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HOUSE BILL 2277

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Moeller, Williams, Clibborn, Sells, and Jacks

1            AN ACT Relating to fuel taxes on exported fuel; amending RCW  
2 82.36.020, 82.36.060, 82.36.230, 82.36.280, 82.36.300, 82.38.030,  
3 82.38.080, and 82.38.180; adding a new section to chapter 82.36 RCW;  
4 adding a new section to chapter 82.38 RCW; creating a new section; and  
5 providing an effective date.

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

7            NEW SECTION.    **Sec. 1.** Washington state in an effort to preserve,  
8 protect, and improve the environmental and economic status of the state  
9 must encourage a transportation system that is effective and efficient  
10 in moving people and freight. One of the state's biggest industries is  
11 the importing of petroleum products and exporting fuel by seaport,  
12 motor carrier, and pipelines. The industry provides economic  
13 stability, but also in the movement of exports brings the risk of harm  
14 to Washington's environment, waterways, and roadways. The fuel tax  
15 that is paid by the citizens of Washington should be matched by the  
16 consumers from other states that are using the same refineries and  
17 transportation methods to export the fuel from Washington. This  
18 provides an opportunity for Washington to insure that the environment

1 and transportation system are protected, as well as provide funding for  
2 identified mega-transportation projects that will keep people and  
3 freight moving throughout the state.

4 **Sec. 2.** RCW 82.36.020 and 2007 c 515 s 2 are each amended to read  
5 as follows:

6 (1) There is hereby levied and imposed upon motor vehicle fuel  
7 licensees, other than motor vehicle fuel distributors, a tax at the  
8 rate computed in the manner provided in RCW 82.36.025 on each gallon of  
9 motor vehicle fuel.

10 (2) The tax imposed by subsection (1) of this section is imposed  
11 when any of the following occurs:

12 (a) Motor vehicle fuel is removed in this state from a terminal  
13 (~~((if the motor vehicle fuel is removed at the rack))~~) unless the removal  
14 is to a licensed exporter for direct delivery to a destination outside  
15 of the (~~(state))~~ United States;

16 (b) Motor vehicle fuel is removed in this state from a refinery if  
17 either of the following applies:

18 (i) The removal is by bulk transfer and the refiner or the owner of  
19 the motor vehicle fuel immediately before the removal is not a  
20 licensee; or

21 (ii) The removal is at the refinery rack or by bulk transfer unless  
22 the removal is to a licensed exporter for direct delivery to a  
23 destination outside of the (~~(state))~~ United States;

24 (c) Motor vehicle fuel enters into this state if either of the  
25 following applies:

26 (i) The entry is by bulk transfer and the importer is not a  
27 licensee; or

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

29 (d) Motor vehicle fuel is sold or removed in this state to an  
30 unlicensed entity unless there was a prior taxable removal, entry, or  
31 sale of the motor vehicle fuel;

32 (e) Blended motor vehicle fuel is removed or sold in this state by  
33 the blender of the fuel. The number of gallons of blended motor  
34 vehicle fuel subject to the tax is the difference between the total  
35 number of gallons of blended motor vehicle fuel removed or sold and the  
36 number of gallons of previously taxed motor vehicle fuel used to

1 produce the blended motor vehicle fuel. Blended motor vehicle fuel  
2 exported from this state to another state is taxed at the fuel tax rate  
3 imposed by this chapter;

4 (f) Motor vehicle fuel is sold by a licensed motor vehicle fuel  
5 supplier to a motor vehicle fuel distributor, motor vehicle fuel  
6 importer, motor vehicle fuel exporter, motor vehicle fuel blender, or  
7 international fuel tax agreement licensee and the motor vehicle fuel is  
8 not removed from the bulk transfer-terminal system.

9 (3) The proceeds of the motor vehicle fuel excise tax shall be  
10 distributed as provided in RCW 46.68.090.

