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SENATE BILL 6554

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State of Washington

60th Legislature

2008 Regular Session

By Senators Roach, Rockefeller, Rasmussen, Kline, Stevens, Delvin, McCaslin, Shin, and Holmquist

Read first time 01/18/08. Referred to Committee on Water, Energy & Telecommunications.

1 AN ACT Relating to waste vegetable oil; and amending RCW 82.38.020.

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

3 **Sec. 1.** RCW 82.38.020 and 2002 c 183 s 1 are each amended to read  
4 as follows:

5 The definitions in this section apply throughout this chapter  
6 unless the context clearly requires otherwise.

7 (1) "Blended special fuel" means a mixture of undyed diesel fuel  
8 and another liquid, other than a de minimis amount of the liquid, that  
9 can be used as a fuel to propel a motor vehicle.

10 (2) "Blender" means a person who produces blended special fuel  
11 outside the bulk transfer-terminal system.

12 (3) "Bond" means a bond duly executed with a corporate surety  
13 qualified under chapter 48.28 RCW, which bond is payable to the state  
14 of Washington conditioned upon faithful performance of all requirements  
15 of this chapter, including the payment of all taxes, penalties, and  
16 other obligations arising out of this chapter.

17 (4) "Bulk transfer-terminal system" means the special fuel  
18 distribution system consisting of refineries, pipelines, vessels, and  
19 terminals. Special fuel in a refinery, pipeline, vessel, or terminal

1 is in the bulk transfer-terminal system. Special fuel in the fuel tank  
2 of an engine, motor vehicle, or in a railcar, trailer, truck, or other  
3 equipment suitable for ground transportation is not in the bulk  
4 transfer-terminal system.

5 (5) "Bulk transfer" means a transfer of special fuel by pipeline or  
6 vessel.

7 (6) "Bulk storage" means the placing of special fuel into a  
8 receptacle other than the fuel supply tank of a motor vehicle.

9 (7) "Department" means the department of licensing.

10 (8) "Dyed special fuel user" means a person authorized by the  
11 internal revenue code to operate a motor vehicle on the highway using  
12 dyed special fuel, in which the use is not exempt from the special fuel  
13 tax.

14 (9) "Evasion" or "evade" means to diminish or avoid the  
15 computation, assessment, or payment of authorized taxes or fees  
16 through:

17 (a) A knowing: False statement; omission; misrepresentation of  
18 fact; or other act of deception;

19 (b) An intentional: Failure to file a return or report; or other  
20 act of deception; or

21 (c) The unlawful use of dyed special fuel.

22 (10) "Export" means to obtain special fuel in this state for sales  
23 or distribution outside the state.

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

26 (12) "Import" means to bring special fuel into this state by a  
27 means of conveyance other than the fuel supply tank of a motor vehicle.

28 (13) "International fuel tax agreement licensee" means a special  
29 fuel user operating qualified motor vehicles in interstate commerce and  
30 licensed by the department under the international fuel tax agreement.

31 (14) "Lessor" means a person: (a) Whose principal business is the  
32 bona fide leasing or renting of motor vehicles without drivers for  
33 compensation to the general public; and (b) who maintains established  
34 places of business and whose lease or rental contracts require the  
35 motor vehicles to be returned to the established places of business.

36 (15) "Licensee" means a person holding a license issued under this  
37 chapter.

1 (16) "Motor vehicle" means a self-propelled vehicle designed for  
2 operation upon land utilizing special fuel as the means of propulsion.

3 (17) "Natural gas" means naturally occurring mixtures of  
4 hydrocarbon gases and vapors consisting principally of methane, whether  
5 in gaseous or liquid form.

6 (18) "Person" means a natural person, fiduciary, association, or  
7 corporation. The term "person" as applied to an association means and  
8 includes the partners or members thereof, and as applied to  
9 corporations, the officers thereof.

10 (19) "Position holder" means a person who holds the inventory  
11 position in special fuel, as reflected by the records of the terminal  
12 operator. A person holds the inventory position in special fuel if the  
13 person has a contractual agreement with the terminal for the use of  
14 storage facilities and terminating services at a terminal with respect  
15 to special fuel. "Position holder" includes a terminal operator that  
16 owns special fuel in their terminal.

17 (20) "Rack" means a mechanism for delivering special fuel from a  
18 refinery or terminal into a truck, trailer, railcar, or other means of  
19 nonbulk transfer.

20 (21) "Refiner" means a person who owns, operates, or otherwise  
21 controls a refinery.

22 (22) "Removal" means a physical transfer of special fuel other than  
23 by evaporation, loss, or destruction.

24 (23) "Special fuel" means and includes all combustible gases and  
25 liquids suitable for the generation of power for propulsion of motor  
26 vehicles(~~(, except that it)~~).

27 (a) Special fuel does not include:

28 (i) Motor vehicle fuel as defined in chapter 82.36 RCW(~~, nor does~~  
29 it include));

30 (ii) Dyed special fuel as defined by federal regulations, unless  
31 the use is in violation of this chapter; or

32 (iii) Waste vegetable oil purchased or collected from a food  
33 service establishment or food processing plant, as defined in RCW  
34 69.07.010, and not resold.

35 (b) If a person holds for sale, sells, purchases, or uses any dyed  
36 special fuel in violation of this chapter, all dyed special fuel held  
37 for sale, sold, purchased, stored, or used by that person is considered  
38 special fuel, and the person is subject to all presumptions, reporting,

1 and recordkeeping requirements and other obligations which apply to  
2 special fuel, along with payment of any applicable taxes, penalties, or  
3 interest for illegal use.

4 (24) "Special fuel distributor" means a person who acquires special  
5 fuel from a supplier, distributor, or licensee for subsequent sale and  
6 distribution.

7 (25) "Special fuel exporter" means a person who purchases special  
8 fuel in this state and directly exports the fuel by a means other than  
9 the bulk transfer-terminal system to a destination outside of the  
10 state.

11 (26) "Special fuel importer" means a person who imports special  
12 fuel into the state by a means other than the bulk transfer-terminal  
13 system. If the importer of record is acting as an agent, the person  
14 for whom the agent is acting is the importer. If there is no importer  
15 of record, the owner of the special fuel at the time of importation is  
16 the importer.

17 (27) "Special fuel supplier" means a person who holds a federal  
18 certificate issued under the internal revenue code and authorizes the  
19 person to tax-free transactions on special fuel in the bulk transfer-  
20 terminal system.

21 (28) "Special fuel user" means a person engaged in uses of special  
22 fuel that are not specifically exempted from the special fuel tax  
23 imposed under this chapter.

24 (29) "Terminal" means a special fuel storage and distribution  
25 facility that has been assigned a terminal control number by the  
26 internal revenue service, is supplied by pipeline or vessel, and from  
27 which reportable special fuel is removed at a rack.

28 (30) "Terminal operator" means a person who owns, operates, or  
29 otherwise controls a terminal.

30 (31) "Two-party exchange" or "buy-sell agreement" means a  
31 transaction in which taxable special fuel is transferred from one  
32 licensed supplier to another licensed supplier under an exchange or  
33 buy-sell agreement whereby the supplier that is the position holder  
34 agrees to deliver taxable special fuel to the other supplier or the  
35 other supplier's customer at the rack of the terminal at which the  
36 delivering supplier is the position holder.

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