
HOUSE BILL 1537

State of Washington

67th Legislature

2021 Regular Session

By Representatives Ramel, Harris-Talley, Berry, and Macri

Read first time 02/16/21. Referred to Committee on Finance.

1 AN ACT Relating to terminating certain tax preferences for fossil
2 fuel products; amending RCW 82.12.022, 82.12.022, 82.14.230, and
3 82.23A.030; amending 2017 3rd sp.s. c 37 s 1407 (uncodified);
4 creating a new section; repealing RCW 82.08.910; providing a
5 contingent effective date; and providing a contingent expiration
6 date.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature is committed to
9 implementing a wide range of meaningful and scientifically driven
10 policies to continue to reduce our state's greenhouse gas emissions.
11 Natural gas remains one of the largest contributors to Washington's
12 carbon footprint, and the emissions reduction targets established in
13 RCW 70A.45.020 are incompatible with continuing to burn natural gas
14 from fossil sources at present rates. The 2021 state energy strategy
15 anticipates that in the coming years, we will take significant action
16 to reduce natural gas use in all sectors of the economy.
17 Additionally, given anticipated budget shortfalls in the coming
18 years, continuing to provide subsidies to contributors to greenhouse
19 gas emissions in the form of tax incentives is not sustainable,
20 either economically or environmentally. Providing tax preferences to
21 fossil fuel use runs counter to environmental and tax policy

1 priorities. As long as the state continues to provide tax breaks that
2 incentivize the use of natural gas, the market will be distorted and
3 disrupted in ways that may prevent prioritization and expanded use of
4 cleaner and renewable fuels. Therefore, the legislature intends to
5 repeal tax exemptions for natural gas in order to move towards a
6 cleaner, more sustainable economy and a healthier tax system.

7 (2) The legislature finds that the tax preference for natural
8 gas, petroleum coke, and other fossil fuels in RCW 82.23A.030 was
9 enacted in 1989, does not contain a tax preference performance
10 statement or other mechanism to evaluate the success of the program
11 compared to the cost, and has not been revisited by this body since.

12 (3) The legislature finds that the tax preference for gas used in
13 chicken houses, RCW 82.08.910, does not contain a tax preference
14 performance statement and does not have a scheduled review date, and
15 in 2015, the legislative auditor recommended that the legislature
16 review and clarify this tax preference.

17 **Sec. 2.** RCW 82.12.022 and 2017 3rd sp.s. c 37 s 707 are each
18 amended to read as follows:

19 (1) A use tax is levied on every person in this state for the
20 privilege of using natural gas or manufactured gas, including
21 compressed natural gas and liquefied natural gas, within this state
22 as a consumer.

23 (2) The tax must be levied and collected in an amount equal to
24 the value of the article used by the taxpayer multiplied by the rate
25 in effect for the public utility tax on gas distribution businesses
26 under RCW 82.16.020. The "value of the article used" does not include
27 any amounts that are paid for the hire or use of a gas distribution
28 business as defined in RCW 82.16.010(2) in transporting the gas
29 subject to tax under this subsection if those amounts are subject to
30 tax under that chapter.

31 (3) The tax levied in this section does not apply to the use of
32 natural or manufactured gas delivered to the consumer by other means
33 than through a pipeline.

34 (4) The tax levied in this section does not apply to the use of
35 natural or manufactured gas if the person who sold the gas to the
36 consumer has paid a tax under RCW 82.16.020 with respect to the gas
37 for which exemption is sought under this subsection.

1 (5) (a) The tax levied in this section does not apply to the use
2 of natural or manufactured gas by an aluminum smelter as that term is
3 defined in RCW 82.04.217 before January 1, 2027.

4 (b) A person claiming the exemption provided in this subsection
5 (5) must file a complete annual tax performance report with the
6 department under RCW 82.32.534.

