
ENGROSSED SUBSTITUTE HOUSE BILL 2090

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Transportation (originally sponsored by Representatives K. Schmidt, R. Fisher, Mitchell, Scott, Robertson, Hatfield, Skinner, Tokuda, Buck, Elliot, Ogden, Cairnes, Romero, Brown, Quall, Chopp, Patterson, Hankins and Blanton)

Read first time 04/11/95.

1 AN ACT Relating to taxation of gasohol; amending 1994 c 225 s 3
2 (uncodified); reenacting and amending RCW 82.36.2251; adding a new
3 section to chapter 225, Laws of 1994; creating new sections; providing
4 an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section to read as follows is added to
7 chapter 225, Laws of 1994, as section 1.5 thereof, to appear between
8 sections 1 and 2, if that act is submitted to a vote of the people
9 under the operation of section 3 thereof:

10 The gasohol exemption and credit was created in 1980 to help in-
11 state producers of alcohol. The legislature finds that, for the
12 following reasons, the gasohol exemption and credit granted to motor
13 fuel distributors is not in the best interest of the citizens of the
14 state of Washington:

15 (1) The federal Clean Air Act requires the use of gasohol or other
16 oxygenated fuels in King, Pierce, Snohomish, Clark, and Spokane
17 counties during fall and winter months, thereby diminishing the need to
18 provide incentives to alcohol producers;

1 (2) The federal government also provides a fuel tax exemption of up
2 to 5.4 cents per gallon of gasohol;

3 (3) If continued, the state exemption will cost the state about
4 thirty million dollars per year, the equivalent of a one-cent gasoline
5 tax;

6 (4) Only three of the seventeen alcohol producers certified to
7 benefit from the exemption in 1993 are located in Washington;

8 (5) Over ninety percent of the alcohol qualifying for the exemption
9 is provided by out-of-state firms, including several from outside the
10 country;

11 (6) Gas tax revenue lost because of the exemption is badly needed
12 for state, city, and county transportation projects.

13 NEW SECTION. **Sec. 2.** For the reasons enumerated in section 1 of
14 this act, the legislature repealed the tax exemption and credit
15 benefiting gasohol producers by passing ESHB 2326 in 1994. The
16 legislature's position is that section 1 of ESHB 2326, which is the
17 portion of the bill that repealed the tax exemption enjoyed by foreign
18 and domestic companies producing gasohol, is not subject to the
19 requirements of section 13, chapter 2, Laws of 1994 (commonly known as
20 section 13 of I-601) because, among other reasons, existing law RCW
21 43.135.020(2) excludes highway trust fund revenue from its provisions.

22 The legislature hereby provides a refund system to be used in lieu
23 of the gasohol tax exemption and credit. Refunds will be disbursed
24 only if an appellate or supreme court of this state invalidates section
25 1 of ESHB 2326 and the people reject the measure at the November
26 general election.

27 **Sec. 3.** RCW 82.36.2251 and 1993 c 268 s 2 are each reenacted and
28 amended to read as follows:

29 (1) In lieu of the former tax exemption and credit, a distributor
30 is eligible for a refund of the motor fuel tax paid under this chapter
31 on alcohol of any proof that is sold in this state for use as fuel in
32 motor vehicles, farm implements and machines, or implements of
33 husbandry ((is exempt from the motor vehicle fuel tax under this
34 chapter)) if such alcohol was manufactured by a company that has been
35 verified by the department as having sold less than eight million
36 gallons of alcohol for use as motor fuel in the prior calendar year.

1 (2) In addition, a tax ((credit)) refund of sixty percent of the
2 tax rate imposed by RCW 82.36.025 shall be given for every gallon of
3 alcohol receiving ((the exemption)) a refund under subsection (1) of
4 this section and used in an alcohol-gasoline blend which contains at
5 least nine and one-half percent or more by volume of alcohol:
6 PROVIDED, That in no case may the tax ((credit)) refund claimed be
7 greater than the tax due on the gasoline portion of the blended fuel:
8 AND PROVIDED FURTHER, That no refunds may be issued to distributors who
9 fail to remit taxes owed under this chapter.

10 (3) Any tax refunds provided under this section must be made from
11 the gasohol exemption holding account, created under RCW
12 46.68.090(1)(1). The tax exemption refund will be based upon the
13 difference between the amount of tax collected on the original taxable
14 sale invoice and the rebilled taxable sale invoice that reflects the
15 alcohol that is exempt from the motor fuel tax.

16 (4) This section shall expire on December 31, 1999.

17 **Sec. 4.** 1994 c 225 s 3 (uncodified) is amended to read as follows:

18 (1) If a court enters a final order invalidating or remanding
19 section 1, chapter 225, Laws of 1994 on the grounds that it does not
20 comply with section 13, chapter 2, Laws of 1994, it is the intent of
21 the legislature that ((this measure)) chapter 225, Laws of 1994 as
22 amended be submitted to the people for their adoption, ratification, or
23 rejection, at the next succeeding general election to be held in this
24 state, in accordance with Article II, section 1 of the state
25 Constitution, as amended, and the laws adopted to facilitate the
26 operation thereof.

27 (2) If a court remands this act for a vote of the people, the
28 ballot title shall be substantially as follows: "Shall the alcohol
29 fuel tax exemption given to fuel distributors be eliminated?"

30 (3) If the voters approve the repeal as provided in section 1 of
31 this act, the repeal shall be made retroactive to May 1, 1994.

32 NEW SECTION. **Sec. 5.** No refunds authorized under this act shall
33 be provided until 1994 c 225 is rejected by the people at the next
34 November general election. Any funds received as taxes paid subject to
35 refunds authorized in section 3 of this act shall be deposited in the
36 gasohol exemption holding account. The department of licensing is

1 authorized to issue refunds after 1994 c 225 has been rejected by the
2 people at the next November general election.

3 NEW SECTION. **Sec. 6.** If section 1, chapter 225, Laws of 1994 is
4 upheld by order of the court of appeals or the supreme court of this
5 state, this act is null and void.

6 NEW SECTION. **Sec. 7.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 immediately, except for section 2 of this act, which takes effect July
14 1, 1995.

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