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HOUSE BILL 1826

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Holmquist, Hinkle, Morrell and Dunn

Read first time 02/07/2005.      Referred to Committee on Technology,  
Energy & Communications.

1            AN ACT Relating to improving the state's air quality by encouraging  
2 alternative markets for Washington's agricultural industries; amending  
3 RCW 19.112.010, 82.12.955, 82.08.955, and 84.36.635; reenacting and  
4 amending RCW 82.29A.135 and 82.04.260; adding a new section to chapter  
5 19.112 RCW; and creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            NEW SECTION.    **Sec. 1.** The legislature finds that emissions from  
8 automobiles are a primary source of air quality degradation in the  
9 state of Washington. The legislature further finds that motor vehicle  
10 fuels, such as ethanol and biodiesel, that are blended with  
11 agricultural products burn cleaner and result in cleaner air for the  
12 densely populated urban areas of the state. Production of the crops  
13 necessary to produce some of the cleaner burning blended fuels could  
14 serve as an alternative market for Washington's farm families and  
15 economically benefit the rural areas of the state.

16            NEW SECTION.    **Sec. 2.** A new section is added to chapter 19.112 RCW  
17 to read as follows:

1 (1) Unless otherwise provided under subsection (4) of this section,  
2 all nondiesel motor fuels offered at retail sale in Washington must  
3 contain at least ten percent ethanol by volume.

4 (2) Unless otherwise provided under subsection (4) of this section,  
5 all diesel motor fuels offered at retail sale in Washington must  
6 contain at least two percent biodiesel fuel by volume.

7 (3) Motor fuel producers may acquire the ethanol required to  
8 satisfy the requirements of this section from any source authorized by  
9 state or federal law.

10 (4) The director shall authorize the sale of motor fuels that do  
11 not meet the requirements of this section if the director determines:

12 (a) That sufficient verifiable quantities of competitively priced  
13 Washington-produced ethanol are not available to meet the minimum  
14 requirements of this section; or

15 (b) Any other circumstances occur that would make compliance with  
16 this section an undue hardship for the motor fuel manufacturer,  
17 distributor, retailer, or consumer.

18 **Sec. 3.** RCW 19.112.010 and 1991 c 145 s 1 are each amended to read  
19 as follows:

20 As used in this chapter:

21 (1) "Motor fuel" means any liquid product used for the generation  
22 of power in an internal combustion engine used for the propulsion of a  
23 motor vehicle upon the highways of this state. Motor fuels containing  
24 ethanol may be marketed if either (a) the base motor fuel meets the  
25 applicable standards before the addition of the ethanol or (b) the  
26 resultant blend meets the applicable standards after the addition of  
27 the ethanol.

28 (2) "Director" means the director of agriculture.

29 (3) "Biodiesel fuel" has the meaning provided in RCW 82.29A.135.

30 **Sec. 4.** RCW 82.12.955 and 2003 c 63 s 3 are each amended to read  
31 as follows:

32 (1) The provisions of this chapter do not apply in respect to the  
33 use of machinery and equipment, or to services rendered in respect to  
34 installing, repairing, cleaning, altering, or improving of eligible  
35 machinery and equipment, or tangible personal property that becomes an

1 ingredient or component of machinery and equipment used directly for  
2 the retail sale of a biodiesel or alcohol fuel blend, or the  
3 manufacture of ethanol.

4 (2) The provisions of this chapter do not apply in respect to the  
5 use of fuel delivery vehicles including repair parts and replacement  
6 parts and to services rendered in respect to installing, repairing,  
7 cleaning, altering, or improving the vehicles if at least seventy-five  
8 percent of the fuel distributed by the vehicles is a biodiesel or  
9 alcohol fuel blend.

10 (3) For the purposes of this section, the definitions in RCW  
11 82.04.4334 and 82.08.955 apply.

12 (4) This section expires July 1, 2009.

13 **Sec. 5.** RCW 82.29A.135 and 2003 c 339 s 10 and 2003 c 261 s 10 are  
14 each reenacted and amended to read as follows:

15 (1) For the purposes of this section:

16 (a) "Alcohol fuel" means any alcohol made from a product other than  
17 petroleum or natural gas, which is used alone or in combination with  
18 gasoline or other petroleum products for use as a fuel for motor  
19 vehicles, farm implements, and machines or implements of husbandry.

