

SB 5741 - S AMD 259
By Senator King

ADOPTED 04/11/2017

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** It is the legislature's intent to honor
4 the treaty rights of the Yakama Nation, while protecting the state's
5 interest in collecting and enforcing its fuel taxes.

6 **Sec. 2.** RCW 82.38.031 and 2007 c 515 s 33 are each amended to
7 read as follows:

8 (1) It is the intent and purpose of this chapter that the tax
9 (~~shall~~) must be imposed at the time and place of the first taxable
10 event and upon the first taxable person within this state. Any person
11 whose activities would otherwise require payment of the tax imposed
12 by RCW 82.38.030 but who is exempt from the tax nevertheless has a
13 precollection obligation for the tax that must be imposed on the
14 first taxable event within this state. Failure to pay the tax with
15 respect to a taxable event (~~shall~~) does not prevent tax liability
16 from arising by reason of a subsequent taxable event.

17 (2) It is the intent of the legislature that, in the absence of a
18 tribal fuel tax agreement, as referenced in RCW 82.38.310, applicable
19 taxes imposed by this chapter be collected on motor vehicle fuel sold
20 by a business owned or operated by a tribe or an enrolled member of
21 the tribe, when such sale is to any person who is not an enrolled
22 member of the same tribe as the business owner or operator,
23 consistent with collection of these taxes generally within the state.
24 The legislature finds that applicable collection and enforcement
25 measures under this chapter are reasonably necessary to prevent
26 fraudulent transactions and place a minimal burden on the Indian
27 tribal organization pursuant to the United States supreme court's
28 decision in *Washington v. Confederated Tribes of the Colville Indian*
29 *Reservation*, 447 U.S. 134 (1980).

1 **Sec. 3.** RCW 82.38.035 and 2013 c 225 s 105 are each amended to
2 read as follows:

3 (1) A licensed supplier is liable for and must pay tax on fuel as
4 provided in RCW 82.38.030(~~((+7))~~) (9) (a) and (i). On a two-party
5 exchange, or buy-sell agreement between two licensed suppliers, the
6 receiving exchange partner or buyer (~~((shall be))~~) is liable for and
7 pay the tax.

8 (2) A refiner is liable for and must pay tax on fuel removed from
9 a refinery as provided in RCW 82.38.030(~~((+7))~~) (9)(b).

10 (3) A licensed distributor is liable for and must pay tax on fuel
11 as provided in RCW 82.38.030(~~((+7))~~) (9)(c).

12 (4) A licensed blender is liable for and must pay tax on fuel as
13 provided in RCW 82.38.030(~~((+7))~~) (9)(f).

14 (5) A licensed dyed special fuel user is liable for and must pay
15 tax on fuel as provided in RCW 82.38.030(~~((+7))~~) (9)(g).

16 (6) A terminal operator is jointly and severally liable for and
17 must pay tax on fuel if, at the time of removal:

18 (a) The position holder of the fuel is a person other than the
19 terminal operator and is not a licensee;

20 (b) The terminal operator is not a licensee;

21 (c) The position holder has an expired internal revenue
22 notification certificate;

23 (d) The terminal operator has reason to believe that information
24 on the internal revenue notification certificate is false.

25 (7) A terminal operator is jointly and severally liable for and
26 must pay tax on special fuel if the special fuel is removed and is
27 not dyed or marked in accordance with internal revenue service
28 requirements, and the terminal operator provides a person with a bill
29 of lading, shipping paper, or similar document indicating the special
30 fuel is dyed or marked in accordance with internal revenue service
31 requirements.

32 (8) International fuel tax agreement licensees, or persons
33 operating motor vehicles under other reciprocity agreements entered
34 into with the state of Washington, are liable for and must pay tax on
35 fuel used to operate motor vehicles on state highways.

36 (9) Dyed special fuel users are liable for and must pay tax on
37 dyed special fuel used on state highways unless the use of the fuel
38 is exempt from the tax.

39 (10) Any person who purchases fuel from a business that is owned
40 or operated by a federally recognized Indian tribe or an enrolled

1 member of such tribe and the tribe does not have a fuel tax agreement
2 with the state as referenced in RCW 82.38.310, and who is not an
3 enrolled member of the same tribe as the business owner or operator
4 from whom the person purchases fuel, is liable for the applicable
5 taxes imposed by this chapter if those taxes have not been paid by
6 any of the entities listed under subsections (1) through (4) of this
7 section.

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.38
9 RCW to read as follows:

10 The department, in conjunction with the state patrol, must adopt
11 rules to develop enforcement mechanisms for the collection of taxes
12 owed under RCW 82.38.035(10)."

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13 On page 1, line 1 of the title, after "taxes" strike the
14 remainder of the title and insert "on motor vehicle fuel sold by
15 businesses owned or operated by a tribe or member of the tribe;
16 amending RCW 82.38.031 and 82.38.035; adding a new section to chapter
17 82.38 RCW; and creating a new section."

EFFECT: (1) Changes the reference to the entity that is selling
fuel from a "business licensed by an Indian tribal organization" to a
"business owned or operated by a federally recognized Indian tribe or
enrolled member of the tribe."

(2) Removes the definition of "Indian tribal organization."

(3) Removes the requirement that the sale take place within a
tribal jurisdiction.

(4) Changes the legal title to reflect that the fuel is being
sold by a business owned or operated by a tribe or tribal member.

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