CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1407

Chapter 270, Laws of 2001

57th Legislature
2001 Regular Legislative Session

TAXATION--FUEL

EFFECTIVE DATE: 7/22/01

Passed by the House March 9, 2001
Yeas 97  Nays 0

FRANK CHOPP
Speaker of the House of Representatives

CLYDE BALLARD
Speaker of the House of Representatives

Passed by the Senate April 12, 2001
Yeas 46  Nays 0

BRAD OWEN
President of the Senate

Approved May 11, 2001

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED HOUSE BILL 1407 as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 11, 2001 - 10:02 a.m.

GARY LOCKE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to the taxation of fuel; and amending RCW 82.36.010, 82.36.020, 82.36.026, 82.38.020, 82.36.060, 82.38.030, 82.38.035, and 82.38.110.

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

Sec. 1. RCW 82.36.010 and 1998 c 176 s 6 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Blended fuel" means a mixture of motor vehicle fuel and another liquid, other than a de minimus amount of the liquid, that can be used as a fuel to propel a motor vehicle.

(2) "Bond" means a bond duly executed with a corporate surety qualified under chapter 48.28 RCW, which bond is payable to the state of Washington conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties, and other obligations arising out of this chapter.

(3) "Bulk transfer" means a transfer of motor vehicle fuel by pipeline or vessel.
(4) "Bulk transfer-terminal system" means the motor vehicle fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Motor vehicle fuel in a refinery, pipeline, vessel, or terminal is in the bulk transfer-terminal system. Motor vehicle fuel in the fuel tank of an engine, motor vehicle, or in a railcar, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer-terminal system.

(5) "Dealer" means a person engaged in the retail sale of motor vehicle fuel.

(6) "Department" means the department of licensing.

(7) "Director" means the director of licensing.

(8) "Evasion" or "evade" means to diminish or avoid the computation, assessment, or payment of authorized taxes or fees through:

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

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

(9) "Export" means to obtain motor vehicle fuel in this state for sales or distribution outside the state.

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

(11) "Import" means to bring motor vehicle fuel into this state by a means of conveyance other than the fuel supply tank of a motor vehicle.

(12) "Licensee" means a person holding a license issued under this chapter.

(13) "Marine fuel dealer" means a person engaged in the retail sale of motor vehicle fuel whose place of business and/or sale outlet is located upon a navigable waterway.

(14) "Motor vehicle fuel blender" means a person who produces blended motor fuel outside the bulk transfer-terminal system.

(15) "Motor vehicle fuel distributor" means a person who acquires motor vehicle fuel from a supplier, distributor, or licensee for subsequent sale and distribution.

(16) "Motor vehicle fuel exporter" means a person who purchases motor vehicle fuel in this state and directly exports the fuel by a means other than the bulk transfer-terminal system to a destination outside of the state. If the exporter of record is acting as an agent,
the person for whom the agent is acting is the exporter. If there is
no exporter of record, the owner of the motor fuel at the time of
exportation is the exporter.

(17) "Motor vehicle fuel importer" means a person who imports motor
vehicle fuel into the state by a means other than the bulk transfer-
terminal system. If the importer of record is acting as an agent, the
person for whom the agent is acting is the importer. If there is no
importer of record, the owner of the motor vehicle fuel at the time of
importation is the importer.

(18) "Motor vehicle fuel supplier" means a person who ((owns and
stores motor vehicle fuel in a terminal facility or who refines and
stores motor vehicle fuel at a refinery)) holds a federal certificate
of registry that is issued under the internal revenue code and
authorizes the person to enter into federal tax-free transactions on
motor vehicle fuel in the bulk transfer-terminal system.

(19) "Motor vehicle" means a self-propelled vehicle designed for
operation upon land utilizing motor vehicle fuel as the means of
propulsion.

(20) "Motor vehicle fuel" means gasoline and any other inflammable
gas or liquid, by whatsoever name the gasoline, gas, or liquid may be
known or sold, the chief use of which is as fuel for the propulsion of
motor vehicles or motorboats.

(21) "Person" means a natural person, fiduciary, association, or
corporation. The term "person" as applied to an association means and
includes the partners or members thereof, and as applied to
corporations, the officers thereof.

(22) "Position holder" means a person who holds the inventory
position in motor vehicle fuel, as reflected by the records of the
terminal operator. A person holds the inventory position in motor
vehicle fuel if the person has a contractual agreement with the
terminal for the use of storage facilities and terminating services at
a terminal with respect to motor vehicle fuel. "Position holder"
includes a terminal operator that owns motor vehicle fuel in their
terminal.

