

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SUBSTITUTE HOUSE BILL 2778

Chapter 32, Laws of 2016

64th Legislature
2016 1st Special Session

CLEAN ALTERNATIVE FUEL VEHICLES--SALES AND USE TAX EXEMPTION--
MODIFICATION

EFFECTIVE DATE: 7/1/2016

Passed by the House March 29, 2016
Yeas 66 Nays 29

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 29, 2016
Yeas 28 Nays 15

PAM ROACH

President of the Senate

Approved April 18, 2016 1:28 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SUBSTITUTE HOUSE BILL 2778** as passed by House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 18, 2016

**Secretary of State
State of Washington**

SECOND ENGROSSED SUBSTITUTE HOUSE BILL 2778

Passed Legislature - 2016 1st Special Session

State of Washington

64th Legislature

2016 Regular Session

By House Transportation (originally sponsored by Representatives Fey, Orcutt, Clibborn, McBride, Moscoso, Hickel, Stambaugh, Bergquist, Tharinger, and Tarleton)

READ FIRST TIME 02/09/16.

1 AN ACT Relating to retail sales and use tax exemption criteria
2 for certain clean alternative fuel vehicles; amending RCW 82.08.809
3 and 82.12.809; creating a new section; and providing an effective
4 date.

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

6 NEW SECTION. **Sec. 1.** This section is the tax preference
7 performance statement for the tax preferences contained in sections 2
8 and 3 of this act. The performance statement is only intended to be
9 used for subsequent evaluation of the tax preference. It is not
10 intended to create a private right of action by any party or be used
11 to determine eligibility for preferential tax treatment.

12 (1) The legislature categorizes the tax preference as one
13 intended to induce certain designated behavior by taxpayers, as
14 indicated in RCW 82.32.808(2)(a).

15 (2) It is the legislature's specific public policy objective to
16 increase the use of clean alternative fuel vehicles in Washington. It
17 is the legislature's intent to extend the existing sales and use tax
18 exemption on certain clean alternative fuel vehicles in order to
19 reduce the price charged to customers for clean alternative fuel
20 vehicles.

1 (3) To measure the effectiveness of the tax preferences in
2 sections 2 and 3 of this act in achieving the public policy
3 objectives described in subsection (2) of this section, the joint
4 legislative audit and review committee must evaluate the number of
5 clean alternative fuel vehicles titled in the state.

6 (4) In order to obtain the data necessary to perform the review
7 in subsection (3) of this section, the department of licensing must
8 provide data needed for the joint legislative audit and review
9 committee analysis. In addition to the data source described under
10 this subsection, the joint legislative audit and review committee may
11 use any other data it deems necessary.

12 **Sec. 2.** RCW 82.08.809 and 2015 3rd sp.s. c 44 s 408 are each
13 amended to read as follows:

14 (1)(a) Except as provided in subsection (4) of this section, the
15 tax levied by RCW 82.08.020 does not apply to sales of new passenger
16 cars, light duty trucks, and medium duty passenger vehicles, which
17 ~~((a))~~ (i) are exclusively powered by a clean alternative fuel or
18 ~~((b))~~ (ii) use at least one method of propulsion that is capable of
19 being reenergized by an external source of electricity and are
20 capable of traveling at least thirty miles using only battery power.

21 (b) Beginning with sales made or lease agreements signed on or
22 after July 1, 2016, the exemption in this section is only applicable
23 for up to thirty-two thousand dollars of a vehicle's selling price or
24 the total lease payments made plus the selling price of the leased
25 vehicle if the original lessee purchases the leased vehicle before
26 the expiration of the exemption as described in subsection (6) of
27 this section.

28 (2) The seller must keep records necessary for the department to
29 verify eligibility under this section.

30 (3) As used in this section, "clean alternative fuel" means
31 natural gas, propane, hydrogen, or electricity, when used as a fuel
32 in a motor vehicle that meets the California motor vehicle emission
33 standards in Title 13 of the California code of regulations,
34 effective January 1, 2005, and the rules of the Washington state
35 department of ecology.

