
SENATE BILL 5796

State of Washington 55th Legislature 1997 Regular Session

By Senators Benton and Haugen; by request of Department of Licensing

Read first time 02/12/97. Referred to Committee on Transportation.

1 AN ACT Relating to the department of licensing; amending RCW
2 46.87.020, 46.87.030, 46.87.120, 46.87.140, 46.87.290, 82.36.335,
3 82.38.190, and 82.42.060; adding a new section to chapter 46.87 RCW;
4 adding a new section to chapter 82.36 RCW; adding a new section to
5 chapter 82.38 RCW; and adding a new section to chapter 82.42 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.87 RCW
8 to read as follows:

9 A proportional registration licensee, who files or against whom is
10 filed a petition in bankruptcy, shall, within ten days of the filing,
11 notify the department of the proceedings in bankruptcy, including the
12 identity and location of the court in which the proceedings are
13 pending.

14 **Sec. 2.** RCW 46.87.020 and 1994 c 262 s 12 are each amended to read
15 as follows:

16 Terms used in this chapter have the meaning given to them in the
17 International Registration Plan (IRP), the Uniform Vehicle
18 Registration, Proration, and Reciprocity Agreement (Western Compact),

1 chapter 46.04 RCW, or as otherwise defined in this section.
2 Definitions given to terms by the IRP and the Western Compact, as
3 applicable, shall prevail unless given a different meaning in this
4 chapter or in rules adopted under authority of this chapter.

5 (1) "Apportionable vehicle" has the meaning given by the IRP,
6 except that it does not include vehicles with a declared gross weight
7 of twelve thousand pounds or less. Apportionable vehicles include
8 trucks, tractors, truck tractors, road tractors, and buses, each as
9 separate and licensable vehicles. For IRP jurisdictions that require
10 the registration of nonmotor vehicles, this term may include trailers,
11 semitrailers, and pole trailers as applicable, each as separate and
12 licensable vehicles.

13 (2) "Cab card" is a certificate of registration issued for a
14 vehicle by the registering jurisdiction under the Western Compact.
15 Under the IRP, it is a certificate of registration issued by the base
16 jurisdiction for a vehicle upon which is disclosed the jurisdictions
17 and registered gross weights in such jurisdictions for which the
18 vehicle is registered.

19 (3) "Commercial vehicle" is a term used by the Western Compact and
20 means any vehicle, except recreational vehicles, vehicles displaying
21 restricted plates, and government owned or leased vehicles, that is
22 operated and registered in more than one jurisdiction and is used or
23 maintained for the transportation of persons for hire, compensation, or
24 profit, or is designed, used, or maintained primarily for the
25 transportation of property and:

26 (a) Is a motor vehicle having a declared gross weight in excess of
27 twenty-six thousand pounds; or

28 (b) Is a motor vehicle having three or more axles with a declared
29 gross weight in excess of twelve thousand pounds; or

30 (c) Is a motor vehicle, trailer, pole trailer, or semitrailer used
31 in combination when the gross weight or declared gross weight of the
32 combination exceeds twenty-six thousand pounds combined gross weight.
33 The nonmotor vehicles mentioned are only applicable to those
34 jurisdictions requiring the registration of such vehicles.

35 Although a two-axle motor vehicle, trailer, pole trailer,
36 semitrailer, or any combination of such vehicles with an actual or
37 declared gross weight or declared combined gross weight exceeding
38 twelve thousand pounds but not more than twenty-six thousand is not
39 considered to be a commercial vehicle, at the option of the owner, such

1 vehicles may be considered as "commercial vehicles" for the purpose of
2 proportional registration. The nonmotor vehicles mentioned are only
3 applicable to those jurisdictions requiring the registration of such
4 vehicles.

5 Commercial vehicles include trucks, tractors, truck tractors, road
6 tractors, and buses. Trailers, pole trailers, and semitrailers, will
7 also be considered as commercial vehicles for those jurisdictions who
8 require registration of such vehicles.

