

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1964

Chapter 1, Laws of 2024

68th Legislature
2024 Regular Session

PRORATE AND FUEL TAX COLLECTION

EFFECTIVE DATE: July 1, 2024

Passed by the House January 29, 2024
Yeas 92 Nays 4

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate February 6, 2024
Yeas 48 Nays 1

DENNY HECK

President of the Senate

Approved February 21, 2024 9:44 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1964** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

February 21, 2024

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1964

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Representatives Ramos, Robertson, Reeves, and Hackney; by request of Department of Licensing

Prefiled 12/18/23. Read first time 01/08/24. Referred to Committee on Transportation.

1 AN ACT Relating to enhancing prorated and fuel tax collections by
2 improving taxpayer compliance, providing additional enforcement
3 mechanisms, and protecting confidential taxpayer information;
4 amending RCW 46.87.020, 46.87.080, 46.87.350, 82.38.020, 82.38.072,
5 82.38.120, 82.38.140, 82.38.170, 82.38.220, 82.38.260, 82.38.270,
6 82.38.380, 82.42.118, and 82.42.210; reenacting and amending RCW
7 82.42.010; adding new sections to chapter 82.38 RCW; adding new
8 sections to chapter 82.42 RCW; creating a new section; prescribing
9 penalties; and providing an effective date.

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

11 **Sec. 1.** RCW 46.87.020 and 2015 c 228 s 2 are each amended to
12 read as follows:

13 Provisions and terms used in this chapter have the meaning given
14 to them in the international registration plan (IRP), in chapter
15 46.04 RCW, or as otherwise defined in this section. Definitions given
16 to terms by the IRP prevail unless given a different meaning in this
17 chapter or in rules adopted under authority of this chapter.

18 (1) "Adequate records" are records maintained by the owner of the
19 fleet sufficient to enable the department to verify the distances
20 reported in the owner's application for apportioned registration and
21 to evaluate the accuracy of the owner's distance accounting system.

1 (2) "Apportionable vehicle" has the meaning given by the IRP,
2 except that it does not include vehicles with a declared gross weight
3 of (~~twelve thousand~~) 12,000 pounds or less.

4 (3) "Cab card" is a certificate of registration issued for a
5 vehicle.

6 (4) "Credentials" means cab cards, apportioned plates, temporary
7 operating authority, and validation tabs issued for proportionally
8 registered vehicles.

9 (5) "Declared combined gross weight" means the total unladen
10 weight of any combination of vehicles plus the maximum weight of the
11 load to be carried on the combination of vehicles as declared by the
12 registrant.

13 (6) "Declared gross weight" means the total unladen weight of any
14 vehicle plus the maximum weight of the load to be carried on the
15 vehicle as declared by the registrant. In the case of a bus, auto
16 stage, or a passenger-carrying for hire vehicle with a seating
17 capacity of more than six, the declared gross weight is determined by
18 multiplying (~~one hundred fifty~~) 150 pounds by the number of seats
19 in the vehicle, including the driver's seat, and adding this amount
20 to the unladen weight of the vehicle. If the resultant gross weight
21 is not listed in RCW 46.17.355, it must be increased to the next
22 higher gross weight authorized in chapter 46.44 RCW.

23 (7) "Department" means the department of licensing.

24 (8) "Fleet" means one or more apportionable vehicles.

25 (9) "In-jurisdiction distance" means the total distance, in
26 miles, accumulated in a jurisdiction during the reporting period by
27 vehicles of the fleet while they were a part of the fleet.

28 (10) "IRP" means the international registration plan.

29 (11) "Jurisdiction" means and includes a state, territory or
30 possession of the United States, the District of Columbia, the
31 Commonwealth of Puerto Rico, a foreign country, and a state or
32 province of a foreign country.

33 (12) "Motor carrier" means an entity engaged in the
34 transportation of goods or persons. "Motor carrier" includes a for-
35 hire motor carrier, private motor carrier, exempt motor carrier,
36 registrant licensed under this chapter, motor vehicle lessor, and
37 motor vehicle lessee.

38 (13) "Owner" means a person or business who holds the legal title
39 to a vehicle, or if a vehicle is the subject of an agreement for its
40 conditional sale with the right of purchase upon performance of the

1 conditions stated in the agreement and with an immediate right of
2 possession vested in the conditional vendee, or if a vehicle is
3 subject to a lease, contract, or other legal arrangement vesting
4 right of possession or control, for security or otherwise, or if a
5 mortgagor of a vehicle is entitled to possession, then the owner is
6 deemed to be the person or business in whom is vested right of
7 possession or control.

8 ((~~(13)~~—[~~(14)~~])) (14) "Person" means any individual, partnership,
9 association, public or private corporation, limited liability
10 company, or other type of legal or commercial entity, including its
11 members, managers, partners, directors, or officers.

12 ((~~(14)~~—[~~(15)~~])) (15) "Prorate percentage" is the factor applied
13 to the total proratable fees and taxes to determine the apportionable
14 fees required for registration in a jurisdiction. It is determined by
15 dividing the in-jurisdiction distance for a particular jurisdiction
16 by the total distance.

17 ((~~(15)~~—[~~(16)~~])) (16) "Registrant" means a person, business, or
18 corporation in whose name or names a vehicle or fleet of vehicles is
19 registered.

20 ((~~(16)~~—[~~(17)~~])) (17) "Registration year" means the ((~~twelve~~)) 12-
21 month period during which the credentials issued by the base
22 jurisdiction are valid.

23 ((~~(17)~~—[~~(18)~~])) (18) "Reporting period" means the period of
24 ((~~twelve~~)) 12 consecutive months immediately prior to July 1st of the
25 calendar year immediately preceding the beginning of the registration
26 year for which apportioned registration is sought. If the fleet
27 registration period commences in October, November, or December, the
28 reporting period is the period of ((~~twelve~~)) 12 consecutive months
29 immediately preceding July 1st of the current calendar year.

30 ((~~(18)~~—[~~(19)~~])) (19) "Total distance" means all distance operated
31 by a fleet of apportioned vehicles. "Total distance" includes the
32 full distance traveled in all vehicle movements, both
33 interjurisdictional and intrajurisdictional, including loaded,
34 unladen, deadhead, and bobtail distances. Distance traveled by a
35 vehicle while under a trip lease is considered to have been traveled
36 by the lessor's fleet. All distance, both interstate and intrastate,
37 accumulated by vehicles of the fleet is included in the fleet
38 distance.

39 (20) "Deny" means to decline acceptance of an application for
40 licensure or reinstatement.

1 (21) "Refuse" has the same meaning as "deny" in subsection (20)
2 of this section.

3 (22) "Revoke" means to prohibit all authority granted by this
4 chapter, including the display and use of credentials issued by the
5 department for a period of one year or greater or for an indefinite
6 period.

7 (23) "Suspend" means to restrict the grant of authority under
8 this chapter for a period of less than one year.

