
HOUSE BILL 2563

State of Washington

55th Legislature

1998 Regular Session

By Representatives Fisher, K. Schmidt, Radcliff and Thompson

Read first time 01/15/98. Referred to Committee on Transportation Policy & Budget.

1 AN ACT Relating to special fuel tax; amending RCW 82.38.020,
2 82.38.090, 82.38.110, 82.38.120, 82.38.130, 82.38.150, 82.38.160,
3 82.38.170, 82.38.180, 82.38.190, 82.38.210, 82.38.220, 82.38.230,
4 82.38.235, 82.38.240, 82.38.260, and 43.05.110; reenacting and amending
5 RCW 82.38.140; adding new sections to chapter 82.38 RCW; prescribing
6 penalties; and providing an effective date.

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

8 **Sec. 1.** RCW 82.38.020 and 1995 c 287 s 3 are each amended to read
9 as follows:

10 As used in this chapter:

11 (1) "Person" means every natural person, fiduciary, association, or
12 corporation. The term "person" as applied to an association means and
13 includes the partners or members thereof, and as applied to
14 corporations, the officers thereof.

15 (2) "Department" means the department of licensing.

16 (3) "Highway" means every way or place open to the use of the
17 public, as a matter of right, for the purpose of vehicular travel.

18 (4) "Motor vehicle" means every self-propelled vehicle designed for
19 operation upon land utilizing special fuel as the means of propulsion.

1 (5) "Special fuel" means and includes all combustible gases and
2 liquids suitable for the generation of power for propulsion of motor
3 vehicles, except that it does not include motor vehicle fuel as defined
4 in chapter 82.36 RCW, nor does it include dyed diesel as defined by
5 federal regulations; but if the federal regulations authorize dyed
6 diesel to be used in highway vehicles that usage will be considered
7 taxable under this chapter, unless otherwise exempted.

8 (6) "Bulk storage" means the placing of special fuel by a special
9 fuel dealer into a receptacle other than the fuel supply tank of a
10 motor vehicle.

11 (7) "Dyed special fuel user" means a person authorized by the
12 Internal Revenue Code to operate a motor vehicle on the highway using
13 dyed special fuel, in which the use is not exempt from the special fuel
14 tax.

15 (8) "Special fuel dealer" means any person engaged in the business
16 of delivering special fuel into the fuel supply tank or tanks of a
17 motor vehicle not then owned or controlled by him, or into bulk storage
18 facilities for subsequent use in a motor vehicle, or a person who
19 purchases special fuel in this state and exports the fuel, by means
20 other than pipeline, vessel, or in the fuel tank of an engine, to a
21 destination outside the state. For this purpose the term "fuel supply
22 tank or tanks" does not include cargo tanks even though fuel is
23 withdrawn directly therefrom for propulsion of the vehicle.

24 (~~(8)~~) (9) "Special fuel licensee" means a person holding a
25 license issued under this chapter.

26 (10) "Special fuel user" means any person purchasing special fuel
27 into bulk storage without payment of the special fuel tax for
28 subsequent use in a motor vehicle, or any person engaged in interstate
29 commercial operation of motor vehicles any part of which is within this
30 state.

31 (~~(9)~~) (11) "Service station" means any location at which fueling
32 of motor vehicles is offered to the general public.

33 (~~(10)~~) (12) "Unbonded service station" means any service station
34 at which an unbonded special fuel dealer regularly makes sales of
35 special fuel by means of delivery thereof into the fuel supply tanks of
36 motor vehicles.

37 (~~(11)~~) (13) "Bond" means: (a) A bond duly executed by such
38 special fuel dealer or special fuel user as principal with a corporate
39 surety qualified under the provisions of chapter 48.28 RCW which bond

1 shall be payable to the state of Washington conditioned upon faithful
2 performance of all requirements of this chapter, including the payment
3 of all taxes, penalties, and other obligations of such dealer, arising
4 out of this chapter; or (b) a deposit with the state treasurer by the
5 special fuel dealer or special fuel user, under such terms and
6 conditions as the department may prescribe, a like amount of lawful
7 money of the United States or bonds or other obligations of the United
8 States, the state of Washington, or any county of said state, of an
9 actual market value not less than the amount so fixed by the
10 department; or (c) such other instruments as the department may
11 determine and prescribe by rule to protect the interests of the state
12 and to insure compliance of the requirements of this chapter.

13 ~~((12))~~ (14) "Lessor" means any person (a) whose principal
14 business is the bona fide leasing or renting of motor vehicles without
15 drivers for compensation to the general public, and (b) who maintains
16 established places of business and whose lease or rental contracts
17 require such motor vehicles to be returned to the established places of
18 business.

19 ~~((13))~~ (15) "Natural gas" means naturally occurring mixtures of
20 hydrocarbon gases and vapors consisting principally of methane, whether
21 in gaseous or liquid form.

22 ~~((14))~~ (16) "Standard pressure and temperature" means fourteen
23 and seventy-three hundredths pounds of pressure per square inch at
24 sixty degrees Fahrenheit.

25 ~~((15))~~ (17) "Evasion" or "evade" means to diminish or avoid the
26 computation, assessment, or payment of authorized taxes or fees
27 through:

28 (a) A knowing: False statement, misrepresentation of fact, or
29 other act of deception; or

30 (b) An intentional: Omission, failure to file a return or report,
31 or other act of deception.

32 NEW SECTION. Sec. 2. A new section is added to chapter 82.38 RCW
33 to read as follows:

34 A person may not operate or maintain a motor vehicle on a public
35 highway of this state with dyed special fuel in the fuel supply tank
36 unless the use is authorized by the Internal Revenue Code and the
37 person is the holder of an uncanceled dyed special fuel user license
38 issued to him or her by the department. The special fuel tax set forth

1 in RCW 82.38.030 is imposed on users of dyed special fuel authorized by
2 the Internal Revenue Code to operate on-highway motor vehicles using
3 dyed special fuel, unless the use is exempt from the special fuel tax.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.38 RCW
5 to read as follows:

6 (1) Special fuel that is dyed satisfies the dyeing requirements of
7 this chapter if it meets the dyeing requirements of the United States
8 Environmental Protection Agency and the Internal Revenue Service,
9 including, but not limited to, requirements respecting type, dosage,
10 and timing.

11 (2) Marking must meet the marking requirements of the Internal
12 Revenue Service.

13 (3) As required by the Internal Revenue Service, notice is required
14 with respect to dyed special fuel. A notice stating "DYED DIESEL FUEL,
15 NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" must be:

16 (a) Provided by a person selling dyed special fuel to a special
17 fuel dealer;

18 (b) Provided by a special fuel dealer to a dyed special fuel buyer
19 if the special fuel is not sold from a retail pump posted in accordance
20 with the requirements of this subsection; or

21 (c) Posted by a seller on a retail pump where it sells dyed special
22 fuel for use by its buyer.

23 **Sec. 4.** RCW 82.38.090 and 1995 c 20 s 13 are each amended to read
24 as follows:

25 It shall be unlawful for any person to act as a special fuel dealer
26 or a special fuel user in this state unless such person is the holder
27 of an uncanceled special fuel dealer's or a special fuel user's license
28 issued to him or her by the department.

29 A special fuel dealer's license authorizes a person to deliver
30 previously untaxed special fuel into the fuel supply tanks of motor
31 vehicles, collect the special fuel tax on behalf of the state at the
32 time of delivery, and remit the taxes collected to the state as
33 provided herein. A licensed special fuel dealer may also deliver
34 untaxed special fuel into bulk storage facilities of a licensed special
35 fuel user or dealer without collecting the special fuel tax. Special
36 fuel dealers, when making deliveries of special fuel into bulk storage
37 to any person not holding a valid special fuel license, must collect

1 the special fuel tax at time of delivery, unless the person to whom the
2 delivery is made is specifically exempted from the tax as provided
3 herein.

4 A special fuel user's license authorizes a person to purchase
5 special fuel into bulk storage for use in motor vehicles either on or
6 off the public highways of this state without payment of the special
7 fuel tax at time of purchase. Holders of special fuel licenses are all
8 subject to the bonding, reporting, tax payment, and record-keeping
9 provisions of this chapter. All purchases of special fuel by a
10 licensed special fuel user directly into the fuel supply tank of a
11 motor vehicle are subject to the special fuel tax at time of purchase.
12 (~~Special authorization may be given to farmers, logging companies, and~~
13 ~~construction companies to purchase special fuel directly into the~~
14 ~~supply tanks of nonhighway equipment or into portable slip tanks for~~
15 ~~nonhighway use without payment of the special fuel tax.~~)

16 Special fuel users operating motor vehicles in interstate commerce
17 having two axles and a gross vehicle weight or registered gross vehicle
18 weight not exceeding twenty-six thousand pounds are not required to be
19 licensed. Special fuel users operating motor vehicles in interstate
20 commerce having two axles and a gross vehicle weight or registered
21 gross vehicle weight exceeding twenty-six thousand pounds, or having
22 three or more axles regardless of weight, or a combination of vehicles,
23 when the combination exceeds twenty-six thousand pounds gross vehicle
24 weight, must comply with the licensing and reporting requirements of
25 this chapter. A copy of the license must be carried in each motor
26 vehicle entering this state from another state or province.

27 **Sec. 5.** RCW 82.38.110 and 1996 c 104 s 8 are each amended to read
28 as follows:

29 (1) Application for a (~~special fuel dealer's license or a special~~
30 ~~fuel user's~~) license issued under this chapter shall be made to the
31 department. The application shall be filed upon a form prepared and
32 furnished by the department and shall contain such information as the
33 department deems necessary.

34 (2) Every application for a special fuel dealer's license must
35 contain the following information to the extent it applies to the
36 applicant:

37 ~~((1))~~ (a) Proof as the department ~~((may))~~ shall require
38 concerning the applicant's identity, including but not limited to his

1 or her fingerprints or those of the officers of a corporation making
2 the application;

3 ~~((+2))~~ (b) The applicant's form and place of organization
4 including proof that the individual, partnership, or corporation is
5 licensed to do business in this state;

6 ~~((+3))~~ (c) The qualification and business history of the applicant
7 and any partner, officer, or director;

8 ~~((+4))~~ (d) The applicant's financial condition or history
9 including a bank reference and whether the applicant or any partner,
10 officer, or director has ever been adjudged bankrupt or has an
11 unsatisfied judgment in a federal or state court;

12 ~~((+5))~~ (e) Whether the applicant has been adjudged guilty of a
13 crime that directly relates to the business for which the license is
14 sought and the time elapsed since the conviction is less than ten
15 years, or has suffered a judgment within the preceding five years in a
16 civil action involving fraud, misrepresentation, or conversion and in
17 the case of a corporation or partnership, all directors, officers, or
18 partners.

19 (3) After receipt of an application for a license, the director
20 ~~((may))~~ shall conduct an investigation to determine whether the facts
21 set forth are true. The director ~~((may))~~ shall require a fingerprint
22 record check of the applicant through the Washington state patrol
23 criminal identification system and the federal bureau of investigation
24 before issuance of a license. The results of the background
25 investigation including criminal history information may be released to
26 authorized department personnel as the director deems necessary. The
27 department shall charge a license holder or license applicant a fee of
28 fifty dollars for each background investigation conducted.

29 (4) An applicant who makes a false statement of a material fact on
30 the application may be prosecuted for false swearing as defined by RCW
31 9A.72.040.

32 ~~((No))~~ (5) A special fuel dealer's license may not be issued to any
33 person or continued in force unless such person has furnished bond, as
34 defined in RCW 82.38.020, in such form as the department may require,
35 to secure his or her compliance with this chapter, and the payment of
36 any and all taxes, interest, and penalties due and to become due
37 hereunder. The requirement of furnishing a bond ~~((shall))~~ may be
38 waived for special fuel dealers who only deliver special fuel into the
39 fuel tanks of marine vessels.

1 (6) The department may require a special fuel (~~(user)~~) licensee to
2 post a bond if the (~~(special fuel user)~~) licensee, after having been
3 licensed, has failed to file timely reports or has failed to remit
4 taxes due, or when an investigation or audit indicates problems severe
5 enough that the department, in its discretion, determines that a bond
6 is required to protect the interests of the state. The department may
7 also adopt rules prescribing conditions that, in the department's
8 discretion, require a bond to protect the interests of the state.

9 (7) The total amount of the bond or bonds required of any special
10 fuel (~~(dealer or special fuel user)~~) licensee shall be equivalent to
11 three times the estimated monthly fuel tax, determined in such manner
12 as the department may deem proper: PROVIDED, That those special fuel
13 (~~(dealers)~~) licensees having held a special fuel license for five or
14 more years without having said license suspended or revoked by the
15 department shall be permitted to reduce the amount of their bond to
16 twice the estimated monthly tax liability: PROVIDED FURTHER, That the
17 total amount of the bond or bonds shall never be less than five hundred
18 dollars nor more than fifty thousand dollars.

19 (8) An application for a dyed special fuel user license must be
20 made to the department. The application must be filed upon a form
21 prescribed by the department and contain such information as the
22 department deems necessary.

