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**ENGROSSED SUBSTITUTE HOUSE BILL 2778**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** House Transportation (originally sponsored by Representatives Fey, Orcutt, Clibborn, McBride, Moscoso, Hickel, Stambaugh, Bergquist, Tharinger, and Tarleton)

AN ACT Relating to retail sales and use tax exemption criteria for certain clean alternative fuel vehicles; amending RCW 82.08.809 and 82.12.809; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec.**  This section is the tax preference performance statement for the tax preferences contained in sections 2 and 3 of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of clean alternative fuel vehicles in Washington. It is the legislature's intent to extend the existing sales and use tax exemption on certain clean alternative fuel vehicles in order to reduce the price charged to customers for clean alternative fuel vehicles.

(3) To measure the effectiveness of the tax preferences in sections 2 and 3 of this act in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of clean alternative fuel vehicles registered in the state.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of licensing must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary.

**Sec.**  RCW 82.08.809 and 2015 3rd sp.s. c 44 s 408 are each amended to read as follows:

(1)(a) Except as provided in subsection (4) of this section, the tax levied by RCW 82.08.020 does not apply to sales of new passenger cars, light duty trucks, and medium duty passenger vehicles, which ((~~(a)~~)) (i) are exclusively powered by a clean alternative fuel or ((~~(b)~~)) (ii) use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power.

(b) Beginning with sales made or lease agreements signed on or after July 1, 2016, the exemption in this section is only applicable for up to thirty-five thousand dollars of a vehicle's selling price or the total lease payments made plus the selling price of the leased vehicle if the original lessee purchases the leased vehicle.

(2) The seller must keep records necessary for the department to verify eligibility under this section.

(3) As used in this section, "clean alternative fuel" means natural gas, propane, hydrogen, or electricity, when used as a fuel in a motor vehicle that meets the California motor vehicle emission standards in Title 13 of the California code of regulations, effective January 1, 2005, and the rules of the Washington state department of ecology.

(4)(a) A sale, other than a lease, of a vehicle identified in subsection (1) of this section made on or after July 15, 2015, and before July 1, 2016, is not exempt from sales tax as described under subsection (1)(a) of this section if the adjusted selling price of the vehicle ((~~plus trade-in property of like kind~~)) exceeds thirty-five thousand dollars.

(b) A sale, other than a lease, of a vehicle identified in subsection (1) of this section made on or after July 1, 2016, and before July 1, 2019, is not exempt from sales tax as described under subsection (1) of this section unless either of the following applies:

(i) The adjusted selling price of the vehicle is thirty-eight thousand five hundred dollars or less; or

(ii) The adjusted selling price of the vehicle is more than thirty-eight thousand five hundred dollars but no more than forty-two thousand five hundred dollars and either:

(A) The vehicle's rated battery energy capacity is thirty kilowatt-hours or more; or

(B) The vehicle's driving range on a full battery charge using only battery power is one hundred miles or more.

(c) For leased vehicles for which the lease agreement is signed on or after July 1, 2016, and before July 1, 2019, lease payments are not exempt from sales tax as described under subsection (1) of this section unless either of the following applies:

(i) The adjusted fair market value of the vehicle being leased is thirty-eight thousand five hundred dollars or less at the inception of the lease; or

(ii) The adjusted fair market value of the vehicle being leased is more than thirty-eight thousand five hundred dollars but no more than forty-two thousand five hundred dollars at the inception of the lease and either:

(A) The vehicle's rated battery energy capacity is thirty kilowatt-hours or more; or

(B) The vehicle's driving range on a full battery charge using only battery power is one hundred miles or more.

(d) For leased vehicles for which the lease agreement is signed on or after July 15, 2015, and before July 1, 2016, lease payments are not exempt from sales tax as described under subsection (1)(a) of this section if the adjusted fair market value of the vehicle being leased exceeds thirty-five thousand dollars at the inception of the lease. ((~~For the purposes of this subsection (4)(b), "fair market value" has the same meaning as "value of the article used" in RCW 82.12.010.~~

~~(c)~~)) (e) For leased vehicles for which the lease agreement was signed before July ((~~15~~)) 1, 2015, lease payments are exempt from sales tax as described under subsection (1)(a) of this section regardless of the vehicle's adjusted fair market value at the inception of the lease.

(f) The adjusted selling price and adjusted fair market value limits used to determine exemption eligibility in (b)(i), (b)(ii), (c)(i), and (c)(ii) of this subsection are raised by five hundred dollars on January 1st of each calendar year, beginning January 1, 2017. The adjusted selling price and the adjusted fair market value limits used to determine exemption eligibility for a sale or lease under this section are the limits in effect for the calendar year during which the sale is made or the lease agreement is signed. Exemption eligibility for a leased vehicle is determined at the time a lease agreement is signed, and applies to the sale of the leased vehicle by the lessor to the original lessee during or at the end of the lease term, but before July 1, 2019.

(5) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns. For purposes of this section, the first transfer for the calendar quarter after July 15, 2015, must be calculated assuming only those revenues that should have been deposited into the general fund beginning July 1, 2015.

(6) Lease payments due on or after July 1, 2019, and the purchase of a leased vehicle exempt under this section that is purchased on or after July 1, 2019, are subject to the taxes imposed under this chapter.

(7) For the purposes of this section:

(a) "Adjusted fair market value" has the same meaning as "value of the article used" as defined in RCW 82.12.010 plus the value of any trade-in property of like kind.

(b) "Adjusted selling price" has the same meaning as "selling price" as defined in RCW 82.08.010 plus the value of any trade-in property of like kind.

(8) This section expires July 1, 2019.

**Sec.**  RCW 82.12.809 and 2015 3rd sp.s. c 44 s 409 are each amended to read as follows:

(1)(a) Except as provided in subsection (4) of this section, ((~~until July 1, 2019,~~)) the provisions of this chapter do not apply in respect to the use of new passenger cars, light duty trucks, and medium duty passenger vehicles, which ((~~(a)~~)) (i) are exclusively powered by a clean alternative fuel or ((~~(b)~~)) (ii) use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power.

(b) Beginning with purchases made or lease agreements signed on or after July 1, 2016, the exemption in this section is only applicable for up to thirty-five thousand dollars of a vehicle's purchase price or the total lease payments made plus the purchase price of the leased vehicle if the original lessee purchases the leased vehicle.

(2) The definitions in RCW 82.08.809 apply to this section.

(3) A taxpayer is not liable for the tax imposed in RCW 82.12.020 on the use, on or after July 1, 2019, of a passenger car, light duty truck, or medium duty passenger vehicle that is exclusively powered by a clean alternative fuel or uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and is capable of traveling at least thirty miles using only battery power, if the taxpayer used such vehicle in this state before July 1, 2019, and the use was exempt under this section from the tax imposed in RCW 82.12.020.

(4)(a) For vehicles identified in subsection (1) of this section purchased on or after July 1, 2016, and before July 1, 2019, or for leased vehicles identified in subsection (1) of this section for which the lease agreement was signed on or after July 1, 2016, and before July 1, 2019, a vehicle is not exempt from use tax as described under subsection (1) of this section unless either of the following applies:

(i) The adjusted fair market value of the vehicle is thirty-eight thousand five hundred dollars or less at the time the tax is imposed for purchased vehicles or at the inception of the lease for leased vehicles; or

(ii) The adjusted fair market value of the vehicle is more than thirty-eight thousand five hundred dollars but no more than forty-two thousand five hundred dollars at the time the tax is imposed for purchased vehicles or at the inception of the lease for leased vehicles and either:

(A) The vehicle's rated battery energy capacity is thirty kilowatt-hours or more; or

(B) The vehicle's driving range on a full battery charge using only battery power is one hundred miles or more.

(b) For vehicles purchased on or after July 15, 2015, and before July 1, 2016, or for leased vehicles for which the lease agreement was signed on or after July 15, 2015, and before July 1, 2016, a vehicle is not exempt from use tax as described under subsection (1) of this section if the adjusted fair market value of the vehicle exceeds thirty-five thousand dollars at the time the tax is imposed for purchased vehicles, or at the inception of the lease for leased vehicles.

((~~(b)~~)) (c) For leased vehicles for which the lease agreement was signed before July ((~~15~~)) 1, 2015, lease payments are exempt from use tax as described under subsection (1) of this section regardless of the vehicle's adjusted fair market value at the inception of the lease.

(d) The adjusted fair market value limits used to determine exemption eligibility in (a)(i) and (ii) of this subsection are raised by five hundred dollars on January 1st of each calendar year, beginning January 1, 2017. The adjusted fair market value limits used to determine exemption eligibility for a sale or lease under this section are the limits in effect for the calendar year during which the sale is made or the lease agreement is signed. Exemption eligibility for a leased vehicle is determined at the time a lease agreement is signed, and applies to the sale of the leased vehicle by the lessor to the original lessee during or at the end of the lease term, but before July 1, 2019.

(5) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data. For purposes of this section, the first transfer for the calendar quarter after July 15, 2015, must be calculated assuming only those revenues that should have been deposited into the general fund beginning July 1, 2015.

(6) Lease payments due on or after July 1, 2019, and the purchase of a leased vehicle exempt under this section that is purchased on or after July 1, 2019, are subject to the taxes imposed under this chapter.

NEW SECTION. **Sec.**  This act takes effect July 1, 2016.

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