9 **Sec. 2.** RCW 46.87.080 and 2015 c 228 s 10 are each amended to
10 read as follows:

11 (1) Upon making satisfactory application and payment of fees and
12 taxes for proportional registration under this chapter, the
13 department must issue credentials. License plates must be displayed
14 as required under RCW 46.16A.200(5). The license plates must be of a
15 design determined by the department. The license plates must be
16 treated with reflectorized material and clearly marked with the words
17 "WASHINGTON" and "APPORTIONED," both words to appear in full and
18 without abbreviation.

19 (2) The cab card is the certificate of registration for the
20 vehicle. The cab card must contain the name and address of the
21 registrant as maintained in the records of the department, the
22 license plate number assigned to the vehicle, the vehicle
23 identification number, and other information the department may
24 require. The cab card must be signed by the registrant, or a
25 designated person if the registrant is a business, and must always be
26 carried in the vehicle.

27 (3) The apportioned license plates are not transferable. License
28 plates must be legible and remain with the vehicle until the
29 department requires them to be removed.

30 (4) Validation tab(s) of a design determined by the department
31 must be affixed to the license plate(s) as prescribed by the
32 department and indicate the month and year for which the vehicle is
33 registered.

34 (5) A fleet vehicle properly registered is deemed to be fully
35 registered in this state for any type of legal movement or operation.
36 In instances in which a permit or grant of authority is required for
37 interstate or intrastate operation, the vehicle must not be operated
38 in interstate or intrastate commerce unless the owner is granted the

1 appropriate operating authority and the vehicle is being operated in
2 conformity with that permit or operating authority.

3 (6) The department may deny, suspend, or revoke the credentials
4 authorized under subsection (1) of this section to any person: (a)
5 Who formerly held any type of license, registration, credentials, or
6 permit issued by the department pursuant to chapter 46.16A, 46.44,
7 46.85, ~~((46.87,))~~ or 82.38 RCW or this chapter that has been revoked
8 for cause, which cause has not been removed; (b) who is a subterfuge
9 for the real party in interest whose license, registration,
10 credentials, or permit issued by the department pursuant to chapter
11 46.16A, 46.44, 46.85, ~~((46.87,))~~ or 82.38 RCW or this chapter and has
12 been revoked for cause, which cause has not been removed; (c) who, as
13 a person, individual licensee, or officer, partner, director, owner,
14 or managing employee of a nonindividual licensee, has had a license,
15 registration, or permit issued by the department pursuant to chapter
16 46.16A, 46.44, 46.85, ~~((46.87,))~~ or 82.38 RCW or this chapter that
17 has been revoked for cause, which cause has not been removed; (d) who
18 has an unsatisfied debt to the state assessed under either chapter
19 46.16A, 46.44, 46.85, ~~((46.87,))~~ 82.38, or 82.44 RCW or this chapter;
20 or (e) who, as a person, individual licensee, officer, partner,
21 director, owner, or managing employee of a nonindividual licensee,
22 has been prohibited from operating as a motor carrier by the federal
23 motor carrier safety administration or Washington state patrol and
24 the cause for such prohibition has not been satisfied.

25 (7) ~~((Before such denial, suspension, or revocation under
26 subsection (6) of this section))~~ Any action initiated under
27 subsection (6) of this section may be immediately issued as a notice
28 of the adverse action. Upon service of that notice, the applicant,
29 registrant, or owner must be granted 30 calendar days to request a
30 review by the department on the action. If a timely request to review
31 is received, the department must grant the applicant, registrant, or
32 owner ~~((an informal hearing))~~ a review and at least ~~((ten))~~ 10 days
33 written notice of the time ~~((and))~~, place, and method of the
34 ~~((hearing))~~ review. If no request is received by the department, the
35 action becomes final and subject to the provisions of RCW 46.87.300.

36 **Sec. 3.** RCW 46.87.350 and 2015 c 228 s 33 are each amended to
37 read as follows:

38 If a person is delinquent in the payment of any obligation, the
39 department may give notice of the amount of the delinquency, in

1 person (~~(or)~~), by mail, or through electronic service, to persons
2 having possession or control of credits or personal and real property
3 belonging to the person, or owing any debts to the person. Any person
4 notified may not transfer or dispose of credits, personal and real
5 property, or debts without the consent of the department. A person
6 notified must, within (~~(twenty)~~) 20 days after receipt of the notice,
7 advise the department of any credits, personal and real property, or
8 debts in his or her possession, under his or her control or owing by
9 him or her, and must immediately deliver the credits, personal and
10 real property, or debts to the department.

11 If a person fails to timely answer the notice, a court may render
12 judgment by default against the person.

13 The notice and order to withhold and deliver constitutes a
14 continuing lien on property of the person. The department must
15 include in the notice to withhold and deliver "continuing lien." The
16 effective date of a notice to withhold and deliver is the date of
17 service.

18 **Sec. 4.** RCW 82.38.020 and 2013 c 225 s 102 are each amended to
19 read as follows:

20 The definitions in this section apply throughout this chapter
21 unless the context clearly requires otherwise.

22 (1) "Blended fuel" means a mixture of fuel and another liquid,
23 other than a de minimis amount of the liquid.

24 (2) "Blender" means a person who produces blended fuel outside
25 the bulk transfer-terminal system.

26 (3) "Bond" means a bond duly executed with a corporate surety
27 qualified under chapter 48.28 RCW payable to the state of Washington
28 conditioned upon faithful performance of all requirements of this
29 chapter.

30 (4) "Bulk transfer-terminal system" means the fuel distribution
31 system consisting of refineries, pipelines, vessels, and terminals.
32 Fuel in a refinery, pipeline, vessel, or terminal is in the bulk
33 transfer-terminal system.

34 (5) "Bulk transfer" means a transfer of fuel by pipeline or
35 vessel.

36 (6) "Bulk storage" means the placing of fuel into a receptacle
37 other than the fuel supply tank of a motor vehicle.

38 (7) "Department" means the department of licensing.

1 (8) "Distributor" means a person who acquires fuel outside the
2 bulk transfer-terminal system for importation into Washington, from a
3 terminal or refinery rack located within Washington for distribution
4 within Washington, or for immediate export outside the state of
5 Washington.

6 (9) "Dyed special fuel user" means a person authorized by the
7 internal revenue code to operate a motor vehicle on the highway using
8 dyed special fuel, in which the use is not exempt from the fuel tax.

9 (10) "Evasion" or "evade" means to diminish or avoid the
10 computation, assessment, or payment of authorized taxes or fees
11 through:

12 (a) A knowing: False statement; omission; misrepresentation of
13 fact; or other act of deception;

14 (b) An intentional: Failure to file a return or report; or other
15 act of deception; or

16 (c) The unlawful use of dyed special fuel.

17 (11) "Exempt sale" means the sale of fuel to a person whose use
18 of fuel is exempt from the fuel tax.

19 (12) "Export" means to obtain fuel in this state for sales or
20 distribution outside the state. Fuel distributed to a federally
21 recognized Indian tribal reservation located within the state of
22 Washington is not considered exported outside this state.

