

HOUSE BILL REPORT

2ESHB 2778

As Passed Legislature

Title: An act relating to retail sales and use tax exemption criteria for certain clean alternative fuel vehicles.

Brief Description: Modifying retail sales and use tax exemption criteria for certain clean alternative fuel vehicles.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Fey, Orcutt, Clibborn, McBride, Moscoso, Hickel, Stambaugh, Bergquist, Tharinger and Tarleton).

Brief History:

Committee Activity:

Transportation: 2/1/16, 2/8/16 [DPS].

Floor Activity:

Passed House: 2/16/16, 65-32.

Passed House: 3/29/16, 66-29.

Passed Senate: 3/29/16, 28-15.

Passed Legislature.

Brief Summary of Second Engrossed Substitute Bill

- Modifies the retail sales and use tax exemption for certain clean alternative fuel and electrically powered vehicles by increasing the tax exemption threshold to a vehicle's base model Manufacturer's Suggested Retail Price (MSRP).
- Limits the retail sales and use tax exemption for all qualifying vehicles to the first \$32,000 of the selling price or total lease payments made.
- Modifies when vehicles must qualify for the exemption to approximately two months after the Department of Licensing determines that 7,500 vehicles eligible for the exemption have been titled in the state since July 15, 2015, with a qualification expiration backstop of June 30, 2019, if 7,500 qualifying vehicles have not been titled by then.
- Permits leased vehicles that qualified for the exemption before its expiration to continue to receive the tax exemption for all lease payments due through the life of the lease.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 21 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Bergquist, Gregerson, Hickel, Kochmar, McBride, Morris, Ortiz-Self, Pike, Riccelli, Rossetti, Sells, Stambaugh, Tarleton and Young.

Minority Report: Do not pass. Signed by 1 member: Representative Shea.

Minority Report: Without recommendation. Signed by 1 member: Representative Hayes.

Staff: Jennifer Harris (786-7143).

Background:

Retail Sales and Use Taxes.

A "retail sale" is defined as any sale, lease, or rental for any purpose other than for resale, sublease, or subrent. With respect to tangible personal property, "use" is defined as the first act within the state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer) and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption within the state. The retail sales and use tax rate levied by the state is 6.5 percent.

Tax Exemption Qualifications.

As of July 15, 2015, a retail sales and use tax exemption is provided for new passenger cars, light duty trucks, and medium duty passenger vehicles that (1) have a selling price plus trade-in property value or that have a fair market value of \$35,000 or less and (2) are either exclusively powered by a clean alternative fuel or use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least 30 miles using only battery power. Typical applications of this exemption are for electric vehicles and plug-in hybrid vehicles.

Qualification Expiration.

To qualify for this exemption, a vehicle must be purchased or the lease agreement signed prior to July 1, 2019.

Earlier Exemptions.

Prior to July 1, 2015, a retail sales and use tax exemption was available for new passenger cars, light duty trucks, and medium duty passenger vehicles exclusively powered by a clean alternative fuel for the full selling price or fair market value of the vehicle; this earlier

exemption remains applicable to leases with lease agreements that were signed before July 1, 2015. This prior exemption took effect in 2005.

Account Transfer.

At the end of each quarter, the State Treasurer is required to transfer from the Multimodal Transportation Account to the General Fund the amount that would otherwise have been deposited into the General Fund if not for this tax exemption.

Tax Preference Performance Statement.

A tax preference performance statement is included as required by law. The public policy objective of this exemption is to increase the use of clean alternative fuel vehicles in Washington. The Joint Legislative and Audit Review Committee must periodically evaluate the number of clean alternative fuel vehicles titled in the state.

Summary of Second Engrossed Substitute Bill:

Tax Exemption Qualification.

The retail sales and use tax exemption is modified for certain clean alternative fuel and electrically powered vehicles by increasing the tax exemption threshold to a vehicle's base model Manufacturer's Suggested Retail Price (MSRP) of \$42,500 or less. Tax exemption eligibility is capped at \$32,000 per eligible vehicle.

The Department of Licensing (DOL) is required to maintain a list of the models that may qualify for this exemption and to determine the lowest MSRP for each model for the purpose of establishing whether the model qualifies for the exemption based on its MSRP. The DOL must also determine the cumulative number of qualifying vehicles titled in Washington on or after July 15, 2015, and provide this information to the Department of Revenue (DOR) by the end of the fifth working day of each month.

Qualification Expiration.

To qualify for this exemption, a vehicle must be purchased or the lease agreement signed by the end of the month following the month in which the DOL determines that 7,500 vehicles eligible for the exemption have been titled in the state since July 15, 2015, and in which the DOL provides notification of this fact to the DOR. The DOR must post notice of the expiration date of the exemption on its website as soon as can practically be done after receiving notification from the DOL. If 7,500 qualifying vehicles have not been titled by June 30, 2019, no additional vehicles will be permitted to qualify after that date.

Leased vehicles that qualified for the exemption before its expiration will continue to receive the tax exemption for all lease payments due through the life of the lease.

Earlier Exemptions.

The complete retail sales and use tax exemption for lease agreements for applicable vehicles signed prior to July 1, 2015, remains in place. Lease agreements for applicable vehicles signed on or after July 15, 2015, and before July 1, 2016, are eligible for the exemption in place at the time the lease agreement was signed, *i.e.*, are eligible for an exemption if they have an adjusted fair market value of \$35,000 or less.

Reporting Requirement.

Beginning on the last day of July 2016 and every six months thereafter, the DOR must report to the transportation committees of the Legislature the number of vehicles eligible for the exemption that have been titled in the state and the amount of state retail sales and use taxes exempted.

