

1 AN ACT Relating to extending the expiration date of tax
2 preferences for biofuel, biomass, and energy conservation; amending
3 RCW 82.04.4334, 82.08.955, 82.12.955, 82.29A.135, 84.36.635,
4 82.04.4494, and 82.04.310; creating new sections; providing an
5 effective date; providing expiration dates; and declaring an
6 emergency.

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

8 **PART I**
9 **Biofuel Tax Incentives**

10 NEW SECTION. **Sec. 101.** It is the intent of the legislature to
11 promote the use of alternative fuels and meet Washington state's
12 commitment to its present and future generations to fully address the
13 climate change challenge. This section is the tax preference
14 performance statement for the tax preferences contained in sections
15 102 through 106 of this act. This performance statement is only
16 intended to be used for subsequent evaluation of the tax preferences.
17 It is not intended to create a private right of action by any party
18 or be used to determine eligibility for preferential tax treatment.

19 (1) The legislature categorizes these tax preferences as intended
20 to accomplish a general purpose as indicated in RCW 82.32.808(2)(f).

1 (2) It is the legislature's specific public policy objective to
2 promote the production of biofuels that can replace the use of fossil
3 fuels to produce energy and thereby help with achieving the state's
4 renewable energy and greenhouse gas emissions targets. It is also the
5 legislature's specific public policy objective to create new markets
6 for Washington oilseeds.

7 (3) To measure the effectiveness of the exemptions in sections
8 102 through 106 of this act in achieving the public policy objectives
9 described in subsection (2) of this section, the joint legislative
10 audit and review committee must evaluate the number of biofuel plants
11 operating in Washington state, the number of taxpayers that claim the
12 preferences, the amount and type of preferences claimed, the amount
13 of biodiesel produced in Washington state, and the number of acres of
14 land used for oilseed production that may be used to produce
15 biofuels. If a review finds that there is an increase in use of the
16 tax preferences in sections 102 through 106 of this act, then the
17 legislature intends to extend the expiration date of the tax
18 preferences.

19 (4) In order to obtain the data necessary to perform the review
20 in subsection (3) of this section, the joint legislative audit and
21 review committee may refer to data from the department of revenue,
22 the Washington State University energy extension program, the
23 Washington state department of agriculture, the federal energy
24 information administration, and any other data source it deems
25 necessary.

26 **Sec. 102.** RCW 82.04.4334 and 2007 c 309 s 3 are each amended to
27 read as follows:

28 (1) In computing tax there may be deducted from the measure of
29 tax amounts received from the retail sale, or for the distribution,
30 of:

- 31 (a) Biodiesel fuel; or
- 32 (b) E85 motor fuel.

33 (2) For the purposes of this section and RCW 82.08.955 and
34 82.12.955, the following definitions apply:

35 (a) "Biodiesel fuel" means a mono alkyl ester of long chain fatty
36 acids derived from vegetable oils or animal fats for use in
37 compression-ignition engines and that meets the ~~((requirements of the~~
38 ~~American society of testing and materials specification D-6751 in~~

1 ~~effect as of January 1, 2003))~~ fuel standards adopted under chapter
2 19.112 RCW.

3 (b) "E85 motor fuel" means (~~(an alternative))~~ a motor fuel that
4 is a blend of ethanol and ((hydrocarbon of which the ethanol portion
5 is nominally seventy five to eighty five percent denatured fuel
6 ethanol by volume that complies with the most recent version of
7 American society of testing and materials specification D-5798))
8 gasoline that meets the fuel standards adopted under chapter 19.112
9 RCW.

10 (c) "Distribution" means any of the actions specified in RCW
11 82.36.020(2).

12 (3) Every taxpayer claiming a deduction under this section must
13 file a complete annual survey with the department under RCW
14 82.32.585.

15 (4) This section expires July 1, (~~(2015))~~ 2025.

16 **Sec. 103.** RCW 82.08.955 and 2007 c 309 s 4 are each amended to
17 read as follows:

18 (1) The tax levied by RCW 82.08.020 does not apply to sales of
19 machinery and equipment, or to services rendered in respect to
20 constructing structures, installing, constructing, repairing,
21 cleaning, decorating, altering, or improving of structures or
22 machinery and equipment, or to sales of tangible personal property
23 that becomes an ingredient or component of structures or machinery
24 and equipment, if the machinery, equipment, or structure is used
25 directly for the retail sale of a biodiesel blend or E85 motor fuel.
26 Structures and machinery and equipment that are used for the retail
27 sale of a biodiesel blend or E85 motor fuel and for other purposes
28 are exempt only on the portion used directly for the retail sale of a
29 biodiesel blend or E85 motor fuel.

