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**HOUSE BILL 2393**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Representatives Dent, Springer, Chapman, Couture, and Christian

Read first time 01/16/24. Referred to Committee on Transportation.

1 AN ACT Relating to establishing tax exemptions for unleaded  
2 aircraft fuel; amending RCW 82.42.030, 82.21.040, and 82.23A.030;  
3 reenacting and amending RCW 82.42.010; adding a new section to  
4 chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding  
5 a new section to chapter 82.23B RCW; creating new sections; providing  
6 an effective date; and providing expiration dates.

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

8 NEW SECTION. **Sec. 1.** It is the intent of the legislature to  
9 support the eliminate aviation gasoline lead emissions initiative led  
10 by the environmental protection agency and the federal aviation  
11 administration through incentivizing the adoption of lead-free  
12 aviation fuel alternatives. The environmental protection agency has  
13 found that lead emissions from certain aircraft engines cause or  
14 contribute to lead air pollution that may be reasonably anticipated  
15 to endanger public health, and Washington state has a critical  
16 interest in ensuring that alternatives to such fuels are broadly  
17 available and utilized by the aviation community. In compliance with  
18 the clean air act, federal agencies, aviation experts, engineers, and  
19 chemists have worked tirelessly to develop alternative lead-free  
20 aviation fuel that can be safely utilized by standard piston powered  
21 airplanes. The result of this coordinated effort was successful

1 development of an alternative lead-free fuel, yet commercial  
2 availability and widespread adoption of this alternative lead-free  
3 fuel remains a challenge. The legislature intends to incentivize the  
4 widespread adoption of lead-free aviation fuel through providing  
5 various excise tax exemptions for both businesses and consumers who  
6 utilize these safer alternatives.

7 **Sec. 2.** RCW 82.42.010 and 2013 c 225 s 301 are each reenacted  
8 and amended to read as follows:

9 The definitions in this section apply throughout this chapter  
10 unless the context clearly requires otherwise.

11 (1) "Air carrier" means any airline, air cargo carrier, air taxi,  
12 air commuter, or air charter operator, that provides routine air  
13 service to the general population for compensation or hire, and  
14 operates at least (~~fifteen~~) 15 round trips per week between two or  
15 more points and publishes flight schedules which specify the times,  
16 days of the week, and points between which it operates. Where it is  
17 doubtful that an operation is for "compensation or hire," the test  
18 applied is whether the air service is merely incidental to the  
19 person's other business or is, in itself, a major enterprise for  
20 profit.

21 (2) "Aircraft" means every contrivance now known or hereafter  
22 invented, used or designed for navigation of or flight in the air,  
23 operated or propelled by the use of aircraft fuel.

24 (3) "Aircraft fuel" means gasoline and any other inflammable  
25 liquid, by whatever name such liquid is known or sold, the chief use  
26 of which is as fuel for the propulsion of aircraft, except gas or  
27 liquid, the chief use of which as determined by the director, is for  
28 purposes other than the propulsion of aircraft.

29 (4) "Dealer" means any person engaged in the retail sale of  
30 aircraft fuel.

31 (5) "Department" means the department of licensing.

32 (6) "Director" means the director of licensing.

33 (7) "Distributor" means any person engaged in the sale of  
34 aircraft fuel to any dealer and includes any dealer from whom the tax  
35 hereinafter imposed has not been collected.

36 (8) "Local service commuter" means an air taxi operator who  
37 operates at least five round-trips per week between two or more  
38 points; publishes flight schedules which specify the times, days of  
39 the week, and points between which it operates; and whose aircraft

1 has a maximum capacity of (~~sixty~~) 60 passengers or (~~eighteen~~  
2 ~~thousand~~) 18,000 pounds of useful load.

3 (9) "Person" means every natural person, firm, partnership,  
4 association, or private or public corporation.

5 (10) "Unleaded aircraft fuel" means specialized 100 octane fuel  
6 used to power piston engine aircraft that does not contain  
7 tetraethyllead.

8 **Sec. 3.** RCW 82.42.030 and 2013 c 225 s 303 are each amended to  
9 read as follows:

10 The provision of RCW 82.42.020 imposing the payment of an excise  
11 tax on each gallon of aircraft fuel sold, delivered or used in this  
12 state does not apply to:

13 (1) Aircraft fuel sold for export and exported from this state;

14 (2) Aircraft fuel imported into the state in interstate or  
15 foreign commerce and intended to be sold while in interstate or  
16 foreign commerce;

17 (3) Aircraft fuel sold to an agency of the United States  
18 government;

19 (4) Aircraft fuel delivered directly into the aircraft fuel tanks  
20 of equipment operated by an air carrier or supplemental air carrier  
21 operating under a certificate of public convenience and necessity  
22 under the provisions of the federal aviation act of 1958, P.L.  
23 85-726, as amended;

24 (5) Aircraft fuel delivered directly into the aircraft fuel tanks  
25 of equipment operated by a local service commuter;

26 (6) Aircraft fuel sold to emergency medical air transport  
27 entities;

28 (7) Aircraft fuel sold to a licensed aircraft fuel distributor;

29 (8) Aircraft fuel delivered into the bulk storage tank of a  
30 certified user;

31 (9) Aircraft fuel used in the operation of aircraft for testing  
32 or experimental purposes; (~~and~~)

33 (10) Aircraft fuel used in the operation of aircraft when such  
34 operation is for the training of crews in Washington state for  
35 purchasers of aircraft who are certified air carriers; and

36 (11) Unleaded aircraft fuel sold, delivered, or used in the  
37 state.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 82.08  
2    RCW to read as follows:

- 3        (1) The tax levied by RCW 82.08.020 does not apply to sales of  
4    unleaded aircraft fuel as defined in RCW 82.42.010.  
5        (2) This section expires January 1, 2031.

6        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 82.12  
7    RCW to read as follows:

- 8        (1) The provisions of this chapter do not apply with respect to  
9    the use of unleaded aircraft fuel as defined in RCW 82.42.010.  
10       (2) This section expires January 1, 2031.

11       **Sec. 6.**    RCW 82.21.040 and 2015 3rd sp.s. c 6 s 1902 are each  
12    amended to read as follows:

13       The following are exempt from the tax imposed in this chapter:

14       (1) Any successive possession of a previously taxed hazardous  
15    substance. If tax due under this chapter has not been paid with  
16    respect to a hazardous substance, the department may collect the tax  
17    from any person who has had possession of the hazardous substance. If  
18    the tax is paid by any person other than the first person having  
19    taxable possession of a hazardous substance, the amount of tax paid  
20    shall constitute a debt owed by the first person having taxable  
21    possession to the person who paid the tax.

22       (2) Any possession of a hazardous substance by a natural person  
23    under circumstances where the substance is used, or is to be used,  
24    for a personal or domestic purpose (and not for any business purpose)  
25    by that person or a relative of, or person residing in the same  
26    dwelling as, that person.

27       (3) Any possession of a hazardous substance amount which is  
28    determined as minimal by the department of ecology and which is  
29    possessed by a retailer for the purpose of making sales to ultimate  
30    consumers. This exemption does not apply to pesticide or petroleum  
31    products.

32       (4) Any possession of alumina or natural gas.

33       (5) (a) (~~Any~~) Until January 1, 2026, any possession of a  
34    hazardous substance as defined in RCW 82.21.020(1)(c) that is solely  
35    for use by a farmer or certified applicator as an agricultural crop  
36    protection product and warehoused in this state or transported to or  
37    from this state, provided that the person possessing the substance

1 does not otherwise use, manufacture, package for sale, or sell the  
2 substance in this state.

3 (b) The definitions in this subsection apply throughout this  
4 section unless the context clearly requires otherwise.

5 (i) "Agricultural crop protection product" means a chemical  
6 regulated under the federal insecticide, fungicide, and rodenticide  
7 act, 7 U.S.C. Sec. 136 as amended as of September 1, 2015, when used  
8 to prevent, destroy, repel, mitigate, or control predators, diseases,  
9 weeds, or other pests.

10 (ii) "Certified applicator" has the same meaning as provided in  
11 RCW 17.21.020.

12 (iii) "Farmer" has the same meaning as in RCW 82.04.213.

13 (iv) "Manufacturing" includes mixing or combining agricultural  
14 crop protection products with other chemicals or other agricultural  
15 crop protection products.

16 (v) "Package for sale" includes transferring agricultural crop  
17 protection products from one container to another, including the  
18 transfer of fumigants and other liquid or gaseous chemicals from one  
19 tank to another.

