
SENATE BILL 5402

State of Washington 59th Legislature 2005 Regular Session

By Senators Oke, Rockefeller, Poulsen and Haugen

Read first time 01/24/2005. Referred to Committee on Transportation.

1 AN ACT Relating to exempting ferry fuel used by Washington state
2 ferries from excise taxes; amending RCW 82.38.080, 82.08.0255, and
3 82.12.0256; providing an effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 82.38.080 and 1998 c 176 s 60 are each amended to read
6 as follows:

7 (1) There is exempted from the tax imposed by this chapter, the use
8 of fuel for:

9 (a) Street and highway construction and maintenance purposes in
10 motor vehicles owned and operated by the state of Washington, or any
11 county or municipality;

12 (b) Publicly owned fire fighting equipment;

13 (c) Special mobile equipment as defined in RCW 46.04.552;

14 (d) Power pumping units or other power take-off equipment of any
15 motor vehicle which is accurately measured by metering devices that
16 have been specifically approved by the department or which is
17 established by any of the following formulae:

18 (i) Pumping propane, or fuel or heating oils or milk picked up from
19 a farm or dairy farm storage tank by a power take-off unit on a

1 delivery truck, at a rate determined by the department: PROVIDED, That
2 claimant when presenting his or her claim to the department in
3 accordance with this chapter, shall provide to the claim, invoices of
4 propane, or fuel or heating oil delivered, or such other appropriate
5 information as may be required by the department to substantiate his or
6 her claim;

7 (ii) Operating a power take-off unit on a cement mixer truck or a
8 load compactor on a garbage truck at the rate of twenty-five percent of
9 the total gallons of fuel used in such a truck; or

10 (iii) The department is authorized to establish by rule additional
11 formulae for determining fuel usage when operating other types of
12 equipment by means of power take-off units when direct measurement of
13 the fuel used is not feasible. The department is also authorized to
14 adopt rules regarding the usage of on board computers for the
15 production of records required by this chapter;

16 (e) Motor vehicles owned and operated by the United States
17 government;

18 (f) Heating purposes;

19 (g) Moving a motor vehicle on a public highway between two pieces
20 of private property when said moving is incidental to the primary use
21 of the motor vehicle;

22 (h) Transportation services for persons with special transportation
23 needs by a private, nonprofit transportation provider regulated under
24 chapter 81.66 RCW;

25 (i) Vehicle refrigeration units, mixing units, or other equipment
26 powered by separate motors from separate fuel tanks; (~~and~~)

27 (j) The operation of a motor vehicle as a part of or incidental to
28 logging operations upon a highway under federal jurisdiction within the
29 boundaries of a federal area if the federal government requires a fee
30 for the privilege of operating the motor vehicle upon the highway, the
31 proceeds of which are reserved for constructing or maintaining roads in
32 the federal area, or requires maintenance or construction work to be
33 performed on the highway for the privilege of operating the motor
34 vehicle on the highway; and

35 (k) Ferry service by the state of Washington.

36 (2) There is exempted from the tax imposed by this chapter the
37 removal or entry of special fuel under the following circumstances and
38 conditions:

1 (a) If it is the removal from a terminal or refinery of, or the
2 entry or sale of, a special fuel if all of the following apply:

3 (i) The person otherwise liable for the tax is a licensee other
4 than a dyed special fuel user or international fuel tax agreement
5 licensee;

6 (ii) For a removal from a terminal, the terminal is a licensed
7 terminal; and

8 (iii) The special fuel satisfies the dyeing and marking
9 requirements of this chapter;

10 (b) If it is an entry or removal from a terminal or refinery of
11 taxable special fuel transferred to a refinery or terminal and the
12 persons involved, including the terminal operator, are licensed; and

13 (c)(i) If it is a special fuel that, under contract of sale, is
14 shipped to a point outside this state by a supplier by means of any of
15 the following:

16 (A) Facilities operated by the supplier;

17 (B) Delivery by the supplier to a carrier, customs broker, or
18 forwarding agent, whether hired by the purchaser or not, for shipment
19 to the out-of-state point;

20 (C) Delivery by the supplier to a vessel clearing from port of this
21 state for a port outside this state and actually exported from this
22 state in the vessel.