30 (2) The tax levied by RCW 82.08.020 does not apply to sales of
31 fuel delivery vehicles or to sales of or charges made for labor and
32 services rendered in respect to installing, repairing, cleaning,
33 altering, or improving the vehicles including repair parts and
34 replacement parts if at least seventy-five percent of the fuel
35 distributed by the vehicles is a biodiesel blend or E85 motor fuel.

36 (3) A person taking the exemption under this section must keep
37 records necessary for the department to verify eligibility under this
38 section. The exemption is available only when the buyer provides the
39 seller with an exemption certificate in a form and manner prescribed

1 by the department. The seller shall retain a copy of the certificate
2 for the seller's files.

3 (4) For the purposes of this section, the definitions in RCW
4 82.04.4334 and this subsection apply.

5 (a) "Biodiesel blend" means fuel that contains at least twenty
6 percent biodiesel fuel by volume.

7 ~~(("E85 motor fuel" means an alternative fuel that is a blend
8 of ethanol and hydrocarbon of which the ethanol portion is nominally
9 seventy five to eighty five percent denatured fuel ethanol by volume
10 that complies with the most recent version of American society of
11 testing and materials specification D 5798.~~

12 ~~(e))~~ "Machinery and equipment" means industrial fixtures,
13 devices, and support facilities and tangible personal property that
14 becomes an ingredient or component thereof, including repair parts
15 and replacement parts that are integral and necessary for the
16 delivery of biodiesel blends or E85 motor fuel into the fuel tank of
17 a motor vehicle.

18 (5) Every buyer claiming an exemption under this section must
19 file a complete annual survey with the department under RCW
20 82.32.585.

21 (6) This section expires July 1, ~~((2015))~~ 2025.

22 **Sec. 104.** RCW 82.12.955 and 2007 c 309 s 5 are each amended to
23 read as follows:

24 (1) The provisions of this chapter do not apply in respect to the
25 use of machinery and equipment, or to services rendered in respect to
26 installing, repairing, cleaning, altering, or improving of eligible
27 machinery and equipment, or tangible personal property that becomes
28 an ingredient or component of machinery and equipment used directly
29 for the retail sale of a biodiesel blend or E85 motor fuel.

30 (2) The provisions of this chapter do not apply in respect to the
31 use of fuel delivery vehicles including repair parts and replacement
32 parts and to services rendered in respect to installing, repairing,
33 cleaning, altering, or improving the vehicles if at least seventy-
34 five percent of the fuel distributed by the vehicles is a biodiesel
35 blend or E85 motor fuel.

36 (3) For the purposes of this section, the definitions in RCW
37 82.04.4334 and 82.08.955 apply.

1 (4) Every taxpayer claiming an exemption under this section must
2 file a complete annual survey with the department under RCW
3 82.32.585.

4 (5) This section expires July 1, ((2015)) 2025.

5 **Sec. 105.** RCW 82.29A.135 and 2010 1st sp.s. c 11 s 6 are each
6 amended to read as follows:

7 (1) ~~((For the purposes of this section:))~~ The definitions in this
8 subsection apply throughout this section unless the context clearly
9 requires otherwise.

10 (a) ~~(("Alcohol fuel" means any alcohol made from a product other~~
11 ~~than petroleum or natural gas, which is used alone or in combination~~
12 ~~with gasoline or other petroleum products for use as a fuel for motor~~
13 ~~vehicles, farm implements, and machines or implements of husbandry))~~
14 "Alcohol fuel," "biodiesel fuel," and "biodiesel feedstock" have the
15 same meanings as provided in RCW 84.36.635.

16 (b) "Anaerobic digester" has the same meaning as provided in RCW
17 82.08.900.

