

**NEW SECTION.** Sec. 4. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987.

Passed the House March 13, 1987.

Passed the Senate April 13, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

## CHAPTER 174

[Substitute House Bill No. 347]

### MOTOR VEHICLES AND SPECIAL FUEL TAXES—PAYMENT PROVISIONS MODIFIED—ELECTRONIC FUNDS TRANSFER—PENALTIES

AN ACT Relating to motor vehicle and special fuel tax payments; amending RCW 82.36.010, 82.36.030, 82.36.040, 82.38.160, and 82.38.170; adding new sections to chapter 82.36 RCW; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 82.36.010, chapter 15, Laws of 1961 as last amended by section 25, chapter 49, Laws of 1983 1st ex. sess. and RCW 82.36.010 are each amended to read as follows:

For the purposes of this chapter:

(1) "Motor vehicle" means every vehicle that 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 gas or liquid, by whatsoever name such gasoline, gas, or liquid may be known or sold, the chief use of which is as fuel for the propulsion of motor vehicles or motorboats;

(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 licensing;

(6) "Director" means the director of licensing;

(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;

(15) "Aggregate motor vehicle fuel tax revenues" means the amount of excise taxes to be paid by distributors, retailers, and users pursuant to chapters 82.36, 82.37, and 82.38 RCW for any designated fiscal period, whether or not such amounts are actually received by the department of licensing. The phrase does not include fines or penalties assessed for violations;

(16) "Fiscal year" means a twelve-month period ending June 30th;

(17) "State personal income" means the dollar amount published as total personal income of persons in the state for the calendar year by the United States department of commerce or its successor agency;

(18) "State personal income ratio" for any calendar year means that ratio expressed in percentage terms that is the sum of one hundred percent, plus seventy percent of the percentage increase or decrease in state personal income for the calendar year under consideration as compared to state personal income for the immediately preceding calendar year;

(19) "Motor vehicle fund revenue" means all state taxes, fees, and penalties deposited in the motor vehicle fund and all other state revenue required by statute to be deposited in the motor vehicle fund, but does not include (a) moneys derived from nonfuel tax sources which are deposited directly in the several accounts, (b) interest deposited directly in the several accounts within the motor vehicle fund, (c) federal funds, (d) proceeds from

the sale of bonds, or (e) reimbursements to the motor vehicle fund for services performed by the department of transportation for others((-));

(20) "Alcohol" means alcohol that is produced from renewable resources and is produced in this state or in a state that extends a tax exemption or credit for the sale of alcohol produced in this state for use in motor vehicle fuel that is at least equal to a tax exemption or credit for the sale of alcohol produced in the other state for use in motor vehicle fuel;

(21) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

Sec. 2. Section 82.36.030, chapter 15, Laws of 1961 and RCW 82.36-.030 are each amended to read as follows:

Every distributor shall on or before the twenty-fifth day of each calendar month file, on forms furnished by the director, a statement signed by the distributor or his authorized agent showing the total number of gallons of motor vehicle fuel sold, distributed, or used by such distributor within this state during the preceding calendar month.

If any distributor fails to file such report, the director shall proceed forthwith to determine from the best available sources, the amount of motor vehicle fuel sold, distributed, or used by such distributor for the unreported period, 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 filed with the director, as required in this section, shall be public records.

If any distributor establishes by a fair preponderance of evidence that his or her failure to file a report by the due date was attributable to reasonable cause and was not intentional or wilful, the department may waive the penalty imposed by this section.

NEW SECTION. Sec. 3. A new section is added to chapter 82.36 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, the tax due on motor vehicle fuel that is sold, distributed, or used during a month shall be paid on or before the twenty-fifth day of the following month.

(2) If payment of the tax due on motor vehicle fuel that is sold, distributed, or used during a month is made by electronic funds transfer, it shall be made on or before the state business day immediately preceding the last state business day of the following month.

(3) The tax shall be paid by electronic funds transfer whenever the amount due is fifty thousand dollars or more.

