

CHAPTER 153.

[Senate Bill No. 204.]

MOTOR VEHICLE FUEL TAX.

AN ACT relating to the motor vehicle fuel tax; amending section 82.36.010, chapter 15, Laws of 1961 as amended by section 1, chapter 79, Laws of 1965 extraordinary session and RCW 82.36.010; amending section 82.36.090, chapter 15, Laws of 1961 as amended by section 4, chapter 79, Laws of 1965 extraordinary session and RCW 82.36.090; amending section 82.36.230, chapter 15, Laws of 1961 as amended by section 9, chapter 79, Laws of 1965 extraordinary session and RCW 82.36.230; amending section 82.36.270, chapter 15, Laws of 1961 and RCW 82.36.270; amending section 82.36.370, chapter 15, Laws of 1961 as amended by section 15, chapter 79, Laws of 1965 extraordinary session and RCW 82.36.370; amending section 82.36.400, chapter 15, Laws of 1961 and RCW 82.36.400; and prescribing penalties.

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

Section 1. Section 82.36.010, chapter 15, Laws of 1961 as amended by section 1, chapter 79, Laws of 1965 extraordinary session and RCW 82.36.010 are each amended to read as follows:

RCW 82.36.010 amended.

For the purposes of this chapter:

Motor vehicle fuel tax. Definitions.

(1) "Motor vehicle" means every vehicle which is in itself a self-propelled unit, equipped with solid rubber, hollow-cushion rubber or pneumatic rubber tires and capable of being moved or operated upon a public highway, except motor vehicles used as motive power for or in conjunction with farm implements and machines or implements of husbandry;

(2) "Motor vehicle fuel" means gasoline or any other inflammable liquid, by whatsoever name such liquid may be known or sold, the chief use of which is as fuel for the propulsion of motor vehicles, motorboats, or airplanes: *Provided*, That the term "motor vehicle fuel" shall not include products specifically prepared and sold, as determined by the

Motor vehicle
fuel tax.
Definitions.

director, for use in turbo prop or jet type aircraft engines;

(3) "Distributor" means every person who refines, manufactures, produces, or compounds motor vehicle fuel and sells, distributes, or in any manner uses it in this state; also every person engaged in business as a bona fide wholesale merchant dealing in motor vehicle fuel who either acquires it within the state from any person refining it within or importing it into the state, on which the tax has not been paid, or imports it into this state and sells, distributes, or in any manner uses it in this state;

(4) "Service station" means a place operated for the purpose of delivering motor vehicle fuel into the fuel tanks of motor vehicles;

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

(6) "Director" means the director of motor vehicles;

(7) "Dealer" means any person engaged in the retail sale of liquid motor vehicle fuels;

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

(9) "Highway" means every way or place open to the use of the public, as a matter of right, for purposes of vehicular travel;

(10) "Broker" means every person, other than a distributor, engaged in business as a broker, jobber, or wholesale merchant dealing in motor vehicle fuel or other petroleum products used or usable in propelling motor vehicles, or in other petroleum products which may be used in blending, compounding, or manufacturing of motor vehicle fuel;

(11) "Producer" means every person, other than a distributor, engaged in the business of producing motor vehicle fuel or other petroleum products used

in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel;

(12) "Distribution" means all withdrawals of motor vehicle fuel for delivery to others, to retail service stations, or to unlicensed bulk storage plants;

(13) "Bulk storage plant" means, pursuant to the licensing provisions of RCW 82.36.070, any plant, under the control of the distributor, used for the storage of motor vehicle fuel to which no retail outlets are directly connected by pipe lines;

(14) "Marine fuel dealer" means any person engaged in the retail sale of liquid motor vehicle fuel whose place of business and or sale outlet is located upon a navigable waterway.

Sec. 2. Section 82.36.090, chapter 15, Laws of 1961 as amended by section 4, chapter 79, Laws of 1965 extraordinary session and RCW 82.36.090 are each amended to read as follows:

RCW 82.36.090
amended.

Whenever a distributor ceases to engage in business as a distributor within the state by reason of the discontinuance, sale, or transfer of his business, he shall notify the director in writing at the time the discontinuance, sale, or transfer takes effect. Such notice shall give the date of discontinuance, and, in the event of a sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee thereof. All taxes, penalties, and interest under this chapter, not yet due and payable, shall become due and payable concurrently with such discontinuance, sale, or transfer, and any such distributor shall make a report and pay all such taxes, interest, and penalties, and surrender to the director the license certificate theretofore issued to him.