23 (13) "Exporter" means a person who purchases fuel physically
24 located in this state at the time of purchase and directly exports
25 the fuel by a means other than the bulk transfer-terminal system to a
26 destination outside of the state. If the exporter of record is acting
27 as an agent, the person for whom the agent is acting is the exporter.
28 If there is no exporter of record, the owner of the fuel at the time
29 of exportation is the exporter.

30 (14) "Fuel" means motor vehicle fuel or special fuel.

31 (15) "Fuel user" means a person engaged in uses of fuel that are
32 not specifically exempted from the fuel tax imposed under this
33 chapter.

34 (16) "Highway" means every way or place open to the use of the
35 public, as a matter of right, for the purpose of vehicular travel.

36 (17) "Import" means to bring fuel into this state by a means of
37 conveyance other than the fuel supply tank of a motor vehicle.

38 (18) "Importer" means a person who imports fuel into the state by
39 a means other than the bulk transfer-terminal system. If the importer
40 of record is acting as an agent, the person for whom the agent is

1 acting is the importer. If there is no importer of record, the owner
2 of the fuel at the time of importation is the importer.

3 (19) "International fuel tax agreement licensee" means a fuel
4 user operating qualified motor vehicles in interstate commerce and
5 licensed by the department under the international fuel tax
6 agreement.

7 (20) "Licensee" means a person holding a license issued under
8 this chapter.

9 (21) "Motor vehicle" means a self-propelled vehicle utilizing
10 fuel as a means of propulsion.

11 (22) "Motor vehicle fuel" means gasoline and any other
12 inflammable gas or liquid, by whatsoever name the gasoline, gas, or
13 liquid may be known or sold the chief use of which is as a fuel for
14 the propulsion of motor vehicles or vessels.

15 (23) "Natural gas" means naturally occurring mixtures of
16 hydrocarbon gases and vapors consisting principally of methane,
17 whether in gaseous or liquid form.

18 (24) "Person" means any individual, partnership, association,
19 public or private corporation, limited liability company, or any
20 other type of legal or commercial entity, including their members,
21 managers, partners, directors, or officers.

22 (25) "Position holder" means a person who holds the inventory
23 position in fuel, as reflected by the records of the terminal
24 operator. A person holds the inventory position if the person has a
25 contractual agreement with the terminal for the use of storage
26 facilities and terminating services. "Position holder" includes a
27 terminal operator that owns fuel in their terminal.

28 (26) "Rack" means a mechanism for delivering fuel from a refinery
29 or terminal into a truck, trailer, railcar, or other means of nonbulk
30 transfer.

31 (27) "Refiner" means a person who owns, operates, or otherwise
32 controls a refinery.

33 (28) "Removal" means a physical transfer of fuel other than by
34 evaporation, loss, or destruction.

35 (29) "Special fuel" means diesel fuel, propane, natural gas,
36 kerosene, biodiesel, and any other combustible liquid or gas by
37 whatever name the liquid or gas may be known or sold for the
38 generation of power to propel a motor vehicle on the highways, except
39 it does not include motor vehicle fuel.

1 (30) "Supplier" means a person who holds a federal certificate of
2 registry issued under the internal revenue code and authorizes the
3 person to engage in tax-free transactions of fuel in the bulk
4 transfer-terminal system.

5 (31) "Terminal" means a fuel storage and distribution facility
6 that has been assigned a terminal control number by the internal
7 revenue service.

8 (32) "Terminal operator" means a person who owns, operates, or
9 otherwise controls a terminal.

10 (33) "Two-party exchange" or "buy-sell agreement" means a
11 transaction in which taxable fuel is transferred from one licensed
12 supplier to another licensed supplier whereby the supplier that is
13 the position holder agrees to deliver taxable fuel to the other
14 supplier or the other supplier's customer at the terminal at which
15 the delivering supplier is the position holder.

16 (34) "Deny" means to decline acceptance of an application for
17 licensure or reinstatement.

18 (35) "Refuse" has the same meaning as "deny" in subsection (34)
19 of this section.

20 (36) "Revoke" means to prohibit all authority granted by this
21 chapter, including the display and use of credentials issued by the
22 department for a period of one year or greater or for an indefinite
23 period.

24 (37) "Suspend" means to restrict the grant of authority under
25 this chapter for a period of less than one calendar year.

26 **Sec. 5.** RCW 82.38.072 and 2013 c 225 s 204 are each amended to
27 read as follows:

28 (1) Unless the use is exempt from the special fuel tax, or
29 expressly authorized by the federal internal revenue code and this
30 chapter, a person having dyed special fuel in the fuel supply tank of
31 a motor vehicle that is licensed or required to be licensed is
32 subject to a civil penalty of (~~ten dollars~~) \$10 for each gallon of
33 dyed special fuel placed into the supply tank of the motor vehicle,
34 or (~~one thousand dollars~~) \$1,000, whichever is greater. The
35 penalties must be collected and administered under this chapter.

36 (2) A person who maintains dyed special fuel in bulk storage for
37 an intended sale or use in violation of this chapter is subject to a
38 civil penalty of (~~ten dollars~~) \$10 for each gallon of dyed special
39 fuel, or (~~one thousand dollars~~) \$1,000, whichever is greater,

1 currently (~~or~~) and previously maintained in bulk storage by the
2 person. The department may make an assessment based upon the
3 calculated capacity of the bulk storage, which is presumptive unless
4 evidence is provided supporting a lower quantity of dyed special fuel
5 actually maintained in violation of this chapter. The penalties must
6 be collected and administered under this chapter.

7 (3) For the purposes of enforcement of this section, the
8 director, the director's agents, the Washington state patrol, or
9 other commercial vehicle safety alliance-certified officers may
10 inspect, collect, and secure samples of special fuel used in the
11 propulsion of a vehicle operated upon the highways of this state, or
12 in any bulk storage device transported upon the highways of this
13 state, to detect the presence of dye or other chemical compounds.

14 (4) RCW 43.05.110 does not apply to the civil penalties imposed
15 under (~~subsection (1) of~~) this section.

16 (5) If one or more violations have been assessed under this
17 section within the previous five years from the violation date, the
18 civil penalties under subsections (1) and (2) of this section must be
19 multiplied by the number of previously assessed violations plus one.

20 (6) Assessments under this section are subject to the provisions
21 of RCW 82.38.170.