23 **Sec. 6.** RCW 82.38.120 and 1996 c 104 s 9 are each amended to read
24 as follows:

25 Upon receipt and approval of an application and bond, if required,
26 the department shall issue (~~(to the applicant)~~) a license to (~~(act as~~
27 ~~a special fuel dealer or a special fuel user)~~) the applicant. However,
28 the department may refuse to issue a (~~(special fuel dealer's)~~) license
29 (~~(or a special fuel user's license)~~) to any person:

30 (1) Who formerly held (~~(either type of)~~) a license issued under
31 chapter 82.36 or 82.42 RCW or this chapter which, prior to the time of
32 filing for application, has been revoked for cause;

33 (2) Who is a subterfuge for the real party in interest whose
34 license prior to the time of filing for application, has been revoked
35 for cause;

36 (3) Who, as an individual licensee, or officer, director, owner, or
37 managing employee of a nonindividual licensee, has had a special fuel
38 license revoked for cause;

1 (4) Who has an unsatisfied debt to the state assessed under either
2 chapter 82.36, 82.38, (~~or~~) 46.87, or 82.42 RCW;

3 (5) Who formerly held as an individual, officer, director, owner,
4 managing employee of a nonindividual licensee, or subterfuge for a real
5 party in interest, a license issued by the federal government or a
6 state that allowed a person to buy or sell untaxed motor vehicle or
7 special fuel, which license, before the time of filing for application,
8 has been revoked for cause;

9 (6) Who pled guilty to or was convicted as an individual, officer,
10 director, owner, or managing employee of a nonindividual licensee in
11 this or any other state or in any federal jurisdiction of a gross
12 misdemeanor or felony crime directly related to the business or has
13 been subject to a civil judgment involving fraud, misrepresentation,
14 conversion, or dishonesty, notwithstanding chapter 9.96A RCW;

15 (7) Who misrepresented or concealed a material fact in obtaining a
16 license or in reinstatement thereof;

17 (8) Who violated a statute or administrative rule regulating fuel
18 taxation or distribution;

19 (9) Who failed to cooperate with the department's investigations
20 by:

21 (a) Not furnishing papers or documents;

22 (b) Not furnishing in writing a full and complete explanation
23 regarding a matter under investigation by the department; or

24 (c) Not responding to subpoenas issued by the department, whether
25 or not the recipient of the subpoena is the subject of the proceeding;

26 (10) Who failed to comply with an order issued by the director; or

27 (11) Upon other sufficient cause being shown.

28 Before such refusal, the department shall grant the applicant a
29 hearing and shall grant the applicant at least twenty days written
30 notice of the time and place thereof.

31 The department shall determine from the information shown in the
32 application or other investigation the kind and class of license to be
33 issued. For the purpose of considering any application for a special
34 fuel (~~dealer's~~) license, the department may inspect, cause an
35 inspection, investigate, or cause an investigation of the records of
36 this or any other state or of the federal government to ascertain the
37 veracity of the information on the application form and the applicant's
38 criminal and licensing history.

1 All licenses shall be posted in a conspicuous place or kept
2 available for inspection at the principal place of business of the
3 owner thereof. License holders shall reproduce the license by
4 photostat or other method and keep a copy on display for ready
5 inspection at each additional place of business or other place of
6 storage from which special fuel is sold, delivered or used and in each
7 motor vehicle used by the license holder to transport special fuel
8 purchased by him or her for resale, delivery or use. Every licensed
9 special fuel user or dyed special fuel user operating a motor vehicle
10 registered in a jurisdiction other than this state shall reproduce the
11 license and carry a photocopy thereof with each motor vehicle being
12 operated upon the highways of this state.

13 A special fuel dealer may use special fuel in motor vehicles owned
14 or operated by the dealer without securing a license as a special fuel
15 user but the dealer is subject to all other conditions, requirements,
16 and liabilities imposed herein upon a special fuel user.

17 Each special fuel (~~dealer's license and special fuel user's~~)
18 license shall be valid until the expiration date if shown on the
19 license, or until suspended or revoked for cause or otherwise canceled.

20 No special fuel (~~dealer's license or special fuel user's~~) license
21 shall be transferable.

22 **Sec. 7.** RCW 82.38.130 and 1994 c 262 s 24 are each amended to read
23 as follows:

24 The department may revoke the license of any special fuel (~~dealer,~~
25 ~~or special fuel user~~) licensee for any of the grounds constituting
26 cause for denial of a license set forth in RCW 82.38.120 or for other
27 reasonable cause. Before revoking such license the department shall
28 notify the licensee to show cause within twenty days of the date of the
29 notice why the license should not be revoked: PROVIDED, That at any
30 time prior to and pending such hearing the department may, in the
31 exercise of reasonable discretion, suspend such license.

32 The department shall cancel any (~~license to act as a~~) special
33 fuel (~~dealer, or a special fuel user~~) license immediately upon
34 surrender thereof by the holder.

35 Any surety on a bond furnished by a special fuel (~~dealer or~~
36 ~~special fuel user~~) licensee as provided (~~herein~~) in this chapter
37 shall be released and discharged from any and all liability to the
38 state accruing on such bond after the expiration of forty-five days

1 from the date which such surety shall have lodged with the department
2 a written request to be released and discharged, but this provision
3 shall not operate to relieve, release, or discharge the surety from any
4 liability already accrued or which shall accrue before the expiration
5 of the forty-five day period. The department shall promptly, upon
6 receiving any such request, notify the special fuel (~~((dealer or special
7 fuel user))~~) licensee who furnished the bond, and unless the special
8 fuel (~~((dealer or special fuel user shall))~~) licensee, on or before the
9 expiration of the forty-five day period, files a new bond, in
10 accordance with (~~(the requirements of)~~) this section, (~~((or make a
11 deposit in lieu thereof as provided in RCW 82.38.020(11),)~~) the
12 department forthwith shall cancel the special fuel (~~((dealer's or
13 special fuel user's))~~) license.

14 The department may require a (~~((special fuel dealer or special fuel
15 user to give a))~~) new or additional surety bond (~~((or to deposit
16 additional securities))~~) of the character specified in RCW
17 82.38.020(~~((11))~~) if, in its opinion, the security of the surety bond
18 therefor filed by such special fuel (~~((dealer or special fuel user, or
19 the market value of the properties deposited as security by such
20 special fuel dealer or special fuel user))~~) licensee, shall become
21 impaired or inadequate. Upon failure of the special fuel (~~((dealer or
22 special fuel user))~~) licensee to give such new or additional surety bond
23 (~~((or to deposit additional securities))~~) within forty-five days after
24 being requested to do so by the department, or after he or she shall
25 fail or refuse to file reports and remit or pay taxes at the intervals
26 fixed by the department, the department forthwith shall cancel his or
27 her license.