7 (6) ~~((The))~~ (a) Except as provided in (b) through (d) of this
8 subsection, the tax imposed by this section does not apply to the use
9 of natural gas, compressed natural gas, or liquefied natural gas, if
10 the consumer uses the gas for transportation fuel, as defined in RCW
11 82.16.310, before January 1, 2022.

12 (b) The tax imposed by this section does not apply to the use of
13 natural gas, compressed natural gas, or liquefied natural gas by a
14 transit agency, as defined in RCW 81.104.015, if the transit agency
15 uses the gas for transportation fuel, as defined in RCW 82.16.310,
16 before January 1, 2025.

17 (c) The tax imposed by this section does not apply to the use of
18 renewable natural gas, as defined in RCW 19.405.020, or to the use of
19 compressed natural gas or liquefied natural gas derived from
20 renewable natural gas, if the consumer uses the gas for
21 transportation fuel as defined in RCW 82.16.310.

22 (d) The tax imposed by this section does not apply to the use of
23 natural gas, compressed natural gas, or liquefied natural gas, if the
24 consumer uses the gas for transportation fuel, as defined in RCW
25 82.16.310, and if the consumer offsets that consumption with
26 renewable gas credits purchased from a gas distribution business in
27 the state.

28 (7) The tax levied in this section does not apply to the use of
29 natural or manufactured gas by a silicon smelter as that term is
30 defined in RCW 82.16.315.

31 (8) There is a credit against the tax levied under this section
32 in an amount equal to any tax paid by:

33 (a) The person who sold the gas to the consumer when that tax is
34 a gross receipts tax similar to that imposed pursuant to RCW
35 82.16.020 by another state with respect to the gas for which a credit
36 is sought under this subsection; or

37 (b) The person consuming the gas upon which a use tax similar to
38 the tax imposed by this section was paid to another state with
39 respect to the gas for which a credit is sought under this
40 subsection.

1 (9) The use tax imposed in this section must be paid by the
2 consumer to the department.

3 (10) There is imposed a reporting requirement on the person who
4 delivered the gas to the consumer to make a quarterly report to the
5 department. Such report must contain the volume of gas delivered,
6 name of the consumer to whom delivered, and such other information as
7 the department may require by rule.

8 (11) The department may adopt rules under chapter 34.05 RCW for
9 the administration and enforcement of sections 1 through 6, chapter
10 384, Laws of 1989.

11 **Sec. 3.** RCW 82.12.022 and 2017 c 135 s 27 are each amended to
12 read as follows:

13 (1) A use tax is levied on every person in this state for the
14 privilege of using natural gas or manufactured gas, including
15 compressed natural gas and liquefied natural gas, within this state
16 as a consumer.

17 (2) The tax must be levied and collected in an amount equal to
18 the value of the article used by the taxpayer multiplied by the rate
19 in effect for the public utility tax on gas distribution businesses
20 under RCW 82.16.020. The "value of the article used" does not include
21 any amounts that are paid for the hire or use of a gas distribution
22 business as defined in RCW 82.16.010(2) in transporting the gas
23 subject to tax under this subsection if those amounts are subject to
24 tax under that chapter.

25 (3) The tax levied in this section does not apply to the use of
26 natural or manufactured gas delivered to the consumer by other means
27 than through a pipeline.

28 (4) The tax levied in this section does not apply to the use of
29 natural or manufactured gas if the person who sold the gas to the
30 consumer has paid a tax under RCW 82.16.020 with respect to the gas
31 for which exemption is sought under this subsection.

32 (5)(a) The tax levied in this section does not apply to the use
33 of natural or manufactured gas by an aluminum smelter as that term is
34 defined in RCW 82.04.217 before January 1, 2027.

35 (b) A person claiming the exemption provided in this subsection
36 (5) must file a complete annual tax performance report with the
37 department under RCW 82.32.534.

38 (6) ~~((The))~~ (a) Except as provided in (b) through (d) of this
39 subsection, the tax imposed by this section does not apply to the use

1 of natural gas, compressed natural gas, or liquefied natural gas, if
2 the consumer uses the gas for transportation fuel, as defined in RCW
3 82.16.310, before January 1, 2022.