36 (4)(a) A sale, other than a lease, of a vehicle identified in
37 subsection (1)(a) of this section made on or after July 15, 2015, and
38 before July 1, 2016, is not exempt from sales tax as described under
39 subsection (1) of this section if the selling price of the vehicle

1 plus trade-in property of like kind exceeds thirty-five thousand
2 dollars.

3 (b) A sale, other than a lease, of a vehicle identified in
4 subsection (1)(a) of this section made on or after July 1, 2016, and
5 before the expiration of the exemption as described in subsection (6)
6 of this section, is not exempt from sales tax as described under
7 subsection (1)(b) of this section if, at the time of sale, the lowest
8 manufacturer's suggested retail price, as determined in rule by the
9 department of licensing pursuant to chapter 34.05 RCW, for the base
10 model is more than forty-two thousand five hundred dollars.

11 (c) For leased vehicles for which the lease agreement was signed
12 before July 1, 2015, lease payments are exempt from sales tax as
13 described under subsection (1)(a) of this section regardless of the
14 vehicle's fair market value at the inception of the lease.

15 (d) For leased vehicles identified in subsection (1)(a) of this
16 section for which the lease agreement is signed on or after July 15,
17 2015, and before July 1, 2016, lease payments are not exempt from
18 sales tax ((as described under subsection (1) of this section)) if
19 the fair market value of the vehicle being leased exceeds thirty-five
20 thousand dollars at the inception of the lease. For the purposes of
21 this subsection (4)((b)), "fair market value" has the same meaning
22 as "value of the article used" in RCW 82.12.010.

23 ~~((c) For leased vehicles for which the lease agreement was~~
24 ~~signed before July 15, 2015, lease payments are exempt from sales tax~~
25 ~~as described under subsection (1) of this section regardless of the~~
26 ~~vehicle's fair market value at the inception of the lease.))~~

27 (e) For leased vehicles identified in subsection (1)(a) of this
28 section for which the lease agreement is signed on or after July 1,
29 2016, and before the expiration of the exemption as described in
30 subsection (6) of this section, lease payments are not exempt from
31 sales tax as described under subsection (1)(b) of this section if, at
32 the inception of the lease, the lowest manufacturer's suggested
33 retail price, as determined in rule by the department of licensing
34 pursuant to chapter 34.05 RCW, for the base model is more than forty-
35 two thousand five hundred dollars.

36 (f) The department of licensing must maintain and publish a list
37 of all vehicle models qualifying for the sales tax exemption under
38 this section until the expiration of the exemption as described in
39 subsection (6) of this section.

1 (5) On the last day of January, April, July, and October of each
2 year, the state treasurer, based upon information provided by the
3 department, must transfer from the multimodal transportation account
4 to the general fund a sum equal to the dollar amount that would
5 otherwise have been deposited into the general fund during the prior
6 calendar quarter but for the exemption provided in this section.
7 Information provided by the department to the state treasurer must be
8 based on the best available data, except that the department may
9 provide estimates of taxes exempted under this section until such
10 time as retailers are able to report such exempted amounts on their
11 tax returns. For purposes of this section, the first transfer for the
12 calendar quarter after July 15, 2015, must be calculated assuming
13 only those revenues that should have been deposited into the general
14 fund beginning July 1, 2015.

15 ~~(6) ((Lease payments due on or after July 1, 2019, are subject to~~
16 ~~the taxes imposed under this chapter.~~

17 ~~(7) This section expires July 1, 2019.))~~ (a) The exemption under
18 this section expires, effective with sales of vehicles delivered to
19 the buyer or leased vehicles for which the lease agreement was
20 signed, after the last day of the calendar month immediately
21 following the month the department receives notice from the
22 department of licensing under subsection (7)(b) of this section. All
23 leased vehicles that qualified for the exemption before the
24 expiration of the exemption must continue to receive the exemption as
25 described under subsection (1)(b) of this section on lease payments
26 due through the remainder of the lease.