18 (c) ~~(("Biodiesel feedstock" means oil that is produced from an~~
19 ~~agricultural crop for the sole purpose of ultimately producing~~
20 ~~biodiesel fuel.~~

21 ~~(d) "Biodiesel fuel" means a mono alkyl ester of long chain fatty~~
22 ~~acids derived from vegetable oils or animal fats for use in~~
23 ~~compression ignition engines and that meets the requirements of the~~
24 ~~American society of testing and materials specification D 6751 in~~
25 ~~effect as of January 1, 2003.~~

26 ~~(e))~~ "Wood biomass fuel" means a pyrolytic liquid fuel or
27 synthesis gas-derived liquid fuel, used in internal combustion
28 engines, and produced from wood, forest, or field residue, or
29 dedicated energy crops that do not include wood pieces that have been
30 treated with chemical preservatives such as creosote,
31 pentachlorophenol, or copper-chrome-arsenic.

32 (2)(a) All leasehold interests in buildings, machinery,
33 equipment, and other personal property which are used primarily for
34 the manufacturing of alcohol fuel, wood biomass fuel, biodiesel fuel,
35 biodiesel feedstock, or the operation of an anaerobic digester, the
36 land upon which this property is located, and land that is reasonably
37 necessary in the manufacturing of alcohol fuel, wood biomass fuel,
38 biodiesel fuel, biodiesel feedstock, or the operation of an anaerobic
39 digester, but not land necessary for growing of crops, which together

1 comprise a new manufacturing facility or an addition to an existing
2 manufacturing facility, are exempt from leasehold taxes for a period
3 of six years from the date on which the facility or the addition to
4 the existing facility becomes operational.

5 (b) For manufacturing facilities which produce products in
6 addition to alcohol fuel, wood biomass fuel, biodiesel fuel, or
7 biodiesel feedstock, the amount of the leasehold tax exemption is
8 based upon the annual percentage of the total value of all products
9 manufactured that is the value of the alcohol fuel, wood biomass
10 fuel, biodiesel fuel, and biodiesel feedstock manufactured.

11 (3) Claims for exemptions authorized by this section must be
12 filed with the department (~~(of revenue)~~) on forms prescribed by the
13 department (~~(of revenue)~~) and furnished by the department (~~(of~~
14 ~~revenue)~~). Once filed, the exemption is valid for six years and may
15 not be renewed. The department (~~(of revenue)~~) must verify and approve
16 claims as the department (~~(of revenue)~~) determines to be justified
17 and in accordance with this section. No claims may be filed after
18 December 31, (~~(2015)~~) 2025, except for claims for anaerobic
19 digesters, which may be filed no later than December 31, 2012.

20 (4) The department (~~(of revenue)~~) may promulgate (~~(such)~~) rules,
21 pursuant to chapter 34.05 RCW, as are necessary to properly
22 administer this section.

23 **Sec. 106.** RCW 84.36.635 and 2010 1st sp.s. c 11 s 4 are each
24 amended to read as follows:

25 (1) (~~(For the purposes of this section:)~~) The definitions in this
26 subsection apply throughout this section unless the context clearly
27 requires otherwise.

28 (a) "Alcohol fuel" means any alcohol made from a product other
29 than petroleum or natural gas, which is used alone or in combination
30 with gasoline or other petroleum products for use as a fuel for motor
31 vehicles, farm implements, and machines or implements of husbandry.

32 (b) "Anaerobic digester" has the same meaning as provided in RCW
33 82.08.900.

34 (c) "Biodiesel feedstock" means (~~(oil that is produced from an~~
35 ~~agricultural crop for the sole purpose of ultimately producing)~~) a
36 vegetable oil or animal fat that is used to manufacture biodiesel
37 fuel.

38 (d) "Biodiesel fuel" means a mono alkyl ester of long chain fatty
39 acids derived from vegetable oils or animal fats for use in

1 compression-ignition engines and that meets the (~~requirements of the~~
2 ~~American society of testing and materials specification D-6751 in~~
3 ~~effect as of January 1, 2003~~) fuel standards adopted under chapter
4 19.112 RCW.

5 (2)(a) All buildings, machinery, equipment, and other personal
6 property which are used primarily for the manufacturing of alcohol
7 fuel, biodiesel fuel, biodiesel feedstock, or the operation of an
8 anaerobic digester, the land upon which this property is located, and
9 land that is reasonably necessary in the manufacturing of alcohol
10 fuel, biodiesel fuel, biodiesel feedstock, or the operation of an
11 anaerobic digester, but not land necessary for growing of crops,
12 which together comprise a new manufacturing facility or an addition
13 to an existing manufacturing facility, are exempt from property
14 taxation for the six assessment years following the date on which the
15 facility or the addition to the existing facility becomes
16 operational.