20 (b) "Biodiesel feedstock" means oil that is produced from an  
21 agricultural crop for the sole purpose of ultimately producing  
22 biodiesel fuel.

23 (c) "Biodiesel fuel" means a mono alkyl ester of long chain fatty  
24 acids derived from vegetable oils or animal fats for use in  
25 compression-ignition engines and that meets the requirements of the  
26 American society of testing and materials specification D 6751 in  
27 effect as of January 1, 2003.

28 (d) "Wood biomass fuel" means a pyrolytic liquid fuel or synthesis  
29 gas-derived liquid fuel, used in internal combustion engines, and  
30 produced from wood, forest, or field residue, or dedicated energy crops  
31 that do not include wood pieces that have been treated with chemical  
32 preservatives such as creosote, pentachlorophenol, or copper-chroma-  
33 arsenic.

34 (2)(a) All leasehold interests in buildings, machinery, equipment,  
35 and other personal property which is used primarily for the  
36 manufacturing of alcohol fuel, wood biomass fuel, ethanol, biodiesel  
37 fuel, or biodiesel feedstock, the land upon which this property is

1 located, and land that is reasonably necessary in the manufacturing of  
2 alcohol fuel, wood biomass fuel, ethanol, biodiesel fuel, or biodiesel  
3 feedstock, but not land necessary for growing of crops, which together  
4 comprise a new manufacturing facility or an addition to an existing  
5 manufacturing facility, are exempt from leasehold taxes for a period of  
6 six years from the date on which the facility or the addition to the  
7 existing facility becomes operational.

8 (b) For manufacturing facilities which produce products in addition  
9 to alcohol fuel, wood biomass fuel, ethanol, biodiesel fuel, or  
10 biodiesel feedstock, the amount of the leasehold tax exemption shall be  
11 based upon the annual percentage of the total value of all products  
12 manufactured that is the value of the alcohol fuel, wood biomass fuel,  
13 ethanol, biodiesel fuel, and biodiesel feedstock manufactured.

14 (3) Claims for exemptions authorized by this section shall be filed  
15 with the department of revenue on forms prescribed by the department of  
16 revenue and furnished by the department of revenue. Once filed, the  
17 exemption is valid for six years and shall not be renewed. The  
18 department of revenue shall verify and approve claims as the department  
19 of revenue determines to be justified and in accordance with this  
20 section. No claims may be filed after December 31, 2009.

21 The department of revenue may promulgate such rules, pursuant to  
22 chapter 34.05 RCW, as are necessary to properly administer this  
23 section.

24 **Sec. 6.** RCW 82.08.955 and 2003 c 63 s 2 are each amended to read  
25 as follows:

26 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
27 machinery and equipment, or to services rendered in respect to  
28 constructing structures, installing, constructing, repairing, cleaning,  
29 decorating, altering, or improving of structures or machinery and  
30 equipment, or to sales of tangible personal property that becomes an  
31 ingredient or component of structures or machinery and equipment, if  
32 the machinery, equipment, or structure is used directly for the retail  
33 sale of a biodiesel or alcohol fuel blend, or for the manufacture of  
34 ethanol. Structures and machinery and equipment that are used for the  
35 retail sale of a biodiesel or alcohol fuel blend, or for the  
36 manufacture of ethanol, and for other purposes are exempt only on the

1 portion used directly for the retail sale of a biodiesel or alcohol  
2 fuel blend.

3 (2) The tax levied by RCW 82.08.020 does not apply to sales of fuel  
4 delivery vehicles or to sales of or charges made for labor and services  
5 rendered in respect to installing, repairing, cleaning, altering, or  
6 improving the vehicles including repair parts and replacement parts if  
7 at least seventy-five percent of the fuel distributed by the vehicles  
8 is a biodiesel or alcohol fuel blend.

9 (3) A person taking the exemption under this section must keep  
10 records necessary for the department to verify eligibility under this  
11 section. The exemption is available only when the buyer provides the  
12 seller with an exemption certificate in a form and manner prescribed by  
13 the department. The seller shall retain a copy of the certificate for  
14 the seller's files.

15 (4) For the purposes of this section, the definitions in RCW  
16 82.04.4334 and this subsection apply.