Discontinu-
ance or trans-
fer of business
—Notice.

If an overpayment of tax was made by the distributor, prior to the discontinuance or transfer of his business, such overpayment may be refunded to

such distributor or may be credited to the transferee of such business if such transferee qualifies as a distributor under the provisions of this chapter.

RCW 82.36.230 amended.

Sec. 3. Section 82.36.230, chapter 15, Laws of 1961 as amended by section 9, chapter 79, Laws of 1965 extraordinary session and RCW 82.36.230 are each amended to read as follows:

Motor vehicle fuel tax—Exemptions—Exemption export certificate—Records and examination.

The provisions of this chapter requiring the payment of taxes shall not apply to motor vehicle fuel imported into the state in interstate or foreign commerce and intended to be sold while they are in interstate or foreign commerce, nor to motor vehicle fuel, exported from this state by a qualified distributor, nor to sales by a distributor of motor vehicle fuel in individual quantities of five hundred gallons or less for export to another state or country by the purchaser other than in the supply tank of a motor vehicle: *Provided*, That such distributor is licensed in the state of destination to collect and remit the applicable destination state taxes thereon, nor to any motor vehicle fuel sold by a qualified distributor to the armed forces of the United States or to the national guard for use exclusively in ships or aircraft or for export from this state, nor to motor vehicle fuel for use exclusively in the operation of aircraft engines, delivered to aviation fuel dealers and/or users as authorized by the director. The distributor shall report such imports, exports and sales to the director as hereinafter provided and at such times, on such forms, and in such detail as he may require, otherwise the exemption granted in this section shall be null and void, and all fuel shall be considered distributed in this state fully subject to the provisions of this chapter. Each invoice covering such exempt sale shall have the statement "Ex Washington Motor Vehicle Fuel Tax" clearly marked thereon.

To claim any exemption from taxes under this section on account of the exportation of motor vehicle fuel by a distributor other than deliveries in his own equipment, such distributor shall execute an export certificate in such form as shall be furnished by the director, containing a statement, made by some person having actual knowledge of the fact of exportation, that the motor vehicle fuel has been exported from the state, and giving such details with reference to such shipment as the director may require. All export certificates must be completed and filed with the director within three months of the end of the calendar month in which the shipments to which they relate were made, unless the state, territory or country of destination would not be prejudiced with respect to its collection of taxes thereon if the certificate is not filed within such time. The director may, in cases where it is believed no useful purpose would be served by filing of an export certificate, waive the certificate: *Provided*, That the director for good cause shall have the right to rescind the previous authorization for waiver of the export certificate. Failure to file the certificate within the time required by this section shall not preclude the distributor from filing a claim for refund on motor vehicle fuel exported as provided in RCW 82.36.310 or otherwise in chapter 82.36 RCW, with such information as the director may require to support the validity of such claim.

To claim any exemption from taxes under this section on account of sales of motor vehicle fuel to the armed forces of the United States or to the national guard, the distributor shall be required to execute an exemption certificate in such form as shall be furnished by the director, containing a certified statement by an authorized officer of the armed forces having actual knowledge of the purpose for which the exemption is claimed. Any claim

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cate—Records
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tion.

for exemption based on such sales shall be made by the distributor within six months of the date of sale. The provisions of this section exempting motor vehicle fuel sold to the armed forces of the United States or to the national guard from the tax imposed hereunder shall not apply to any motor vehicle fuel sold to contractors purchasing such fuel either for their own account or as the agents of the United States or the national guard for use in the performance of contracts with the armed forces of the United States or the national guard.

In support of any exemption from taxes on account of sales of motor vehicle fuel in individual quantities of five hundred gallons or less for export by the purchaser, the distributor shall retain in his files for at least three years an export certificate executed by the purchaser in such form and containing such information as shall be prescribed by the director. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the distributor in good faith.

The director may at any time require of any distributor any information he deems necessary to determine the validity of the claimed exemption, and failure to supply such data will constitute a waiver of all right to the exemption claimed. The director is hereby empowered with full authority to promulgate rules and regulations and to prescribe forms to be used by distributors in reporting to the director so as to prevent evasion of the tax imposed by this chapter.

