Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Transportation Committee

HB 2277

Brief Description: Concerning fuel taxes on exported fuel.

Sponsors: Representatives Moeller, Williams, Clibborn, Sells and Jacks.

Brief Summary of Bill

- Removes the exported fuel tax exemption for motor vehicle fuel and special fuel to other states and provides a credit to the exporter for the difference between Washington's fuel tax rate and the fuel tax rate in the importing state's fuel tax rate if the rate is less than Washington's.

Hearing Date: 3/17/09

Staff: Jerry Long (786-7306)

Background:

Washington has five major refineries and exports approximately 3.2 billion gallons of fuel annually. Current statutes direct that fuel taxes be collected at the time the fuel is removed from the terminal rack. Exported fuel to destinations outside the state is exempt from the state's current fuel tax of 37.5 cents per gallon fuel tax. To receive an exemption, one must be a licensed motor vehicle fuel supplier, special fuel supplier, motor vehicle fuel exporter, special fuel exporter, or a licensed blender. In the case where fuel has been exported outside the state on which the fuel tax has been paid, the payer is entitled to a refund of the fuel taxes. In 1944 the voters passed the 18th Amendment to the Constitution which states that excise taxes collected on the sale, distribution, or use of motor vehicle fuel shall be used exclusively for highway purposes, but fuel that was used for non-highway use was not taxed

During 2008 the Joint Legislative Audit and Review Committee (JLARC) reviewed this tax exemption for exported fuel as one of their Tax Preference Reviews. According to the report, the United States Supreme Court has ruled that taxes imposed by one state that affect goods that will be purchased in another state are not strictly prohibited by the federal constitution. Taxes

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between states must be analyzed under a four-prong test that looks at whether: the tax applied to an activity with nexus with the taxing state; the tax fairly apportioned; the tax does not discriminate against interstate commerce; and the tax is related to the service provided by the state. Presently there are three states (Tennessee, Texas, and Florida) that have some form of taxation of fuel being exported to other states. The JLARC recommendation was to retain the motor vehicle fuel tax and special tax exemption for exported fuel, even though it may be possible, depending on the structure of the tax, to provide less than a full exemption on exported fuel and still comply with interstate commerce.

Summary of Bill:

The bill collects motor vehicle fuel tax and special fuel tax from a licensed supplier, exporter, or blender that exports fuel from Washington to other states. The exported fuel is taxed at the time the fuel is removed from the terminal rack, bulk transfer system, or the blending process for export. The exporter will receive a credit for the tax per gallon that is paid in the state where the fuel is being exported. No credit is granted if the importing state's fuel tax rate is equal to or greater than the State of Washington's fuel tax rate.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on August 1, 2009.