17 (a) "Alcohol fuel blend" means fuel that contains at least eighty-  
18 five percent alcohol fuel by volume.

19 (b) "Biodiesel blend" means fuel that contains at least twenty  
20 percent biodiesel fuel by volume.

21 (c) "Machinery and equipment" means industrial fixtures, devices,  
22 and support facilities and tangible personal property that becomes an  
23 ingredient or component thereof, including repair parts and replacement  
24 parts that are integral and necessary for the delivery of biodiesel or  
25 alcohol fuel blends into the fuel tank of a motor vehicle.

26 (5) This section expires July 1, 2009.

27 **Sec. 7.** RCW 84.36.635 and 2003 c 261 s 9 are each amended to read  
28 as follows:

29 (1) For the purposes of this section:

30 (a) "Alcohol fuel" means any alcohol made from a product other than  
31 petroleum or natural gas, which is used alone or in combination with  
32 gasoline or other petroleum products for use as a fuel for motor  
33 vehicles, farm implements, and machines or implements of husbandry.

34 (b) "Biodiesel feedstock" means oil that is produced from an  
35 agricultural crop for the sole purpose of ultimately producing  
36 biodiesel fuel.

1 (c) "Biodiesel fuel" means a mono alkyl ester of long chain fatty  
2 acids derived from vegetable oils or animal fats for use in  
3 compression-ignition engines and that meets the requirements of the  
4 American society of testing and materials specification D 6751 in  
5 effect as of January 1, 2003.

6 (2)(a) All buildings, machinery, equipment, and other personal  
7 property which is used primarily for the manufacturing of alcohol fuel,  
8 ethanol, biodiesel fuel, or biodiesel feedstock, the land upon which  
9 this property is located, and land that is reasonably necessary in the  
10 manufacturing of alcohol fuel, ethanol, biodiesel fuel, or biodiesel  
11 feedstock, but not land necessary for growing of crops, which together  
12 comprise a new manufacturing facility or an addition to an existing  
13 manufacturing facility, are exempt from property taxation for the six  
14 assessment years following the date on which the facility or the  
15 addition to the existing facility becomes operational.

16 (b) For manufacturing facilities which produce products in addition  
17 to alcohol fuel, ethanol, biodiesel fuel, or biodiesel feedstock, the  
18 amount of the property tax exemption shall be based upon the annual  
19 percentage of the total value of all products manufactured that is the  
20 value of the alcohol fuel, ethanol, biodiesel fuel, and biodiesel  
21 feedstock manufactured.

22 (3) Claims for exemptions authorized by this section shall be filed  
23 with the county assessor on forms prescribed by the department of  
24 revenue and furnished by the assessor. Once filed, the exemption is  
25 valid for six years and shall not be renewed. The assessor shall  
26 verify and approve claims as the assessor determines to be justified  
27 and in accordance with this section. No claims may be filed after  
28 December 31, 2009.

29 The department of revenue may (~~promulgate~~) adopt such rules,  
30 pursuant to chapter 34.05 RCW, as necessary to properly administer this  
31 section.

32 **Sec. 8.** RCW 82.04.260 and 2003 2nd sp.s. c 1 s 4 and 2003 2nd  
33 sp.s. c 1 s 3 are each reenacted and amended to read as follows:

34 (1) Upon every person engaging within this state in the business of  
35 manufacturing:

36 (a) Wheat into flour, barley into pearl barley, soybeans into  
37 soybean oil, canola into canola oil, canola meal, or canola byproducts,

1 or sunflower seeds into sunflower oil; as to such persons the amount of  
2 tax with respect to such business shall be equal to the value of the  
3 flour, pearl barley, oil, canola meal, or canola byproduct  
4 manufactured, multiplied by the rate of 0.138 percent;

5 (b) Seafood products which remain in a raw, raw frozen, or raw  
6 salted state at the completion of the manufacturing by that person; as  
7 to such persons the amount of tax with respect to such business shall  
8 be equal to the value of the products manufactured, multiplied by the  
9 rate of 0.138 percent;

