
Transportation Committee

HB 2393

Brief Description: Establishing tax exemptions for unleaded aircraft fuel.

Sponsors: Representatives Dent, Springer, Chapman, Couture and Christian.

Brief Summary of Bill

- Exempts unleaded aircraft fuel from the aircraft fuel excise tax, state and local retail sales and use taxes, the hazardous substances tax, the petroleum products excise tax, and the oil spill response tax, until July 1, 2031.

Hearing Date: 1/25/24

Staff: Jennifer Harris (786-7143).

Background:

Aircraft and Leaded Fuel.

Aircraft that operate on leaded aviation gasoline are typically small piston-engine aircraft that carry 2 to 10 passengers and that are, on average, over 40 years old. Jet aircraft used for commercial transportation do not operate on leaded fuel.

Federal Actions Related to Lead Emissions from Aircraft.

In early 2022 the Federal Aviation Administration (FAA) and the aviation industry announced establishment of the program "Eliminate Aviation Gasoline Lead Emissions" (EAGLE). The program's goal is a transition to a lead-free aviation system no later than 2030.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

The FAA has approved the use of a 100 octane unleaded fuel (G100UL) that can be widely used by piston-engine fleet, but which is not commercially available yet. The FAA has also approved for use a lower octane fuel (UL 94), currently available at approximately 35 airports in the United States. The FAA is working to expand and streamline the process for eligible aircraft to use this fuel.

In October of 2023, the Environmental Protection Agency (EPA) announced it had made a final determination that emissions of lead from aircraft that operate on leaded fuel cause or contribute to air pollution. The finding does not ban or impose restrictions on the use, sale, distribution, or availability of leaded fuel. It also does not establish new control measures for aircraft lead emissions.

However, the final determination makes the EPA subject to a duty to propose and develop regulatory standards for lead emissions from aircraft engines. The FAA is now also subject to a duty to prescribe standards for the composition or chemical or physical properties of aircraft fuel to control or eliminate aircraft lead emissions. The EPA and FAA have not yet set a timeline for this regulatory action.

Aircraft Fuel Taxation.

Aircraft fuel is subject to retail sales and use tax, aircraft fuel excise tax, hazardous substances tax, petroleum products tax, and oil spill response tax.

Retail sales tax must be collected on all retail sales and is comprised of a state and local rate, unless the sale is subject to an exemption. The state retail sales tax rate is 6.5 percent. Use tax is a tax on the use of goods or certain services in the state when retail sales tax has not been paid, unless subject to an exemption.

The aircraft fuel tax is levied on distributors of aircraft fuel at the rate of 18 cents per gallon on aircraft fuel sold, delivered, or used in the state.

The hazardous substances tax is imposed on the first possession of hazardous substances in the state at the rate of 0.7 percent of the wholesale value of the substance and applies to petroleum products, as well as on other specified hazardous substances. The rate between July 1, 2023, and June 30, 2024, is \$1.40 per barrel (which contains approximately 42 gallons of oil).

The petroleum products excise tax is imposed on the first possession of petroleum products in the state at the rate of 0.3 percent of the wholesale value of the substance. The petroleum products excise tax will no longer be imposed as of July 1, 2030. The petroleum products excise tax is imposed when the balance of the Pollution Liability Insurance Program Trust Account falls below a designated threshold.

The oil spill response tax applies when a marine terminal or bulk oil terminal in the state receives fuel. It is comprised of two taxes: an oil spill administration tax, which is imposed at the rate of

1 cent per barrel, and an oil spill response tax, which is imposed at the rate of an additional 4 cents per barrel when the balance of the Oil Spill Response Account falls below a designated threshold.

Summary of Bill:

"Unleaded aircraft fuel" is defined as "specialized 100-octane fuel used to power piston engine aircraft that does not contain tetraethyllead."

Unleaded aircraft fuel is exempted from the following taxes on fuel:

- aircraft fuel excise tax;
- state and local retail sales and use tax;
- hazardous substances tax;
- petroleum products excise tax; and
- oil spill response tax.

The legislative intent of the unleaded aircraft fuel tax exemptions is to support the EAGLE initiative of the EPA and the FAA by incentivizing the adoption of lead-free aviation fuel alternatives.

The tax preference performance statement for use in subsequent evaluation of the tax exemptions describes the Legislature's public policy objective as incentivizing use of alternative 100 octane unleaded aircraft fuel (G100UL) by the aviation community and increasing the availability of unleaded aircraft fuel to facilitate the phasing out of 100 low-lead aircraft fuel in the state.

The legislative intent is to extend the expiration date of the tax exemptions if a review of them finds that:

1. aircraft operators or pilots of piston powered aircraft are transitioning from use of leaded aircraft fuel to use of unleaded aircraft fuel;
2. unleaded aircraft fuel is available for purchase at an increasing number of airports across Washington; and
3. lead emissions from aircraft engines has decreased within Washington.

The tax exemptions remain in place until January 1, 2031, except for the tax exemption on the petroleum products excise tax, which expires when that tax expires on July 1, 2030.

The Joint Legislative Audit and Review Committee (JLARC) is directed to refer to reports or data issued by the EPA, FAA, EAGLE Initiative Partnership, Washington State Department of Revenue, Washington State Department of Ecology, and other interested federal, state or local agencies, or stakeholder groups aiding in the transition to lead-free aviation fuel alternatives. The JLARC is permitted to refer to data provided by individual aircraft fuel distributors, airports, pilots, aircraft operators, and any other data sources, as needed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on July 1, 2024.