Sec. 4. Section 82.36.040, chapter 15, Laws of 1961 as amended by section 1, chapter 28, Laws of 1977 and RCW 82.36.040 are each amended to read as follows:

~~((The amount of excise tax for each month shall be paid to the director on or before the twenty-fifth day of the next month thereafter, and if not paid prior thereto, shall become delinquent at the close of business on that day, and a penalty of one percent of such excise tax must be added thereto for delinquency. PROVIDED, That in no case shall the penalty be more than five hundred dollars. If such tax and penalty is not received on or before the close of business on the last day of the month in which the payment is due an additional penalty of ten percent must be added thereto in addition to penalty above provided for.))~~ If payment of any tax due is not received by the due date, there shall be assessed a penalty of two percent of the amount of the tax. If any distributor establishes by a fair preponderance of evidence that his or her failure to pay the amount of tax due by the due date was attributable to reasonable cause and was not intentional or wilful, the department may waive the penalty imposed by this section.

Any motor vehicle fuel tax, penalties, and interest payable under the provisions of this chapter shall bear interest at the rate of ~~((one-half of))~~ one percent per month, or fraction thereof, from the first day of the calendar month after the close of the monthly period for which the amount or any portion thereof should have been paid until the date of payment ~~((: PROVIDED, That the interest charge on the unpaid excise tax shall be waived when such interest is less than five dollars. AND PROVIDED FURTHER, That))~~. The department may waive the interest ((on the unpaid excise tax)) when ((the interest exceeds five dollars and)) the department determines that the cost of processing the collection of the interest exceeds the amount of interest due.

In any suit brought to enforce the rights of the state ~~((hereunder))~~ under this chapter, the certificate of the director showing the amount of taxes, penalties, interest and cost unpaid by any distributor and that the same are due and unpaid to the state shall be prima facie evidence of the facts as shown.

Sec. 5. Section 17, chapter 175, Laws of 1971 ex. sess. as amended by section 12, chapter 40, Laws of 1979 and RCW 82.38.160 are each amended to read as follows:

(1) The tax imposed by this chapter shall be computed as follows:  
~~((1))~~ (a) With respect to special fuel upon which the tax has been collected by the seller thereof as a special fuel dealer, by multiplying the tax rate per gallon provided in this chapter by the number of gallons of special fuel delivered subject to the special fuel tax; ~~((2))~~ (b) with respect to special fuel on which the tax has not been paid to a special fuel dealer in this state and which has been consumed by the purchaser thereof as a special fuel user, by multiplying the tax rate per gallon provided in this chapter by

the number of gallons of special fuel consumed by him in the propulsion of a motor vehicle on the highways of this state.

(2) Except as provided in subsection (3) of this section, the tax return shall be accompanied by a remittance payable to the state treasurer covering the tax moneys collected by the special fuel dealer or the amount determined to be due hereunder by licensed users of special fuels during the preceding reporting period.

(3) If the tax is paid by electronic funds transfer and the reporting period ends on the last day of a calendar month, the tax shall be paid on or before the state business day immediately preceding the last state business day of the month following the end of the reporting period. If the tax is paid by electronic funds transfer and the reporting period ends on a day other than the last day of a calendar month as provided in RCW 82.38.150, the tax shall be paid on or before the state business day immediately preceding the last state business day of the thirty-day period following the end of the reporting period.

(4) The tax shall be paid by electronic funds transfer whenever the amount due is fifty thousand dollars or more.

Sec. 6. Section 18, chapter 175, Laws of 1971 ex. sess. as last amended by section 4, chapter 242, Laws of 1983 and RCW 82.38.170 are each amended to read as follows:

(1) If any special fuel dealer or special fuel user fails to pay any taxes collected or due the state of Washington by said dealer or user within the time prescribed by RCW 82.38.150 and 82.38.160, said dealer or user shall pay in addition to such tax a penalty of ten percent of the amount thereof.

