

This act creates an alcoholism advisory board for the Department of Social and Health Services and also provides a mechanism for program funding at the county level for those counties which desire it. Section four of the bill establishes a distribution formula for the funds appropriated to the department for alcoholism. The formula allows ten percent of the funds for administration, twenty percent for pilot and statewide programs and the balance to be allocated to the counties based on the ratio of liquor taxes and profits derived from a county to the taxes and profits derived from the sale of liquor statewide. This formula is unduly restrictive in that it would not allow for the continued funding of existing statewide and pilot programs. Additionally, the ratio established for county allocation varies widely from period to period, making it very difficult for the counties to do meaningful planning for future needs. With these considerations in mind, it would be appropriate for the legislature to reconsider the formula between now and next September and at that time establish a more viable method for allocating these funds to the counties.

Veto
Message

Accordingly, for the reasons set out above I have determined to veto section four of Senate Bill No. 2435."

CHAPTER 156

[Substitute House Bill No. 64]

SPECIAL FUEL TAX

AN ACT Relating to special fuel tax; amending section 4, chapter 175, Laws of 1971 ex. sess. as amended by section 2, chapter 135, Laws of 1972 ex. sess. and RCW 82.38.030; amending section 5, chapter 175, Laws of 1971 ex. sess. and RCW 82.38.040; amending section 11, chapter 175, Laws of 1971 ex. sess. and RCW 82.38.100; amending section 12, chapter 175, Laws of 1971 ex. sess. and RCW 82.38.110; amending section 13, chapter 175, Laws of 1971 ex. sess. and RCW 82.38.120; amending section 16, chapter 175, Laws of 1971 ex. sess. and RCW 82.38.150; amending section 18, chapter 175, Laws of 1971 ex. sess. as amended by section 3, chapter 138, Laws of 1972 ex. sess. and RCW 82.38.170; and amending section 20, chapter 175, Laws of 1971 ex. sess. as amended by section 5, chapter 138, Laws of 1972 ex. sess. and RCW 82.38.190.

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

Section 1. Section 4, chapter 175, Laws of 1971 ex. sess. as amended by section 2, chapter 135, Laws of 1972 ex. sess. and RCW 82.38.030 are each amended to read as follows:

(1) There is hereby levied and imposed upon special fuel users a tax of nine cents per gallon or each one hundred cubic feet of compressed natural gas measured at standard pressure and temperature on the use (within the meaning of the word use as defined herein) of special fuel in any motor vehicle: PROVIDED, That in order to encourage experimentation with nonpolluting fuels, no tax shall be imposed upon the use of natural gas as herein defined or on liquified petroleum gas, commonly called propane, which is used in ((a fleet of three or more)) any motor vehicle((s)) until July 1, 1975.

(2) Said tax shall be collected by the special fuel dealer and shall be paid over to the department as hereinafter provided: (a) With respect to all special fuel delivered by a special fuel dealer into supply tanks of motor vehicles or into storage facilities used for the fueling of motor vehicles at unbonded service stations in this state; or (b) in all other transactions where the purchaser indicates in writing to the special fuel dealer prior to or at the time of the delivery that the entire quantity of the special fuel covered by the delivery is for use by him for a taxable purpose as a fuel in a motor vehicle.

(3) Said tax shall be paid over to the department by the special fuel user as hereinafter provided: (a) With respect to special fuel upon which the tax has not previously been imposed which was acquired in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle in this state; or (b) in all transactions with a special fuel dealer in this state where a written statement has not been furnished to the special fuel dealer as set forth in subsection (2) (b) of this section.

It is expressly provided that delivery of special fuel may be made without collecting the tax otherwise imposed, when such deliveries are made by a bonded special fuel dealer to special fuel users who are authorized by the department as hereinafter provided, to purchase fuel without payment of tax to the bonded special fuel dealer.

