

chapter 15.32 or 69.04 RCW, unless the donor or distributing organization acts with gross negligence or intentional misconduct.

**NEW SECTION.** Sec. 4. The department of agriculture shall maintain an information and referral service for persons and organizations that have notified the department of their desire to participate in the food donation program under this chapter.

**NEW SECTION.** Sec. 5. Nothing in this chapter may be construed to create any liability of, or penalty against a donor or distributing organization except as provided in section 3 of this act.

**NEW SECTION.** Sec. 6. Appropriate state and local agencies are authorized to inspect donated food items for wholesomeness and may establish procedures for the handling of food items.

**NEW SECTION.** Sec. 7. Section 1, chapter 115, Laws of 1979 and RCW 69.04.385 are each repealed.

**NEW SECTION.** Sec. 8. Sections 1 through 6 of this act shall constitute a new chapter in Title 69 RCW.

Passed the Senate April 23, 1983.

Passed the House April 21, 1983.

Approved by the Governor May 17, 1983.

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## CHAPTER 242

[Senate Bill No. 3145]

### SPECIAL FUEL TAXATION—REVISIONS

AN ACT Relating to special fuel taxation; amending section 6, chapter 175, Laws of 1971 ex. sess. and RCW 82.38.050; amending section 12, chapter 175, Laws of 1971 ex. sess. as last amended by section 7, chapter 40, Laws of 1979 and RCW 82.38.110; amending section 16, chapter 175, Laws of 1971 ex. sess. as last amended by section 11, chapter 40, Laws of 1979 and RCW 82.38.150; amending section 18, chapter 175, Laws of 1971 ex. sess. as last amended by section 13, chapter 40, Laws of 1979 and RCW 82.38.170; and amending section 23, chapter 175, Laws of 1971 ex. sess. as amended by section 16, chapter 40, Laws of 1979 and RCW 82.38.220.

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

Sec. 1. Section 6, chapter 175, Laws of 1971 ex. sess. and RCW 82.38-.050 are each amended to read as follows:

Except as otherwise provided in this chapter, every special fuel user shall be liable for the tax on special fuel used in motor vehicles leased to him for more than thirty days and operated on the highways of this state to the same extent and in the same manner as special fuel used in his own motor vehicles and operated on the highways of this state: PROVIDED, That a lessor who is engaged regularly in the business of leasing for compensation motor vehicles and equipment he owns without drivers to carriers or other lessees for interstate operation, may be deemed to be the special

fuel user when he supplies or pays for the special fuel consumed in such vehicles, and such lessor may be issued a license as a special fuel user when application and bond have been properly filed with and approved by the department for such license. Any lessee may exclude motor vehicles of which he is lessee from his reports and liabilities pursuant to this chapter, but only if the motor vehicles in question have been leased from a lessor holding a valid special fuel user's license.

Every such lessor shall file with his application for a special fuel user's license one copy of the lease form or service contract he enters into with the various lessees of his motor vehicles. When the special fuel user's license has been secured, such lessor shall make and assign to each motor vehicle he leases for interstate operation a photocopy of such license to be carried in the cab compartment of said motor vehicle and on which shall be typed or printed on the back the unit or motor number of the motor vehicle to which it is assigned and the name of the lessee. Such lessor shall be responsible for the proper use of such photocopy of said license issued and its return to him with the motor vehicle to which it is assigned.

The lessor shall be responsible for fuel tax licensing and reporting, as required by this chapter, on the operation of all motor vehicles leased to others for thirty days or less.

Sec. 2. Section 12, chapter 175, Laws of 1971 ex. sess. as last amended by section 7, chapter 40, Laws of 1979 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 for special fuel users having valid Washington vehicle license plates on all of their licensed vehicles and having an estimated tax liability of less than five hundred dollars per year and for special fuel dealers who only deliver special fuel into the fuel tanks of marine vessels.

