

2 SHB 1560 - S AMD - 419

3 By Senator Smith

4 ADOPTED 4/22/95

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

7 "Sec. 1. RCW 82.36.010 and 1993 c 54 s 1 are each amended to read
8 as follows:

9 For the purposes of this chapter:

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

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

20 (3) "Distributor" means every person who refines, manufactures,
21 produces, or compounds motor vehicle fuel and sells, distributes, or in
22 any manner uses it in this state; also every person engaged in business
23 as a bona fide wholesale merchant dealing in motor vehicle fuel who
24 either acquires it within the state from any person refining it within
25 or importing it into the state, on which the tax has not been paid, or
26 imports it into this state and sells, distributes, or in any manner
27 uses it in this state; also every person who acquires motor vehicle
28 fuel, on which the tax has not been paid, and exports it by commercial
29 motor vehicle as defined in RCW 82.37.020 to a location outside the
30 state. For the purposes of liability for a county fuel tax,
31 "distributor" has that meaning defined in the county ordinance imposing
32 the tax;

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

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

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

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

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

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

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

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

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

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

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

26 (15) "Alcohol" means alcohol that is produced from renewable
27 resources;

28 (16) "Electronic funds transfer" means any transfer of funds, other
29 than a transaction originated by check, draft, or similar paper
30 instrument, which is initiated through an electronic terminal,
31 telephonic instrument, or computer or magnetic tape so as to order,
32 instruct, or authorize a financial institution to debit or credit an
33 account;

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

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

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

3 **Sec. 2.** RCW 82.36.380 and 1961 c 15 s 82.36.380 are each amended
4 to read as follows:

5 ~~((Any person failing to pay the tax as herein provided, or
6 violating any of the other provisions of this chapter, or making any
7 false statement, or concealing any material fact in any report, record,
8 affidavit, or claim provided for herein, shall be guilty of a gross
9 misdemeanor, and upon conviction thereof shall be punished by a fine of
10 not less than five hundred dollars nor more than five thousand dollars
11 or by imprisonment in the county jail not exceeding one year, or by
12 both such fine and imprisonment.))~~

13 (1) It is unlawful for a person or corporation to evade a tax or
14 fee imposed under this chapter.

15 (2) Evasion of taxes or fees under this chapter is a class C felony
16 under chapter 9A.20 RCW. In addition to other penalties and remedies
17 provided by law, the court shall order a person or corporation found
18 guilty of violating subsection (1) of this section to:

19 (a) Pay the tax or fee evaded plus interest, commencing at the date
20 the tax or fee was first due, at the rate of twelve percent per year,
21 compounded monthly; and

22 (b) Pay a penalty of one hundred percent of the tax evaded, to the
23 transportation fund of the state.

24 **Sec. 3.** RCW 82.38.020 and 1994 c 262 s 22 are each amended to read
25 as follows:

26 As ((hereinafter)) used in this chapter:

27 (1) "Person" means every natural person, fiduciary, association, or
28 corporation. The term "person" as applied to an association means and
29 includes the partners or members thereof, and as applied to
30 corporations, the officers thereof.

31 (2) "Department" means the department of licensing.

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

34 (4) "Motor vehicle" means every self-propelled vehicle designed for
35 operation upon land utilizing special fuel as the means of propulsion.

36 (5) "Special fuel" means and includes all combustible gases and
37 liquids suitable for the generation of power for propulsion of motor

1 vehicles, except that it does not include motor vehicle fuel as defined
2 in chapter 82.36 RCW.

3 (6) "Bulk storage" means the placing of special fuel by a special
4 fuel dealer into a receptacle other than the fuel supply tank of a
5 motor vehicle.

6 (7) "Special fuel dealer" means any person engaged in the business
7 of delivering special fuel into the fuel supply tank or tanks of a
8 motor vehicle not then owned or controlled by him, or into bulk storage
9 facilities for subsequent use in a motor vehicle. For this purpose the
10 term "fuel supply tank or tanks" does not include cargo tanks even
11 though fuel is withdrawn directly therefrom for propulsion of the
12 vehicle.

13 (8) "Special fuel user" means any person purchasing special fuel
14 into bulk storage without payment of the special fuel tax for
15 subsequent use in a motor vehicle, or any person engaged in interstate
16 commercial operation of motor vehicles any part of which is within this
17 state.

18 (9) "Service station" means any location at which fueling of motor
19 vehicles is offered to the general public.

20 (10) "Unbonded service station" means any service station at which
21 an unbonded special fuel dealer regularly makes sales of special fuel
22 by means of delivery thereof into the fuel supply tanks of motor
23 vehicles.

24 (11) "Bond" means: (a) A bond duly executed by such special fuel
25 dealer or special fuel user as principal with a corporate surety
26 qualified under the provisions of chapter 48.28 RCW which bond shall be
27 payable to the state of Washington conditioned upon faithful
28 performance of all requirements of this chapter, including the payment
29 of all taxes, penalties, and other obligations of such dealer, arising
30 out of this chapter; or (b) a deposit with the state treasurer by the
31 special fuel dealer or special fuel user, under such terms and
32 conditions as the department may prescribe, a like amount of lawful
33 money of the United States or bonds or other obligations of the United
34 States, the state of Washington, or any county of said state, of an
35 actual market value not less than the amount so fixed by the
36 department; or (c) such other instruments as the department may
37 determine and prescribe by rule to protect the interests of the state
38 and to insure compliance of the requirements of this chapter.

1 (12) "Lessor" means any person (a) whose principal business is the
2 bona fide leasing or renting of motor vehicles without drivers for
3 compensation to the general public, and (b) who maintains established
4 places of business and whose lease or rental contracts require such
5 motor vehicles to be returned to the established places of business.