9 (4) "Credentials" means cab cards, apportioned plates (for
10 Washington-based fleets), and validation tabs issued for proportionally
11 registered vehicles.

12 (5) "Declared combined gross weight" means the total unladen weight
13 of any combination of vehicles plus the weight of the maximum load to
14 be carried on the combination of vehicles as set by the registrant in
15 the application pursuant to chapter 46.44 RCW and for which
16 registration fees have been or are to be paid.

17 (6) "Declared gross weight" means the total unladen weight of any
18 vehicle plus the weight of the maximum load to be carried on the
19 vehicle as set by the registrant in the application pursuant to chapter
20 46.44 RCW and for which registration fees have been or are to be paid.
21 In the case of a bus, auto stage, or a passenger-carrying for hire
22 vehicle with a seating capacity of more than six, the declared gross
23 weight shall be determined by multiplying the average load factor of
24 one hundred and fifty pounds by the number of seats in the vehicle,
25 including the driver's seat, and add this amount to the unladen weight
26 of the vehicle. If the resultant gross weight is not listed in RCW
27 46.16.070, it will be increased to the next higher gross weight so
28 listed pursuant to chapter 46.44 RCW.

29 (7) "Department" means the department of licensing.

30 (8) "Fleet" means one or more commercial vehicles in the Western
31 Compact and one or more apportionable vehicles in the IRP.

32 (9) "In-jurisdiction miles" means the total miles accumulated in a
33 jurisdiction during the preceding year by vehicles of the fleet while
34 they were a part of the fleet.

35 (10) "IRP" means the International Registration Plan.

36 (11) "Jurisdiction" means and includes a state, territory or
37 possession of the United States, the District of Columbia, the
38 Commonwealth of Puerto Rico, a foreign country, and a state or province
39 of a foreign country.

1 (12) "Owner" means a person or business firm who holds the legal
2 title to a vehicle, or if a vehicle is the subject of an agreement for
3 its conditional sale with the right of purchase upon performance of the
4 conditions stated in the agreement and with an immediate right of
5 possession vested in the conditional vendee, or if a vehicle is subject
6 to a lease, contract, or other legal arrangement vesting right of
7 possession or control, for security or otherwise, or if a mortgagor of
8 a vehicle is entitled to possession, then the owner is deemed to be the
9 person or business firm in whom is vested right of possession or
10 control.

11 (13) "Preceding year" means the period of twelve consecutive months
12 (~~ending on the last full calendar quarter, at least four months before~~
13 ~~the beginning of the registration year for which proportional~~
14 ~~registration is sought~~) immediately before July 1st of the year
15 immediately before the commencement of the registration or license year
16 for which apportioned registration is sought.

17 (14) "Properly registered," as applied to the place of registration
18 under the provisions of the Western Compact, means:

19 (a) In the case of a commercial vehicle, the jurisdiction in which
20 it is registered if the commercial enterprise in which the vehicle is
21 used has a place of business therein, and, if the vehicle is most
22 frequently dispatched, garaged, serviced, maintained, operated, or
23 otherwise controlled in or from that place of business, and the vehicle
24 has been assigned to that place of business; or

25 (b) In the case of a commercial vehicle, the jurisdiction where,
26 because of an agreement or arrangement between two or more
27 jurisdictions, or pursuant to a declaration, the vehicle has been
28 registered as required by that jurisdiction.

29 In case of doubt or dispute as to the proper place of registration
30 of a commercial vehicle, the department shall make the final
31 determination, but in making such determination, may confer with
32 departments of the other jurisdictions affected.

33 (15) "Prorate percentage" is the factor that is applied to the
34 total proratable fees and taxes to determine the apportionable or
35 prorated fees required for registration in a particular jurisdiction.
36 It is determined by dividing the in-jurisdiction miles for a particular
37 jurisdiction by the total miles. This term is synonymous with the term
38 "mileage percentage."

