

ESHB 2778 - H AMD 974

By Representative Fey

ADOPTED 03/29/2016

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** This section is the tax preference
4 performance statement for the tax preferences contained in sections 2
5 and 3 of this act. The performance statement is only intended to be
6 used for subsequent evaluation of the tax preference. It is not
7 intended to create a private right of action by any party or be used
8 to determine eligibility for preferential tax treatment.

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

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

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

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

29 **Sec. 2.** RCW 82.08.809 and 2015 3rd sp.s. c 44 s 408 are each
30 amended to read as follows:

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

8 (b) Beginning with sales made or lease agreements signed on or
9 after July 1, 2016, the exemption in this section is only applicable
10 for up to thirty-two thousand dollars of a vehicle's selling price or
11 the total lease payments made plus the selling price of the leased
12 vehicle if the original lessee purchases the leased vehicle before
13 the expiration of the exemption as described in subsection (6) of
14 this section.

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

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

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

29 (b) A sale, other than a lease, of a vehicle identified in
30 subsection (1)(a) of this section made on or after July 1, 2016, and
31 before the expiration of the exemption as described in subsection (6)
32 of this section, is not exempt from sales tax as described under
33 subsection (1)(b) of this section if, at the time of sale, the lowest
34 manufacturer's suggested retail price, as determined in rule by the
35 department of licensing pursuant to chapter 34.05 RCW, for the base
36 model is more than forty-two thousand five hundred dollars.

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

1 (d) For leased vehicles identified in subsection (1)(a) of this
2 section for which the lease agreement is signed on or after July 15,
3 2015, and before July 1, 2016, lease payments are not exempt from
4 sales tax ((as described under subsection (1) of this section)) if
5 the fair market value of the vehicle being leased exceeds thirty-five
6 thousand dollars at the inception of the lease. For the purposes of
7 this subsection (4)((b)), "fair market value" has the same meaning
8 as "value of the article used" in RCW 82.12.010.

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

13 (e) For leased vehicles identified in subsection (1)(a) of this
14 section for which the lease agreement is signed on or after July 1,
15 2016, and before the expiration of the exemption as described in
16 subsection (6) of this section, lease payments are not exempt from
17 sales tax as described under subsection (1)(b) of this section if, at
18 the inception of the lease, the lowest manufacturer's suggested
19 retail price, as determined in rule by the department of licensing
20 pursuant to chapter 34.05 RCW, for the base model is more than forty-
21 two thousand five hundred dollars.

22 (f) The department of licensing must maintain and publish a list
23 of all vehicle models qualifying for the sales tax exemption under
24 this section until the expiration of the exemption as described in
25 subsection (6) of this section.

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

1 ~~(6) ((Lease payments due on or after July 1, 2019, are subject to~~
2 ~~the taxes imposed under this chapter.~~

3 ~~(7) This section expires July 1, 2019.)~~ (a) The exemption under
4 this section expires, effective with sales of vehicles delivered to
5 the buyer or leased vehicles for which the lease agreement was
6 signed, after the last day of the calendar month immediately
7 following the month the department receives notice from the
8 department of licensing under subsection (7)(b) of this section. All
9 leased vehicles that qualified for the exemption before the
10 expiration of the exemption must continue to receive the exemption as
11 described under subsection (1)(b) of this section on lease payments
12 due through the remainder of the lease.

13 (b) Upon receiving notice from the department of licensing under
14 subsection (7)(b) of this section, the department must provide notice
15 as soon as is practicable on its web site of the expiration date of
16 the exemption under this section.

17 (c) For purposes of this subsection, even if the department of
18 licensing provides the department with notice under subsection (7)(b)
19 of this section before the end of the fifth working day of the month
20 notice is required, the notice is deemed to have been received by the
21 department at the end of the fifth working day of the month notice is
22 required.

23 (d) If, by the end of the fifth working day of May 2019, the
24 department has not received notice from the department of licensing
25 under subsection (7)(b) of this section, the exemption under this
26 section expires effective with sales of vehicles delivered to the
27 buyer or leased vehicles for which the lease agreement was signed
28 after June 30, 2019.

29 (e) Nothing in this subsection (6) may be construed to affect the
30 validity of any exemption properly allowed by a seller under this
31 section before the expiration of the exemption as described in (a) of
32 this subsection and reported to the department on returns filed after
33 the expiration of the exemption.

34 (f) Nothing in this subsection (6) may be construed to allow an
35 exemption under this section for the purchase of a qualifying vehicle
36 by the original lessee of the vehicle after the expiration of the
37 exemption as provided in (a) of this subsection.

38 (7)(a) By the end of the fifth working day of each month, until
39 the expiration of the exemption as described in subsection (6) of
40 this section, the department of licensing must determine the

1 cumulative number of qualifying vehicles titled on or after July 15,
2 2015, and provide notice of the cumulative number of these vehicles
3 to the department.

4 (b) The department of licensing must notify the department once
5 the cumulative number of qualifying vehicles titled in the state on
6 or after July 15, 2015, equals or exceeds seven thousand five
7 hundred.

8 (8) By the last day of July 2016, and every six months thereafter
9 until the expiration of the exemption as described in subsection (6)
10 of this section, based on the best available data, the department
11 must report the following information to the transportation
12 committees of the legislature: The cumulative number of qualifying
13 vehicles titled in the state on or after July 15, 2015, as reported
14 to it by the department of licensing; and the dollar amount of all
15 state retail sales and use taxes exempted on or after July 15, 2015,
16 under this section and RCW 82.12.809.

17 (9) For purposes of this section, "qualifying vehicle" means a
18 vehicle qualifying for the exemption under this section or RCW
19 82.12.809 in which the sale was made or the lease agreement was
20 signed on or after July 15, 2015.

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

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

31 (b) Beginning with purchases made or lease agreements signed on
32 or after July 1, 2016, the exemption in this section is only
33 applicable for up to thirty-two thousand dollars of a vehicle's
34 purchase price or the total lease payments made plus the purchase
35 price of the leased vehicle if the original lessee purchases the
36 leased vehicle before the expiration of the exemption as described in
37 RCW 82.08.809(6).

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

1 (3) A taxpayer is not liable for the tax imposed in RCW 82.12.020
2 on the use, on or after ~~((July 1, 2019))~~ the expiration of the
3 exemption as described in RCW 82.08.809(6), of a passenger car, light
4 duty truck, or medium duty passenger vehicle that is exclusively
5 powered by a clean alternative fuel or uses at least one method of
6 propulsion that is capable of being reenergized by an external source
7 of electricity and is capable of traveling at least thirty miles
8 using only battery power, if the taxpayer used such vehicle in this
9 state before ~~((July 1, 2019))~~ the expiration of the exemption as
10 described in RCW 82.08.809(6), and the use was exempt under this
11 section from the tax imposed in RCW 82.12.020.

12 (4)(a) For vehicles identified in subsection (1)(a) of this
13 section purchased on or after July 1, 2016, and before the expiration
14 of the exemption as described in RCW 82.08.809(6), or for leased
15 vehicles identified in subsection (1)(a) of this section for which
16 the lease agreement was signed on or after July 1, 2016, and before
17 the expiration of the exemption as described in RCW 82.08.809(6), a
18 vehicle is not exempt from use tax as described under subsection
19 (1)(b) of this section if, at the time the tax is imposed for
20 purchased vehicles or at the inception of the lease for leased
21 vehicles, the lowest manufacturer's suggested retail price, as
22 determined in rule by the department of licensing pursuant to chapter
23 34.05 RCW, for the base model is more than forty-two thousand five
24 hundred dollars.

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

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

38 (5) On the last day of January, April, July, and October of each
39 year, the state treasurer, based upon information provided by the
40 department, must transfer from the multimodal transportation account

1 to the general fund a sum equal to the dollar amount that would
2 otherwise have been deposited into the general fund during the prior
3 calendar quarter but for the exemption provided in this section.
4 Information provided by the department to the state treasurer must be
5 based on the best available data. For purposes of this section, the
6 first transfer for the calendar quarter after July 15, 2015, must be
7 calculated assuming only those revenues that should have been
8 deposited into the general fund beginning July 1, 2015.

9 ~~(6) ((Lease payments due on or after July 1, 2019, are subject to~~
10 ~~the taxes imposed under this chapter.))~~ (a) The exemption provided
11 under this section does not apply to the use of new passenger cars,
12 light duty trucks, and medium duty passenger vehicles, or lease
13 payments due on such vehicles, if the date of sale of the vehicle
14 from the seller to the buyer occurred or the lease agreement was
15 signed after the expiration of the exemption as provided in RCW
16 82.08.809(6).

17 (b) All leased vehicles that qualified for the exemption before
18 the expiration of the exemption must continue to receive the
19 exemption as described under subsection (1)(b) of this section on
20 lease payments due through the remainder of the lease.

21 (c) Nothing in this subsection (6) may be construed to allow an
22 exemption under this section for the purchase of a qualifying vehicle
23 by the original lessee of the vehicle after the expiration of the
24 exemption.

25 NEW SECTION. Sec. 4. This act takes effect July 1, 2016."

26 Correct the title.

EFFECT: Makes the following changes to the alternative fuel vehicle retail sales and use tax exemption:

(1) Modifies vehicle pricing qualification criterion to a vehicle's base model Manufacturer's Suggested Retail Price (MSRP) of \$42,500 or less.

(2) Limits the exempted amount for all qualifying vehicles to the first \$32,000 of the selling price or total lease payments made.

(3) Requires the Department of Licensing to maintain a list of the models that may qualify for this exemption and to determine the lowest MSRP for each model for the purpose of establishing whether the model qualifies for the exemption based on its MSRP.

(4) Modifies when vehicles must qualify for the exemption to approximately two months after the Department of Licensing determines that 7,500 vehicles that are eligible for the exemption have been titled in the state since July 15, 2015, with a qualification

expiration backstop of June 30, 2019, if 7,500 qualifying vehicles have not been titled by then.

(5) Requires the Department of Licensing to notify the Department of Revenue when 7,500 vehicles that are eligible for the exemption have been titled in the state.

(6) Requires the Department of Revenue to provide notice on its web site of the expiration of the exemption.

(7) Permits leased vehicles that qualified for the exemption before its expiration to continue to receive the tax exemption for all lease payments due through the life of the lease.

(8) Requires the Department of Revenue to report to the transportation committees of the legislature the number of vehicles eligible for the exemption that have been titled in the state and the amount of state retail sales and use taxes exempted on a semiannual basis.

--- END ---