SENATE BILL REPORT

SHB 2658

As Reported By Senate Committee On:
Transportation, February 23, 1996

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: House Committee on Transportation (originally sponsored by Representatives Skinner, R. Fisher and Cairnes; by request of Department of Licensing).

Brief History:
Committee Activity: Transportation: 2/15/96, 2/23/96 [DP].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass.
Signed by Senators Owen, Chair; Heavey, Vice Chair; Goings, Prentice, Schow, Thibaudeau and Wood.

Minority Report: Do not pass.
Signed by Senators Morton and Prince.

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 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.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Implementation of the dyed diesel program will eliminate administration of 18,000 nonreporting special fuel licenses. This program provides a tool for fighting fuel tax evasion. Dyed diesel supplies are adequate and enforcement already exists because the federal dyed diesel program has been in place for two years.

Testimony Against: None.

Testified: PRO: Rep. Mary Skinner, prime sponsor; Jim Wadsworth, Dept. of Licensing; Mike Sciacca, WA Oil Marketers Assn.; Ken Irwin, State Patrol.