

HOUSE BILL REPORT

HB 1376

As Passed House:

March 13, 2007

Title: An act relating to a sales and use tax exemption for the nonhighway use of propane by farmers.

Brief Description: Providing a sales and use tax exemption for the nonhighway use of propane by farmers.

Sponsors: By Representatives Ericks, Haler, Takko, Pettigrew, Buri, Walsh, Kretz, Grant, Linville, Chandler, Kessler, McDonald, Morrell, Armstrong, Warnick, Newhouse, P. Sullivan and Chase.

Brief History:

Committee Activity:

Finance: 2/7/07, 3/5/07 [DP].

Floor Activity:

Passed House: 3/13/07, 86-9.

Brief Summary of Bill

- Provides a sales and use tax exemption for the nonhighway use of propane by farmers.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 7 members: Representatives Hunter, Chair; Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Conway, Ericks, Roach and Santos.

Minority Report: Do not pass. Signed by 2 members: Representatives Hasegawa, Vice Chair and McIntire.

Staff: Jeff Mitchell (786-7139).

Background:

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

Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and some services. Use taxes apply to the value of most tangible personal property and some services when used in this state, if retail sales taxes were not collected when the property or services were acquired by the user. Use tax rates are the same as retail sales tax rates. The state tax rate is 6.5 percent. The state tax is deposited in the State General Fund. Local tax rates vary from 0.5 percent to 2.4 percent, depending on the location. The average local tax rate is 2.0, for an average combined state and local tax rate of 8.5 percent.

Fuel is exempt from sales and use tax when the motor vehicle or special fuel tax applies. Fuel used for nonhighway purposes is exempt from fuel tax, but is generally subject to the retail sales and use tax.

Motor vehicle fuel is gasoline. Special fuel is any fuel other than gasoline and includes diesel and propane fuel.

The current fuel tax rate is 34 cents per unit volume.

Propane and natural gas sold to farmers to heat structures used to house chickens are exempt from sales and use tax.

Legislation passed last year also exempts diesel and aircraft fuel used by farmers for nonhighway farm activities from sales and use tax. The exemption also covers diesel and aircraft fuel used for soil preparation services, crop cultivation services, and crop harvesting services. The exemption does not cover fuel used for home heating. The exemption does not include propane fuel.

Summary of Bill:

Propane fuel used by farmers for nonhighway farm activities is also exempted from sales and use tax. The exemption does not cover fuel used for home heating.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on August 1, 2007.

Staff Summary of Public Testimony:

(In support) Propane was left out of our agriculture package from last year that included other types of fuel used by farmers. This bill rectifies that situation. These exemptions bolster our economic development related to agriculture. Propane can be used for farm equipment and to heat storage areas and crops. This is an important exemption for our farming community. An exemption for fuel used in agricultural settings is appropriate policy. Fuel used to heat the

home can be readily separated from fuel used for farming purposes because a separate container or tank would be used. In 2005, 11.9 million gallons of propane was used for nonhighway agricultural purposes. The fiscal note appears to be too high based on the amount of propane used for agricultural purposes. A similar measure was filed in the Senate, and the Department of Revenue (DOR) provided a lower fiscal estimate. We are working with the DOR to resolve this matter. This legislation meets the same goals achieved in last year's legislation exempting diesel fuel used by farmers. Wind machines provide frost protection. The machines protect against crop damage and tree damage. One machine is required for every 10 acres. During a heavy frost night, a wind machine will use seven gallons per hour for approximately 10 hours. Over 100 acres and a price of \$1.70 per gallon, this amounts to \$95 in sales tax. Margins are tight and the sales tax has a significant impact.

(Opposed) This bill will have significant fiscal impact in our small rural cities. Smaller cities depend upon sales taxes more heavily than large cities. The losses from this exemption will have a larger impact on our more rural counties which already have a limited tax base. Many of these rural counties require state aid and exemptions continue to erode this base. There is a compliance issue. Diesel fuel is dyed. Propane has different applications, and it is unclear how we can ensure that is being used for eligible purposes.

Persons Testifying: (In support) Representative Ericks, prime sponsor; Mel Sorensen, North West Propane Gas Association; Jim Halstrom, Washington State Horticulture Association; and Dan Coyne.

(Opposed) Jim Justin, Association of Washington Cities; and Julie Murray, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.