Upon request from the officials to whom are entrusted the enforcement of the motor fuel tax law of any other state, the District of Columbia, the United States, its territories and possessions, the provinces, or the Dominion of Canada, the director may forward to such officials any information which he may

have relative to the import or export of any motor vehicle fuel by any distributor: *Provided*, That such governmental unit furnish like information to this state.

Sec. 4. Section 82.36.270, chapter 15, Laws of 1961 and RCW 82.36.270 are each amended to read as follows:

RCW 82.36.270 amended.

Any person desiring to claim a refund shall obtain a permit from the director by application therefor on such form as he shall prescribe, which application shall contain, among other things, the name and address of the applicant, the nature of the business and a sufficient description for identification of the machines or equipment in which the motor vehicle fuel is to be used, for which refund may be claimed under the permit. The permit shall bear a permit number and all applications for refund shall bear the number of the permit under which it is claimed. The director shall keep a permanent record of all permits issued and a cumulative record of the amount of refund claimed and paid thereunder. Such permit shall be obtained before or at the time that the first application for refund is made under the provisions of this chapter. At the time of filing an application for a refund permit, the applicant shall pay to the director a permit fee of one dollar, which shall be deposited in the motor vehicle fund. All permits shall expire on the thirtieth day of November of every even-numbered year.

Refund permit.

Sec. 5. Section 82.36.370, chapter 15, Laws of 1961 as amended by section 15, chapter 79, Laws of 1965 extraordinary session and RCW 82.36.370 are each amended to read as follows:

RCW 82.36.370 amended.

(1) A refund shall be made in the manner provided in this chapter or a credit given allowing for the excise tax paid or accrued on all motor vehicle fuel which is lost or destroyed, while applicant shall

Refund for loss.

Refund for fuel destroyed by casualty, leakage.

be the owner thereof, through fire, lightning, flood, wind storm, or explosion.

(2) A refund shall be made in the manner provided in this chapter or a credit given allowing for the excise tax paid or accrued on all motor vehicle fuel of five hundred gallons or more which is lost or destroyed, while applicant shall be the owner thereof, through leakage or other casualty except evaporation, shrinkage or unknown causes: *Provided*, That the director shall be notified in writing as to the full circumstances surrounding such loss or destruction and the amount of the loss or destruction within thirty days from the day of discovery of such loss or destruction.

(3) Recovery for such loss or destruction under either subsection (1) or (2) must be susceptible to positive proof thereby enabling the director to conduct such investigation and require such information as he may deem necessary.

In the event that the director is not satisfied that the fuel was lost or destroyed as claimed, wherefore required information or proof as required hereunder is not sufficient to substantiate the accuracy of the claim, he may deem as sufficient cause the denial of all right relating to the refund or credit for the excise tax on motor vehicle fuel alleged to be lost or destroyed.

RCW 82.36.400 amended.

Sec. 6. Section 82.36.400, chapter 15, Laws of 1961 and RCW 82.36.400 are each amended to read as follows:

Offenses—Penalty.

It shall be unlawful for any person to commit any of the following acts:

(1) To display, or cause to permit to be displayed, or to have in possession, any motor vehicle fuel distributor's license knowing the same to be fictitious or to have been suspended, canceled, revoked, or altered;

(2) To lend to, or knowingly permit the use of, by one not entitled thereto, any motor vehicle fuel distributor's license issued to the person lending it or permitting it to be used;

(3) To display or to represent as one's own any motor vehicle fuel distributor's license not issued to the person displaying the same;

(4) To use a false or fictitious name or give a false or fictitious address in any application or form required under the provisions of this chapter, or otherwise commit a fraud in any application, record, or report;

(5) To refuse to permit the director, or any agent appointed by him in writing, to examine his books, records, papers, storage tanks, or other equipment pertaining to the use or sale and delivery of motor vehicle fuels within the state;

(6) To receive, purchase or otherwise acquire motor vehicle fuel free of the tax for use in the operation of aircraft engines and thereafter use or permit such fuel to be used for other purposes, or to sell or otherwise distribute such fuel for purposes other than use in aircraft engines.

Except as otherwise provided, any person violating any of the provisions of this chapter shall be guilty of a gross misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars nor more than one thousand dollars and costs of prosecution, or imprisonment for not more than one year, or both.

Passed the Senate February 27, 1967.

Passed the House March 8, 1967.

Approved by the Governor March 21, 1967.