27 (b) Upon receiving notice from the department of licensing under
28 subsection (7)(b) of this section, the department must provide notice
29 as soon as is practicable on its web site of the expiration date of
30 the exemption under this section.

31 (c) For purposes of this subsection, even if the department of
32 licensing provides the department with notice under subsection (7)(b)
33 of this section before the end of the fifth working day of the month
34 notice is required, the notice is deemed to have been received by the
35 department at the end of the fifth working day of the month notice is
36 required.

37 (d) If, by the end of the fifth working day of May 2019, the
38 department has not received notice from the department of licensing
39 under subsection (7)(b) of this section, the exemption under this
40 section expires effective with sales of vehicles delivered to the

1 buyer or leased vehicles for which the lease agreement was signed
2 after June 30, 2019.

3 (e) Nothing in this subsection (6) may be construed to affect the
4 validity of any exemption properly allowed by a seller under this
5 section before the expiration of the exemption as described in (a) of
6 this subsection and reported to the department on returns filed after
7 the expiration of the exemption.

8 (f) Nothing in this subsection (6) may be construed to allow an
9 exemption under this section for the purchase of a qualifying vehicle
10 by the original lessee of the vehicle after the expiration of the
11 exemption as provided in (a) of this subsection.

12 (7)(a) By the end of the fifth working day of each month, until
13 the expiration of the exemption as described in subsection (6) of
14 this section, the department of licensing must determine the
15 cumulative number of qualifying vehicles titled on or after July 15,
16 2015, and provide notice of the cumulative number of these vehicles
17 to the department.

18 (b) The department of licensing must notify the department once
19 the cumulative number of qualifying vehicles titled in the state on
20 or after July 15, 2015, equals or exceeds seven thousand five
21 hundred.

22 (8) By the last day of July 2016, and every six months thereafter
23 until the expiration of the exemption as described in subsection (6)
24 of this section, based on the best available data, the department
25 must report the following information to the transportation
26 committees of the legislature: The cumulative number of qualifying
27 vehicles titled in the state on or after July 15, 2015, as reported
28 to it by the department of licensing; and the dollar amount of all
29 state retail sales and use taxes exempted on or after July 15, 2015,
30 under this section and RCW 82.12.809.

31 (9) For purposes of this section, "qualifying vehicle" means a
32 vehicle qualifying for the exemption under this section or RCW
33 82.12.809 in which the sale was made or the lease agreement was
34 signed on or after July 15, 2015.

35 **Sec. 3.** RCW 82.12.809 and 2015 3rd sp.s. c 44 s 409 are each
36 amended to read as follows:

37 (1)(a) Except as provided in subsection (4) of this section,
38 (~~until July 1, 2019,~~) the provisions of this chapter do not apply
39 in respect to the use of new passenger cars, light duty trucks, and

1 medium duty passenger vehicles, which ~~((a))~~ (i) are exclusively
2 powered by a clean alternative fuel or ~~((b))~~ (ii) use at least one
3 method of propulsion that is capable of being reenergized by an
4 external source of electricity and are capable of traveling at least
5 thirty miles using only battery power.

6 (b) Beginning with purchases made or lease agreements signed on
7 or after July 1, 2016, the exemption in this section is only
8 applicable for up to thirty-two thousand dollars of a vehicle's
9 purchase price or the total lease payments made plus the purchase
10 price of the leased vehicle if the original lessee purchases the
11 leased vehicle before the expiration of the exemption as described in
12 RCW 82.08.809(6).

13 (2) The definitions in RCW 82.08.809 apply to this section.

