

## CHAPTER 247.

[ H. B. 282. ]

## MOTOR VEHICLE FUEL TAX.

AN ACT relating to motor vehicle fuel; amending section 5, chapter 58, Laws of 1933 as last amended by section 1, chapter 207, Laws of 1955, and RCW 82.36.020; amending section 7, chapter 58, Laws of 1933, as last amended by section 1, chapter 84, Laws of 1943, and RCW 82.36.030; amending section 3, chapter 207, Laws of 1955 and RCW 82.36.040; amending section 1, chapter 135, Laws of 1947 and RCW 82.36.050; amending section 4, chapter 207, Laws of 1955 and RCW 82.36.070; amending section 5, chapter 177, Laws of 1939 as last amended by section 1, chapter 267, Laws of 1951, and RCW 82.36.100; amending section 11, chapter 58, Laws of 1933 and RCW 82.36.160; and amending section 17, chapter 58, Laws of 1933 as last amended by section 13, chapter 220, Laws of 1949 and section 1, chapter 150, Laws of 1953 and RCW 82.36.220, 82.36.230, 82.36.240, 82.36.250 and 82.36.260.

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

SECTION 1. Section 5, chapter 58, Laws of 1933 as last amended by section 1, chapter 207, Laws of 1955, and RCW 82.36.020 are each amended to read as follows:

RCW 82.36.020 amended.

Every distributor shall pay, in addition to any other taxes provided by law, an excise tax to the director of six and one-half cents for each gallon of motor vehicle fuel sold, distributed, or used by him in the state as well as on each gallon upon which he has assumed liability for payment of the tax under the provisions of RCW 82.36.100: *Provided*, That under such regulations as the director may prescribe sales or distribution of motor vehicle fuel may be made by one licensed distributor to another licensed distributor free of the tax. In the computation of the tax, one-quarter of one percent of the net gallonage otherwise taxable shall be deducted by the distributor before computing the tax due, on account of the losses sustained through handling. The tax

Tax imposed  
—Rate—Allo-  
cation of  
proceeds.

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Motor ve-  
hicle fuel tax.  
Tax imposed  
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proceeds.

herein imposed shall be collected and paid to the state but once in respect to any motor vehicle fuel. An invoice shall be rendered by a distributor to a purchaser for each distribution of motor vehicle fuel. The invoice shall contain a statement that the distributor has assumed the tax thereon. The net gallonage, for purposes of tax distribution, shall be computed after deducting three-fourths of one percent therefrom. The proceeds of the amount deducted shall be paid into the motor vehicle fund. The proceeds of the net gallonage remaining shall be distributed as follows: Of the six and one-half cents collected as herein provided, five cents shall be distributed between the state, cities and counties under the provisions of RCW 46.68.090 and 46.68.100, and one-quarter cent shall be distributed to the counties directly and allocated between them as provided by RCW 46.68.120, and one and one-quarter cents shall be paid directly into the motor vehicle fund.

RCW 82.36.030  
amended.

SEC. 2. Section 7, chapter 58, Laws of 1933 as last amended by section 1, chapter 84, Laws of 1943, and RCW 82.36.030 are each amended to read as follows:

Monthly gal-  
lionage return  
—Default as-  
sessment—  
Penalty.

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.

SEC. 3. Section 3, chapter 207, Laws of 1955 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.

RCW 82.36.040 amended.

Payment of tax—Penalty for delinquency.

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.

In any suit brought to enforce the rights of the state hereunder, 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. 4. Section 1, chapter 135, Laws of 1947 and RCW 82.36.050 are each amended to read as follows:

When any application, report, notice, payment, or claim for credit or refund to be filed with or made to any officer, agent, or employee of the state under

RCW 82.36.050 amended.

Date of mailing deemed date of receipt.

Motor vehicle fuel tax. Date of mailing deemed date of receipt.

the provisions of this chapter has been deposited in the United States mail addressed to such officer, agent or employee, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to said officer, agent, or employee of the state establishes that the actual mailing occurred on an earlier date: *Provided, however,* That no penalty for delinquency shall attach, nor will the statutory period be deemed to have elapsed in the case of credit or refund claims, if it is established by competent evidence that such application, report, notice, payment, or claim for credit or refund was timely deposited in the United States mail properly addressed to said officer, agent, or employee of the state, even though never received if a duplicate of such document or payment is filed.

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RCW 82.36.070 amended.

SEC. 5. Section 4, chapter 207, Laws of 1955 and RCW 82.36.070 are each amended to read as follows:

Issuance of license— Display— Renewal.

The application in proper form having been accepted for filing, the filing fee paid, and the bond or other security having been accepted and approved, the director shall issue to the applicant a license to transact business as a distributor in the state, and such license shall be valid until canceled or revoked.

The license so issued by the director shall not be assignable, and shall be valid only for the distributor in whose name issued.

The director shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed distributors.

Each distributor shall be assigned a license number upon qualifying for a license hereunder, and the director shall issue to each such licensee a license certificate which shall be displayed conspicuously by the distributor at his principal place of business in this state. The director shall also issue separate

license cards for each bulk storage plant operated by such distributor. Such license cards shall indicate the number so assigned the distributor, the location of the storage plant for which the card is used, and such other information as the director may prescribe. The license card shall be conspicuously displayed at each bulk storage plant to which it is assigned, and it shall be unlawful for any distributor to operate or maintain a bulk storage plant in this state for the purpose of storing motor fuel without displaying such license card as herein provided. Bulk plant licenses shall be renewed annually before the first day of July of each year upon application to the department on forms prescribed by the director. A license fee of ten dollars shall accompany the renewal application. The distributor shall report on forms prescribed by the director any change in the number or capacity of bulk storage plants operated or maintained during the license year.

Issuance of  
license—Dis-  
play—Re-  
newal.

In the event an application for a license to transact business as a distributor is filed by any person whose license has theretofore been canceled for cause by the director, or if the director is of the opinion that the application is not filed in good faith, or that the application is filed by some person as a subterfuge for the real person in interest whose license has theretofore been canceled for cause, the director, after a hearing, of which the applicant shall be given five days' notice in writing and at which the applicant may appear in person or by counsel and present testimony, may refuse to issue such a person a license to transact business as a distributor.

SEC. 6. Section 5, chapter 177, Laws of 1939 as last amended by section 1, chapter 267, Laws of 1951, and RCW 82.36.100 are each amended to read as follows:

RCW 82.36.100  
amended.

Every person other than a distributor who ac-

Motor vehicle  
fuel tax.  
Tax required  
of persons not  
classed as dis-  
tributors.

quires any motor vehicle fuel within this state upon which payment of tax is required under the provisions of this chapter, or imports such motor vehicle fuel into this state and sells, distributes, or in any manner uses it in this state shall, if the tax has not been paid, apply for a license to carry on such activities, file bond, make reports, comply with all regulations the director may prescribe in respect thereto, and pay a tax of six and one-half cents for each gallon thereof so sold, distributed, or used in the manner provided for distributors, and the director shall issue a license to such person in the manner provided for issuance of licenses to distributors. However, a distributor licensed under the provisions of this chapter may deliver motor vehicle fuel to an importer in individual quantities of five hundred gallons or less and assume the liability for payment of the tax to this state. Under such conditions, the importer shall be exempt from the requirements of this section. For failure to comply with the terms of this chapter such person shall be subject to the same penalties imposed upon distributors. The director shall pursue against such persons the same procedure and remedies for audits, adjustments, collection, and enforcement of this chapter as is provided with respect to distributors. Nothing herein shall be construed as classifying such persons as distributors.

RCW 82.36.160  
amended.

SEC. 7. Section 11, chapter 58, Laws of 1933 and RCW 82.36.160 are each amended to read as follows:

Records to be  
preserved by  
distributors  
and dealers.

Every distributor shall maintain in the office of his principal place of business in this state, for a period of three years, records of motor vehicle fuel received, sold, distributed, or used by him, in such form as the director may prescribe, together with invoices, bills of lading, and other pertinent papers as may be required under the provisions of this chapter.

Every dealer purchasing motor vehicle fuel taxable under this chapter for the purpose of resale, shall maintain within this state, for a period of two years a record of motor vehicle fuels received, the amount of tax paid to the distributor as part of the purchase price, together with delivery tickets, invoices, and bills of lading, and such other records as the director shall require.

SEC. 8. Section 17, chapter 58, Laws of 1933 as last amended by section 13, chapter 220, Laws of 1949 and section 1, chapter 150, Laws of 1953 (heretofore divided and codified as RCW 82.36.220 through 82.36.260) are divided and amended as set forth in sections 9 through 13 of this amendatory act.

Division and amendment.

SEC. 9. (RCW 82.36.220) Every person who imports motor vehicle fuel into this state for his own use in equipment other than motor vehicles shall not, for that reason alone, be required to secure a distributor's license or to comply with any of the provisions of this chapter imposed upon a distributor or with the provisions of RCW 82.36.100; but such person shall make a report verified under oath and file the same with the director on or before the tenth day of the succeeding month, showing the number of gallons of motor vehicle fuel so imported and the number of gallons of such motor vehicle fuel used during the preceding month, the name of the person from whom the motor vehicle fuel was purchased, the date of purchase, the place of storage, and the manner of use or intended use together with a description of the equipment in which the same is used. These reports shall be filed upon blanks furnished by the director: *Provided*, That any person coming into this state in an aircraft or motor boat shall not be required to make such a report in respect to any motor vehicle fuel carried in the fuel tanks of such vehicle for the purpose of propelling such vehicle, and every person coming into

RCW 82.36.220 enacted without amendment.

this state in a motor vehicle may transport in the fuel tanks of such vehicle for the propulsion thereof not more than twenty gallons of motor vehicle fuel or other inflammable petroleum products without paying the tax, securing the license, or making any report herein provided, but if the motor vehicle fuel so brought into the state be removed from the fuel tanks of such vehicles or used for any purpose other than the propulsion of the vehicles, the person so importing motor vehicle fuel shall be subject to all the provisions of this chapter applying to distributors. The director shall have the right, in order to establish the validity of any exemption, to examine the books and records of the claimant for such purpose and the failure of the claimant to accede to the demand for such examination shall constitute a waiver of all rights to the exemption herein granted.

RCW 82.36.230 amended.  
Motor vehicle fuel tax.  
Exemptions—Imports, exports, federal sales, aviation gasoline—Export certificates—Reciprocity.

SEC. 10. (RCW 82.36.230) 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 the 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 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, ex-

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ports 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 sales shall have the statement "Ex Washington Motor Vehicle Fuel Tax" clearly marked thereon.

Exemptions—  
Export certifi-  
cates—Reci-  
procity.

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 sworn 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.

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, 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 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 from the tax imposed hereunder shall not apply to any motor vehicle fuel sold to contractors purchasing such fuel either

Motor vehicle  
fuel tax.  
Exemptions—  
Export certifi-  
cates—Reci-  
procity.

for their own account or as the agents of the United States for use in the performance of contracts with the armed forces of the United States.

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.

RCW 82.36.240  
enacted with-  
out amend-  
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SEC. 11. (RCW 82.36.240) Nothing in this chapter shall be construed to exempt from the payment of the tax any motor vehicle fuel sold and delivered to or used by the state or any political subdivision thereof,

or any inflammable petroleum products other than motor vehicle fuel, used by the state, or any political subdivision thereof, in the propulsion of motor vehicles as herein defined.

SEC. 12. (RCW 82.36.250) Any person who purchases or otherwise acquires motor vehicle fuel upon which the tax has not been paid, from the United States government, or any of its agents or officers, for use not specifically associated with any governmental function or operation or so acquires inflammable petroleum products other than motor vehicle fuel and uses the same in the propulsion of motor vehicles as herein defined, for a use not associated with any governmental function or operation, shall pay to the state the tax herein provided upon the motor vehicle fuel, or other inflammable petroleum products so acquired. It shall be unlawful for any person to use or to conspire with any governmental official, agent, or employee for the use of any requisition, purchase order, or any card or any authority to which he is not specifically entitled by government regulations, for the purpose of obtaining any motor vehicle fuel or other inflammable petroleum products upon which the state tax has not been paid.

RCW 82.36.250  
enacted with  
out amend-  
ment.

SEC. 13. (RCW 82.36.260) The director shall have authority to extend the time prescribed under this act for filing exportation certificates or claiming exemption for sales to the armed forces: *Provided*, That written request is filed with the director showing cause for failure to do so within the prescribed period: *And provided further*, That the state or territory of destination has not been prejudiced with respect to its collection of taxes thereon should the certificate not be filed within such time.

RCW 82.36.260  
amended.  
Limitation  
on claim of  
exemption for  
government  
sales.  
Proviso.

Proviso.

Passed the House February 19, 1957.

Passed the Senate March 12, 1957.

Approved by the Governor March 23, 1957.