
SUBSTITUTE HOUSE BILL 2090

State of Washington

54th Legislature

1995 Regular Session

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

Read first time 04/11/95.

1 AN ACT Relating to taxation of gasohol; reenacting and amending RCW
2 46.68.090 and 82.36.2251; adding a new section to chapter 225, Laws of
3 1994; creating new sections; providing effective dates; and declaring
4 an emergency.

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

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

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

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

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

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

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

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

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

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14 this act, the legislature repealed the tax exemption and credit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17 portion of the bill that repealed the tax exemption enjoyed by foreign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

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

27 **Sec. 3.** RCW 46.68.090 and 1994 c 225 s 2 and 1994 c 179 s 3 are
28 each reenacted and amended to read as follows:

29 (1) All moneys that have accrued or may accrue to the motor vehicle
30 fund from the motor vehicle fuel tax and special fuel tax shall be
31 first expended for the following purposes:

32 (a) For payment of refunds of motor vehicle fuel tax and special
33 fuel tax that has been paid and is refundable as provided by law;

34 (b) For payment of amounts to be expended pursuant to
35 appropriations for the administrative expenses of the offices of state
36 treasurer, state auditor, and the department of licensing of the state

1 of Washington in the administration of the motor vehicle fuel tax and
2 the special fuel tax, which sums shall be distributed monthly;

3 (c) From April 1, 1992, through March 31, 1996, for distribution to
4 the transfer relief account, hereby created in the motor vehicle fund,
5 an amount not to exceed three hundred twenty-five one-thousandths of
6 one percent;

7 (d) For distribution to the rural arterial trust account in the
8 motor vehicle fund, an amount as provided in RCW 82.36.025(2) and
9 46.68.095(3);

10 (e) For distribution to the urban arterial trust account in the
11 motor vehicle fund, an amount as provided in RCW 46.68.100(4) and
12 82.36.025(3);

13 (f) For distribution to the transportation improvement account in
14 the motor vehicle fund, an amount as provided in RCW 46.68.095(1);

15 (g) For distribution to the special category C account, hereby
16 created in the motor vehicle fund, an amount as provided in RCW
17 46.68.095(2);

18 (h) For distribution to the county arterial preservation account,
19 hereby created in the motor vehicle fund, an amount as provided in RCW
20 46.68.095(4);

21 (i) For distribution to the motor vehicle fund to be allocated to
22 cities and towns as provided in RCW 46.68.110, an amount as provided in
23 RCW 46.68.095(5);

24 (j) For distribution to the motor vehicle fund to be allocated to
25 counties as provided in RCW 46.68.120, an amount as provided in RCW
26 46.68.095(6);

27 (k) For expenditure for highway purposes of the state as defined in
28 RCW 46.68.130, an amount as provided in RCW 82.36.025(4) and
29 46.68.095(7);

30 (l) From July 1, (~~(1994)~~) 1995, through (~~(June 30)~~) December 31,
31 1995, for distribution to the gasohol exemption holding account, hereby
32 created in the motor vehicle fund, an amount equal to (~~(five and~~
33 ~~thirty-four)~~) three and thirty-five one-hundredths of one percent of
34 the amount available prior to distributions provided under (a) through
35 (k) of this subsection, (~~(to be used only for highway construction)~~) to
36 be used for refunds, if any are required. If no refunds are required,
37 or if funds remain after payment of refunds, the remaining money shall
38 be used for highway purposes only after legislative appropriation;

1 (m) For distribution to the small city account, hereby created in
2 the motor vehicle fund, an amount as provided for in RCW 46.68.095(1),
3 46.68.100(9), and 82.36.025(3).

4 (2) The amount accruing to the motor vehicle fund by virtue of the
5 motor vehicle fuel tax and the special fuel tax and remaining after
6 payments, distributions, and expenditures as provided in this section
7 shall, for the purposes of this chapter, be referred to as the "net tax
8 amount."

9 **Sec. 4.** RCW 82.36.2251 and 1993 c 268 s 2 are each reenacted and
10 amended to read as follows:

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

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

28 (3) Any tax refunds provided under this section must be made from
29 the gasohol exemption holding account, created under RCW
30 46.68.090(1)(1).

31 (4) No refunds authorized under this section may be provided until
32 1994 c 225 is rejected by the people at a November general election.

33 (5) The state shall not provide refunds for any taxes collected as
34 a result of the repeal of RCW 82.36.2251, effective May 1, 1994,
35 through March 27, 1995.

36 ((+3)) (6) This section shall expire on December 31, 1999.

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

4 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of the
6 state government and its existing public institutions, and takes effect
7 March 28, 1995, except for section 2 of this act, which takes effect
8 July 1, 1995.

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