**2778-S AMH COND H4403.1 - NOT FOR FLOOR USE**

**SHB 2778** - H AMD **749**

By Representative Condotta

**NOT ADOPTED 02/16/2016**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  This section is the tax preference performance statement for the tax preferences contained in sections 2 and 3 of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of clean alternative fuel vehicles in Washington. It is the legislature's intent to extend the existing sales and use tax exemption on certain clean alternative fuel vehicles in order to reduce the price charged to customers for clean alternative fuel vehicles.

(3) To measure the effectiveness of the tax preferences in sections 2 and 3 of this act in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of clean alternative fuel vehicles registered in the state.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of licensing must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary.

**Sec.**  RCW 82.08.809 and 2015 3rd sp.s. c 44 s 408 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, the tax levied by RCW 82.08.020 does not apply to sales of new passenger cars, light duty trucks, and medium duty passenger vehicles, which (a) are exclusively powered by a clean alternative fuel or (b) use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power.

(2) The seller must keep records necessary for the department to verify eligibility under this section.

(3) As used in this section, "clean alternative fuel" means natural gas, propane, hydrogen, or electricity, when used as a fuel in a motor vehicle that meets the California motor vehicle emission standards in Title 13 of the California code of regulations, effective January 1, 2005, and the rules of the Washington state department of ecology.

(4)(a) A sale, other than a lease, made on or after July 1, 2016, is not exempt from sales tax as described under subsection (1) of this section ((~~if~~)) on the portion of the selling price of the vehicle ((~~plus trade-in property of like kind~~)) that exceeds thirty-five thousand dollars.

(b) For leased vehicles for which the lease agreement is signed on or after July 1, 2016, lease payments are not exempt from sales tax as described under subsection (1) of this section on the percentage of each lease payment that corresponds to the amount of the total fair market value of the vehicle being leased in excess of thirty-five thousand dollars at the inception of the lease divided by the total fair market value of the vehicle being leased at the inception of the lease.

(c) For leased vehicles for which the lease agreement is signed ((~~on or after~~)) between July 15, 2015, and June 30, 2016, lease payments are not exempt from sales tax as described under subsection (1) of this section if the fair market value of the vehicle being leased exceeds thirty-five thousand dollars at the inception of the lease. ((~~For the purposes of this subsection (4)(b), "fair market value" has the same meaning as "value of the article used" in RCW 82.12.010.~~

~~(c)~~)) (d) For leased vehicles for which the lease agreement was signed before July ((~~15~~)) 1, 2015, lease payments due on or after July 1, 2016, are exempt from sales tax as described under subsection (1) of this section regardless of the vehicle's fair market value at the inception of the lease.

(e) For the purposes of this subsection (4), "fair market value" has the same meaning as "value of the article used" in RCW 82.12.010, except that "fair market value" also includes the value of trade-in property of like kind.

(5) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns. For purposes of this section, the first transfer for the calendar quarter after July 15, 2015, must be calculated assuming only those revenues that should have been deposited into the general fund beginning July 1, 2015.

(6) Lease payments due on or after July 1, 2019, are subject to the taxes imposed under this chapter.

(7) This section expires July 1, 2019.

**Sec.**  RCW 82.12.809 and 2015 3rd sp.s. c 44 s 409 are each amended to read as follows:

(1) Except as provided in subsection (4) of this section, until July 1, 2019, the provisions of this chapter do not apply in respect to the use of new passenger cars, light duty trucks, and medium duty passenger vehicles, which (a) are exclusively powered by a clean alternative fuel or (b) use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power.

(2) The definitions in RCW 82.08.809 apply to this section.

(3) A taxpayer is not liable for the tax imposed in RCW 82.12.020 on the use, on or after July 1, 2019, of a passenger car, light duty truck, or medium duty passenger vehicle that is exclusively powered by a clean alternative fuel or uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and is capable of traveling at least thirty miles using only battery power, if the taxpayer used such vehicle in this state before July 1, 2019, and the use was exempt under this section from the tax imposed in RCW 82.12.020.

(4)(a) For vehicles purchased on or after July 1, 2016, or for leased vehicles for which the lease agreement was signed on or after July 1, 2016, a vehicle is not exempt from use tax as described under subsection (1) of this section on the portion of the fair market value of the vehicle in excess of thirty-five thousand dollars or on the percentage of each lease payment that corresponds to the amount of the total fair market value of the vehicle being leased in excess of thirty-five thousand dollars at the inception of the lease divided by the total fair market value of the vehicle being leased at the inception of the lease.

(b) For ((~~vehicles purchased on or after July 15, 2015, or for~~)) leased vehicles for which the lease agreement was signed ((~~on or after~~)) between July 15, 2015, and June 30, 2016, a vehicle is not exempt from use tax as described under subsection (1) of this section if the fair market value of the vehicle exceeds thirty-five thousand dollars ((~~at the time the tax is imposed for purchased vehicles, or~~)) at the inception of the lease ((~~for leased vehicles~~)).

((~~(b)~~)) (c) For leased vehicles for which the lease agreement was signed before July ((~~15~~)) 1, 2015, lease payments due on or after July 1, 2016, are exempt from use tax as described under subsection (1) of this section regardless of the vehicle's fair market value at the inception of the lease.

(5) On the last day of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section. Information provided by the department to the state treasurer must be based on the best available data. For purposes of this section, the first transfer for the calendar quarter after July 15, 2015, must be calculated assuming only those revenues that should have been deposited into the general fund beginning July 1, 2015.

(6) Lease payments due on or after July 1, 2019, are subject to the taxes imposed under this chapter.

NEW SECTION. **Sec.**  This act takes effect July 1, 2016."

Correct the title.

EFFECT: Makes the following changes to the alternative fuel vehicle retail sales and use tax exemption:

(1) Eliminates the price-based and fair market value-based thresholds for alternative fuel vehicle tax exemption qualification.

(2) Changes the end date when lease payments on qualifying vehicles (with lease agreements signed before July 1, 2019) are no longer eligible for the alternative fuel vehicle tax exemption from January 1, 2023, to July 1, 2019.