

HOUSE BILL REPORT

2SHB 1241

As Passed Legislature

Title: An act relating to tax incentives for the distribution and retail sale of biodiesel and alcohol fuels.

Brief Description: Providing tax incentives for the distribution and retail sale of biodiesel and alcohol fuels.

Sponsors: By House Committee on Finance (originally sponsored by Representatives Sullivan, Crouse, Wood, Morris, Grant, Schoesler, Quall, Ruderman and Schindler).

Brief History:

Committee Activity:

Technology, Telecommunications & Energy: 1/29/03, 2/4/03 [DPS];

Finance: 2/20/03, 2/28/03 [DP2S(w/o sub TTE)].

Floor Activity:

Passed House: 3/11/03, 93-1.

Passed Senate: 4/9/03, 43-2.

Passed Legislature.

Brief Summary of Second Substitute Bill

- Establishes tax deductions and exemptions for the retail sale and distribution of biodiesel and alcohol fuels.

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Morris, Chair; Ruderman, Vice Chair; Sullivan, Vice Chair; Crouse, Ranking Minority Member; Nixon, Assistant Ranking Minority Member; Anderson, Blake, Bush, DeBolt, Hudgins, Kirby, McMahan, Romero, Tom, Wallace and Wood.

Minority Report: Do not pass. Signed by 1 member: Representative Delvin.

Staff: Pam Madson (786-7166).

HOUSE COMMITTEE ON FINANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Technology, Telecommunications & Energy. Signed by 9 members: Representatives Gombosky, Chair; McIntire, Vice Chair; Cairnes, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern, Conway, Morris, Roach and Santos.

Staff: Rick Peterson (786-7150).

Background:

Biodiesel is a non-petroleum diesel fuel produced from renewable sources such as vegetable oils, animal fats, and recycled cooking oils. It can be blended at any percentage with petroleum diesel or used as a pure product (neat diesel). Other states have adopted policies and incentives to encourage the use of biodiesel. The business and occupation tax deduction for alcohol fuel is limited to alcohol fuel with at least 85 percent alcohol.

Blended biodiesel is in use in Washington to fuel some passenger cars and municipal vehicles.

Business and Occupation Tax

The Business and Occupation (B&O) Tax is Washington's major business tax. The tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited in the State General Fund.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are many exemptions for specific types of business activities as well as certain deductions and credits permitted under the B&O tax statutes. For example, a deduction from taxable income is allowed for income derived from the sale of fuel consumed outside of United States territorial waters in vessels engaging in foreign commerce.

Retail Sales and Use Taxes

The state retail sales tax rate is 6.5 percent and is imposed on the retail sale of most items of tangible personal property and some services. In addition, local sales taxes apply. Cities and counties may levy a local tax at a rate up to a maximum of 3.1 percent; currently, local rates levied range from 0.5 percent to 2.4 percent. The combined tax rate is between a minimum of 7 percent and a maximum of 8.9 percent depending on the location of the purchase. Sales tax is paid by the purchaser and collected by the seller. Sales tax revenue is deposited in the State General Fund.

The use tax is imposed on the use of an item in this state when the acquisition of the item has not been subject to sales tax. The use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out-of-state, and items produced by the

person using the item. Use tax is equal to the sales tax rate multiplied by the value of the property used. Use tax is paid directly to the Department of Revenue. Use tax revenue is deposited in the State General Fund.

Summary of Second Substitute Bill:

Tax incentives in the form of tax deductions and exemptions are established for the retail sale and distribution of biodiesel fuels, and alcohol fuels made from a product other than petroleum or natural gas.

Business and Occupation Tax

Beginning July 1, 2003, and until June 30, 2009, a business may deduct from its business and occupation tax obligation the amounts it receives from the retail sale or distribution of biodiesel or alcohol fuels. The amounts deducted must be those attributable to the pure biodiesel or alcohol portion of the fuel blend.

Sales and use taxes

Beginning July 1, 2003, and until June 30, 2009, a person who sells biodiesel or alcohol fuel blends at retail, or who distributes these fuel blends, may claim an exemption from state and local sales and use taxes paid on qualifying investments.

Qualifying investments include the purchase of machinery and equipment as well as labor and services used for biodiesel or alcohol refueling and vehicles and other personal property used for biodiesel or alcohol blended fuel distribution. Qualifying fuels are fuels with at least 20 percent biodiesel or 85 percent alcohol. If the personal property on which the exemption is claimed is used for purposes other than the retail sale or distribution of biodiesel or alcohol fuels within three years of initial operation, the exempted taxes become due. Local governments may also provide a local sales and use tax exemption for the retail sale and distribution of biodiesel and alcohol fuel blends.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2003.

Testimony For: (Technology, Telecommunications & Energy) This bill is part of a package of bills that is designed in a comprehensive fashion to help farmers, improve air quality, and create jobs. Diesel fuel is a significant contributor to air pollution. Use of biodiesel can contribute to cleaner air. Biodiesel is a small but growing industry. As an industry it faces challenges. The petroleum industry is a mature industry. This bill gives biodiesel a chance to catch up. The biggest barrier to the use of biodiesel and ethanol is cost. Demand for the fuel will help make it more available. Providing tax incentives will help reduce the risk and cost for providing fuel stations to make the product

available. The biggest incentive to use these fuels is having it available at the pump. The requirement that 75 percent of a fueling station's business be biodiesel or alcohol fuel could discourage existing businesses from moving into providing these fuels. Certain counties do not qualify for the sales and use tax exemption. The coverage should be broader.

Testimony For: (Finance) Biodiesel is made from natural products. They are excellent rotation crops for Eastern Washington. Biodiesel has lubricity properties that are beneficial when blended with low sulfur diesel. Biodiesel can be made from crops grown in Eastern Washington that can produce cleaner fuel for use in Western Washington. The biggest down side is the high cost. Currently there are only five stations that sell biodiesel in Washington. Prices will come down with more production and sales. Biodiesel and alcohol fuels provide the following benefits: clean air, public health, energy security, and economic development. Encouraging production and distribution will result in gains from economies of scale. Success in 2009 would be four or five production facilities and a 20 percent market share.

Testimony Against: (Technology, Telecommunications & Energy) None.

Testimony Against: (Finance) None.

Testified: (Technology, Telecommunications & Energy) (In support) Representative Sullivan, prime sponsor; Dennis McLerran, Puget Sound Clean Air Agency; Linda Graham, Puget Sound Clean Cities Coalition; Jim Armstrong, Spokane County Conservation District; Graeme Sackrison; Robert Pregulman, Washington Public Interest Research Group; Sam Bryant; Donna Ewing, League of Women Voters, Washington; Toni Potter, Global Warming Action; Heather Rhoads-Weaver, Northwest Sustainable Energy for Economic Development; and Mark Tegan, Lilyblad.

(Neutral) Dan Riley, Tesoro.

Testified: (Finance) Rep. Sullivan, prime sponsor; Linda Graham, Puget Sound Clean Cities Coalition; Jim Armstrong, Spokane County Conservation District; Graeme Sackrison, citizen; Brian Sayers, citizen; and Mark Teger, Pacific Fluids, LLC.