11 **Sec. 3.** RCW 82.36.060 and 2007 c 515 s 10 are each amended to read  
12 as follows:

13 (1) An application for a license issued under this chapter shall be  
14 made to the department on forms to be furnished by the department and  
15 shall contain such information as the department deems necessary.

16 (2) Every application for a license must contain the following  
17 information to the extent it applies to the applicant:

18 (a) Proof as the department may require concerning the applicant's  
19 identity, including but not limited to his or her fingerprints or those  
20 of the officers of a corporation making the application;

21 (b) The applicant's form and place of organization including proof  
22 that the individual, partnership, or corporation is licensed to do  
23 business in this state;

24 (c) The qualification and business history of the applicant and any  
25 partner, officer, or director;

26 (d) The applicant's financial condition or history including a bank  
27 reference and whether the applicant or any partner, officer, or  
28 director has ever been adjudged bankrupt or has an unsatisfied judgment  
29 in a federal or state court;

30 (e) Whether the applicant has been adjudged guilty of a crime that  
31 directly relates to the business for which the license is sought and  
32 the time elapsed since the conviction is less than ten years, or has  
33 suffered a judgment within the preceding five years in a civil action  
34 involving fraud, misrepresentation, or conversion and in the case of a  
35 corporation or partnership, all directors, officers, or partners.

36 (3) An applicant for a license as a motor vehicle fuel importer  
37 must list on the application each state, province, or country from

1 which the applicant intends to import motor vehicle fuel and, if  
2 required by the state, province, or country listed, must be licensed or  
3 registered for motor vehicle fuel tax purposes in that state, province,  
4 or country.

5 (4) An applicant for a license as a motor vehicle fuel exporter  
6 must list on the application each state, province, or country to which  
7 the exporter intends to export motor vehicle fuel received in this  
8 state by means of a transfer outside of the bulk transfer-terminal  
9 system and, if required by the state, province, or country listed, must  
10 be licensed or registered for motor vehicle fuel tax purposes in that  
11 state, province, or country.

12 (5) An applicant for a license as a motor vehicle fuel supplier  
13 must have a federal certificate of registry that is issued under the  
14 internal revenue code and authorizes the applicant to enter into  
15 federal tax-free transactions on motor vehicle fuel in the terminal  
16 transfer system.

17 (6) After receipt of an application for a license, the director may  
18 conduct an investigation to determine whether the facts set forth are  
19 true. The director shall require a fingerprint record check of the  
20 applicant through the Washington state patrol criminal identification  
21 system and the federal bureau of investigation before issuance of a  
22 license. The results of the background investigation including  
23 criminal history information may be released to authorized department  
24 personnel as the director deems necessary. The department shall charge  
25 a license holder or license applicant a fee of fifty dollars for each  
26 background investigation conducted.

27 An applicant who makes a false statement of a material fact on the  
28 application may be prosecuted for false swearing as defined by RCW  
29 9A.72.040.

30 (7) Except as provided by subsection (8) of this section, before  
31 granting any license issued under this chapter, the department shall  
32 require applicant to file with the department, in such form as shall be  
33 prescribed by the department, a corporate surety bond duly executed by  
34 the applicant as principal, payable to the state and conditioned for  
35 faithful performance of all the requirements of this chapter, including  
36 the payment of all taxes, penalties, and other obligations arising out  
37 of this chapter. The total amount of the bond or bonds shall be fixed  
38 by the department and may be increased or reduced by the department at

1 any time subject to the limitations herein provided. In fixing the  
2 total amount of the bond or bonds, the department shall require a bond  
3 or bonds equivalent in total amount to twice the estimated monthly  
4 excise tax determined in such manner as the department may deem proper.  
5 If at any time the estimated excise tax to become due during the  
6 succeeding month amounts to more than fifty percent of the established  
7 bond, the department shall require additional bonds or securities to  
8 maintain the marginal ratio herein specified or shall demand excise tax  
9 payments to be made weekly or semimonthly to meet the requirements  
10 hereof.