17 (b) For manufacturing facilities which produce products in
18 addition to alcohol fuel, biodiesel fuel, or biodiesel feedstock, the
19 amount of the property tax exemption is based upon the annual
20 percentage of the total value of all products manufactured that is
21 the value of the alcohol fuel, biodiesel fuel, and biodiesel
22 feedstock manufactured.

23 (3) Claims for exemptions authorized by this section must be
24 filed with the county assessor on forms prescribed by the department
25 (~~of revenue~~) and furnished by the assessor. Once filed, the
26 exemption is valid for six years and may not be renewed. The assessor
27 must verify and approve claims as the assessor determines to be
28 justified and in accordance with this section. No claims may be filed
29 after December 31, (~~2015~~) 2025, except for claims for anaerobic
30 digesters, which may be filed no later than December 31, 2012.

31 (4) The department (~~of revenue~~) may promulgate (~~such~~) rules,
32 pursuant to chapter 34.05 RCW, as necessary to properly administer
33 this section.

34 **PART II**

35 **Biomass Tax Incentives**

36 NEW SECTION. **Sec. 201.** It is the intent of the legislature to
37 utilize Washington's abundant forest resources to promote diversified
38 renewable energy use, and to promote healthy, fire resistant forests

1 in the state. This section is the tax preference performance
2 statement for the tax preference contained in RCW 82.04.4494. This
3 performance statement is only intended to be used for subsequent
4 evaluation of the tax preference. It is not intended to create a
5 private right of action by any party or be used to determine
6 eligibility for preferential tax treatment.

7 (1) The legislature categorizes this tax preference as one
8 intended to induce certain designated behavior by taxpayers, as
9 indicated in RCW 82.32.808(2)(a).

10 (2) It is the legislature's specific public policy objective to
11 promote the production of steam, heat, electricity, or biofuel using
12 forest derived biomass that is renewable and has been deemed carbon
13 neutral under RCW 70.235.020(3), and can thereby replace the use of
14 fossil fuel to produce energy and thereby help with achieving the
15 state's renewable energy and greenhouse gas emissions targets;
16 further, the use of forest derived biomass used to produce energy
17 will help defray the cost of forest thinning thereby improving forest
18 health and reducing the threat of wildfires. It is the legislature's
19 intent to provide a forest derived biomass credit in order to
20 encourage the harvesting, collection, and utilization of the more
21 than eleven million tons of forest derived biomass available
22 annually, thereby producing renewable, carbon neutral energy, thereby
23 helping the state achieve its renewable energy targets, its
24 greenhouse gas emissions targets, improve forest health and reduce
25 the threat of wildfires.

26 (3) If a review finds that the amount of forest derived biomass
27 collected and utilized to produce energy between July 1, 2015, and
28 June 30, 2024, increases by at least an average annual rate of ten
29 percent per year, then the legislature intends to extend the
30 expiration date of the tax preference.

31 (4) In order to obtain the data necessary to perform the review
32 in subsection (3) of this section, the joint legislative audit and
33 review committee may refer to the total green tons of forest derived
34 biomass harvested data available from the department of revenue and
35 any other data source it deems necessary.

36 **Sec. 202.** RCW 82.04.4494 and 2009 c 469 s 401 are each amended
37 to read as follows:

38 (1) In computing the tax imposed under this chapter, harvesters
39 are allowed a credit against the amount of tax otherwise due under

1 this chapter(~~(, as provided in this section)~~) for forest derived
2 biomass harvested after July 1, 2013. The credit per harvested green
3 ton of forest derived biomass sold, transferred, or used for
4 production of electricity, steam, heat, or biofuel is (~~as follows:~~

5 ~~(a) For forest derived biomass harvested October 1, 2009, through~~
6 ~~June 30, 2010, zero dollars;~~

7 ~~(b) For forest derived biomass harvested July 1, 2010, through~~
8 ~~June 30, 2013, three dollars;~~

9 ~~(c) For forest derived biomass harvested July 1, 2013, through~~
10 ~~June 30, 2015,~~) five dollars.

11 (2) Credit may not be claimed for forest derived biomass sold,
12 transferred, or used before July 1, 2009. The amount of credit
13 allowed for a reporting period may not exceed the tax otherwise due
14 under this chapter for that reporting period. Any unused excess
15 credit in a reporting period may be carried forward to future
16 reporting periods for a maximum of two years.

