

SENATE BILL REPORT

SB 5190

As Reported By Senate Committee On:
Highways & Transportation, February 26, 2003

Title: An act relating to fuel tax evasion.

Brief Description: Strengthening laws against fuel tax evasion.

Sponsors: Senators Jacobsen, Horn, Haugen and Franklin.

Brief History:

Committee Activity: Highways & Transportation: 1/30/03, 2/26/03 [DPS].

SENATE COMMITTEE ON HIGHWAYS & TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5190 be substituted therefor, and the substitute bill do pass.

Signed by Senators Horn, Chair; Benton, Vice Chair; Swecker, Vice Chair; Esser, Finkbeiner, Haugen, Jacobsen; Kastama, Mulliken, Oke, Prentice and Spanel.

Staff: Dean Carlson (786-7305)

Background: Unlicensed importers/manufacturers of fuel. Under current law, unlicensed importers of motor vehicle fuel are subject to a civil penalty of 100 percent of the 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.

Tax-free card lock purchases. Card lock facilities are authorized to sell tax-free diesel fuel 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 of the fuel tax. Fraud may occur when someone purchases this untaxed fuel and uses it for a purpose that is not tax exempt. Currently, the state has a dyed diesel program in place where people may purchase dyed diesel for tax exempt purposes, and which may be detected by law enforcement should it be used for taxable purposes.

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

Summary of Substitute Bill: Unlicensed importers/manufacturers of fuel. The State Patrol may seize any fuel imported into the state or manufactured in the state by a person that is not licensed, and may seize any conveyances in which the fuel is transported. The State Patrol 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.

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the sale of untaxed clear diesel at card lock facilities to farmers, logging companies and construction companies is repealed.

Penalties for infractions. 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: The original bill was not considered.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Lowering the penalty to a gross misdemeanor would have a lot more success for prosecution. Zero out of 72 cases were prosecuted last year. The seizure provision in the bill will be a big deterrent. Selling clear tax-free diesel at card lock facilities has the potential for evasion. There are other ways to get diesel free of tax.

Testimony Against: None.

Testified: Jeff Beach, Department of Licensing (pro); Glenn Cramer, Washington State Patrol (pro); Brian Lursino, Washington State Patrol (pro).