10 (c) By canning, preserving, freezing, processing, or dehydrating  
11 fresh fruits and vegetables, or selling at wholesale fresh fruits and  
12 vegetables canned, preserved, frozen, processed, or dehydrated by the  
13 seller and sold to purchasers who transport in the ordinary course of  
14 business the goods out of this state; as to such persons the amount of  
15 tax with respect to such business shall be equal to the value of the  
16 products canned, preserved, frozen, processed, or dehydrated multiplied  
17 by the rate of 0.138 percent. As proof of sale to a person who  
18 transports in the ordinary course of business goods out of this state,  
19 the seller shall annually provide a statement in a form prescribed by  
20 the department and retain the statement as a business record;

21 (d) Dairy products that as of September 20, 2001, are identified in  
22 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts  
23 from the manufacturing of the dairy products such as whey and casein;  
24 or selling the same to purchasers who transport in the ordinary course  
25 of business the goods out of state; as to such persons the tax imposed  
26 shall be equal to the value of the products manufactured multiplied by  
27 the rate of 0.138 percent. As proof of sale to a person who transports  
28 in the ordinary course of business goods out of this state, the seller  
29 shall annually provide a statement in a form prescribed by the  
30 department and retain the statement as a business record;

31 (e) Alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those  
32 terms are defined in RCW 82.29A.135, or ethanol; as to such persons the  
33 amount of tax with respect to the business shall be equal to the value  
34 of alcohol fuel, ethanol, biodiesel fuel, or biodiesel feedstock  
35 manufactured, multiplied by the rate of 0.138 percent. This subsection  
36 (1)(e) expires July 1, 2009; and

37 (f) Alcohol fuel or wood biomass fuel, as those terms are defined

1 in RCW 82.29A.135; as to such persons the amount of tax with respect to  
2 the business shall be equal to the value of alcohol fuel or wood  
3 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

4 (2) Upon every person engaging within this state in the business of  
5 splitting or processing dried peas; as to such persons the amount of  
6 tax with respect to such business shall be equal to the value of the  
7 peas split or processed, multiplied by the rate of 0.138 percent.

8 (3) Upon every nonprofit corporation and nonprofit association  
9 engaging within this state in research and development, as to such  
10 corporations and associations, the amount of tax with respect to such  
11 activities shall be equal to the gross income derived from such  
12 activities multiplied by the rate of 0.484 percent.

13 (4) Upon every person engaging within this state in the business of  
14 slaughtering, breaking and/or processing perishable meat products  
15 and/or selling the same at wholesale only and not at retail; as to such  
16 persons the tax imposed shall be equal to the gross proceeds derived  
17 from such sales multiplied by the rate of 0.138 percent.

18 (5) Upon every person engaging within this state in the business of  
19 making sales, at retail or wholesale, of nuclear fuel assemblies  
20 manufactured by that person, as to such persons the amount of tax with  
21 respect to such business shall be equal to the gross proceeds of sales  
22 of the assemblies multiplied by the rate of 0.275 percent.

23 (6) Upon every person engaging within this state in the business of  
24 manufacturing nuclear fuel assemblies, as to such persons the amount of  
25 tax with respect to such business shall be equal to the value of the  
26 products manufactured multiplied by the rate of 0.275 percent.

27 (7) Upon every person engaging within this state in the business of  
28 acting as a travel agent or tour operator; as to such persons the  
29 amount of the tax with respect to such activities shall be equal to the  
30 gross income derived from such activities multiplied by the rate of  
31 0.275 percent.

32 (8) Upon every person engaging within this state in business as an  
33 international steamship agent, international customs house broker,  
34 international freight forwarder, vessel and/or cargo charter broker in  
35 foreign commerce, and/or international air cargo agent; as to such  
36 persons the amount of the tax with respect to only international  
37 activities shall be equal to the gross income derived from such  
38 activities multiplied by the rate of 0.275 percent.