23 (ii) For purposes of this subsection (2)(c):

24 (A) "Carrier" means a person or firm engaged in the business of
25 transporting for compensation property owned by other persons, and
26 includes both common and contract carriers; and

27 (B) "Forwarding agent" means a person or firm engaged in the
28 business of preparing property for shipment or arranging for its
29 shipment.

30 (3) Notwithstanding any provision of law to the contrary, every
31 urban passenger transportation system and carriers as defined by
32 chapters 81.68 and 81.70 RCW shall be exempt from the provisions of
33 this chapter requiring the payment of special fuel taxes. For the
34 purposes of this section "urban passenger transportation system" means
35 every transportation system, publicly or privately owned, having as its
36 principal source of revenue the income from transporting persons for
37 compensation by means of motor vehicles and/or trackless trolleys, each
38 having a seating capacity for over fifteen persons over prescribed

1 routes in such a manner that the routes of such motor vehicles and/or
2 trackless trolleys, either alone or in conjunction with routes of other
3 such motor vehicles and/or trackless trolleys subject to routing by the
4 same transportation system, shall not extend for a distance exceeding
5 twenty-five road miles beyond the corporate limits of the county in
6 which the original starting points of such motor vehicles are located:
7 PROVIDED, That no refunds or credits shall be granted on special fuel
8 used by any urban transportation vehicle or vehicle operated pursuant
9 to chapters 81.68 and 81.70 RCW on any trip where any portion of said
10 trip is more than twenty-five road miles beyond the corporate limits of
11 the county in which said trip originated.

12 **Sec. 2.** RCW 82.08.0255 and 1998 c 176 s 4 are each amended to read
13 as follows:

- 14 (1) The tax levied by RCW 82.08.020 shall not apply to sales of:
15 (a) Motor vehicle fuel used in aircraft by the manufacturer thereof
16 for research, development, and testing purposes; and
17 (b) Motor vehicle and special fuel if:
18 (i) The fuel is purchased for the purpose of public transportation
19 and the purchaser is entitled to a refund or an exemption under RCW
20 82.36.275 or 82.38.080(3); or
21 (ii) The fuel is purchased by a private, nonprofit transportation
22 provider certified under chapter 81.66 RCW and the purchaser is
23 entitled to a refund or an exemption under RCW 82.36.285 or
24 82.38.080(1)(h); or
25 (iii) The fuel is taxable under chapter 82.36 or 82.38 RCW; or
26 (iv) The fuel is purchased and used by the Washington state
27 ferries.

28 (2) Any person who has paid the tax imposed by RCW 82.08.020 on the
29 sale of special fuel delivered in this state shall be entitled to a
30 credit or refund of such tax with respect to fuel subsequently
31 established to have been actually transported and used outside this
32 state by persons engaged in interstate commerce. The tax shall be
33 claimed as a credit or refunded through the tax reports required under
34 RCW 82.38.150.

35 **Sec. 3.** RCW 82.12.0256 and 1998 c 176 s 5 are each amended to read
36 as follows:

1 The provisions of this chapter shall not apply in respect to the
2 use of:

3 (1) Motor vehicle fuel used in aircraft by the manufacturer thereof
4 for research, development, and testing purposes; and

5 (2) Special fuel purchased in this state upon which a refund is
6 obtained as provided in RCW 82.38.180(2); and

7 (3) Motor vehicle and special fuel if:

8 (a) The fuel is used for the purpose of public transportation and
9 the purchaser is entitled to a refund or an exemption under RCW
10 82.36.275 or 82.38.080(3); or

11 (b) The fuel is purchased by a private, nonprofit transportation
12 provider certified under chapter 81.66 RCW and the purchaser is
13 entitled to a refund or an exemption under RCW 82.36.285 or
14 82.38.080(1)(h); or

15 (c) The fuel is taxable under chapter 82.36 or 82.38 RCW:
16 PROVIDED, That the use of motor vehicle and special fuel upon which a
17 refund of the applicable fuel tax is obtained shall not be exempt under
18 this subsection (3)(c), and the director of licensing shall deduct from
19 the amount of such tax to be refunded the amount of tax due under this
20 chapter and remit the same each month to the department of revenue; or

21 (d) The fuel is purchased and used by the Washington state ferries.

22 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and takes effect
25 July 1, 2005.

--- END ---