(23) "Rack" means a mechanism for delivering motor vehicle fuel
from a refinery or terminal into a truck, trailer, railcar, or other
means of nonbulk transfer.

(24) "Refiner" means a person who owns, operates, or otherwise
controls a refinery.
"Removal" means a physical transfer of motor vehicle fuel other than by evaporation, loss, or destruction.

"Terminal" means a motor vehicle fuel storage and distribution facility that has been assigned a terminal control number by the internal revenue service, is supplied by pipeline or vessel, and from which reportable motor vehicle fuel is removed at a rack.

"Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

"Two-party exchange" or "buy-sell agreement" means a transaction in which taxable motor vehicle fuel is transferred from one licensed supplier to another licensed supplier under an exchange or buy-sell agreement whereby the supplier that is the position holder agrees to deliver taxable motor vehicle fuel to the other supplier or the other supplier’s customer at the rack of the terminal at which the delivering supplier is the position holder.

Sec. 2. RCW 82.36.020 and 2000 c 103 s 13 are each amended to read as follows:

(1) There is hereby levied and imposed upon motor vehicle fuel users a tax at the rate computed in the manner provided in RCW 82.36.025 on each gallon of motor vehicle fuel.

(2) The tax imposed by subsection (1) of this section is imposed when any of the following occurs:

(a) Motor vehicle fuel is removed in this state from a terminal if the motor vehicle fuel is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state;

(b) Motor vehicle fuel is removed in this state from a refinery if either of the following applies:

(i) The removal is by bulk transfer and the refiner or the owner of the motor vehicle fuel immediately before the removal is not a licensee; or

(ii) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state;

(c) Motor vehicle fuel enters into this state for sale, consumption, use, or storage if either of the following applies:

(i) The entry is by bulk transfer and the importer is not a licensee; or
(ii) The entry is not by bulk transfer;
(d) Motor vehicle fuel is sold or removed in this state to an unlicensed entity unless there was a prior taxable removal, entry, or sale of the motor vehicle fuel;
(e) Blended motor vehicle fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended motor vehicle fuel subject to the tax is the difference between the total number of gallons of blended motor vehicle fuel removed or sold and the number of gallons of previously taxed motor vehicle fuel used to produce the blended motor vehicle fuel;
(f) Motor vehicle fuel is sold by a licensed motor vehicle fuel supplier to a motor vehicle fuel distributor, motor vehicle fuel importer, or motor vehicle fuel blender and the motor vehicle fuel is not removed from the bulk transfer-terminal system.

(3) The proceeds of the motor vehicle fuel excise tax shall be distributed as provided in RCW 46.68.090.

Sec. 3. RCW 82.36.026 and 1998 c 176 s 8 are each amended to read as follows:

(1) A licensed supplier shall remit tax to the department on motor vehicle fuel removed from a terminal) as provided in RCW 82.36.020((2)(a))). On a two-party exchange, or buy-sell agreement between two licensed suppliers, the receiving exchange partner or buyer((, becomes the position holder,)) who shall remit the tax.

(2) A refiner shall remit tax to the department on motor vehicle fuel removed from a refinery as provided in RCW 82.36.020(2)(b).

(3) An importer shall remit tax to the department on motor vehicle fuel imported into this state as provided in RCW 82.36.020(2)(c).

(4) A blender shall remit tax to the department on the removal or sale of blended motor vehicle fuel as provided in RCW 82.36.020(2)(e).

Sec. 4. RCW 82.38.020 and 1998 c 176 s 50 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.
(1) "Blended special fuel" means a mixture of undyed diesel fuel and another liquid, other than a de minimus amount of the liquid, that can be used as a fuel to propel a motor vehicle.
"Blender" means a person who produces blended special fuel outside the bulk transfer-terminal system.

"Bond" means a bond duly executed with a corporate surety qualified under chapter 48.28 RCW, which bond is payable to the state of Washington conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties, and other obligations arising out of this chapter.

"Bulk transfer-terminal system" means the special fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Special fuel in a refinery, pipeline, vessel, or terminal is in the bulk transfer-terminal system. Special fuel in the fuel tank of an engine, motor vehicle, or in a railcar, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer-terminal system.

"Bulk transfer" means a transfer of special fuel by pipeline or vessel.

"Bulk storage" means the placing of special fuel into a receptacle other than the fuel supply tank of a motor vehicle.

"Department" means the department of licensing.

"Dyed special fuel user" means a person authorized by the internal revenue code to operate a motor vehicle on the highway using dyed special fuel, in which the use is not exempt from the special fuel tax.

"Evasion" or "evade" means to diminish or avoid the computation, assessment, or payment of authorized taxes or fees through:

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

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

"Export" means to obtain special fuel in this state for sales or distribution outside the state.

