
SENATE BILL 5484

State of Washington

58th Legislature

2003 Regular Session

By Senators Haugen, Jacobsen and Spanel

Read first time 01/27/2003. Referred to Committee on Highways & Transportation.

1 AN ACT Relating to applying a one cent aircraft fuel tax to
2 commercial carriers; amending RCW 82.42.010, 82.42.020, 82.42.030,
3 82.42.090, and 82.42.110; repealing RCW 82.42.025; providing an
4 effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 82.42.010 and 1983 c 49 s 1 are each amended to read
7 as follows:

8 For the purposes of this chapter:

9 (1) "Department" means the department of licensing;

10 (2) "Director" means the director of licensing;

11 (3) "Person" means every natural person, firm, partnership,
12 association, or private or public corporation;

13 (4) "Aircraft" means every contrivance now known or hereafter
14 invented, used or designed for navigation of or flight in the air,
15 operated or propelled by the use of aircraft fuel;

16 (5) "Aircraft fuel" means ~~((gasoline and any other inflammable~~
17 ~~liquid, by whatever name such liquid is known or sold, the chief use of~~
18 ~~which is as fuel for the propulsion of aircraft, except gas or liquid,~~

1 ~~the chief use of which as determined by the director, is for purposes~~
2 ~~other than the propulsion of aircraft)) aviation gasoline and aviation~~
3 ~~jet fuel~~;

4 (6) "Aviation gasoline" means gasoline and any other inflammable
5 liquid used to power internal combustion engines of aircraft;

6 (7) "Aviation jet fuel" means any kerosene type product used to
7 power jet turbine engines of aircraft;

8 (8) "Dealer" means any person engaged in the retail sale of
9 aircraft fuel;

10 ((7)) (9) "Distributor" means any person engaged in the sale of
11 aircraft fuel to any dealer and shall include any dealer from whom the
12 tax hereinafter imposed has not been collected(÷

13 (8) ~~"Weighted average retail sales price of aircraft fuel" means~~
14 ~~the average retail sales price, excluding any federal excise tax, of~~
15 ~~the several grades of aircraft fuel sold by dealers throughout the~~
16 ~~state (less any state excise taxes on the sale, distribution, or use~~
17 ~~thereof) upon which fuel the tax levied by this chapter has been~~
18 ~~collected, weighted to reflect the quantities sold at each price;~~

19 (9) ~~"Fiscal half year" means a six month period ending June 30th or~~
20 ~~December 31st;~~

21 (10) ~~"Local service commuter" means an air taxi operator who~~
22 ~~operates at least five round trips per week between two or more points;~~
23 ~~publishes flight schedules which specify the times, days of the week,~~
24 ~~and points between which it operates; and whose aircraft has a maximum~~
25 ~~capacity of sixty passengers or eighteen thousand pounds of useful~~
26 ~~load)).~~

27 **Sec. 2.** RCW 82.42.020 and 1996 c 104 s 13 are each amended to read
28 as follows:

29 There is hereby levied, and there shall be collected by every
30 distributor of aircraft fuel, an aircraft fuel excise tax at the rate
31 ~~((computed under RCW 82.42.025))~~ of ten cents on each gallon of
32 ~~((aircraft fuel))~~ aviation gasoline sold, delivered, or used in this
33 state, and an excise tax at the rate of one cent for each gallon of
34 aviation jet fuel sold, delivered, or used in this state: PROVIDED
35 HOWEVER, That such aircraft fuel excise tax shall not apply to fuel for
36 aircraft that both operate from a private, non-state-funded airfield
37 during at least ninety-five percent of the aircraft's normal use and

1 are used principally for the application of pesticides, herbicides, or
2 other agricultural chemicals: PROVIDED FURTHER, That there shall be
3 collected from every consumer or user of aircraft fuel either the use
4 tax imposed by RCW 82.12.020, as amended, or the retail sales tax
5 imposed by RCW 82.08.020, as amended, collection procedure to be as
6 prescribed by law and/or rule or regulation of the department of
7 revenue. The taxes imposed by this chapter shall be collected and paid
8 to the state but once in respect to any aircraft fuel.