1           (9) Upon every person engaging within this state in the business of  
2 stevedoring and associated activities pertinent to the movement of  
3 goods and commodities in waterborne interstate or foreign commerce; as  
4 to such persons the amount of tax with respect to such business shall  
5 be equal to the gross proceeds derived from such activities multiplied  
6 by the rate of 0.275 percent. Persons subject to taxation under this  
7 subsection shall be exempt from payment of taxes imposed by chapter  
8 82.16 RCW for that portion of their business subject to taxation under  
9 this subsection. Stevedoring and associated activities pertinent to  
10 the conduct of goods and commodities in waterborne interstate or  
11 foreign commerce are defined as all activities of a labor, service or  
12 transportation nature whereby cargo may be loaded or unloaded to or  
13 from vessels or barges, passing over, onto or under a wharf, pier, or  
14 similar structure; cargo may be moved to a warehouse or similar holding  
15 or storage yard or area to await further movement in import or export  
16 or may move to a consolidation freight station and be stuffed,  
17 unstuffed, containerized, separated or otherwise segregated or  
18 aggregated for delivery or loaded on any mode of transportation for  
19 delivery to its consignee. Specific activities included in this  
20 definition are: Wharfage, handling, loading, unloading, moving of  
21 cargo to a convenient place of delivery to the consignee or a  
22 convenient place for further movement to export mode; documentation  
23 services in connection with the receipt, delivery, checking, care,  
24 custody and control of cargo required in the transfer of cargo;  
25 imported automobile handling prior to delivery to consignee; terminal  
26 stevedoring and incidental vessel services, including but not limited  
27 to plugging and unplugging refrigerator service to containers,  
28 trailers, and other refrigerated cargo receptacles, and securing ship  
29 hatch covers.

30           (10) Upon every person engaging within this state in the business  
31 of disposing of low-level waste, as defined in RCW 43.145.010; as to  
32 such persons the amount of the tax with respect to such business shall  
33 be equal to the gross income of the business, excluding any fees  
34 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3  
35 percent.

36           If the gross income of the taxpayer is attributable to activities  
37 both within and without this state, the gross income attributable to

1 this state shall be determined in accordance with the methods of  
2 apportionment required under RCW 82.04.460.

3 (11) Upon every person engaging within this state as an insurance  
4 agent, insurance broker, or insurance solicitor licensed under chapter  
5 48.17 RCW; as to such persons, the amount of the tax with respect to  
6 such licensed activities shall be equal to the gross income of such  
7 business multiplied by the rate of 0.484 percent.

8 (12) Upon every person engaging within this state in business as a  
9 hospital, as defined in chapter 70.41 RCW, that is operated as a  
10 nonprofit corporation or by the state or any of its political  
11 subdivisions, as to such persons, the amount of tax with respect to  
12 such activities shall be equal to the gross income of the business  
13 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
14 percent thereafter. The moneys collected under this subsection shall  
15 be deposited in the health services account created under RCW  
16 43.72.900.

17 (13)(a) Beginning October 1, 2005, upon every person engaging  
18 within this state in the business of manufacturing commercial  
19 airplanes, or components of such airplanes, as to such persons the  
20 amount of tax with respect to such business shall, in the case of  
21 manufacturers, be equal to the value of the product manufactured, or in  
22 the case of processors for hire, be equal to the gross income of the  
23 business, multiplied by the rate of:

24 (i) 0.4235 percent from October 1, 2005, through the later of June  
25 30, 2007, or the day preceding the date final assembly of a  
26 superefficient airplane begins in Washington state, as determined under  
27 RCW 82.32.550; and

28 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the  
29 date final assembly of a superefficient airplane begins in Washington  
30 state, as determined under RCW 82.32.550.

31 (b) Beginning October 1, 2005, upon every person engaging within  
32 this state in the business of making sales, at retail or wholesale, of  
33 commercial airplanes, or components of such airplanes, manufactured by  
34 that person, as to such persons the amount of tax with respect to such  
35 business shall be equal to the gross proceeds of sales of the airplanes  
36 or components multiplied by the rate of:

37 (i) 0.4235 percent from October 1, 2005, through the later of June

1 30, 2007, or the day preceding the date final assembly of a  
2 superefficient airplane begins in Washington state, as determined under  
3 RCW 82.32.550; and

4 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the  
5 date final assembly of a superefficient airplane begins in Washington  
6 state, as determined under RCW 82.32.550.

7 (c) For the purposes of this subsection (13), "commercial  
8 airplane," "component," and "final assembly of a superefficient  
9 airplane" have the meanings given in RCW 82.32.550.

10 (d) In addition to all other requirements under this title, a  
11 person eligible for the tax rate under this subsection (13) must report  
12 as required under RCW 82.32.545.

13 (e) This subsection (13) does not apply after the earlier of: July  
14 1, 2024; or December 31, 2007, if assembly of a superefficient airplane  
15 does not begin by December 31, 2007, as determined under RCW 82.32.550.

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