

2 SHB 1704 - S COMM AMD
3 By Committee on Transportation

4 Not Adopted 4/19/91 - Scoped
5

6 Strike everything after the enacting clause and insert the
7 following:

8 "NEW SECTION. **Sec. 1.** A new section is added to chapter 82.36 RCW
9 to read as follows:

10 (1) If the department determines that the tax reported by a motor
11 vehicle fuel distributor is deficient, the department shall assess the
12 deficiency on the basis of information available to it, and shall add
13 a penalty of two percent of the amount of the deficiency.

14 (2) If a distributor, whether licensed or not licensed as such,
15 fails, neglects, or refuses to file a motor vehicle fuel tax report the
16 department shall, on the basis of information available to it,
17 determine the tax liability of the distributor for the period during
18 which no report was filed. The department shall add the penalty
19 provided in subsection (1) of this section to the tax. An assessment
20 made by the department under this subsection or subsection (1) of this
21 section is presumed to be correct. In any case, where the validity of
22 the assessment is questioned, the burden is on the person who
23 challenges the assessment to establish by a fair preponderance of
24 evidence that it is erroneous or excessive, as the case may be.

25 (3) If a distributor files a false or fraudulent report with intent
26 to evade the tax imposed by this chapter, the department shall add to
27 the amount of deficiency a penalty equal to twenty-five percent of the
28 deficiency, in addition to the penalty provided in subsections (1) and
29 (2) of this section and all other penalties prescribed by law.

1 (4) Motor vehicle fuel tax, penalties, and interest payable under
2 this chapter bears interest at the rate of one percent per month, or
3 fraction thereof, from the first day of the calendar month after the
4 amount or any portion of it should have been paid until the date of
5 payment. If a distributor establishes by a fair preponderance of
6 evidence that the failure to pay the amount of tax due was attributable
7 to reasonable cause and was not intentional or willful, the department
8 may waive the penalty. The department may waive the interest when it
9 determines the cost of processing or collection of the interest exceeds
10 the amount of interest due.

11 (5) Except in the case of a fraudulent report, neglect or refusal
12 to make a report, or failure to pay or to pay the proper amount, the
13 department shall assess the deficiency under subsection (1) or (2) of
14 this section within three years from the last day of the succeeding
15 calendar month after the reporting period for which the amount is
16 proposed to be determined or within three years after the return is
17 filed, whichever period expires later.

18 (6) Except in the case of violations of filing a false or
19 fraudulent report, if the department deems mitigation of penalties and
20 interest to be reasonable and in the best interest of carrying out the
21 purpose of this chapter, it may mitigate such assessments upon whatever
22 terms the department deems proper, giving consideration to the degree
23 and extent of the lack of records and reporting errors. The department
24 may ascertain the facts regarding recordkeeping and payment penalties
25 in lieu of more elaborate proceedings under this chapter.

26 (7) A distributor against whom an assessment is made under
27 subsection (1) or (2) of this section may petition for a reassessment
28 within thirty days after service upon the distributor of notice of the
29 assessment. If the petition is not filed within the thirty-day period,

1 the amount of the assessment becomes final at the expiration of that
2 period.

3 If a petition for reassessment is filed within the thirty-day
4 period, the department shall reconsider the assessment and, if the
5 distributor has so requested in its petition, shall grant the
6 distributor an oral hearing and give the distributor twenty days'
7 notice of the time and place of the hearing. The department may
8 continue the hearing from time to time. The decision of the department
9 upon a petition for reassessment becomes final thirty days after
10 service of notice upon the distributor.

11 An assessment made by the department becomes due and payable when
12 it becomes final. If it is not paid to the department when due and
13 payable, the department shall add a penalty of ten percent of the
14 amount of the tax.

15 (8) In a suit brought to enforce the rights of the state under this
16 chapter, the assessment showing the amount of taxes, penalties,
17 interest, and cost unpaid to the state is prima facie evidence of the
18 facts as shown.

19 (9) A notice of assessment required by this section must be served
20 personally or by mail. If it is served by mail, service shall be made
21 by deposit of the notice in the United States mail, postage prepaid,
22 addressed to the distributor at the most current address furnished to
23 the department."

24 "**Sec. 2.** RCW 82.36.040 and 1989 c 378 s 24 are each amended to
25 read as follows:

26 If payment of any tax due is not received by the due date, there
27 shall be assessed a penalty of two percent of the amount of the tax.
28 ~~((If any distributor establishes by a fair preponderance of evidence
29 that the distributor's failure to pay the amount of tax due by the due~~

1 ~~date was attributable to reasonable cause and was not intentional or~~
2 ~~willful, the department may waive the penalty imposed by this section.~~

3 ~~Any motor vehicle fuel tax, penalties, and interest payable under~~
4 ~~the provisions of this chapter shall bear interest at the rate of one~~
5 ~~percent per month, or fraction thereof, from the first day of the~~
6 ~~calendar month after the close of the monthly period for which the~~
7 ~~amount or any portion thereof should have been paid until the date of~~
8 ~~payment. The department may waive the interest when the department~~
9 ~~determines that the cost of processing the collection of the interest~~
10 ~~exceeds the amount of interest due.~~

11 ~~In any suit brought to enforce the rights of the state under this~~
12 ~~chapter, the certificate of the director showing the amount of taxes,~~
13 ~~penalties, interest and cost unpaid by any distributor and that the~~
14 ~~same are due and unpaid to the state shall be prima facie evidence of~~
15 ~~the facts as shown.))"~~