(2) If it be determined by the department that the tax reported by any special fuel dealer or special fuel user is deficient it shall proceed to assess the deficiency on the basis of information available to it and there shall be added to this deficiency a penalty of ten percent of the amount of the deficiency.

(3) If any special fuel dealer or special fuel user, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax report, the department shall, on the basis of information available to it, determine the tax liability of the special fuel dealer or the special fuel user for the period during which no report was filed, and to the tax as thus determined, the department shall add the penalty and interest provided in subsection (2) of this section. An assessment made by the department pursuant to this subsection or to subsection (2) of this section shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive as the case may be.

(4) If any special fuel dealer or special fuel user shall establish by a fair preponderance of evidence that his failure to file a report or pay the

proper amount of tax within the time prescribed was due to reasonable cause and was not intentional or wilful, the department may waive the penalty prescribed in subsections (1), (2), and (3) of this section.

(5) If any special fuel dealer or special fuel user shall file a false or fraudulent report with intent to evade the tax imposed by this chapter, there shall be added to the amount of deficiency determined by the department a penalty equal to twenty-five percent of the deficiency, in addition to the penalty provided in subsection (2) of this section and all other penalties prescribed by law.

(6) Any fuel tax, penalties, and interest payable under this chapter shall bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion thereof should have been paid until the date of payment: PROVIDED, That the department may waive the interest when it determines that the cost of processing the collection of the interest exceeds the amount of interest due.

(7) Except in the case of a fraudulent report or of neglect or refusal to make a report, every deficiency shall be assessed under subsection (2) of this section within three years from the twenty-fifth day of the next succeeding calendar month following the reporting period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

(8) Any special fuel dealer or special fuel user against whom an assessment is made under the provisions of subsections (2) or (3) of this section may petition for a reassessment thereof within thirty days after service upon the special fuel dealer or special fuel user of notice thereof. If such petition is not filed within such thirty day period, the amount of the assessment becomes final at the expiration thereof.

If a petition for reassessment is filed within the thirty day period, the department shall reconsider the assessment and, if the special fuel dealer or special fuel user has so requested in his petition, shall grant such special fuel dealer or special fuel user an oral hearing and give the special fuel dealer or special fuel user ten days' notice of the time and place thereof. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment shall become final thirty days after service upon the special fuel dealer or special fuel user of notice thereof.

Every assessment made by the department shall become due and payable at the time it becomes final and if not paid to the department when due and payable, there shall be added thereto a penalty of ten percent of the amount of the tax.

(9) Any notice of assessment required by this section shall be served personally or by mail; if by mail, service shall be made by depositing such notice in the United States mail, postage prepaid addressed to the special

fuel dealer or special fuel user at his address as the same appears in the records of the department.

(10) Any licensee who has had their special fuel user license, special fuel dealer license, special fuel supplier license, or combination thereof revoked shall pay a one hundred dollar penalty prior to the issuance of a new license.

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

NEW SECTION. Sec. 7. A new section is added to chapter 82.36 RCW to read as follows:

If any distributor files a fraudulent monthly gallonage return with intent to evade the tax imposed by this chapter, there shall be added to the amount of deficiency determined by the department a penalty equal to twenty-five percent of the deficiency, in addition to all other penalties prescribed by law.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 1, 1987.

Passed the House March 12, 1987.

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Approved by the Governor April 23, 1987.

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## CHAPTER 175

[Engrossed House Bill No. 559]  
RIDE-SHARING VEHICLES

AN ACT Relating to ride-sharing vehicles; amending RCW 51.08.180; amending section 5, chapter 166, Laws of 1980 (uncodified); adding a new section to chapter 46.16 RCW; and providing an effective date.

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

Sec. 1. Section 5, chapter 166, Laws of 1980 (uncodified) is amended to read as follows:

~~((Sections 1 through 3 of this act))~~ RCW 82.08.0287, 82.12.0282, and 82.44.015 shall expire on ((January 1, 1988)) June 30, 1995.

NEW SECTION. Sec. 2. A new section is added to chapter 46.16 RCW to read as follows: