

HOUSE BILL REPORT

HB 1477

As Reported by House Committee On:
Transportation

Title: An act relating to fuel tax evasion.

Brief Description: Strengthening laws against fuel tax evasion.

Sponsors: Representatives Cooper, Hankins and Anderson.

Brief History:

Committee Activity:

Transportation: 2/11/03, 2/27/03 [DPS].

Brief Summary of Substitute Bill

- Allows the Washington State Patrol to seize any untaxed fuel imported into the state along with the conveyances that the fuel is shipped in.
- Repeals the statutes allowing for the selling of untaxed clear diesel via card locks.
- Penalty for the single event of using dyed diesel for a taxable purpose is reduced from a felony to a misdemeanor.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 19 members: Representatives Murray, Chair; Rockefeller, Vice Chair; Simpson, Vice Chair; Campbell, Clibborn, Cooper, Dickerson, Edwards, Flannigan, Hankins, Hatfield, Hudgins, Lovick, Morris, Nixon, Romero, Sullivan, Wallace and Wood.

Minority Report: Do not pass. Signed by 10 members: Representatives Ericksen, Ranking Minority Member; Jarrett, Assistant Ranking Minority Member; Anderson, Armstrong, Bailey, Kristiansen, Mielke, Schindler, Shabro and Woods.

Staff: Jerry Long (786-7306).

Background:

Under current law unlicensed importers of motor vehicle fuel are subject to a civil penalty of 100 percent of the fuel tax due, plus interest. In addition to the penalties, unlicensed importers and manufacturers of motor vehicle fuel and special fuel may be subject to a criminal penalty of a class C felony.

Card lock facilities are authorized to sell tax free diesel to farmers, logging companies and construction companies licensed by the Department of Licensing to purchase clear, tax free diesel fuel for non-highway equipment or for non-highway use. The fuel may be purchased by inserting a card into the pump which identifies the purchase as being exempt from the fuel tax. Fraud may occur when a person purchases this untaxed fuel and uses it for taxable purpose. Currently, the State has a dyed diesel program in place where persons may purchase dyed diesel for tax exempt purposes, and which may be detected by law enforcement should it be used for taxable purposes.

Dyed diesel can be purchased by anyone for use in non-highway equipment unless otherwise exempted by law. Currently, dyed diesel infractions are punishable as a felony in this State.

Summary of Substitute Bill:

The Washington State Patrol (WSP) may seize any fuel imported into the state or manufactured in the state by a person that is not licensed and seize any conveyances in which the fuel is transported. The WSP and/or the Department of Licensing may enter into contracts for the transportation, handling, storage, and sale of fuel seized and may deduct expenses from the proceeds. Seized conveyances are sold at public auction. Proceeds from the sales are deposited into the Motor Vehicle Account.

The statute allowing for the sale of untaxed clear diesel at card lock facilities to farmers, logging companies, and construction companies is repealed.

The penalty for a single event of using dyed diesel for a taxable purpose is reduced from a felony to a gross misdemeanor. Multiple dyed diesel infractions remain a felony.

Substitute Bill Compared to Original Bill:

Language is strengthened to require the Washington State Patrol to return seized property back to the owners if they are found not guilty. Provision is added to limit the State's liability when the property is auctioned as to the quality or fitness of the property with no expressed warranty. References corrections in sections 2, 8, and 14.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Department of Licensing's Fuel Tax Division is in support of all sections of the bill to reduce fuel tax evasion. With the dyed diesel program and the Department of Licensing's fuel tax refund process, the agency was in favor of the elimination of the card locks selling non-taxed clear diesel fuel for off road usage.

The WSP is interested in the change in penalty from a felony to misdemeanor on the first offense. The WSP feels that the cases would get scheduled in court as a misdemeanor where currently, because of the prosecutors workloads, the existing cases as felonies are not being scheduled and heard.

Washington Oil Marketers Association (Association) is in support of the sections relating to reducing fuel tax evasion. The Association does have concerns regarding the elimination of the card locks selling non-taxed clear diesel. If dyed diesel is not available in the area, then the user would need to apply to the Department of Licensing to have the fuel tax paid refunded.

Testimony Against: None.

Testified: (In support) Representative Cooper, prime sponsor; Jeff Beach, Department of Licensing; and Brian Ursino, Washington State Patrol.

(In support with concerns) Charlie Brown, Washington Oil Marketers Association.