22 **Sec. 6.** RCW 82.38.120 and 2013 c 225 s 114 are each amended to
23 read as follows:

24 (1) The department may refuse to issue to, or suspend or revoke a
25 license of any licensee or applicant:

26 (a) Who formerly held a license issued under chapter 82.36,
27 82.38, 82.42, or 46.87 RCW which has been suspended or revoked for
28 cause;

29 (b) Who is a subterfuge for the real party in interest whose
30 license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW has
31 been revoked for cause;

32 (c) Who, as an individual licensee, or partner, officer,
33 director, owner, or managing employee of a licensee, has had a
34 license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW
35 denied, suspended, or revoked for cause;

36 (d) Who has an unsatisfied debt to the state assessed under
37 either chapter 82.36, 82.38, 82.42, or 46.87 RCW;

38 (e) Who formerly held as an individual, partner, officer,
39 director, owner, managing employee of a licensee, or subterfuge for a

1 real party in interest, a license issued by the federal government or
2 a state that allowed a person to buy or sell untaxed motor vehicle,
3 special, or aircraft fuel, which has been suspended or revoked for
4 cause;

5 (f) Who (~~pled~~) pleaded guilty to or was convicted as an
6 individual, partner, officer, director, owner, or managing employee
7 of a licensee in this or any other state, Canadian province, or in
8 any federal jurisdiction of a gross misdemeanor or felony crime
9 directly related to the fuel distribution business or has been
10 subject to a civil judgment involving fraud, misrepresentation,
11 conversion, or dishonesty, notwithstanding chapter 9.96A RCW;

12 (g) Who misrepresented or concealed a material fact in obtaining
13 a license or reinstating a license;

14 (h) Who violated a statute or administrative rule regulating fuel
15 taxation or distribution;

16 (i) Who failed to cooperate with the department's investigations
17 by:

18 (i) Not furnishing papers or documents;

19 (ii) Not furnishing in writing a full and complete explanation
20 regarding a matter under investigation by the department; or

21 (iii) Not responding to subpoenas issued by the department,
22 whether or not the recipient of the subpoena is the subject of the
23 proceeding;

24 (j) Who failed to comply with an order issued by the director; or

25 (k) Upon other sufficient cause being shown.

26 (2) Refusals, suspensions, and revocations under this section
27 become final 30 days after notice is served upon the licensee or
28 applicant of the intention to refuse, suspend, or revoke the
29 authority granted in this chapter.

30 (3) Before a refusal, suspension, or revocation under this
31 section becomes final, the department must (~~grant~~) offer
32 the applicant a (~~hearing~~) review by the department and must grant the
33 applicant at least (~~twenty~~) 20 days written notice of the time
34 (~~and~~), place, and method thereof.

35 **Sec. 7.** RCW 82.38.140 and 2013 c 225 s 115 are each amended to
36 read as follows:

37 (1) Every person importing, manufacturing, refining,
38 transporting, blending, or storing fuel must keep for a period of
39 five years open to inspection at all times during the business hours

1 of the day to the department or its authorized representatives, a
2 complete record of all fuel purchased or received and all fuel sold,
3 delivered, or used by them. Records must show:

4 (a) The date of receipt;

5 (b) The name and address of the person from whom purchased or
6 received;

7 (c) The number of gallons received at each place of business or
8 place of storage in the state of Washington;

9 (d) The date of sale or delivery;

10 (e) The number of gallons sold, delivered, or used for taxable
11 purposes;

12 (f) The number of gallons sold, delivered, or used for any
13 purpose not subject to the fuel tax;

14 (g) The name, address, and fuel license number of the purchaser
15 if the fuel tax is not collected on the sale or delivery;

16 (h) The physical inventories of fuel and petroleum products on
17 hand at each place of business at the end of each month;

18 (i) Stocks of raw gasoline, gasoline stock, diesel oil, kerosene,
19 kerosene distillates, casing head gasoline and other petroleum
20 products which may be used in the compounding, blending, or
21 manufacturing of fuel.

22 (2) (a) All international fuel tax agreement licensees and dyed
23 special fuel users authorized to use dyed special fuel on highways in
24 vehicles licensed for highway operation must maintain detailed
25 mileage records on an individual vehicle basis.

26 (b) Operating records must show both on-highway and off-highway
27 usage of special fuel on a daily basis for each vehicle.

28 (c) In the absence of operating records that show both on-highway
29 and off-highway usage of special fuel on a daily basis for each
30 vehicle, fuel consumption must be computed under RCW 82.38.060.

31 (3) The department may require a person other than a licensee
32 engaged in the business of selling, purchasing, distributing,
33 storing, transporting, or delivering fuel to submit periodic reports
34 to the department regarding the disposition of the fuel. The reports
35 must be on forms prescribed by the department and must contain such
36 information as the department may require. Failure to report as the
37 department requires subjects a person to the civil and criminal
38 penalties under RCW 82.38.170 and 82.38.270.

39 (4) Every person operating any conveyance transporting fuel in
40 bulk must possess during the entire time an invoice, bill of sale, or

1 other statement showing the name, address, and license number of the
2 seller or consigner, the destination, name, and address of the
3 purchaser or consignee, license number, if applicable, and the number
4 of gallons. The person transporting fuel must at the request of any
5 law enforcement officer or authorized representative of the
6 department, produce for inspection required records and must permit
7 inspection of the contents of the vehicle.

8 **Sec. 8.** RCW 82.38.170 and 2013 c 225 s 118 are each amended to
9 read as follows:

10 (1) If any person fails to pay any taxes due the state of
11 Washington within the time prescribed by RCW 82.38.150 and 82.38.160,
12 the person must pay a penalty of (~~ten~~) 10 percent of the tax due.

13 (2) If the tax reported by any licensee is deficient a penalty of
14 ten percent of the deficiency must be assessed.

15 (3) If any licensee, whether or not licensed as such, fails,
16 neglects, or refuses to file a required fuel tax report, the
17 department must determine the tax liability and add the penalty
18 provided in subsection (2) of this section to the liability. An
19 assessment made by the department pursuant to this subsection or to
20 subsection (2) of this section is presumed to be correct, and the
21 burden is on the person who challenges the assessment to establish by
22 a fair preponderance of the evidence that it is erroneous or
23 excessive.

24 (4) If any person, other than a licensee, fails, neglects, or
25 refuses to file a required fuel tax report, or files a false or
26 fraudulent report, the department must calculate and assess a
27 penalty. The penalty under this subsection is \$100 plus an additional
28 five cents per gallon not properly reported or falsely reported. An
29 assessment made by the department pursuant to this subsection is
30 presumed to be correct, and the burden is on the person who
31 challenges the assessment to establish by a fair preponderance of the
32 evidence that it is erroneous or excessive.

33 (5) If any (~~licensee~~) person establishes by a fair
34 preponderance of evidence that failure to file a report or pay the
35 proper amount of tax within the time prescribed was due to reasonable
36 cause and was not intentional or willful, the department may waive
37 the penalty prescribed in subsections (1) (~~and~~), (2), and (4) of
38 this section.

1 ~~((5))~~ (6) If any licensee files a false or fraudulent report
2 with intent to evade the tax imposed by this chapter, there is added
3 to the amount of deficiency a penalty of ~~((twenty-five))~~ 25 percent
4 of the deficiency, in addition to all other penalties prescribed by
5 law.

6 ~~((6))~~ (7) If any person acts as a licensee without first
7 securing the required license, all fuel tax liability incurred by
8 that person becomes immediately due and payable. The department must
9 determine the amount of the tax liability and must assess the person
10 a penalty of ~~((one-hundred))~~ 100 percent of the tax in addition to
11 the tax owed.