Tax Preference Performance Statement.

A tax preference performance statement is included as required by law. The public policy objective of this exemption is to increase the use of clean alternative fuel vehicles in Washington. The Joint Legislative and Audit Review Committee must periodically evaluate the number of clean alternative fuel vehicles titled in the state.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 29, 2016.

Effective Date: The bill takes effect on July 1, 2016.

Staff Summary of Public Testimony:

(In support) The funding of this tax exemption comes from the multimodal transportation budget primarily, where the previous exemption's funding came out of the General Fund. This legislation improves the current law to address vehicle price increases and technology changes over time. It adds an inflation escalator and includes vehicles with greater battery capacity and driving range for exemption eligibility.

This bill will result in more models qualifying for the exemption than do under current law. It raises the eligibility sales price and incentivizes the advancement of technology to get to longer-range vehicles, which is important to electric vehicle (EV) purchasers. Last year, \$35,000 was selected as the cut-off for eligibility because studies showed that the state sales tax exemption plus the federal tax incentive made the \$35,000 price equivalent to a \$25,000 gas-powered vehicle; this exemption made the price of a gas-powered vehicle and an EV about the same at this price range.

Even though the purchaser will obtain savings on fuel after an EV is purchased, many people are only looking at the up-front cost of an EV and foregoing the purchase of an EV if they cannot afford the price difference between an EV and a gas-powered vehicle. Another hurdle is that many people do not know about the two incentives. This is a consumer-focused piece of legislation rather than manufacturer focused.

The manufacturers of EVs are not located in the state, except for one that produces some parts here. The focus needs to be placed on the consumer because that is who needs to buy these vehicles. This is a reasonable approach. The current law almost did not get through the Legislature. This bill makes some minor adjustments to the current law. The funding for this is coming from the Multimodal Transportation Account, which funds pedestrian, bicycle, and transit projects. If too much is taken from this funding source, pedestrian, bicycle, and transit efforts will be impacted. This bill represents an effort to find a balance between competing interests.

Incentives for the EV industry are successful, with market shares of EVs growing and costs of batteries coming down. The battery for a standard 2016 Nissan Leaf is 25 percent larger than for the 2015 model, allowing drivers to travel over a 100-mile range and opening up the possibility of EV ownership to many more residents of Washington. This improved battery resulted in a cost increase of only 6 percent, but this increase has put the model over the current price cap. Adjusting the program will allow Washington to continue to be a leader in the EV revolution across the country.

This bill will accelerate EV adoption in the state. The faster adoption can be accelerated, the faster public health and environmental goals will be realized. Car emissions are the largest component of greenhouse gas emissions in Washington. Electric vehicles can make a real contribution to lowering carbon dioxide emissions. Even the cleanest cars release carbon dioxide and other air pollutants that are linked to smog, aggravate asthma, lead to lung disease, and have other serious health impacts. Communities next to roadways are the most impacted communities and individuals who live in them are usually the ones who can least afford to leave.

Electric vehicles can be powered with electricity produced cleanly in the state, supporting the power sector industry and jobs in Washington, instead of paying for petroleum products produced out of state. As the price of EVs continues to fall, more people will be able to purchase EVs and benefit from their use.

Surveys show that tax incentives and exemptions are extremely important in encouraging people to buy Chevrolet Volts. Revisions to current law are worthwhile, but the cut-off prices in this bill are a little low for the Volt.

(Opposed) BMW has stepped up and brought EV vehicles to the market. A BMW plant in Moses Lake was funded in 2009 and, in 2011, went into full production of carbon fiber for BMW vehicles. BMW made this choice because of the clean renewable hydropower available in Washington, which supports sustainable energy. BMW has invested more than \$300 million and employs 150 employees at the plant. This bill excludes BMWs from qualifying for the tax exemption and puts BMW dealers at a significant disadvantage in the state. This is about the consumer, who should be given options. With enough incentives, the BMW model will become more affordable for people.

Tesla models are expensive but exist to push this technology forward. Tesla is not a new market entrant and depends on the success of its vehicles. The high technology cost of EVs drives its price, but Tesla is dedicated to getting to a lower price. The Model 3, due out later in 2017, will have a price point in the mid-\$30,000 range. But to get to that point, Tesla

needs to sell the Model S and Model X in great supply. It costs close to \$1 billion for a new line of a mass market vehicles and the money has to come from somewhere. Tesla needs to sell higher priced models to get to the technology for lower priced EVs. Diversity in platforms and market levels is essential to proving that the EV market is here to stay. The policies this bill puts in place are antithetical to that purpose.

Current Tesla models have a range of 270 miles, which is class and industry leading in the EV market. Excluding the longest-range vehicles while trying to promote these technologies does not make sense. This legislation does not address the issue of providing an exemption based on the wealth or income of the individual consumer. Some other states are finalizing policies to address this issue through an audit process that would target that concern.

The consumer is fickle and adding complexity to the car sale process can lead to a car not being sold. Selecting winners and losers within the EV segment based on the number of kilowatt hours of their battery pack or the purchase price of a car, which they will not know until after they finalize all their options, is not an easy way to administer a tax exemption. It will result in fewer EVs being sold and a multitude of carbon dioxide emissions being emitted by gas-powered vehicles. This legislation will also result in additional time being needed for EVs to take hold in the market.

Persons Testifying: (In support) Representative Fey, prime sponsor; Representative Orcutt; Michael Mann, Nissan of North America; Vlad Gutman, Climate Solutions; and Cliff Webster, General Motors.

(Opposed) Linda White, BMW Group; and Daniel Witt, Tesla.

Persons Signed In To Testify But Not Testifying: None.