28 **Sec. 8.** RCW 82.38.140 and 1996 c 104 s 10 and 1996 c 90 s 2 are
29 each reenacted and amended to read as follows:

30 (1) Every special fuel (~~((dealer, special fuel user,))~~) licensee and
31 every person importing, manufacturing, refining, dealing in,
32 transporting, or storing special fuel in this state shall keep for a
33 period of not less than five years open to inspection at all times
34 during the business hours of the day to the department or its
35 authorized representatives, a complete record of all special fuel
36 purchased or received and all of such products sold, delivered, or used
37 by them. Such records shall show:

38 (a) The date of each receipt;

1 (b) The name and address of the person from whom purchased or
2 received;

3 (c) The number of gallons received at each place of business or
4 place of storage in the state of Washington;

5 (d) The date of each sale or delivery;

6 (e) The number of gallons sold, delivered, or used for taxable
7 purposes;

8 (f) The number of gallons sold, delivered, or used for any purpose
9 not subject to the tax imposed herein;

10 (g) The name, address, and special fuel license number of the
11 purchaser if the special fuel tax is not collected on the sale or
12 delivery;

13 (h) The inventories of special fuel on hand at each place of
14 business at the end of each month.

15 (2)(a) All special fuel users using special fuel, and all dyed
16 special fuel users using dyed special fuel, in vehicles licensed for
17 highway operation shall maintain detailed mileage records on an
18 individual vehicle basis.

19 (b) Such operating records shall show both on-highway and off-
20 highway usage of special fuel or dyed special fuel on a daily basis for
21 each vehicle.

22 (c) In the absence of operating records that show both on-highway
23 and off-highway usage of special fuel on a daily basis for each
24 vehicle, fuel consumption must be computed under RCW 82.38.060.

25 ~~(3) ((Persons using special fuel for heating purposes only are not
26 required to maintain records of fuel usage.~~

27 ~~(4))~~ Invoices shall be prepared for sales and deliveries of
28 special fuel in the manner and containing such information as may be
29 prescribed by the department.

30 Every special fuel dealer or special fuel user making such sales or
31 deliveries of special fuel and every person so receiving and purchasing
32 special fuel must each retain one copy of each such invoice as part of
33 the dealer's permanent records for the time and purposes above
34 provided.

35 ~~((5))~~ (4)(a) Every special fuel user shall keep, in addition to
36 the dealer's records of deliveries into motor vehicles, a complete
37 record as prescribed by the department of the total gallons of special
38 fuel used for other purposes during each month and the purposes for
39 which said special fuel was used.

1 (~~(6) Subsections (1)(f), (2)(b), and (5) of this section do not~~
2 ~~apply to special fuel users when the special fuel is used off-highway~~
3 ~~in farming, construction, or logging operations. Upon filing a special~~
4 ~~fuel user tax report, every such special fuel user shall certify and~~
5 ~~bear the burden of proof as to the number of gallons of special fuel~~
6 ~~used off-highway.)) (b) Every dyed special fuel user shall keep, in
7 addition to the dealer's records of deliveries into motor vehicles, a
8 complete record as prescribed by the department of the total gallons of
9 dyed special fuel used for other purposes during each month and the
10 purposes for which the dyed special fuel was used.~~

11 **Sec. 9.** RCW 82.38.150 and 1996 c 104 s 11 are each amended to read
12 as follows:

13 For the purpose of determining the amount of liability for the tax
14 herein imposed, and to periodically update license information, each
15 special fuel (~~dealer and each special fuel user~~) licensee shall file
16 tax reports with the department, on forms prescribed by the department.
17 Special fuel dealers shall file the reports (~~at the intervals as shown~~
18 ~~in the following schedule:~~

19 Estimated Yearly	
20 Tax Liability	20 Reporting Frequency
21 \$ 0 -- \$100	21 Yearly
22 \$101 -- 250	22 Semi-yearly
23 \$251 -- 499	23 Quarterly
24 \$500 and over	24 Monthly)) <u>monthly.</u>

25 Special fuel users and dyed special fuel users whose estimated
26 yearly tax liability is two hundred fifty dollars or less, shall file
27 a report yearly, and special fuel users and dyed special fuel users
28 whose estimated yearly tax liability is more than two hundred fifty
29 dollars, shall file reports quarterly.

30 The department shall establish the reporting frequency for each
31 applicant at the time the special fuel license is issued. If it
32 becomes apparent that any special fuel licensee is not reporting in
33 accordance with the above schedule, the department shall change the
34 licensee's reporting frequency by giving thirty days' notice to the
35 licensee by mail to the licensee's address of record. A report shall
36 be filed with the department even though no special fuel was used, or
37 tax is due, for the reporting period. Each tax report shall contain a

1 declaration by the person making the same, to the effect that the
2 statements contained therein are true and are made under penalties of
3 perjury, which declaration shall have the same force and effect as a
4 verification of the report and is in lieu of such verification. The
5 report shall show such information as the department may reasonably
6 require for the proper administration and enforcement of this chapter.
7 For counties within which an additional excise tax on special fuel has
8 been levied by that jurisdiction under RCW 82.80.010, the report must
9 show the quantities of special fuel sold, distributed, or withdrawn
10 from bulk storage by the reporting dealer or user within the county's
11 boundaries and the tax liability from its levy. The special fuel
12 ~~((dealer or special fuel user))~~ licensee shall file the report on or
13 before the twenty-fifth day of the next succeeding calendar month
14 following the period to which it relates.

15 Subject to the written approval of the department, tax reports may
16 cover a period ending on a day other than the last day of the calendar
17 month. Taxpayers granted approval to file reports in this manner will
18 file such reports on or before the twenty-fifth day following the end
19 of the reporting period. No change to this reporting period will be
20 made without the written authorization of the department.

21 If the final filing date falls on a Saturday, Sunday, or legal
22 holiday the next secular or business day shall be the final filing
23 date. Such reports shall be considered filed or received on the date
24 shown by the post office cancellation mark stamped upon an envelope
25 containing such report properly addressed to the department, or on the
26 date it was mailed if proof satisfactory to the department is available
27 to establish the date it was mailed.

28 The department, if it deems it necessary in order to insure payment
29 of the tax imposed by this chapter, or to facilitate the administration
30 of this chapter, has the authority to require the filing of reports and
31 tax remittances at shorter intervals than one month if, in its opinion,
32 an existing bond has become insufficient.