4 (b) The tax imposed by this section does not apply to the use of
5 natural gas, compressed natural gas, or liquefied natural gas by a
6 transit agency, as defined in RCW 81.104.015, if the transit agency
7 uses the gas for transportation fuel, as defined in RCW 82.16.310,
8 before January 1, 2025.

9 (c) The tax imposed by this section does not apply to the use of
10 renewable natural gas, as defined in RCW 19.405.020, or to the use of
11 compressed natural gas or liquefied natural gas derived from
12 renewable natural gas, if the consumer uses the gas for
13 transportation fuel as defined in RCW 82.16.310.

14 (d) The tax imposed by this section does not apply to the use of
15 natural gas, compressed natural gas, or liquefied natural gas, if the
16 consumer uses the gas for transportation fuel, as defined in RCW
17 82.16.310, and if the consumer offsets that consumption with
18 renewable gas credits purchased from a gas distribution business in
19 the state.

20 (7) There is a credit against the tax levied under this section
21 in an amount equal to any tax paid by:

22 (a) The person who sold the gas to the consumer when that tax is
23 a gross receipts tax similar to that imposed pursuant to RCW
24 82.16.020 by another state with respect to the gas for which a credit
25 is sought under this subsection; or

26 (b) The person consuming the gas upon which a use tax similar to
27 the tax imposed by this section was paid to another state with
28 respect to the gas for which a credit is sought under this
29 subsection.

30 (8) The use tax imposed in this section must be paid by the
31 consumer to the department.

32 (9) There is imposed a reporting requirement on the person who
33 delivered the gas to the consumer to make a quarterly report to the
34 department. Such report must contain the volume of gas delivered,
35 name of the consumer to whom delivered, and such other information as
36 the department may require by rule.

37 (10) The department may adopt rules under chapter 34.05 RCW for
38 the administration and enforcement of sections 1 through 6, chapter
39 384, Laws of 1989.

1 **Sec. 4.** RCW 82.14.230 and 2014 c 216 s 305 are each amended to
2 read as follows:

3 (1) The governing body of any city, while not required by
4 legislative mandate to do so, may, by resolution or ordinance for the
5 purposes authorized by this chapter, fix and impose on every person a
6 use tax for the privilege of using natural gas or manufactured gas in
7 the city as a consumer.

8 (2) The tax is imposed in an amount equal to the value of the
9 article used by the taxpayer multiplied by the rate in effect for the
10 tax on natural gas businesses under RCW 35.21.870 in the city in
11 which the article is used. The "value of the article used," does not
12 include any amounts that are paid for the hire or use of a natural
13 gas business in transporting the gas subject to tax under this
14 subsection if those amounts are subject to tax under RCW 35.21.870.

15 (3) The tax imposed under this section does not apply to the use
16 of natural or manufactured gas if the person who sold the gas to the
17 consumer has paid a tax under RCW 35.21.870 with respect to the gas
18 for which exemption is sought under this subsection.

19 (4) There is a credit against the tax levied under this section
20 in an amount equal to any tax paid by:

21 (a) The person who sold the gas to the consumer when that tax is
22 a gross receipts tax similar to that imposed pursuant to RCW
23 35.21.870 by another municipality or other unit of local government
24 with respect to the gas for which a credit is sought under this
25 subsection; or

26 (b) The person consuming the gas upon which a use tax similar to
27 the tax imposed by this section was paid to another municipality or
28 other unit of local government with respect to the gas for which a
29 credit is sought under this subsection.

30 (5) The use tax imposed must be paid by the consumer. The
31 administration and collection of the tax imposed is pursuant to RCW
32 82.14.050.

33 (6) ~~((The))~~ (a) Except as provided in (b) through (d) of this
34 subsection, the tax authorized by this section does not apply to the
35 use of natural gas, compressed natural gas, or liquefied natural gas,
36 if the consumer uses the gas for transportation fuel, as defined in
37 RCW 82.16.310, before January 1, 2022.