17 (3) For the purposes of this section, "harvested" and
18 "harvesters" are defined in RCW 84.33.035, and "biofuel" is defined
19 in RCW 43.325.010.

20 (4) Every taxpayer claiming a credit under this section must file
21 a complete annual survey with the department under RCW 82.32.585.

22 (5) This section expires June 30, (~~2015~~) 2025.

23 PART III

24 Energy Conservation Payments from Bonneville Power Administration

25 NEW SECTION. **Sec. 301.** This section is the tax preference
26 performance statement for the tax preference contained in section 302
27 of this act. The performance statement is only intended to be used
28 for subsequent evaluation of the tax preference. It is not intended
29 to create a private right of action by any party or be used to
30 determine eligibility for preferential tax treatment.

31 (1) The legislature categorizes this tax preference as one
32 intended to induce certain designated behavior by taxpayers, as
33 indicated in RCW 82.32.808(2)(a).

34 (2) It is the legislature's specific public policy objective to
35 increase investment in energy efficiency and conservation programs,
36 and to support efforts by utilities to acquire all cost-effective
37 energy conservation as required under state law. To support this
38 objective, it is the legislature's intent to extend the expiration

1 date of the exemption from business and occupation tax amounts
2 received by utilities in the form of credits against power contracts
3 or received from the Bonneville power administration for energy
4 conservation purposes, thereby inducing utilities to invest funds in
5 energy conservation and efficiency programs, thereby reducing the
6 amount of electric energy that such utilities must either generate or
7 purchase, thereby reducing energy costs to utilities and customers.

8 (3) To measure the effectiveness of the exemption in section 302
9 of this act in achieving the public policy objectives described in
10 subsection (2) of this section, the joint legislative audit and
11 review committee must evaluate the number of taxpayers that claim the
12 exemption and the amount of investment made by utilities in energy
13 conservation and efficiency programs.

14 (4) The joint legislative audit and review committee may use data
15 from the department of revenue, the utilities and transportation
16 commission, and any other data it deems necessary in performing the
17 evaluation under subsection (3) of this section.

18 **Sec. 302.** RCW 82.04.310 and 2014 c 216 s 302 are each amended to
19 read as follows:

20 (1) This chapter does not apply to any person in respect to a
21 business activity with respect to which tax liability is specifically
22 imposed under the provisions of chapter 82.16 RCW including amounts
23 derived from activities for which a deduction is allowed under RCW
24 82.16.050. The exemption in this subsection does not apply to sales
25 of natural gas, including compressed natural gas and liquefied
26 natural gas, by a gas distribution business, if such sales are exempt
27 from the tax imposed under chapter 82.16 RCW as provided in RCW
28 82.16.310.

29 (2) This chapter does not apply to amounts received by any person
30 for the sale of electrical energy for resale within or outside the
31 state.

32 (3)(a) This chapter does not apply to amounts received by any
33 person for the sale of natural or manufactured gas in a calendar year
34 if that person sells within the United States a total amount of
35 natural or manufactured gas in that calendar year that is no more
36 than twenty percent of the amount of natural or manufactured gas that
37 it consumes within the United States in the same calendar year.

38 (b) For purposes of determining whether a person has sold within
39 the United States a total amount of natural or manufactured gas in a

1 calendar year that is no more than twenty percent of the amount of
2 natural or manufactured gas that it consumes within the United States
3 in the same calendar year, the following transfers of gas are not
4 considered to be the sale of natural or manufactured gas:

5 (i) The transfer of any natural or manufactured gas as a result
6 of the acquisition of another business, through merger or otherwise;
7 or

8 (ii) The transfer of any natural or manufactured gas accomplished
9 solely to comply with federal regulatory requirements imposed on the
10 pipeline transportation of such gas when it is shipped by a third-
11 party manager of a person's pipeline transportation.

12 (4) Until July 1, 2025, this chapter does not apply to amounts
13 received by any person in the form of credits against power contracts
14 with the Bonneville power administration, or funds provided by the
15 Bonneville power administration, for the purpose of implementing
16 energy conservation programs or demand-side management programs.

17 **PART IV**

18 **Miscellaneous Provisions**

19 NEW SECTION. **Sec. 401.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of
21 the state government and its existing public institutions, and takes
22 effect July 1, 2015.

--- END ---