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

"Import" means to bring special fuel into this state by a means of conveyance other than the fuel supply tank of a motor vehicle.

"International fuel tax agreement licensee" means a special fuel user operating qualified motor vehicles in interstate commerce and licensed by the department under the international fuel tax agreement.
(14) "Lessor" means a person: (a) Whose principal business is the bona fide leasing or renting of motor vehicles without drivers for compensation to the general public; and (b) who maintains established places of business and whose lease or rental contracts require the motor vehicles to be returned to the established places of business.

(15) "Licensee" means a person holding a license issued under this chapter.

(16) "Motor vehicle" means a self-propelled vehicle designed for operation upon land utilizing special fuel as the means of propulsion.

(17) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form.

(18) "Person" means a natural person, fiduciary, association, or corporation. The term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof.

(19) "Position holder" means a person who holds the inventory position in special fuel, as reflected by the records of the terminal operator. A person holds the inventory position in special fuel if the person has a contractual agreement with the terminal for the use of storage facilities and terminating services at a terminal with respect to special fuel. "Position holder" includes a terminal operator that owns special fuel in their terminal.

(20) "Rack" means a mechanism for delivering special fuel from a refinery or terminal into a truck, trailer, railcar, or other means of nonbulk transfer.

(21) "Refiner" means a person who owns, operates, or otherwise controls a refinery.

(22) "Removal" means a physical transfer of special fuel other than by evaporation, loss, or destruction.

(23) "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles, except that it does not include motor vehicle fuel as defined in chapter 82.36 RCW, nor does it include dyed special fuel as defined by federal regulations. However, if the federal regulations authorize dyed special fuel to be used in highway vehicles, that usage is considered taxable under this chapter, unless otherwise exempted.
(24) "Special fuel distributor" means a person who acquires special fuel from a supplier, distributor, or licensee for subsequent sale and distribution.

(25) "Special fuel exporter" means a person who purchases special fuel in this state and directly exports the fuel by a means other than the bulk transfer-terminal system to a destination outside of the state.

(26) "Special fuel importer" means a person who imports special fuel into the state by a means other than the bulk transfer-terminal system. If the importer of record is acting as an agent, the person for whom the agent is acting is the importer. If there is no importer of record, the owner of the special fuel at the time of importation is the importer.

(27) "Special fuel supplier" means a person who owns and stores special fuel in a terminal facility or who refines and stores special fuel at a refinery holds a federal certificate issued under the internal revenue code and authorizes the person to tax-free transactions on special fuel in the bulk transfer-terminal system.

(28) "Special fuel user" means a person engaged in uses of special fuel that are not specifically exempted from the special fuel tax imposed under this chapter.

(29) "Terminal" means a special fuel storage and distribution facility that has been assigned a terminal control number by the internal revenue service, is supplied by pipeline or vessel, and from which reportable special fuel is removed at a rack.

(30) "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

(31) "Two-party exchange" or "buy-sell agreement" means a transaction in which taxable special fuel is transferred from one licensed supplier to another licensed supplier under an exchange or buy-sell agreement whereby the supplier that is the position holder agrees to deliver taxable special fuel to the other supplier or the other supplier’s customer at the rack of the terminal at which the delivering supplier is the position holder.

Sec. 5. RCW 82.36.060 and 1998 c 176 s 18 are each amended to read as follows:
(1) An application for a license issued under this chapter shall be made to the department on forms to be furnished by the department and shall contain such information as the department deems necessary.

(2) Every application for a license must contain the following information to the extent it applies to the applicant:

(a) Proof as the department may require concerning the applicant’s identity, including but not limited to his or her fingerprints or those of the officers of a corporation making the application;

(b) The applicant’s form and place of organization including proof that the individual, partnership, or corporation is licensed to do business in this state;

(c) The qualification and business history of the applicant and any partner, officer, or director;

(d) The applicant’s financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has an unsatisfied judgment in a federal or state court;

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

(3) An applicant for a license as a motor vehicle fuel importer must list on the application each state, province, or country from which the applicant intends to import motor vehicle fuel and, if required by the state, province, or country listed, must be licensed or registered for motor vehicle fuel tax purposes in that state, province, or country.

(4) An applicant for a license as a motor vehicle fuel exporter must list on the application each state, province, or country to which the exporter intends to export motor vehicle fuel received in this state by means of a transfer outside of the bulk transfer-terminal system and, if required by the state, province, or country listed, must be licensed or registered for motor vehicle fuel tax purposes in that state, province, or country.