38 (b) The tax authorized by this section does not apply to the use
39 of natural gas, compressed natural gas, or liquefied natural gas by a
40 transit agency, as defined in RCW 81.104.015, if the transit agency

1 uses the gas for transportation fuel, as defined in RCW 82.16.310,
2 before January 1, 2025.

3 (c) The tax authorized by this section does not apply to the use
4 of renewable natural gas, as defined in RCW 19.405.020, or to the use
5 of compressed natural gas or liquefied natural gas derived from
6 renewable natural gas, if the consumer uses the gas for
7 transportation fuel as defined in RCW 82.16.310.

8 (d) The tax authorized by this section does not apply to the use
9 of natural gas, compressed natural gas, or liquefied natural gas, if
10 the consumer uses the gas for transportation fuel, as defined in RCW
11 82.16.310, and if the consumer offsets that consumption with
12 renewable gas credits purchased from a gas distribution business in
13 the state.

14 **Sec. 5.** RCW 82.23A.030 and 1989 c 383 s 17 are each amended to
15 read as follows:

16 The following are exempt from the tax imposed in this chapter:

17 (1) Any successive possession of a previously taxed petroleum
18 product. If tax due under this chapter has not been paid with respect
19 to a petroleum product, the department may collect the tax from any
20 person who has had possession of the petroleum product. If the tax is
21 paid by any person other than the first person having taxable
22 possession of a petroleum product, the amount of tax paid shall
23 constitute a debt owed by the first person having taxable possession
24 to the person who paid the tax.

25 (2) Any possession of a petroleum product by a natural person
26 under circumstances where the substance is used, or is to be used,
27 for a personal or domestic purpose (and not for any business purpose)
28 by that person or a relative of, or person residing in the same
29 dwelling as, that person.

30 (3) Persons or activities which the state is prohibited from
31 taxing under the United States Constitution.

32 (4) Any persons possessing a petroleum product where such
33 possession first occurred before July 1, 1989.

34 ~~(5) ((Any possession of (a) natural gas, (b) petroleum coke, or~~
35 ~~(c) liquid fuel or fuel gas used in petroleum processing.~~

36 ~~(6))~~ Any possession of petroleum products that are exported for
37 use or sale outside this state as fuel.

38 ~~((7))~~ (6) Any possession of petroleum products packaged for
39 sale to ultimate consumers.

1 NEW SECTION. **Sec. 6.** RCW 82.08.910 (Exemptions—Propane or
2 natural gas to heat chicken structures) and 2001 2nd sp.s. c 25 s 3
3 are each repealed.

4 **Sec. 7.** 2017 3rd sp.s. c 37 s 1407 (uncodified) is amended to
5 read as follows:

6 (1) (a) Except as provided in (b) of this subsection, part VII of
7 this act (~~(expires)~~) and section 2, chapter . . ., Laws of 2021
8 (section 2 of this act) expire July 1, 2027.

9 (b) (i) If a person must make repayment under section 708 of this
10 act, part VII of this act (~~(expires)~~) and section 2, chapter . . .,
11 Laws of 2021 (section 2 of this act) expire January 1, 2024.

12 (ii) Section 706 of this act expires January 1, 2018.

13 (2) If the contingent expiration date in subsection (1) (b) of
14 this section occurs, the department of revenue must provide written
15 notice of the expiration date of part VII of this act to affected
16 parties, the chief clerk of the house of representatives, the
17 secretary of the senate, the office of the code reviser, and others
18 as deemed appropriate by the department.

19 (3) If the contingent expiration date in subsection (1) (b) of
20 this section occurs, the joint legislative audit and review committee
21 is not required to perform the evaluation required in section 701 of
22 this act.

23 NEW SECTION. **Sec. 8.** Section 3 of this act takes effect when
24 section 2 of this act expires.

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