1 (16) "Registrant" means a person, business firm, or corporation in
2 whose name or names a vehicle or fleet of vehicles is registered.

3 (17) "Registration year" means the twelve-month period during which
4 the registration plates issued by the base jurisdiction are valid
5 according to the laws of the base jurisdiction.

6 (18) "Total miles" means the total number of miles accumulated in
7 all jurisdictions during the preceding year by all vehicles of the
8 fleet while they were a part of the fleet. Mileage accumulated by
9 vehicles of the fleet that did not engage in interstate operations is
10 not included in the fleet miles.

11 (19) "Western Compact" means the Uniform Vehicle Registration,
12 Proration, and Reciprocity Agreement.

13 **Sec. 3.** RCW 46.87.030 and 1993 c 307 s 13 are each amended to read
14 as follows:

15 (1) When application to register an apportionable or commercial
16 vehicle is made (~~((after the third month of the owner's registration~~
17 ~~year))), the Washington prorated fees may be reduced by one-twelfth for
18 each full registration month that has elapsed at the time a temporary
19 authorization permit (TAP) was issued or if no TAP was issued, at such
20 time as an application for registration is received in the department.
21 If a vehicle is being added to a currently registered fleet, the
22 prorate percentage previously established for the fleet for such
23 registration year shall be used in the computation of the proportional
24 fees and taxes due.~~

25 (2) If any vehicle is withdrawn from a proportionally registered
26 fleet during the period for which it is registered under this chapter,
27 the registrant of the fleet shall notify the department on appropriate
28 forms prescribed by the department. The department may require the
29 registrant to surrender credentials that were issued to the vehicle.
30 If a motor vehicle is permanently withdrawn from a proportionally
31 registered fleet because it has been destroyed, sold, or otherwise
32 completely removed from the service of the fleet registrant, the unused
33 portion of the licensing fee paid under RCW 46.16.070 with respect to
34 the vehicle reduced by one-twelfth for each calendar month and fraction
35 thereof elapsing between the first day of the month of the current
36 registration year in which the vehicle was registered and the date the
37 notice of withdrawal, accompanied by such credentials as may be
38 required, is received in the department, shall be credited to the fleet

1 proportional registration account of the registrant. Credit shall be
2 applied against the licensing fee liability for subsequent additions of
3 motor vehicles to be proportionally registered in the fleet during such
4 registration year or for additional licensing fees due under RCW
5 46.16.070 or to be due upon audit under RCW 46.87.310. If any credit
6 is less than fifteen dollars, no credit will be entered. In lieu of
7 credit, the registrant may choose to transfer the unused portion of the
8 licensing fee for the motor vehicle to the new owner, in which case it
9 shall remain with the motor vehicle for which it was originally paid.
10 In no event may any amount be credited against fees other than those
11 for the registration year from which the credit was obtained nor is any
12 amount subject to refund.

13 **Sec. 4.** RCW 46.87.120 and 1990 c 42 s 113 are each amended to read
14 as follows:

15 (1) The initial application for proportional registration of a
16 fleet shall state the mileage data with respect to the fleet for the
17 preceding year in this and other jurisdictions. If no operations were
18 conducted with the fleet during the preceding year, the application
19 shall contain a full statement of the proposed method of operation and
20 estimates of annual mileage in each of the jurisdictions in which
21 operation is contemplated. The registrant shall determine the in-
22 jurisdiction and total miles to be used in computing the fees and taxes
23 due for the fleet. The department may evaluate and adjust the estimate
24 in the application if it is not satisfied as to its correctness. The
25 department shall require a minimum estimated mileage of one trip state-
26 line-to-state-line in each jurisdiction the carrier registers for
27 operations.

28 (2) Fleets will consist of either motor vehicles or nonmotor
29 vehicles, but not a mixture of both.