16 **"Sec. 3.** RCW 82.36.120 and 1961 c 15 s 82.36.120 are each amended
17 to read as follows:

18 ~~((In the event any))~~ If a distributor is delinquent in the payment
19 ~~of ((his excise tax hereunder, the director))~~ an obligation imposed
20 under this chapter, the department may give notice of the amount
21 ~~((thereof))~~ of the delinquency by registered or certified mail to all
22 persons having in their possession or under their control any credits
23 or other personal property belonging to such distributor, or owing any
24 debts to such distributor at the time of receipt by them of such
25 notice~~((, and thereafter the persons))~~. A person so notified shall
26 neither transfer nor make any other disposition of such credits,
27 ~~((other))~~ personal property, or debts((,)) until ~~((twenty days have~~
28 ~~elapsed from and after receipt of such notice unless the director has~~
29 ~~given his consent to a previous transfer,))~~ the department consents to

1 a transfer or other disposition. All persons so notified must, within
2 ~~((five))~~ twenty days after receipt of the notice, advise the
3 ~~((director))~~ department of any and all such credits, ~~((other))~~ personal
4 property, or debts in their possession, under their control or owing by
5 them, as the case may be, and shall deliver upon demand the credits,
6 personal property, or debts to the department or its duly authorized
7 representative to be applied to the indebtedness involved.

8 If a person fails to answer the notice within the time prescribed
9 by this section, it is lawful for the court, upon application of the
10 department and after the time to answer the notice has expired, to
11 render judgment by default against the person for the full amount
12 claimed by the department in the notice to withhold and deliver,
13 together with costs."

14 "NEW SECTION. Sec. 4. A new section is added to chapter 82.36 RCW
15 to read as follows:

16 When an assessment becomes final in accordance with this chapter,
17 the department may file with the clerk of any county within the state
18 a warrant in the amount of the assessment of taxes, penalties,
19 interest, and a filing fee of five dollars. The clerk of the county in
20 which the warrant is filed shall immediately designate a superior court
21 cause number for the warrant, and the clerk shall cause to be entered
22 in the judgment docket under the superior court cause number assigned
23 to the warrant the name of the distributor mentioned in the warrant,
24 the amount of the tax, penalties, interest, and filing fee, and the
25 date when the warrant was filed. The aggregate amount of the warrant
26 as docketed becomes a lien upon the title to and interest in all real
27 and personal property of the named person against whom the warrant is
28 issued, the same as a judgment in a civil case duly docketed in the
29 office of the clerk. The warrant so docketed is sufficient to support

1 the issuance of writs of execution and writs of garnishment in favor of
2 the state in the manner provided by law in the case of a civil
3 judgment, wholly or partially unsatisfied. The clerk of the court is
4 entitled to a filing fee of five dollars."

5 "NEW SECTION. **Sec. 5.** A new section is added to chapter 46.87 RCW
6 to read as follows:

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

15 **"Sec. 6.** RCW 82.38.090 and 1990 c 250 s 84 are each amended to
16 read as follows:

17 It shall be unlawful for any person to act as a special fuel
18 dealer, a special fuel supplier or a special fuel user in this state
19 unless such person is the holder of an uncanceled special fuel
20 dealer's, a special fuel supplier's or a special fuel user's license
21 issued to him by the department. A special fuel supplier's license
22 authorizes a person to sell special fuel without collecting the special
23 fuel tax to other suppliers and dealers holding valid special fuel
24 licenses.

25 A special fuel dealer's license authorizes a person to deliver
26 previously untaxed special fuel into the fuel supply tanks of motor
27 vehicles, collect the special fuel tax on behalf of the state at the
28 time of delivery, and remit the taxes collected to the state as

1 provided herein. A licensed special fuel dealer may also deliver
2 untaxed special fuel into bulk storage facilities of a licensed special
3 fuel user without collecting the special fuel tax. Special fuel
4 dealers and suppliers, when making deliveries of special fuel into bulk
5 storage to any person not holding a valid special fuel license must
6 collect the special fuel tax at time of delivery, unless the person to
7 whom the delivery is made is specifically exempted from the tax as
8 provided herein.

9 A special fuel user's license authorizes a person to purchase
10 special fuel into bulk storage for use in motor vehicles either on or
11 off the public highways of this state without payment of the special
12 fuel tax at time of purchase. Holders of special fuel licenses are all
13 subject to the bonding, reporting, tax payment, and record-keeping
14 provisions of this chapter. All purchases of special fuel by a
15 licensed special fuel user directly into the fuel supply tank of a
16 motor vehicle are subject to the special fuel tax at time of purchase
17 unless the purchase is made from an unattended keylock metered pump,
18 cardtrol, or such similar dispensing devices. Persons utilizing
19 special fuel for heating purposes only are not required to be licensed.

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

1 **"Sec. 7.** RCW 82.38.170 and 1987 c 174 s 6 are each amended to read
2 as follows:

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

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

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

26 (4) If any special fuel dealer or special fuel user shall establish
27 by a fair preponderance of evidence that his or her failure to file a
28 report or pay the proper amount of tax within the time prescribed was
29 due to reasonable cause and was not intentional or willful, the

1 department may waive the penalty prescribed in subsections (1), (2),
2 and (3) of this section.

3 (5) If any special fuel dealer or special fuel user shall file a
4 false or fraudulent report with intent to evade the tax imposed by this
5 chapter, there shall be added to the amount of deficiency determined by
6 the department a penalty equal to twenty-five percent of the
7 deficiency, in addition to the penalty provided in subsection (2) of
8 this section and all other penalties prescribed by law.

9 (6) Any fuel tax, penalties, and interest payable under this
10 chapter shall bear interest at the rate of one percent per month, or
11 fraction thereof, from the first day of the calendar month after the
12 amount or any portion thereof should have been paid until the date of
13 payment: PROVIDED, That the department may waive the interest when it
14 determines that the cost of processing the collection of the interest
15 exceeds the amount of interest due.

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

24 (8) Except in the case of a fraudulent report or of neglect or
25 refusal to make a report, every deficiency shall be assessed under
26 subsection (2) of this section within three years from the twenty-fifth
27 day of the next succeeding calendar month following the reporting
28 period for which the amount is proposed to be determined or within
29 three years after the return is filed, whichever period expires the
30 later.

1 (~~(8)~~) (9) Any special fuel dealer or special fuel user against
2 whom an assessment is made under the provisions of subsections (2) or
3 (3) of this section may petition for a reassessment thereof within
4 thirty days after service upon the special fuel dealer or special fuel
5 user of notice thereof. If such petition is not filed within such
6 thirty day period, the amount of the assessment becomes final at the
7 expiration thereof.

8 If a petition for reassessment is filed within the thirty day
9 period, the department shall reconsider the assessment and, if the
10 special fuel dealer or special fuel user has so requested in his or her
11 petition, shall grant such special fuel dealer or special fuel user an
12 oral hearing and give the special fuel dealer or special fuel user ten
13 days' notice of the time and place thereof. The department may
14 continue the hearing from time to time. The decision of the department
15 upon a petition for reassessment shall become final thirty days after
16 service upon the special fuel dealer or special fuel user of notice
17 thereof.

18 Every assessment made by the department shall become due and
19 payable at the time it becomes final and if not paid to the department
20 when due and payable, there shall be added thereto a penalty of ten
21 percent of the amount of the tax.

22 (~~(9)~~) (10) Any notice of assessment required by this section
23 shall be served personally or by mail; if by mail, service shall be
24 made by depositing such notice in the United States mail, postage
25 prepaid addressed to the special fuel dealer or special fuel user at
26 his or her address as the same appears in the records of the
27 department.

28 (~~(10)~~) (11) Any licensee who has had their special fuel user
29 license, special fuel dealer license, special fuel supplier license, or

1 combination thereof revoked shall pay a one hundred dollar penalty
2 prior to the issuance of a new license.

3 (~~(11)~~) (12) Any person who, upon audit or investigation by the
4 department, is found to have not paid special fuel taxes as required by
5 this chapter shall be subject to cancellation of all vehicle
6 registrations for vehicles utilizing special fuel as a means of
7 propulsion. Any unexpired Washington tonnage on the vehicles in
8 question may be transferred to a purchaser of the vehicles upon
9 application to the department who shall hold such tonnage in its
10 custody until a sale of the vehicle is made or the tonnage has
11 expired."

12 "NEW SECTION. Sec. 8. A new section is added to chapter 82.42 RCW
13 to read as follows:

14 Except in the case of violations of filing a false or fraudulent
15 report, if the department deems mitigation of penalties and interest to
16 be reasonable and in the best interests of carrying out the purpose of
17 this chapter, it may mitigate such assessments upon whatever terms the
18 department deems proper, giving consideration to the degree and extent
19 of the lack of records and reporting errors. The department may
20 ascertain the facts regarding recordkeeping and payment penalties in
21 lieu of more elaborate proceedings under this chapter."

22 "NEW SECTION. Sec. 9. A new section is added to chapter 41.06 RCW
23 to read as follows:

24 In addition to the exemptions set forth in RCW 41.06.070, the
25 provisions of this chapter shall not apply to the department of
26 licensing to confidential secretaries of assistant directors and
27 currently exempt employees of the agency. Each confidential secretary

1 must meet the minimum qualifications for the class of secretary II as
2 determined by the state personnel board."

3 "Sec. 10. RCW 46.20.308 and 1989 c 337 s 8 are each amended to
4 read as follows:

5 (1) Any person who operates a motor vehicle within this state is
6 deemed to have given consent, subject to the provisions of RCW
7 46.61.506, to a test or tests of his or her breath or blood for the
8 purpose of determining the alcoholic content of his or her breath or
9 blood if arrested for any offense where, at the time of the arrest, the
10 arresting officer has reasonable grounds to believe the person had been
11 driving or was in actual physical control of a motor vehicle while
12 under the influence of intoxicating liquor.

13 (2) The test or tests of breath shall be administered at the
14 direction of a law enforcement officer having reasonable grounds to
15 believe the person to have been driving or in actual physical control
16 of a motor vehicle within this state while under the influence of
17 intoxicating liquor. However, in those instances where: (a) The
18 person is incapable due to physical injury, physical incapacity, or
19 other physical limitation, of providing a breath sample; or (b) as a
20 result of a traffic accident the person is being treated for a medical
21 condition in a hospital, clinic, doctor's office, or other similar
22 facility in which a breath testing instrument is not present, a blood
23 test shall be administered by a qualified person as provided in RCW
24 46.61.506(4). The officer shall inform the person of his or her right
25 to refuse the breath or blood test, and of his or her right to have
26 additional tests administered by any qualified person of his or her
27 choosing as provided in RCW 46.61.506. The officer shall warn the
28 driver that (a) his or her privilege to drive will be revoked or denied

1 if he or she refuses to submit to the test, and (b) that his or her
2 refusal to take the test may be used in a criminal trial.

3 (3) Except as provided in this section, the test administered shall
4 be of the breath only. If an individual is unconscious or is under
5 arrest for the crime of vehicular homicide as provided in RCW 46.61.520
6 or vehicular assault as provided in RCW 46.61.522, or if an individual
7 is under arrest for the crime of driving while under the influence of
8 intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest
9 results from an accident in which another person has been injured and
10 there is a reasonable likelihood that such other person may die as a
11 result of injuries sustained in the accident, a breath or blood test
12 may be administered without the consent of the individual so arrested.

13 (4) Any person who is dead, unconscious, or who is otherwise in a
14 condition rendering him or her incapable of refusal, shall be deemed
15 not to have withdrawn the consent provided by subsection (1) of this
16 section and the test or tests may be administered, subject to the
17 provisions of RCW 46.61.506, and the person shall be deemed to have
18 received the warnings required under subsection (2) of this section.

19 (5) If, following his or her arrest and receipt of warnings under
20 subsection (2) of this section, the person arrested refuses upon the
21 request of a law enforcement officer to submit to a test or tests of
22 his or her breath or blood, no test shall be given except as authorized
23 under subsection (3) or (4) of this section.

24 (6) The department of licensing, upon the receipt of a sworn report
25 of the law enforcement officer that the officer had reasonable grounds
26 to believe the arrested person had been driving or was in actual
27 physical control of a motor vehicle within this state while under the
28 influence of intoxicating liquor and that the person had refused to
29 submit to the test or tests upon the request of the law enforcement
30 officer after being informed that refusal would result in the

1 revocation of the person's privilege to drive, shall revoke the
2 person's license or permit to drive or any nonresident operating
3 privilege.

4 (7) Upon revoking the license or permit to drive or the nonresident
5 operating privilege of any person, the department shall immediately
6 notify the person involved in writing by personal service or by
7 certified mail of its decision and the grounds therefor, and of the
8 person's right to a hearing, specifying the steps he or she must take
9 to obtain a hearing. Within fifteen days after the notice has been
10 given, the person may, in writing, request a formal hearing. Upon
11 receipt of such request, the department shall afford the person an
12 opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332.
13 The hearing shall be conducted in the county of the arrest. For the
14 purposes of this section, the scope of such hearing shall cover the
15 issues of whether a law enforcement officer had reasonable grounds to
16 believe the person had been driving or was in actual physical control
17 of a motor vehicle within this state while under the influence of
18 intoxicating liquor, whether the person was placed under arrest, and
19 whether the person refused to submit to the test or tests upon request
20 of the officer after having been informed that such refusal would
21 result in the revocation of the person's privilege to drive. The
22 department shall order that the revocation either be rescinded or
23 sustained. Any decision by the department revoking a person's driving
24 privilege shall be stayed and shall not take effect while a formal
25 hearing is pending as provided in this section or during the pendency
26 of a subsequent appeal to superior court so long as there is no
27 conviction for a moving violation or no finding that the person has
28 committed a traffic infraction that is a moving violation during
29 pendency of the hearing and appeal.

1 (8) If the revocation is sustained after such a hearing, the person
2 whose license, privilege, or permit is revoked has the right to file a
3 petition in the superior court of the county of arrest to review the
4 final order of revocation by the department in the manner provided in
5 RCW 46.20.334.

6 (9) The department shall rescind the revocation of a person's
7 driving privilege under this section upon notification from the court
8 of record that, for the incident upon which the department based its
9 administrative action:

10 (a)(i) The officer's grounds for believing that the person had been
11 driving or was in actual physical control of a motor vehicle while
12 under the influence of intoxicating liquor were based solely on a
13 nonalcohol or nondrug-related medical condition or (ii) the person's
14 refusal or inability to submit to a breath test was based solely on a
15 nonalcohol or nondrug-related medical condition; and

16 (b) The person has been found not guilty of driving or being in
17 actual physical control of a motor vehicle within this state while
18 under the influence of intoxicating liquor or any drug including any
19 drug prescribed for the medical condition. Upon notification from the
20 court of record of a not guilty finding, the department shall expunge
21 the implied consent violation from the person's driving record.

22 (10) When it has been finally determined under the procedures of
23 this section that a nonresident's privilege to operate a motor vehicle
24 in this state has been revoked, the department shall give information
25 in writing of the action taken to the motor vehicle administrator of
26 the state of the person's residence and of any state in which he or she
27 has a license."

28 "Sec. 11. RCW 46.61.560 and 1984 c 7 s 72 are each amended to read
29 as follows:

1 (1) Outside of incorporated cities and towns no person may stop,
2 park, or leave standing any vehicle, whether attended or unattended,
3 upon the roadway.

4 (2) Subsection (1) of this section and RCW 46.61.570 and 46.61.575
5 do not apply to the driver of any vehicle that is disabled in such
6 manner and to such extent that it is impossible to avoid stopping and
7 temporarily leaving the vehicle in such position. The driver shall
8 nonetheless arrange for the prompt removal of the vehicle as required
9 by RCW 46.61.590.

10 (3) Subsection (1) of this section does not apply to the driver of
11 a public transit vehicle who temporarily stops the vehicle upon the
12 roadway for the purpose of and while actually engaged in receiving or
13 discharging passengers at a marked transit vehicle stop zone approved
14 by the state department of transportation or a county upon highways
15 under their respective jurisdictions.

16 (4) Subsection (1) of this section and RCW 46.61.570 and 46.61.575
17 do not apply to the driver of a solid waste collection company or
18 recycling company vehicle who temporarily stops the vehicle as close as
19 practical to the right edge of the right-hand shoulder of the roadway
20 or right edge of the roadway if no shoulder exists for the purpose of
21 and while actually engaged in the collection of solid waste or
22 recyclables, or both, under chapters 81.77, 35.21, and 35A.21 RCW or by
23 contract under RCW 36.58.030."

24 "**Sec. 12.** RCW 46.87.070 and 1990 c 42 s 112 are each amended to
25 read as follows:

26 (1) Washington-based trailers, semitrailers, converter gears
27 (auxiliary axles), or pole trailers shall be ((fully)) licensed in this
28 state under the provisions of chapter 46.16 RCW except as herein
29 provided. If these vehicles are being operated in jurisdictions that

1 require the registration of such vehicles, the applicable vehicles may
2 be considered as apportionable or commercial vehicles for the purpose
3 of registration in those jurisdictions and this state. ((The prorate
4 percentage for which registration fees and taxes were paid to such
5 jurisdictions for each nonmotor vehicle of the fleet may be credited
6 toward the one hundred percent of registration fees and taxes due this
7 state for full licensing of each such vehicle.))

8 (2) Trailers, semitrailers, converter gears (auxiliary axles), and
9 pole trailers which are properly based in jurisdictions other than
10 Washington, and which display currently registered license plates from
11 such jurisdictions will be granted vehicle license reciprocity in this
12 state without the need of further vehicle license registration. If
13 converter gears (auxiliary axles) or pole trailers are not required to
14 be licensed separately by a member jurisdiction, such vehicles may be
15 operated in this state without displaying a current base license
16 plate."

17 "Sec. 13. RCW 46.87.140 and 1990 c 42 s 114 are each amended to
18 read as follows:

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

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

3 (b) If registering under the provisions of the IRP, the registrant
4 shall also indicate member jurisdictions in which registration is
5 desired and furnish such other information as those member
6 jurisdictions require.

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

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

12 (a) Divide the in-jurisdiction miles by the total miles and carry
13 the answer to the nearest thousandth of a percent (three places beyond
14 the decimal, e.g. 10.543%). This factor is known as the prorate
15 percentage.

16 (b) Determine the total proratable fees and taxes required for each
17 vehicle in the fleet for which registration is requested, based on the
18 regular annual fees and taxes or applicable fees and taxes for the
19 unexpired portion of the registration year under the laws of each
20 jurisdiction for which fees or taxes are to be calculated.

21 Washington-based (~~nonpower~~) nonmotor vehicles shall normally be
22 fully licensed(~~(, by paying full registration fees and taxes, in this~~
23 ~~state)~~) under the provisions of chapter 46.16 RCW. If these vehicles
24 are being operated in jurisdictions that require the registration of
25 such vehicles, the applicable vehicles may be considered as
26 apportionable vehicles for the purpose of registration in those
27 jurisdictions and this state. The prorate percentage for which
28 registration fees and taxes were paid to such jurisdictions may be
29 credited toward the one hundred percent of registration fees and taxes
30 due this state for full licensing. Applicable fees and taxes for

1 vehicles of Washington-based fleets are those prescribed under RCW
2 46.16.070, 46.16.085, 82.38.075, and 82.44.020, as applicable.

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

8 (d) Add the total fees and taxes determined in ((~~subsection~~
9 ~~(2)~~))(c) of this ((~~section~~)) subsection for each vehicle to the
10 nonproratable fees required under the laws of the jurisdiction for
11 which fees are being calculated. Nonproratable fees required for
12 vehicles of Washington-based fleets are the administrative fee required
13 by RCW 82.38.075, if applicable, and the vehicle transaction fee
14 pursuant to the provisions of RCW 46.87.130.

15 (e) Add the total fees and taxes determined in ((~~subsection~~
16 ~~(2)~~))(d) of this ((~~section~~)) subsection for each vehicle listed on the
17 application. Assuming the fees and taxes calculated were for
18 Washington, this would be the amount due and payable for the
19 application under the provisions of the Western Compact. Under the
20 provisions of the IRP, the amount due and payable for the application
21 would be the sum of the fees and taxes referred to in ((~~subsection~~
22 ~~(2)~~))(d) of this ((~~section~~)) subsection, calculated for each member
23 jurisdiction in which registration of the fleet is desired.

24 (3) All assessments for proportional registration fees are due and
25 payable in United States funds on the date presented or mailed to the
26 registrant at the address listed in the proportional registration
27 records of the department. The registrant may petition for
28 reassessment of the fees or taxes due under this section within thirty
29 days of the date of original service as provided for in this chapter."