(5) An applicant for a license as a motor vehicle fuel supplier must have a federal certificate of registry that is issued under the internal revenue code and authorizes the applicant to enter into
federal tax-free transactions on motor vehicle fuel in the terminal
transfer system.

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

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

(7) Except as provided by subsection (8) of this section, before
granting any license issued under this chapter, the department shall
require applicant to file with the department, in such form as shall be
prescribed by the department, a corporate surety bond duly executed by
the applicant as principal, payable to the state and conditioned for
faithful performance of all the requirements of this chapter, including
the payment of all taxes, penalties, and other obligations arising out
of this chapter. The total amount of the bond or bonds shall be fixed
by the department and may be increased or reduced by the department at
any time subject to the limitations herein provided. In fixing the
total amount of the bond or bonds, the department shall require a bond
or bonds equivalent in total amount to twice the estimated monthly
excise tax determined in such manner as the department may deem proper.
If at any time the estimated excise tax to become due during the
succeeding month amounts to more than fifty percent of the established
bond, the department shall require additional bonds or securities to
maintain the marginal ratio herein specified or shall demand excise tax
payments to be made weekly or semimonthly to meet the requirements
hereof.

The total amount of the bond or bonds required of any licensee
shall never be less than five thousand dollars nor more than one
hundred thousand dollars.

No recoveries on any bond or the execution of any new bond shall
invalidate any bond and no revocation of any license shall effect the
validity of any bond but the total recoveries under any one bond shall
not exceed the amount of the bond.

In lieu of any such bond or bonds in total amount as herein fixed, a licensee may deposit with the state treasurer, under such terms and conditions as the department may prescribe, a like amount of lawful money of the United States or bonds or other obligations of the United States, the state, or any county of the state, of an actual market value not less than the amount so fixed by the department.

Any surety on a bond furnished by a licensee as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of thirty days from the date upon which such surety has lodged with the department a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the thirty day period. The department shall promptly, upon receiving any such request, notify the licensee who furnished the bond; and unless the licensee, on or before the expiration of the thirty day period, files a new bond, or makes a deposit in accordance with the requirements of this section, the department shall forthwith cancel the license. Whenever a new bond is furnished by a licensee, the department shall cancel the old bond as soon as the department and the attorney general are satisfied that all liability under the old bond has been fully discharged.

The department may require a licensee to give a new or additional surety bond or to deposit additional securities of the character specified in this section if, in its opinion, the security of the surety bond theretofore filed by such licensee, or the market value of the properties deposited as security by the licensee, shall become impaired or inadequate; and upon the failure of the licensee to give such new or additional surety bond or to deposit additional securities within thirty days after being requested so to do by the department, the department shall forthwith cancel his or her license.

(8) The department may waive the requirements of subsection (7) of this section for licensed distributors if, upon determination by the department, the licensed distributor has sufficient resources, assets, other financial instruments, or other means, to adequately make payments on the estimated monthly motor vehicle fuel tax payments.
penalties, and interest arising out of this chapter. The department shall adopt rules to administer this subsection.

Sec. 6. RCW 82.38.030 and 1998 c 176 s 51 are each amended to read as follows:

(1) There is hereby levied and imposed upon special fuel users a tax at the rate computed in the manner provided in RCW 82.36.025 on each gallon of special fuel, or each one hundred cubic feet of compressed natural gas, measured at standard pressure and temperature.

(2) The tax imposed by subsection (1) of this section is imposed when:

(a) Special fuel is removed in this state from a terminal if the special fuel is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is to a special fuel distributor for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

(b) Special fuel is removed in this state from a refinery if either of the following applies:

(i) The removal is by bulk transfer and the refiner or the owner of the special fuel immediately before the removal is not a licensee; or

(ii) The removal is at the refinery rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state, or the removal is to a special fuel distributor for direct delivery to an international fuel tax agreement licensee under RCW 82.38.320;

(c) Special fuel enters into this state for sale, consumption, use, or storage if either of the following applies:

(i) The entry is by bulk transfer and the importer is not a licensee; or

(ii) The entry is not by bulk transfer;

(d) Special fuel is sold or removed in this state to an unlicensed entity unless there was a prior taxable removal, entry, or sale of the special fuel;

(e) Blended special fuel is removed or sold in this state by the blender of the fuel. The number of gallons of blended special fuel subject to tax is the difference between the total number of gallons of blended special fuel removed or sold and the number of gallons of previously taxed special fuel used to produce the blended special fuel;
(f) Dyed special fuel is used on a highway, as authorized by the internal revenue code, unless the use is exempt from the special fuel tax; (and)

(g) Special fuel purchased by an international fuel tax agreement licensee under RCW 82.38.320 is used on a highway; and

(h) Special fuel is sold by a licensed special fuel supplier to a special fuel distributor, special fuel importer, or special fuel blender and the special fuel is not removed from the bulk transfer-terminal system.