33 ~~((The department may permit any special fuel user whose sole use of
34 special fuel is in motor vehicles or equipment exempt from tax as
35 provided in RCW 82.38.075 and 82.38.080 (1), (2), (3), (8), and (9), in
36 lieu of the reports required in this section, to submit reports
37 annually or as requested by the department, in such form as the
38 department may require.~~

1 ~~A special fuel user whose sole use of special fuel is for purposes~~
2 ~~other than the propulsion of motor vehicles upon the public highways of~~
3 ~~this state shall not be required to submit the reports required in this~~
4 ~~section.))~~

5 **Sec. 10.** RCW 82.38.160 and 1987 c 174 s 5 are each amended to read
6 as follows:

7 (1) The tax imposed by this chapter shall be computed as follows:

8 (a) With respect to special fuel upon which the tax has been collected
9 by the seller thereof as a special fuel dealer, by multiplying the tax
10 rate per gallon provided in this chapter by the number of gallons of
11 special fuel delivered subject to the special fuel tax; (b) with
12 respect to special fuel on which the tax has not been paid to a special
13 fuel dealer or dyed special fuel user in this state and which has been
14 consumed by the purchaser thereof as a special fuel user, by
15 multiplying the tax rate per gallon provided in this chapter by the
16 number of gallons of special fuel consumed by him or her in the
17 propulsion of a motor vehicle on the highways of this state.

18 (2) Except as provided in subsection (3) of this section, the tax
19 return shall be accompanied by a remittance payable to the state
20 treasurer covering the tax moneys collected by the special fuel dealer
21 or the amount determined to be due hereunder by licensed users of
22 special fuel(~~s~~) or dyed special fuel during the preceding reporting
23 period.

24 (3) If the tax is paid by electronic funds transfer and the
25 reporting period ends on the last day of a calendar month, the tax
26 shall be paid on or before the state business day immediately preceding
27 the last state business day of the month following the end of the
28 reporting period. If the tax is paid by electronic funds transfer and
29 the reporting period ends on a day other than the last day of a
30 calendar month as provided in RCW 82.38.150, the tax shall be paid on
31 or before the state business day immediately preceding the last state
32 business day of the thirty-day period following the end of the
33 reporting period.

34 (4) The tax shall be paid by electronic funds transfer whenever the
35 amount due is fifty thousand dollars or more.

36 **Sec. 11.** RCW 82.38.170 and 1996 c 104 s 12 are each amended to
37 read as follows:

1 (1) If any special fuel (~~dealer or special fuel user~~) licensee
2 fails to pay any taxes collected or due the state of Washington by said
3 dealer or user within the time prescribed by RCW 82.38.150 and
4 82.38.160, (~~said dealer or user~~) the licensee shall pay in addition
5 to such tax a penalty of ten percent of the amount thereof.

6 (2) If it be determined by the department that the tax reported by
7 any special fuel (~~dealer or special fuel user~~) licensee is deficient
8 it may proceed to assess the deficiency on the basis of information
9 available to it and there shall be added to this deficiency a penalty
10 of ten percent of the amount of the deficiency.

11 (3) If any special fuel (~~dealer or special fuel user~~) licensee,
12 whether or not he or she is licensed as such, fails, neglects, or
13 refuses to file a special fuel tax report, the department may, on the
14 basis of information available to it required under this chapter,
15 determine the tax liability of the special fuel (~~dealer or the special~~
16 ~~fuel user~~) licensee for the period during which no report was filed,
17 and to the tax as thus determined, the department shall add the penalty
18 and interest provided in subsection (2) of this section. An assessment
19 made by the department pursuant to this subsection or to subsection (2)
20 of this section shall be presumed to be correct, and in any case where
21 the validity of the assessment is drawn in question, the burden shall
22 be on the person who challenges the assessment to establish by a fair
23 preponderance of the evidence that it is erroneous or excessive as the
24 case may be.

25 (4) If any special fuel (~~dealer or special fuel user shall~~)
26 licensee establishes by a fair preponderance of evidence that his or
27 her failure to file a report or pay the proper amount of tax within the
28 time prescribed was due to reasonable cause and was not intentional or
29 willful, the department may waive the penalty prescribed in subsections
30 (1), (2), and (3) of this section.

31 (5) If any special fuel (~~dealer or special fuel user shall~~)
32 licensee files a false or fraudulent report with intent to evade the
33 tax imposed by this chapter, there shall be added to the amount of
34 deficiency determined by the department a penalty equal to twenty-five
35 percent of the deficiency, in addition to the penalty provided in
36 subsection (2) of this section and all other penalties prescribed by
37 law.

38 (6) Any fuel tax, penalties, and interest payable under this
39 chapter shall bear interest at the rate of one percent per month, or

1 fraction thereof, from the first day of the calendar month after the
2 amount or any portion thereof should have been paid until the date of
3 payment: PROVIDED, That the department may waive the interest when it
4 determines that the cost of processing the collection of the interest
5 exceeds the amount of interest due.

6 (7) Except in the case of violations of filing a false or
7 fraudulent report, if the department deems mitigation of penalties and
8 interest to be reasonable and in the best interests of carrying out the
9 purpose of this chapter, it may mitigate such assessments upon whatever
10 terms the department deems proper, giving consideration to the degree
11 and extent of the lack of records and reporting errors. The department
12 may ascertain the facts regarding recordkeeping and payment penalties
13 in lieu of more elaborate proceedings under this chapter.

14 (8) Except in the case of a fraudulent report or of neglect or
15 refusal to make a report, every deficiency shall be assessed under
16 subsection (2) of this section within five years from the twenty-fifth
17 day of the next succeeding calendar month following the reporting
18 period for which the amount is proposed to be determined or within five
19 years after the return is filed, whichever period expires the later.

20 (9) Any special fuel (~~dealer or special fuel user~~) licensee
21 against whom an assessment is made under the provisions of subsections
22 (2) or (3) of this section may petition for a reassessment thereof
23 within thirty days after service upon the special fuel (~~dealer or~~
24 ~~special fuel user~~) licensee of notice thereof. If such petition is
25 not filed within such thirty day period, the amount of the assessment
26 becomes final at the expiration thereof.

27 If a petition for reassessment is filed within the thirty day
28 period, the department shall reconsider the assessment and, if the
29 special fuel (~~dealer or special fuel user~~) licensee has so requested
30 in his or her petition, shall grant such special fuel (~~dealer or~~
31 ~~special fuel user~~) licensee an oral hearing and give the special fuel
32 (~~dealer or special fuel user~~) licensee ten days' notice of the time
33 and place thereof. The department may continue the hearing from time
34 to time. The decision of the department upon a petition for
35 reassessment shall become final thirty days after service upon the
36 special fuel (~~dealer or special fuel user~~) licensee of notice
37 thereof.

38 Every assessment made by the department shall become due and
39 payable at the time it becomes final and if not paid to the department

1 when due and payable, there shall be added thereto a penalty of ten
2 percent of the amount of the tax.

