

CHAPTER 287.

[Sub. S. B. 56.]

MOTOR VEHICLE USE FUEL TAX.

AN Act relating to the motor vehicle use fuel tax; amending sections 1 and 2, chapter 110, Laws of 1943 and RCW 82.40.030 and 82.40.040, sections 2, 13a, 14, 17, 18 and 24, through 26, chapter 127, Laws of 1941 and RCW 82.40.010, 82.40.130, 82.40.140, 82.40.170, 82.40.180, 82.40.250, 82.40.260, 82.40.270; and adding three new sections to chapter 82.40 RCW.

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

Amendment.

SECTION 1. Section 2, chapter 127, Laws of 1941 and RCW 82.40.010 are each amended to read as follows:

"Motor vehicle" defined.

For the purposes of this chapter:

(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.

"Highway" defined.

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

"Fuel" defined.

(3) "Fuel" means any combustible gas, liquid, or material of a kind used in an internal combustion engine for the generation of power to propel a motor vehicle except motor vehicle fuel as defined in chapter 82.36.

"Internal combustion engine" defined.

(4) "Internal combustion engine" means any engine operated by internal expansion.

"Use" defined.

(5) "Use" as a verb, means to receive into any receptacle on a motor vehicle, fuel consumed in propelling such motor vehicle on the highways within the state; except that if such fuel is received into such receptacle outside the taxing jurisdiction of this state, "use" as a verb, means to consume in pro-

selling such motor vehicle on the highways within this state; "use" as a noun, means the act of using.

(6) "User" means any person who uses fuel.

"User" defined.

(7) "Director" means the director of licenses.

"Director" defined.

(8) "Bond" means (a) a corporate surety bond duly executed by any person subject to the tax as principal, payable to the state and conditioned for faithful performance of all requirements of this chapter, including the payment of all taxes, penalties, interest, and other obligations arising out of this chapter; or (b) a deposit with the state treasurer by the person subject to the tax, under such reasonable terms and conditions as the director may prescribe, of a like amount of lawful money of the United States or bonds or other obligations of the United States, the state of Washington or any county of said state; of an actual market value not less than the amount so fixed by said director.

"Bond" defined.

SEC. 2. Section 2, chapter 110, Laws of 1943 and RCW 82.40.030 are each amended to read as follows:

Amendment.

Each user shall on or before the twentieth day of each month, file with the director a report showing the amount of fuel used during the immediately preceding calendar month and such other information as the director may require for the purposes of this chapter. Such reports shall be signed by the user or his authorized agent on forms furnished by the director. Each report shall be accompanied by a remittance payable to the state treasurer for the amount of tax due and payable hereunder.

User to file report showing amount of fuel used.

Remittance to accompany report.

SEC. 3. Section 25, chapter 127, Laws of 1941, and RCW 82.40.260 are each amended to read as follows:

Amendment.

It shall be unlawful for the director, or any person having an administrative duty under this chapter, to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and

Unlawful to divulge information.

equipment of any user or other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any report, or to permit any report or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law: *Provided*, That the director may, upon request from the officials to whom are entrusted the enforcement of the use fuel tax law of any other state or any political subdivision, the District of Columbia, the United States, its territories and possessions, the provinces or the Dominion of Canada, forward to such officials any information which he may have relative to the receipt, storage, delivery, sale, use, or other disposition of use fuel by any use fuel seller or use fuel user, provided such other state or states furnish like information to this state.

Director may upon request from officials whose duty it is to enforce use fuel tax, forward information.

Amendment.

SEC. 4. Section 1, chapter 110, Laws of 1943 and RCW 82.40.040 are each amended to read as follows:

Due date of excise tax imposed on use of fuel.

The excise tax imposed hereunder with respect to the use of fuel during any calendar month shall be due and payable on or before the twentieth day of the immediately succeeding calendar month; however, with respect to delivery into the fuel supply tank of a noncommercial passenger vehicle by a person licensed to sell or otherwise distribute fuel in this state, the tax shall be paid to the person making such delivery who shall report and remit the tax collected as provided for users.

Amendment.

SEC. 5. Section 13a, chapter 127, Laws of 1941 and RCW 82.40.130 are each amended to read as follows:

Bond requirement.

The director may require any person subject to the excise tax imposed hereunder to provide a bond as defined in section 1 of this act, to secure his com-

pliance with this act, and the payment of any and all taxes, penalties and interest due and to become due hereunder.

The total amount of the bond or bonds required of any person subject to the tax shall be fixed by the director in an amount not less than twice the estimated amount of the monthly tax, determined in such manner as the director shall deem proper, and may be increased or reduced by the director at any time subject to the limitations herein prescribed: *Provided, however,* That the total amount of such bond or bonds shall not exceed fifty thousand dollars.

Every bond filed with and approved by the director shall, without the necessity of periodic renewal, remain in force and effect until such time as the use fuel tax permit of the principal is revoked for cause or otherwise canceled. The surety on a bond, as provided herein, shall be released and discharged from all liability to the state accruing on such bond after the expiration of thirty days from the date upon which such surety shall have lodged with the director a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue (due and to become due hereunder) before the expiration of the thirty-day period. The director shall promptly, upon receiving any such request, notify the principal who furnished the bond; and unless the principal shall, on or before the expiration of the thirty-day period, file a new bond, the director shall forthwith cancel the principal's use fuel tax permit.

SEC. 6. Section 14, chapter 127, Laws of 1941 and RCW 82.40.140 are each amended to read as follows:

Whenever any user is delinquent in the payment of any obligation imposed hereunder, and such delinquency continues after notice and demand for payment by the director, the director shall proceed

Bond amount fixed by director.

Maximum amount of bond.

Duration of bond.

Surety's written request for release; when released.

Principal notified; time limitation on filing new bond.

Amendment.

Procedure in respect to delinquent obligations.

Seizure of motor vehicle subject to lien of such excise tax.

Notice of sale.

Publication.

Contents of notice.

Sale; bill of sale given purchaser.

to collect the amount due from the user in the following manner: The director shall seize any motor vehicle subject to the lien of said excise tax, penalty, and interest and thereafter sell it at public auction to pay said obligation and any and all costs that may have been incurred on account of the seizure and sale. Notice of such intended sale and the time and place thereof shall be given to such delinquent user and to all persons appearing of record to have an interest in such motor vehicle. The notice shall be given in writing at least ten days before the date set for the sale by enclosing it in an envelope addressed to such user at his address as the same appears in the records of the director and, in the case of any person appearing of record to have an interest in such motor vehicle, addressed to such person at his last known residence or place of business, and depositing such envelope in the United States mail, postage prepaid. In addition, the notice shall be published for at least ten days before the date set for the sale in a newspaper of general circulation published in the county in which the motor vehicle seized is to be sold. If there is no newspaper of general circulation in such county, the notice shall be posted in three public places in the county for a period of ten days. The notice shall contain a description of the motor vehicle to be sold, together with a statement of the amount due hereunder, the name of the user and the further statement that unless such amount is paid on or before the time fixed in the notice the motor vehicle will be sold in accordance with law.

The director shall then proceed to sell the motor vehicle in accordance with the law and the notice, and shall deliver to the purchaser a bill of sale which shall vest title in the purchaser. If upon any such sale the moneys received exceed the amount due to the state hereunder from the delinquent user, the

excess shall be returned to such user and his receipt obtained therefor. If any person having an interest in or lien upon the motor vehicle has filed with the director prior to such sale notice of such interest or lien, the director shall withhold payment of any such excess to such user pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of such user shall not be available, the director shall deposit such excess with the state treasurer as trustee for such user, his heirs, successors, or assigns: *Provided*, That prior to making any seizure of property as herein provided for, the director may first serve upon the user's bondsman a notice of the delinquency, with a demand for the payment of the amount due.

Excess
moneys.

Notice of in-
terest of third
party.

Notice of de-
linquency be-
fore seizure.

SEC. 7. Section 17, chapter 127, Laws of 1941 and RCW 82.40.170 are each amended to read as follows:

Amendment.

If the director is not satisfied with the report filed or amount of tax paid to the state by any user, he may make an additional assessment of tax due from such user based upon any information available to him. Every such additional assessment shall bear interest at the rate of one-half of one percent per month, or a fraction thereof, from the twentieth day after the close of the month or months, for which the additional assessment is imposed until paid. If any part of the deficiency for which the additional assessment is imposed is found to have been occasioned by negligence or intentional disregard of this chapter or rules and regulations adopted hereunder, a penalty of ten percent of the amount of the additional assessment may be added thereto. If any part of the deficiency for which the additional assessment is imposed is found to have been occasioned by fraud or an intent to evade this chapter or rules and regulations adopted hereunder, a penalty of twenty-five percent of the amount of the additional assessment

Additional
assessment.

Interest rate
on additional
assessment.

Penalty may
be added to
additional
assessment.

shall be added thereto in addition to the ten percent penalty above provided for. The director shall give to the user written notice of such additional assessment. Such notice may be served personally or by mail; if by mail, service shall be made by depositing such notice in the United States mail, postage pre-paid addressed to the user at his address as the same appears in the records of the director.

Notice of additional assessment.

Amendment.

SEC. 8. Section 18, chapter 127, Laws of 1941 and RCW 82.40.180 are each amended to read as follows:

Director's estimate.

If any user neglects or refuses to make a report as required by this chapter, the director shall make an estimate, based upon the best information available for the month or months with respect to which such user failed to make a report, of the amount of fuel used by such user and, upon the basis of such estimate, compute and assess the tax due from such user.

Assessment to bear interest.

Every such assessment shall bear interest at the rate of one-half of one percent per month, or fraction thereof, from the twentieth day after the close of the month or months, for which such assessment is imposed until paid.

Penalty added to assessment.

There shall be added to every such assessment a penalty of twenty-five percent of the amount thereof. If the neglect or refusal to make a

Added penalty.

report as required by this chapter is found to have been occasioned by fraud or an intent to evade this chapter or rules and regulations adopted hereunder, a penalty of twenty-five percent of the amount of such assessment shall be added thereto in addition to the twenty-five percent penalty above provided for.

Written notice of assessment.

The director shall give to such user written notice of such assessment, the notice to be served in the manner prescribed in RCW 82.40.170.

Amendment.

SEC. 9. Section 24, chapter 127, Laws of 1941 and RCW 82.40.250 are each amended to read as follows:

Every user and every person selling, distributing, storing, transporting, or otherwise handling fuel,

shall keep in this state records, in such form as the director may require. Records: form.

Every person required to remit the tax on fuel delivered into noncommercial passenger vehicles shall be subject to the same penalties imposed upon users. The director shall pursue against such persons the same procedure and remedies for audit, adjustment, collection, and enforcement of this chapter as is provided with respect to users. Penalties similar.

The director may examine during normal business hours the books, papers, records, and equipment of any user or of any person selling, distributing, storing, transporting, or otherwise handling fuel and investigate the character of the disposition which any such user or such other person makes of fuel in order to determine whether all taxes due hereunder are being properly reported and paid. Authority to examine books and equipment.

The director is charged with the enforcement of the provisions of this chapter and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement hereof. State patrolmen shall aid the director in the enforcement of this chapter, and, for this purpose, are declared to be peace officers, and given police power and authority throughout the state to arrest on sight any person known to have committed a violation of the provisions of this chapter. Rules and regulations.
State patrolmen aid in enforcing.

SEC. 10. Section 26, chapter 127, Laws of 1941 and RCW 82.40.270 are each amended to read as follows: Amendment.

It shall be unlawful for any person to deliver fuel, which is to be consumed in propelling a motor vehicle in this state, into or place such fuel into, or cause such fuel to be delivered into or placed into, any receptacle on such motor vehicle from which receptacle such fuel can be supplied to propel such motor vehicle, unless an emblem is displayed on such motor vehicle as provided in RCW 82.40.050. Delivery of fuel into storage facilities having dispensing Necessity to display emblem on motor vehicle.

equipment designed to fuel motor vehicles shall be prima facie evidence that the intended use of such fuel is for motor vehicles.

New section.

SEC. 11. There is added to chapter 82.40 RCW, a new section to read as follows:

Director's authority to exempt users.

The director may exempt users operating non-commercial passenger vehicles, for which fuel is exclusively acquired tax inclusive, from the provisions of RCW 82.40.030 and RCW 82.40.050, but the director shall have authority to promulgate such rules and regulations as may be deemed necessary to insure compliance with this chapter.

New section.

SEC. 12. There is added to chapter 82.40 RCW, a new section to read as follows:

Lien on franchises, property and rights to property, real or personal, of dealer who fails to pay tax imposed by this chapter.

If any dealer liable for the remittance of tax imposed by this chapter fails to pay the same, the amount thereof, including any interest, penalty, or addition to such tax, together with any costs that may accrue in addition thereto, shall be a lien in favor of the state upon all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by such person, located or situated in the county wherein such lien arises, whether such property is employed by such person in the prosecution of business or is in the hands of a trustee, or receiver, or assignee for the benefit of creditors, from the date the taxes were due and payable, until the amount of the lien is paid or the property sold in payment thereof.

Lien priority.

The lien shall have priority over any lien or encumbrance whatsoever, except the lien of other state taxes having priority by law, and except that such lien shall not be valid as against any bona fide mortgagee, pledgee, judgment creditor, or purchaser whose rights have attached prior to the time the director has filed and recorded notice of such lien in the office of the county auditor of the county in which

the principal place of business of the taxpayer is located.

SEC. 13. There is added to chapter 82.40 RCW, a New section.
new section to read as follows:

There is exempted from the tax imposed by this State, county and municipal vehicle use exempted.
chapter, the use of fuel for street and highway construction and maintenance purposes, in motor vehicles owned and operated by the state of Washington, or any county or municipality.

Passed the Senate March 9, 1955.

Passed the House March 7, 1955.

Approved by the Governor March 18, 1955.

CHAPTER 288.

[S. B. 303.]

INTOXICATING LIQUOR—SEARCH AND SEIZURE.

AN ACT relating to liquor searches and seizures; and amending section 4, chapter 39, Laws of 1955, and RCW 66.32.020.

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

SECTION 1. Section 4, chapter 39, Laws of 1955 Amended.
and RCW 66.32.020 are each amended to read as follows:

If, upon the sworn complaint of any person, it is Search and seizure warrant; issuance of.
made to appear to any judge of the superior court, justice of the peace, or magistrate, that there is probable cause to believe that intoxicating liquor is being manufactured, sold, bartered, exchanged, given away, furnished, or otherwise disposed of or kept in violation of the provisions of this title, such judge, justice of the peace, or magistrate shall, with or without the approval of the prosecuting attorney, issue a warrant directed to a civil officer of the state duly authorized to enforce or assist in enforcing any law thereof, or to an inspector of the board, com-