
SUBSTITUTE SENATE BILL 5000

State of Washington

67th Legislature

2021 Regular Session

By Senate Transportation (originally sponsored by Senators Hawkins, Lovelett, Billig, Braun, Carlyle, Conway, Das, Ericksen, Fortunato, Gildon, Hasegawa, Holy, Hunt, King, Kuderer, Mullet, Muzzall, Nguyen, Padden, Pedersen, Rivers, Robinson, Salomon, Sheldon, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., and Wilson, J.)

READ FIRST TIME 02/15/21.

1 AN ACT Relating to hydrogen fuel cell electric vehicles; adding a
2 new section to chapter 82.08 RCW; adding a new section to chapter
3 82.12 RCW; adding a new section to chapter 47.01 RCW; creating new
4 sections; providing an effective date; and providing expiration
5 dates.

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

7 NEW SECTION. **Sec. 1.** This section is the tax preference
8 performance statement for the tax preferences contained in sections 2
9 and 3, chapter . . ., Laws of 2021 (sections 2 and 3 of this act).
10 The performance statement is only intended to be used for subsequent
11 evaluation of the tax preference. It is not intended to create a
12 private right of action by any party or be used to determine
13 eligibility for preferential tax treatment.

14 (1) The legislature categorizes the tax preferences as ones
15 intended to induce certain designated behavior by taxpayers, as
16 indicated in RCW 82.32.808(2)(a).

17 (2) It is the legislature's specific public policy objective to
18 increase the use of hydrogen fuel cell electric vehicles in
19 Washington as another way of promoting clean alternative fuel vehicle
20 adoption in the state. It is the legislature's intent to establish an
21 eight-year pilot tax incentive program for fuel cell electric

1 vehicles by creating a temporary partial sales and use tax exemption
2 on fuel cell electric vehicles in order to reduce the price charged
3 to customers and to evaluate the feasibility of wider adoption of the
4 use of fuel cell electric technology in transportation.

5 (3) Since the tax incentive created in sections 2 and 3 of this
6 act is limited to eight years, the joint legislative audit and review
7 committee must, within the committee's appropriations, evaluate the
8 effectiveness of this tax incentive on the number of hydrogen fuel
9 cell vehicles titled in the state by November 1, 2028.

10 (4) The department of licensing and the department of revenue
11 must, within the departments' respective appropriations, provide data
12 needed for the joint legislative audit and review committee analysis.
13 In addition to the data source described under this subsection, the
14 joint legislative audit and review committee may use any other data
15 it deems necessary.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08
17 RCW to read as follows:

18 (1)(a) Subject to the limitations in this subsection, beginning
19 July 1, 2022, with sales made or lease agreements signed on or after
20 this date until the expiration of this section, fifty percent of the
21 tax levied by RCW 82.08.020 does not apply to sales or leases of new
22 electric passenger cars, light duty trucks, and medium duty passenger
23 vehicles, that are powered by a fuel cell.

24 (b)(i) By the end of the fifth working day of each month, until
25 the expiration of the exemption as described in (c) of this
26 subsection, the department must determine the cumulative number of
27 vehicles that have claimed the exemption as described in (a) of this
28 subsection.

29 (ii) The department of licensing must collect and provide, upon
30 request, information in a form or manner as required by the
31 department to determine the number of exemptions that have been
32 claimed.

33 (c) The exemption under this section expires after the last day
34 of the calendar month immediately following the month the department
35 determines that the total number of vehicles exempt under (a) of this
36 subsection reaches 650. All leased vehicles that qualified for the
37 exemption before the expiration of the exemption must continue to
38 receive the exemption as described under (a) of this subsection on
39 lease payments due through the remainder of the lease.

1 (d) The department must provide notification on its website
2 monthly on the amount of exemptions that have been applied for, the
3 amount issued, and the amount remaining before the limit described in
4 (c) of this subsection has been reached, and, once that limit has
5 been reached, the date the exemption expires pursuant to (c) of this
6 subsection.

7 (e) A person may not claim the exemption under this subsection if
8 the person claims the exemption under RCW 82.08.9999 or 82.12.9999.

9 (f) The per vehicle exemption must be based on the sales price
10 for purchased vehicles and fair market value at the inception of the
11 lease for leased vehicles.