12 ~~((7))~~ (8) Any fuel tax, penalties, and interest payable under
13 this chapter shall bear interest at the rate of one percent per
14 month, or fraction thereof, from the first day of the calendar month
15 after the amount or any portion thereof should have been paid until
16 the date of payment. The department may waive interest when it
17 determines the cost of processing the collection exceeds the amount
18 of interest due.

19 ~~((8))~~ (9) Except in the case of filing a false or fraudulent
20 report, if the department deems mitigation of penalties and interest
21 to be reasonable and in the best interests of carrying out the
22 purpose of this chapter, it may mitigate the assessments.

23 ~~((9))~~ (10) Except in the case of a fraudulent report or failure
24 to file a report, deficiencies, penalties, and interest must be
25 assessed within five years from the ~~((twenty-fifth))~~ 25 day of the
26 next succeeding month following the reporting period for which the
27 amount is determined or within five years after the return is filed,
28 whichever period expires later.

29 ~~((10))~~ (11)(a) Any ~~((licensee))~~ person against whom an
30 assessment is made under the provisions of subsections (1) ~~((and))~~,
31 (2), and (4) of this section may petition for a reassessment within
32 ~~((thirty))~~ 30 days after service upon the ~~((licensee))~~ person of the
33 assessment. If such petition is not filed within such ~~((thirty))~~ 30
34 day period, the amount of the assessment becomes final.

35 (b) If a petition for reassessment is filed within the ~~((thirty))~~
36 30 day period, the department must reconsider the assessment and, if
37 the ~~((licensee))~~ person has requested in the petition, must grant
38 ~~((an informal hearing))~~ a review by the department and give ~~((ten))~~
39 10 days' notice of the time and place. The department may continue
40 the ~~((hearing))~~ review as needed. The decision of the department upon

1 a petition for reassessment becomes final (~~(thirty)~~) 30 days after
2 service upon the (~~(licensee)~~) person.

3 (c) Every assessment made by the department becomes due and
4 payable at the time it becomes final and if not timely paid to the
5 department, a penalty of (~~(ten)~~) 10 percent of the amount of the tax
6 is added to the assessment.

7 (~~(11)~~) (12) Any notice of assessment required by this section
8 must be served by depositing such notice in the United States mail,
9 postage prepaid addressed to the (~~(licensee)~~) person at the address
10 shown in the records of the department.

11 (~~(12)~~) (13) Any licensee who has had a fuel license revoked
12 must pay a (~~(one hundred dollar)~~) \$100 penalty, submit an application
13 for reinstatement on forms prescribed by the department, and must
14 resolve all outstanding violations, noncompliance items, and debts
15 owed under this chapter, and chapters 46.87 and 82.42 RCW to the
16 satisfaction of the department, prior to the issuance of a new
17 license.

18 (~~(13)~~) (14) Any person required to be licensed under RCW
19 82.38.090(1)(f) found operating without such license is subject to an
20 assessment of \$500 in addition to all other penalties prescribed by
21 law.

22 (15) Any person who, upon audit or investigation by the
23 department, is found to have not paid fuel taxes as required by this
24 chapter is subject to cancellation of all vehicle registrations for
25 vehicles utilizing special fuel as a means of propulsion. Any
26 unexpired Washington tonnage on the vehicles in question may be
27 transferred to a purchaser of the vehicles upon application to the
28 department who will hold such tonnage in its custody until a sale of
29 the vehicle is made or the tonnage has expired.

30 (16) RCW 43.05.110 does not apply to the civil penalties imposed
31 under this section.

32 **Sec. 9.** RCW 82.38.220 and 2013 c 225 s 122 are each amended to
33 read as follows:

34 (1) If a person is delinquent in the payment of any obligation,
35 the department may give notice of the amount of delinquency to
36 persons having possession or control of credits, personal and real
37 property belonging to the person, or owing debts to the person. Any
38 person notified may not transfer or dispose of credits, personal and
39 real property, or debts without the consent of the department. A

1 person notified must, within twenty days after receipt of notice,
2 advise the department of any credits, personal and real property, or
3 debts in their possession, under their control or owing by them, and
4 must immediately deliver the credits, personal and real property, or
5 debts to the department.

6 (2) The notice and order to withhold and deliver constitutes a
7 continuing lien on property of the person. The department must
8 include in the notice to withhold and deliver "continuing lien." The
9 effective date of a notice to withhold and deliver is the date of
10 mailing or electronic service.

11 (3) If a person fails to timely answer the notice, a court may
12 render judgment, plus costs by default against the person.

13 **Sec. 10.** RCW 82.38.260 and 2013 c 225 s 126 are each amended to
14 read as follows:

15 (1) The department may prescribe, adopt, and enforce reasonable
16 rules relating to administration and enforcement of this chapter.

17 (2) The department or its authorized representative may examine
18 the books, papers, records, and equipment of any person distributing,
19 transporting, storing, or using fuel to determine whether all taxes
20 due or refundable are properly reported, paid, or claimed. If books,
21 papers, records, and equipment are not maintained in this state at
22 the time of demand, the department does not lose any right of
23 examination.

24 (3) The department may require additional reports from any
25 licensee with reference to any of the matters herein concerned. Such
26 reports must be made and filed on forms prepared by the department.

27 (4) For the purpose of any investigation or proceeding, the
28 director or designee may administer oaths and affirmations, subpoena
29 witnesses, compel their attendance, take evidence, and require the
30 production of any books, papers, correspondence, memoranda,
31 agreements, or other documents or records which the director deems
32 relevant or material to the inquiry.

33 (5) In the case of contumacy by or refusal to obey a subpoena
34 issued to, any person, any court of competent jurisdiction upon
35 application by the director, may issue to that person an order
36 requiring appearance before the director or designee to produce
37 testimony of other evidence regarding the matter under investigation
38 or in question.

1 (6) The department must, upon request from officials responsible
2 for enforcement of fuel tax laws of any state, the District of
3 Columbia, the United States, its territories and possessions, the
4 provinces or the dominion of Canada, forward information relative to
5 the receipt, storage, delivery, sale, use, or other disposition of
6 fuel by any person, if the other furnishes like information.

7 (7) The department may enter into a fuel tax cooperative
8 agreement with another state, the District of Columbia, the United
9 States, its territories and possessions, or Canadian province for the
10 administration, collection, and enforcement of their respective fuel
11 taxes.

12 (8) For the purposes of administration, collection, and
13 enforcement of taxes imposed under this chapter, pursuant to another
14 agreement under chapter 82.41 RCW, chapter 82.41 RCW controls to the
15 extent of any conflict.

16 (9) The remedies of the state in this chapter are cumulative and
17 no action taken by the department may be construed to be an election
18 on the part of the state or any of its officers to pursue any remedy
19 hereunder to the exclusion of any other remedy for which provision is
20 made in this chapter.

21 (10) The director is charged with the enforcement of the
22 provisions of this chapter and rules adopted hereunder. The director
23 may, in the director's discretion, call on the state patrol or any
24 peace officer in the state, who shall then aid in the enforcement of
25 this chapter or any rules adopted hereunder.