The total amount of the bond or bonds required of any special fuel dealer or special fuel user shall be equivalent to three times the estimated monthly fuel tax, determined in such manner as the department may deem proper: PROVIDED, That those special fuel dealers and special fuel users having held a special fuel license for five or more years without having said license suspended or revoked by the department shall be permitted to reduce

the amount of their bond to twice the estimated monthly tax liability: PROVIDED FURTHER, That the total amount of the bond or bonds shall never be less than five hundred dollars nor more than fifty thousand dollars.

Sec. 3. Section 16, chapter 175, Laws of 1971 ex. sess. as last amended by section 11, chapter 40, Laws of 1979 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 tax reports with the department, on forms prescribed by the department, at periodic intervals as shown in the following schedule:

Estimated Yearly Tax Liability	Reporting Frequency
\$ 0 - \$100	Yearly
\$101 - 250	Semi-yearly
\$251 - 499	Quarterly
\$500 and over	Monthly

The department shall establish the reporting frequency for each applicant at the time the special fuel license is issued. If it becomes apparent that any special fuel licensee is not reporting in accordance with the above schedule, the department shall change the licensee's reporting frequency by giving thirty days' notice to the licensee by mail to his address of record. A report shall be filed with the department even though no special fuel was used, or tax is due, for the reporting period. Each tax 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 tax 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 period to which it relates.

Subject to the written approval of the department, tax reports may cover a period ending on a day other than the last day of the calendar month. Taxpayers granted approval to file reports in this manner will file such reports on or before the twenty-fifth day following the end of the reporting

period. No change to this reporting period will be made without the written authorization of the department.

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.

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 RCW 82.38.075 and RCW 82.38.080(1), (2), (3), and ~~((6)-(8))~~ (8), 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.

A special fuel user whose sole use of special fuel is for purposes other than the propulsion of motor vehicles upon the public highways of this state shall not be required to submit the reports required in this section.

Sec. 4. Section 18, chapter 175, Laws of 1971 ex. sess. as last amended by section 13, chapter 40, Laws of 1979 and RCW 82.38.170 are each amended to read as follows:

(1) If any special fuel dealer or special fuel user fails to pay any taxes collected or due the state of Washington by said dealer or user within the time prescribed by RCW 82.38.150, 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))~~.

(2) If it be determined by the department that the tax reported by any special fuel dealer or special fuel user is deficient it shall proceed to assess the deficiency on the basis of information available to it and there shall be added to this deficiency a penalty of ten percent of the amount of the deficiency ~~((together with interest at the rate of one percent per month, or fraction thereof, from the date the report was due until paid. PROVIDED, That the interest charge on the unpaid excise tax shall be waived when such interest is less than five dollars. AND PROVIDED FURTHER, That the department may waive the interest on the unpaid excise tax when the interest exceeds five dollars and the department of licensing determines that the cost of processing the collection of the interest exceeds the amount of interest due))~~.

(3) If any special fuel dealer or special fuel user, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax report,

the department shall, on the basis of information available to it, determine the tax liability of the special fuel dealer or the special fuel user for the period during which no report was filed, and to the tax as thus determined, the department shall add the penalty and interest provided in subsection (2) of this section. An assessment made by the department pursuant to this subsection or to subsection (2) of this section shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive as the case may be.

(4) If any special fuel dealer or special fuel user shall establish by a fair preponderance of evidence that his failure to file a report or pay the proper amount of tax within the time prescribed was due to reasonable cause and was not intentional or wilful, the department may waive the penalty prescribed in subsections (1), (2), and (3) of this section.

(5) If any special fuel dealer or special fuel user shall file a false or fraudulent report with intent to evade the tax imposed by this chapter, there shall be added to the amount of deficiency determined by the department a penalty equal to twenty-five percent of the deficiency (~~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 (2) of this section and all other penalties prescribed by law (~~PROVIDED, That the interest charge on the unpaid excise tax shall be waived when such interest is less than five dollars. AND PROVIDED FURTHER, That the department may waive the interest on the unpaid excise tax when the interest exceeds five dollars and the department of licensing determines that the cost of processing the collection of the interest exceeds the amount of interest due~~).