Sec. 2. Section 5, chapter 175, Laws of 1971 ex. sess. and RCW 82.38.040 are each amended to read as follows:

The department may issue written authorization to a special fuel user to purchase fuel from a bonded special fuel dealer designated by the special fuel user without payment of the tax to the bonded special fuel dealer when the department finds (1) that the special fuel user consistently is using the fuel in vehicles which are operated partly without this state or off the highways of this state; (2) that to require collection of the tax from the special

fuel user by the bonded special fuel dealer would cause consistently recurring overpayments of the tax; and (3) that the revenue of the state with respect to the tax liability of such a special fuel user is adequately secured. Such authorization may be revoked when any one of the above conditions no longer obtains. The delivery of special fuel may be made without collecting the tax otherwise imposed when deliveries are made into vehicle refrigeration units, mixing units, or other equipment powered by separate motors from separate fuel tanks, on invoices showing the vehicle unit or license number and such other information as may be prescribed by the department.

Sec. 3. Section 11, chapter 175, Laws of 1971 ex. sess. and RCW 82.38.100 are each amended to read as follows:

((Any special fuel user operating a motor vehicle in this state in the course of interstate traffic may make application for a single trip special fuel tax permit authorizing operation of such vehicle for a single trip through the state or from a point on the Washington border to a point within the state and return to the border for a fee based on the number of miles to be traveled within the state as follows:

{1} Up to 333 miles	\$ 5.00
{2} From 334 miles to 555 miles	\$40.00
{3} From 556 miles to 777 miles	\$45.00
{4} From 778 miles to 1000 miles	\$20.00
{5} More than 1000 miles	\$25.00

In addition to the fee based on the miles to be traveled within the state; a fee of one dollar shall be paid for each single trip special fuel tax permit issued which shall be valid for a period of not more than ninety-six hours beginning and ending on the dates and time specified on the face of the permit issued. Such fees shall be in lieu of the special fuel tax otherwise assessable against the permit holder for importing and using special fuel in motor vehicles on the public highways of this state and no reports of mileage shall be required with respect to such vehicles. All such fees collected by the department shall be allocated to the same fund to which the special fuel tax collected hereunder is allocated. The single trip special fuel tax permits may be issued in lieu of special fuel user licenses if the applicant therefor does not operate motor vehicles into or from the state of Washington more than six times during any calendar year.))

(1) Any special fuel user operating a motor vehicle into this state for commercial purposes may make application for a trip permit in lieu of a special fuel user's license required in RCW 82.38.090 which shall be good for a period of not more than twenty consecutive days beginning and ending on the dates specified on the face of the permit issued. An administrative fee of ten dollars shall be

required for each permit issued plus one dollar for each consecutive day covered by such permit. Such fees shall be in lieu of the special fuel tax otherwise assessable against the permit holder for importing and using special fuel in a motor vehicle on the public highways of this state and no report of mileage shall be required with respect to such vehicle. Trip permits may be issued if the applicant does not operate motor vehicles into or from the state of Washington more than six times during any calendar year.

(2) Any special fuel user desiring to operate a motor vehicle exclusively within the state of Washington pending the receipt of a special fuel user's license as required in RCW 82.38.090 may make application for a trip permit as provided in subsection (1) of this section: PROVIDED, That only one trip permit shall be issued for the same vehicle. All fees paid for such trip permit shall be in lieu of any special fuel tax otherwise due by the applicant for using special fuel in a motor vehicle on the public highways of this state and no report of mileage shall be required for the operation of the vehicle for the period for which the trip permit was issued.

(3) All fees collected by the department under the provisions of subsections (1) and (2) of this section shall be credited and deposited in the same manner as the special fuel tax collected hereunder and shall not be subject to refund or credit.

Sec. 4. Section 12, chapter 175, Laws of 1971 ex. sess. and RCW 82.38.110 are each amended to read as follows:

Application for a special fuel dealer's license, special fuel supplier's license or a special fuel user's license, shall be made to the department. The application shall be filed upon a form prepared and furnished by the department and shall contain such information as the department deems necessary.

No special fuel dealer's license or special fuel user's license shall be issued to any person or continued in force unless such person has furnished bond, as defined in RCW 82.38.020, in such form as the department may require, to secure his compliance with this chapter, and the payment of any and all taxes, interest and penalties due and to become due hereunder. The requirement of furnishing a bond shall be waived provided all acquisitions of special fuel by the licensee are on a tax paid or a tax exempt basis.

The total amount of the bond or bonds required of any special fuel dealer or special fuel user shall be equivalent to twice his estimated monthly license tax, determined in such manner as the department may deem proper: PROVIDED, That the total amount of the bond or bonds shall never be less than five hundred dollars nor more than fifty thousand dollars.

Any person who has filed with the department a bond as a motor vehicle fuel distributor under the terms and conditions provided for

in RCW 82.36.060, may extend the terms and conditions of said distributor's bond, by an approved rider or bond form, to include coverage of all liabilities and conditions imposed by this chapter upon the special fuel dealer or to the special fuel user to whom said extension is made applicable. The amount of any new bond that may be required of a dealer or user shall not exceed the maximum amount provided by RCW 82.36.060 for a motor vehicle fuel distributor's license.

Sec. 5. Section 13, chapter 175, Laws of 1971 ex. sess. and RCW 82.38.120 are each amended to read as follows:

Upon receipt and approval of an application and bond (if required), the department shall issue to the applicant a license to act as a special fuel dealer, a special fuel supplier, or a special fuel user: PROVIDED, That the department may refuse to issue a special fuel dealer's license, special fuel supplier's license, or a special fuel user's license to any person (1) who formerly held either type of license which, prior to the time of filing for application, has been revoked for cause; or (2) who is a subterfuge for the real party in interest whose license prior to the time of filing for application, has been revoked for cause; or (3) upon other sufficient cause being shown. Before such refusal, the department shall grant the applicant a hearing and shall grant him at least five days written notice of the time and place thereof.

The department shall determine from the information shown in the application or other investigation the kind and class of license to be issued.

All licenses shall be posted in a conspicuous place or kept available for inspection at the principal place of business of the owner thereof. License holders shall reproduce the license by photostat or other method and keep a copy on display for ready inspection at each additional place of business or other place of storage from which special fuel is sold, delivered or used and in each motor vehicle used by the license holder to transport special fuel purchased by him for resale, delivery or use. Every special fuel user and consumer of special fuel used to propel motor vehicles upon the highways of this state shall reproduce the license and carry a photocopy thereof with each motor vehicle being operated upon the highways of this state. ((In the event a special fuel user license is not displayed, whether through loss, theft, or for any other reason, the operator of such vehicle may be required to purchase a single trip special fuel tax permit pursuant to RCW 82.38.400.))

A special fuel dealer or a special fuel supplier may use special fuel in motor vehicles owned or operated by them without securing a license as a special fuel user but they shall be subject to all other conditions, requirements and liabilities imposed herein

upon a special fuel user.

The department shall furnish to each licensed special fuel supplier a list showing the name and address of each bonded special fuel dealer as of the beginning of each fiscal year, and shall thereafter during each year supplement such list monthly.

Each special fuel dealer's license, special fuel supplier's license, and special fuel user's license shall be valid until suspended or revoked for cause or otherwise canceled.

No special fuel dealer's license, special fuel supplier's license, or special fuel user's license shall be transferable.

Sec. 6. Section 16, chapter 175, Laws of 1971 ex. sess. and RCW 82.38.150 are each amended to read as follows:

For the purpose of determining the amount of his liability for the tax herein imposed each special fuel dealer and each special fuel user shall file with the department, on forms prescribed by the department, a monthly tax report. A report shall be filed with the department for each calendar month, even though no special fuel was used, or tax is due, for the calendar month. Such report shall contain a declaration by the person making the same, to the effect that the statements contained therein are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification of the report and shall be in lieu of such verification. The report shall show such information as the department may reasonably require for the proper administration and enforcement of this chapter: PROVIDED, That if a special fuel dealer or special fuel user is also a special fuel supplier at a location where special fuel is delivered into the supply tank of a motor vehicle, and if separate storage is provided thereat from which special fuel is delivered or placed into fuel supply tanks of motor vehicles, the monthly report to the department need not include inventory control data covering bulk storage from which wholesale distribution of special fuel is made. The special fuel dealer or special fuel user shall file the report on or before the twenty-fifth day of the next succeeding calendar month following the monthly period to which it relates.

If the final filing date falls on a Saturday, Sunday or legal holiday the next secular or business day shall be the final filing date. Such reports shall be considered filed or received on the date shown by the post office cancellation mark stamped upon an envelope containing such report properly addressed to the department, or on the date it was mailed if proof satisfactory to the department is available to establish the date it was mailed.

Any person whose sole use of special fuel is for the propulsion of a privately operated passenger automobile is exempt from the filing of a special fuel tax report on the condition that

all fuel used in this state, except fuel brought into this state in the fuel tank of the vehicle, is purchased from a special fuel dealer in this state who collects the tax from the user when delivering the fuel into the fuel tank of the user's automobile. For the purposes of this chapter, "privately operated passenger automobile" includes passenger cars as that term is defined in RCW 46.04.382, and such light trucks and other noncommercial vehicles as may be defined as such by rules and regulations adopted by the department. A special fuel user may be relieved of the filing of the tax report even though he operates more than one passenger automobile using special fuel, whether or not such automobiles are used for pleasure or in a business or profession, providing that the user is not also using such fuel in other motor vehicles which are not privately operated passenger automobiles. Notwithstanding that a special fuel user's sole use of such special fuel is in a privately operated automobile, he shall continue to file the tax report if he is using such special fuels from bulk storage of special fuel on which the tax has not been paid at the time of purchase or acquisition.

The department may relieve any holder of a valid special fuel users license from the requirement of filing returns under this section when he has established to its satisfaction (1) that such user's vehicles are operated exclusively within the boundaries of this state; (2) that his purchases of special fuel are made exclusively from special fuel dealers holding valid licenses under this chapter; (3) that he does not acquire special fuel in any manner or for any purpose whereby payment of tax or undertaking therefor is not made to a special fuel dealer at time of purchase; and (4) that he maintains adequate records subject to audit.

((A vehicle identification card to be carried in the motor vehicle shall be issued in such cases and the privilege shall be subject to revocation by the department whenever the vehicle of any licensee so identified is found to be operated in violation of any of the conditions in this section:))

The department, if it deems it necessary in order to insure payment of the tax imposed by this chapter, or to facilitate the administration of this chapter, shall have the authority to require the filing of reports and tax remittances at shorter intervals than one month if, in its opinion, an existing bond has become insufficient.

The department may permit any special fuel user whose sole use of special fuel is in motor vehicles or equipment exempt from tax as provided in section 1(1) of this 1973 amendatory act and RCW 82.38.080 (1), (2), (3) and (6), in lieu of the reports required in this section, to submit reports annually or as requested by the department, in such form as the department may require.

Sec. 7. Section 18, chapter 175, Laws of 1971 ex. sess. as amended by section 3, chapter 138, Laws of 1972 ex. sess. and RCW 82.38.170 are each amended to read as follows:

(1) ((If any person affected by this chapter shall fail or refuse to comply with any provision of this chapter or shall violate the same; or shall fail or refuse to comply with any rule or regulation promulgated hereunder by the department or shall violate the same; he shall forfeit to the state of Washington as penalty; the sum of twenty-five dollars:

{2} In case any special fuel dealer or special fuel user refuses or fails to file a return required by this chapter within the time prescribed by RCW 82.38.150; there is hereby imposed the penalty provided in subsection {1} of this section or a sum equal to ten percent of the tax due; whichever is greater; together with interest at the rate of one percent for each calendar month or fraction thereof during which such refusal or failure continues:

{3} Where a special fuel dealer or a special fuel user files a report; but fails to pay in whole or in part the tax due hereunder; there shall be added to the amount due and unpaid; interest at the rate of one percent per month or fraction thereof from the date such tax was due to the date of payment in full thereof:))

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 section 6 of this 1973 amendatory act, said dealer or user shall pay in addition to such tax a penalty of ten percent of the amount thereof plus interest at the rate of one percent per month, or fraction thereof, from the date such tax was due until paid.

((4)) {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 ((the penalty provided in subsection {2} of this section together with interest at the rate of one percent per month; or fraction thereof; from the date the report was due:)) a penalty of ten percent of the amount of the deficiency together with interest at the rate of one percent per month, or fraction thereof, from the date the report was due until paid.