26 **Sec. 11.** RCW 82.38.270 and 2013 c 225 s 127 are each amended to
27 read as follows:

28 (1) It is unlawful for a person to:

29 (a) Have dyed special fuel in the fuel supply tank of a vehicle
30 that is licensed or required to be licensed for highway use or
31 maintain dyed special fuel in bulk storage for highway use, unless
32 the person maintains an uncanceled dyed special fuel user license or
33 is otherwise exempt under this chapter;

34 (b) Hold dyed special fuel for use, intended use, sale, or
35 intended sale in a manner in violation of this chapter;

36 (c) Evade a tax or fee imposed under this chapter;

37 (d) File a false statement of a material fact regarding the
38 administration and enforcement of this chapter or otherwise commit
39 any fraud or make a false representation on a fuel tax license

1 application, fuel tax refund application, fuel tax return, fuel tax
2 record, or fuel tax refund claim;

3 (e) Act as a fuel licensee unless the person holds an uncanceled
4 fuel license issued by the department authorizing the person to
5 engage in that business;

6 (f) Knowingly assist another person to evade a tax or fee imposed
7 by this chapter;

8 (g) Knowingly operate a conveyance for the purpose of hauling,
9 transporting, or delivering fuel in bulk and not possess an invoice,
10 bill of sale, or other statement showing the name, address, and tax
11 license number of the seller or consignor, the destination, the name,
12 address, and tax license number of the purchaser or consignee, and
13 the number of gallons;

14 (h) Refuse to permit the department or its authorized
15 representative to examine the person's books, papers, records,
16 storage facilities, and equipment used in conjunction with the use,
17 distribution, or sale of fuel;

18 (i) (~~To display~~) Display, or cause to permit to be displayed,
19 or to have in possession, any fuel license knowing the same to be
20 fictitious, or to have been suspended, canceled, revoked, or altered;

21 (j) (~~To lend~~) Lend to, or knowingly permit the use of, by one
22 not entitled thereto, any fuel license issued to the person lending
23 it or permitting it to be used;

24 (k) (~~To display~~) Display or to represent as one's own any fuel
25 license not issued to the person displaying the same;

26 (l) (~~To use~~) Use or to conspire with any governmental official,
27 agent, or employee for the use of any requisition, purchase order, or
28 any card or any authority to which the person is not specifically
29 entitled by government regulations, for the purpose of obtaining any
30 fuel or other inflammable petroleum products upon which the fuel tax
31 has not been paid;

32 (m) (~~To sell~~) Sell or dispense natural gas or propane for their
33 own use or the use of others into tanks of vehicles powered by this
34 fuel when the vehicle does not display a valid decal or other
35 identifying device as provided in RCW 82.38.075;

36 (n) Knowingly display, or cause to permit to be displayed, or
37 possess, a fictitious or altered international fuel tax agreement
38 decal or license;

1 (o) Fail to display, or improperly display, a valid international
2 fuel tax agreement decal associated with a valid international fuel
3 tax agreement license;

4 (p) Operate a motor vehicle as provided in RCW 82.38.090(3)
5 without having first obtained a license as required by this chapter;
6 and

7 (q) Offer for sale as taxed fuel, fuel which the seller knows or
8 has reason to know to be untaxed.

9 (2)(a) A single violation of subsection (1)(a) and (b) of this
10 section is a gross misdemeanor under chapter 9A.20 RCW.

11 (b) Multiple violations of subsection (1)(a) and (b) of this
12 section and violations of subsection (1)(c) through (g) of this
13 section are a class C felony under chapter 9A.20 RCW.

14 (3) Violations of subsection (1)(h) through ~~((m))~~ (q) of this
15 section are a gross misdemeanor under chapter 9A.20 RCW.

16 (4) In addition to other penalties and remedies provided by law,
17 the court must order a person or corporation found guilty of
18 violating subsection (1)(c) through (g) of this section to:

19 (a) Pay the tax or fee evaded plus interest, commencing at the
20 date the tax or fee was first due, at the rate of twelve percent per
21 year, compounded monthly; and

22 (b) Pay a penalty of ~~((one hundred))~~ 100 percent of the tax
23 evaded.

24 (5) The tax imposed by this chapter is held in trust by the
25 licensee until paid to the department, and a licensee who
26 appropriates the tax to ~~((his or her))~~ the licensee's own use or to
27 any use other than the payment of the tax is guilty of a felony or
28 gross misdemeanor in accordance with the theft and anticipatory
29 provisions of Title 9A RCW. A person, partnership, corporation, or
30 corporate officer who fails to pay to the department the tax is
31 personally liable to the state for the amount of the tax.

32 **Sec. 12.** RCW 82.38.380 and 2013 c 225 s 135 are each amended to
33 read as follows:

34 When the state patrol or the department has good reason to
35 believe that fuel is being unlawfully imported, kept, sold, offered
36 for sale, blended, or manufactured in violation of this chapter or
37 rules adopted under it, the state patrol, or the department in
38 consultation with the state patrol, may make an affidavit of that
39 fact, describing the place or thing to be searched, before a judge of

1 any court in this state, and the judge must issue a search warrant
2 directed to the state patrol commanding the officer diligently to
3 search any place or vehicle designated in the affidavit and search
4 warrant, and to seize the fuel and conveyance so possessed and to
5 hold them until disposed of by law, and to arrest the person in
6 possession or control of them.

7 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.38
8 RCW to read as follows:

9 (1) The department shall establish a prorated and fuel tax
10 discovery team to detect and investigate violations of this chapter
11 along with violations of chapters 46.87 and 82.42 RCW.

12 (2) Members of the prorated and fuel tax discovery team may be
13 delegated authority to act as limited agents of the director and may
14 exercise the authority to seek search warrants, issue subpoenas,
15 perform inspections, and investigate and assess alleged civil
16 violations of chapter 46.87 or 82.42 RCW or this chapter.

17 (3) The department must adopt rules necessary to implement this
18 section.

19 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.38
20 RCW to read as follows:

21 (1) Reports submitted to the department under RCW 82.38.150 are
22 personal information under RCW 42.56.230(4)(b) and are exempt from
23 public inspection and copying.

24 (2) This section does not:

25 (a) Restrict the department from providing summary or aggregate
26 data where the taxpayer's right to privacy or an unfair competitive
27 disadvantage can reasonably be protected;

28 (b) Prevent the department from entering into data sharing
29 agreements containing these records with a federal, state, or local
30 agency;

31 (c) Restrict sharing with law enforcement for purposes of
32 investigation or enforcement;

33 (d) Prevent the voluntary sharing of or authorization to access a
34 taxpayer's own information to the taxpayer or their authorized
35 representative; or

36 (e) Restrict sharing required under RCW 82.38.260(6).