1 **"Sec. 14.** RCW 46.16.319 and 1990 c 250 s 6 are each amended to
2 read as follows:

3 (1) The department shall issue upon payment of a fee and proof from
4 an honorably discharged veteran, veterans with honorable military
5 service, or military personnel on active duty in the armed service, a
6 remembrance emblem depicting a tribute or message and the American
7 flag.

8 (2) Veterans and military personnel who served in our nation's wars
9 and conflicts can, upon request and payment of a fee and proof of
10 service, receive a remembrance emblem depicting the campaign ribbon
11 ~~((the veteran was))~~ they were awarded. ~~((Only))~~ The following campaign
12 ribbon remembrance emblems will be available: World War I victory
13 medal; Asiatic-Pacific campaign medal, WWII; European-African-Middle
14 East campaign medal, WWII; American campaign medal, WWII; Korean
15 service medal; Vietnam service medal; Armed Forces Expeditionary, after
16 1958. The director may adopt additional campaign ribbon remembrance
17 emblems by rule.

18 (3) The remembrance emblem will be displayed upon vehicle license
19 plates in the manner prescribed by the department.

20 (4) A veteran or military personnel requesting a remembrance emblem
21 from the department shall provide a copy of his or her discharge papers
22 (DD-214) or military orders indicating their military status and
23 campaign ribbon awarded along with payment of the fee. A veteran or
24 military personnel requesting a remembrance emblem must be a legal or
25 registered owner of the vehicle on which remembrance emblems are to be
26 displayed."

27 **"Sec. 15.** RCW 81.80.040 and 1984 c 171 s 1 are each amended to
28 read as follows:

1 The provisions of this chapter, except where specifically otherwise
2 provided, and except the provisions providing for licenses, shall not
3 apply to:

4 (1) Motor vehicles when operated in transportation exclusively
5 within the corporate limits of any city or town of less than ten
6 thousand population unless contiguous to a city or town of ten thousand
7 population or over, nor between contiguous cities or towns both or all
8 of which are less than ten thousand population;

9 (2) Motor vehicles when operated in transportation wholly within
10 the corporate limits of cities or towns of ten thousand or more but
11 less than thirty thousand population, or between such cities or towns
12 when contiguous, as to which the commission, after investigation and
13 the issuance of an order thereon, has determined that no substantial
14 public interest exists which requires that such transportation be
15 subject to regulation under this chapter;

16 (3) Motor vehicles when transporting exclusively the United States
17 mail or in the transportation of newspapers or periodicals;

18 (4) Motor vehicles owned and operated by the United States, the
19 state of Washington, or any county, city, town, or municipality
20 therein, or by any department of them, or either of them;

21 (5) Motor vehicles specially constructed for towing disabled
22 vehicles or wrecking and not otherwise used in transporting goods for
23 compensation;

24 (6) Motor vehicles normally owned and operated by farmers in the
25 transportation of their own farm, orchard, or dairy products, including
26 livestock and plant or animal wastes, from point of production to
27 market, or in the infrequent or seasonal transportation by one farmer
28 for another farmer, if their farms are located within twenty miles of
29 each other, of products of the farm, orchard, or dairy, including

1 livestock and plant or animal wastes, or of supplies or commodities to
2 be used on the farm, orchard, or dairy;

3 (7) Motor vehicles when transporting exclusively water in
4 connection with construction projects only;

5 (8) Motor vehicles of less than 8,000 pounds gross vehicle weight
6 when transporting exclusively legal documents, pleadings, process,
7 correspondence, depositions, briefs, medical records, photographs,
8 books or papers, cash or checks, when moving shipments of the documents
9 described at the direction of an attorney as part of providing legal
10 services;

11 (9) Motor vehicles used by a farmer to transport ill or injured
12 horses to or from the farmer's own property for rehabilitation by the
13 farmer when the transportation is incidental to the rehabilitation of
14 the horses."

15 "Sec. 16. RCW 82.80.010 and 1990 c 42 s 201 are each amended to
16 read as follows:

17 (1) Subject to the conditions of this section, any county may levy,
18 by approval of its legislative body and a majority of the registered
19 voters of the county voting on the proposition at a general or special
20 election, additional excise taxes equal to ten percent of the state-
21 wide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of
22 motor vehicle fuel as defined in RCW 82.36.010(2) and on each gallon of
23 special fuel as defined in RCW 82.38.020(5)~~((, per gallon or one~~
24 ~~hundred cubic feet of compressed natural gas measured at standard~~
25 ~~temperature and pressure)) sold within the boundaries of the county.
26 Vehicles paying an annual license fee under RCW 82.38.075 are exempt
27 from the county fuel excise tax. An election held under this section
28 must be held not more than twelve months before the date on which the
29 proposed tax is to be levied. The ballot setting forth the proposition~~

1 shall state the tax rate that is proposed. The county's authority to
2 levy additional excise taxes under this section includes the
3 incorporated and unincorporated areas of the county. The additional
4 excise taxes are subject to the same exceptions and rights of refund as
5 applicable to other motor vehicle fuel and special fuel excise taxes
6 levied under chapters 82.36 and 82.38 RCW. The proposed tax shall not
7 be levied less than one month from the date the election results are
8 certified by the county election officer. The commencement date for
9 the levy of any tax under this section shall be the first day of
10 January, April, July, or October.

11 (2) Every person subject to the tax shall pay, in addition to any
12 other taxes provided by law, an additional excise tax to the director
13 of licensing at the rate levied by a county exercising its authority
14 under this section.