12 (2)(a) Subject to the limitations in this subsection (2),
13 beginning July 1, 2022, with sales made or lease agreements signed on
14 or after this date until the expiration of this section, the entire
15 tax levied by RCW 82.08.020 does not apply to the sale or lease of
16 used electric passenger cars, light duty trucks, and medium duty
17 passenger vehicles, that are powered by a fuel cell.

18 (b) The per vehicle exemption must be based on the sales price
19 for purchased vehicles and fair market value at the inception of the
20 lease for leased vehicles. However, the maximum value amount eligible
21 for the exemption under (a) of this subsection is the lesser of
22 either sixteen thousand dollars or the fair market value of the
23 vehicle.

24 (c) A person may not claim the exemption under this subsection
25 (2) if the person claims the exemption under RCW 82.08.9999 or
26 82.12.9999.

27 (3)(a) For qualifying vehicles sold by a person licensed to do
28 business in the state of Washington, the seller must keep records
29 necessary for the department to verify eligibility under this
30 section. The seller reporting the exemption must also submit itemized
31 information to the department for all vehicles for which an exemption
32 is claimed that must include the following: Vehicle make; vehicle
33 model; model year; whether the vehicle has been sold or leased; date
34 of sale or start date of lease; length of lease; sales price for
35 purchased vehicles and fair market value at the inception of the
36 lease for leased vehicles; and the total amount qualifying for the
37 incentive claimed for each vehicle, in addition to the future monthly
38 amount to be claimed for each leased vehicle. This information must
39 be provided in a form and manner prescribed by the department.

1 (b) For vehicles purchased from (i) a seller that is not licensed
2 to do business in the state of Washington, or (ii) a private party,
3 the buyer must keep records necessary for the department to verify
4 eligibility under this section. The buyer claiming the exemption must
5 also submit itemized information to the department for all vehicles
6 for which an exemption is claimed that must include the following:
7 Vehicle make; vehicle model; model year; date of sale; sales price;
8 and the total amount qualifying for the incentive claimed for each
9 vehicle. This information must be provided in a form and manner
10 prescribed by the department.

11 (4) (a) The department of licensing must maintain and publish a
12 list of all vehicle models qualifying for the tax exemptions under
13 this section and section 3 of this act until the expiration of this
14 section, and is authorized to issue final rulings on vehicle model
15 qualification for these criteria.

16 (b) The department of revenue retains responsibility for
17 determining whether a vehicle meets the applicable qualifying
18 criterion under subsections (1) and (2) of this section.

19 (5) On the last day of July, October, January, and April of each
20 year, the state treasurer, based upon information provided by the
21 department, must transfer from the electric vehicle account to the
22 general fund a sum equal to the dollar amount that would otherwise
23 have been deposited into the general fund during the prior fiscal
24 quarter but for the exemptions provided in this section. Information
25 provided by the department to the state treasurer must be based on
26 the best available data, except that the department may provide
27 estimates of taxes exempted under this section until such time as
28 retailers are able to report such exempted amounts on their tax
29 returns.

30 (6) By the last day of August 2023, and annually thereafter until
31 this section expires, based on the best available data, the
32 department must report the following information to the
33 transportation committees of the legislature: The cumulative number
34 of fuel cell electric vehicles that qualified for the exemptions
35 under this section and section 3 of this act by month of purchase or
36 lease start and vehicle make and model; the dollar amount of all
37 state retail sales and use taxes exempted on or after the
38 qualification period start date, under this section and section 3 of
39 this act; and estimates of the future costs of leased vehicles that

1 qualified for the exemptions under this section and section 3 of this
2 act.

3 (7) (a) Sales of vehicles delivered to the buyer after the
4 expiration of this section, or leased vehicles for which the lease
5 agreement was signed after the expiration of this section, do not
6 qualify for the exemptions under this section.

7 (b) All leased vehicles that qualified for the exemption under
8 this section before the expiration of this section must continue to
9 receive the exemption on any lease payments due through the remainder
10 of the lease.

11 (8) For the purposes of this section:

12 (a) "Fair market value" has the same meaning as "value of the
13 article used" in RCW 82.12.010.

14 (b) "Fuel cell" means a technology that uses an electrochemical
15 reaction to generate electric energy by combining atoms of hydrogen
16 and oxygen in the presence of a catalyst.

17 (c) "New vehicle" has the same meaning as "new motor vehicle" in
18 RCW 46.04.358.

19 (d) "Selling price" and "sales price" have the same meaning as in
20 RCW 82.08.010.

21 (e) "Used vehicle" has the same meaning as in RCW 46.04.660.