30 (3) In instances where the use of mileage accumulated by a nonmotor
31 vehicle fleet is impractical, for the purpose of calculating prorate
32 percentages, the registrant may request another method and/or unit of
33 measure to be used in determining the prorate percentages. Upon
34 receiving such request, the department may prescribe another method
35 and/or unit of measure to be used in lieu of mileage that will ensure
36 each jurisdiction that requires the registration of nonmotor vehicles
37 its fair share of vehicle licensing fees and taxes.

1 (4) When operations of a Washington-based fleet is materially
2 changed through merger, acquisition, or extended authority, the
3 registrant shall notify the department, which shall then require the
4 filing of an amended application setting forth the proposed operation
5 by use of estimated mileage for all jurisdictions. The department may
6 adjust the estimated mileage by audit or otherwise to an actual travel
7 basis to insure proper fee payment. The actual travel basis may be
8 used for determination of fee payments until such time as a normal
9 mileage year is available under the new operation. Under the
10 provisions of the Western Compact, this subsection applies to any fleet
11 proportionally registered in Washington irrespective of the fleet's
12 base jurisdiction.

13 **Sec. 5.** RCW 46.87.140 and 1991 c 339 s 10 are each amended to read
14 as follows:

15 (1) Any owner engaged in interstate operations of one or more
16 fleets of apportionable or commercial vehicles may, in lieu of
17 registration of the vehicles under chapter 46.16 RCW, register and
18 license the vehicles of each fleet under this chapter by filing a
19 proportional registration application for each fleet with the
20 department. The nonmotor vehicles of Washington-based fleets which are
21 operated in IRP jurisdictions that require registration of such
22 vehicles may be proportionally registered for operation in those
23 jurisdictions as herein provided. The application shall contain the
24 following information and such other information pertinent to vehicle
25 registration as the department may require:

26 (a) A description and identification of each vehicle of the fleet.
27 Motor vehicles and nonpower units shall be placed in separate fleets.

28 (b) If registering under the provisions of the IRP, the registrant
29 shall also indicate member jurisdictions in which registration is
30 desired and furnish such other information as those member
31 jurisdictions require.

32 (c) An original or renewal application shall also be accompanied by
33 a mileage schedule for each fleet.

34 (2) Each application shall, at the time and in the manner required
35 by the department, be supported by payment of a fee computed as
36 follows:

37 (a) Divide the in-jurisdiction miles by the total miles and carry
38 the answer to the nearest thousandth of a percent (three places beyond

1 the decimal, e.g. 10.543%). This factor is known as the prorate
2 percentage.

3 (b) Determine the total proratable fees and taxes required for each
4 vehicle in the fleet for which registration is requested, based on the
5 regular annual fees and taxes or applicable fees and taxes for the
6 unexpired portion of the registration year under the laws of each
7 jurisdiction for which fees or taxes are to be calculated.

8 Washington-based nonmotor vehicles shall normally be fully licensed
9 under the provisions of chapter 46.16 RCW. If these vehicles are being
10 operated in jurisdictions that require the registration of such
11 vehicles, the applicable vehicles may be considered as apportionable
12 vehicles for the purpose of registration in those jurisdictions and
13 this state. The prorate percentage for which registration fees and
14 taxes were paid to such jurisdictions may be credited toward the one
15 hundred percent of registration fees and taxes due this state for full
16 licensing. Applicable fees and taxes for vehicles of Washington-based
17 fleets are those prescribed under RCW 46.16.070, 46.16.085, 82.38.075,
18 and 82.44.020, as applicable. If, during the registration period, the
19 lessor of an apportioned vehicle changes and the vehicle remains in the
20 fleet of the registrant, the department shall only charge those fees
21 prescribed for the issuance of new apportioned license plates,
22 validation tabs, and cab card.

23 (c) Multiply the total, proratable fees or taxes for each motor
24 vehicle by the prorate percentage applicable to the desired
25 jurisdiction and round the results to the nearest cent. Fees and taxes
26 for nonmotor vehicles being prorated will be calculated as indicated in
27 (b) of this subsection.

28 (d) Add the total fees and taxes determined in (c) of this
29 subsection for each vehicle to the nonproratable fees required under
30 the laws of the jurisdiction for which fees are being calculated.
31 Nonproratable fees required for vehicles of Washington-based fleets are
32 the administrative fee required by RCW 82.38.075, if applicable, and
33 the vehicle transaction fee pursuant to the provisions of RCW
34 46.87.130.

35 (e) Add the total fees and taxes determined in (d) of this
36 subsection for each vehicle listed on the application. Assuming the
37 fees and taxes calculated were for Washington, this would be the amount
38 due and payable for the application under the provisions of the Western
39 Compact. Under the provisions of the IRP, the amount due and payable

1 for the application would be the sum of the fees and taxes referred to
2 in (d) of this subsection, calculated for each member jurisdiction in
3 which registration of the fleet is desired.

4 (3) All assessments for proportional registration fees are due and
5 payable in United States funds on the date presented or mailed to the
6 registrant at the address listed in the proportional registration
7 records of the department. The registrant may petition for
8 reassessment of the fees or taxes due under this section within thirty
9 days of the date of original service as provided for in this chapter.

10 **Sec. 6.** RCW 46.87.290 and 1987 c 244 s 42 are each amended to read
11 as follows:

12 If the ~~((director or the director's designee))~~ department
13 determines at any time that an applicant for proportional registration
14 of a vehicle or a fleet of vehicles is not entitled to a cab card for
15 a vehicle or fleet of vehicles, the ~~((director))~~ department may refuse
16 to issue the cab card(s) or to license the vehicle or fleet of vehicles
17 and may for like reason, after notice, and in the exercise of
18 discretion, cancel the cab card(s) and license plate(s) already issued.
19 ~~((The notice shall be served personally or sent by certified mail
20 (registered mail for Canadian addresses), return receipt requested. If
21 sent by mail, service is deemed to have been accomplished on the date
22 the notice was deposited in the United States mail, postage prepaid))~~
23 The department shall send the notice of cancellation by first class
24 mail, addressed to the owner of the vehicle in question at the owner's
25 address as it appears in the proportional registration records of the
26 department, and record the transmittal on an affidavit of first class
27 mail. It is then unlawful for any person to remove, drive, or operate
28 the vehicle(s) until a proper certificate(s) of registration or cab
29 card(s) has been issued. Any person removing, driving, or operating
30 the vehicle(s) after the refusal of the ~~((director or the director's~~
31 ~~designee))~~ department to issue a cab card(s), certificate(s) of
32 registration, license plate(s), or the revocation ~~((thereof))~~ or
33 cancellation of the cab card(s), certificate(s) of registration, or
34 license plate(s) is guilty of a gross misdemeanor. At the discretion
35 of the ~~((director or the director's designee))~~ department, a vehicle
36 that has been moved, driven, or operated in violation of this section
37 may be impounded by the Washington state patrol, county sheriff, or
38 city police in a manner directed for such cases by the chief of the

1 Washington state patrol until proper registration and license plate
2 have been issued.

3 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.36 RCW
4 to read as follows:

5 A motor vehicle fuel licensee, who files or against whom is filed
6 a petition in bankruptcy, shall, within ten days of the filing, notify
7 the department of the proceedings in bankruptcy, including the identity
8 and location of the court in which the proceedings are pending.

9 **Sec. 8.** RCW 82.36.335 and 1961 c 15 s 82.36.335 are each amended
10 to read as follows:

11 In lieu of the collection and refund of the tax on motor vehicle
12 fuel used by a distributor in such a manner as would entitle a
13 purchaser to claim refund under this chapter, credit may be given the
14 distributor upon ~~((his))~~ the distributor's tax return in the
15 determination of the amount of ~~((his))~~ the distributor's tax. Payment
16 credits shall not be carried forward and applied to subsequent tax
17 returns.

18 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.38 RCW
19 to read as follows:

20 A special fuel licensee, who files or against whom is filed a
21 petition in bankruptcy, shall, within ten days of the filing, notify
22 the department of the proceedings in bankruptcy, including the identity
23 and location of the court in which the proceedings are pending.

24 **Sec. 10.** RCW 82.38.190 and 1996 c 91 s 4 are each amended to read
25 as follows:

26 (1) Claims under RCW 82.38.180 shall be filed with the department
27 on forms prescribed by the department and shall show the date of filing
28 and the period covered in the claim, the number of gallons of special
29 fuel used for purposes subject to tax refund, and such other facts and
30 information as may be required. Every such claim shall be supported by
31 an invoice or invoices issued to or by the claimant, as may be
32 prescribed by the department, and such other information as the
33 department may require.

34 (2) Any amount determined to be refundable by the department under
35 RCW 82.38.180 shall first be credited on any amounts then due and

1 payable from the special fuel dealer or special fuel user or to any
2 person to whom the refund is due, and the department shall then certify
3 the balance thereof to the state treasurer, who shall thereupon draw
4 his warrant for such certified amount to such special fuel dealer or
5 special fuel user or any person(~~(:—PROVIDED, HOWEVER, That the~~
6 ~~department shall deduct fifty cents from all such refunds as a filing~~
7 ~~fee, which fee shall be deducted from the warrant issued in payment of~~
8 ~~such refund to defray expenses in furnishing the claim forms and other~~
9 ~~forms provided for in this chapter)).~~

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

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

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

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

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

34 The interest shall be paid:

35 (a) In the case of a refund, to the last day of the calendar month
36 following the date upon which the person making the overpayment, if he
37 has not already filed a claim, is notified by the department that a
38 claim may be filed or the date upon which the claim is approved by the
39 department, whichever date is earlier.

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

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

7 (6) No injunction or writ of mandate or other legal or equitable
8 process shall issue in any suit, action or proceeding in any court
9 against this state or against any officer of the state to prevent or
10 enjoin the collection under this chapter of any tax or any amount of
11 tax required to be collected.

12 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.42 RCW
13 to read as follows:

14 An aircraft fuel licensee, who files or against whom is filed a
15 petition in bankruptcy, shall, within ten days of the filing, notify
16 the department of the proceedings in bankruptcy, including the identity
17 and location of the court in which the proceedings are pending.

18 **Sec. 12.** RCW 82.42.060 and 1996 c 104 s 15 are each amended to
19 read as follows:

20 The amount of aircraft fuel excise tax imposed under RCW 82.42.020
21 for each month shall be paid to the director on or before the twenty-
22 fifth day of the month thereafter, and if not paid prior thereto, shall
23 become delinquent at the close of business on that day, and a penalty
24 of ten percent of such excise tax must be added thereto for
25 delinquency. Any aircraft fuel tax, penalties, and interest payable
26 under the provisions of this chapter shall bear interest at the rate of
27 one percent per month, or fraction thereof, from the first day of the
28 calendar month after the close of the monthly period for which the
29 amount or any portion thereof should have been paid until the date of
30 payment. RCW 82.36.070 applies to the issuance, refusal, or revocation
31 of a license issued under this chapter. The provisions of RCW
32 82.36.110 relating to a lien for taxes, interests or penalties due,
33 shall be applicable to the collection of the aircraft fuel excise tax
34 provided in RCW 82.42.020, and the provisions of RCW 82.36.120,
35 82.36.130 and 82.36.140 shall apply to any distributor of aircraft fuel
36 with respect to the aircraft fuel excise tax imposed under RCW

1 82.42.020. Payment credits shall not be carried forward and applied
2 to subsequent tax returns.

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