15 (3) The state treasurer shall distribute monthly to the levying
16 county and cities contained therein the proceeds of the additional
17 excise taxes collected under this section, after the deductions for
18 payments and expenditures as provided in RCW 46.68.090 (1) (~~(a)~~ and
19 ~~(b)~~) and (2) and under the conditions and limitations provided in RCW
20 82.80.080.

21 (4) The proceeds of the additional excise taxes levied under this
22 section shall be used strictly for transportation purposes in
23 accordance with RCW 82.80.070.

24 (5) The department of licensing shall administer and collect the
25 county fuel taxes. The department shall deduct a percentage amount, as
26 provided by contract, for administrative, collection, refund, and audit
27 expenses incurred. The remaining proceeds shall be remitted to the
28 custody of the state treasurer for monthly distribution under RCW
29 82.80.080."

1 **"Sec. 17.** RCW 82.36.010 and 1990 c 250 s 79 are each amended to
2 read as follows:

3 For the purposes of this chapter:

4 (1) "Motor vehicle" means every vehicle that is in itself a self-
5 propelled unit, equipped with solid rubber, hollow-cushion rubber, or
6 pneumatic rubber tires and capable of being moved or operated upon a
7 public highway, except motor vehicles used as motive power for or in
8 conjunction with farm implements and machines or implements of
9 husbandry;

10 (2) "Motor vehicle fuel" means gasoline or any other inflammable
11 gas or liquid, by whatsoever name such gasoline, gas, or liquid may be
12 known or sold, the chief use of which is as fuel for the propulsion of
13 motor vehicles or motorboats;

14 (3) "Distributor" means every person who refines, manufactures,
15 produces, or compounds motor vehicle fuel and sells, distributes, or in
16 any manner uses it in this state; also every person engaged in business
17 as a bona fide wholesale merchant dealing in motor vehicle fuel who
18 either acquires it within the state from any person refining it within
19 or importing it into the state, on which the tax has not been paid, or
20 imports it into this state and sells, distributes, or in any manner
21 uses it in this state. For the purposes of liability for a county fuel
22 tax, "distributor" has that meaning defined in the county ordinance
23 imposing the tax;

24 (4) "Service station" means a place operated for the purpose of
25 delivering motor vehicle fuel into the fuel tanks of motor vehicles;

26 (5) "Department" means the department of licensing;

27 (6) "Director" means the director of licensing;

28 (7) "Dealer" means any person engaged in the retail sale of liquid
29 motor vehicle fuels;

1 (8) "Person" means every natural person, firm, partnership,
2 association, or private or public corporation;

3 (9) "Highway" means every way or place open to the use of the
4 public, as a matter of right, for purposes of vehicular travel;

5 (10) "Broker" means every person, other than a distributor, engaged
6 in business as a broker, jobber, or wholesale merchant dealing in motor
7 vehicle fuel or other petroleum products used or usable in propelling
8 motor vehicles, or in other petroleum products which may be used in
9 blending, compounding, or manufacturing of motor vehicle fuel;

10 (11) "Producer" means every person, other than a distributor,
11 engaged in the business of producing motor vehicle fuel or other
12 petroleum products used in, or which may be used in, the blending,
13 compounding, or manufacturing of motor vehicle fuel;

14 (12) "Distribution" means all withdrawals of motor vehicle fuel for
15 delivery to others, to retail service stations, or to unlicensed bulk
16 storage plants;

17 (13) "Bulk storage plant" means, pursuant to the licensing
18 provisions of RCW 82.36.070, any plant, under the control of the
19 distributor, used for the storage of motor vehicle fuel to which no
20 retail outlets are directly connected by pipe lines;

21 (14) "Marine fuel dealer" means any person engaged in the retail
22 sale of liquid motor vehicle fuel whose place of business and or sale
23 outlet is located upon a navigable waterway;

24 ~~((15) "Aggregate motor vehicle fuel tax revenues" means the amount~~
25 ~~of excise taxes to be paid by distributors, retailers, and users~~
26 ~~pursuant to chapters 82.36, 82.37, and 82.38 RCW for any designated~~
27 ~~fiscal period, whether or not such amounts are actually received by the~~
28 ~~department of licensing. The phrase does not include fines or~~
29 ~~penalties assessed for violations;~~

30 ~~(16) "Fiscal year" means a twelve month period ending June 30th;~~

1 ~~(17) "State personal income" means the dollar amount published as~~
2 ~~total personal income of persons in the state for the calendar year by~~
3 ~~the United States department of commerce or its successor agency;~~

4 ~~(18) "State personal income ratio" for any calendar year means that~~
5 ~~ratio expressed in percentage terms that is the sum of one hundred~~
6 ~~percent, plus seventy percent of the percentage increase or decrease in~~
7 ~~state personal income for the calendar year under consideration as~~
8 ~~compared to state personal income for the immediately preceding~~
9 ~~calendar year;~~

10 ~~(19) "Motor vehicle fund revenue" means all state taxes, fees, and~~
11 ~~penalties deposited in the motor vehicle fund and all other state~~
12 ~~revenue required by statute to be deposited in the motor vehicle fund,~~
13 ~~but does not include (a) moneys derived from nonfuel tax sources which~~
14 ~~are deposited directly in the several accounts, (b) interest deposited~~
15 ~~directly in the several accounts within the motor vehicle fund, (c)~~
16 ~~federal funds, (d) proceeds from the sale of bonds, or (e)~~
17 ~~reimbursements to the motor vehicle fund for services performed by the~~
18 ~~department of transportation for others;~~

19 ~~(20))~~ (15) "Alcohol" means alcohol that is produced from renewable
20 resources;

21 ~~((21))~~ (16) "Electronic funds transfer" means any transfer of
22 funds, other than a transaction originated by check, draft, or similar
23 paper instrument, which is initiated through an electronic terminal,
24 telephonic instrument, or computer or magnetic tape so as to order,
25 instruct, or authorize a financial institution to debit or credit an
26 account."