11 The total amount of the bond or bonds required of any licensee  
12 shall never be less than five thousand dollars nor more than one  
13 hundred thousand dollars.

14 No recoveries on any bond or the execution of any new bond shall  
15 invalidate any bond and no revocation of any license shall effect the  
16 validity of any bond but the total recoveries under any one bond shall  
17 not exceed the amount of the bond.

18 In lieu of any such bond or bonds in total amount as herein fixed,  
19 a licensee may deposit with the state treasurer, under such terms and  
20 conditions as the department may prescribe, a like amount of lawful  
21 money of the United States or bonds or other obligations of the United  
22 States, the state, or any county of the state, of an actual market  
23 value not less than the amount so fixed by the department.

24 Any surety on a bond furnished by a licensee as provided herein  
25 shall be released and discharged from any and all liability to the  
26 state accruing on such bond after the expiration of thirty days from  
27 the date upon which such surety has lodged with the department a  
28 written request to be released and discharged, but this provision shall  
29 not operate to relieve, release, or discharge the surety from any  
30 liability already accrued or which shall accrue before the expiration  
31 of the thirty day period. The department shall promptly, upon  
32 receiving any such request, notify the licensee who furnished the bond;  
33 and unless the licensee, on or before the expiration of the thirty day  
34 period, files a new bond, or makes a deposit in accordance with the  
35 requirements of this section, the department shall forthwith cancel the  
36 license. Whenever a new bond is furnished by a licensee, the  
37 department shall cancel the old bond as soon as the department and the

1 attorney general are satisfied that all liability under the old bond  
2 has been fully discharged.

3 The department may require a licensee to give a new or additional  
4 surety bond or to deposit additional securities of the character  
5 specified in this section if, in its opinion, the security of the  
6 surety bond theretofore filed by such licensee, or the market value of  
7 the properties deposited as security by the licensee, shall become  
8 impaired or inadequate; and upon the failure of the licensee to give  
9 such new or additional surety bond or to deposit additional securities  
10 within thirty days after being requested so to do by the department,  
11 the department shall forthwith cancel his or her license.

12 (8) The department may waive the requirements of subsection (7) of  
13 this section for licensed distributors if, upon determination by the  
14 department, the licensed distributor has sufficient resources, assets,  
15 other financial instruments, or other means, to adequately make  
16 payments on the estimated monthly motor vehicle fuel tax payments,  
17 penalties, and interest arising out of this chapter. The department  
18 shall adopt rules to administer this subsection.

19 (9) An application for an international fuel tax agreement license  
20 must be made to the department. The application must be filed upon a  
21 form prescribed by the department and contain such information as the  
22 department may require. The department shall charge a fee of ten  
23 dollars per set of international fuel tax agreement decals issued to  
24 each applicant or licensee. The department shall transmit the fee to  
25 the state treasurer for deposit in the motor vehicle fund.

26 **Sec. 4.** RCW 82.36.230 and 1998 c 176 s 34 are each amended to read  
27 as follows:

28 (1)(a) The provisions of this chapter requiring the payment of  
29 taxes do not apply to motor vehicle fuel imported into the state in  
30 interstate or foreign commerce and intended to be sold while in  
31 interstate or foreign commerce, nor to motor vehicle fuel exported from  
32 this state (~~by a licensee nor~~) to a destination outside the United  
33 States to any motor vehicle fuel sold by a licensee to the armed forces  
34 of the United States or to the national guard for use exclusively in  
35 ships or for export from this state.

36 (b) A credit is provided to the motor vehicle fuel exporter of  
37 record for motor vehicle fuel exported for use in interstate commerce,

1 where the credit is equal to the product of the motor vehicle fuel tax  
2 rate of the state to which the fuel is exported and the amount of fuel  
3 exported. No credit is granted if the importing state's fuel tax rate  
4 is equal to or greater than the state of Washington's fuel tax rate.

