H-2656.1

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**HOUSE BILL 2410**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representatives Ybarra and Caldier

AN ACT Relating to jet fuel; amending RCW 82.04.287, 82.04.436, and 70A.535.150; creating new sections; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature intends to support the development of the alternative jet fuels industry in Washington by expanding existing tax preferences to encourage businesses to locate in distressed areas of the state. The legislature intends for the incentives to be focused on the beginning of commercial production levels when they provide the most productive benefits, while providing opportunities for workforce development and long-term employment opportunities in distressed areas.

**Sec.**  RCW 82.04.287 and 2023 c 232 s 9 are each amended to read as follows:

(1) Upon every person engaging within the state in the business of manufacturing alternative jet fuel; as to such persons, the amount of the tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) Upon every person engaging in making sales, at retail or wholesale, of manufactured alternative jet fuel; as to such persons, the amount of the tax with respect to such business is equal to the gross proceeds of sales of the alternative jet fuel, multiplied by the rate of 0.275 percent.

(3) For the purposes of this section, "alternative jet fuel" means a fuel that can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure and that has lower greenhouse gas emissions based on a full life-cycle analysis when compared to conventional petroleum jet fuel for which it is capable as serving as a substitute, as certified by the department of ecology using the methods for determining the carbon intensity of fuels under chapter 70A.535 RCW. "Alternative jet fuel" includes jet fuels derived from coprocessed feedstocks at a conventional petroleum refinery as certified by the department of ecology using the methods for determining the carbon intensity of fuels under chapter 70A.535 RCW.

(4) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(5)(a) ((~~The~~)) Except as provided in (b) of this subsection, the tax rate under subsections (1) and (2) of this section takes effect on the first day of the first calendar quarter following the month in which the department receives notice from the department of ecology that there are one or more facilities operating in this state with a cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year, as required in RCW 70A.535.150.

(b) For a business that produces alternative jet fuel and is located in a distressed area in this state, the tax rate under subsections (1) and (2) of this section takes effect on the first day of the first calendar quarter following the month in which the department receives notice from the department of ecology, as required in RCW 70A.535.150, that the particular facility has a facility-specific production capacity of at least 500,000 gallons of alternative jet fuel each year.

((~~(b)~~)) (c) The tax rate expires nine calendar years after the close of the calendar year in which the ((~~tax rate under subsections (1) and (2) of this section takes effect~~)) department receives notice from the department of ecology that there are one or more facilities operating in this state with a cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year, as required in RCW 70A.535.150.

(6) For purposes of this section, "distressed area" and "qualifying county" have the same meanings as in RCW 82.04.436.

**Sec.**  RCW 82.04.436 and 2023 c 232 s 10 are each amended to read as follows:

(1)(a) Subject to the limits and provisions of this section, a credit is allowed against the tax otherwise due under this chapter for persons engaged in the manufacturing of alternative jet fuel.

(b) Except as provided in (c) of this subsection, the credit under this section is equal to $1 for each gallon of alternative jet fuel that has at least 50 percent less carbon dioxide equivalent emissions than conventional petroleum jet fuel and is sold during the prior calendar year by:

(i) A business that produces alternative jet fuel and is located in a qualifying county; ((~~or~~))

(ii) A business's designated alternative jet fuel blender that is located in this state; or

(iii) A business that produces alternative jet fuel and is located in a distressed area in the state.

(c) The credit amount under (b) of this subsection must increase by 2 cents for each additional one percent reduction in carbon dioxide equivalent emissions beyond 50 percent, not to exceed $2 for each gallon of alternative jet fuel.

(d) A person may ((~~not~~)) receive credit under ((~~both~~)) either (b)(i) ((~~and~~)), (ii), or (iii) of this subsection.

(e) The credit under this section is calculated only on the portion of jet fuel that is considered alternative jet fuel and does not include conventional petroleum jet fuel when such fuels are blended or otherwise used in a jet fuel mixture.

(f) A credit under ((~~this section~~)) (b)(i) or (ii) of this subsection may not be claimed until the department of ecology verifies that there are one or more facilities operating in this state with cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year and has provided such notice to the department.

(g) A credit under this section may not be claimed by a business under (b)(iii) of this subsection (1) until after June 30, 2025, and after the department of ecology has provided notice to the department that it verified that the business is operating a facility with a facility-specific production capacity of at least 500,000 gallons of alternative jet fuel each year.

