and operated urban passenger transportation systems.

(ii) For the purposes of this subsection (1)(g), "publicly owned and operated urban passenger transportation systems" include public transportation benefit areas under chapter 36.57A RCW, metropolitan municipal corporations under chapter 36.56 RCW, city owned transit systems under chapter 35.58 RCW, county public transportation authorities under chapter 36.57 RCW, unincorporated transportation benefit areas under chapter 36.57 RCW, and regional transit authorities under chapter 81.112 RCW.

(2) The following sales of motor vehicle fuel are exempt from payment of the tax imposed by this chapter:

(a) Sales to the armed forces of the United States or to the national guard when the fuel is used exclusively in ships or for export from this state;

(b) Sales to foreign diplomatic and consular missions, if the foreign government represented grants an equivalent exemption to missions and personnel of the United States performing similar services in the foreign country; and

(c) Sales of fuel used exclusively for racing that is not legally allowed on the public highways of this state.

Sec. 112. RCW 82.38.090 and 1998 c 176 s 61 are each amended to read as follows:

(1) It ((~~shall be~~)) is unlawful for any person to engage in business in this state as any of the following unless the person is the holder of ((~~an uncanceled~~)) a license issued ((~~to him or her~~)) by the department authorizing the person to engage in that business:

(a) ((~~Special~~)) Fuel supplier;

(b) ((~~Special~~)) Fuel distributor;

(c) ((~~Special fuel exporter;~~

~~(d) Special fuel importer;~~

~~(e) Special~~)) Fuel blender;

((~~(f)~~)) (d) Terminal operator;

(e) Dyed special fuel user; or

((~~(g)~~)) (f) International fuel tax agreement licensee.

(2) A person engaged in more than one activity for which a license is required must have a separate license classification for each activity((~~, but a special~~)); however, a fuel supplier is not required to obtain a separate license classification for ((~~any other activity for which a license is required~~)) fuel distributor or fuel blender.

(3) ((~~Special~~)) Fuel users operating motor vehicles in interstate commerce having two axles and a gross vehicle weight or registered gross vehicle weight not exceeding twenty-six thousand pounds are not required to be licensed. ((~~Special~~)) Fuel users operating motor vehicles in interstate commerce having two axles and a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds, or having three or more axles regardless of weight, or a combination of vehicles, when the combination exceeds twenty-six thousand pounds gross vehicle weight, must comply with the licensing

and reporting requirements of this chapter. A copy of the license must be carried in each motor vehicle entering this state from another state or province.

Sec. 113. RCW 82.38.110 and 2002 c 352 s 26 are each amended to read as follows:

(1) Application for a license ((~~issued under this chapter shall be made to the department. The application shall be filed upon a form prepared and furnished by the department and shall contain such information as the department deems necessary.~~

~~(2) Every application for a special fuel license, other than an application for a dyed special fuel user or international fuel tax agreement license, must contain the following information to the extent it applies to the applicant:~~

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

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

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

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

~~(e) Whether the applicant has been adjudged guilty of a crime that directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten years, or has suffered a judgment within the preceding five years in a civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners.~~

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

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

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

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

~~(7) An applicant who makes a false statement of a material fact on the application may be prosecuted for false swearing as defined by RCW 9A.72.040.~~

~~(8) A special fuel license may not be issued to any person or continued in force unless such person has furnished bond, as defined in RCW 82.38.020, in such form as the department may require, to secure his or her compliance with this chapter, and the payment of any and all taxes, interest, and penalties due and to become due hereunder. The requirement of furnishing a bond may be waived: (a) For special fuel distributors who only deliver special fuel into the fuel tanks of marine vessels; (b) for dyed special fuel users; (c) for persons issued licenses under the international fuel tax agreement; or (d) for licensed special fuel distributors who, upon determination by the department, have sufficient resources, assets, other financial instruments, or other means to adequately make payments on the estimated monthly motor vehicle fuel tax payments, penalties, and~~

~~interest arising out of this chapter. The department shall adopt rules to administer this section.~~

~~(9) The department may require a licensee to post a bond if the licensee, after having been licensed, has failed to file timely reports or has failed to remit taxes due, or when an investigation or audit indicates problems severe enough that the department, in its discretion, determines that a bond is required to protect the interests of the state. The department may also adopt rules prescribing conditions that, in the department's discretion, require a bond to protect the interests of the state.~~

~~(10) The total amount of the bond or bonds required of any licensee shall be equivalent to three times the estimated monthly fuel tax, determined in such manner as the department may deem proper: PROVIDED, That those licensees having held a special fuel license for five or more years without having said license suspended or revoked by the department shall be permitted to reduce the amount of their bond to twice the estimated monthly tax liability: PROVIDED FURTHER, That the total amount of the bond or bonds shall never be less than five hundred dollars nor more than one hundred thousand dollars.~~

~~(11) An application for a dyed special fuel user license must be made to the department. The application must be filed upon a form prescribed by the department and contain such information as the department deems necessary.~~

~~(12) An application for an international fuel tax agreement license must be made to the department. The application must be filed upon a form prescribed by the department and contain such information as the department may require. The department shall charge a fee of ten dollars per set of International Fuel Tax Agreement decals issued to each applicant or licensee. The department shall transmit the fee to the state treasurer for deposit in the motor vehicle fund~~)) must be made to the department. The application must be filed in a manner prescribed by the department and must contain information the department requires. For purposes of this section, the term "applicant" has the same meaning as "person" as provided in RCW 82.38.020.

(2) An application for a license other than an application for a dyed special fuel user or international fuel tax agreement license must

contain the following information to the extent it applies to the applicant:

(a) Proof the department may require concerning the applicant's identity;

(b) The applicant's business structure and place of business, including proof the applicant is licensed to conduct business in this state;

(c) The employment history of the applicant and partner, officer, or director;

(d) A bank reference and whether the applicant or partner, officer, or director has ever been adjudged bankrupt or has an unsatisfied judgment;

(e) Whether the applicant or partner, officer, or director has been convicted of a crime or suffered a civil judgment directly related to the distribution and sale of fuel within the last ten years.

(3) An applicant must identify each state, province, or country the applicant intends to import fuel from by means other than bulk transfer and must maintain the appropriate license required of each state, province, or country.

(4) An applicant must identify each state, province, or country the applicant intends to export fuel to by means other than bulk transfer and must maintain the appropriate license required of each state, province, or country.

(5) An applicant for a fuel supplier or terminal operator license must have the appropriate federal certificate of registry issued by the internal revenue service for the activity in which the applicant is engaging.

(6) An applicant must submit a surety bond in an amount, form, and manner set by the department. In lieu of a bond, a licensed distributor may provide evidence to the department of sufficient assets to adequately meet fuel tax payments, penalties, interest, or other obligations arising out of this chapter.

(7) An application for a dyed special fuel user license must be made in a manner prescribed by the department.

(8) An application for an international fuel tax agreement license must be made in a manner prescribed by the department. A fee of ten dollars per set of international fuel tax agreement decals issued to each applicant or licensee must be charged.

(9) For the purpose of considering any application for a license, the department may inspect, cause an inspection, investigate, or cause an investigation of the records of this or any other state, Canadian province, country, or the federal government to ascertain the veracity of the information on the application and the applicant's criminal, civil, and licensing history.

Sec. 114. RCW 82.38.120 and 1998 c 176 s 64 and 1998 c 115 s 4 are each reenacted and amended to read as follows:

((~~Upon receipt and approval of an application and bond, if required, the department shall issue a license to the applicant. However, the department may refuse to issue a license to any person:~~

~~(1) Who formerly held a license issued under chapter 82.36 or 82.42 RCW or this chapter which, prior to the time of filing for application, has been revoked for cause;~~

~~(2) Who is a subterfuge for the real party in interest whose license prior to the time of filing for application, has been revoked for cause;~~

~~(3) Who, as an individual licensee, or officer, director, owner, or managing employee of a nonindividual licensee, has had a special fuel license~~)) (1) The department may refuse to issue to, or suspend or revoke a license of any licensee or applicant:

(a) Who formerly held a license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW which has been suspended or revoked for cause;

(b) Who is a subterfuge for the real party in interest whose license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW has been revoked for cause;

(c) Who, as an individual licensee, or partner, officer, director, owner, or managing employee of a licensee, has had a license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW denied, suspended, or revoked for cause;

((~~(4)~~)) (d) Who has an unsatisfied debt to the state assessed under either chapter 82.36, 82.38, 82.42, or 46.87((~~, or 82.42~~)) RCW;

((~~(5)~~)) (e) Who formerly held as an individual, partner, officer, director, owner, managing employee of a ((~~nonindividual~~)) licensee, or subterfuge for a real party in interest, a license issued by the federal government or a state that allowed a person to buy or sell

untaxed motor vehicle ((~~or~~)), special, or aircraft fuel, which ((~~license, before the time of filing for application,~~)) has been suspended or revoked for cause;

((~~(6)~~)) (f) Who pled guilty to or was convicted as an individual, partner, officer, director, owner, or managing employee of a ((~~nonindividual~~)) licensee in this or any other state, Canadian province, or in any federal jurisdiction of a gross misdemeanor or felony crime directly related to the fuel distribution business or has been subject to a civil judgment involving fraud, misrepresentation, conversion, or dishonesty, notwithstanding chapter 9.96A RCW;

((~~(7)~~)) (g) Who misrepresented or concealed a material fact in obtaining a license or ((~~in reinstatement thereof~~)) reinstating a license;

((~~(8)~~)) (h) Who violated a statute or administrative rule regulating fuel taxation or distribution;

((~~(9)~~)) (i) Who failed to cooperate with the department's investigations by:

((~~(a)~~)) (i) Not furnishing papers or documents;

((~~(b)~~)) (ii) Not furnishing in writing a full and complete explanation regarding a matter under investigation by the department; or

((~~(c)~~)) (iii) Not responding to subpoenas issued by the department, whether or not the recipient of the subpoena is the subject of the proceeding;

((~~(10)~~)) (j) Who failed to comply with an order issued by the director; or

((~~(11)~~)) (k) Upon other sufficient cause being shown.

(2) Before ((~~such~~)) a refusal under this section, the department ((~~shall~~)) must grant the applicant a hearing and ((~~shall~~)) must grant the applicant at least twenty days written notice of the time and place thereof.

((~~The department shall determine from the information shown in the application or other investigation the kind and class of license to be issued. For the purpose of considering any application for a special fuel license, the department may inspect, cause an inspection, investigate, or cause an investigation of the records of this or any other state or of the federal government to ascertain the veracity of~~

~~the information on the application form and the applicant's criminal and licensing history.~~

~~All licenses shall be posted in a conspicuous place or kept available for inspection at the principal place of business of the owner thereof. License holders shall reproduce the license by photostat or other method and keep a copy on display for ready inspection at each additional place of business or other place of storage from which special fuel is sold, delivered or used and in each motor vehicle used by the license holder to transport special fuel purchased by him or her for resale, delivery or use.~~

~~Each special fuel license shall be valid until the expiration date if shown on the license, or until suspended or revoked for cause or otherwise canceled.~~

~~No special fuel license shall be transferable.~~))

Sec. 115. RCW 82.38.140 and 2007 c 515 s 27 are each amended to read as follows:

(1) Every ((~~licensee and every~~)) person importing, manufacturing, refining, transporting, blending, or storing ((~~special fuel in this state shall~~)) fuel must keep for a period of ((~~not less than~~)) five years open to inspection at all times during the business hours of the day to the department or its authorized representatives, a complete record of all ((~~special~~)) fuel purchased or received and all ((~~of such products~~)) fuel sold, delivered, or used by them. ((~~Such records shall~~)) Records must show:

(a) The date of ((~~each~~)) receipt;

(b) The name and address of the person from whom purchased or received;

(c) The number of gallons received at each place of business or place of storage in the state of Washington;

(d) The date of ((~~each~~)) sale or delivery;

(e) The number of gallons sold, delivered, or used for taxable purposes;

(f) The number of gallons sold, delivered, or used for any purpose not subject to the ((~~tax imposed in this chapter~~)) fuel tax;

(g) The name, address, and ((~~special~~)) fuel license number of the purchaser if the ((~~special~~)) fuel tax is not collected on the sale or delivery;

(h) The physical inventories of ((~~special fuel~~)) fuel and petroleum products on hand at each place of business at the end of each month;

(i) Stocks of raw gasoline, gasoline stock, diesel oil, kerosene, kerosene distillates, casing head gasoline and other petroleum products which may be used in the compounding, blending, or manufacturing of fuel.

(2)(a) All international fuel tax agreement licensees and dyed special fuel users authorized to use dyed special fuel on highways in vehicles licensed for highway operation ((~~shall~~)) must maintain detailed mileage records on an individual vehicle basis.

(b) ((~~Such~~)) Operating records ((~~shall~~)) must show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle.

(c) In the absence of operating records that show both on-highway and off-highway usage of special fuel on a daily basis for each vehicle, fuel consumption must be computed under RCW 82.38.060.

(3) The department may require a person other than a licensee engaged in the business of selling, purchasing, distributing, storing, transporting, or delivering ((~~special~~)) fuel to submit periodic reports to the department regarding the disposition of the fuel. The reports must be on forms prescribed by the department and must contain such information as the department may require.

(4) Every person operating any conveyance ((~~for the purpose of hauling,~~)) transporting((~~, or delivering special~~)) fuel in bulk ((~~shall have and~~)) must possess during the entire time ((~~the person is hauling special fuel,~~)) an invoice, bill of sale, or other statement showing the name, address, and license number of the seller or consigner, the destination, name, and address of the purchaser or consignee, license number, if applicable, and the number of gallons. The person ((~~hauling such special fuel shall~~)) transporting fuel must at the request of any law enforcement officer or authorized representative of the department, ((~~or other person authorized by law to inquire into, or investigate those types of matters, produce for inspection such invoice, bill of sale, or other statement and shall permit such official to inspect and gauge~~)) produce for inspection required records and must permit inspection of the contents of the vehicle.

Sec. 116. RCW 82.38.150 and 2008 c 181 s 506 are each amended to read as follows:

(1) For the purpose of determining the amount of liability for the tax ((~~herein imposed, and to periodically update license information, each licensee, other than a special fuel distributor, an international fuel tax agreement licensee, or a dyed special fuel user, shall file monthly tax reports with the department, on forms prescribed by the department.~~

~~(2) Dyed special fuel users whose estimated yearly tax liability is two hundred fifty dollars or less, shall file a report yearly, and dyed special fuel users whose estimated yearly tax liability is more than two hundred fifty dollars, shall file reports quarterly. Special fuel users licensed under the international fuel tax agreement shall file reports quarterly. Heating oil dealers subject to the pollution liability insurance agency fee and reporting requirements shall remit pollution liability insurance agency returns and any associated payment due to the department annually.~~

~~(3) The department shall establish the reporting frequency for each applicant at the time the special fuel license is issued. If it becomes apparent that any licensee is not reporting in accordance with the above schedule, the department shall change the licensee's reporting frequency by giving thirty days' notice to the licensee by mail to the licensee's address of record. A report shall be filed with the department even though no special fuel was used, or tax is due, for the reporting period. Each tax report shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification of the report and is in lieu of such verification. The report shall show such information as the department may reasonably require for the proper administration and enforcement of this chapter. A licensee shall file a tax report on or before the twenty-fifth day of the next succeeding calendar month following the period to which it relates.~~

~~(4) Subject to the written approval of the department, tax reports may cover a period ending on a day other than the last day of the calendar month. Taxpayers granted approval to file reports in this manner will file such reports on or before the twenty-fifth day~~

~~following the end of the reporting period. No change to this reporting period will be made without the written authorization of the department.~~

~~(5) If the final filing date falls on a Saturday, Sunday, or legal holiday the next secular or business day shall be the final filing date. Such reports shall be considered filed or received on the date shown by the post office cancellation mark stamped upon an envelope containing such report properly addressed to the department, or on the date it was mailed if proof satisfactory to the department is available to establish the date it was mailed.~~

~~(6) The department, if it deems it necessary in order to insure payment of the tax imposed by this chapter, or to facilitate the administration of this chapter, has the authority to require the filing of reports and tax remittances at shorter intervals than one month if, in its opinion, an existing bond has become insufficient.~~

~~(7)~~)) imposed under this chapter, each licensee, other than an international fuel tax agreement licensee or a dyed special fuel user, must file monthly tax reports with the department.

(2) Dyed special fuel users whose estimated yearly tax liability is two hundred fifty dollars or less, must file a report yearly, and dyed special fuel users whose estimated yearly tax liability is more than two hundred fifty dollars, must file reports quarterly. International fuel tax agreement licensees must file reports quarterly. Heating oil dealers subject to the pollution liability insurance agency fee must file reports annually.

(3) A licensee, other than international fuel tax agreement licensee, must file a tax report on or before the twenty-fifth day of the calendar month following the reporting period to which it relates. A report must be filed even though no tax is due for the reporting period. Each report must contain a declaration that the statements contained therein are true and are made under penalties of perjury. The report must show information as the department may reasonably require for the proper administration and enforcement of this chapter.

(4) If the filing date falls on a Saturday, Sunday, or legal holiday the next secular or business day is the filing date.

(5) The department in order to insure payment of the tax or to facilitate administration of this chapter, may require the filing of reports and tax remittances at intervals other than one month.

(6) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the time for filing any report or the due date for tax remittances as the department deems proper.

Sec. 117. RCW 82.38.160 and 2005 c 260 s 2 are each amended to read as follows:

(1) The tax ((~~imposed by this chapter shall~~)) must be computed by multiplying the tax rate per gallon ((~~provided in this chapter~~)) by the number of gallons of ((~~special~~)) fuel subject to the ((~~special~~)) fuel tax.

(2) A ((~~special~~)) fuel distributor ((~~shall~~)) must remit tax on ((~~special~~)) fuel purchased from a ((~~special fuel~~)) supplier, and due to the state for that reporting period, to the special fuel supplier. This provision does not apply to fuel imported by a distributor under RCW 82.38.035(3).

(3) At the election of the distributor, ((~~the~~)) payment of the ((~~special~~)) fuel tax owed on ((~~special~~)) fuel purchased from a supplier ((~~shall~~)) must be remitted to the supplier on terms agreed upon between the distributor and the supplier or no later than seven business days before the twenty-sixth day of the following month. This election ((~~shall be~~)) is subject to a condition that the distributor's remittances of all amounts of ((~~special~~)) fuel tax due to the supplier ((~~shall~~)) must be paid by electronic funds transfer. The distributor's election may be terminated by the supplier if the distributor does not make timely payments to the supplier as required by this section. ((~~This section shall not apply if the distributor is required by the supplier to pay cash or cash equivalent for special fuel purchases.~~))

(4) Except as provided in subsection (5) of this section, the tax return ((~~shall~~)) must be accompanied by a remittance payable to the state treasurer covering the tax amount ((~~determined to be~~)) due for the reporting period.

(5) If the tax is paid by electronic funds transfer, the tax ((~~shall~~)) must be paid on or before the twenty-sixth calendar day of the month immediately following the reporting period. If the payment due date falls on a Saturday, Sunday, or legal holiday the next business day ((~~will be~~)) is the payment date. If the tax is paid by electronic funds transfer and the reporting period ends on a day other

than the last day of a calendar month ((~~as provided in RCW 82.38.150~~)), the tax ((~~shall~~)) must be paid on or before the last state business day of the thirty-day period following the end of the reporting period.

(6) The tax ((~~shall~~)) must be paid by electronic funds transfer whenever the amount due is fifty thousand dollars or more.

Sec. 118. RCW 82.38.170 and 2002 c 183 s 4 are each amended to read as follows:

(1) If any ((~~licensee~~)) person fails to pay any taxes ((~~collected or~~)) due the state of Washington within the time prescribed by RCW 82.38.150 and 82.38.160, the ((~~licensee shall~~)) person must pay ((~~in addition to such tax~~)) a penalty of ten percent of the ((~~amount thereof~~)) tax due.

(2) If ((~~it be determined by the department that the tax reported by any licensee is deficient it may proceed to assess the deficiency on the basis of information available to it and there shall be added to this deficiency a penalty of ten percent of the amount of the deficiency.~~

~~(3) If any licensee, whether or not he or she is licensed as such, fails, neglects, or refuses to file a special fuel tax report required under this chapter, the department may, on the basis of information available to it, determine the tax liability of the licensee for the period during which no report was filed, and to the tax as thus determined, the department shall add the penalty and interest provided in subsection (2) of this section. An assessment made by the department pursuant to this subsection or to subsection (2) of this section shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive as the case may be~~)) the tax reported by any licensee is deficient a penalty of ten percent of the deficiency must be assessed.

(3) If any licensee, whether or not licensed as such, fails, neglects, or refuses to file a required fuel tax report, the department must determine the tax liability and add the penalty provided in subsection (2) of this section to the liability. An assessment made by the department pursuant to this subsection or to subsection (2) of this

section is presumed to be correct, and the burden is on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive.

(4) If any licensee establishes by a fair preponderance of evidence that ((~~his or her~~)) failure to file a report or pay the proper amount of tax within the time prescribed was due to reasonable cause and was not intentional or willful, the department may waive the penalty prescribed in subsections (1)((~~,~~)) and (2)((~~, and (3)~~)) of this section.

(5) If any licensee files a false or fraudulent report with intent to evade the tax imposed by this chapter, there ((~~shall be~~)) is added to the amount of deficiency ((~~determined by the department a penalty equal to twenty-five percent of the deficiency, in addition to the penalty provided in subsection (2) of this section and~~)) a penalty of twenty-five percent of the deficiency, in addition to all other penalties prescribed by law.

(6) If any person acts as a licensee without first securing the required license, all fuel tax liability incurred by that person becomes immediately due and payable. The department must determine the amount of the tax liability and must assess the person a penalty of one hundred percent of the tax in addition to the tax owed.

(7) Any ((~~special~~)) fuel tax, penalties, and interest payable under this chapter shall bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion thereof should have been paid until the date of payment((~~: PROVIDED, That~~)). The department may waive ((~~the~~)) interest when it determines ((~~that~~)) the cost of processing the collection ((~~of the interest~~)) exceeds the amount of interest due.

((~~(7)~~)) (8) Except in the case ((~~of violations~~)) of filing a false or fraudulent report, if the department deems mitigation of penalties and interest to be reasonable and in the best interests of carrying out the purpose of this chapter, it may mitigate ((~~such assessments upon whatever terms the department deems proper, giving consideration to the degree and extent of the lack of records and reporting errors. The department may ascertain the facts regarding recordkeeping and payment penalties in lieu of more elaborate proceedings under this chapter~~)) the assessments.

((~~(8)~~)) (9) Except in the case of a fraudulent report ((~~or of neglect or refusal to make a report, every deficiency shall be assessed under subsection (2) of this section within five years from the twenty-fifth day of the next succeeding calendar month following the reporting period for which the amount is proposed to be~~)) or failure to file a report, deficiencies, penalties, and interest must be assessed within five years from the twenty-fifth day of the next succeeding month following the reporting period for which the amount is determined or within five years after the return is filed, whichever period expires ((~~the~~)) later.

((~~(9)~~)) (10)(a) Any licensee against whom an assessment is made under the provisions of subsections (1) and (2) ((~~or (3)~~)) of this section may petition for a reassessment ((~~thereof~~)) within thirty days after service upon the licensee of ((~~notice thereof~~)) the assessment. If such petition is not filed within such thirty day period, the amount of the assessment becomes final ((~~at the expiration thereof~~)).

(b) If a petition for reassessment is filed within the thirty day period, the department ((~~shall~~)) must reconsider the assessment and, if the licensee has ((~~so requested in his or her petition, shall grant such licensee an oral hearing and give the licensee ten days' notice of the time and place thereof. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment shall become final thirty days after service upon the licensee of notice thereof~~)) requested in the petition, must grant an informal hearing and give ten days' notice of the time and place. The department may continue the hearing as needed. The decision of the department upon a petition for reassessment becomes final thirty days after service upon the licensee.

(c) Every assessment made by the department ((~~shall~~)) becomes due and payable at the time it becomes final and if not timely paid to the department ((~~when due and payable, there shall be added thereto~~)), a penalty of ten percent of the amount of the tax is added to the assessment.

((~~(10)~~)) (11) Any notice of assessment required by this section ((~~shall~~)) must be served ((~~personally or by certified or registered mail; if by mail, service shall be made by depositing such notice in the United States mail, postage prepaid addressed to the licensee at~~

~~his or her address as the same appears~~)) by depositing such notice in the United States mail, postage prepaid addressed to the licensee at the address shown in the records of the department.

((~~(11)~~)) (12) Any licensee who has had ((~~the licensee's special~~)) a fuel license revoked ((~~shall~~)) must pay a one hundred dollar penalty prior to the issuance of a new license.

((~~(12)~~)) (13) Any person who, upon audit or investigation by the department, is found to have not paid ((~~special~~)) fuel taxes as required by this chapter ((~~shall be~~)) is subject to cancellation of all vehicle registrations for vehicles utilizing special fuel as a means of propulsion. Any unexpired Washington tonnage on the vehicles in question may be transferred to a purchaser of the vehicles upon application to the department who ((~~shall~~)) will hold such tonnage in its custody until a sale of the vehicle is made or the tonnage has expired.

((~~(13) Unless the use is exempt from the special fuel tax, or expressly authorized by the internal revenue code and this chapter, a person having dyed special fuel in the fuel supply tank of a motor vehicle that is licensed or required to be licensed is subject to a civil penalty of ten dollars for each gallon of dyed special fuel placed into the supply tank of the motor vehicle, or one thousand dollars, whichever is greater. The civil penalty collected as a result of this subsection must be deposited in the motor vehicle fund. The penalties must be collected and administered under this chapter.~~

~~(14) A person who maintains dyed special fuel in bulk storage for an intended sale or use in violation of this chapter is subject to a civil penalty of ten dollars for each gallon of dyed special fuel, or one thousand dollars, whichever is greater, currently or previously maintained in bulk storage by the person. The civil penalty collected as a result of this subsection must be deposited in the motor vehicle fund. The penalties must be collected and administered under this chapter.~~

~~(15) For the purposes of enforcement of this section, the Washington state patrol or other commercial vehicle safety alliance-certified officers may inspect, collect, and secure samples of special fuel used in the propulsion of a vehicle operated upon the highways of this state to detect the presence of dye or other chemical compounds.~~

~~(16) The Washington state patrol shall, by January 1, 1999, develop and implement procedures for collection, analysis, and storage of fuel samples collected under this chapter.~~

~~(17) RCW 43.05.110 does not apply to the civil penalties imposed under subsection (13) of this section.~~))

Sec. 119. RCW 82.38.180 and 2007 c 515 s 29 are each amended to read as follows:

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

((~~(1) Taxes previously paid on special~~)) (a) Fuel used for purposes other than for the propulsion of motor vehicles upon the public highways in this state. However, a refund may not be made for motor vehicle fuel consumed by a motor vehicle required to be registered under chapter 46.16A RCW.

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

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

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

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

((~~(6) Taxes previously paid on special fuel that is inadvertently mixed with dyed special fuel.~~)) (f) Fuel used in power pumping units or other power take-off equipment of any motor vehicle which is accurately measured by metering devices that have been specifically approved by the department or by a formula determined by the department.

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

(a) Special fuel used for the operation of a motor vehicle as a part of or incidental to logging operations upon a highway under federal jurisdiction within the boundaries of a federal area if the federal government requires a fee for the privilege of operating the motor vehicle upon the highway, the proceeds of which are reserved for constructing or maintaining roads in the federal area, or requires maintenance or construction work to be performed on the highway for the privilege of operating the motor vehicle on the highway;

(b) Special fuel used by special mobile equipment as defined in RCW 46.04.552;

(c) Special fuel used in a motor vehicle for movement between two pieces of private property wherein the movement is incidental to the primary use of the vehicle; and

(d) Special fuel inadvertently mixed with dyed special fuel.

(3) Any person who has purchased motor vehicle fuel on which tax has been paid may file a claim with the department for a refund of tax for:

(a) Motor vehicle fuel used by a private, nonprofit transportation provider regulated under chapter 81.66 RCW to provide transportation services for persons with special transportation needs; and

(b) Motor vehicle fuel used by an urban passenger transportation system. For purposes of this subsection "urban passenger transportation system" means every transportation system, publicly or privately owned, having as its principal source of revenue the income from transporting persons for compensation by means of motor vehicles or trackless trolleys, each having a seating capacity of over fifteen persons, over prescribed routes in such a manner that the routes of such motor vehicles or trackless trolleys, either alone or in conjunction with routes of other such motor vehicles or trackless trolleys subject to the routing by the same transportation system, do not extend for a distance exceeding fifteen road miles beyond the corporate limits of the city in which the original starting points of such motor vehicles or trackless trolleys are located. No refunds are authorized for fuel used on any trip where any portion of the trip is more than fifteen road miles beyond the corporate limits of the city in which the trip originated.

(4) Recovery for such loss or destruction under ((~~either~~)) subsections ((~~(4), (5), or (6)~~)) (1)(d) or (e) or (2)(d) of this

section must be susceptible to positive proof thereby enabling the department to conduct such investigation and require such information as it may deem necessary. In the event that the department is not satisfied that the fuel was lost, destroyed, or contaminated as claimed because information or proof as required hereunder is not sufficient to substantiate the accuracy of the claim, it may deem such as sufficient cause to deny all right relating to the refund or credit for the excise tax paid on ((~~special~~)) fuel alleged to be lost or destroyed.

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

Sec. 120. RCW 82.38.190 and 1998 c 176 s 74 are each amended to read as follows:

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

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

(3) No refund or credit ((~~shall~~)) may be approved by the department

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

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

(b) Within five years from the last day of the month following the close of the reporting period for which the overpayment is due with respect to the refunds or credits allowable under RCW 82.38.180((~~(3)~~)) (1)(c). The department ((~~shall~~)) must refund any amount paid that has been verified by the department to be more than ((~~ten~~)) twenty dollars over the amount actually due for the reporting period. Payment credits ((~~shall~~)) may not be carried forward and applied to subsequent tax returns for a person licensed under this chapter.

(4) Within thirty days after disallowing any claim in whole or in part, the department ((~~shall serve~~)) must provide written notice of its action ((~~on~~)) to the claimant.

(5)(a) Interest ((~~shall~~)) must be paid upon any refundable amount or credit due under RCW 82.38.180((~~(3)~~)) (1)(c) at the rate of one percent per month from the last day of the calendar month following the reporting period for which the refundable amount or credit is due.

(b) The interest ((~~shall~~)) must be paid:

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

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

(c) If the department determines that any overpayment has been made intentionally or by reason of carelessness, it ((~~shall~~)) may not allow any interest ((~~thereon~~)).

(6) The department ((~~shall~~)) must pay interest of one percent on any refund payable under RCW 82.38.180 (1)((~~, (2), or (6) that~~)) or

(2), except as provided in subsection (5)(a) of this section, which is issued more than thirty state business days after the receipt of a claim properly filed and completed ((~~in accordance with this section~~)). After the end of the thirty business-day period, additional interest ((~~shall~~)) accrues at the rate of one percent on the amount payable for each thirty calendar-day period((~~, until the refund is issued~~)).

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

Sec. 121. RCW 82.38.210 and 1998 c 176 s 75 are each amended to read as follows:

((~~If any licensee liable for the remittance of tax imposed by this chapter fails to pay the same, the amount thereof, including any interest, penalty, or addition to such tax, together with any costs that may accrue in addition thereto, shall be a lien in favor of the state upon all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by such person, whether such property is employed by such person for personal or business use or is in the hands of a trustee, or receiver, or assignee for the benefit of creditors, from the date the taxes were due and payable, until the amount of the lien is paid or the property sold in payment thereof. The lien shall have priority over any lien or encumbrance whatsoever, except the lien of other state taxes having priority by law, and except that such lien shall not be valid as against any bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached prior to the time the department has filed and recorded notice of such lien as hereinafter provided.~~

~~In order to avail itself of the lien hereby created, the department shall file with any county auditor a statement of claim and lien specifying the amount of delinquent taxes, penalties and interest claimed by the department. From the time of filing for record, the amount required to be paid shall constitute a lien upon all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by such person in the county. Any lien as provided in this section may also be filed in the office of the~~

~~secretary of state. Filing in the office of the secretary of state shall be of no effect, however, until the lien or copy thereof shall have been filed with the county auditor in the county where the property is located. When a lien is filed in compliance herewith and with the secretary of state, such filing shall have the same effect as if the lien had been duly filed for record in the office of the auditor in each county of this state.~~)) (1) If a person liable for payment of tax fails to pay the amount including any interest, penalty, or addition, together with costs accrued, there will be a lien in favor of the state upon all franchises, property, and rights to property, whether real or personal, belonging to or acquired, whether the property is employed by such person for personal or business use or is in the control of a trustee, receiver, or assignee. The lien is effective from the date taxes were due and payable until the amount is satisfied. The lien has priority over any lien or encumbrance except liens of other taxes having priority by law.

(2) The department must file with any county auditor a statement of claim and lien specifying the amount of delinquent taxes, penalties, and interest owed.

Sec. 122. RCW 82.38.220 and 1998 c 176 s 76 are each amended to read as follows:

((~~In the event any licensee is delinquent in the payment of any obligation imposed under this chapter, the department may give notice of the amount of such delinquency by registered or certified mail to all persons having in their possession or under their control any credits or other personal property belonging to the licensee or owing any debts to the licensee, at the time of the receipt by them of such notice. Any person so notified shall neither transfer nor make other disposition of such credits, personal property, or debts until the department consents to a transfer or other disposition. All persons so notified must, within twenty days after receipt of the notice, advise the department of any and all such credits, personal property, or debts in their possession, under their control or owing by them, as the case may be, and shall immediately deliver such credits, personal property, or debts to the department or its duly authorized representative to be applied to the indebtedness involved.~~

~~Upon service, the notice and order to withhold and deliver constitutes a continuing lien on property of the taxpayer. The department shall include in the caption of the notice to withhold and deliver "continuing lien." The effective date of a notice to withhold and deliver served under this section is the date of service of the notice.~~

~~If a person fails to answer the notice within the time prescribed by this section, it is lawful for the court, upon application of the department and after the time to answer the notice has expired, to render judgment by default against the party named in the notice to withhold and deliver for the full amount claimed by the department in the notice to withhold and deliver, together with costs.~~)) (1) If a person is delinquent in the payment of any obligation, the department may give notice of the amount of delinquency to persons having possession or control of credits, personal and real property belonging to the person, or owing debts to the person. Any person notified may not transfer or dispose of credits, personal and real property, or debts without the consent of the department. A person notified must, within twenty days after receipt of notice, advise the department of any credits, personal and real property, or debts in their possession, under their control or owing by them, and must immediately deliver the credits, personal and real property, or debts to the department.

(2) The notice and order to withhold and deliver constitutes a continuing lien on property of the person. The department must include in the notice to withhold and deliver "continuing lien." The effective date of a notice to withhold and deliver is the date of mailing.

(3) If a person fails to timely answer the notice, a court may render judgment, plus costs by default against the person.

Sec. 123. RCW 82.38.230 and 2007 c 218 s 78 are each amended to read as follows:

((~~Whenever any licensee is delinquent in the payment of any obligation imposed hereunder, and such delinquency continues after notice and demand for payment by the department, the department shall proceed to collect the amount due from the licensee in the following manner: The department shall seize any property subject to the lien of said excise tax, penalty, and interest and thereafter sell it at public auction to pay said obligation and any and all costs that may have been~~

~~incurred on account of the seizure and sale. Notice of such intended sale and the time and place thereof shall be given to such delinquent licensee and to all persons appearing of record to have an interest in such property. The notice shall be given in writing at least ten days before the date set for the sale by enclosing it in an envelope addressed to the licensee at the licensee's address as the same appears in the records of the department and, in the case of any person appearing of record to have an interest in such property, addressed to such person at his or her last known residence or place of business, and depositing such envelope in the United States mail, postage prepaid. In addition, the notice shall be published for at least ten days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in such county, the notice shall be posted in three public places in the county for a period of ten days. The notice shall contain a description of the property to be sold, together with a statement of the amount due under this chapter, the name of the licensee and the further statement that unless such amount is paid on or before the time fixed in the notice the property will be sold in accordance with law.~~

~~The department shall then proceed to sell the property in accordance with the law and the notice, and shall deliver to the purchaser a bill of sale or deed which shall vest title in the purchaser. If upon any such sale the moneys received exceed the amount due to the state under this chapter from the delinquent licensee, the excess shall be returned to the licensee and the licensee's receipt obtained for the excess. If any person having an interest in or lien upon the property has filed with the department prior to such sale, notice of such interest or lien, the department shall withhold payment of any such excess to the licensee pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the licensee is not available, the department shall deposit such excess with the state treasurer as trustee for the licensee or the licensee's heirs, successors, or assigns: PROVIDED, That prior to making any seizure of property as provided for in this section, the department may first serve upon the licensee's bondsperson a notice of the delinquency, with a demand for the~~)) (1) If a person is delinquent in the payment of any

obligation, and the delinquency continues after notice and demand for payment the department must collect the amount due. The department must seize any property subject to the lien of excise tax, penalty, and interest and sell it at public auction. Notice of sale and the time and place must be given to the person and to all persons appearing with an interest in the property. The notice must be in writing at least ten days before the date of sale. Notice must be published for at least ten days before the date of sale in a newspaper of general circulation published in the county the property will be sold. If there is no newspaper of general circulation in the county, the notice must be posted in three public places in the county for a period of ten days. The notice must contain a description of the property together with a statement of the amount due, the name of the person, and a statement that unless the amount is paid on or before the time in the notice the property will be sold.

(2) The department must sell the property and deliver to the purchaser a bill of sale or deed. If the moneys received exceed the amount due from the person, the excess must be returned to the person and a receipt obtained. If any person having an interest in or lien upon the property has filed notice with the department prior to the sale, the department must withhold payment of any excess to the person pending determination of the rights of the respective parties by a court of competent jurisdiction. If the receipt of the person is not available, the department must deposit the excess with the state treasurer as trustee for the person or their heirs, successors, or assigns. Prior to making any seizure of property, the department may first serve upon the person's bondsperson a notice of delinquency and, demand for payment of the amount due.

Sec. 124. RCW 82.38.235 and 2001 c 146 s 14 are each amended to read as follows:

((~~Whenever any assessment shall have become final in accordance with the provisions of this chapter, the department may file with the clerk of any county within the state a warrant in the amount of the assessment of taxes, penalties plus interest and a filing fee under RCW 36.18.012(10). The clerk of the county wherein the warrant is filed shall immediately designate a superior court cause number for such warrant, and the clerk shall cause to be entered in the judgment docket~~

~~under the superior court cause number assigned to the warrant, the name of the licensee mentioned in the warrant, the amount of the tax, penalties, interest and filing fee and the date when such warrant was filed. The aggregate amount of such warrant as docketed shall become a lien upon the title to, and interest in all real and personal property of named person against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. Such warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law in the case of civil judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant.~~)) When an assessment becomes final the department may file with the clerk of any county within the state a warrant in the amount of the assessment of taxes, penalties, interest and a filing fee under RCW 36.18.012(10). The warrant is a lien upon title to, and interest in all real and personal property of the person against whom the warrant is issued. The warrant is sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state.

Sec. 125. RCW 82.38.245 and 1997 c 183 s 9 are each amended to read as follows:

A ((~~special fuel licensee, who files or against whom is filed a petition in bankruptcy, shall, within ten days of the filing, notify the department of the proceedings in bankruptcy, including the identity and location of the court in which the proceedings are pending~~)) licensee who files a petition for bankruptcy, or against whom a petition for bankruptcy is filed, must notify the department within ten days of the filing, including the name and location of the court in which the petition was filed.

Sec. 126. RCW 82.38.260 and 1998 c 176 s 80 are each amended to read as follows:

(1) The department ((~~shall enforce the provisions of this chapter, and may prescribe, adopt, and enforce reasonable rules and regulations relating to the administration and enforcement thereof. The Washington state patrol and its officers shall aid the department in the~~

~~enforcement of this chapter, and, for this purpose, are declared to be peace officers, and given police power and authority throughout the state to arrest on sight any person known to have committed a violation of the provisions of this chapter.~~

~~The department or its authorized representative is hereby empowered to examine the books, papers, records and equipment of any licensee or any person dealing in, transporting, or storing special fuel as defined in this chapter and to investigate the character of the disposition which any person makes of such special fuel in order to ascertain and determine whether all taxes due hereunder are being properly reported and paid. The fact that such books, papers, records and equipment are not maintained in this state at the time of demand shall not cause the department to lose any right of such examination under this chapter when and where such records become available.~~

~~The department or its authorized representative is further empowered to investigate the disposition of special fuel by any person where the department has reason to believe that untaxed special fuel has been diverted to a use subject to the taxes imposed by this chapter without said taxes being paid in accordance with the requirements of this chapter.~~

~~For the purpose of enforcing the provisions of this chapter it shall be presumed that all special fuel delivered to service stations as well as all special fuel otherwise received into storage and dispensing equipment designed to fuel motor vehicles is delivered into the fuel supply tanks of motor vehicles and consumed in the propulsion of motor vehicles on the highways of this state, unless the contrary is established by satisfactory evidence.~~

~~The department shall, upon request from the officials to whom are entrusted the enforcement of the special fuel tax law of any other state, the District of Columbia, the United States, its territories and possessions, the provinces or the Dominion of Canada, forward to such officials any information which he or she may have relative to the receipt, storage, delivery, sale, use, or other disposition of special fuel by any licensee if the other state or states furnish like information to this state.~~

~~Returns required by this chapter, exclusive of schedules, itemized statements and other supporting evidence annexed thereto, shall at all~~

~~reasonable times be open to the public~~)) may prescribe, adopt, and enforce reasonable rules relating to administration and enforcement of this chapter.

(2) The department or its authorized representative may examine the books, papers, records, and equipment of any person distributing, transporting, storing, or using fuel to determine whether all taxes due or refundable are properly reported, paid, or claimed. If books, papers, records, and equipment are not maintained in this state at the time of demand, the department does not lose any right of examination.

(3) The department may require additional reports from any licensee with reference to any of the matters herein concerned. Such reports must be made and filed on forms prepared by the department.

(4) For the purpose of any investigation or proceeding, the director or designee may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

(5) In the case of contumacy by or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction upon application by the director, may issue to that person an order requiring appearance before the director or designee to produce testimony of other evidence regarding the matter under investigation or in question.

(6) The department must, upon request from officials responsible for enforcement of fuel tax laws of any state, the District of Columbia, the United States, its territories and possessions, the provinces or the dominion of Canada, forward information relative to the receipt, storage, delivery, sale, use, or other disposition of fuel by any person, if the other furnishes like information.

(7) The department may enter into a fuel tax cooperative agreement with another state, the District of Columbia, the United States, its territories and possessions, or Canadian province for the administration, collection, and enforcement of their respective fuel taxes.

(8) For the purposes of administration, collection, and enforcement of taxes imposed under this chapter, pursuant to another agreement

under chapter 82.41 RCW, chapter 82.41 RCW controls to the extent of any conflict.

(9) The remedies of the state in this chapter are cumulative and no action taken by the department may be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this chapter.

Sec. 127. RCW 82.38.270 and 2007 c 515 s 30 are each amended to read as follows:

(1) It is unlawful for a person ((~~or corporation~~)) to:

(a) Have dyed ((~~diesel~~)) special fuel in the fuel supply tank of a vehicle that is licensed or required to be licensed for highway use or maintain dyed ((~~diesel~~)) special fuel in bulk storage for highway use, unless the person ((~~or corporation~~)) maintains an uncanceled dyed ((~~diesel~~)) special fuel user license or is otherwise ((~~exempted by~~)) exempt under this chapter;

(b) Hold dyed special fuel for use, intended use, sale, or intended sale in a manner in violation of this chapter;

(c) Evade a tax or fee imposed under this chapter;

((~~(c)~~)) (d) File a false statement of a material fact ((~~on a special fuel license application or special fuel refund application;~~

~~(d) Act as a special fuel importer, special fuel blender, or special fuel supplier unless the person holds an uncanceled special~~)) regarding the administration and enforcement of this chapter or otherwise commit any fraud or make a false representation on a fuel tax license application, fuel tax refund application, fuel tax return, fuel tax record, or fuel tax refund claim;

(e) Act as a fuel licensee unless the person holds an uncanceled fuel license issued by the department authorizing the person to engage in that business;

((~~(e)~~)) (f) Knowingly assist another person to evade a tax or fee imposed by this chapter;

((~~(f)~~)) (g) Knowingly operate a conveyance for the purpose of hauling, transporting, or delivering ((~~special~~)) fuel in bulk and not possess an invoice, bill of sale, or other statement showing the name, address, and tax license number of the seller or consignor, the

destination, the name, address, and tax license number of the purchaser or consignee, and the number of gallons;

(h) Refuse to permit the department or its authorized representative to examine the person's books, papers, records, storage facilities, and equipment used in conjunction with the use, distribution, or sale of fuel;

(i) To display, or cause to permit to be displayed, or to have in possession, any fuel license knowing the same to be fictitious, or to have been suspended, canceled, revoked, or altered;

(j) To lend to, or knowingly permit the use of, by one not entitled thereto, any fuel license issued to the person lending it or permitting it to be used;

(k) To display or to represent as one's own any fuel license not issued to the person displaying the same;

(l) To use or to conspire with any governmental official, agent, or employee for the use of any requisition, purchase order, or any card or any authority to which the person is not specifically entitled by government regulations, for the purpose of obtaining any fuel or other inflammable petroleum products upon which the fuel tax has not been paid;

(m) To sell or dispense natural gas or propane for their own use or the use of others into tanks of vehicles powered by this fuel when the vehicle does not display a valid decal or other identifying device as provided in RCW 82.38.075.

(2)(a) A single violation of subsection (1)(a) and (b) of this section is a gross misdemeanor under chapter 9A.20 RCW.

(b) Multiple violations of subsection (1)(a) and (b) of this section and violations of subsection (1)((~~(b) through (f)~~)) (c) through (g) of this section are a class C felony under chapter 9A.20 RCW.

(3) Violations of subsection (1)(h) through (m) of this section are a gross misdemeanor under chapter 9A.20 RCW.

(4) In addition to other penalties and remedies provided by law, the court ((~~shall~~)) must order a person or corporation found guilty of violating subsection (1)((~~(b) through (f)~~)) (c) through (g) of this section to:

(a) Pay the tax or fee evaded plus interest, commencing at the date the tax or fee was first due, at the rate of twelve percent per year, compounded monthly; and

(b) Pay a penalty of one hundred percent of the tax evaded((~~, to the multimodal transportation account of the state~~)).

((~~(4)~~)) (5) The tax imposed by this chapter is held in trust by the licensee until paid to the department, and a licensee who appropriates the tax to his or her own use or to any use other than the payment of the tax ((~~on the due date as prescribed in this chapter~~)) is guilty of a felony or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to pay to the department the tax ((~~imposed by this chapter~~)) is personally liable to the state for the amount of the tax.

Sec. 128. RCW 82.38.280 and 2010 c 106 s 231 are each amended to read as follows:

(1) The tax levied in this chapter is in lieu of any excise, privilege, or occupational tax upon the business of manufacturing, selling, or distributing ((~~special~~)) fuel, and no city, town, county, township or other subdivision or municipal corporation of the state may levy or collect any excise tax upon or measured by the sale, receipt, distribution, or use of ((~~special~~)) fuel, except as provided in chapter 82.80 RCW and RCW 82.47.020.

(2) This section does not apply to any tax imposed by the state.

Sec. 129. RCW 82.38.290 and 1971 ex.s. c 175 s 30 are each amended to read as follows:

((~~All taxes, interest and penalties collected under this chapter shall be credited and deposited in the same manner as are motor vehicle fuel taxes collected under RCW 82.36.410.~~)) (1) Unless directed otherwise in this section, all taxes, fees, assessments, civil and criminal penalties, interest, and proceeds from sales of forfeited property collected under this chapter must be deposited into the motor vehicle fund.

(2) The penalty imposed in RCW 82.38.270(4)(b) must be deposited into the multimodal transportation account.

(3) One cent per gallon must be deducted from each motor vehicle fuel marine use refund claim and deposited into the coastal protection fund.

(4) Fifty percent of all fines and forfeitures imposed in any criminal proceeding by any court of this state for violations of the penal provisions of this chapter must be paid to the current expense fund of the county where collected and the remainder deposited into the motor vehicle fund. All fees, fines, forfeitures, and penalties collected or assessed by a district court must be remitted as provided in chapter 3.62 RCW.

Sec. 130. RCW 82.38.310 and 2007 c 515 s 31 are each amended to read as follows:

(1) The governor may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding ((~~special~~)) fuel taxes included in the price of fuel delivered to a retail station wholly owned and operated by a tribe, tribal enterprise, or tribal member licensed by the tribe to operate a retail station located on reservation or trust property. The agreement may provide mutually agreeable means to address any tribal immunities or any preemption of the ((~~state special~~)) fuel tax.

(2) The provisions of this section do not repeal existing state/tribal fuel tax agreements or consent decrees in existence on May 15, 2007. The state and the tribe may agree to substitute an agreement negotiated under this section for an existing agreement or consent decree, or to enter into an agreement using a methodology similar to the state/tribal fuel tax agreements in effect on May 15, 2007.

(3) If a new agreement is negotiated, the agreement must:

(a) Require that the tribe or the tribal retailer acquire all ((~~special~~)) fuel only from persons or companies operating lawfully in accordance with this chapter as a ((~~special~~)) fuel distributor, supplier, ((~~importer,~~)) or blender, or from a tribal distributor, supplier, ((~~importer,~~)) or blender lawfully doing business according to all applicable laws;

(b) Provide that the tribe will expend fuel tax proceeds or equivalent amounts on: Planning, construction, and maintenance of roads, bridges, and boat ramps; transit services and facilities; transportation planning; police services; and other highway-related purposes;

(c) Include provisions for audits or other means of ensuring compliance to certify the number of gallons of ((~~special~~)) fuel

purchased by the tribe for resale at tribal retail stations, and the use of fuel tax proceeds or their equivalent for the purposes identified in (b) of this subsection. Compliance reports must be delivered to the director of the department of licensing.

(4) Information from the tribe or tribal retailers received by the state or open to state review under the terms of an agreement ((~~shall be~~)) are deemed personal information under RCW 42.56.230((~~(3)~~)) (4)(b) and are exempt from public inspection and copying.

(5) The governor may delegate the power to negotiate fuel tax agreements to the department of licensing.

(6) The department of licensing ((~~shall~~)) must prepare and submit an annual report to the legislature on the status of existing agreements and any ongoing negotiations with tribes.

Sec. 131. RCW 82.38.320 and 2007 c 515 s 32 are each amended to read as follows:

(1) An international fuel tax agreement licensee who meets the qualifications in subsection (2) of this section may be given special authorization by the department to purchase special fuel delivered into bulk storage without payment of the ((~~special~~)) fuel tax at the time the fuel is purchased. The special authorization applies only to full truck-trailer loads filled at a terminal rack and delivered directly to the bulk storage facilities of the special authorization holder. The licensee ((~~shall~~)) must pay ((~~special~~)) fuel tax on the fuel at the time the licensee files their international fuel tax agreement tax return and accompanying schedule with the department. The accompanying schedule ((~~shall~~)) must be provided in a form and manner determined by the department and ((~~shall~~)) must contain information on purchases and usage of all nondyed special fuel purchased during the reporting period. In addition, by the fifteenth day of the month following the month in which fuel under the special authorization was purchased, the licensee must report to the department, the name of the seller and the number of gallons purchased for each purchase of such fuel, and any other information as the department may require.

(2) To receive or maintain special authorization under subsection (1) of this section, the following conditions regarding the international fuel tax agreement licensee must apply:

(a) During the period encompassing the four consecutive calendar quarters immediately preceding the fourth calendar quarter of the previous year, the number of gallons consumed outside the state of Washington as reported on the licensee's international fuel tax agreement tax returns must have been equal to at least twenty percent of the nondyed special fuel gallons, including fuel used on-road and off-road, purchased by the licensee in the state of Washington, as reported on the accompanying schedules required under subsection (1) of this section;

(b) The licensee must have been licensed under the provisions of the international fuel tax agreement during each of the four consecutive calendar quarters immediately preceding the fourth calendar quarter of the previous year; and

(c) The licensee has not violated the reporting requirements of this section.

(3) Only a licensed ((~~special~~)) fuel supplier or ((~~special~~)) fuel ((~~importer~~)) distributor may sell special fuel to a special authorization holder in the manner prescribed by this section.

(4) A ((~~special~~)) fuel supplier or ((~~importer~~)) distributor who sells ((~~special~~)) fuel under the special authorization provisions of this section is not liable for the ((~~special~~)) fuel tax on the fuel. The ((~~special~~)) fuel supplier or ((~~importer will~~)) distributor must report such sales, in a manner prescribed by the department, at the time the ((~~special~~)) fuel supplier or ((~~importer~~)) distributor submits the monthly tax report.

Sec. 132. RCW 82.38.360 and 2003 c 358 s 7 are each amended to read as follows:

(1) The following are subject to seizure and forfeiture:

(a) ((~~Special~~)) Fuel imported into this state by a person not licensed in this state in accordance with this chapter to import fuel;

(b) ((~~Special fuel that is~~)) Fuel blended or manufactured by a person not licensed in this state in accordance with this chapter to blend or manufacture fuel;

(c) All conveyances ((~~that are~~)) used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in (a) and (b) of this

subsection, except where the owner of the conveyance neither had knowledge of nor consented to the transportation of the ((~~special~~)) fuel by an unlicensed importer, blender, or manufacturer of fuel.

(2) Before seizing a common carrier conveyance, contract carrier conveyance, or a conveyance secured by a bona fide security interest where the secured party neither had knowledge of or consented to the unlawful act or omission, the state patrol or the department of licensing ((~~shall~~)) must give the common carrier, contract carrier, or secured party, or their representatives within twenty-four hours, a notice in writing served by mail or other means to cease transporting fuel for any person not licensed to import, blend, or manufacture fuel in this state.

(3) Property subject to forfeiture under this chapter may be seized by the state patrol upon process issued by a superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an administrative inspection; or

(b) The state patrol has probable cause to believe ((~~that~~)) the property was used or is intended to be used in violation of this chapter and exigent circumstances exist making procurement of a search warrant impracticable.

Sec. 133. RCW 82.38.365 and 2003 c 358 s 8 are each amended to read as follows:

In all cases of seizure of property made subject to forfeiture under this chapter, the state patrol ((~~shall~~)) must proceed as follows:

(1) Forfeiture is deemed to have commenced by the seizure.

(2) The state patrol ((~~shall~~)) must list and particularly describe in duplicate the conveyance seized. After the appropriate appeal period has expired, a seized conveyance must be sold at a public auction in accordance with chapter 43.19 RCW.

(3) The state patrol ((~~shall~~)) must list and particularly describe in duplicate the ((~~special~~)) fuel seized. The selling price of the fuel seized ((~~will~~)) must be the average terminal rack price for similar fuel, at the closest terminal rack on the day of sale, unless circumstance warrants that a different selling price is appropriate. The method used to value the fuel must be documented. The fuel

((~~will~~)) must be sold at the earliest point in time, and the total price must include all appropriate state and federal taxes. The state patrol or the department may enter into contracts for the transportation, handling, storage, and sale of fuel subject to forfeiture. ((~~The money received must be deposited in the motor vehicle account, after deduction for expenses provided for in this section.~~))

(4) The state patrol ((~~shall~~)) must, within five days after the seizure of a conveyance or fuel, cause notice to be served on the owner of the property seized, if known, on the person in charge of the property, and on any other person having any known right or interest in the property, of the seizure and intended forfeiture. The notice may be served by any method authorized by law or court rule including but not limited to service by mail. If service is by mail it must be by both certified mail with return receipt requested and regular mail. Service by mail is deemed complete upon mailing within the five-day period after the date of seizure.

(5) If no person notifies the state patrol in writing of the person's claim of ownership or right to possession of the items seized within fifteen days of the date of the notice of seizure, the items seized are considered forfeited.

(6) If any person notifies the state patrol, in writing, of the person's claim of ownership or right to possession of the items seized within fifteen days of the date of the notice of seizure, the person or persons must be given a reasonable opportunity to be heard as to the claim or right. The hearing must be before the director of licensing, or the director's designee. A hearing and any appeals must be in accordance with chapter 34.05 RCW. The burden of proof by a preponderance of the evidence is upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the items seized. The state patrol and the department ((~~shall~~)) must promptly return the conveyance seized, and money from the sale of fuel seized, to the claimant upon a determination that the claimant is the present lawful owner and is lawfully entitled to possession of the items seized.

Sec. 134. RCW 82.38.370 and 2003 c 358 s 9 are each amended to read as follows:

When property is forfeited under this chapter, the state patrol or the department may use the proceeds of the sale and all moneys forfeited for the payment of all proper expenses of any investigation leading to the seizure and of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs. Proper expenses of investigation include costs incurred by a law enforcement agency or a federal, state, or local agency. ((~~The balance of the proceeds must be deposited in the motor vehicle fund.~~))

Sec. 135. RCW 82.38.380 and 2003 c 358 s 11 are each amended to read as follows:

When the state patrol has good reason to believe that ((~~special~~)) fuel is being unlawfully imported, kept, sold, offered for sale, blended, or manufactured in violation of this chapter or rules adopted under it, the state patrol may make an affidavit of that fact, describing the place or thing to be searched, before a judge of any court in this state, and the judge ((~~shall~~)) must issue a search warrant directed to the state patrol commanding the officer diligently to search any place or vehicle designated in the affidavit and search warrant, and to seize the fuel and conveyance so possessed and to hold them until disposed of by law, and to arrest the person in possession or control of them.

Sec. 136. RCW 82.38.385 and 2003 c 358 s 12 are each amended to read as follows:

The department and the state patrol ((~~shall~~)) must adopt rules necessary to implement RCW 82.38.360 through 82.38.380.

PART II
FUEL TAX CONSOLIDATION--NEW SECTIONS

NEW SECTION. **Sec. 201.** BONDING REQUIREMENTS. (1) A license may not be issued or continued in force unless a bond is provided to secure payment of all taxes, interest, and penalties. This requirement may be waived for:

(a) Licensed dyed special fuel users;

(b) International fuel tax agreement licensees; or

(c) Licensed fuel distributors who, upon determination by the department, have sufficient resources, assets, other financial instruments, or other means to adequately make payments on monthly fuel tax payments, penalties, and interest.

(2) The department may require a licensee to post a bond if the department determines a bond is required to protect the interests of the state.

(3) The total amount of the bond or bonds is three times the estimated monthly fuel tax liability. The total bonding amount may never be less than five thousand dollars nor more than one hundred thousand dollars.

(4) In lieu of a bond, a licensee may deposit with the state treasurer, a like amount of money of the United States, or bonds or other obligations of the United States, the state, or any county of the state, of a market value not less than the amount of the required bond.

(5) The department may require a licensee to increase the bond amount or to deposit additional securities as described in this section if the security of the bond or the market value of the securities becomes impaired or inadequate.

(6) Any surety on a bond furnished by a licensee must be released and discharged from any liability accruing on such bond after the expiration of forty-five days from the date the surety provided written notification to the department. The provisions of this section do not relieve, release, or discharge the surety from any liability accrued or which will accrue before the expiration of the forty-five day period. The department must promptly notify the licensee who furnished the bond, and unless the licensee, on or before the expiration of the forty-five day period, files a new bond the department must cancel the license.

NEW SECTION. **Sec. 202.** DATE OF MAILING DEEMED DATE OF FILING OR RECEIPT--TIMELY MAILING BARS PENALTIES AND TOLLS STATUTORY TIME LIMITATIONS. An application, report, notice, payment, or claim for credit or refund properly addressed and deposited in the United States mail is deemed filed or received on the date shown by the post office cancellation mark on the envelope. No penalty for delinquency attaches, nor is the statutory period deemed to have elapsed in the case of credit or refund claims, if it is established by competent

evidence that the application, report, notice, payment, or claim for credit or refund was properly addressed and timely deposited in the United States mail, if a duplicate of the document or payment is filed.

NEW SECTION. **Sec. 203.** DISCONTINUANCE, SALE, OR TRANSFER OF BUSINESS--NOTICE--PAYMENT OF TAXES, INTEREST, PENALTIES. A licensee who ceases to engage in business must notify the department in writing at the time of cessation. The notice must give the date of cessation and the name and address of any purchaser or transferee. The licensee must file a report and pay all taxes, interest, and penalties owing.

NEW SECTION. **Sec. 204.** DYED SPECIAL FUEL--PENALTIES. (1) Unless the use is exempt from the special fuel tax, or expressly authorized by the federal internal revenue code and this chapter, a person having dyed special fuel in the fuel supply tank of a motor vehicle that is licensed or required to be licensed is subject to a civil penalty of ten dollars for each gallon of dyed special fuel placed into the supply tank of the motor vehicle, or one thousand dollars, whichever is greater. The penalties must be collected and administered under this chapter.

(2) A person who maintains dyed special fuel in bulk storage for an intended sale or use in violation of this chapter is subject to a civil penalty of ten dollars for each gallon of dyed special fuel, or one thousand dollars, whichever is greater, currently or previously maintained in bulk storage by the person. The penalties must be collected and administered under this chapter.

(3) For the purposes of enforcement of this section, the Washington state patrol or other commercial vehicle safety alliance-certified officers may inspect, collect, and secure samples of special fuel used in the propulsion of a vehicle operated upon the highways of this state to detect the presence of dye or other chemical compounds.

(4) RCW 43.05.110 does not apply to the civil penalties imposed under subsection (1) of this section.

NEW SECTION. **Sec. 205.** DEDUCTIONS--HANDLING LOSSES--REPORTS. Upon the taxable removal of motor vehicle fuel, the licensee who acquired or removed the motor vehicle fuel, other than a motor vehicle fuel distributor acting as an exporter, is entitled to a deduction from

the tax liability on the gallonage of taxable motor vehicle fuel removed in order to account for handling losses, as follows: For a motor vehicle fuel supplier acting as a distributor, one-quarter of one percent; and for all other licensees, thirty one-hundredths of one percent. For those licensees required to file tax reports, the handling loss deduction must be reported on tax reports.

NEW SECTION. **Sec. 206.** INJUNCTIONS--WRITS. No injunction or writ of mandate or other legal or equitable process may be issued in any suit, action, or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this chapter of any tax or any amount of tax required to be collected.

NEW SECTION. **Sec. 207.** REFUND TO AERONAUTICS ACCOUNT. At least once each fiscal year, the director must request the state treasurer to refund from the motor vehicle fund, to the aeronautics account created under RCW 82.42.090, an amount equal to 0.028 percent of the gross motor vehicle fuel tax less an amount equal to aircraft fuel taxes transferred to that account as a result of nonhighway refunds claimed by motor fuel purchasers. The refund is considered compensation for unclaimed motor vehicle fuel that is used in aircraft for purposes taxable under RCW 82.42.020. The director must also remit from the motor vehicle fund the taxes required by RCW 82.12.0256(2)(d) for the unclaimed refunds, provided that the sum of the amount refunded and the amount remitted in accordance with RCW 82.12.0256(2)(d) does not exceed the unclaimed refunds.

NEW SECTION. **Sec. 208.** PAYMENT OF TAX BY A NONLICENSEE. Every person, other than a licensee, who acquires fuel upon which payment of tax is required must, if the tax has not been paid, comply with the provisions of this chapter, and pay tax at the rate provided in RCW 82.38.030. The person is subject to the same duties and penalties imposed upon licensees.

PART III
AIRCRAFT FUEL TAX--AMENDATORY PROVISIONS

Sec. 301. RCW 82.42.010 and 1983 c 49 s 1 are each amended to read as follows:

((~~For the purposes of this chapter:~~

~~(1)~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Air carrier" means any airline, air cargo carrier, air taxi, air commuter, or air charter operator, that provides routine air service to the general population for compensation or hire, and operates at least fifteen round trips per week between two or more points and publishes flight schedules which specify the times, days of the week, and points between which it operates. Where it is doubtful that an operation is for "compensation or hire," the test applied is whether the air service is merely incidental to the person's other business or is, in itself, a major enterprise for profit.

(2) "Department" means the department of licensing((~~:~~)).

((~~(2)~~)) (3) "Director" means the director of licensing((~~:~~)).

((~~(3)~~)) (4) "Person" means every natural person, firm, partnership, association, or private or public corporation((~~:~~)).

((~~(4)~~)) (5) "Aircraft" means every contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, operated or propelled by the use of aircraft fuel((~~:~~)).

((~~(5)~~)) (6) "Aircraft fuel" means gasoline and any other inflammable liquid, by whatever name such liquid is known or sold, the chief use of which is as fuel for the propulsion of aircraft, except gas or liquid, the chief use of which as determined by the director, is for purposes other than the propulsion of aircraft((~~:~~)).

((~~(6)~~)) (7) "Dealer" means any person engaged in the retail sale of aircraft fuel((~~:~~)).

((~~(7)~~)) (8) "Distributor" means any person engaged in the sale of aircraft fuel to any dealer and ((~~shall~~)) include~~s~~ any dealer from whom the tax hereinafter imposed has not been collected((~~:~~)).

((~~(8) "Weighted average retail sales price of aircraft fuel" means the average retail sales price, excluding any federal excise tax, of the several grades of aircraft fuel sold by dealers throughout the state (less any state excise taxes on the sale, distribution, or use thereof) upon which fuel the tax levied by this chapter has been collected, weighted to reflect the quantities sold at each price;~~

~~(9) "Fiscal half-year" means a six-month period ending June 30th or December 31st;~~

~~(10)~~)) (9) "Local service commuter" means an air taxi operator who operates at least five round-trips per week between two or more points; publishes flight schedules which specify the times, days of the week, and points between which it operates; and whose aircraft has a maximum capacity of sixty passengers or eighteen thousand pounds of useful load.

Sec. 302. RCW 82.42.020 and 2005 c 341 s 3 are each amended to read as follows:

There is ((~~hereby levied, and there shall be collected by every distributor of aircraft fuel, an excise tax at the rate of eleven cents on each gallon of aircraft fuel sold, delivered, or used in this state: PROVIDED HOWEVER, That such aircraft fuel excise tax shall not apply to fuel for aircraft that both operate from a private, non-state-funded airfield during at least ninety-five percent of the aircraft's normal use and are used principally for the application of pesticides, herbicides, or other agricultural chemicals and shall not apply to fuel for emergency medical air transport entities: PROVIDED FURTHER, That there shall be collected from every consumer or user of aircraft fuel either the use tax imposed by RCW 82.12.020, as amended, or the retail sales tax imposed by RCW 82.08.020, as amended, collection procedure to be as prescribed by law and/or rule or regulation of the department of revenue. The taxes imposed by this chapter shall be collected and paid to the state but once in respect to any aircraft fuel.~~

~~The tax required by this chapter, to be collected by the seller, is held in trust by the seller until paid to the department, and a seller who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax~~)) levied upon every distributor of aircraft fuel, an

excise tax at the rate of eleven cents on each gallon of aircraft fuel sold, delivered, or used in this state. There must be collected from every user of aircraft fuel either the use tax imposed by RCW 82.12.020 or the retail sales tax imposed by RCW 82.08.020. The taxes imposed by this chapter must be collected and paid to the state but once in respect to any aircraft fuel.

Sec. 303. RCW 82.42.030 and 2005 c 341 s 4 are each amended to read as follows:

((~~(1)~~)) The provision of RCW 82.42.020 imposing the payment of an excise tax on each gallon of aircraft fuel sold, delivered or used in this state ((~~shall~~)) does not apply to:

(1) Aircraft fuel sold for export((~~, nor to aircraft fuel used for the following purposes: (a) The operation of aircraft when such use is by any air carrier or supplemental air carrier operating under a certificate of public convenience and necessity under the provisions of the Federal Aviation Act of 1958, Public Law 85-726, as amended; (b) the operation of aircraft for testing or experimental purposes; (c) the operation of aircraft when such operation is for the training of crews in Washington state for purchasers of aircraft who are certified air carriers; and (d) the operation of aircraft in the operations of a local service commuter: PROVIDED, That the director's determination as to a particular activity for which aircraft fuel is used as being an exemption under this section, or otherwise, shall be final.~~

~~(2) To claim an exemption on account of sales by a licensed distributor of aircraft fuel for export, the purchaser shall obtain from the selling distributor, and such selling distributor must furnish the purchaser, an invoice giving such details of the sale for export as the director may require, copies of which shall be furnished the department and the entity of the state or foreign jurisdiction of destination which is charged by the laws of that state or foreign jurisdiction with the control or monitoring or both, of the sales or movement of aircraft fuel in that state or foreign jurisdiction.~~

~~(3) For the purposes of this section, "air carrier" means an airline, air cargo carrier, air taxi, air commuter, or air charter operator, that provides routine air service to the general public for compensation or hire, and operates at least fifteen round-trips per week between two or more points and publishes flight schedules which~~

~~specify the times, days of the week, and points between which it operates. Where it is doubtful that an operation is for "compensation or hire," the test applied is whether the air service is merely incidental to the person's other business or is, in itself, a major enterprise for profit~~)) and exported from this state;

(2) Aircraft fuel imported into the state in interstate or foreign commerce and intended to be sold while in interstate or foreign commerce;

(3) Aircraft fuel sold to an agency of the United States government;

(4) Aircraft fuel delivered directly into the aircraft fuel tanks of equipment operated by an air carrier or supplemental air carrier operating under a certificate of public convenience and necessity under the provisions of the federal aviation act of 1958, P.L. 85-726, as amended;

(5) Aircraft fuel delivered directly into the aircraft fuel tanks of equipment operated by a local service commuter;

(6) Aircraft fuel sold to emergency medical air transport entities;

(7) Aircraft fuel sold to a licensed aircraft fuel distributor;

(8) Aircraft fuel delivered into the bulk storage tank of a certified user;

(9) Aircraft fuel used in the operation of aircraft for testing or experimental purposes; and

(10) Aircraft fuel used in the operation of aircraft when such operation is for the training of crews in Washington state for purchasers of aircraft who are certified air carriers.

Sec. 304. RCW 82.42.040 and 2008 c 181 s 507 are each amended to read as follows:

((~~The director shall by rule and regulation adopted as provided in chapter 34.05 RCW (Administrative Procedure Act) set up the necessary administrative procedure for collection by the department of the aircraft fuel excise tax as provided for in RCW 82.42.020, placing the responsibility of collection of said tax upon every distributor of aircraft fuel within the state; he may require the licensing of every distributor of aircraft fuel and shall require such a corporate surety bond or security of any distributor or person not otherwise bonded under provisions of chapter 82.36 RCW as is provided for distributors~~

~~of motor vehicle fuel under RCW 82.36.060; he shall provide such forms and may require such reports or statements as in his determination shall be necessary for the proper administration of this chapter. The director may require such records to be kept, and for such periods of time, as deemed necessary for the administration of this chapter, which records shall be available at all times for the director or his representative who may require a statement under oath as to the contents thereof. During a state of emergency declared under RCW 43.06.010(12), the director, on his or her own motion or at the request of any taxpayer affected by the emergency, may extend the time for filing any report or the due date for tax remittances as the director deems proper.~~

~~Every application for a distributor's license must contain the following information to the extent it applies to the applicant:~~

~~(1) Proof as the department may require concerning the applicant's identity, including but not limited to his or her fingerprints or those of the officers of a corporation making the application;~~

~~(2) The applicant's form and place of organization including proof that the individual, partnership, or corporation is licensed to do business in this state;~~

~~(3) The qualification and business history of the applicant and any partner, officer, or director;~~

~~(4) The applicant's financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has an unsatisfied judgment in a federal or state court;~~

~~(5) Whether the applicant has been adjudged guilty of a crime that directly relates to the business for which the license is sought and the time elapsed since the conviction is less than ten years, or has suffered a judgment within the preceding five years in a civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners.~~

~~After receipt of an application for a license, the director may conduct an investigation to determine whether the facts set forth are true. The director may require a fingerprint record check of the applicant through the Washington state patrol criminal identification system and the federal bureau of investigation before issuance of a license. The results of the background investigation including~~

~~criminal history information may be released to authorized department personnel as the director deems necessary. The department shall charge a license holder or license applicant a fee of fifty dollars for each background investigation conducted.~~

~~An applicant who makes a false statement of a material fact on the application may be prosecuted for false swearing as defined by RCW 9A.72.040.~~)) (1) Application for a license must be made to the department. The application must be filed in a manner prescribed by the department and must contain information the department requires.

(2) For purposes of this section, the term "applicant" has the same meaning as provided for "person" in RCW 82.42.010.

(3) An application for a license must contain the following information to the extent it applies to the applicant:

(a) Proof, as the department may require, concerning the applicant's identity;

(b) The applicant's business structure and place of business, including proof the applicant is licensed to conduct business in this state;

(c) The employment history of the applicant and any partner, officer, or director of the applicant;

(d) A bank reference and whether the applicant or any partner, officer, or director of the applicant has ever been adjudged bankrupt or has an unsatisfied judgment;

(e) Whether the applicant has been adjudged guilty of a crime or suffered a civil judgment directly related to the distribution and sale of fuel within the last ten years;

(f) Each state, province, or country that the applicant intends to import fuel from by means other than bulk transfer. An applicant must also show proof that the applicant has maintained the appropriate license required of each state, province, or country; and

(g) Each state, province, or country that the applicant intends to export fuel to by means other than bulk transfer. An applicant must also show proof that the applicant has maintained the appropriate license required of each state, province, or country.

(4) An applicant must submit a surety bond in an amount, form, and manner set by the department. In lieu of a bond, an applicant may provide evidence to the department of sufficient assets to adequately

meet tax payments, penalties, interest, or other obligations arising out of this chapter.

(5) For the purposes of considering any application for a license, the department may inspect, cause an inspection, investigate, or cause an investigation of the records of this or any other state, province, country, or the federal government to ascertain the veracity of the information on the application and the applicant's criminal, civil, and licensing history.

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

Sec. 305. RCW 82.42.090 and 1995 c 170 s 1 are each amended to read as follows:

All ((~~moneys collected by the director from the aircraft fuel excise tax as provided in RCW 82.42.020 shall be transmitted to the state treasurer and shall be credited to the aeronautics account hereby created in the transportation fund of the state treasury. Moneys collected from the consumer or user of aircraft fuel from either the use tax imposed by RCW 82.12.020 or the retail sales tax imposed by RCW 82.08.020 shall be transmitted to the state treasurer and credited to~~)) taxes, interest, and penalties collected under this chapter must be deposited into the aeronautics account. All taxes, interest, and penalties collected from the consumer or user of aircraft fuel from either the use tax imposed by RCW 82.12.020 or the retail sales tax imposed by RCW 82.08.020 must be deposited into the state general fund.

Sec. 306. RCW 82.42.110 and 1982 1st ex.s. c 25 s 9 are each amended to read as follows:

Every person other than a distributor who acquires any aircraft fuel within this state upon which payment of tax is required under the provisions of this chapter, or imports such aircraft fuel into this state and sells, delivers, or in any manner uses it in this state ((~~shall~~)), if the tax has not been paid, ((~~be~~)) is subject to the provisions of ((~~RCW 82.42.040 provided for~~)) this chapter provided for aircraft fuel distributors and ((~~shall~~)) must pay a tax at the rate computed under RCW ((~~82.42.025~~)) 82.42.020 for each gallon thereof so sold, delivered, or used in the manner provided for distributors. The

proceeds of the tax imposed by this section ((~~shall~~)) must be distributed in the manner provided for the distribution of the aircraft fuel tax in RCW 82.42.090. For failure to comply with the terms of this chapter, such person ((~~shall be~~)) is subject to the same penalties imposed upon distributors. The director ((~~shall~~)) must pursue against such persons the same procedure and remedies for audits, adjustments, collection, and enforcement of this chapter as is provided with respect to distributors. Nothing herein ((~~shall~~)) must be construed as classifying such persons as distributors.

Sec. 307. RCW 82.42.125 and 1997 c 183 s 11 are each amended to read as follows:

((~~An aircraft fuel licensee, who files or against whom is filed a petition in bankruptcy, shall, within ten days of the filing, notify the department of the proceedings in bankruptcy, including the identity and location of the court in which the proceedings are pending.~~)) A licensee who files a bankruptcy petition, or against whom a petition for bankruptcy is filed, must notify the department of the filing within ten days of the filing. The notice must include the name and location of the court in which the petition was filed.

PART IV
AIRCRAFT FUEL--NEW SECTIONS

NEW SECTION. **Sec. 401.** ADMINISTRATION AND ENFORCEMENT. (1) The department may prescribe, adopt, and enforce reasonable rules relating to administration and enforcement of this chapter.

(2) The department or its authorized representative is empowered to examine the books, papers, records, and equipment of any person distributing, transporting, storing, or using aircraft fuel and to investigate the disposition any person makes of aircraft fuel to determine whether all taxes due or refundable are properly reported, paid, or claimed. If books, papers, records, and equipment are not maintained in this state at the time of demand the department does not lose any right of examination.

(3) The director may, from time to time, require additional reports from any licensee with reference to any of the matters herein

concerned. Such reports must be made and filed on forms prepared by the director.

(4) For the purpose of any investigation or proceeding, the director or designee may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

(5) In the case of contumacy by or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction upon application by the director, may issue to that person an order requiring appearance before the director or designee to produce testimony of other evidence regarding the matter under investigation or in question.

(6) The department must, upon request from officials responsible for enforcement of aircraft fuel tax laws of any state, the District of Columbia, the United States, its territories and possessions, the provinces or the dominion of Canada, forward information relative to the receipt, storage, delivery, sale, use, or other disposition of aircraft fuel by any person if the other furnishes like information.

(7) The department may enter into an aircraft fuel tax cooperative agreement with another state, the District of Columbia, the United States, its territories and possessions, or Canadian Province for the administration, collection, and enforcement of their respective fuel taxes.

(8) The foregoing remedies of the state in this chapter are cumulative and no action taken by the department may be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy for which provision is made in this chapter.

NEW SECTION. **Sec. 402.** ASSESSMENTS--WARRANT--LIEN--FILING FEE--WRITS OF EXECUTION AND GARNISHMENT. When an assessment becomes final the department may file with the clerk of any county within the state a warrant in the amount of the assessment of taxes, penalties, interest and a filing fee under RCW 36.18.012(10). The warrant is a lien upon title to, and interest in all real and personal property of the person

against whom the warrant is issued. The warrant is sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state.

NEW SECTION. **Sec. 403.** BONDING REQUIREMENTS. (1) A license may not be issued or continued in force unless a bond is provided to secure payment of all taxes, interest, and penalties. This requirement may be waived for licensees properly bonded under the provisions of chapter 82.38 RCW or licensed aircraft fuel distributors who, upon determination by the department, have sufficient resources, assets, other financial instruments, or other means to adequately make payments on monthly aircraft fuel tax payments, penalties, and interest.

(2) The department may require a licensee to post a bond if the department determines a bond is required to protect the interests of the state.

(3) The total amount of the bond or bonds is three times the estimated monthly aircraft fuel tax liability. The total bonding amount may never be less than five thousand dollars nor more than one hundred thousand dollars.

(4) In lieu of a bond, a licensee may deposit with the state treasurer, a like amount of money of the United States or bonds or other obligations of the United States, the state, or any county of the state, of a market value not less than the amount of the required bond.

(5) The department may require a licensee to increase the bond amount or to deposit additional securities as described in this section if the security of the bond or the market value of the securities becomes impaired or inadequate.

(6) Any surety on a bond furnished by a licensee must be released and discharged from any liability accruing on such bond after the expiration of forty-five days from the date the surety provided written notification to the department. This subsection does not relieve, release, or discharge the surety from any liability accrued or which will accrue before the expiration of the forty-five day period. The department must promptly notify the licensee who furnished the bond, and unless the licensee, on or before the expiration of the forty-five day period, files a new bond the department must cancel the license.

NEW SECTION. **Sec. 404.** CIVIL AND STATUTORY PENALTIES AND INTEREST--DEFICIENCY ASSESSMENTS. (1) If any licensee fails to pay any taxes due the state of Washington within the time prescribed in this chapter, the licensee must pay a penalty of ten percent of the tax due.

(2) If the tax reported by any licensee is deficient a penalty of ten percent of the deficiency must be assessed.

(3) If any licensee, whether or not licensed as such, fails, neglects, or refuses to file a required fuel tax report, the department must determine the tax liability and add the penalty provided in subsection (2) of this section to the liability. An assessment made by the department pursuant to this subsection or to subsection (2) of this section is presumed to be correct, and the burden is on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive.

(4) If any licensee establishes by a fair preponderance of evidence that failure to file a report or pay the proper amount of tax within the time prescribed was due to reasonable cause and was not intentional or willful, the department may waive the penalty prescribed in subsections (1) and (2) of this section.

(5) If any licensee files a false or fraudulent report with intent to evade the tax imposed by this chapter, a penalty of twenty-five percent of the deficiency must be added to the amount of deficiency, which is in addition to all other penalties prescribed by law.

(6) If any person acts as a licensee without first securing the required license, all fuel tax liability incurred by that person becomes immediately due and payable. The department must determine the amount of the tax liability and must assess the person along with a penalty of one hundred percent of the tax.

(7) Any fuel tax, penalties, and interest payable under this chapter bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion thereof should have been paid until the date of payment. The department may waive interest when it determines the cost of processing the collection exceeds the amount of interest due.

(8) Except in the case of violations of filing a false or fraudulent report, if the department deems mitigation of penalties and interest to be reasonable and in the best interests of carrying out the purpose of this chapter, it may mitigate the assessments.

(9) Except in the case of a fraudulent report or failure to file a report, deficiencies, penalties, and interest must be assessed within five years from the twenty-fifth day of the next succeeding month following the reporting period for which the amount is determined or within five years after the return is filed, whichever period expires later.

(10)(a) Any licensee against whom an assessment is made under the provisions of subsection (2) or (3) of this section may petition for a reassessment within thirty days after service upon the licensee of the assessment. If such petition is not filed within such thirty-day period, the amount of the assessment becomes final.

(b) If a petition for reassessment is filed within the thirty-day period, the department must reconsider the assessment and, if the licensee has requested in the petition, must grant an informal hearing and give ten days' notice of the time and place. The department may continue the hearing as needed. The decision of the department upon a petition for reassessment becomes final thirty days after service upon the licensee.

(11) Every assessment made by the department becomes due and payable at the time it becomes final and if not timely paid to the department a penalty of ten percent of the amount of the tax must be added to the assessment.

(12) Any notice of assessment required by this section must be served by depositing such notice in the United States mail, postage prepaid addressed to the licensee at the address shown in the records of the department.

(13) Any licensee who has had a fuel license revoked must pay a one hundred dollar penalty prior to the issuance of a new license.

NEW SECTION. **Sec. 405.** COMPUTATION AND PAYMENT OF TAX--REMITTANCE--ELECTRONIC FUNDS TRANSFER. (1) The tax must be computed by multiplying the tax rate per gallon by the number of gallons of fuel subject to the fuel tax.

(2) An aircraft fuel distributor is liable for and must pay the tax imposed under RCW 82.42.020 to the department on or before the twenty-fifth day of the month immediately following the reporting period. The tax report required in section 413 of this act must accompany the remittance.

(3) If the tax is paid by electronic funds transfer, the tax must be paid on or before the twenty-sixth calendar day of the month immediately following the reporting period. If the payment due date falls on a Saturday, Sunday, or legal holiday, payment is due on the state business day immediately preceding the due date.

(4) The tax must be paid by electronic funds transfer whenever the amount due is fifty thousand dollars or more.

NEW SECTION. **Sec. 406.** DATE OF MAILING DEEMED DATE OF FILING OR RECEIPT--TIMELY MAILING BARS PENALTIES AND TOLLS STATUTORY TIME LIMITATIONS. An application, report, notice, payment, or claim for credit or refund properly addressed and deposited in the United States mail is deemed filed or received on the date shown by the post office cancellation mark on the envelope. No penalty for delinquency attaches, nor is the statutory period deemed to have elapsed in the case of credit or refund claims, if it is established by competent evidence that the application, report, notice, payment, or claim for credit or refund was properly addressed and timely deposited in the United States mail, if a duplicate of the document or payment is filed.

NEW SECTION. **Sec. 407.** DELINQUENCY. (1) If a person is delinquent in the payment of any obligation, the department may give notice of the amount of delinquency to persons having possession or control of credits, personal and real property belonging to the person, or owing debts to the person. Any person notified may not transfer or dispose of credits, personal and real property, or debts without the consent of the department. A person notified must, within twenty days after receipt of notice, advise the department of any credits, personal and real property, or debts in their possession, under their control or owing by them, and must immediately deliver the credits, personal and real property, or debts to the department.

(2) The notice and order to withhold and deliver constitutes a continuing lien on property of the person. The department must include in the notice to withhold and deliver "continuing lien." The effective date of a notice to withhold and deliver is the date of mailing.

(3) If a person fails to timely answer the notice, a court may render a judgment, plus costs by default against the person.

NEW SECTION. **Sec. 408.** DELINQUENCY--SEIZURE AND SALE OF PROPERTY. (1) If a person is delinquent in the payment of any obligation and the delinquency continues after notice and demand for payment the department must collect the amount due. The department must seize any property subject to the lien of tax, penalty, and interest and sell it at public auction. Notice of sale and the time and place must be given to the person and to all persons appearing with an interest in the property. The notice must be in writing at least ten days before the date of sale. Notice must be published for at least ten days before the date of sale in a newspaper of general circulation published in the county the property will be sold. If there is no newspaper of general circulation in the county, the notice must be posted in three public places in the county for a period of ten days. The notice must contain a description of the property together with a statement of the amount due, the name of the person and a statement that unless the amount is paid on or before the time in the notice the property will be sold.

(2) The department must sell the property and deliver to the purchaser a bill of sale or deed. If the moneys received exceed the amount due from the person, the excess must be returned to the person and a receipt obtained. If any person having an interest in or lien upon the property has filed notice with the department prior to the sale, the department must withhold payment of any excess to the person pending determination of the rights of the respective parties by a court of competent jurisdiction. If the receipt of the person is not available, the department must deposit the excess with the state treasurer as trustee for the person or their heirs, successors, or assigns. Prior to making any seizure of property, the department may first serve upon the person's bondsperson a notice of delinquency and demand for payment of the amount due.

NEW SECTION. **Sec. 409.** DISCONTINUANCE, SALE, OR TRANSFER OF BUSINESS--NOTICE--PAYMENT OF TAXES, INTEREST, PENALTIES. A licensee who ceases to engage in business must notify the department in writing at the time of cessation. The notice must give the date of cessation and the name and address of any purchaser or transferee. The licensee must file a report and pay all taxes, interest, and penalties owing.

NEW SECTION. **Sec. 410.** INJUNCTIONS--WRITS. No injunction or writ of mandate or other legal or equitable process may be issued in any suit, action, or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this chapter of any tax or any amount of tax required to be collected.

NEW SECTION. **Sec. 411.** DENIAL--SUSPENSION--REVOCATION. (1) The department may refuse to issue to, or suspend or revoke a license of any licensee or applicant:

(a) Who formerly held a license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW which has been suspended or revoked for cause;

(b) Who is a subterfuge for the real party in interest whose license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW has been revoked for cause;

(c) Who, as an individual licensee, or partner, officer, director, owner, or managing employee of a licensee, has had a license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW denied, suspended, or revoked for cause;

(d) Who has an unsatisfied debt to the state assessed under either chapter 82.36, 82.38, 82.42, or 46.87 RCW;

(e) Who formerly held as an individual, partner, officer, director, owner, managing employee of a licensee, or subterfuge for a real party in interest, a license issued by the federal government or a state that allowed a person to buy or sell untaxed motor vehicle or special fuel, which, has been suspended or revoked for cause;

(f) Who pled guilty to or was convicted as an individual, partner, officer, director, owner, or managing employee of a licensee in this or any other state, Canadian province, or in any federal jurisdiction of a gross misdemeanor or felony crime directly related to the fuel distribution business or has been subject to a civil judgment involving fraud, misrepresentation, conversion, or dishonesty, notwithstanding chapter 9.96A RCW;

(g) Who misrepresented or concealed a material fact in obtaining a license or reinstating a license;

(h) Who violated a statute or administrative rule regulating fuel taxation or distribution;

(i) Who failed to cooperate with the department's investigations by:

(i) Not furnishing papers or documents;

(ii) Not furnishing in writing a full and complete explanation regarding a matter under investigation by the department; or

(iii) Not responding to subpoenas issued by the department, whether or not the recipient of the subpoena is the subject of the proceeding;

(j) Who failed to comply with an order issued by the director; or

(k) Upon other sufficient cause being shown.

(2) Before such refusal, suspension, or revocation the department must grant the applicant a hearing and must grant the applicant at least twenty days' written notice of the time and place thereof.

NEW SECTION. **Sec. 412.** PAYMENT OF TAX BY A NONLICENSEE. Every person, other than a licensee, who acquires fuel upon which payment of tax is required, if the tax has not been paid, must comply with the provisions of this chapter, and pay tax at the rate provided in RCW 82.42.020. The person is subject to the same duties and penalties imposed upon licensees.

NEW SECTION. **Sec. 413.** PERIODIC TAX REPORTS. (1) For the purpose of determining the amount of liability for the tax imposed under this chapter, each aircraft fuel distributor must file monthly tax reports with the department.

(2) Tax reports must be filed on or before the twenty-fifth day of the calendar month following the reporting period to which it relates. A report must be filed even though no tax is due for the reporting period. Each report must contain a declaration that the statements contained therein are true and are made under penalties of perjury. The report must show information as the department may reasonably require for the proper administration and enforcement of this chapter.

(3) If the filing date falls on a Saturday, Sunday, or legal holiday the next secular or business day is the filing date.

(4) The department in order to insure payment of the tax or to facilitate administration of this chapter may require the filing of reports and tax remittances at intervals other than one month.

(5) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the time for filing any report or the due date for tax remittances as the department deems proper.

NEW SECTION. **Sec. 414.** FUEL RECORDS. (1) Every person importing, manufacturing, refining, transporting, blending, or storing aircraft fuel must keep for a period of five years open to inspection at all times during the business hours of the day to the department or its authorized representatives, a complete record of all aircraft fuel purchased or received and all aircraft fuel sold, delivered, or used by them.

(2) Records must show:

(a) The date of receipt;

(b) The name and address of the person from whom purchased or received;

(c) The number of gallons received at each place of business or place of storage in the state of Washington;

(d) The date of sale or delivery;

(e) The number of gallons sold, delivered, or used for taxable purposes;

(f) The number of gallons sold, delivered, or used for any purpose not subject to tax;

(g) The name, address, and aircraft fuel license number of the purchaser if the fuel tax is not collected on the sale or delivery;

(h) The physical inventories of aircraft fuel and petroleum products on hand at each place of business at the end of each month;

(i) Stocks of raw gasoline, gasoline stock, diesel oil, kerosene, kerosene distillates, casing head gasoline, and other petroleum products which may be used in the compounding, blending, or manufacturing of aircraft fuel.

(3) The department may require a person other than a licensee engaged in the business of selling, purchasing, distributing, storing, transporting, or delivering aircraft fuel to submit periodic reports to the department regarding the disposition of the aircraft fuel. The reports must be on forms prescribed by the department and must contain information as the department may require.

(4) Every person operating any conveyance transporting fuel in bulk must possess during the entire time an invoice, bill of sale, or other statement showing the name, address, and license number of the seller or consigner, the destination, name, and address of the purchaser or consignee, license number, if applicable, and the number of gallons. The person transporting fuel must at the request of any law enforcement

officer or authorized representative of the department, produce for inspection required records and must permit inspection of the contents of the vehicle.

NEW SECTION. **Sec. 415.** SUITS FOR RECOVERY OF TAXES ILLEGALLY OR ERRONEOUSLY COLLECTED. (1) No suit or proceeding may be maintained in any court for the recovery of any amount alleged to have been overpaid under RCW 82.42.020 unless a claim for refund or credit has been duly filed pursuant to section 416 of this act.

(2) Within ninety days after the mailing of the notice of the department's action upon a claim filed pursuant to section 416 of this act, the claimant may bring an action against the department on the grounds set forth in the claim in a court of competent jurisdiction in Thurston county for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed. Failure to bring action within the time specified constitutes a waiver of any demand against the state on account of the alleged overpayments.

(3) If the department fails to mail notice of action on a claim within six months after the claim is filed, the claimant may, prior to the mailing of notice by the department of its intention on the claim, consider the claim disallowed and bring an action against the department, on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

(4) If judgment is rendered for the plaintiff, the amount of the judgment must first be credited on any aircraft fuel tax due and payable from the plaintiff. The balance of the judgment must be refunded to the plaintiff.

(5) In any judgment, interest must be allowed at the rate of twelve percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant, but not more than thirty days, the date to be determined by the department.

NEW SECTION. **Sec. 416.** CLAIM OF REFUND OR CREDIT. (1) Claims for refund or credit for aircraft fuel taxes paid under this chapter must be filed with the department on forms prescribed by the department and

must contain and be supported by such information and documentation as the department may require. Claims for refund of aircraft fuel taxes must be for at least twenty dollars.

(2) Any amount determined to be refundable by the department must first be credited on any amounts then due and payable from a person to whom the refund is due.

(3) No refund or credit may be approved by the department unless a written claim for refund or credit stating the specific grounds upon which the claim is founded is filed with the department:

(a) Within thirteen months from the date of purchase or from the last day of the month following the close of the reporting period for which the refundable amount or credit is due with respect to refunds or credits allowed and if not filed within this period the right to refund is barred; or

(b) Within five years from the last day of the month following the close of the reporting period for which the overpayment is due with respect to the refunds or credits allowed for aircraft fuel tax licensees.

(4) The department must refund any amount paid that has been verified by the department to be more than twenty dollars over the amount actually due for the reporting period.

(5) Payment credits may not be carried forward and applied to subsequent tax returns for a person licensed under this chapter.

(6) Within thirty days after disallowing any refund claim in whole or in part, the department must provide written notice of its action to the claimant.

(7)(a) Interest must be paid upon any refundable amount or credit due at the rate of one percent per month from the last day of the calendar month following the reporting period for which the refundable amount or credit is due.

(b) The interest must be paid:

(i) In the case of a refund, to the last day of the calendar month following the date upon which the claim is approved by the department; and

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

(c) If the department determines that any overpayment has been made intentionally or by reason of carelessness, interest is not allowed.

(8) The department must pay interest of one percent on any refund payable that is issued more than thirty state business days after the receipt of a claim properly filed and completed. After the end of the thirty business day period, additional interest accrues at the rate of one percent on the amount payable for each thirty calendar day period.

NEW SECTION. **Sec. 417.** REFUNDS. Any person who has purchased aircraft fuel on which tax has been paid may file a claim with the department for a refund of the tax for:

(1) Aircraft fuel used in aircraft that both operate from a private, nonstate-funded airfield during at least ninety-five percent of the aircraft's normal use and are used principally for the application of pesticides, herbicides, or other agricultural chemicals;

(2) Aircraft fuel used in the operation of aircraft for testing or experimental purposes; and

(3) Aircraft fuel used in the operation of aircraft when the operation is for the training of crews in Washington state for purchasers of aircraft who are certified air carriers.

NEW SECTION. **Sec. 418.** REMEDIES CUMULATIVE. The remedies of the state in this chapter are cumulative and no action taken by the department may be construed to be an election to pursue any remedy to the exclusion of another.

NEW SECTION. **Sec. 419.** TAX LIEN. (1) If a person liable for payment of tax fails to pay the amount including any interest, penalty, or addition, together with costs accrued, there must be a lien in favor of the state upon all franchises, property, and rights to property, whether real or personal, belonging to or acquired, whether the property is employed by such person for personal or business use or is in the control of a trustee, receiver, or assignee. The lien is effective from the date taxes were due and payable until the amount is satisfied. The lien has priority over any lien or encumbrance except liens of other taxes having priority by law.

(2) The department must file with any county auditor a statement of

claim and lien specifying the amount of delinquent taxes, penalties, and interest owed.

NEW SECTION. **Sec. 420.** VIOLATIONS--PENALTIES. (1) It is unlawful for a person to:

(a) Evade a tax or fee imposed under this chapter;

(b) Knowingly assist another person to evade a tax or fee imposed by this chapter;

(c) File a false statement of a material fact or otherwise commit any fraud or make a false representation on an aircraft fuel tax license application, aircraft fuel tax refund application, aircraft fuel tax return, aircraft fuel tax record, or aircraft fuel tax refund claim;

(d) Act as an aircraft fuel distributor unless the person holds a license issued by the department authorizing the person to engage in that business;

(e) Knowingly operate a conveyance for the purpose of hauling, transporting, or delivering aircraft fuel in bulk and not possess an invoice, bill of sale, or other statement showing the name, address, and tax license number of the seller or consignor, the destination, the name, address, and tax license number of the purchaser or consignee, and the number of gallons;

(f) Refuse to permit the department or its authorized representative to examine the person's books, papers, records, storage facilities, and equipment used in conjunction with the use, distribution, or sale of aircraft fuel;

(g) To display, or cause to permit to be displayed, or to have in possession, an aircraft fuel license knowing the same to be fictitious or to have been suspended, canceled, revoked, or altered;

(h) To lend to, or knowingly permit the use of, by one not entitled thereto, any aircraft fuel license issued to the person lending it or permitting it to be used;

(i) To display or to represent as one's own any aircraft fuel license not issued to the person displaying the same; and

(j) To use or to conspire with any governmental official, agent, or employee for the use of any requisition, purchase order, or any card or any authority to which he or she is not specifically entitled by

government regulations, for the purpose of obtaining any aircraft fuel upon which the state tax has not been paid.

(2)(a) A single violation of subsection (1)(a) and (b) of this section is a gross misdemeanor under chapter 9A.20 RCW.

(b) Multiple violations of subsection (1)(a) and (b) of this section are a class C felony under chapter 9A.20 RCW.

(3) Violations of (1)(c) through (j) of this section are a gross misdemeanor under chapter 9A.20 RCW.

(4) In addition to other penalties and remedies provided by law, the court must order a person or corporation found guilty of violating subsection (1)(a) through (b) of this section to:

(a) Pay the tax or fee evaded plus interest, commencing at the date the tax or fee was first due, at the rate of twelve percent per year, compounded monthly; and

(b) Pay a penalty of one hundred percent of the tax evaded.

(5) The tax imposed by this chapter is held in trust by the licensee until paid to the department, and a licensee who appropriates the tax to his or her own use or to any use other than the payment of the tax is guilty of a felony or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to pay to the department the tax is personally liable to the state for the amount of the tax.

PART V
REPEALED PROVISIONS

NEW SECTION. **Sec. 501.** The following acts or parts of acts are each repealed:

(1) RCW 82.36.010 (Definitions) and 2007 c 515 s 1, 2001 c 270 s 1, & 1998 c 176 s 6;

(2) RCW 82.36.020 (Tax levied and imposed--Rate to be computed--Incidence--Distribution) and 2007 c 515 s 2, 2001 c 270 s 2, 2000 c 103 s 13, 1998 c 176 s 7, 1983 1st ex.s. c 49 s 26, 1982 1st ex.s. c 6 s 1, 1977 ex.s. c 317 s 2, & 1974 ex.s. c 28 s 1;

(3) RCW 82.36.022 (Tax imposed--Intent) and 2007 c 515 s 20;

(4) RCW 82.36.025 (Motor vehicle fuel tax rate--Expiration of subsection) and 2007 c 515 s 3, 2005 c 314 s 101, & 2003 c 361 s 401;

(5) RCW 82.36.026 (Tax liability--General) and 2007 c 515 s 4, 2001 c 270 s 3, & 1998 c 176 s 8;

(6) RCW 82.36.027 (Tax liability of terminal operator) and 2007 c 515 s 6 & 1998 c 176 s 9;

(7) RCW 82.36.028 (Tax liability--Reciprocity agreements) and 2007 c 515 s 5;

(8) RCW 82.36.029 (Deductions--Handling losses--Reports) and 1998 c 176 s 10;

(9) RCW 82.36.031 (Periodic tax reports--Forms--Filing--Time extensions during state of emergency) and 2008 c 181 s 505, 2007 c 515 s 8, & 1998 c 176 s 11;

(10) RCW 82.36.032 (Penalty for filing fraudulent tax report) and 1998 c 176 s 13 & 1987 c 174 s 7;

(11) RCW 82.36.035 (Computation and payment of tax--Remittance--Electronic funds transfer) and 2005 c 260 s 1 & 1998 c 176 s 12;

(12) RCW 82.36.040 (Payment of tax--Penalty for delinquency) and 1991 c 339 s 2, 1989 c 378 s 24, 1987 c 174 s 4, 1977 c 28 s 1, & 1961 c 15 s 82.36.040;

(13) RCW 82.36.044 (Credit for worthless accounts receivable--Report--Adjustment) and 1998 c 176 s 15;

(14) RCW 82.36.045 (Licensees, persons acting as licensees--Tax reports--Deficiencies, failure to file, fraudulent filings, misappropriation, or conversion--Penalties, liability--Mitigation--Reassessment petition, hearing--Notice) and 2007 c 515 s 9, 1998 c 176 s 16, 1996 c 104 s 2, & 1991 c 339 s 1;

(15) RCW 82.36.047 (Assessments--Warrant--Lien--Filing fee--Writs of execution and garnishment) and 2001 c 146 s 13, 1998 c 176 s 17, & 1991 c 339 s 4;

(16) RCW 82.36.050 (Date of mailing deemed date of filing or receipt--Timely mailing bars penalties and tolls statutory time limitations) and 1961 c 15 s 82.36.050;

(17) RCW 82.36.060 (Application for license--Federal certificate of registry--Investigation--Fee--Penalty for false statement--Bond or security--Cancellation) and 2007 c 515 s 10, 2001 c 270 s 5, 1998 c 176 s 18, 1996 c 104 s 3, 1994 c 262 s 19, 1973 c 96 s 1, & 1961 c 15 s 82.36.060;

(18) RCW 82.36.070 (Issuance of license--Display--Refusal of

issuance--Inspection of records) and 1998 c 176 s 19, 1998 c 115 s 2, 1996 c 104 s 4, 1994 c 262 s 20, 1973 c 96 s 2, 1965 ex.s. c 79 s 3, & 1961 c 15 s 82.36.070;

(19) RCW 82.36.075 (Reports by persons other than licensees--Department requirements--Forms) and 1998 c 176 s 29;

(20) RCW 82.36.080 (Penalty for acting without license--Separate licenses for separate activities--Default assessment) and 2007 c 515 s 11, 1998 c 176 s 20, & 1961 c 15 s 82.36.080;

(21) RCW 82.36.090 (Discontinuance, sale, or transfer of business--Notice--Payment of taxes, interest, penalties--Overpayment refunds) and 1998 c 176 s 21, 1967 c 153 s 2, 1965 ex.s. c 79 s 4, & 1961 c 15 s 82.36.090;

(22) RCW 82.36.095 (Bankruptcy proceedings--Notice) and 1997 c 183 s 7;

(23) RCW 82.36.100 (Tax required of persons not classed as licensees--Duties--Procedure--Distribution of proceeds--Penalties--Enforcement) and 1998 c 176 s 22, 1983 1st ex.s. c 49 s 28, 1977 ex.s. c 317 s 3, 1967 ex.s. c 83 s 3, 1961 ex.s. c 7 s 2, & 1961 c 15 s 82.36.100;

(24) RCW 82.36.110 (Delinquency--Lien of tax--Notice) and 1993 c 54 s 3 & 1961 c 15 s 82.36.110;

(25) RCW 82.36.120 (Delinquency--Notice to debtors--Transfer or disposition of property, credits, or debts prohibited--Lien--Answer) and 1998 c 176 s 23, 1994 c 262 s 21, 1991 c 339 s 3, & 1961 c 15 s 82.36.120;

(26) RCW 82.36.130 (Delinquency--Tax warrant) and 2000 c 103 s 14;

(27) RCW 82.36.140 (State may pursue remedy against licensee or bond) and 1998 c 176 s 25 & 1961 c 15 s 82.36.140;

(28) RCW 82.36.150 (Records to be kept by licensees--Inventory--Statement) and 1998 c 176 s 26, 1965 ex.s. c 79 s 5, & 1961 c 15 s 82.36.150;

(29) RCW 82.36.160 (Records to be preserved by licensees) and 2007 c 515 s 12, 1998 c 176 s 27, 1996 c 104 s 5, & 1961 c 15 s 82.36.160;

(30) RCW 82.36.170 (Additional reports--Filing) and 1998 c 176 s 28 & 1961 c 15 s 82.36.170;

(31) RCW 82.36.180 (Examinations and investigations) and 2007 c 515 s 13, 1998 c 176 s 30, 1967 ex.s. c 89 s 6, 1965 ex.s. c 79 s 6, & 1961 c 15 s 82.36.180;

(32) RCW 82.36.190 (Suspension, revocation, cancellation of licenses--Notice) and 1998 c 176 s 31, 1990 c 250 s 80, & 1961 c 15 s 82.36.190;

(33) RCW 82.36.200 (Carriers of motor vehicle fuel--Examination of records, stocks, etc.) and 1998 c 176 s 32, 1965 ex.s. c 79 s 7, & 1961 c 15 s 82.36.200;

(34) RCW 82.36.210 (Carriers of motor vehicle fuel--Invoice, bill of sale, etc., required--Inspections) and 1998 c 176 s 33, 1965 ex.s. c 79 s 8, 1961 ex.s. c 21 s 30, & 1961 c 15 s 82.36.210;

(35) RCW 82.36.230 (Exemptions--Imports, exports, federal sales--Invoice--Certificate--Reporting) and 1998 c 176 s 34, 1993 c 54 s 4, 1989 c 193 s 1, 1971 ex.s. c 156 s 2, 1967 c 153 s 3, 1965 ex.s. c 79 s 9, & 1961 c 15 s 82.36.230;

(36) RCW 82.36.240 (Sales to state or political subdivisions not exempt) and 1961 c 15 s 82.36.240;

(37) RCW 82.36.245 (Exemption--Sales to foreign diplomatic and consular missions) and 1989 c 193 s 2;

(38) RCW 82.36.247 (Exemption--Racing fuel) and 2007 c 515 s 14;

(39) RCW 82.36.250 (Nongovernmental use of fuels, etc., acquired from United States government--Tax--Unlawful to procure or use) and 1961 c 15 s 82.36.250;

(40) RCW 82.36.260 (Extension of time for filing exportation certificates or claiming exemptions) and 1965 ex.s. c 79 s 11 & 1961 c 15 s 82.36.260;

(41) RCW 82.36.270 (Refund permit) and 1977 c 28 s 2, 1973 c 96 s 3, 1967 c 153 s 4, & 1961 c 15 s 82.36.270;

(42) RCW 82.36.275 (Refunds for urban transportation systems) and 1969 ex.s. c 281 s 27, 1967 c 86 s 1, 1965 c 135 s 1, 1963 c 187 s 1, 1961 c 117 s 1, & 1961 c 15 s 82.36.275;

(43) RCW 82.36.280 (Refunds for nonhighway use of fuel) and 2010 c 161 s 906, 1998 c 176 s 36, 1993 c 141 s 1, 1985 c 371 s 5, 1980 c 131 s 5, 1972 ex.s. c 138 s 1, 1971 ex.s. c 36 s 1, 1969 ex.s. c 281 s 23, & 1961 c 15 s 82.36.280;

(44) RCW 82.36.285 (Refunds for transit services to persons with special transportation needs by nonprofit transportation providers) and 1996 c 244 s 5 & 1983 c 108 s 3;

(45) RCW 82.36.290 (Refunds for use in manufacturing, cleaning, dyeing) and 1961 c 15 s 82.36.290;

(46) RCW 82.36.300 (Refunds on exported fuel) and 1998 c 176 s 37, 1963 ex.s. c 22 s 21, & 1961 c 15 s 82.36.300;

(47) RCW 82.36.310 (Claim of refund) and 1998 c 176 s 38, 1998 c 115 s 3, 1995 c 318 s 3, 1965 ex.s. c 79 s 13, & 1961 c 15 s 82.36.310;

(48) RCW 82.36.320 (Information may be required) and 2007 c 515 s 15 & 1961 c 15 s 82.36.320;

(49) RCW 82.36.330 (Payment of refunds--Interest--Penalty) and 2003 c 53 s 401, 1998 c 176 s 39, 1971 ex.s. c 180 s 9, 1965 ex.s. c 79 s 14, & 1961 c 15 s 82.36.330;

(50) RCW 82.36.335 (Credits on tax in lieu of collection and refund) and 1998 c 176 s 40, 1997 c 183 s 8, & 1961 c 15 s 82.36.335;

(51) RCW 82.36.340 (Examination of books and records) and 2007 c 515 s 16 & 1961 c 15 s 82.36.340;

(52) RCW 82.36.350 (Fraudulent invoices--Penalty) and 1998 c 176 s 41 & 1961 c 15 s 82.36.350;

(53) RCW 82.36.370 (Refunds for fuel lost or destroyed through fire, flood, leakage, etc.) and 2007 c 515 s 17, 1998 c 176 s 42, 1967 c 153 s 5, 1965 ex.s. c 79 s 15, & 1961 c 15 s 82.36.370;

(54) RCW 82.36.375 (Time limitation on erroneous payment credits or refunds and notices of additional tax) and 1998 c 176 s 44 & 1965 ex.s. c 79 s 16;

(55) RCW 82.36.380 (Violations--Penalties) and 2007 c 515 s 18, 2003 c 358 s 13, 2000 2nd sp.s. c 4 s 9, 1995 c 287 s 2, & 1961 c 15 s 82.36.380;

(56) RCW 82.36.390 (Diversion of export fuel--Penalty) and 1998 c 176 s 45, 1996 c 104 s 6, & 1961 c 15 s 82.36.390;

(57) RCW 82.36.400 (Other offenses--Penalties) and 2011 c 96 s 57, 2003 c 53 s 402, 1998 c 176 s 46, 1971 ex.s. c 156 s 3, 1967 c 153 s 6, & 1961 c 15 s 82.36.400;

(58) RCW 82.36.410 (Revenue to motor vehicle fund) and 1973 c 95 s 5 & 1961 c 15 s 82.36.410;

(59) RCW 82.36.415 (Refund to aeronautics account) and 1987 c 220 s 4;

(60) RCW 82.36.420 (Disposition of fees, fines, penalties) and 1987 c 202 s 245, 1969 ex.s. c 199 s 40, & 1961 c 15 s 82.36.420;

(61) RCW 82.36.430 (Enforcement) and 1961 c 15 s 82.36.430;

(62) RCW 82.36.435 (Enforcement and administration--Rule-making authority) and 1981 c 342 s 5;

(63) RCW 82.36.440 (State preempts tax field) and 2010 c 106 s 230, 2003 c 350 s 5, 1991 c 173 s 4, 1990 c 42 s 204, 1979 ex.s. c 181 s 5, & 1961 c 15 s 82.36.440;

(64) RCW 82.36.450 (Agreement with tribe for fuel taxes) and 2007 c 515 s 19 & 1995 c 320 s 2;

(65) RCW 82.36.460 (Motor vehicle fuel tax cooperative agreement) and 1998 c 176 s 49;

(66) RCW 82.36.470 (Fuel tax evasion--Seizure and forfeiture) and 2003 c 358 s 1;

(67) RCW 82.36.475 (Fuel tax evasion--Forfeiture procedure) and 2003 c 358 s 2;

(68) RCW 82.36.480 (Fuel tax evasion--Forfeited property) and 2003 c 358 s 3;

(69) RCW 82.36.485 (Fuel tax evasion--Return of seized property) and 2003 c 358 s 4;

(70) RCW 82.36.490 (Fuel tax evasion--Search and seizure) and 2003 c 358 s 5;

(71) RCW 82.36.495 (Fuel tax evasion--Rules) and 2003 c 358 s 6;

(72) RCW 82.36.800 (Rules--1998 c 176) and 1998 c 176 s 87;

(73) RCW 82.36.900 (Findings--1998 c 176) and 1998 c 176 s 1;

(74) RCW 82.36.901 (Effective date--1998 c 176) and 1998 c 176 s 91;

(75) RCW 82.38.045 (Liability of terminal operator for remittance) and 2005 c 314 s 108 & 1998 c 176 s 54;

(76) RCW 82.38.047 (Liability of terminal operator for taxes when documentation incorrectly indicates internal revenue service compliance) and 2003 c 361 s 406 & 1998 c 176 s 55;

(77) RCW 82.38.130 (Revocation, suspension, cancellation, and surrender of license--Notice--Bond release, discharge--New or additional bond or surety) and 2007 c 515 s 26, 1998 c 176 s 65, 1994 c 262 s 24, 1979 c 40 s 9, 1977 c 26 s 2, & 1971 ex.s. c 175 s 14;

(78) RCW 82.38.240 (Delinquency--Collection by civil action--Certificate) and 1998 c 176 s 79 & 1971 ex.s. c 175 s 25;

(79) RCW 82.38.250 (Remedies cumulative) and 1971 ex.s. c 175 s 26;

(80) RCW 82.38.265 (Administration, collection, and enforcement of taxes pursuant to chapter 82.41 RCW) and 1982 c 161 s 14;

(81) RCW 82.38.350 (Fuel tax cooperative agreement) and 1998 c 176 s 88;

(82) RCW 82.41.060 (Credits--Refunds) and 1982 c 161 s 6;

(83) RCW 82.42.050 (Failure of distributor to file report or statement--Determination by director of amount sold, delivered or used--Basis for tax assessment--Penalty--Records public) and 1969 ex.s. c 254 s 4 & 1967 ex.s. c 10 s 5;

(84) RCW 82.42.060 (Payment of tax--Penalty for delinquency--Enforcement of collection--Provisions of RCW 82.36.040, 82.36.070, 82.36.110 through 82.36.140 made applicable) and 1997 c 183 s 12, 1996 c 104 s 15, 1969 ex.s. c 254 s 5, 1969 c 139 s 4, & 1967 ex.s. c 10 s 6;

(85) RCW 82.42.070 (Imports, exports, sales to United States government exempted--Procedure--Sales to state or political subdivisions not exempt--Refund procedures) and 1982 1st ex.s. c 25 s 6, 1971 ex.s. c 156 s 4, & 1967 ex.s. c 10 s 7;

(86) RCW 82.42.080 (Violations--Penalty) and 1996 c 104 s 16, 1982 1st ex.s. c 25 s 7, & 1967 ex.s. c 10 s 8; and

(87) RCW 82.42.120 (Mitigation of assessments) and 1991 c 339 s 8.

PART VI
CROSS REFERENCE AND TECHNICAL CORRECTIONS

Sec. 601. RCW 19.112.110 and 2009 c 132 s 2 are each amended to read as follows:

(1) Special fuel licensees under chapter 82.38 RCW, ((~~other than international fuel tax agreement licensees, dyed special fuel users, and special fuel distributors, shall~~)) as determined by the department of licensing, must provide evidence to the department of licensing that at least two percent of the total annual diesel fuel sold in Washington is biodiesel or renewable diesel fuel, following the earlier of: (a) November 30, 2008; or (b) when a determination is made by the director, published in the Washington State Register, that feedstock grown in Washington state can satisfy a two-percent requirement.

(2) Special fuel licensees under chapter 82.38 RCW, ((~~other than international fuel tax agreement licensees, dyed special fuel users, and special fuel distributors, shall~~)) as determined by the department of licensing, must provide evidence to the department of licensing that at least five percent of total annual diesel fuel sold in Washington is biodiesel or renewable diesel fuel, when the director determines, and

publishes this determination in the Washington State Register, that both in-state oil seed crushing capacity and feedstock grown in Washington state can satisfy a three-percent requirement.

(3) The requirements of subsections (1) and (2) of this section ((~~shall~~)) may take effect no sooner than one hundred eighty days after the determination has been published in the Washington State Register.

(4) The director and the director of licensing ((~~shall~~)) must each adopt rules, in coordination with each other, for enforcing and carrying out the purposes of this section.

Sec. 602. RCW 19.112.120 and 2007 c 309 s 2 are each amended to read as follows:

(1) By December 1, 2008, motor vehicle fuel licensees under chapter ((~~82.36~~)) 82.38 RCW, ((~~other than motor vehicle fuel distributors~~)) as determined by the department of licensing, ((~~shall~~)) must provide evidence to the department of licensing that at least two percent of total gasoline sold in Washington, measured on a quarterly basis, is denatured ethanol.

(2) If the director of ecology determines that ethanol content greater than two percent of the total gasoline sold in Washington will not jeopardize continued attainment of the federal clean air act's national ambient air quality standard for ozone pollution in Washington and the director of agriculture determines and publishes this determination in the Washington State Register that sufficient raw materials are available within Washington to support economical production of ethanol at higher levels, the director of agriculture may require by rule that licensees provide evidence to the department of licensing that denatured ethanol comprises between two percent and at least ten percent of total gasoline sold in Washington, measured on a quarterly basis.

(3) The requirements of subsections (1) and (2) of this section may take effect no sooner than one hundred eighty days after the determination has been published in the Washington State Register.

(4) The director and the director of licensing must each adopt rules, in coordination with each other, for enforcing and carrying out the purposes of this section.

(5) Nothing in this section is intended to prohibit the production, sale, or use of motor fuel for use in federally designated flexibly

fueled vehicles capable of using E85 motor fuel. Nothing in this section is intended to limit the use of high octane gasoline not blended with ethanol for use in aircraft.

Sec. 603. RCW 35A.81.010 and 1983 c 3 s 73 are each amended to read as follows:

Motor vehicles owned and operated by any code city ((~~shall be~~)) are exempt from the provisions of chapter 81.80 RCW, except where specifically otherwise provided. Urban passenger transportation systems ((~~shall~~)) must receive a refund of the amount of the motor vehicle fuel tax paid on each gallon of motor vehicle fuel used in such systems to the extent authorized by chapter ((~~82.36~~)) 82.38 RCW. Notwithstanding any provision of the law to the contrary, every urban passenger transportation system as defined in RCW 82.38.080 ((~~shall be~~)) are exempt from the provisions of chapter 82.38 RCW which requires the payment of use fuel taxes.

Sec. 604. RCW 36.70A.340 and 2011 c 120 s 2 are each amended to read as follows:

Upon receipt from the board of a finding that a state agency, county, or city is in noncompliance under RCW 36.70A.330, or as a result of failure to meet the requirements of RCW 36.70A.210, the governor may either:

(1) Notify and direct the director of the office of financial management to revise allotments in appropriation levels;

(2) Notify and direct the state treasurer to withhold the portion of revenues to which the county or city is entitled under one or more of the following: The motor vehicle fuel tax, as provided in chapter ((~~82.36~~)) 82.38 RCW; the transportation improvement account, as provided in RCW 47.26.084; the rural arterial trust account, as provided in RCW 36.79.150; the sales and use tax, as provided in chapter 82.14 RCW; the liquor profit tax, as provided in RCW 66.08.190; and the liquor excise tax, as provided in RCW 82.08.170; or

(3) File a notice of noncompliance with the secretary of state and the county or city, which ((~~shall~~)) temporarily rescinds the county or city's authority to collect the real estate excise tax under RCW 82.46.030 until the governor files a notice rescinding the notice of noncompliance.

Sec. 605. RCW 43.06.400 and 2011 1st sp.s. c 20 s 201 are each amended to read as follows:

(1) Beginning in January 1984, and in January of every fourth year thereafter, the department of revenue must submit to the legislature prior to the regular session a listing of the amount of reduction for the current and next biennium in the revenues of the state or the revenues of local government collected by the state as a result of tax exemptions. The listing must include an estimate of the revenue lost from the tax exemption, the purpose of the tax exemption, the persons, organizations, or parts of the population which benefit from the tax exemption, and whether or not the tax exemption conflicts with another state program. The listing must include but not be limited to the following revenue sources:

(a) Real and personal property tax exemptions under Title 84 RCW;

(b) Business and occupation tax exemptions, deductions, and credits under chapter 82.04 RCW;

(c) Retail sales and use tax exemptions under chapters 82.08, 82.12, and 82.14 RCW;

(d) Public utility tax exemptions and deductions under chapter 82.16 RCW;

(e) Food fish and shellfish tax exemptions under chapter 82.27 RCW;

(f) Leasehold excise tax exemptions under chapter 82.29A RCW;

(g) Motor vehicle and special fuel tax exemptions and refunds under chapter((~~s 82.36 and~~)) 82.38 RCW;

(h) Aircraft fuel tax exemptions under chapter 82.42 RCW;

(i) Motor vehicle excise tax exclusions under chapter 82.44 RCW; and

(j) Insurance premiums tax exemptions under chapter 48.14 RCW.

(2) The department of revenue must prepare the listing required by this section with the assistance of any other agencies or departments as may be required.

(3) The department of revenue must present the listing to the ways and means committees of each house in public hearings.

(4) Beginning in January 1984, and every four years thereafter the governor is requested to review the report from the department of revenue and may submit recommendations to the legislature with respect to the repeal or modification of any tax exemption. The ways and means

committees of each house and the appropriate standing committee of each house must hold public hearings and take appropriate action on the recommendations submitted by the governor.

(5) As used in this section, "tax exemption" means an exemption, exclusion, or deduction from the base of a tax; a credit against a tax; a deferral of a tax; or a preferential tax rate.

(6) For purposes of the listing due in January 2012, the department of revenue does not have to prepare or update the listing with respect to any tax exemption that would not be likely to increase state revenue if the exemption was repealed or otherwise eliminated.

Sec. 606. RCW 46.01.040 and 2011 c 171 s 10 are each amended to read as follows:

The department is vested with all powers, functions, and duties with respect to and including the following:

(1) The ((~~motor vehicle fuel excise tax as provided in chapter 82.36~~)) fuel tax and aircraft fuel tax as provided in chapters 82.38 and 82.42 RCW;

(2) ((~~The special fuel tax as provided in chapter 82.38 RCW;~~

~~(3)~~)) The motor vehicle excise tax as provided in chapter 82.44 RCW;

((~~(4)~~)) (3) The travel trailers and campers excise tax as provided in chapter 82.50 RCW;

((~~(5)~~)) (4) All general powers and duties relating to motor vehicles as provided in chapter 46.08 RCW;

((~~(6)~~)) (5) Certificates of title and registration certificates as provided in chapters 46.12 and 46.16A RCW;

((~~(7)~~)) (6) The registration of motor vehicles as provided in chapter 46.16A RCW;

((~~(8)~~)) (7) Dealers' licenses as provided in chapter 46.70 RCW;

((~~(9)~~)) (8) The licensing of motor vehicle transporters as provided in chapter 46.76 RCW;

((~~(10)~~)) (9) The licensing of vehicle wreckers as provided in chapter 46.80 RCW;

((~~(11)~~)) (10) The administration of the laws relating to reciprocal or proportional registration of motor vehicles as provided in chapter 46.85 RCW;

((~~(12)~~)) (11) The licensing of passenger vehicles for hire as provided in chapter 46.72 RCW;

((~~(13)~~)) (12) Drivers' licenses as provided in chapter 46.20 RCW;

((~~(14)~~)) (13) Commercial driver training schools as provided in chapter 46.82 RCW;

((~~(15)~~)) (14) Financial responsibility as provided in chapter 46.29 RCW;

((~~(16)~~)) (15) Accident reporting as provided in chapter 46.52 RCW;

((~~(17)~~)) (16) Disposition of revenues as provided in chapter 46.68 RCW; and

((~~(18)~~)) (17) The administration of all other laws relating to motor vehicles vested in the director of licenses on June 30, 1965.

Sec. 607. RCW 46.09.310 and 2010 c 161 s 213 are each amended to read as follows:

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

(1) "Advisory committee" means the nonhighway and off-road vehicle activities advisory committee established in RCW 46.09.340.

(2) "Board" means the recreation and conservation funding board established in RCW 79A.25.110.

(3) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling off-road vehicles at wholesale or retail in this state.

(4) "Highway," for the purpose of this chapter only, means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. A highway is generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles.

(5) "Nonhighway road" means any road owned or managed by a public agency or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last twenty-five years; or (b) maintenance in the last four years.

(6) "Nonhighway road recreation facilities" means recreational facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonhighway road recreational users.

(7) "Nonhighway road recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonhighway road recreational purposes, including, but not limited to, hunting, fishing, camping, sightseeing, wildlife viewing, picnicking, driving for pleasure, kayaking/canoeing, and gathering berries, firewood, mushrooms, and other natural products.

(8) "Nonhighway vehicle" means any motorized vehicle including an ORV when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain.

Nonhighway vehicle does not include:

(a) Any vehicle designed primarily for travel on, over, or in the water;

(b) Snowmobiles or any military vehicles; or

(c) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter ((~~82.36~~)) 82.38 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

(9) "Nonmotorized recreational facilities" means recreational trails and facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonmotorized recreational users.

(10) "Nonmotorized recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonmotorized recreational purposes including, but not limited to, walking, hiking, backpacking, climbing, cross-country skiing, snowshoeing, mountain biking, horseback riding, and pack animal activities.

(11) "Organized competitive event" means any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized clubs, and conducted at a predetermined time and place.

(12) "ORV recreation facilities" include, but are not limited to, ORV trails, trailheads, campgrounds, ORV sports parks, and ORV use areas, designated for ORV use by the managing authority that are intended primarily for ORV recreational users.

(13) "ORV recreational user" means a person whose purpose for consuming fuel on nonhighway roads or off-road is primarily for ORV

recreational purposes, including but not limited to riding an all-terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or dune buggy.

(14) "ORV sports park" means a facility designed to accommodate competitive ORV recreational uses including, but not limited to, motocross racing, four-wheel drive competitions, and flat track racing. Use of ORV sports parks can be competitive or noncompetitive in nature.

(15) "ORV trail" means a multiple-use corridor designated by the managing authority and maintained for recreational use by motorized vehicles.

Sec. 608. RCW 46.09.520 and 2010 1st sp.s. c 37 s 936 and 2010 c 161 s 222 are each reenacted and amended to read as follows:

(1) From time to time, but at least once each year, the state treasurer ((~~shall~~)) must refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter ((~~82.36~~)) 82.38 RCW, based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (c) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-three cents per gallon of motor vehicle fuel beginning July 1, 2011, and thereafter, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090.

(2) The treasurer ((~~shall~~)) must place these funds in the general fund as follows:

(a) Thirty-six percent ((~~shall~~)) must be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities, and information programs and maintenance of nonhighway roads;

(b) Three and one-half percent ((~~shall~~)) must be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and the maintenance of nonhighway roads;

(c) Two percent ((~~shall~~)) must be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the acquisition, planning, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities; and

(d) Fifty-eight and one-half percent ((~~shall~~)) must be credited to the nonhighway and off-road vehicle activities program account to be administered by the board for planning, acquisition, development, maintenance, and management of ORV, nonmotorized, and nonhighway road recreation facilities and for education, information, and law enforcement programs. The funds under this subsection ((~~shall~~)) must be expended in accordance with the following limitations:

(i) Not more than thirty percent may be expended for education, information, and law enforcement programs under this chapter;

(ii) Not less than seventy percent may be expended for ORV, nonmotorized, and nonhighway road recreation facilities. Except as provided in (d)(iii) of this subsection, of this amount:

(A) Not less than thirty percent, together with the funds the board receives under RCW 46.68.045, may be expended for ORV recreation facilities;

(B) Not less than thirty percent may be expended for nonmotorized recreation facilities. Funds expended under this subsection (2)(d)(ii)(B) ((~~shall be~~)) are known as ira spring outdoor recreation facilities funds; and

(C) Not less than thirty percent may be expended for nonhighway road recreation facilities;

(iii) The board may waive the minimum percentage cited in (d)(ii) of this subsection due to insufficient requests for funds or projects that score low in the board's project evaluation. Funds remaining after such a waiver must be allocated in accordance with board policy.

(3) On a yearly basis an agency may not, except as provided in RCW 46.68.045, expend more than ten percent of the funds it receives under this chapter for general administration expenses incurred in carrying out this chapter.

(4) During the 2009-2011 fiscal biennium, the legislature may appropriate such amounts as reflect the excess fund balance in the NOVA account to the department of natural resources to install consistent off-road vehicle signage at department-managed recreation sites, and to

implement the recreation opportunities on department-managed lands in the Reiter block and Ahtanum state forest, and to the state parks and recreation commission. The legislature finds that the appropriation of funds from the NOVA account during the 2009-2011 fiscal biennium for maintenance and operation of state parks or to improve accessibility for boaters and off-road vehicle users at state parks will benefit boaters and off-road vehicle users and others who use nonhighway and nonmotorized recreational facilities. The appropriations under this subsection are not required to follow the specific distribution specified in subsection (2) of this section.

Sec. 609. RCW 46.87.080 and 2011 c 171 s 97 are each amended to read as follows:

(1) Upon making satisfactory application and payment of applicable fees and taxes for proportional registration under this chapter, the department ((~~shall~~)) must issue a cab card and validation tab for each vehicle, and to vehicles of Washington-based fleets, two distinctive apportionable license plates for each motor vehicle. License plates ((~~shall~~)) must be displayed on vehicles as required by RCW 46.16A.200(5). The number and plate ((~~shall~~)) must be of a design, size, and color determined by the department. The plates ((~~shall~~)) must be treated with reflectorized material and clearly marked with the words "WASHINGTON" and "APPORTIONED," both words to appear in full and without abbreviation.

(2) The cab card serves as the certificate of registration for a proportionally registered vehicle. The face of the cab card ((~~shall~~)) must contain the name and address of the registrant as contained in the records of the department, the license plate number assigned to the vehicle by the base jurisdiction, the vehicle identification number, and such other description of the vehicle and data as the department may require. The cab card ((~~shall~~)) must be signed by the registrant, or a designated person if the registrant is a business firm, and ((~~shall~~)) must at all times be carried in or on the vehicle to which it was issued.

(3) The apportioned license plates are not transferrable from vehicle to vehicle unless otherwise determined by rule and ((~~shall~~)) may be used only on the vehicle to which they are assigned by the

department for as long as they are legible or until such time as the department requires them to be removed and returned to the department.

(4) Distinctive validation tab(s) of a design, size, and color determined by the department ((~~shall~~)) must be affixed to the apportioned license plate(s) as prescribed by the department to indicate the month, if necessary, and year for which the vehicle is registered.

(5) Renewals ((~~shall be~~)) are effected by the issuance and display of such tab(s) after making satisfactory application and payment of applicable fees and taxes.

(6) Fleet vehicles so registered and identified ((~~shall be~~)) are deemed to be fully licensed and registered in this state for any type of movement or operation. However, in those instances in which a grant of authority is required for interstate or intrastate movement or operation, no such vehicle may be operated in interstate or intrastate commerce in this state unless the owner has been granted interstate operating authority in the case of interstate operations or intrastate operating authority by the Washington utility and transportation commission in the case of intrastate operations and unless the vehicle is being operated in conformity with that authority.

(7) The department may issue temporary authorization permits (TAPs) to qualifying operators for the operation of vehicles pending issuance of license identification. A fee of one dollar plus a one dollar filing fee ((~~shall~~)) must be collected for each permit issued. The permit fee ((~~shall~~)) must be deposited in the motor vehicle fund, and the filing fee ((~~shall~~)) must be deposited in the highway safety fund. The department may adopt rules for use and issuance of the permits.

(8) The department may refuse to issue any license or permit authorized by subsection (1) or (7) of this section to any person: (a) Who formerly held any type of license or permit issued by the department pursuant to chapter 46.16A, 46.85, 46.87, ((~~82.36,~~)) or 82.38 RCW that has been revoked for cause, which cause has not been removed; or (b) who is a subterfuge for the real party in interest whose license or permit issued by the department pursuant to chapter 46.16A, 46.85, 46.87, ((~~82.36,~~)) or 82.38 RCW and has been revoked for cause, which cause has not been removed; or (c) who, as an individual licensee, or officer, director, owner, or managing employee of a nonindividual licensee, has had a license or permit issued by the

department pursuant to chapter 46.16A, 46.85, 46.87, ((~~82.36,~~)) or 82.38 RCW which has been revoked for cause, which cause has not been removed; or (d) who has an unsatisfied debt to the state assessed under either chapter 46.16A, 46.85, 46.87, ((~~82.36,~~)) 82.38, or 82.44 RCW.

(9) The department may revoke the license or permit authorized by subsection (1) or (7) of this section issued to any person for any of the grounds constituting cause for denial of licenses or permits set forth in subsection (8) of this section.

(10) Before such refusal or revocation under subsection (8) or (9) of this section, the department ((~~shall~~)) must grant the applicant a hearing and at least ten days written notice of the time and place of the hearing.

Sec. 610. RCW 47.02.070 and 1965 ex.s. c 167 s 7 are each amended to read as follows:

Bonds issued under the provisions of this chapter ((~~shall~~)) must distinctly state that they are not a general obligation of the state but are payable in the manner provided in this chapter from the proceeds of state excise taxes on motor vehicle fuels imposed by chapter ((~~82.36 and chapter 82.40~~)) 82.38 RCW. The proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of this chapter and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the provisions of this chapter.

Sec. 611. RCW 47.02.160 and 1995 c 274 s 5 are each amended to read as follows:

Bonds issued under the authority of RCW 47.02.120 through 47.02.190 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due. The principal and interest on the bonds ((~~shall~~)) must be first payable in the manner provided in RCW 47.02.120 through 47.02.190 from the proceeds of the state excise taxes on motor vehicle and special fuels

imposed by chapter((~~s 82.36 and~~)) 82.38 RCW. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.02.120 through 47.02.190, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.02.120 through 47.02.190.

Sec. 612. RCW 47.10.040 and 1961 c 13 s 47.10.040 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.10.010 through 47.10.140 ((~~shall~~)) must distinctly state that they are not a general obligation of the state, but are payable in the manner provided in RCW 47.10.010 through 47.10.140 from the proceeds of all state excise taxes on motor vehicle fuels imposed by chapter ((~~82.36 RCW and RCW 82.36.020, 82.36.230, 82.36.250, and 82.36.400, as derived from chapter 58, Laws of 1933, as amended, and as last amended by chapter 220, Laws of 1949; and chapter 82.40 RCW and RCW 82.40.020, as derived from chapter 127, Laws of 1941, as amended, and as last amended by chapter 220, Laws of 1949~~)) 82.38 RCW. The proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.10.010 through 47.10.140, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle fuels in amounts sufficient to pay the principal and interest on all bonds issued under the provisions of RCW 47.10.010 through 47.10.140 when due.

Sec. 613. RCW 47.10.180 and 1961 c 13 s 47.10.180 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.10.150 through 47.10.270 ((~~shall~~)) must distinctly state that they are not a general obligation of the state, but are payable in the manner provided in RCW 47.10.150 through 47.10.270 from the proceeds of all state excise taxes on motor vehicle fuels imposed by chapter ((~~82.36 RCW and RCW 82.36.020, 82.36.230, 82.36.250, and 82.36.400, as derived from chapter 58, Laws of 1933, as amended, and as last amended by chapter 220, Laws of 1949; and chapter 82.40 RCW and RCW 82.40.020, as derived from chapter 127, Laws of 1941, as amended, and as last amended by chapter~~

~~220, Laws of 1949~~)) 82.38 RCW. The proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.10.150 through 47.10.270 and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle fuels in amounts sufficient to pay the principal and interest on all bonds issued under the provisions of RCW 47.10.150 through 47.10.270 when due.

Sec. 614. RCW 47.10.310 and 1961 c 13 s 47.10.310 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.10.280 through 47.10.400 ((~~shall~~)) must distinctly state that they are not a general obligation of the state, but are payable in the manner provided in RCW 47.10.280 through 47.10.400 from the proceeds of all state excise taxes on motor vehicle fuels imposed by chapter ((~~82.36 RCW, and RCW 82.36.020, 82.36.230, 82.36.250 and 82.36.400; and chapter 82.40 RCW and RCW 82.40.020~~)) 82.38 RCW. The proceeds of such excise taxes are pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.10.280 through 47.10.400. The legislature agrees to continue to impose the same excise taxes on motor fuels in amounts sufficient to pay the principal and interest on all bonds issued under the provisions of RCW 47.10.280 through 47.10.400 when due.

Sec. 615. RCW 47.10.440 and 1961 c 13 s 47.10.440 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.10.410 through 47.10.500 ((~~shall~~)) must distinctly state that they are not a general obligation of the state, but are payable in the manner provided in RCW 47.10.410 through 47.10.500 from the proceeds of all state excise taxes on motor vehicle fuels imposed by chapter ((~~82.36 RCW and RCW 82.36.020, 82.36.230, 82.36.250, and 82.36.400, as derived from chapter 58, Laws of 1933, as amended, and as last amended by chapter 220, Laws of 1949, and chapter 82.40 RCW and RCW 82.40.020, as derived from chapter 127, Laws of 1941, as amended, and as last amended by chapter 220, Laws of 1949~~)) 82.38 RCW. The proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.10.410 through 47.10.500 and the

legislature hereby agrees to continue to impose the same excise taxes on motor vehicle fuels in amounts sufficient to pay the principal and interest on all bonds issued under the provisions of RCW 47.10.410 through 47.10.500.

Sec. 616. RCW 47.10.714 and 1961 c 13 s 47.10.714 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.10.700 through 47.10.724 ((~~shall~~)) must distinctly state that they are not a general obligation of the state, but are payable in the manner provided in RCW 47.10.700 through 47.10.724 from the proceeds of state excise taxes on motor vehicle fuels imposed by chapter ((~~82.36 RCW and RCW 82.36.020, 82.36.230, 82.36.250 and 82.36.400, as derived from chapter 58, Laws of 1933, as amended, and as last amended by chapter 220, Laws of 1949; and chapter 82.40 RCW and RCW 82.40.020, as derived from chapter 127, Laws of 1941, as amended, and as last amended by chapter 220, Laws of 1949~~)) 82.38 RCW. The proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.10.700 through 47.10.724, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the provisions of RCW 47.10.700 through 47.10.724.

Sec. 617. RCW 47.10.729 and 1965 c 121 s 4 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.10.726 through 47.10.738 ((~~shall~~)) must distinctly state that they are not a general obligation of the state, but are payable in the manner provided in RCW 47.10.726 through 47.10.738 from the proceeds of all state excise taxes on motor vehicle fuels imposed by chapter ((~~82.36 RCW and chapter 82.40~~)) 82.38 RCW. The proceeds of such excise taxes are pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.10.726 through 47.10.738. The legislature agrees to continue to impose the same excise taxes on motor fuels in amounts sufficient to pay the principal and interest on all bonds issued under the provisions of RCW 47.10.726 through 47.10.738 when due.

Sec. 618. RCW 47.10.756 and 1967 ex.s. c 7 s 8 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.10.751 through 47.10.760 ((~~shall~~)) must distinctly state that they are not a general obligation of the state, but are payable in the manner provided in RCW 47.10.751 through 47.10.760 from the proceeds of state excise taxes on motor vehicle fuels imposed by chapter ((~~82.36 RCW and chapter 82.40~~)) 82.38 RCW. The proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.10.751 through 47.10.760, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the provisions of RCW 47.10.751 through 47.10.760.

Sec. 619. RCW 47.10.766 and 1967 ex.s. c 7 s 18 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.10.761 through 47.10.771 ((~~shall~~)) must distinctly state that they are not a general obligation of the state, but are payable in the manner provided in RCW 47.10.761 through 47.10.771 from the proceeds of state excise taxes on motor vehicle fuels imposed by chapter ((~~82.36 RCW and chapter 82.40~~)) 82.38 RCW. The proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.10.761 through 47.10.771, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the provisions of RCW 47.10.761 through 47.10.771.

Sec. 620. RCW 47.10.793 and 1995 c 274 s 6 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.10.790 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due. The

principal of and interest on such bonds ((~~shall~~)) must be first payable in the manner provided in RCW 47.10.790 through 47.10.798 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.10.790 through 47.10.798, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the provisions of RCW 47.10.790 through 47.10.798.

Sec. 621. RCW 47.10.804 and 1995 c 274 s 7 are each amended to read as follows:

Bonds issued under RCW 47.10.801 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due. The principal of and interest on such bonds ((~~shall~~)) must be first payable in the manner provided in RCW 47.10.801 through 47.10.809 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under RCW 47.10.801 through 47.10.809, and the legislature hereby agrees to continue to impose these excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under RCW 47.10.801 through 47.10.809.

Sec. 622. RCW 47.10.815 and 1995 c 274 s 8 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.812 through 47.10.817 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due. The principal and interest on the bonds ((~~shall~~)) must be first payable

in the manner provided in RCW 47.10.812 through 47.10.817 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.812 through 47.10.817, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.10.812 through 47.10.817.

Sec. 623. RCW 47.10.822 and 1995 c 274 s 9 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.819 through 47.10.824 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due. The principal and interest on the bonds ((~~shall~~)) must be first payable in the manner provided in RCW 47.10.819 through 47.10.824 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.819 through 47.10.824, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.10.819 through 47.10.824.

Sec. 624. RCW 47.10.838 and 1995 2nd sp.s. c 15 s 5 are each amended to read as follows:

(1) Bonds issued under the authority of RCW 47.10.834 through 47.10.841 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due.

(2) The principal and interest on the bonds issued for the purposes enumerated in RCW 47.10.836 ((~~shall~~)) must be first payable in the manner provided in RCW 47.10.834 through 47.10.841 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW. Proceeds of those excise taxes are pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.834 through 47.10.841, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.10.834 through 47.10.841.

Sec. 625. RCW 47.10.846 and 1998 c 321 s 19 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.843 through 47.10.848 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due. The principal and interest on the bonds ((~~shall~~)) must be first payable in the manner provided in RCW 47.10.843 through 47.10.848 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.843 through 47.10.848, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.10.843 through 47.10.848.

Sec. 626. RCW 47.10.864 and 2003 c 147 s 4 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.861 through 47.10.866 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an unconditional promise

to pay such principal and interest as the same ((~~shall~~)) becomes due. The principal and interest on the bonds ((~~shall~~)) must be first payable in the manner provided in RCW 47.10.861 through 47.10.866 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW. Proceeds of these excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.861 through 47.10.866, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.10.861 through 47.10.866.

Sec. 627. RCW 47.10.876 and 2005 c 315 s 4 are each amended to read as follows:

Bonds issued under the authority of RCW 47.10.873 through 47.10.878 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due. The principal and interest on the bonds ((~~shall~~)) must be first payable in the manner provided in RCW 47.10.873 through 47.10.878 from the proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW. Proceeds of these excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of RCW 47.10.873 through 47.10.878, and the legislature agrees to continue to impose these excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of RCW 47.10.873 through 47.10.878.

Sec. 628. RCW 47.10.883 and 2009 c 498 s 12 are each amended to read as follows:

Bonds issued under the authority of this section and RCW 47.10.879, 47.10.884, and 47.10.885 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an

unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due. The principal of and interest on the bonds ((~~shall~~)) must be first payable in the manner provided in this section and RCW 47.10.879, 47.10.884, and 47.10.885 from toll revenue and then from proceeds of excise taxes on motor vehicle and special fuels to the extent toll revenue is not available for that purpose. Toll revenue and the state excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW are hereby pledged to the payment of any bonds and the interest thereon issued under the authority of this section and RCW 47.10.879, 47.10.884, and 47.10.885, and the legislature agrees to continue to impose these toll charges on the state route number 520 corridor, and on any other eligible toll facility designated by the legislature and on which the imposition of tolls is authorized by the legislature in respect of the bonds, and excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the authority of this section and RCW 47.10.879, 47.10.884, and 47.10.885.

Sec. 629. RCW 47.26.404 and 1973 1st ex.s. c 169 s 3 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.26.400 through 47.26.407 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and ((~~shall~~)) must contain an unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due. The principal of and interest on such bonds ((~~shall~~)) must be first payable in the manner provided in RCW 47.26.400 through 47.26.407 from the proceeds of state excise taxes on motor vehicle fuels imposed by chapter ((~~82.36 RCW and chapter 82.40 RCW~~)) 82.38 RCW. The proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.26.400 through 47.26.407, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the provisions of RCW 47.26.400 through 47.26.407.

Sec. 630. RCW 47.26.424 and 1995 c 274 s 11 are each amended to read as follows:

The first authorization bonds, series II bonds, and series III bonds ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due. The principal and interest on such bonds ((~~shall~~)) must be first payable in the manner provided in RCW 47.26.420 through 47.26.427, 47.26.425, and 47.26.4254 from the proceeds of state excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW. The proceeds of such excise taxes are hereby pledged to the payment of any such bonds and the interest thereon, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all such bonds.

Sec. 631. RCW 47.26.4252 and 2011 c 120 s 12 are each amended to read as follows:

Any funds required to repay the authorization of series II bonds authorized by RCW 47.26.420, as reenacted by section 3, chapter 5, Laws of 1979, or the interest thereon when due, ((~~shall~~)) must first be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW and which is distributed to the transportation improvement account in the motor vehicle fund pursuant to RCW 46.68.090(2)(e), subject, however, to the prior lien of the first authorization of bonds authorized by RCW 47.26.420, as reenacted by section 3, chapter 5, Laws of 1979. If the moneys distributed to the transportation improvement account shall ever be insufficient to repay the first authorization bonds together with interest thereon, and the series II bonds or the interest thereon when due, the amount required to make such payments on such bonds or interest thereon ((~~shall~~)) must next be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels and which is distributed to the state, counties, cities, and towns pursuant to RCW 46.68.090. Any payments on

such bonds or interest thereon taken from motor vehicle or special fuel tax revenues which are distributable to the state, counties, cities, and towns, ((~~shall~~)) must be repaid from the first moneys distributed to the transportation improvement account not required for redemption of the first authorization bonds or series II and series III bonds or interest on those bond issues.

Sec. 632. RCW 47.26.4254 and 2011 c 120 s 13 are each amended to read as follows:

(1) Any funds required to repay series III bonds authorized by RCW 47.26.420, or the interest thereon, when due ((~~shall~~)) must first be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW and that is distributed to the transportation improvement account in the motor vehicle fund pursuant to RCW 46.68.090(2)(e), subject, however, to the prior lien of the first authorization of bonds authorized by RCW 47.26.420. If the moneys so distributed to the transportation improvement account, after first being applied to administrative expenses of the transportation improvement board and to the requirements of bond retirement and payment of interest on first authorization bonds and series II bonds as provided in RCW 47.26.425 and 47.26.4252, are insufficient to meet the requirements for bond retirement or interest on any series III bonds, the amount required to make such payments on series III bonds or interest thereon ((~~shall~~)) must next be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and that is distributed to the state, counties, cities, and towns pursuant to RCW 46.68.090, subject, however, to subsection (2) of this section.

(2) To the extent that moneys so distributed to the transportation improvement account are insufficient to meet the requirements for bond retirement or interest on any series III bonds, sixty percent of the amount required to make such payments when due ((~~shall~~)) must first be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and special fuels and that is distributed to the state. The remaining forty percent ((~~shall~~)) must first be taken from that portion of the motor vehicle fund that results from the imposition of excise taxes on motor vehicle and

special fuels and that is distributed to the cities and towns pursuant to RCW 46.68.090(2)(g) and to the counties pursuant to RCW 46.68.090(2)(h). Of the counties', cities', and towns' share of any additional amounts required in each fiscal year, the percentage thereof to be taken from the counties' distributive share and from the cities' and towns' distributive share ((~~shall~~)) must correspond to the percentage of funds authorized for specific county projects and for specific city and town projects, respectively, from the proceeds of series III bonds, for the period through the first eleven months of the prior fiscal year as determined by the chair of the transportation improvement board and reported to the state finance committee and the state treasurer not later than the first working day of June.

(3) Any payments on such bonds or interest thereon taken from motor vehicle or special fuel tax revenues that are distributable to the state, counties, cities, and towns ((~~shall~~)) must be repaid from the first moneys distributed to the transportation improvement account not required for redemption of the first authorization bonds, series II bonds, or series III bonds or interest on these bonds.

Sec. 633. RCW 47.26.504 and 1995 c 274 s 14 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.26.500 through 47.26.507 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due. The principal and interest on such bonds ((~~shall~~)) must be first payable in the manner provided in RCW 47.26.500 through 47.26.507 from the proceeds of state excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW. The proceeds of such excise taxes are hereby pledged to the payment of any such bonds and the interest thereon, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all such bonds.

Sec. 634. RCW 47.56.771 and 1999 c 269 s 14 are each amended to read as follows:

(1) The refunding bonds authorized under RCW 47.56.770 ((~~shall~~)) must be general obligation bonds of the state of Washington and ((~~shall~~)) must be issued in a total principal amount not to exceed fifteen million dollars. The exact amount of refunding bonds to be issued ((~~shall~~)) must be determined by the state finance committee after calculating the amount of money deposited with the trustee for the bonds to be refunded which can be used to redeem or defease outstanding toll bridge authority, ferry, and Hood Canal bridge revenue bonds after the setting aside of sufficient money from that fund to pay the first interest installment on the refunding bonds. The refunding bonds ((~~shall~~)) must be serial in form maturing at such time, in such amounts, having such denomination or denominations, redemption privileges, and having such terms and conditions as determined by the state finance committee. The last maturity date of the refunding bonds ((~~shall~~)) may not be later than January 1, 2002.

(2) The refunding bonds ((~~shall~~)) must be signed by the governor and the state treasurer under the seal of the state, which signatures ((~~shall~~)) must be made manually or in printed facsimile. The bonds ((~~shall~~)) must be registered in the name of the owner in accordance with chapter 39.46 RCW. The refunding bonds ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state, and ((~~shall~~)) must contain an unconditional promise to pay the principal thereof and the interest thereon when due. The refunding bonds ((~~shall~~)) must be fully negotiable instruments.

(3) The principal and interest on the refunding bonds ((~~shall~~)) must be first payable in the manner provided in this section from the proceeds of state excise taxes on ((~~motor vehicle and special~~)) fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW.

(4) The principal of and interest on the refunding bonds ((~~shall~~)) must be paid first from the state excise taxes on motor vehicle and special fuels deposited in the ferry bond retirement fund. There is hereby pledged the proceeds of state excise taxes on motor vehicle and special fuels imposed under chapter((~~s 82.36 and~~)) 82.38 RCW to pay the refunding bonds and interest thereon, and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle and

special fuels in amounts sufficient to pay, when due, the principal and interest on the refunding bonds. Not less than fifteen days prior to the date any interest or principal and interest payments are due, the state finance committee ((~~shall~~)) must certify to the state treasurer such amount of additional money as may be required for debt service, and the treasurer ((~~shall~~)) must thereupon transfer from the motor vehicle fund such amount from the proceeds of such excise taxes into the ferry bond retirement fund. Any proceeds of such excise taxes required for these purposes ((~~shall~~)) must first be taken from that portion of the motor vehicle fund which results from the imposition of the excise taxes on motor vehicle and special fuels and which is distributed to the Puget Sound capital construction account. If the proceeds from excise taxes distributed to the state are ever insufficient to meet the required payments on principal or interest on the refunding bonds when due, the amount required to make the payments on the principal or interest ((~~shall~~)) must next be taken from that portion of the motor vehicle fund which results from the imposition of excise taxes on motor vehicle and special fuels and which is distributed to the state, counties, cities, and towns pursuant to RCW 46.68.090. Any payments of the principal or interest taken from the motor vehicle or special fuel tax revenues which are distributable to the counties, cities, and towns ((~~shall~~)) must be repaid from the first money distributed to the state not required for redemption of the refunding bonds or interest thereon. The legislature covenants that it ((~~shall~~)) will at all times provide sufficient revenues from the imposition of such excise taxes to pay the principal and interest due on the refunding bonds.

Sec. 635. RCW 47.60.580 and 1995 c 274 s 18 are each amended to read as follows:

Bonds issued under the provisions of RCW 47.60.560 ((~~shall~~)) must distinctly state that they are a general obligation of the state of Washington, ((~~shall~~)) must pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and ((~~shall~~)) must contain an unconditional promise to pay such principal and interest as the same ((~~shall~~)) becomes due. The principal of and interest on such bonds ((~~shall~~)) must be first payable in the manner provided in RCW 47.60.560 through 47.60.640 from the

proceeds of the state excise taxes on motor vehicle and special fuels imposed by chapter((~~s 82.36 and~~)) 82.38 RCW. Proceeds of such excise taxes are hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 47.60.560 through 47.60.640 and the legislature hereby agrees to continue to impose the same excise taxes on motor vehicle and special fuels in amounts sufficient to pay, when due, the principal and interest on all bonds issued under the provisions of RCW 47.60.560 through 47.60.640.

Sec. 636. RCW 79A.25.010 and 2007 c 241 s 40 are each amended to read as follows:

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

(1) "Marine recreation land" means any land with or without improvements which (a) provides access to, or in whole or in part borders on, fresh or salt water suitable for recreational use by watercraft, or (b) may be used to create, add to, or make more usable, bodies of water, waterways, or land, for recreational use by watercraft.

(2) "Public body" means any county, city, town, port district, park and recreation district, metropolitan park district, or other municipal corporation which is authorized to acquire or improve public outdoor recreation land, and ((~~shall~~)) also means Indian tribes now or hereafter recognized as such by the federal government for participation in the land and water conservation program.

(3) "Tax on marine fuel" means motor vehicle fuel tax which is (a) tax on fuel used in, or sold or distributed for use in, any watercraft, (b) refundable pursuant to chapter ((~~82.36~~)) 82.38 RCW, and (c) paid to the director of licensing with respect to taxable sales, distributions, or uses occurring on or after December 3, 1964.

(4) "Watercraft" means any boat, vessel, or other craft used for navigation on or through water.

(5) "Board" means the recreation and conservation funding board.

(6) "Director" means the director of the recreation and conservation office.

(7) "Office," "recreation and conservation office," or "the office of recreation and conservation" means the state agency responsible for administration of programs and activities of the recreation and

conservation funding board, the salmon recovery funding board, the invasive species council, and such other duties or boards, councils, or advisory groups as are or may be established or directed for administrative placement in the agency.

(8) "Council" means the Washington invasive species council created in RCW 79A.25.310.

Sec. 637. RCW 79A.25.040 and 2010 c 23 s 2 are each amended to read as follows:

There is created the marine fuel tax refund account in the state treasury. The director of licensing ((~~shall~~)) must request the state treasurer to refund monthly from the motor vehicle fund an amount equal to one percent of the motor vehicle fuel tax moneys collected during that period. The state treasurer ((~~shall~~)) must refund such amounts and place them in the marine fuel tax refund account to be held for those entitled thereto pursuant to chapter ((~~82.36~~)) 82.38 RCW and RCW 79A.25.050, except that the treasurer may not refund and place in the marine fuel tax refund account more than the greater of the following amounts: (1) An amount equal to two percent of all moneys paid to the treasurer as motor vehicle fuel tax for such period, (2) an amount necessary to meet all approved claims for refund of tax on marine fuel for such period.

Sec. 638. RCW 79A.25.050 and 1965 c 5 s 5 are each amended to read as follows:

Claims submitted pursuant to chapter ((~~82.36~~)) 82.38 RCW for refund of tax on marine fuel which has been placed in the marine fuel tax refund account ((~~shall~~)) must, if approved, be paid from that account.

Sec. 639. RCW 82.04.4285 and 1998 c 176 s 3 are each amended to read as follows:

In computing tax there may be deducted from the measure of tax so much of the sale price of ((~~motor vehicle~~)) fuel as constitutes the amount of tax imposed by the state under chapter((~~s 82.36 and~~)) 82.38 RCW or the United States government, under 26 U.S.C., Subtitle D, chapters 31 and 32, upon the sale thereof.

Sec. 640. RCW 82.08.0255 and 2011 1st sp.s. c 16 s 4 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 ((~~shall~~)) does not apply to sales of motor vehicle and special fuel if:

(a) The fuel is purchased for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW ((~~82.36.275 or 82.38.080(3)~~)) 82.38.080(1) (f) and (g) or 82.38.180(3)(b); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW ((~~82.36.285 or 82.38.080(1)(h)~~)) 82.38.080(1)(d) or 82.38.180(3)(a); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

(d) The fuel is purchased by the Washington state ferry system for use in a state-owned ferry after June 30, 2013; or

(e) The fuel is purchased by a county-owned ferry for use in ferry vessels after June 30, 2013; or

(f) The fuel is taxable under chapter ((~~82.36 or~~)) 82.38 RCW.

(2) Any person who has paid the tax imposed by RCW 82.08.020 on the sale of special fuel delivered in this state ((~~shall be~~)) is entitled to a credit or refund of such tax with respect to fuel subsequently established to have been actually transported and used outside this state by persons engaged in interstate commerce. The tax ((~~shall~~)) must be claimed as a credit or refunded through the tax reports required under RCW 82.38.150.

Sec. 641. RCW 82.80.010 and 2003 c 350 s 1 are each amended to read as follows:

(1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and special fuel as defined in RCW ((~~82.36.010 and~~)) 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030.

(2) Subject to the conditions of this section, any county may levy, by approval of its legislative body and a majority of the registered voters of the county voting on the proposition at a general or special election, additional excise taxes equal to ten percent of the statewide motor vehicle fuel tax rate under RCW ((~~82.36.025~~)) 82.38.030 on each gallon of motor vehicle fuel as defined in RCW ((~~82.36.010~~)) 82.38.020 and on each gallon of special fuel as defined in RCW 82.38.020 sold within the boundaries of the county. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the county fuel excise tax. An election held under this section must be held not more than twelve months before the date on which the proposed tax is to be levied. The ballot setting forth the proposition ((~~shall~~)) must state the tax rate that is proposed. The county's authority to levy additional excise taxes under this section includes the incorporated and unincorporated areas of the county. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapter((~~s 82.36 and~~)) 82.38 RCW. The proposed tax ((~~shall~~)) may not be levied less than one month from the date the election results are certified by the county election officer. The commencement date for the levy of any tax under this section ((~~shall~~)) must be the first day of January, April, July, or October.

(3) The local option motor vehicle fuel tax on each gallon of motor vehicle fuel and on each gallon of special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of a county to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a county ((~~shall~~)) must contract with the department of revenue for the administration and collection of the taxes. The contract must provide that a percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the

custody of the state treasurer. The department of revenue may spend money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) The state treasurer ((~~shall~~)) must distribute monthly to the levying county and cities contained therein the proceeds of the additional excise taxes collected under this section, after the deductions for payments and expenditures as provided in RCW 46.68.090(1) (a) and (b) and under the conditions and limitations provided in RCW 82.80.080.

(8) The proceeds of the additional excise taxes levied under this section ((~~shall~~)) must be used strictly for transportation purposes in accordance with RCW 82.80.070.

(9) A county may not levy the tax under this section if they are levying the tax in RCW 82.80.110 or if they are a member of a regional transportation investment district levying the tax in RCW 82.80.120.

Sec. 642. RCW 82.80.110 and 2003 c 350 s 2 are each amended to read as follows:

(1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and special fuel as defined in RCW ((~~82.36.010 and~~)) 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030.

(2) For purposes of dedication to a regional transportation investment district plan under chapter 36.120 RCW, subject to the conditions of this section, a county may levy additional excise taxes equal to ten percent of the statewide motor vehicle fuel tax rate under RCW ((~~82.36.025~~)) 82.38.030 on each gallon of motor vehicle fuel as defined in RCW ((~~82.36.010~~)) 82.38.020 and on each gallon of special fuel as defined in RCW ((~~82.38.020~~)) 82.32.020 sold within the boundaries of the county. The additional excise tax is subject to the approval of the county's legislative body and a majority of the registered voters of the county voting on the proposition at a general or special election. An election held under this section must be held not more than twelve months before the date on which the proposed tax is to be levied. The ballot setting forth the proposition must state that the revenues from the tax will be used for a regional

transportation investment district plan. The county's authority to levy additional excise taxes under this section includes the incorporated and unincorporated areas of the county. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the county fuel excise tax. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapter((~~s 82.36 and~~)) 82.38 RCW. The proposed tax may not be levied less than one month from the date the election results are certified by the county election officer. The commencement date for the levy of any tax under this section will be the first day of January, April, July, or October.

(3) The local option motor vehicle fuel tax on each gallon of motor vehicle fuel and on each gallon of special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of a county to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a county ((~~shall~~)) must contract with the department of revenue for the administration and collection of the taxes. The contract must provide that a percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the custody of the state treasurer. The department of revenue may spend money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) The state treasurer ((~~shall~~)) must distribute monthly to the county levying the tax as part of a regional transportation investment plan, after the deductions for payments and expenditures as provided in RCW 46.68.090(1) (a) and (b).

(8) The proceeds of the additional taxes levied by a county in this section, to be used as a part of a regional transportation investment plan, must be used in accordance with chapter 36.120 RCW, but only for those areas that are considered "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(9) A county may not levy the tax under this section if they are a member of a regional transportation investment district that is levying the tax in RCW 82.80.120 or the county is levying the tax in RCW 82.80.010.

Sec. 643. RCW 82.80.120 and 2010 c 106 s 233 are each amended to read as follows:

(1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and special fuel as defined in RCW ((~~82.36.010 and~~)) 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030;

(c) "District" means a regional transportation investment district under chapter 36.120 RCW.

(2) A regional transportation investment district under chapter 36.120 RCW, subject to the conditions of this section, may levy additional excise taxes equal to ten percent of the statewide motor vehicle fuel tax rate under RCW ((~~82.36.025~~)) 82.38.030 on each gallon of motor vehicle fuel as defined in RCW ((~~82.36.010~~)) 82.38.020 and on each gallon of special fuel as defined in RCW 82.38.020 sold within the boundaries of the district. The additional excise tax is subject to the approval of a majority of the voters within the district boundaries. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the district's fuel excise tax. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapter((~~s 82.36 and~~)) 82.38 RCW. The proposed tax may not be levied less than one month from the date the election results are certified. The commencement date for the levy of any tax under this section will be the first day of January, April, July, or October.

(3) The local option motor vehicle fuel tax on each gallon of motor vehicle fuel and on each gallon of special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of the district to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a district must contract with the department of revenue for the administration and collection of the taxes. The contract must provide that a percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the custody of the state treasurer. The department of revenue may spend money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) The state treasurer must distribute monthly to the district levying the tax as part of the regional transportation investment district plan, after the deductions for payments and expenditures as provided in RCW 46.68.090(1) (a) and (b).

(8) The proceeds of the additional taxes levied by a district in this section, to be used as a part of a regional transportation investment district plan, must be used in accordance with chapter 36.120 RCW, but only for those areas that are considered "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(9) A district may only levy the tax under this section if the district is comprised of boundaries identical to the boundaries of a county or counties. A district may not levy the tax in this section if a member county is levying the tax in RCW 82.80.010 or 82.80.110.

Sec. 644. RCW 46.68.080 and 2010 c 161 s 1128 are each amended to read as follows:

(1) Vehicle license fees collected under RCW 46.17.350 and 46.17.355 and fuel taxes collected under RCW ((~~82.36.025(1) and~~)) 82.38.030(1) and directly or indirectly paid by the residents of those counties composed entirely of islands and which have neither a fixed physical connection with the mainland nor any state highways on any of the islands of which they are composed, ((~~shall~~)) must be paid into the motor vehicle fund of the state of Washington and ((~~shall~~)) must monthly, as they accrue, and after deducting therefrom the expenses of

issuing such licenses and the cost of collecting such ((~~vehicle~~)) fuel tax, be paid to the county treasurer of each such county to be by him or her disbursed as hereinafter provided.

(2) One-half of the vehicle license fees collected under RCW 46.17.350 and 46.17.355 and one-half of the fuel taxes collected under RCW ((~~82.36.025(1) and~~)) 82.38.030(1) and directly or indirectly paid by the residents of those counties composed entirely of islands and which have either a fixed physical connection with the mainland or state highways on any of the islands of which they are composed, ((~~shall~~)) must be paid into the motor vehicle fund of the state of Washington and ((~~shall~~)) must monthly, as they accrue, and after deducting therefrom the expenses of issuing such licenses and the cost of collecting such ((~~motor vehicle~~)) fuel tax, be paid to the county treasurer of each such county to be by him or her disbursed as hereinafter provided.

(3) All funds paid to the county treasurer of the counties of either class referred to in subsections (1) and (2) of this section, ((~~shall be~~)) must be distributed and credited by ((~~such~~)) the county treasurer ((~~distributed and credited~~)) to the several road districts of each such county and paid to the city treasurer of each incorporated city and town within each such county, in the direct proportion that the assessed valuation of each such road district and incorporated city and town ((~~shall~~)) bears to the total assessed valuation of each such county.

(4) The amount of motor vehicle fuel tax paid by the residents of those counties composed entirely of islands ((~~shall~~)) must, for the purposes of this section, be that percentage of the total amount of motor vehicle fuel tax collected in the state that the vehicle license fees paid by the residents of counties composed entirely of islands bears to the total vehicle license fees paid by the residents of the state.

(5)(a) An amount of fuel taxes ((~~shall~~)) must be deposited into the Puget Sound ferry operations account. This amount ((~~shall~~)) must equal the difference between the total amount of fuel taxes collected in the state under RCW ((~~82.36.020 and~~)) 82.38.030 less the total amount of fuel taxes collected in the state under RCW ((~~82.36.020(1) and~~)) 82.38.030(1) and be multiplied by a fraction. The fraction ((~~shall~~)) must equal the amount of vehicle license fees collected under RCW

46.17.350 and 46.17.355 from counties described in subsection (1) of this section divided by the total amount of vehicle license fees collected in the state under RCW 46.17.350 and 46.17.355.

(b) An additional amount of fuel taxes ((~~shall~~)) must be deposited into the Puget Sound ferry operations account. This amount ((~~shall~~)) must equal the difference between the total amount of fuel taxes collected in the state under RCW ((~~82.36.020 and~~)) 82.38.030 less the total amount of fuel taxes collected in the state under RCW ((~~82.36.020(1) and~~)) 82.38.030(1) and be multiplied by a fraction. The fraction ((~~shall~~)) must equal the amount of vehicle license fees collected under RCW 46.17.350 and 46.17.355 from counties described in subsection (2) of this section divided by the total amount of vehicle license fees collected in the state under RCW 46.17.350 and 46.17.355, and this ((~~shall~~)) must be multiplied by one-half.

Sec. 645. RCW 46.68.090 and 2011 c 120 s 4 are each amended to read as follows:

(1) All moneys that have accrued or may accrue to the motor vehicle fund from the motor vehicle fuel tax and special fuel tax ((~~shall~~)) must be first expended for purposes enumerated in (a) and (b) of this subsection. The remaining net tax amount ((~~shall~~)) must be distributed monthly by the state treasurer in accordance with subsections (2) through (7) of this section.

(a) For payment of refunds of motor vehicle fuel tax and special fuel tax that has been paid and is refundable as provided by law;

(b) For payment of amounts to be expended pursuant to appropriations for the administrative expenses of the offices of state treasurer, state auditor, and the department of licensing of the state of Washington in the administration of the motor vehicle fuel tax and the special fuel tax, which sums ((~~shall~~)) must be distributed monthly.

(2) All of the remaining net tax amount collected under RCW ((~~82.36.025(1) and~~)) 82.38.030(1) ((~~shall~~)) must be distributed as set forth in (a) through (j) of this section.

(a) For distribution to the motor vehicle fund an amount equal to 44.387 percent to be expended for highway purposes of the state as defined in RCW 46.68.130;

(b)(i) For distribution to the special category C account, hereby created in the motor vehicle fund, an amount equal to 3.2609 percent to

be expended for special category C projects. Special category C projects are category C projects that, due to high cost only, will require bond financing to complete construction.

(ii) The following criteria, listed in order of priority, ((~~shall~~)) must be used in determining which special category C projects have the highest priority:

((~~(i)~~)) (A) Accident experience;

((~~(ii)~~)) (B) Fatal accident experience;

((~~(iii)~~)) (C) Capacity to move people and goods safely and at reasonable speeds without undue congestion; and

((~~(iv)~~)) (D) Continuity of development of the highway transportation network.

(iii) Moneys deposited in the special category C account in the motor vehicle fund may be used for payment of debt service on bonds the proceeds of which are used to finance special category C projects under this subsection (2)(b);

(c) For distribution to the Puget Sound ferry operations account in the motor vehicle fund an amount equal to 2.3283 percent;

(d) For distribution to the Puget Sound capital construction account in the motor vehicle fund an amount equal to 2.3726 percent;

(e) For distribution to the transportation improvement account in the motor vehicle fund an amount equal to 7.5597 percent;

(f) For distribution to the transportation improvement account in the motor vehicle fund an amount equal to 5.6739 percent and expended in accordance with RCW 47.26.086;

(g) For distribution to the cities and towns from the motor vehicle fund an amount equal to 10.6961 percent in accordance with RCW 46.68.110;

(h) For distribution to the counties from the motor vehicle fund an amount equal to 19.2287 percent: (i) Out of which there ((~~shall~~)) must be distributed from time to time, as directed by the department of transportation, those sums as may be necessary to carry out the provisions of RCW 47.56.725; and (ii) less any amounts appropriated to the county road administration board to implement the provisions of RCW 47.56.725(4), with the balance of such county share to be distributed monthly as the same accrues for distribution in accordance with RCW 46.68.120;

(i) For distribution to the county arterial preservation account, hereby created in the motor vehicle fund an amount equal to 1.9565 percent. These funds ((~~shall~~)) must be distributed by the county road administration board to counties in proportions corresponding to the number of paved arterial lane miles in the unincorporated area of each county and ((~~shall~~)) must be used for improvements to sustain the structural, safety, and operational integrity of county arterials. The county road administration board ((~~shall~~)) must adopt reasonable rules and develop policies to implement this program and to assure that a pavement management system is used;

(j) For distribution to the rural arterial trust account in the motor vehicle fund an amount equal to 2.5363 percent and expended in accordance with RCW 36.79.020.

(3) The remaining net tax amount collected under RCW ((~~82.36.025(2) and~~)) 82.38.030(2) ((~~shall~~)) must be distributed to the transportation 2003 account (nickel account).

(4) The remaining net tax amount collected under RCW ((~~82.36.025(3) and~~)) 82.38.030(3) ((~~shall~~)) must be distributed as follows:

(a) 8.3333 percent ((~~shall~~)) must be distributed to the incorporated cities and towns of the state in accordance with RCW 46.68.110;

(b) 8.3333 percent ((~~shall~~)) must be distributed to counties of the state in accordance with RCW 46.68.120; and

(c) The remainder ((~~shall~~)) must be distributed to the transportation partnership account created in RCW 46.68.290.

(5) The remaining net tax amount collected under RCW ((~~82.36.025(4) and~~)) 82.38.030(4) ((~~shall~~)) must be distributed as follows:

(a) 8.3333 percent ((~~shall~~)) must be distributed to the incorporated cities and towns of the state in accordance with RCW 46.68.110;

(b) 8.3333 percent ((~~shall~~)) must be distributed to counties of the state in accordance with RCW 46.68.120; and

(c) The remainder ((~~shall~~)) must be distributed to the transportation partnership account created in RCW 46.68.290.

(6) The remaining net tax amount collected under ((~~RCW 82.36.025 (5) and (6) and~~)) 82.38.030 (5) and (6) ((~~shall~~)) must be distributed to the transportation partnership account created in RCW 46.68.290.

(7) Nothing in this section or in RCW 46.68.130 may be construed so as to violate any terms or conditions contained in any highway construction bond issues now or hereafter authorized by statute and whose payment is by such statute pledged to be paid from any excise taxes on motor vehicle fuel and special fuels.

Sec. 646. RCW 82.12.0256 and 2011 1st sp.s. c 16 s 5 are each amended to read as follows:

The provisions of this chapter ((~~shall~~)) do not apply in respect to the use of:

(1) Special fuel purchased in this state upon which a refund is obtained as provided in RCW 82.38.180((~~(2)~~)) (1)(b); and

(2) Motor vehicle and special fuel if:

(a) The fuel is used for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW ((~~82.36.275 or 82.38.080(3)~~)) 82.38.080(1) (f) and (g) or 82.38.180(3)(b); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW ((~~82.36.285 or 82.38.080(1)(h)~~)) 82.38.080(1)(d) or 82.38.180(3)(a); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

(d) The fuel is taxable under chapter ((~~82.36 or~~)) 82.38 RCW((~~: PROVIDED, That~~)). However, the use of motor vehicle and special fuel upon which a refund of the applicable fuel tax is obtained ((~~shall~~)) is not ((~~be~~)) exempt under this subsection (2)(d)((~~,~~)) and the director of licensing ((~~shall~~)) must deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue; or

(e) The fuel is purchased by a county-owned ferry for use in ferry vessels after June 30, 2013; or

(f) The fuel is purchased by the Washington state ferry system for use in a state-owned ferry after June 30, 2013.

NEW SECTION. **Sec. 647.** RCW 82.38.800, 82.38.900, 82.38.910, 82.38.920, 82.38.930, 82.38.940, 82.38.941 are each decodified.

NEW SECTION. **Sec. 648.** Part II of this act is to be codified as new sections in chapter 82.38 RCW.

NEW SECTION. **Sec. 649.** Part IV of this act is to be codified as new sections in chapter 82.42 RCW.

NEW SECTION. **Sec. 650.** This act takes effect July 1, 2015.

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