((5)) {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

~~((14))~~ (2) of this section. An assessment made by the department pursuant to this subsection or to subsection ~~((14))~~ (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.

~~((16))~~ (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), ~~((14)) and (15))~~ and (3) of this section.

~~((17))~~ (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 together with interest at one percent per month, or fraction thereof, on such deficiency from the date such tax was due to the date of payment, in addition to the penalty provided in subsection ~~((14))~~ (2) of this section and all other penalties prescribed by law.

~~((18))~~ (6) Except in the case of a fraudulent report or of neglect or refusal to make a report, every deficiency shall be assessed under subsection ~~((14))~~ (2) of this section within three years from the twenty-fifth day of the next succeeding calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

~~((19))~~ (7) Any special fuel dealer or special fuel user against whom an assessment is made under the provisions of subsections ~~((14))~~ (2) or ~~((15))~~ (3) of this section may petition for a reassessment thereof within ~~((fifteen))~~ thirty days after service upon the special fuel dealer or special fuel user of notice thereof. If such petition is not filed within such ~~((fifteen))~~ 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.

~~((140))~~ (8) 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.

Sec. 8. Section 20, chapter 175, Laws of 1971 ex. sess. as amended by section 5, chapter 138, Laws of 1972 ex. sess. and RCW 82.38.190 are each amended to read as follows:

(1) Claims under RCW 82.38.180 shall be filed with the department on forms prescribed by the department and shall show the date of filing and the period covered in the claim, the number of gallons of special fuel used for purposes subject to tax refund, and such other facts and information as may be required. Every such claim shall be supported by an invoice or invoices issued to or by the claimant, as may be prescribed by the department, and such other information as the department may require.

(2) Any amount determined to be refundable by the department under RCW 82.38.180 shall first be credited on any amounts then due and payable from the special fuel dealer or special fuel user or to any person to whom the refund is due, and the department shall then certify the balance thereof to the state treasurer, who shall thereupon draw his warrant for such certified amount to such special fuel dealer or special fuel user or any person: PROVIDED, HOWEVER, That the department shall deduct fifty cents from all such refunds as a filing fee, which fee shall be deducted from the warrant issued in payment of such refund to defray expenses in furnishing the claim forms and other forms provided for in this chapter.

(3) No refund or credit shall be approved by the department unless a written claim for refund or credit stating the specific grounds upon which the claim is founded is filed with the department:

(a) Within thirteen months from the date of purchase or from the last day of the month following the close of the monthly period for which the refundable amount or credit is due with respect to refunds or credits allowable under RCW 82.38.180, subsections (1), (2), (4) and (5), and if not filed within this period the right to refund shall be forever barred.

(b) Within three years from the last day of the month following the close of the monthly period for which the overpayment is due with respect to the refunds or credits allowable under RCW

82.38.180(3).

((c) Within six months from the date the assessment becomes final or within six months from the date of collection, whichever period expires the later, with respect to assessments made by the department under REW 82.38.170(4) and (5):)

(4) Within thirty days after disallowing any claim in whole or in part, the department shall serve written notice of its action on the claimant.

(5) Interest shall be paid upon any refundable amount or credit due under RCW 82.38.180(3) at the rate of one percent per month from the last day of the calendar month following the monthly period for which the refundable amount or credit is due.

The interest shall be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the department that a claim may be filed or the date upon which the claim is approved by the department, whichever date is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

If the department determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

(6) No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this chapter of any tax or any amount of tax required to be collected.

Passed the House March 27, 1973.

Passed the Senate April 13, 1973.

Approved by the Governor April 24, 1973.

Filed in Office of Secretary of State April 25, 1973.

CHAPTER 157

[Substitute House Bill No. 392]

MARRIAGE--DISSOLUTION--LEGAL

SEPARATION--DECLARATIONS OF INVALIDITY

AN ACT Relating to divorce; adding a new chapter to Title 26 RCW; repealing section 1, chapter 215, Laws of 1949 and RCW 26.08.010; repealing section 2, chapter 215, Laws of 1949, section 1, chapter 15, Laws of 1965 ex. sess. and RCW