1 NEW SECTION. **Sec. 15.** A new section is added to chapter 82.38
2 RCW to read as follows:

3 (1) The department or its duly authorized agent may apply for and
4 obtain a superior court order approving and authorizing a subpoena in
5 advance of its issuance. The application may be made in the county
6 where the subpoenaed person resides or is found, or the county where
7 the subpoenaed records or documents are located, or in Thurston
8 county. The application must:

9 (a) State that an order is sought pursuant to this subsection;

10 (b) Adequately specify the records, documents, or testimony; and

11 (c) Declare under oath that an investigation is being conducted
12 for a lawfully authorized purpose related to an investigation within
13 the department's authority and that the subpoenaed documents or
14 testimony are reasonably related to an investigation within the
15 department's authority.

16 (2) Where the application under this subsection is made to the
17 satisfaction of the court, the court must issue an order approving
18 the subpoena. An order under this subsection constitutes authority of
19 law for the agency to subpoena the records or testimony.

20 (3) The department or its duly authorized agent may seek approval
21 and a court may issue an order under this section without prior
22 notice to any person, including the person to whom the subpoena is
23 directed and the person who is the subject of an investigation.

24 (4) This section does not preclude the use of other legally
25 authorized means of obtaining records, nor preclude the assertion of
26 any legally recognized privileges.

27 (5) The department may not disclose any return or tax information
28 obtained in response to a subpoena issued under this section, except
29 as authorized under this chapter.

30 (6) A third party may not be held civilly liable for any harm
31 resulting from that person's compliance with a subpoena issued under
32 the authority of this section.

33 (7) The entire court file of any proceeding instituted under this
34 section must be sealed and is not open to public inspection by any
35 person except upon order of the court as authorized by law.

36 **Sec. 16.** RCW 82.42.118 and 2013 c 225 s 404 are each amended to
37 read as follows:

1 (1) If any licensee fails to pay any taxes due the state of
2 Washington within the time prescribed in this chapter, the licensee
3 must pay a penalty of (~~ten~~) 10 percent of the tax due.

4 (2) If the tax reported by any licensee is deficient a penalty of
5 (~~ten~~) 10 percent of the deficiency must be assessed.

6 (3) If any licensee, whether or not licensed as such, fails,
7 neglects, or refuses to file a required fuel tax report, the
8 department must determine the tax liability and add the penalty
9 provided in subsection (2) of this section to the liability. An
10 assessment made by the department pursuant to this subsection or to
11 subsection (2) of this section is presumed to be correct, and the
12 burden is on the person who challenges the assessment to establish by
13 a fair preponderance of the evidence that it is erroneous or
14 excessive.

15 (4) If any licensee establishes by a fair preponderance of
16 evidence that failure to file a report or pay the proper amount of
17 tax within the time prescribed was due to reasonable cause and was
18 not intentional or willful, the department may waive the penalty
19 prescribed in subsections (1) and (2) of this section.

20 (5) If any licensee files a false or fraudulent report with
21 intent to evade the tax imposed by this chapter, a penalty of
22 (~~twenty-five~~) 25 percent of the deficiency must be added to the
23 amount of deficiency, which is in addition to all other penalties
24 prescribed by law.

25 (6) If any person acts as a licensee without first securing the
26 required license, all fuel tax liability incurred by that person
27 becomes immediately due and payable. The department must determine
28 the amount of the tax liability and must assess the person along with
29 a penalty of (~~one-hundred~~) 100 percent of the tax.

30 (7) Any fuel tax, penalties, and interest payable under this
31 chapter bear interest at the rate of one percent per month, or
32 fraction thereof, from the first day of the calendar month after the
33 amount or any portion thereof should have been paid until the date of
34 payment. The department may waive interest when it determines the
35 cost of processing the collection exceeds the amount of interest due.

36 (8) Except in the case of violations of filing a false or
37 fraudulent report, if the department deems mitigation of penalties
38 and interest to be reasonable and in the best interests of carrying
39 out the purpose of this chapter, it may mitigate the assessments.

1 (9) Except in the case of a fraudulent report or failure to file
2 a report, deficiencies, penalties, and interest must be assessed
3 within five years from the (~~twenty-fifth~~) 25 day of the next
4 succeeding month following the reporting period for which the amount
5 is determined or within five years after the return is filed,
6 whichever period expires later.

7 (10)(a) Any licensee against whom an assessment is made under the
8 provisions of subsection (2) or (3) of this section may petition for
9 a reassessment within (~~thirty~~) 30 days after service upon the
10 licensee of the assessment. If such petition is not filed within such
11 (~~thirty~~) 30-day period, the amount of the assessment becomes final.

12 (b) If a petition for reassessment is filed within the (~~thirty~~)
13 30-day period, the department must reconsider the assessment and, if
14 the licensee has requested in the petition, must grant (~~an informal~~
15 ~~hearing~~) a review by the department and give (~~ten~~) 10 days' notice
16 of the time (~~and~~), place, and method of review. The department may
17 continue the (~~hearing~~) review as needed. The decision of the
18 department upon a petition for reassessment becomes final (~~thirty~~)
19 30 days after service upon the licensee.

20 (11) Every assessment made by the department becomes due and
21 payable at the time it becomes final and if not timely paid to the
22 department a penalty of (~~ten~~) 10 percent of the amount of the tax
23 must be added to the assessment.

24 (12) Any notice of assessment required by this section must be
25 served by depositing such notice in the United States mail, postage
26 prepaid addressed to the licensee at the address shown in the records
27 of the department.

28 (13) Any licensee who has had a fuel license revoked must pay a
29 (~~one hundred dollar~~) \$100 penalty, submit an application for
30 reinstatement on forms as prescribed by the department, and must
31 resolve all outstanding violations, noncompliance items, and debts
32 owed under this chapter and chapters 46.87 and 82.38 RCW to the
33 satisfaction of the department prior to the issuance of a new
34 license.

35 **Sec. 17.** RCW 82.42.010 and 2013 c 225 s 301 are each reenacted
36 and amended to read as follows:

37 The definitions in this section apply throughout this chapter
38 unless the context clearly requires otherwise.

1 (1) "Air carrier" means any airline, air cargo carrier, air taxi,
2 air commuter, or air charter operator, that provides routine air
3 service to the general population for compensation or hire, and
4 operates at least fifteen round trips per week between two or more
5 points and publishes flight schedules which specify the times, days
6 of the week, and points between which it operates. Where it is
7 doubtful that an operation is for "compensation or hire," the test
8 applied is whether the air service is merely incidental to the
9 person's other business or is, in itself, a major enterprise for
10 profit.

11 (2) "Aircraft" means every contrivance now known or hereafter
12 invented, used or designed for navigation of or flight in the air,
13 operated or propelled by the use of aircraft fuel.

14 (3) "Aircraft fuel" means gasoline and any other inflammable
15 liquid, by whatever name such liquid is known or sold, the chief use
16 of which is as fuel for the propulsion of aircraft, except gas or
17 liquid, the chief use of which as determined by the director, is for
18 purposes other than the propulsion of aircraft.

19 (4) "Dealer" means any person engaged in the retail sale of
20 aircraft fuel.

21 (5) "Department" means the department of licensing.

22 (6) "Director" means the director of licensing.

23 (7) "Distributor" means any person engaged in the sale of
24 aircraft fuel to any dealer and includes any dealer from whom the tax
25 hereinafter imposed has not been collected.