14 (3) A taxpayer is not liable for the tax imposed in RCW 82.12.020
15 on the use, on or after ~~((July 1, 2019))~~ the expiration of the
16 exemption as described in RCW 82.08.809(6), of a passenger car, light
17 duty truck, or medium duty passenger vehicle that is exclusively
18 powered by a clean alternative fuel or uses at least one method of
19 propulsion that is capable of being reenergized by an external source
20 of electricity and is capable of traveling at least thirty miles
21 using only battery power, if the taxpayer used such vehicle in this
22 state before ~~((July 1, 2019))~~ the expiration of the exemption as
23 described in RCW 82.08.809(6), and the use was exempt under this
24 section from the tax imposed in RCW 82.12.020.

25 (4)(a) For vehicles identified in subsection (1)(a) of this
26 section purchased on or after July 1, 2016, and before the expiration
27 of the exemption as described in RCW 82.08.809(6), or for leased
28 vehicles identified in subsection (1)(a) of this section for which
29 the lease agreement was signed on or after July 1, 2016, and before
30 the expiration of the exemption as described in RCW 82.08.809(6), a
31 vehicle is not exempt from use tax as described under subsection
32 (1)(b) of this section if, at the time the tax is imposed for
33 purchased vehicles or at the inception of the lease for leased
34 vehicles, the lowest manufacturer's suggested retail price, as
35 determined in rule by the department of licensing pursuant to chapter
36 34.05 RCW, for the base model is more than forty-two thousand five
37 hundred dollars.

38 (b) For vehicles identified in subsection (1)(a) of this section
39 purchased on or after July 15, 2015, and before July 1, 2016, or for
40 leased vehicles identified in subsection (1)(a) of this section for

1 which the lease agreement was signed on or after July 15, 2015, and
2 before July 1, 2016, a vehicle is not exempt from use tax (~~as~~
3 ~~described under subsection (1) of this section~~) if the fair market
4 value of the vehicle exceeds thirty-five thousand dollars at the time
5 the tax is imposed for purchased vehicles, or at the inception of the
6 lease for leased vehicles.

7 ~~((b))~~ (c) For leased vehicles for which the lease agreement was
8 signed before July ~~((15))~~ 1, 2015, lease payments are exempt from use
9 tax as described under subsection ~~(1)~~(a) of this section regardless
10 of the vehicle's fair market value at the inception of the lease.

11 (5) On the last day of January, April, July, and October of each
12 year, the state treasurer, based upon information provided by the
13 department, must transfer from the multimodal transportation account
14 to the general fund a sum equal to the dollar amount that would
15 otherwise have been deposited into the general fund during the prior
16 calendar quarter but for the exemption provided in this section.
17 Information provided by the department to the state treasurer must be
18 based on the best available data. For purposes of this section, the
19 first transfer for the calendar quarter after July 15, 2015, must be
20 calculated assuming only those revenues that should have been
21 deposited into the general fund beginning July 1, 2015.

22 ~~((Lease payments due on or after July 1, 2019, are subject to~~
23 ~~the taxes imposed under this chapter.))~~ (a) The exemption provided
24 under this section does not apply to the use of new passenger cars,
25 light duty trucks, and medium duty passenger vehicles, or lease
26 payments due on such vehicles, if the date of sale of the vehicle
27 from the seller to the buyer occurred or the lease agreement was
28 signed after the expiration of the exemption as provided in RCW
29 82.08.809(6).

30 (b) All leased vehicles that qualified for the exemption before
31 the expiration of the exemption must continue to receive the
32 exemption as described under subsection (1)(b) of this section on
33 lease payments due through the remainder of the lease.

34 (c) Nothing in this subsection (6) may be construed to allow an
35 exemption under this section for the purchase of a qualifying vehicle
36 by the original lessee of the vehicle after the expiration of the
37 exemption.

38 NEW SECTION. Sec. 4. This act takes effect July 1, 2016.

Passed by the House March 29, 2016.
Passed by the Senate March 29, 2016.
Approved by the Governor April 18, 2016.
Filed in Office of Secretary of State April 18, 2016.

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