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

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

~~((7))~~ (8) Any special fuel dealer or special fuel user against whom an assessment is made under the provisions of subsections (2) or (3) of this section may petition for a reassessment thereof within thirty days after service upon the special fuel dealer or special fuel user of notice thereof. If

such petition is not filed within such thirty day period, the amount of the assessment becomes final at the expiration thereof.

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

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

~~((8))~~ (9) Any notice of assessment required by this section shall be served personally or by mail; if by mail, service shall be made by depositing such notice in the United States mail, postage prepaid addressed to the special fuel dealer or special fuel user at his address as the same appears in the records of the department.

~~((9))~~ (10) Any licensee who has had their special fuel user license, special fuel dealer license, special fuel supplier license, or combination thereof revoked shall pay a one hundred dollar penalty prior to the issuance of a new license.

~~((10))~~ (11) Any person who, upon audit or investigation by the department, is found to have not paid special fuel taxes as required by this chapter shall be subject to cancellation of all vehicle registrations for vehicles utilizing special fuel as a means of propulsion. Any unexpired Washington tonnage on the vehicles in question may be transferred to a purchaser of the vehicles upon application to the department who shall hold such tonnage in its custody until a sale of the vehicle is made or the tonnage has expired.

Sec. 5. Section 23, chapter 175, Laws of 1971 ex. sess. as amended by section 16, chapter 40, Laws of 1979 and RCW 82.38.220 are each amended to read as follows:

In the event any special fuel user or special fuel dealer is delinquent in the payment of any obligation imposed ~~((hereunder))~~ under this chapter, the department may give notice of the amount of such delinquency by registered or certified mail to all persons having in their possession or under their control any credits or other personal property belonging to such user or dealer or owing any debts to such user or dealer, at the time of the receipt by them of such notice~~((, and thereafter))~~. Any person so notified shall neither transfer nor make other disposition of such credits, personal property, or debts until the department consents to a transfer or other disposition.

All persons so notified must, within ~~((five))~~ twenty days after receipt of the notice, advise the department of any and all such credits, personal property, or debts in their possession, under their control or owing by them, as the case may be, and shall immediately deliver such credits, personal property, or debts to the department or its duly authorized representative to be applied to the indebtedness involved.

If a person fails to answer the notice within the time prescribed by this section, it is lawful for the court, upon application of the department and after the time to answer the notice has expired, to render judgment by default against such person for the full amount claimed by the department in the notice to withhold and deliver, together with costs.

Passed the Senate April 23, 1983.

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Approved by the Governor May 17, 1983.

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## CHAPTER 243

[Engrossed Substitute Senate Bill No. 3156]

### PUGET SOUND WATER QUALITY AUTHORITY

AN ACT Relating to Puget Sound water quality; adding a new chapter to Title 90 RCW; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) There is established the Puget Sound water quality authority consisting of twenty-one members appointed by the governor. In making the appointments to the authority, the governor shall seek to include representation of all interested parties, including federal, state, and local government, environmental and health agencies, business, citizen groups such as environmental and public interest groups, and the fisheries and tourism industries.

(2) Of the initial members appointed to the authority, six shall serve terms of four years, five shall serve terms of three years, five shall serve terms of two years, and five shall serve terms of one year. Thereafter, members shall be appointed to terms of four years. Vacancies shall be filled by appointment for the remainder of the unexpired term of the position being vacated. Members of the authority shall receive no compensation for their service.

(3) The authority shall from time to time elect a chairman from among its members and adopt rules to govern its procedures.

NEW SECTION. Sec. 2. The Puget Sound water quality authority shall conduct studies of the water quality of Puget Sound. The studies shall include, but not be limited to, the following elements: