
ENGROSSED SENATE BILL 5741

State of Washington

65th Legislature

2017 Regular Session

By Senator King

Read first time 02/06/17. Referred to Committee on Transportation.

1 AN ACT Relating to clarifying the collection of fuel taxes on
2 motor vehicle fuel sold by businesses owned or operated by a tribe or
3 member of the tribe; amending RCW 82.38.031 and 82.38.035; adding a
4 new section to chapter 82.38 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** It is the legislature's intent to honor
7 the treaty rights of the Yakama Nation, while protecting the state's
8 interest in collecting and enforcing its fuel taxes.

9 **Sec. 2.** RCW 82.38.031 and 2007 c 515 s 33 are each amended to
10 read as follows:

11 (1) It is the intent and purpose of this chapter that the tax
12 (~~shall~~) must be imposed at the time and place of the first taxable
13 event and upon the first taxable person within this state. Any person
14 whose activities would otherwise require payment of the tax imposed
15 by RCW 82.38.030 but who is exempt from the tax nevertheless has a
16 precollection obligation for the tax that must be imposed on the
17 first taxable event within this state. Failure to pay the tax with
18 respect to a taxable event (~~shall~~) does not prevent tax liability
19 from arising by reason of a subsequent taxable event.

1 (2) It is the intent of the legislature that, in the absence of a
2 tribal fuel tax agreement, as referenced in RCW 82.38.310, applicable
3 taxes imposed by this chapter be collected on motor vehicle fuel sold
4 by a business owned or operated by a tribe or an enrolled member of
5 the tribe, when such sale is to any person who is not an enrolled
6 member of the same tribe as the business owner or operator,
7 consistent with collection of these taxes generally within the state.
8 The legislature finds that applicable collection and enforcement
9 measures under this chapter are reasonably necessary to prevent
10 fraudulent transactions and place a minimal burden on the Indian
11 tribal organization pursuant to the United States supreme court's
12 decision in *Washington v. Confederated Tribes of the Colville Indian*
13 *Reservation*, 447 U.S. 134 (1980).

14 **Sec. 3.** RCW 82.38.035 and 2013 c 225 s 105 are each amended to
15 read as follows:

16 (1) A licensed supplier is liable for and must pay tax on fuel as
17 provided in RCW 82.38.030(~~((7))~~) (9) (a) and (i). On a two-party
18 exchange, or buy-sell agreement between two licensed suppliers, the
19 receiving exchange partner or buyer (~~(shall be)~~) is liable for and
20 pay the tax.

21 (2) A refiner is liable for and must pay tax on fuel removed from
22 a refinery as provided in RCW 82.38.030(~~((7))~~) (9)(b).

23 (3) A licensed distributor is liable for and must pay tax on fuel
24 as provided in RCW 82.38.030(~~((7))~~) (9)(c).

25 (4) A licensed blender is liable for and must pay tax on fuel as
26 provided in RCW 82.38.030(~~((7))~~) (9)(f).

27 (5) A licensed dyed special fuel user is liable for and must pay
28 tax on fuel as provided in RCW 82.38.030(~~((7))~~) (9)(g).

29 (6) A terminal operator is jointly and severally liable for and
30 must pay tax on fuel if, at the time of removal:

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

33 (b) The terminal operator is not a licensee;

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

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

38 (7) A terminal operator is jointly and severally liable for and
39 must pay tax on special fuel if the special fuel is removed and is

1 not dyed or marked in accordance with internal revenue service
2 requirements, and the terminal operator provides a person with a bill
3 of lading, shipping paper, or similar document indicating the special
4 fuel is dyed or marked in accordance with internal revenue service
5 requirements.

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

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

13 (10) Any person who purchases fuel from a business that is owned
14 or operated by a federally recognized Indian tribe or an enrolled
15 member of such tribe and the tribe does not have a fuel tax agreement
16 with the state as referenced in RCW 82.38.310, and who is not an
17 enrolled member of the same tribe as the business owner or operator
18 from whom the person purchases fuel, is liable for the applicable
19 taxes imposed by this chapter if those taxes have not been paid by
20 any of the entities listed under subsections (1) through (4) of this
21 section.

22 NEW SECTION. Sec. 4. A new section is added to chapter 82.38
23 RCW to read as follows:

24 The department, in conjunction with the state patrol, must adopt
25 rules to develop enforcement mechanisms for the collection of taxes
26 owed under RCW 82.38.035(10).

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