27 **"Sec. 18.** RCW 82.36.030 and 1990 c 42 s 202 are each amended to
28 read as follows:

1 Every distributor shall on or before the twenty-fifth day of each
2 calendar month file, on forms furnished by the director, a statement
3 signed by the distributor or his authorized agent showing the total
4 number of gallons of motor vehicle fuel sold, distributed, or used by
5 such distributor within this state during the preceding calendar month
6 and, for counties within which an additional excise tax on motor
7 vehicle fuel has been levied by that jurisdiction under RCW 82.80.010,
8 showing the total number of gallons of motor vehicle fuel sold,
9 distributed (~~(and sold to dealers)~~), or used by the distributor (~~(for~~
10 ~~sale)~~) within the boundaries of the county during the preceding
11 calendar month.

12 If any distributor fails to file such report, the director shall
13 proceed forthwith to determine from the best available sources, the
14 amount of motor vehicle fuel sold, distributed, or used by such
15 distributor for the unreported period, and said determination shall be
16 presumed to be correct for that period until proved by competent
17 evidence to be otherwise. The director shall immediately assess the
18 excise tax in the amount so determined, adding thereto a penalty of ten
19 percent for failure to report. Such penalty shall be cumulative of
20 other penalties herein provided. All statements filed with the
21 director, as required in this section, shall be public records.

22 If any distributor establishes by a fair preponderance of evidence
23 that his or her failure to file a report by the due date was
24 attributable to reasonable cause and was not intentional or willful,
25 the department may waive the penalty imposed by this section."

26 "**Sec. 19.** RCW 82.38.150 and 1990 c 42 s 203 are each amended to
27 read as follows:

28 For the purpose of determining the amount of liability for the tax
29 herein imposed each special fuel dealer and each special fuel user

1 shall file tax reports with the department, on forms prescribed by the
2 department. Special fuel dealers shall file the reports at the
3 intervals as shown in the following schedule:

4	Estimated Yearly	
5	Tax Liability	Reporting Frequency
6	\$ 0 - \$100	Yearly
7	\$101 - 250	Semi-yearly
8	\$251 - 499	Quarterly
9	\$500 and over	Monthly

10 Special fuel users whose estimated yearly tax liability is two
11 hundred fifty dollars or less, shall file a report yearly, and special
12 fuel users whose estimated yearly tax liability is more than two
13 hundred fifty dollars, shall file reports quarterly.

14 The department shall establish the reporting frequency for each
15 applicant at the time the special fuel license is issued. If it
16 becomes apparent that any special fuel licensee is not reporting in
17 accordance with the above schedule, the department shall change the
18 licensee's reporting frequency by giving thirty days' notice to the
19 licensee by mail to his address of record. A report shall be filed
20 with the department even though no special fuel was used, or tax is
21 due, for the reporting period. Each tax report shall contain a
22 declaration by the person making the same, to the effect that the
23 statements contained therein are true and are made under penalties of
24 perjury, which declaration shall have the same force and effect as a
25 verification of the report and is in lieu of such verification. The
26 report shall show such information as the department may reasonably
27 require for the proper administration and enforcement of this chapter:
28 PROVIDED, That if a special fuel dealer or special fuel user is also a

1 special fuel supplier at a location where special fuel is delivered
2 into the supply tank of a motor vehicle, and if separate storage is
3 provided thereat from which special fuel is delivered or placed into
4 fuel supply tanks of motor vehicles, the tax report to the department
5 need not include inventory control data covering bulk storage from
6 which wholesale distribution of special fuel is made. For counties
7 within which an additional excise tax on special fuel has been levied
8 by that jurisdiction under RCW 82.80.010, the report must show the
9 quantities of special fuel sold, distributed (~~(and sold)~~), 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 shall file the report on or before the
13 twenty-fifth day of the next succeeding calendar month following the
14 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

1 tax remittances at shorter intervals than one month if, in its opinion,
2 an existing bond has become insufficient.

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

9 A special fuel user whose sole use of special fuel is for purposes
10 other than the propulsion of motor vehicles upon the public highways of
11 this state shall not be required to submit the reports required in this
12 section."

13 **SHB 1704** - S COMM AMD
14 By Committee on Transportation

15
16 In line 1 of the title, after "vehicles;" strike remainder of the
17 title and insert "amending RCW 82.36.040, 82.36.120, 82.38.090,
18 82.38.170, 46.20.308, 46.61.560, 46.87.070, 46.87.140, 46.16.319,
19 81.80.040, 82.80.010, 82.36.010, 82.36.030, and 82.38.150; adding new
20 sections to chapter 82.36 RCW; adding a new section to chapter 46.87
21 RCW; adding a new section to chapter 82.42 RCW; and adding a new
22 section to chapter 41.06 RCW."