FINAL BILL REPORT
HB 2090

C 364 L 95
Synopsis as Enacted

Brief Description: Revising provisions relating to taxation of gasohol.

Sponsors: Representatives K. Schmidt, R. Fisher, Mitchell, Scott, Robertson, Hatfield, Skinner, Tokuda, Buck, Elliot, Ogden, Cairnes, Romero, Brown, Quall, Chopp, Patterson, Hankins and Blanton.

House Committee on Transportation

Background: ESHB 2326, enacted during the 1994 session, repealed a tax exemption and credit given to distributors that sold gasohol made with alcohol produced by small manufacturers. When enacted in 1980, the exemption and credit were intended to benefit in-state alcohol producers, including a new plant in Eastern Washington, having an estimated fiscal impact of approximately $5 million for the 1993-95 biennium. However, of the 17 producers taking advantage of the tax break, only three are located in Washington, while producers from El Salvador, Costa Rica and Jamaica have been the primary beneficiaries. In fiscal year 1994 alone, the revenue loss to the state was over $21 million.

In October of 1994, Western Petroleum Importers filed a lawsuit against the state seeking an injunction to restore the gasohol tax exemption and credit. The suit is based on provisions of Initiative 601.

On March 28, 1995, a trial court judge in King County ruled in favor of Western Petroleum Importers in their challenge to ESHB 2326. The decision was unexpected and the state is requesting expedited review by the state Supreme Court.

The judge also issued an injunction preventing the Department of Licensing from collecting the motor fuel tax until ESHB 2326 is approved by the voters in November. However, there is no mechanism in place that would allow the state to continue collecting the tax and hold the funds in abeyance until the matter is resolved by the Supreme Court or the voters. In the normal course of business, this inability to collect the tax would cost the state about $30 million per year in lost revenue, with over 90 percent of the tax break benefiting producers in El Salvador, Costa Rica, Jamaica and other out-of-state companies.

Summary: Beginning July 1, 1995, a refund system is established that will allow the state to collect the motor fuel taxes on gasohol. The money will be held in the

gasohol exemption holding account for possible refund to gasohol distributors, depending on the final determination in the lawsuit over ESHB 2326.

For motor fuel taxes paid by distributors under this refund system, refunds may not be issued unless an appellate court upholds the invalidation of ESHB 2326, and the voters reject that measure at the November general election.

Gasohol distributors will have no right to a refund of taxes collected under this system unless they actually comply with the law and remit the taxes.

If the voters ratify ESHB 2326, no refunds will be provided for taxes collected by the state as a result of ESHB 2326, which took effect May 1, 1994.

If the court of appeals or the Supreme Court upholds the tax exemption repeal in ESHB 2326, the refund system will be null and void, as it would not be necessary to refund taxes that were properly imposed under that law.

A severability clause allows a court to invalidate a particular section of the bill without affecting the remaining provisions establishing a refund system.

Votes on Final Passage:

House	94	1
Senate	48	0

Effective: May 16, 1995
July 1, 1995 (Section 3)