

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE HOUSE BILL 2090**

Chapter 364, Laws of 1995

54th Legislature  
1995 Regular Session

GASOHOL--TAXATION OF

EFFECTIVE DATE: 5/16/95 - Exception Section 3 which becomes effective 7/1/95

Passed by the House April 13, 1995  
Yea 94 Nays 1

CLYDE BALLARD

**Speaker of the  
House of Representatives**

Passed by the Senate April 14, 1995  
Yea 48 Nays 0

JOEL PRITCHARD

**President of the Senate**

Approved May 16, 1995

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2090** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN

**Chief Clerk**

FILED

May 16, 1995 - 11:14 a.m.

MIKE LOWRY  
**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE HOUSE BILL 2090**

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Passed Legislature - 1995 Regular Session

**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 3 of this act, which takes effect July  
14 1, 1995.

Passed the House April 13, 1995.

Passed the Senate April 14, 1995.

Approved by the Governor May 16, 1995.

Filed in Office of Secretary of State May 16, 1995.