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

9 (14) "Standard pressure and temperature" means fourteen and
10 seventy-three hundredths pounds of pressure per square inch at sixty
11 degrees Fahrenheit.

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

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

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

19 **Sec. 4.** RCW 82.38.270 and 1979 c 40 s 19 are each amended to read
20 as follows:

21 ~~((It shall be unlawful for any person to:~~

22 ~~(1) Refuse, or knowingly and intentionally fail to make and file~~
23 ~~any statement required by this chapter in the manner or within the time~~
24 ~~required;~~

25 ~~(2) Knowingly and with intent to evade or to aid in the evasion of~~
26 ~~the tax imposed herein to make any false statement or conceal any~~
27 ~~material fact in any record, return, or affidavit provided for in this~~
28 ~~chapter;~~

29 ~~(3) Conduct any activities requiring a license under this chapter~~
30 ~~without a license or after a license has been suspended, surrendered,~~
31 ~~canceled, or revoked;~~

32 ~~(4) Fail to keep and maintain the books and records required by~~
33 ~~this chapter;~~

34 ~~(5) Divert special fuel purchased for a nontaxable use to a use~~
35 ~~subject to the taxes imposed by this chapter without payment of the~~
36 ~~taxes as required by this chapter.~~

37 ~~Except as otherwise provided by law, any person violating any of~~
38 ~~the provisions of this chapter shall be guilty of a gross misdemeanor~~

1 and shall, upon conviction thereof, be sentenced to pay a fine of not
2 less than five hundred dollars nor more than one thousand dollars and
3 costs of prosecution, or imprisonment for not more than one year, or
4 both.

5 ~~The fine and imprisonment provided for in this section shall be in~~
6 ~~addition to any other penalty imposed by any other provision of this~~
7 ~~chapter.)) (1) It is unlawful for a person or corporation to evade a~~
8 ~~tax or fee imposed under this chapter.~~

9 (2) Evasion of taxes or fees under this chapter is a class C felony
10 under chapter 9A.20 RCW. In addition to other penalties and remedies
11 provided by law, the court shall order a person or corporation found
12 guilty of violating subsection (1) of this section to:

13 (a) Pay the tax or fee evaded plus interest, commencing at the date
14 the tax or fee was first due, at the rate of twelve percent per year,
15 compounded monthly; and

16 (b) Pay a penalty of one hundred percent of the tax evaded, to the
17 transportation fund of the state.

18 **Sec. 5.** RCW 9A.04.080 and 1993 c 214 s 1 are each amended to read
19 as follows:

20 (1) Prosecutions for criminal offenses shall not be commenced after
21 the periods prescribed in this section.

22 (a) The following offenses may be prosecuted at any time after
23 their commission:

24 (i) Murder;

25 (ii) Arson if a death results.

26 (b) The following offenses shall not be prosecuted more than ten
27 years after their commission:

28 (i) Any felony committed by a public officer if the commission is
29 in connection with the duties of his or her office or constitutes a
30 breach of his or her public duty or a violation of the oath of office;

31 (ii) Arson if no death results; or

32 (iii) Violations of RCW 9A.44.040 or 9A.44.050 if the rape is
33 reported to a law enforcement agency within one year of its commission;
34 except that if the victim is under fourteen years of age when the rape
35 is committed and the rape is reported to a law enforcement agency
36 within one year of its commission, the violation may be prosecuted up
37 to three years after the victim's eighteenth birthday or up to ten
38 years after the rape's commission, whichever is later. If a violation

1 of RCW 9A.44.040 or 9A.44.050 is not reported within one year, the rape
2 may not be prosecuted: (A) More than three years after its commission
3 if the violation was committed against a victim fourteen years of age
4 or older; or (B) more than three years after the victim's eighteenth
5 birthday or more than seven years after the rape's commission,
6 whichever is later, if the violation was committed against a victim
7 under fourteen years of age.

8 (c) Violations of the following statutes shall not be prosecuted
9 more than three years after the victim's eighteenth birthday or more
10 than seven years after their commission, whichever is later: RCW
11 9A.44.073, 9A.44.076, 9A.44.083, 9A.44.086, 9A.44.070, 9A.44.080,
12 9A.44.100(1)(b), or 9A.64.020.

13 (d) The following offenses shall not be prosecuted more than six
14 years after their commission: Violations of RCW 9A.82.060 or
15 9A.82.080.

16 (e) The following offenses shall not be prosecuted more than five
17 years after their commission: Any class C felony under chapter 74.09,
18 82.36, or 82.38 RCW.

19 (f) Bigamy shall not be prosecuted more than three years after the
20 time specified in RCW 9A.64.010.

21 (g) No other felony may be prosecuted more than three years after
22 its commission.

23 (h) No gross misdemeanor may be prosecuted more than two years
24 after its commission.

25 (i) No misdemeanor may be prosecuted more than one year after its
26 commission.

27 (2) The periods of limitation prescribed in subsection (1) of this
28 section do not run during any time when the person charged is not
29 usually and publicly resident within this state.

30 (3) If, before the end of a period of limitation prescribed in
31 subsection (1) of this section, an indictment has been found or a
32 complaint or an information has been filed, and the indictment,
33 complaint, or information is set aside, then the period of limitation
34 is extended by a period equal to the length of time from the finding or
35 filing to the setting aside."

1 **SHB 1560** - S AMD
2 By Senator Smith

ADOPTED 4/22/95

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4 On page 1, line 1 of the title, after "tax;" strike the remainder
5 of the title and insert "amending RCW 82.36.010, 82.36.380, 82.38.020,
6 82.38.270, and 9A.04.080; and prescribing penalties."

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