(h) Contract pricing for sales of alternative jet fuel between a person claiming the credit under this section and the final consumer must reflect the per gallon credit under (b) and (c) of this subsection.

((~~(h)~~)) (i) A credit under this section may not be claimed until the department of ecology, in consultation with the department of archaeology and historic preservation, verifies that the person applying for the credit is not engaged in the manufacturing of alternative jet fuel on the footprint of a structure listed with the department of archaeology and historic preservation as a historic cemetery or tribal burial grounds as per chapter 27.44 or 68.60 RCW. If the department of ecology has not made a determination within 60 days of the person requesting verification under this subsection, the application is deemed to be verified.

(2) A person may not receive credit under this section for amounts claimed as credits under RCW 82.04.4361 or chapter 82.16 RCW.

(3) To claim a credit under this section a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department.

(4) To claim a credit under this section, the person applying must:

(a) Complete an application for the credit which must include:

(i) The name, business address, and tax identification number of the applicant;

(ii) Documentation of the total amount of alternative jet fuel manufactured and sold in the prior calendar year;

(iii) Documentation sufficient for the department to verify that the alternative jet fuel for which the credit is being claimed meets the definition in RCW 82.04.287(3) and the carbon intensity reduction benchmarks under subsection (1)(b) and (c) of this section, as certified by the department of ecology under chapter 70A.535 RCW;

(iv) Documentation sufficient to verify compliance with subsection (1)((~~(g)~~)) (h) of this section; and

(v) Any other information deemed necessary by the department to support administration or reporting of the program.

(b) Obtain a carbon intensity score from the department of ecology prior to submitting an application to the department.

(5) The department must notify applicants of credit approval or denial within 60 days of receipt of a final application and documentation.

(6) If a person fails to supply the information as required in subsection (4) of this section, the department must deny the application.

(7)(a) The credit under this section may only be claimed against taxes due under RCW 82.04.287, less any taxable amount for which a credit is allowed under RCW 82.04.440.

(b) A credit earned during one calendar year may be carried over and claimed against taxes incurred for the next subsequent calendar year but may not be carried over for any calendar year thereafter.

(c) No refunds may be granted for credits under this section.

(8) For the purposes of this section:

(a) "Alternative jet fuel" has the same meaning as in RCW 70A.535.010.

(b) "Carbon dioxide equivalent" has the same meaning as in RCW 70A.45.010.

(c) "Distressed area" means a county that has been designated as such by January 1, 2024, by the employment security department pursuant to RCW 43.168.020.

(d) "Qualifying county" means a county that has a population less than 650,000 at the time an application for a credit under this section is received by the department.

(9)(a) Credits may be earned beginning on the first day of the first calendar quarter following the month in which notices under subsection (1)(f) or (g) of this section ((~~was~~)), respectively, were received by the department.

(b) Credits may not be earned beginning nine calendar years after the close of the calendar year in which the ((~~credit may be earned, as provided in (a) of this subsection~~)) department receives notice from the department of ecology that there are one or more facilities operating in this state with a cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year, as required in RCW 70A.535.150.

(10) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

**Sec.**  RCW 70A.535.150 and 2023 c 232 s 3 are each amended to read as follows:

(1) By no later than December 31, 2023, the department must allow one or more carbon intensity pathways for alternative jet fuel.

(2) The department must allow biomethane to be claimed as the feedstock for renewable diesel and alternative jet fuel consistent with that allowable for compressed natural gas, liquefied natural gas, liquefied compressed natural gas, or hydrogen production. The department must include in the report required by RCW 70A.535.090(1) information that includes the amount, generation date, and geographic origin of renewable thermal certificates representing the biomethane environmental attributes claimed by each reporting entity for the fuels described in this subsection.

(3) The department must notify the department of revenue within 30 days when any facility capable of producing at least 500,000 gallons of alternative jet fuel each year is operating in a distressed area in this state and when one or more facilities capable of producing a cumulative production capacity of at least 20,000,000 gallons of alternative jet fuel each year are operating in this state.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for sections 2 through 4, chapter . . ., Laws of 2024 (sections 2 through 4 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for the preferential tax treatment.

(2) The tax preference performance statement in section 8, chapter 232, Laws of 2023 applies to the expansion of the tax preferences in sections 2 through 4 of this act.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  RCW 82.32.805 does not apply to this act.

NEW SECTION. **Sec.**  Sections 2 through 4 of this act take effect July 1, 2024.

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