5 (c) The licensee shall report such imports, exports to destinations  
6 outside the United States to claim a credit for Washington state motor  
7 vehicle fuel taxes paid, and sales to the department at such times, on  
8 such forms, and in such detail as the department may require, otherwise  
9 the exemption granted in this section is null and void, and all fuel  
10 shall be considered distributed in this state fully subject to the  
11 provisions of this chapter. Each invoice covering exempt sales shall  
12 have the statement "Ex Washington Motor Vehicle Fuel Tax" clearly  
13 marked thereon.

14 (2) To claim any exemption from taxes under this section on account  
15 of sales by a licensee of motor vehicle fuel for export, the purchaser  
16 shall obtain from the selling licensee, and such selling licensee must  
17 furnish the purchaser, an invoice giving such details of the sale for  
18 export as the department may require, copies of which shall be  
19 furnished the department and the entity of the state or foreign  
20 jurisdiction of destination which is charged by the laws of that state  
21 or foreign jurisdiction with the control or monitoring, or both, of the  
22 sales or movement of motor vehicle fuel in that state or foreign  
23 jurisdiction. For the purposes of this section, motor vehicle fuel  
24 distributed to a federally recognized Indian tribal reservation located  
25 within the state of Washington is not considered exported outside this  
26 state.

27 (3) To claim any refund of taxes previously paid on account of  
28 sales of motor vehicle fuel to the armed forces of the United States or  
29 to the national guard, the licensee shall be required to execute an  
30 exemption certificate in such form as shall be furnished by the  
31 department, containing a certified statement by an authorized officer  
32 of the armed forces having actual knowledge of the purpose for which  
33 the exemption is claimed. The provisions of this section exempting  
34 motor vehicle fuel sold to the armed forces of the United States or to  
35 the national guard from the tax imposed hereunder do not apply to any  
36 motor vehicle fuel sold to contractors purchasing such fuel either for  
37 their own account or as the agents of the United States or the national

1 guard for use in the performance of contracts with the armed forces of  
2 the United States or the national guard.

3 (4) The department may at any time require of any licensee any  
4 information the department deems necessary to determine the validity of  
5 the claimed exemption, and failure to supply such data will constitute  
6 a waiver of all right to the exemption claimed. The department is  
7 hereby empowered with full authority to promulgate rules and  
8 regulations and to prescribe forms to be used by licensees in reporting  
9 to the department so as to prevent evasion of the tax imposed by this  
10 chapter.

11 (5) Upon request from the officials to whom are entrusted the  
12 enforcement of the motor vehicle fuel tax law of any other state, the  
13 District of Columbia, the United States, its territories and  
14 possessions, the provinces, or the Dominion of Canada, the department  
15 may forward to such officials any information which the department may  
16 have relative to the import or export of any motor vehicle fuel by any  
17 licensee(~~(:—PROVIDED, That)~~). However, such governmental unit must  
18 also furnish like information to this state.

19 **Sec. 5.** RCW 82.36.280 and 1998 c 176 s 36 are each amended to read  
20 as follows:

21 Any person who uses any motor vehicle fuel for the purpose of  
22 operating any internal combustion engine not used on or in conjunction  
23 with any motor vehicle licensed to be operated over and along any of  
24 the public highways of this state, and as the motive power thereof,  
25 upon which motor vehicle fuel excise tax has been paid, shall be  
26 entitled to and shall receive a refund of the amount of the motor  
27 vehicle fuel excise tax paid on each gallon of motor vehicle fuel so  
28 used, whether such motor vehicle excise tax has been paid either  
29 directly to the vendor from whom the motor vehicle fuel was purchased  
30 or indirectly by adding the amount of such excise tax to the price of  
31 such fuel. No refund shall be made for motor vehicle fuel consumed by  
32 any motor vehicle as herein defined that is required to be registered  
33 and licensed as provided in chapter 46.16 RCW; and is operated over and  
34 along any public highway except that a refund shall be allowed for  
35 motor vehicle fuel consumed:

36 (1) In a motor vehicle owned by the United States that is operated  
37 off the public highways for official use; and



1 (2) By auxiliary equipment not used for motive power, provided such  
2 consumption is accurately measured by a metering device that has been  
3 specifically approved by the department or is established by either of  
4 the following formulae:

5 (a) For fuel used in pumping fuel or heating oils by a power take-  
6 off unit on a delivery truck, refund shall be allowed claimant for tax  
7 paid on fuel purchased at the rate of three-fourths of one gallon for  
8 each one thousand gallons of fuel delivered: PROVIDED, That claimant  
9 when presenting his or her claim to the department in accordance with  
10 the provisions of this chapter, shall provide to said claim, invoices  
11 of fuel oil delivered, or such other appropriate information as may be  
12 required by the department to substantiate his or her claim; or

13 (b) For fuel used in operating a power take-off unit on a cement  
14 mixer truck or load compactor on a garbage truck, claimant shall be  
15 allowed a refund of twenty-five percent of the tax paid on all fuel  
16 used in such a truck; and

17 (c) The department is authorized to establish by rule additional  
18 formulae for determining fuel usage when operating other types of  
19 equipment by means of power take-off units when direct measurement of  
20 the fuel used is not feasible. The department is also authorized to  
21 adopt rules regarding the usage of on board computers for the  
22 production of records required by this chapter.

23 **Sec. 6.** RCW 82.36.300 and 1998 c 176 s 37 are each amended to read  
24 as follows:

25 Every person who shall export any motor vehicle fuel for use  
26 outside of (~~this state~~) the United States and who has paid the motor  
27 vehicle fuel excise tax upon such motor vehicle fuel shall be entitled  
28 to and shall receive a refund of the amount of the motor vehicle fuel  
29 excise tax paid on each gallon of motor vehicle fuel so exported. For  
30 the purposes of this section, motor vehicle fuel distributed to a  
31 federally recognized Indian tribal reservation located within the state  
32 of Washington is not considered exported outside this state.

33 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.36 RCW  
34 to read as follows:

35 Refunds, exemptions, and credits in this chapter are not applicable

1 to motor vehicle fuel or blended motor vehicle fuel exported within the  
2 United States.

3 **Sec. 8.** RCW 82.38.030 and 2007 c 515 s 21 are each amended to read  
4 as follows:

5 (1) There is hereby levied and imposed upon special fuel licensees,  
6 other than special fuel distributors, a tax at the rate of twenty-three  
7 cents per gallon of special fuel, or each one hundred cubic feet of  
8 compressed natural gas, measured at standard pressure and temperature.

9 (2) Beginning July 1, 2003, an additional and cumulative tax rate  
10 of five cents per gallon of special fuel, or each one hundred cubic  
11 feet of compressed natural gas, measured at standard pressure and  
12 temperature shall be imposed on special fuel licensees, other than  
13 special fuel distributors. This subsection (2) expires when the bonds  
14 issued for transportation 2003 projects are retired.

15 (3) Beginning July 1, 2005, an additional and cumulative tax rate  
16 of three cents per gallon of special fuel, or each one hundred cubic  
17 feet of compressed natural gas, measured at standard pressure and  
18 temperature shall be imposed on special fuel licensees, other than  
19 special fuel distributors.

20 (4) Beginning July 1, 2006, an additional and cumulative tax rate  
21 of three cents per gallon of special fuel, or each one hundred cubic  
22 feet of compressed natural gas, measured at standard pressure and  
23 temperature shall be imposed on special fuel licensees, other than  
24 special fuel distributors.

25 (5) Beginning July 1, 2007, an additional and cumulative tax rate  
26 of two cents per gallon of special fuel, or each one hundred cubic feet  
27 of compressed natural gas, measured at standard pressure and  
28 temperature shall be imposed on special fuel licensees, other than  
29 special fuel distributors.

30 (6) Beginning July 1, 2008, an additional and cumulative tax rate  
31 of one and one-half cents per gallon of special fuel, or each one  
32 hundred cubic feet of compressed natural gas, measured at standard  
33 pressure and temperature shall be imposed on special fuel licensees,  
34 other than special fuel distributors.

35 (7) Taxes are imposed when:

36 (a) Special fuel is removed in this state from a terminal (~~if the~~  
37 ~~special fuel is removed at the rack~~) unless the removal is to a

1 licensed exporter for direct delivery to a destination outside of the  
2 (~~state, or the removal is by~~) United States or to a special fuel  
3 supplier for direct delivery to an international fuel tax agreement  
4 licensee under RCW 82.38.320;

5 (b) Special fuel is removed in this state from a refinery if either  
6 of the following applies:

7 (i) The removal is by bulk transfer and the refiner or the owner of  
8 the special fuel immediately before the removal is not a licensee; or

9 (ii) The removal is at the refinery rack (~~unless the removal is to~~  
10 ~~a licensed exporter for direct delivery to a destination outside of the~~  
11 ~~state, or the removal is~~) to a special fuel supplier for direct  
12 delivery to an international fuel tax agreement licensee under RCW  
13 82.38.320;

14 (c) Special fuel enters into this state for sale, consumption, use,  
15 or storage, unless the fuel enters this state for direct delivery to an  
16 international fuel tax agreement licensee under RCW 82.38.320, if  
17 either of the following applies:

18 (i) The entry is by bulk transfer and the importer is not a  
19 licensee; or

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

21 (d) Special fuel is removed at the refinery rack or by bulk  
22 transfer unless the removal is to a licensed exporter for direct  
23 delivery to a destination outside of the United States;

24 (e) Special fuel is sold or removed in this state to an unlicensed  
25 entity unless there was a prior taxable removal, entry, or sale of the  
26 special fuel;

27 ((+e)) (f) Blended special fuel is removed or sold in this state  
28 by the blender of the fuel. The number of gallons of blended special  
29 fuel subject to tax is the difference between the total number of  
30 gallons of blended special fuel removed or sold and the number of  
31 gallons of previously taxed special fuel used to produce the blended  
32 special fuel. Blended special fuel exported from this state to another  
33 state is taxed at the fuel tax rate imposed by this chapter;

34 ((+f)) (g) Dyed special fuel is used on a highway, as authorized  
35 by the internal revenue code, unless the use is exempt from the special  
36 fuel tax;

37 ((+g)) (h) Dyed special fuel is held for sale, sold, used, or is  
38 intended to be used in violation of this chapter;

1       ~~((h))~~ (i) Special fuel purchased by an international fuel tax  
2 agreement licensee under RCW 82.38.320 is used on a highway; and

3       ~~((i))~~ (j) Special fuel is sold by a licensed special fuel  
4 supplier to a special fuel distributor, special fuel importer, special  
5 fuel exporter, or special fuel blender and the special fuel is not  
6 removed from the bulk transfer-terminal system.

7       (8) Blended motor vehicle fuel exported from this state to another  
8 is taxed at the fuel tax rate imposed by this chapter.

9       **Sec. 9.** RCW 82.38.080 and 2008 c 237 s 1 are each amended to read  
10 as follows:

11       (1) There is exempted from the tax imposed by this chapter, the use  
12 of fuel for:

13       (a) Street and highway construction and maintenance purposes in  
14 motor vehicles owned and operated by the state of Washington, or any  
15 county or municipality;

16       (b) Publicly owned fire fighting equipment;

17       (c) Special mobile equipment as defined in RCW 46.04.552;

18       (d) Power pumping units or other power take-off equipment of any  
19 motor vehicle which is accurately measured by metering devices that  
20 have been specifically approved by the department or which is  
21 established by any of the following formulae:

22       (i) Pumping propane, or fuel or heating oils or milk picked up from  
23 a farm or dairy farm storage tank by a power take-off unit on a  
24 delivery truck, at a rate determined by the department: PROVIDED, That  
25 claimant when presenting his or her claim to the department in  
26 accordance with this chapter, shall provide to the claim, invoices of  
27 propane, or fuel or heating oil delivered, or such other appropriate  
28 information as may be required by the department to substantiate his or  
29 her claim;

30       (ii) Operating a power take-off unit on a cement mixer truck or a  
31 load compactor on a garbage truck at the rate of twenty-five percent of  
32 the total gallons of fuel used in such a truck; or

33       (iii) The department is authorized to establish by rule additional  
34 formulae for determining fuel usage when operating other types of  
35 equipment by means of power take-off units when direct measurement of  
36 the fuel used is not feasible. The department is also authorized to

1 adopt rules regarding the usage of on board computers for the  
2 production of records required by this chapter;

3 (e) Motor vehicles owned and operated by the United States  
4 government;

5 (f) Heating purposes;

6 (g) Moving a motor vehicle on a public highway between two pieces  
7 of private property when said moving is incidental to the primary use  
8 of the motor vehicle;

9 (h) Transportation services for persons with special transportation  
10 needs by a private, nonprofit transportation provider regulated under  
11 chapter 81.66 RCW;

12 (i) Vehicle refrigeration units, mixing units, or other equipment  
13 powered by separate motors from separate fuel tanks;

14 (j) The operation of a motor vehicle as a part of or incidental to  
15 logging operations upon a highway under federal jurisdiction within the  
16 boundaries of a federal area if the federal government requires a fee  
17 for the privilege of operating the motor vehicle upon the highway, the  
18 proceeds of which are reserved for constructing or maintaining roads in  
19 the federal area, or requires maintenance or construction work to be  
20 performed on the highway for the privilege of operating the motor  
21 vehicle on the highway; (~~and~~)

22 (k) Waste vegetable oil as defined under RCW 82.08.0205 if the oil  
23 is used to manufacture biodiesel; and

24 (1) Special fuel exported for direct delivery to a destination  
25 outside the United States.

26 (2) There is exempted from the tax imposed by this chapter the  
27 removal or entry of special fuel under the following circumstances and  
28 conditions:

29 (a) If it is the removal from a terminal or refinery of, or the  
30 entry or sale of, a special fuel if all of the following apply:

31 (i) The person otherwise liable for the tax is a licensee other  
32 than a dyed special fuel user or international fuel tax agreement  
33 licensee;

34 (ii) For a removal from a terminal, the terminal is a licensed  
35 terminal; and

36 (iii) The special fuel satisfies the dyeing and marking  
37 requirements of this chapter;

1 (b) If it is an entry or removal from a terminal or refinery of  
2 taxable special fuel transferred to a refinery or terminal within the  
3 state and the persons involved, including the terminal operator, are  
4 licensed; and

5 (c)(i) If it is a special fuel that, under contract of sale, is  
6 shipped to a point outside (~~this state~~) the United States by a  
7 supplier by means of any of the following:

8 (A) Facilities operated by the supplier;

9 (B) Delivery by the supplier to a carrier, customs broker, or  
10 forwarding agent, whether hired by the purchaser or not, for shipment  
11 to the out-of-(~~state~~) country point;

12 (C) Delivery by the supplier to a vessel clearing from port of this  
13 state for a port outside (~~this state~~) the United States and actually  
14 exported from this state in the vessel.

15 (ii) For purposes of this subsection (2)(c):

16 (A) "Carrier" means a person or firm engaged in the business of  
17 transporting for compensation property owned by other persons, and  
18 includes both common and contract carriers; and

19 (B) "Forwarding agent" means a person or firm engaged in the  
20 business of preparing property for shipment or arranging for its  
21 shipment.

22 (d) A credit is provided to the special fuel exporter of record for  
23 special fuel exported for use in interstate commerce, where the credit  
24 is equal to the product of the motor vehicle fuel tax rate of the state  
25 to which the fuel is exported and the amount of fuel exported. No  
26 credit is granted if the importing state's fuel tax rate is equal to or  
27 greater than the state of Washington's fuel tax rate.

28 (3) Notwithstanding any provision of law to the contrary, every  
29 urban passenger transportation system and carriers as defined by  
30 chapters 81.68 and 81.70 RCW shall be exempt from the provisions of  
31 this chapter requiring the payment of special fuel taxes. For the  
32 purposes of this section "urban passenger transportation system" means  
33 every transportation system, publicly or privately owned, having as its  
34 principal source of revenue the income from transporting persons for  
35 compensation by means of motor vehicles and/or trackless trolleys, each  
36 having a seating capacity for over fifteen persons over prescribed  
37 routes in such a manner that the routes of such motor vehicles and/or  
38 trackless trolleys, either alone or in conjunction with routes of other

1 such motor vehicles and/or trackless trolleys subject to routing by the  
2 same transportation system, shall not extend for a distance exceeding  
3 twenty-five road miles beyond the corporate limits of the county in  
4 which the original starting points of such motor vehicles are located:  
5 PROVIDED, That no refunds or credits shall be granted on special fuel  
6 used by any urban transportation vehicle or vehicle operated pursuant  
7 to chapters 81.68 and 81.70 RCW on any trip where any portion of said  
8 trip is more than twenty-five road miles beyond the corporate limits of  
9 the county in which said trip originated.

10 **Sec. 10.** RCW 82.38.180 and 2007 c 515 s 29 are each amended to  
11 read as follows:

12 Any person who has purchased special fuel on which tax has been  
13 paid may file a claim with the department for a refund of the tax for:

14 (1) Taxes previously paid on special fuel used for purposes other  
15 than for the propulsion of motor vehicles upon the public highways in  
16 this state.

17 (2) Taxes previously paid on special fuel exported for use outside  
18 of ~~((this state))~~ the United States. ~~((Special fuel carried from this  
19 state in the fuel tank of a motor vehicle is deemed to be exported from  
20 this state.))~~ Special fuel distributed to a federally recognized  
21 Indian tribal reservation located within the state of Washington is not  
22 considered exported outside this state.

23 (3) Tax, penalty, or interest erroneously or illegally collected or  
24 paid.

25 (4) Taxes previously paid on all special fuel which is lost or  
26 destroyed, while the licensee shall be the owner thereof, through fire,  
27 lightning, flood, wind storm, or explosion.

28 (5) Taxes previously paid on all special fuel of five hundred  
29 gallons or more which is lost or destroyed while the licensee shall be  
30 the owner thereof, through leakage or other casualty except  
31 evaporation, shrinkage, or unknown causes.

32 (6) Taxes previously paid on special fuel that is inadvertently  
33 mixed with dyed special fuel.

34 Recovery for such loss or destruction under either subsection (4),  
35 (5), or (6) of this section must be susceptible to positive proof  
36 thereby enabling the department to conduct such investigation and  
37 require such information as it may deem necessary. In the event that

1 the department is not satisfied that the fuel was lost, destroyed, or  
2 contaminated as claimed because information or proof as required  
3 hereunder is not sufficient to substantiate the accuracy of the claim,  
4 it may deem such as sufficient cause to deny all right relating to the  
5 refund or credit for the excise tax paid on special fuel alleged to be  
6 lost or destroyed.

7 No refund or claim for credit shall be approved by the department  
8 unless the gallons of special fuel claimed as nontaxable satisfy the  
9 conditions specifically set forth in this section and the nontaxable  
10 event or use occurred during the period covered by the refund claim.  
11 Refunds or claims for credit shall not be allowed for anticipated  
12 nontaxable use or events.

13 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.38 RCW  
14 to read as follows:

15 Refunds, exemptions, and credits in this chapter are not applicable  
16 to special fuel or blended special fuel exported within the United  
17 States.

18 NEW SECTION. **Sec. 12.** This act takes effect August 1, 2009.

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