3 (10) Any notice of assessment required by this section shall be
4 served personally or by mail; if by mail, service shall be made by
5 depositing such notice in the United States mail, postage prepaid
6 addressed to the special fuel (~~((dealer or special fuel user))~~) licensee
7 at his or her address as the same appears in the records of the
8 department.

9 (11) Any licensee who has had (~~((either their))~~) the licensee's
10 special fuel (~~((user))~~) license (~~((or special fuel dealer license, or~~
11 ~~both,))~~) revoked shall pay a one hundred dollar penalty prior to the
12 issuance of a new license.

13 (12) Any person who, upon audit or investigation by the department,
14 is found to have not paid special fuel taxes as required by this
15 chapter shall be subject to cancellation of all vehicle registrations
16 for vehicles utilizing special fuel as a means of propulsion. Any
17 unexpired Washington tonnage on the vehicles in question may be
18 transferred to a purchaser of the vehicles upon application to the
19 department who shall hold such tonnage in its custody until a sale of
20 the vehicle is made or the tonnage has expired.

21 (13) Unless expressly authorized by the Internal Revenue Code and
22 this chapter, a person using dyed special fuel in the propulsion of a
23 motor vehicle upon the highways of this state is subject to a civil
24 penalty of ten dollars for each gallon of dyed special fuel placed into
25 the supply tank of the motor vehicle, or one thousand dollars,
26 whichever is greater. The civil penalty collected as a result of this
27 subsection must be deposited in the motor vehicle fund. The penalties
28 will be collected and administered under this chapter.

29 (14) For the purposes of enforcement of this section, the
30 Washington state patrol or other officers certified by the commercial
31 vehicle safety alliance may inspect, collect, and secure samples of
32 special fuel used in the propulsion of a vehicle operated upon the
33 highways of this state to detect the presence of dye or other chemical
34 compounds.

35 (15) The Washington state patrol shall by October 1, 1998, develop
36 and implement procedures for collection, analysis, and storage of fuel
37 samples collected under this section.

38 (16) RCW 43.05.110 does not apply to the civil penalties imposed
39 under subsection (13) of this section.

1 **Sec. 12.** RCW 82.38.180 and 1972 ex.s. c 138 s 4 are each amended
2 to read as follows:

3 Any person who has paid a special fuel tax either directly or to
4 the vendor from whom it was purchased may file a claim with the
5 department for a refund of the tax so paid and shall be reimbursed and
6 repaid the amount of:

7 (1) Any taxes previously paid on special fuel used for purposes
8 other than for the propulsion of motor vehicles upon the public
9 highways in this state.

10 (2) Any taxes previously paid on special fuel exported for use
11 outside of this state. Special fuel carried from this state in the
12 fuel tank of a motor vehicle is deemed to be exported from this state.

13 (3) Any tax, penalty, or interest erroneously or illegally
14 collected or paid.

15 (4) Any taxes previously paid on all special fuel which is lost or
16 destroyed, while applicant shall be the owner thereof, through fire,
17 lightning, flood, wind storm, or explosion.

18 (5) Any taxes previously paid on all special fuel of five hundred
19 gallons or more which is lost or destroyed while applicant shall be the
20 owner thereof, through leakage or other casualty except evaporation,
21 shrinkage, or unknown causes.

22 (6) Any taxes previously paid on special fuel that is inadvertently
23 mixed with dyed special fuel.

24 Recovery for such loss or destruction under either subsection (4)
25 ~~((or))~~, (5), or (6) of this section must be susceptible to positive
26 proof thereby enabling the department to conduct such investigation and
27 require such information as they may deem necessary. In the event that
28 the department is not satisfied that the fuel was lost ~~((or))~~,
29 destroyed, or contaminated as claimed because information or proof as
30 required hereunder is not sufficient to substantiate the accuracy of
31 the claim, they may deem such as sufficient cause to deny all right
32 relating to the refund or credit for the excise tax paid on special
33 fuel alleged to be lost or destroyed.

34 **Sec. 13.** RCW 82.38.190 and 1997 c 183 s 10 are each amended to
35 read as follows:

36 (1) Claims under RCW 82.38.180 shall be filed with the department
37 on forms prescribed by the department and shall show the date of filing
38 and the period covered in the claim, the number of gallons of special

1 fuel used for purposes subject to tax refund, and such other facts and
2 information as may be required. Every such claim shall be supported by
3 an invoice or invoices issued to or by the claimant, as may be
4 prescribed by the department, and such other information as the
5 department may require. The requirement to provide invoices may be
6 waived for small refund amounts, as determined by the department.

7 (2) Any amount determined to be refundable by the department under
8 RCW 82.38.180 shall first be credited on any amounts then due and
9 payable from ((~~the special fuel dealer or special fuel user or to~~)) any
10 person to whom the refund is due, and the department shall then certify
11 the balance thereof to the state treasurer, who shall thereupon draw
12 his or her warrant for such certified amount to such ((~~special fuel~~
13 ~~dealer or special fuel user or any~~)) person.

14 (3) No refund or credit shall be approved by the department unless
15 a written claim for refund or credit stating the specific grounds upon
16 which the claim is founded is filed with the department:

17 (a) Within thirteen months from the date of purchase or from the
18 last day of the month following the close of the reporting period for
19 which the refundable amount or credit is due with respect to refunds or
20 credits allowable under RCW 82.38.180(~~(, subsections))~~ (1), (2), (4),
21 and (5), and if not filed within this period the right to refund shall
22 be forever barred.

23 (b) Within ((~~three~~)) five years from the last day of the month
24 following the close of the reporting period for which the overpayment
25 is due with respect to the refunds or credits allowable under RCW
26 82.38.180(3). The department shall refund any amount paid that has
27 been verified by the department to be more than ten dollars over the
28 amount actually due for the reporting period. Payment credits shall
29 not be carried forward and applied to subsequent tax returns for a
30 person licensed under this chapter.

31 (4) Within thirty days after disallowing any claim in whole or in
32 part, the department shall serve written notice of its action on the
33 claimant.

34 (5) Interest shall be paid upon any refundable amount or credit due
35 under RCW 82.38.180(3) at the rate of one percent per month from the
36 last day of the calendar month following the reporting period for which
37 the refundable amount or credit is due.

38 The interest shall be paid:

1 (a) In the case of a refund, to the last day of the calendar month
2 following the date upon which the person making the overpayment, if he
3 or she has not already filed a claim, is notified by the department
4 that a claim may be filed or the date upon which the claim is approved
5 by the department, whichever date is earlier.

6 (b) In the case of a credit, to the same date as that to which
7 interest is computed on the tax or amount against which the credit is
8 applied.

9 If the department determines that any overpayment has been made
10 intentionally or by reason of carelessness, it shall not allow any
11 interest thereon.

12 (6) No injunction or writ of mandate or other legal or equitable
13 process shall issue in any suit, action or proceeding in any court
14 against this state or against any officer of the state to prevent or
15 enjoin the collection under this chapter of any tax or any amount of
16 tax required to be collected.

17 **Sec. 14.** RCW 82.38.210 and 1979 c 40 s 15 are each amended to read
18 as follows:

19 If any special fuel (~~(dealer, supplier, or user)~~) licensee liable
20 for the remittance of tax imposed by this chapter fails to pay the
21 same, the amount thereof, including any interest, penalty, or addition
22 to such tax, together with any costs that may accrue in addition
23 thereto, shall be a lien in favor of the state upon all franchises,
24 property, and rights to property, whether real or personal, then
25 belonging to or thereafter acquired by such person, whether such
26 property is employed by such person for personal or business use or is
27 in the hands of a trustee, or receiver, or assignee for the benefit of
28 creditors, from the date the taxes were due and payable, until the
29 amount of the lien is paid or the property sold in payment thereof.
30 The lien shall have priority over any lien or encumbrance whatsoever,
31 except the lien of other state taxes having priority by law, and except
32 that such lien shall not be valid as against any bona fide mortgagee,
33 pledgee, judgment creditor, or purchaser whose rights have attached
34 prior to the time the department has filed and recorded notice of such
35 lien as hereinafter provided.

36 In order to avail itself of the lien hereby created, the department
37 shall file with any county auditor a statement of claim and lien
38 specifying the amount of delinquent taxes, penalties and interest

1 claimed by the department. From the time of filing for record, the
2 amount required to be paid shall constitute a lien upon all franchises,
3 property and rights to property, whether real or personal, then
4 belonging to or thereafter acquired by such person in the county. Any
5 lien as provided in this section may also be filed in the office of the
6 secretary of state. Filing in the office of the secretary of state
7 shall be of no effect, however, until the lien or copy thereof shall
8 have been filed with the county auditor in the county where the
9 property is located. When a lien is filed in compliance herewith and
10 with the secretary of state, such filing shall have the same effect as
11 if the lien had been duly filed for record in the office of the auditor
12 in each county of this state.

13 **Sec. 15.** RCW 82.38.220 and 1994 c 262 s 26 are each amended to
14 read as follows:

15 In the event any special fuel (~~(user or special fuel dealer)~~)
16 licensee is delinquent in the payment of any obligation imposed under
17 this chapter, the department may give notice of the amount of such
18 delinquency by registered or certified mail to all persons having in
19 their possession or under their control any credits or other personal
20 property belonging to (~~such user or dealer~~) the special fuel licensee
21 or owing any debts to (~~such user or dealer~~) the special fuel
22 licensee, at the time of the receipt by them of such notice. Any
23 person so notified shall neither transfer nor make other disposition of
24 such credits, personal property, or debts until the department consents
25 to a transfer or other disposition. All persons so notified must,
26 within twenty days after receipt of the notice, advise the department
27 of any and all such credits, personal property, or debts in their
28 possession, under their control or owing by them, as the case may be,
29 and shall immediately deliver such credits, personal property, or debts
30 to the department or its duly authorized representative to be applied
31 to the indebtedness involved.

32 Upon service, the notice and order to withhold and deliver
33 constitutes a continuing lien on property of the taxpayer. The
34 department shall include in the caption of the notice to withhold and
35 deliver "continuing lien." The effective date of a notice to withhold
36 and deliver served under this section is the date of service of the
37 notice.

1 If a person fails to answer the notice within the time prescribed
2 by this section, it is lawful for the court, upon application of the
3 department and after the time to answer the notice has expired, to
4 render judgment by default against the party named in the notice to
5 withhold and deliver for the full amount claimed by the department in
6 the notice to withhold and deliver, together with costs.

7 **Sec. 16.** RCW 82.38.230 and 1979 c 40 s 17 are each amended to read
8 as follows:

9 Whenever any special fuel (~~((user, supplier or dealer))~~) licensee is
10 delinquent in the payment of any obligation imposed hereunder, and such
11 delinquency continues after notice and demand for payment by the
12 department, the department shall proceed to collect the amount due from
13 the (~~((user, supplier or dealer))~~) special fuel licensee in the following
14 manner: The department shall seize any property subject to the lien of
15 said excise tax, penalty, and interest and thereafter sell it at public
16 auction to pay said obligation and any and all costs that may have been
17 incurred on account of the seizure and sale. Notice of such intended
18 sale and the time and place thereof shall be given to such delinquent
19 (~~((user, supplier or dealer))~~) special fuel licensee and to all persons
20 appearing of record to have an interest in such property. The notice
21 shall be given in writing at least ten days before the date set for the
22 sale by enclosing it in an envelope addressed to (~~((such user, supplier~~
23 ~~or dealer))~~) the special fuel licensee at (~~((his))~~) the licensee's address
24 as the same appears in the records of the department and, in the case
25 of any person appearing of record to have an interest in such property,
26 addressed to such person at his or her last known residence or place of
27 business, and depositing such envelope in the United States mail,
28 postage prepaid. In addition, the notice shall be published for at
29 least ten days before the date set for the sale in a newspaper of
30 general circulation published in the county in which the property
31 seized is to be sold. If there is no newspaper of general circulation
32 in such county, the notice shall be posted in three public places in
33 the county for a period of ten days. The notice shall contain a
34 description of the property to be sold, together with a statement of
35 the amount due (~~((hereunder))~~) under this chapter, the name of the
36 (~~((user, supplier or dealer))~~) special fuel licensee and the further
37 statement that unless such amount is paid on or before the time fixed
38 in the notice the property will be sold in accordance with law.

1 The department shall then proceed to sell the property in
2 accordance with the law and the notice, and shall deliver to the
3 purchaser a bill of sale or deed which shall vest title in the
4 purchaser. If upon any such sale the moneys received exceed the amount
5 due to the state (~~((hereunder))~~) under this chapter from the delinquent
6 (~~((user, supplier or dealer))~~) special fuel licensee, the excess shall be
7 returned to (~~((such user, supplier or dealer))~~) the licensee and (~~((his))~~)
8 the licensee's receipt obtained (~~((therefor))~~) for the excess. If any
9 person having an interest in or lien upon the property has filed with
10 the department prior to such sale, notice of such interest or lien, the
11 department shall withhold payment of any such excess to (~~((such user,~~
12 ~~supplier or dealer))~~) the special fuel licensee pending a determination
13 of the rights of the respective parties thereto by a court of competent
14 jurisdiction. If for any reason the receipt of (~~((such user, supplier~~
15 ~~or dealer shall not be))~~) the special fuel licensee is not available,
16 the department shall deposit such excess with the state treasurer as
17 trustee for (~~((such user, supplier or dealer, his))~~) the special fuel
18 licensee or the licensee's heirs, successors, or assigns: PROVIDED,
19 That prior to making any seizure of property as (~~((herein))~~) provided for
20 in this section, the department may first serve upon the (~~((user's,~~
21 ~~supplier's, or dealer's))~~) special fuel licensee's bondsman a notice of
22 the delinquency, with a demand for the payment of the amount due.

23 **Sec. 17.** RCW 82.38.235 and 1979 c 40 s 22 are each amended to read
24 as follows:

25 Whenever any assessment shall have become final in accordance with
26 the provisions of this chapter, the department may file with the clerk
27 of any county within the state a warrant in the amount of the
28 assessment of taxes, penalties plus interest and a filing fee of five
29 dollars. The clerk of the county wherein the warrant is filed shall
30 immediately designate a superior court cause number for such warrant,
31 and the clerk shall cause to be entered in the judgment docket under
32 the superior court cause number assigned to the warrant, the name of
33 the special fuel (~~((user, supplier or dealer))~~) licensee mentioned in the
34 warrant, the amount of the tax, penalties, interest and filing fee and
35 the date when such warrant was filed. The aggregate amount of such
36 warrant as docketed shall become a lien upon the title to, and interest
37 in all real and personal property of named person against whom the
38 warrant is issued, the same as a judgment in a civil case duly docketed

1 in the office of such clerk. Such warrant so docketed shall be
2 sufficient to support the issuance of writs of execution and writs of
3 garnishment in favor of the state in the manner provided by law in the
4 case of civil judgment, wholly or partially unsatisfied. The clerk of
5 the court shall be entitled to a filing fee of five dollars, which
6 shall be added to the amount of the warrant.

7 **Sec. 18.** RCW 82.38.240 and 1971 ex.s. c 175 s 25 are each amended
8 to read as follows:

9 Whenever any special fuel (~~(user or special fuel dealer)~~) licensee
10 is delinquent in the payment of any obligation hereunder the department
11 may transmit notice of such delinquency to the attorney general who
12 shall at once proceed to collect by appropriate legal action the amount
13 due the state from (~~(such user or dealer)~~) the special fuel licensee.
14 In any suit brought to enforce the rights of the state hereunder, a
15 certificate by the department showing the delinquency shall be prima
16 facie evidence of the amount of the obligation, of the delinquency
17 thereof and of compliance by the department with all provisions of this
18 chapter relating to such obligation.

19 **Sec. 19.** RCW 82.38.260 and 1995 c 274 s 25 are each amended to
20 read as follows:

21 The department shall enforce the provisions of this chapter, and
22 may prescribe, adopt, and enforce reasonable rules and regulations
23 relating to the administration and enforcement thereof. The Washington
24 state patrol and its officers shall aid the department in the
25 enforcement of this chapter, and, for this purpose, are declared to be
26 peace officers, and given police power and authority throughout the
27 state to arrest on sight any person known to have committed a violation
28 of the provisions of this chapter.

29 The department or its authorized representative is hereby empowered
30 to examine the books, papers, records and equipment of any special fuel
31 (~~(dealer, special fuel user,)~~) licensee or any person dealing in,
32 transporting, or storing special fuel as defined in this chapter and to
33 investigate the character of the disposition which any person makes of
34 such special fuel in order to ascertain and determine whether all taxes
35 due hereunder are being properly reported and paid. The fact that such
36 books, papers, records and equipment are not maintained in this state
37 at the time of demand shall not cause the department to lose any right

1 of such examination under this chapter when and where such records
2 become available.

3 The department or its authorized representative is further
4 empowered to investigate the disposition of special fuel by any person
5 where the department has reason to believe that untaxed special fuel
6 has been diverted to a use subject to the taxes imposed by this chapter
7 without said taxes being paid in accordance with the requirements of
8 this chapter.

9 For the purpose of enforcing the provisions of this chapter it
10 shall be presumed that all special fuel delivered to service stations
11 as well as all special fuel otherwise received (~~((by a special fuel
12 dealer or a special fuel user))~~) into storage and dispensing equipment
13 designed to fuel motor vehicles is delivered (~~((by the special fuel
14 dealer or special fuel user))~~) into the fuel supply tanks of motor
15 vehicles and consumed in the propulsion of motor vehicles on the
16 highways of this state, unless the contrary is established by
17 satisfactory evidence.

18 The department shall, upon request from the officials to whom are
19 entrusted the enforcement of the special fuel tax law of any other
20 state, the District of Columbia, the United States, its territories and
21 possessions, the provinces or the Dominion of Canada, forward to such
22 officials any information which he or she may have relative to the
23 receipt, storage, delivery, sale, use, or other disposition of special
24 fuel by any special fuel (~~((dealer or special fuel user, provided such))~~)
25 licensee if the other state or states furnish like information to this
26 state.

27 Returns required by this chapter, exclusive of schedules, itemized
28 statements and other supporting evidence annexed thereto, shall at all
29 reasonable times be open to the public.

30 **Sec. 20.** RCW 43.05.110 and 1995 c 403 s 612 are each amended to
31 read as follows:

32 The department of agriculture, fish and wildlife, health,
33 licensing, or natural resources may issue a civil penalty provided for
34 by law without first issuing a notice of correction if: (1) The person
35 has previously been subject to an enforcement action for the same or
36 similar type of violation of the same statute or rule or has been given
37 previous notice of the same or similar type of violation of the same
38 statute or rule; or (2) compliance is not achieved by the date

1 established by the department in a previously issued notice of
2 correction, if the department has responded to any request for review
3 of such date by reaffirming the original date or establishing a new
4 date; (3) the violation has a probability of placing a person in danger
5 of death or bodily harm, has a probability of causing more than minor
6 environmental harm, or has a probability of causing physical damage to
7 the property of another in an amount exceeding one thousand dollars; or
8 (4) the violation was committed by a business that employed fifty or
9 more employees on at least one day in each of the preceding twelve
10 months. In addition, the department of fish and wildlife may issue a
11 civil penalty provided for by law without first issuing a notice of
12 correction for a violation of any rule dealing with seasons, catch or
13 bag limits, gear types, or geographical areas for fish or wildlife
14 removal, reporting, or disposal.

15 This section does not apply to the civil penalties imposed under
16 RCW 82.38.170(13).

17 NEW SECTION. Sec. 21. A new section is added to chapter 82.38 RCW
18 to read as follows:

19 The department of licensing may enter into a fuel tax cooperative
20 agreement with another state or Canadian province for the
21 administration, collection, and enforcement of each state's or Canadian
22 province's fuel taxes.

23 NEW SECTION. Sec. 22. This act takes effect October 1, 1998.

--- END ---