

HOUSE BILL REPORT

HB 2658

As Reported By House Committee On:

Transportation

Title: An act relating to administration and enforcement of tax exemptions for nonhighway use of special fuel.

Brief Description: Facilitating administration of special fuel tax exemptions.

Sponsors: Representatives Skinner, R. Fisher and Cairnes; by request of Department of Licensing.

Brief History:

Committee Activity:

Transportation: 1/25/96, 1/31/96 [DPS].

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives K. Schmidt, Chairman; Benton, Vice Chairman; Mitchell, Vice Chairman; R. Fisher, Ranking Minority Member; Hatfield, Assistant Ranking Minority Member; Backlund; Blanton; Buck; Cairnes; Chopp; Elliot; Hankins; Horn; Johnson; McMahan; Ogden; Quall; Robertson; Romero; D. Schmidt; Scott; Sterk and Tokuda.

Staff: Roger Horn (786-7839).

Background: Special fuel (i.e., diesel) is subject to state tax of 23 cents per gallon and federal tax of 24.4 cents per gallon. Fuel consumed for off-highway use is exempt from the special fuel tax but is subject to the state sales and use tax.

A special fuel user's license permits a consumer to have special fuel delivered into a bulk storage tank without paying fuel tax at the time of purchase. These users are subject to Department of Licensing (DOL) reporting requirements. There are about 10,000 such special fuel user license holders, excluding farmers, loggers, and construction companies holding special permits.

Farmers, loggers, and construction companies may obtain special permits from DOL allowing them to have untaxed special fuel delivered directly into nonhighway equipment, as well as into bulk storage tanks, and relieving them of the reporting

provisions required of other holders of special fuel user licenses. To receive the special permit, the user must certify that he/she does not own any diesel-powered vehicles licensed for use on the highways of the state. There are about 18,000 special permit holders.

In 1994 the federal government began a dyed diesel program. In this program a red dye is added to nontaxed fuel to distinguish it from taxable fuel. Consumers are eligible to purchase the dyed fuel for any nonhighway use without any reporting or licensing requirements. However, if they are found to be using the dyed fuel on the highways, they are subject to fines of \$1,000 or \$10 per gallon, whichever is greater. Purchasers of clear diesel pay the federal fuel tax at the time of purchase but are eligible to apply for a refund if the fuel is used off highway.

Summary of Substitute Bill: Dyed diesel is not subject to the special fuel tax. Anyone may purchase untaxed dyed diesel without any permitting or licensing requirements. Farmers, loggers and construction companies are no longer eligible to obtain special permits that allow them to purchase untaxed clear special fuel without the reporting provisions required of other special fuel user license holders.

A person using dyed special fuel for the propulsion of motor vehicles upon the highways of this state is subject to a civil penalty of \$10 for each gallon of dyed special fuel placed into the supply tank of the vehicle or \$1,000, whichever is greater. The penalties are deposited into the motor vehicle fund. The Washington State Patrol and other officers certified by the commercial vehicle safety alliance are authorized to inspect and collect special fuel samples.

Substitute Bill Compared to Original Bill: The original bill provided for a \$10 per gallon penalty. The substitute bill added the \$1,000 minimum penalty and authorized the fuel inspections.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on July 1, 1996.

Testimony For: The bill will help address fuel tax evasion. It will eliminate the need for about 18,000 special fuel user licenses. The federal government already has a dyed diesel program.

Testimony Against: None.

Testified: Jim Wadsworth, Department of Licensing; Amy Arnis, Department of Transportation; Mike Sciacca, Washington Oil Marketers Association; Marsh Pugh,

Washington State Patrol; and Sgt. Ken Irwin, Washington State Patrol.