
HOUSE BILL 2138

State of Washington

67th Legislature

2022 Regular Session

By Representative Walsh

1 AN ACT Relating to reducing the cumulative tax rate upon fuel
2 licensees to half the amount that is imposed in 2022; amending RCW
3 82.38.030, 82.08.020, and 82.12.020; creating new sections; and
4 providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
7 reduce by half the burdensome 49.4 cent per gallon tax imposed on
8 fuel. The legislature intends to supplant the loss of revenues with a
9 more stable revenue source by using the retail sales tax paid on
10 motor vehicles as the source of funding.

11 **Sec. 2.** RCW 82.38.030 and 2015 3rd sp.s. c 44 s 103 are each
12 amended to read as follows:

13 (1) There is levied and imposed upon fuel licensees a tax at the
14 rate of (~~twenty-three~~) 19.7 cents per gallon of fuel.

15 (2) Beginning July 1, 2003, an additional and cumulative tax rate
16 of five cents per gallon of fuel is imposed on fuel licensees. This
17 subsection (2) expires when the bonds issued for transportation 2003
18 projects are retired.

19 (~~(3) (Beginning July 1, 2005, an additional and cumulative tax~~
20 ~~rate of three cents per gallon of fuel is imposed on fuel licensees.~~

1 ~~(4) Beginning July 1, 2006, an additional and cumulative tax rate~~
2 ~~of three cents per gallon of fuel is imposed on fuel licensees.~~

3 ~~(5) Beginning July 1, 2007, an additional and cumulative tax rate~~
4 ~~of two cents per gallon of fuel is imposed on fuel licensees.~~

5 ~~(6) Beginning July 1, 2008, an additional and cumulative tax rate~~
6 ~~of one and one-half cents per gallon of fuel is imposed on fuel~~
7 ~~licensees.~~

8 ~~(7) Beginning August 1, 2015, an additional and cumulative tax~~
9 ~~rate of seven cents per gallon of fuel is imposed on fuel licensees.~~

10 ~~(8) Beginning July 1, 2016, an additional and cumulative tax rate~~
11 ~~of four and nine-tenths cents per gallon of fuel is imposed on fuel~~
12 ~~licensees.~~

13 ~~(9))~~) Taxes are imposed when:

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

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

21 (i) The removal is by bulk transfer and the refiner or the owner
22 of the fuel immediately before the removal is not a licensed
23 supplier; or

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

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

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

35 (ii) The entry is not by bulk transfer;

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

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

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

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

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

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

12 (j) Fuel is sold by a licensed fuel supplier to a fuel
13 distributor or fuel blender and the fuel is not removed from the bulk
14 transfer-terminal system.

15 **Sec. 3.** RCW 82.08.020 and 2014 c 140 s 12 are each amended to
16 read as follows:

17 (1) There is levied and collected a tax equal to (~~six and five-~~
18 ~~tenths~~) 6.5 percent of the selling price on each retail sale in this
19 state of:

20 (a) Tangible personal property, unless the sale is specifically
21 excluded from the RCW 82.04.050 definition of retail sale;

22 (b) Digital goods, digital codes, and digital automated services,
23 if the sale is included within the RCW 82.04.050 definition of retail
24 sale;

25 (c) Services, other than digital automated services, included
26 within the RCW 82.04.050 definition of retail sale;

27 (d) Extended warranties to consumers; and

28 (e) Anything else, the sale of which is included within the RCW
29 82.04.050 definition of retail sale.

30 (2) There is levied and collected an additional tax on each
31 retail car rental, regardless of whether the vehicle is licensed in
32 this state, equal to five and nine-tenths percent of the selling
33 price. The revenue collected under this subsection must be deposited
34 in the multimodal transportation account created in RCW 47.66.070.

35 (3) (a) Beginning July 1, 2003, there is levied and collected an
36 additional tax of three-tenths of one percent of the selling price on
37 each retail sale of a motor vehicle in this state, other than retail
38 car rentals taxed under subsection (2) of this section. The revenue

1 collected under this subsection must be deposited in the multimodal
2 transportation account created in RCW 47.66.070.

3 ~~((4))~~ (b) For purposes of this subsection (3) ~~((of this~~
4 ~~section))~~, "motor vehicle" has the meaning provided in RCW 46.04.320,
5 but does not include:

6 ~~((a))~~ (i) Farm tractors or farm vehicles as defined in RCW
7 46.04.180 and 46.04.181, unless the farm tractor or farm vehicle is
8 for use in the production of marijuana;

9 ~~((b))~~ (ii) Off-road vehicles as defined in RCW 46.04.365;

10 ~~((c))~~ (iii) Nonhighway vehicles as defined in RCW 46.09.310;
11 and

12 ~~((d))~~ (iv) Snowmobiles as defined in RCW 46.04.546.

13 (4) (a) Beginning July 1, 2022, and every year thereafter, all
14 revenue collected under subsection (1) of this section on each new
15 and used retail sale of a vehicle in this state, including private
16 party sales, but excluding retail car rentals taxed under subsection
17 (2) of this section, must be deposited into the motor vehicle fund
18 created in RCW 46.68.070.

19 (b) For purposes of this subsection (4), "vehicle" has the
20 meaning provided in RCW 46.04.670 and includes, but is not limited
21 to, passenger vehicles, light trucks, commercial vehicles, travel
22 trailers, recreational vehicles, intermittent use trailers,
23 motorcycles, and campers. "Vehicle" does not include:

24 (i) Farm tractors or farm vehicles as defined in RCW 46.04.180
25 and 46.04.181, unless the farm tractor or farm vehicle is for use in
26 the production of cannabis;

27 (ii) Off-road vehicles as defined in RCW 46.04.365;

28 (iii) Nonhighway vehicles as defined in RCW 46.09.310;

29 (iv) Bicycles as defined in RCW 46.04.071; and

30 (v) Snowmobiles as defined in RCW 46.04.546.

31 (5) Beginning on December 8, 2005, 0.16 percent of the taxes
32 collected under subsection (1) of this section must be dedicated to
33 funding comprehensive performance audits required under RCW
34 43.09.470. The revenue identified in this subsection must be
35 deposited in the performance audits of government account created in
36 RCW 43.09.475.

37 (6) The taxes imposed under this chapter apply to successive
38 retail sales of the same property.

39 (7) The rates provided in this section apply to taxes imposed
40 under chapter 82.12 RCW as provided in RCW 82.12.020.

1 **Sec. 4.** RCW 82.12.020 and 2017 c 323 s 520 are each amended to
2 read as follows:

3 (1) There is levied and collected from every person in this state
4 a tax or excise for the privilege of using within this state as a
5 consumer any:

6 (a) Article of tangible personal property acquired by the user in
7 any manner, including tangible personal property acquired at a casual
8 or isolated sale, and including by-products used by the manufacturer
9 thereof, except as otherwise provided in this chapter, irrespective
10 of whether the article or similar articles are manufactured or are
11 available for purchase within this state;

12 (b) Prewritten computer software, regardless of the method of
13 delivery, but excluding prewritten computer software that is either
14 provided free of charge or is provided for temporary use in viewing
15 information, or both;

16 (c) Services defined as a retail sale in RCW 82.04.050 (2) (a) or
17 (g) or (6)(c), excluding services defined as a retail sale in RCW
18 82.04.050(6)(c) that are provided free of charge;

19 (d) Extended warranty; or

20 (e)(i) Digital good, digital code, or digital automated service,
21 including the use of any services provided by a seller exclusively in
22 connection with digital goods, digital codes, or digital automated
23 services, whether or not a separate charge is made for such services.

24 (ii) With respect to the use of digital goods, digital automated
25 services, and digital codes acquired by purchase, the tax imposed in
26 this subsection (1)(e) applies in respect to:

27 (A) Sales in which the seller has granted the purchaser the right
28 of permanent use;

29 (B) Sales in which the seller has granted the purchaser a right
30 of use that is less than permanent;

31 (C) Sales in which the purchaser is not obligated to make
32 continued payment as a condition of the sale; and

33 (D) Sales in which the purchaser is obligated to make continued
34 payment as a condition of the sale.

35 (iii) With respect to digital goods, digital automated services,
36 and digital codes acquired other than by purchase, the tax imposed in
37 this subsection (1)(e) applies regardless of whether or not the
38 consumer has a right of permanent use or is obligated to make
39 continued payment as a condition of use.

1 (2) The provisions of this chapter do not apply in respect to the
2 use of any article of tangible personal property, extended warranty,
3 digital good, digital code, digital automated service, or service
4 taxable under RCW 82.04.050 (2) (a) or (g) or (6)(c), if the sale to,
5 or the use by, the present user or the present user's bailor or donor
6 has already been subjected to the tax under chapter 82.08 RCW or this
7 chapter and the tax has been paid by the present user or by the
8 present user's bailor or donor.

9 (3)(a) Except as provided in this section, payment of the tax
10 imposed by this chapter or chapter 82.08 RCW by one purchaser or user
11 of tangible personal property, extended warranty, digital good,
12 digital code, digital automated service, or other service does not
13 have the effect of exempting any other purchaser or user of the same
14 property, extended warranty, digital good, digital code, digital
15 automated service, or other service from the taxes imposed by such
16 chapters.

17 (b) The tax imposed by this chapter does not apply:

18 (i) If the sale to, or the use by, the present user or his or her
19 bailor or donor has already been subjected to the tax under chapter
20 82.08 RCW or this chapter and the tax has been paid by the present
21 user or by his or her bailor or donor;

22 (ii) In respect to the use of any article of tangible personal
23 property acquired by bailment and the tax has once been paid based on
24 reasonable rental as determined by RCW 82.12.060 measured by the
25 value of the article at time of first use multiplied by the tax rate
26 imposed by chapter 82.08 RCW or this chapter as of the time of first
27 use;

28 (iii) In respect to the use of any article of tangible personal
29 property acquired by bailment, if the property was acquired by a
30 previous bailee from the same bailor for use in the same general
31 activity and the original bailment was prior to June 9, 1961; or

32 (iv) To the use of digital goods or digital automated services,
33 which were obtained through the use of a digital code, if the sale of
34 the digital code to, or the use of the digital code by, the present
35 user or the present user's bailor or donor has already been subjected
36 to the tax under chapter 82.08 RCW or this chapter and the tax has
37 been paid by the present user or by the present user's bailor or
38 donor.

39 (4)(a) Except as provided in (b) of this subsection (4), the tax
40 is levied and must be collected in an amount equal to the value of

1 the article used, value of the digital good or digital code used,
2 value of the extended warranty used, or value of the service used by
3 the taxpayer, multiplied by the applicable rates in effect for the
4 retail sales tax under RCW 82.08.020.

5 (b) In the case of a seller required to collect use tax from the
6 purchaser, the tax must be collected in an amount equal to the
7 purchase price multiplied by the applicable rate in effect for the
8 retail sales tax under RCW 82.08.020.

9 (5) Beginning July 1, 2022, and every year thereafter, 100
10 percent of all use tax revenue collected under subsection (1) of this
11 section on the use of each new and used vehicle in this state, but
12 excluding retail car rentals taxed under RCW 82.08.020, must be
13 deposited into the motor vehicle fund created in RCW 46.68.070.

14 (6) For purposes of the tax imposed in this section, "person"
15 includes anyone within the definition of "buyer," "purchaser," and
16 "consumer" in RCW 82.08.010.

17 NEW SECTION. **Sec. 5.** (1) The department of revenue, in
18 consultation with the office of the state treasurer and the office of
19 financial management, shall provide recommendations, in the form of
20 draft legislation, to resolve any unintended consequences caused by
21 the changes under this act to the appropriate committees of the
22 legislature by October 15, 2022.

23 (2) This section expires October 15, 2023.

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