9 The tax required by this chapter, to be collected by the seller, is
10 held in trust by the seller until paid to the department, and a seller
11 who appropriates or converts the tax collected to his or her own use or
12 to any use other than the payment of the tax to the extent that the
13 money required to be collected is not available for payment on the due
14 date as prescribed in this chapter is guilty of a felony, or gross
15 misdemeanor in accordance with the theft and anticipatory provisions of
16 Title 9A RCW. A person, partnership, corporation, or corporate officer
17 who fails to collect the tax imposed by this section, or who has
18 collected the tax and fails to pay it to the department in the manner
19 prescribed by this chapter, is personally liable to the state for the
20 amount of the tax.

21 **Sec. 3.** RCW 82.42.030 and 1989 c 193 s 4 are each amended to read
22 as follows:

23 The provision of RCW 82.42.020 imposing the payment of an excise
24 tax on each gallon of aircraft fuel sold, delivered or used in this
25 state shall not apply to aircraft fuel sold for export, nor to aircraft
26 fuel used for the following purposes: (1) The operation of aircraft
27 (~~(when such use is by any air carrier or supplemental air carrier~~
28 ~~operating under a certificate of public convenience and necessity under~~
29 ~~the provisions of the Federal Aviation Act of 1958, Public Law 85-726,~~
30 ~~as amended;~~ (2) ~~the operation of aircraft~~) for testing or experimental
31 purposes; ~~((3))~~ and (2) the operation of aircraft when such operation
32 is for the training of crews in Washington state for purchasers of
33 aircraft who are certified air carriers(~~;~~ ~~and (4) the operation of~~
34 ~~aircraft in the operations of a local service commuter~~)): PROVIDED,
35 That the director's determination as to a particular activity for which
36 aircraft fuel is used as being an exemption under this section, or
37 otherwise, shall be final.

1 To claim an exemption on account of sales by a licensed distributor
2 of aircraft fuel for export, the purchaser shall obtain from the
3 selling distributor, and such selling distributor must furnish the
4 purchaser, an invoice giving such details of the sale for export as the
5 director may require, copies of which shall be furnished the department
6 and the entity of the state or foreign jurisdiction of destination
7 which is charged by the laws of that state or foreign jurisdiction with
8 the control or monitoring or both, of the sales or movement of aircraft
9 fuel in that state or foreign jurisdiction.

10 **Sec. 4.** RCW 82.42.090 and 1995 c 170 s 1 are each amended to read
11 as follows:

12 All moneys collected by the director from the aircraft fuel excise
13 tax as provided in RCW 82.42.020 shall be transmitted to the state
14 treasurer and shall be credited to the aeronautics account hereby
15 created in the transportation fund of the state treasury. Moneys
16 credited to the account from the aircraft fuel tax on aviation jet fuel
17 must only be used for the grants and loans authorized in RCW 47.68.090.
18 Moneys collected from the consumer or user of aircraft fuel from either
19 the use tax imposed by RCW 82.12.020 or the retail sales tax imposed by
20 RCW 82.08.020 shall be transmitted to the state treasurer and credited
21 to the state general fund.

22 **Sec. 5.** RCW 82.42.110 and 1982 1st ex.s. c 25 s 9 are each amended
23 to read as follows:

24 Every person other than a distributor who acquires any aircraft
25 fuel within this state upon which payment of tax is required under the
26 provisions of this chapter, or imports such aircraft fuel into this
27 state and sells, delivers, or in any manner uses it in this state
28 shall, if the tax has not been paid, be subject to the provisions of
29 RCW 82.42.040 provided for distributors and shall pay a tax at the rate
30 computed under RCW (~~82.42.025~~) 82.42.020 for each gallon thereof so
31 sold, delivered, or used in the manner provided for distributors. The
32 proceeds of the tax imposed by this section shall be distributed in the
33 manner provided for the distribution of the aircraft fuel tax in RCW
34 82.42.090. For failure to comply with the terms of this chapter, such
35 person shall be subject to the same penalties imposed upon
36 distributors. The director shall pursue against such persons the same

1 procedure and remedies for audits, adjustments, collection, and
2 enforcement of this chapter as is provided with respect to
3 distributors. Nothing herein shall be construed as classifying such
4 persons as distributors.

5 NEW SECTION. **Sec. 6.** RCW 82.42.025 (Computation of aircraft fuel
6 tax rate) and 1983 c 49 s 2 & 1982 1st ex.s. c 25 s 3 are each
7 repealed.

8 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and takes effect
11 July 1, 2003.

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