(3) The tax imposed by this chapter, if required to be collected by the licensee, is held in trust by the licensee until paid to the department, and a licensee who appropriates or converts the tax collected to his or her own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter is guilty of a felony, or gross misdemeanor in accordance with the theft and anticipatory provisions of Title 9A RCW. A person, partnership, corporation, or corporate officer who fails to collect the tax imposed by this section, or who has collected the tax and fails to pay it to the department in the manner prescribed by this chapter, is personally liable to the state for the amount of the tax.

Sec. 7. RCW 82.38.035 and 1998 c 176 s 53 are each amended to read as follows:

(1) A ((position holder)) licensed supplier shall remit tax on special fuel to the department ((on special fuel removed from a terminal)) as provided in RCW 82.38.030(2)(a). On a two-party exchange, or buy-sell agreement between two licensed suppliers, the receiving exchange partner or buyer ((becomes the position holder, who)) shall remit the tax.

(2) A refiner shall remit tax to the department on special fuel removed from a refinery as provided in RCW 82.38.030(2)(b).

(3) An importer shall remit tax to the department on special fuel imported into this state as provided in RCW 82.38.030(2)(c).

(4) A blender shall remit tax to the department on the removal or sale of blended special fuel as provided in RCW 82.38.030(2)(e).

(5) A dyed special fuel user shall remit tax to the department on the use of dyed special fuel as provided in RCW 82.38.030(2)(f).
Sec. 8. RCW 82.38.110 and 1998 c 176 s 63 are each amended to read as follows:

(1) Application for a license issued under this chapter shall be made to the department. The application shall be filed upon a form prepared and furnished by the department and shall contain such information as the department deems necessary.

(2) Every application for a special fuel license, other than an application for a dyed special fuel user or international fuel tax agreement license, must contain the following information to the extent it applies to the applicant:

(a) Proof as the department shall require concerning the applicant’s identity, including but not limited to his or her fingerprints or those of the officers of a corporation making the application;

(b) The applicant’s form and place of organization including proof that the individual, partnership, or corporation is licensed to do business in this state;

(c) The qualification and business history of the applicant and any partner, officer, or director;

(d) The applicant’s financial condition or history including a bank reference and whether the applicant or any partner, officer, or director has ever been adjudged bankrupt or has an unsatisfied judgment in a federal or state court;

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

(3) An applicant for a license as a special fuel importer must list on the application each state, province, or country from which the applicant intends to import fuel and, if required by the state, province, or country listed, must be licensed or registered for special fuel tax purposes in that state, province, or country.

(4) An applicant for a license as a special fuel exporter must list on the application each state, province, or country to which the exporter intends to export special fuel received in this state by means of a transfer outside the bulk transfer-terminal system and, if required by the state, province, or country listed, must be licensed or
(5) An applicant for a license as a special fuel supplier must have a federal certificate of registry that is issued under the internal revenue code and authorizes the applicant to enter into federal tax-free transactions on special fuel in the terminal transfer system.

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

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

(8) A special fuel license may not be issued to any person or continued in force unless such person has furnished bond, as defined in RCW 82.38.020, in such form as the department may require, to secure his or her compliance with this chapter, and the payment of any and all taxes, interest, and penalties due and to become due hereunder. The requirement of furnishing a bond may be waived: (a) For special fuel distributors who only deliver special fuel into the fuel tanks of marine vessels; (b) for dyed special fuel users; (c) for persons issued licenses under the international fuel tax agreement; or (d) for licensed special fuel distributors who, upon determination by the department, have sufficient resources, assets, other financial instruments, or other means to adequately make payments on the estimated monthly motor vehicle fuel tax payments, penalties, and interest arising out of this chapter. The department shall adopt rules to administer this section.

(9) The department may require a licensee to post a bond if the licensee, after having been licensed, has failed to file timely reports or has failed to remit taxes due, or when an investigation or audit indicates problems severe enough that the department, in its discretion, determines that a bond is required to protect the interests
of the state. The department may also adopt rules prescribing
conditions that, in the department’s discretion, require a bond to
protect the interests of the state.

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

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

(12) An application for an international fuel tax agreement license
must be made to the department. The application must be filed upon a
form prescribed by the department and contain such information as the
department may require.

Passed the House March 9, 2001.
Passed the Senate April 12, 2001.
Approved by the Governor May 11, 2001.
Filed in Office of Secretary of State May 11, 2001.