22 (9) This section expires June 30, 2029.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12
24 RCW to read as follows:

25 (1) Subject to the limitations in this subsection and section
26 2(1)(c) of this act, beginning July 1, 2022, with sales made or lease
27 agreements signed on or after this date until the expiration of this
28 section, fifty percent of the tax levied by RCW 82.12.020 does not
29 apply to sales or leases of new electric passenger cars, light duty
30 trucks, and medium duty passenger vehicles, that are powered by a
31 fuel cell.

32 (2)(a) Subject to the limitations in this subsection (2),
33 beginning July 1, 2022, with sales made or lease agreements signed on
34 or after this date until the expiration of this section, the entire
35 tax levied by RCW 82.12.020 does not apply to the sale or lease of
36 used electric passenger cars, light duty trucks, and medium duty
37 passenger vehicles, that are powered by a fuel cell.

38 (b) The per vehicle exemption must be based on the sales price
39 for purchased vehicles and fair market value at the inception of the

1 lease for leased vehicles. However, the maximum value amount eligible
2 for the exemption under (a) of this subsection is the lesser of
3 either sixteen thousand dollars or the fair market value of the
4 vehicle.

5 (c) A person may not claim the exemption under this subsection
6 (2) if the person claims the exemption under RCW 82.08.9999 or
7 82.12.9999.

8 (3) The buyer must keep records necessary for the department to
9 verify eligibility under this section. The buyer claiming the
10 exemption must also submit itemized information to the department for
11 all vehicles for which an exemption is claimed that must include the
12 following: Vehicle make; vehicle model; model year; whether the
13 vehicle has been sold or leased; date of sale or start date of lease;
14 length of lease; sales price for purchased vehicles and fair market
15 value at the inception of the lease for leased vehicles; and the
16 total amount qualifying for the incentive claimed for each vehicle,
17 in addition to the future monthly amount to be claimed for each
18 leased vehicle. This information must be provided in a form and
19 manner prescribed by the department.

20 (4) On the last day of July, October, January, and April of each
21 year, the state treasurer, based upon information provided by the
22 department, must transfer from the electric vehicle account to the
23 general fund a sum equal to the dollar amount that would otherwise
24 have been deposited into the general fund during the prior fiscal
25 quarter but for the exemptions provided in this section. Information
26 provided by the department to the state treasurer must be based on
27 the best available data.

28 (5)(a) Sales of vehicles delivered to the buyer after the
29 expiration of this section, or leased vehicles for which the lease
30 agreement was signed after the expiration of this section, do not
31 qualify for the exemptions under this section.

32 (b) All leased vehicles that qualified for the exemption under
33 this section before the expiration of this section must continue to
34 receive the exemption on any lease payments due through the remainder
35 of the lease.

36 (6) The definitions in section 2 of this act apply to this
37 section.

38 (7) This section expires June 30, 2029.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.01
2 RCW to read as follows:

3 (1) The department shall be the lead coordinating agency in
4 conducting a feasibility study regarding opportunities to convert
5 public fleet vehicles to hydrogen fuel cell technology. The
6 department may contract with a public university with expertise in
7 this area to help conduct the study and may include relevant
8 participation by state and local governments to explore particular
9 types of public fleets and specific vehicles where the use of
10 hydrogen fuel cell technology is most cost-effective and feasible.
11 The study must include, but is not limited to:

12 (a) Infrastructure needs to deploy hydrogen fuel cell technology;

13 (b) Manufacture capability to produce and sell different types of
14 hydrogen fuel cell vehicles;

15 (c) Estimated price differences between diesel, electric, and
16 hydrogen fuel cell technology for different types of vehicles;

17 (d) Total cost of ownership comparisons between diesel, electric,
18 and hydrogen fuel cell technology for different types of vehicles;
19 and

20 (e) Recommendations on how to cost-effectively deploy and operate
21 hydrogen fuel cell technology.

22 (2) The department shall submit the feasibility report to the
23 appropriate transportation committees of the legislature no later
24 than June 30, 2022.

25 NEW SECTION. **Sec. 5.** If specific funding for the purposes of
26 section 4 of this act, referencing section 4 of this act by bill or
27 chapter number and section number, is not provided by June 30, 2021,
28 in the omnibus transportation appropriations act, section 4 of this
29 act is null and void.

30 NEW SECTION. **Sec. 6.** Sections 1 through 3 of this act take
31 effect July 1, 2022.

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