20 (vi) "Use" has the same meaning as in RCW 82.12.010.

21 (6) Any possession of unleaded aircraft fuel as defined in RCW  
22 82.42.010.

23 (7) Persons or activities which the state is prohibited from  
24 taxing under the United States Constitution.

25 **Sec. 7.** RCW 82.23A.030 and 1989 c 383 s 17 are each amended to  
26 read as follows:

27 The following are exempt from the tax imposed in this chapter:

28 (1) Any successive possession of a previously taxed petroleum  
29 product. If tax due under this chapter has not been paid with respect  
30 to a petroleum product, the department may collect the tax from any  
31 person who has had possession of the petroleum product. If the tax is  
32 paid by any person other than the first person having taxable  
33 possession of a petroleum product, the amount of tax paid shall  
34 constitute a debt owed by the first person having taxable possession  
35 to the person who paid the tax.

36 (2) Any possession of a petroleum product by a natural person  
37 under circumstances where the substance is used, or is to be used,  
38 for a personal or domestic purpose (and not for any business purpose)

1 by that person or a relative of, or person residing in the same  
2 dwelling as, that person.

3 (3) Persons or activities which the state is prohibited from  
4 taxing under the United States Constitution.

5 (4) Any persons possessing a petroleum product where such  
6 possession first occurred before July 1, 1989.

7 (5) Any possession of (a) natural gas, (b) petroleum coke, or (c)  
8 liquid fuel or fuel gas used in petroleum processing.

9 (6) Any possession of petroleum products that are exported for  
10 use or sale outside this state as fuel.

11 (7) Any possession of petroleum products packaged for sale to  
12 ultimate consumers.

13 (8) Any possession of unleaded aircraft fuel as defined in RCW  
14 82.42.010.

15 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.23B  
16 RCW to read as follows:

17 (1) The provisions of this chapter do not apply with respect to  
18 the receipt of unleaded aircraft fuel as defined in RCW 82.42.010.

19 (2) This section expires January 1, 2031.

20 NEW SECTION. **Sec. 9.** (1) This section is the tax preference  
21 performance statement for the tax preferences contained in this act.  
22 This performance statement is only intended to be used for subsequent  
23 evaluation of the tax preferences. It is not intended to create a  
24 private right of action by any party or be used to determine  
25 eligibility for preferential tax treatment.

26 (2) The legislature categorizes these tax preferences as ones  
27 intended to induce certain designated behavior by taxpayers, as  
28 indicated in RCW 82.32.808(2) (a).

29 (3) It is the legislature's specific public policy objective to:

30 (a) Incentivize utilization of alternative 100 octane unleaded  
31 aircraft fuel by the aviation community; and

32 (b) Increase the availability of unleaded aircraft fuel in the  
33 marketplace.

34 (4) It is the legislature's intent to incentivize the adoption,  
35 utilization, and availability of unleaded aircraft fuel in order to  
36 facilitate the phaseout of 100LL aircraft fuel in Washington state.

37 (5) The legislature intends to extend the expiration date of the  
38 tax preferences in this act, if a review finds that:

1 (a) Aircraft operators or pilots of piston powered aircraft are  
2 transitioning from use of leaded aircraft fuel to use of unleaded  
3 aircraft fuel;

4 (b) Unleaded aircraft fuel is available for purchase at an  
5 increasing number of airports across Washington state; and

6 (c) Lead emissions from aircraft engines has decreased within  
7 Washington state.

8 (6) In order to obtain the data necessary to perform the review  
9 in subsection (5) of this section, the joint legislative audit and  
10 review committee must refer to reports or data issued by the  
11 environmental protection agency, federal aviation administration,  
12 eliminate aviation gasoline lead emissions initiative partnership,  
13 department of revenue, department of ecology, and other involved  
14 federal, state, or local agencies, or stakeholder groups aiding in  
15 the transition to lead-free aircraft fuel alternatives. The committee  
16 may also refer to data provided by individual aircraft fuel  
17 distributors, airports, pilots, aircraft operators, and any other  
18 data sources, as needed.

19 NEW SECTION. **Sec. 10.** Sections 1 through 3 and 6 of this act  
20 expire January 1, 2031.

21 NEW SECTION. **Sec. 11.** Section 7 of this act expires July 1,  
22 2030.

23 NEW SECTION. **Sec. 12.** This act takes effect July 1, 2024.

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