26 (8) "Local service commuter" means an air taxi operator who
27 operates at least five round-trips per week between two or more
28 points; publishes flight schedules which specify the times, days of
29 the week, and points between which it operates; and whose aircraft
30 has a maximum capacity of (~~sixty~~) 60 passengers or (~~eighteen~~
31 ~~thousand~~) 18,000 pounds of useful load.

32 (9) "Person" means every natural person, firm, partnership,
33 association, or private or public corporation.

34 (10) "Deny" means to decline acceptance of an application for
35 licensure or reinstatement.

36 (11) "Refuse" has the same meaning as "deny" in subsection (10)
37 of this section.

38 (12) "Revoke" means to prohibit all authority granted by this
39 chapter, including the display and use of credentials issued by the

1 department for a period of one year or greater or for an indefinite
2 period.

3 (13) "Suspend" means to restrict the grant of authority under
4 this chapter for a period of less than one year.

5 **Sec. 18.** RCW 82.42.210 and 2013 c 225 s 411 are each amended to
6 read as follows:

7 (1) The department may refuse to issue to, or suspend or revoke a
8 license of any licensee or applicant:

9 (a) Who formerly held a license issued under chapter 82.36,
10 82.38, 82.42, or 46.87 RCW which has been suspended or revoked for
11 cause;

12 (b) Who is a subterfuge for the real party in interest whose
13 license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW has
14 been revoked for cause;

15 (c) Who, as an individual licensee, or partner, officer,
16 director, owner, or managing employee of a licensee, has had a
17 license issued under chapter 82.36, 82.38, 82.42, or 46.87 RCW
18 denied, suspended, or revoked for cause;

19 (d) Who has an unsatisfied debt to the state assessed under
20 either chapter 82.36, 82.38, 82.42, or 46.87 RCW;

21 (e) Who formerly held as an individual, partner, officer,
22 director, owner, managing employee of a licensee, or subterfuge for a
23 real party in interest, a license issued by the federal government or
24 a state that allowed a person to buy or sell untaxed motor vehicle or
25 special fuel, which, has been suspended or revoked for cause;

26 (f) Who (~~pled~~) pleaded guilty to or was convicted as an
27 individual, partner, officer, director, owner, or managing employee
28 of a licensee in this or any other state, Canadian province, or in
29 any federal jurisdiction of a gross misdemeanor or felony crime
30 directly related to the fuel distribution business or has been
31 subject to a civil judgment involving fraud, misrepresentation,
32 conversion, or dishonesty, notwithstanding chapter 9.96A RCW;

33 (g) Who misrepresented or concealed a material fact in obtaining
34 a license or reinstating a license;

35 (h) Who violated a statute or administrative rule regulating fuel
36 taxation or distribution;

37 (i) Who failed to cooperate with the department's investigations
38 by:

39 (i) Not furnishing papers or documents;

1 (ii) Not furnishing in writing a full and complete explanation
2 regarding a matter under investigation by the department; or

3 (iii) Not responding to subpoenas issued by the department,
4 whether or not the recipient of the subpoena is the subject of the
5 proceeding;

6 (j) Who failed to comply with an order issued by the director; or

7 (k) Upon other sufficient cause being shown.

8 (2) Refusals, suspensions, and revocations under this section
9 become final 30 days after notice is served upon the licensee or
10 applicant of the intention to refuse, suspend, or revoke the
11 authority granted in this chapter.

12 (3) Before such refusal, suspension, or revocation under this
13 section becomes final, the department must (~~grant~~) offer the
14 applicant a (~~hearing~~) review by the department and must grant the
15 applicant at least (~~twenty~~) 20 days' written notice of the time
16 (~~and~~), place, and method thereof.

17 NEW SECTION. Sec. 19. A new section is added to chapter 82.42
18 RCW to read as follows:

19 (1) Reports submitted to the department under RCW 82.42.140 are
20 personal information under RCW 42.56.230(4)(b) and are exempt from
21 public inspection and copying.

22 (2) This section does not:

23 (a) Restrict the department from providing summary or aggregate
24 data where the taxpayer's right to privacy or an unfair competitive
25 disadvantage can reasonably be protected;

26 (b) Prevent the department from entering into data sharing
27 agreements containing these records with a federal, state, or local
28 agency;

29 (c) Restrict sharing with law enforcement for purposes of
30 investigation or enforcement; or

31 (d) Prevent the voluntary sharing of or authorization to access a
32 taxpayer's own information to the taxpayer or their authorized
33 representative.

34 NEW SECTION. Sec. 20. A new section is added to chapter 82.42
35 RCW to read as follows:

36 (1) The department or its duly authorized agent may apply for and
37 obtain a superior court order approving and authorizing a subpoena in
38 advance of its issuance. The application may be made in the county

1 where the subpoenaed person resides or is found, or the county where
2 the subpoenaed records or documents are located, or in Thurston
3 county. The application must:

4 (a) State that an order is sought pursuant to this subsection;

5 (b) Adequately specify the records, documents, or testimony; and

6 (c) Declare under oath that an investigation is being conducted
7 for a lawfully authorized purpose related to an investigation within
8 the department's authority and that the subpoenaed documents or
9 testimony are reasonably related to an investigation within the
10 department's authority.

11 (2) Where the application under this subsection is made to the
12 satisfaction of the court, the court must issue an order approving
13 the subpoena. An order under this subsection constitutes authority of
14 law for the agency to subpoena the records or testimony.

15 (3) The department or its duly authorized agent may seek approval
16 and a court may issue an order under this subsection without prior
17 notice to any person, including the person to whom the subpoena is
18 directed and the person who is the subject of an investigation.

19 (4) This section does not preclude the use of other legally
20 authorized means of obtaining records, nor preclude the assertion of
21 any legally recognized privileges.

22 (5) The department may not disclose any return or tax information
23 obtained in response to a subpoena issued under this section, except
24 as under this chapter.

25 (6) A third party may not be held civilly liable for any harm
26 resulting from that person's compliance with a subpoena issued under
27 the authority of this section.

28 (7) The entire court file of any proceeding instituted under this
29 section must be sealed and is not open to public inspection by any
30 person except upon order of the court as authorized by law.

31 NEW SECTION. **Sec. 21.** The department of licensing must evaluate
32 the revenue impacts and costs of implementing and maintaining the
33 prorate and fuel tax discovery team established in section 13 of this
34 act. The evaluation must include the total amount of fuel taxes,
35 fees, and penalties collected by the department as a result of the
36 activities of the prorate and fuel tax discovery team, as well as all
37 associated expenditures resulting from the department's expanded
38 enforcement efforts. The department must submit a report with the

1 results of this evaluation to the transportation committees of the
2 legislature by November 1, 2028.

3 NEW SECTION. **Sec. 22.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 23.** This act takes effect July 1, 2024.

Passed by the House January 29, 2024.
Passed by the Senate February 6, 2024.
Approved by the Governor February 21, 2024.
Filed in Office of Secretary of State February 21, 2024.

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