

CHAPTER 10.

[House Bill No. 4.]

TAXATION OF AIRCRAFT FUEL.

AN ACT relating to the taxation of aircraft fuel and the disposition and use of the proceeds therefrom; conferring certain powers and imposing certain duties; providing for the promulgation of certain rules and regulations; and providing penalties.

Be it enacted by the Legislature of the State of Washington:

Section 1. For the purposes of this act:

(1) "Department" means the department of motor vehicles;

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Definitions.

(2) "Director" means the director of the department of motor vehicles;

(3) "Person" means every natural person, firm, partnership, association, or private or public corporation;

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

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

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

Sec. 2. There is hereby levied, and there shall be collected by every dealer or person engaged in the retail sale of aircraft fuel in this state, an excise tax of two cents on each gallon of aircraft fuel sold, delivered or used in this state: *Provided*, That there shall be collected from every consumer or user of

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excise tax
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aircraft fuel either the use tax imposed by RCW 82.12.020, as amended, or the retail sales tax imposed by RCW 82.08.020, as amended, collection procedure to be as prescribed by law and/or rule or regulation of the state tax commission. The taxes imposed by this chapter shall be collected and paid to the state but once in respect to any aircraft fuel.

Exemptions.

Sec. 3. The provision of section 2 of this act imposing the payment of an excise tax of two cents on each gallon of aircraft fuel sold, delivered or used in this state shall not apply to aircraft fuel used for the following purposes: (1) The operation of aircraft when such use is by any air carrier or supplemental air carrier operating under a certificate of public convenience and necessity under the provisions of the Federal Aviation Act of 1958, Public Law 85-726, as amended; (2) the operation of aircraft for testing or experimental purposes; and (3) the operation of aircraft when such operation is for the training of crews for purchasers of aircraft: *Provided*, That the director's determination as to a particular activity for which aircraft fuel is used as being an exemption under this section, or otherwise, shall be final.

Rule and
regulations for
collection.

Sec. 4. The director shall by rule and regulation adopted as provided in chapter 34.04 RCW (Administrative Procedure Act) set up the necessary administrative procedure for collection by the department of the two cents per gallon aircraft fuel excise tax as provided for in section 2 of this act, placing the responsibility of collection of said tax upon every dealer or person engaged in the retail sale of aircraft fuel within the state; he may require the licensing of every dealer or person engaged in such retail sale of aircraft fuel and shall require such a corporate surety bond or security of any dealer or person not otherwise bonded under provisions of

chapter 82.36 RCW as is provided for distributors of motor vehicle fuel under RCW 82.36.060; he shall provide such forms and may require such reports or statements as in his determination shall be necessary for the proper administration of this act. The director may require such records to be kept, and for such periods of time, as deemed necessary for the administration of this act, which records shall be available at all times for the director or his representative who may require a statement under oath as to the contents thereof.

Sec. 5. Should any dealer fail to file any report or statement, as shall be required by rule and regulation of the director, showing the total number of gallons of aircraft fuel sold, delivered or used by a dealer within the state during the preceding calendar month, the director shall proceed forthwith to determine from the best available sources such amount and said determination shall be presumed to be correct for that period, until proved by competent evidence to be otherwise. The director shall immediately assess the excise tax in the amount so determined, adding thereto a penalty of ten percent for failure to report. Such penalty shall be cumulative of other penalties herein provided. All statements or reports required to be filed with the director as required in this section shall be public records.

Failure to file reports—
Effect.

Sec. 6. All of the provisions of RCW 82.36.040 relating to time of payment of tax, penalties and interest on delinquent payments and the director's certificate as prima facie evidence shall be applicable to the two cents per gallon aircraft fuel excise tax imposed under section 2 of this act. The provisions of RCW 82.36.110 relating to a lien for taxes, interests or penalties due, shall be applicable to the collection of the two cents per gallon aircraft fuel

Application of other law.

**Aircraft fuel
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excise tax provided in section 2 of this act, and the provisions of RCW 82.36.120, 82.36.130 and 82.36.140 shall apply to any dealer or person engaged in the retail sale of aircraft fuel with respect to the two cents per gallon aircraft fuel excise tax imposed under section 2 of this act.

Exemptions.

Sec. 7. The provisions of section 2 of this act requiring the payment of a two cents per gallon aircraft fuel excise tax on aircraft fuel shall not apply to aircraft fuel imported into the state in interstate or foreign commerce and intended to be sold while in interstate or foreign commerce, nor to aircraft fuel exported from this state, nor to aircraft fuel sold to the armed forces of the United States for export from this state: *Provided*, That exemptions granted under this section shall be null and void unless full conformance is made with the requisite administrative procedure set forth for procuring such exemptions under rules and regulations of the director promulgated under the provisions of this act. Except as provided in section 3 of this act, nothing in this act shall be construed to exempt the state or any political subdivision thereof from the payment of the two cents per gallon aircraft excise fuel tax provided in section 2 of this act. When setting up rules and regulations as provided for in section 4 of this act, the director shall provide for such refund procedure as deemed necessary to carry out the provisions of this act, and full compliance with such provisions shall be essential before receipt of any refund thereunder.

**Violations—
Penalty.**

Sec. 8. Any person violating any provision of this act or any rule or regulation of the director promulgated hereunder, or making any false statement, or concealing any material fact in any report, statement, record or claim, or who commits any act with intent to avoid payment of the two cents per gallon

aircraft fuel excise tax imposed by this act, or who conspires with another person with intent to interfere with the orderly collection of such tax due and owing under this act, shall be guilty of a misdemeanor.

Sec. 9. All moneys collected by the director from the two cents per gallon aircraft fuel excise tax as provided in section 2 of this act shall be transmitted to the state treasurer and shall be credited to the aeronautics account of the state general fund, hereby created. Moneys collected from the consumer or user of aircraft fuel from either the use tax imposed by RCW 82.12.020 or the retail sales tax imposed by RCW 82.08.020 shall be transmitted to the state treasurer and credited to the state general fund.

Disposition of
tax proceeds.

Sec. 10. The director is charged with the enforcement of the provisions of this act and rules and regulations promulgated hereunder. The director may, in his discretion, call on the state patrol or any peace officer in the state, who shall then aid in the enforcement of this act or any rules or regulations promulgated hereunder.

Enforcement.

Sec. 11. 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.

Severability.

Passed the House March 14, 1967.

Passed the Senate March 27, 1967.

Approved by the Governor April 5, 1967.