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HOUSE BILL 2653

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Fey and Orcutt

1 AN ACT Relating to modifying the alternative fuel vehicle sales  
2 and use tax exemptions for the purposes of expanding the exemptions  
3 and amending related provisions; amending RCW 82.08.809; reenacting  
4 RCW 82.12.809; creating a new section; and declaring an emergency.

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, chapter . . ., Laws of 2018 (sections 2 and 3 of this act).  
9 The performance statement is only intended to be used for subsequent  
10 evaluation of the tax preferences. It is not intended to create a  
11 private right of action by any party or be used to determine  
12 eligibility for preferential tax treatment.

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

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

1 (3) To measure the effectiveness of the tax preferences in  
2 sections 2 and 3, chapter . . ., Laws of 2018 (sections 2 and 3 of  
3 this act) in achieving the public policy objectives described in  
4 subsection (2) of this section, the joint legislative audit and  
5 review committee must evaluate the number of clean alternative fuel  
6 vehicles titled in the state.

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

13 **Sec. 2.** RCW 82.08.809 and 2016 sp.s. c 32 s 2 are each amended  
14 to read as follows:

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

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

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

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

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

1 subsection (1) of this section if the selling price of the vehicle  
2 plus trade-in property of like kind exceeds thirty-five thousand  
3 dollars.

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

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

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

23 (e) For leased vehicles identified in subsection (1)(a) of this  
24 section for which the lease agreement is signed on or after July 1,  
25 2016, and before the expiration of the exemption as described in  
26 subsection (6) of this section, lease payments are not exempt from  
27 sales tax as described under subsection (1)(b) of this section if, at  
28 the inception of the lease, the lowest manufacturer's suggested  
29 retail price, as determined in rule by the department of licensing  
30 pursuant to chapter 34.05 RCW, for the base model is more than forty-  
31 two thousand five hundred dollars.

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

36 (5) On the last day of January, April, July, and October of each  
37 year, the state treasurer, based upon information provided by the  
38 department, must transfer from the multimodal transportation account  
39 to the general fund a sum equal to the dollar amount that would  
40 otherwise have been deposited into the general fund during the prior

1 calendar quarter but for the exemption provided in this section.  
2 Information provided by the department to the state treasurer must be  
3 based on the best available data, except that the department may  
4 provide estimates of taxes exempted under this section until such  
5 time as retailers are able to report such exempted amounts on their  
6 tax returns. For purposes of this section, the first transfer for the  
7 calendar quarter after July 15, 2015, must be calculated assuming  
8 only those revenues that should have been deposited into the general  
9 fund beginning July 1, 2015.

10 ~~(6)(a) ((The exemption under this section expires, effective with~~  
11 ~~sales of vehicles delivered to the buyer or leased vehicles for which~~  
12 ~~the lease agreement was signed, after the last day of the calendar~~  
13 ~~month immediately following the month the department receives notice~~  
14 ~~from the department of licensing under subsection (7)(b) of this~~  
15 ~~section. All leased vehicles that qualified for the exemption before~~  
16 ~~the expiration of the exemption must continue to receive the~~  
17 ~~exemption as described under subsection (1)(b) of this section on~~  
18 ~~lease payments due through the remainder of the lease.~~

19 ~~(b) Upon receiving notice from the department of licensing under~~  
20 ~~subsection (7)(b) of this section, the department must provide notice~~  
21 ~~as soon as is practicable on its web site of the expiration date of~~  
22 ~~the exemption under this section.~~

23 ~~(c) For purposes of this subsection, even if the department of~~  
24 ~~licensing provides the department with notice under subsection (7)(b)~~  
25 ~~of this section before the end of the fifth working day of the month~~  
26 ~~notice is required, the notice is deemed to have been received by the~~  
27 ~~department at the end of the fifth working day of the month notice is~~  
28 ~~required.~~

29 ~~(d) If, by the end of the fifth working day of May 2019, the~~  
30 ~~department has not received notice from the department of licensing~~  
31 ~~under subsection (7)(b) of this section,)) The exemption under this  
32 section expires effective with sales of vehicles delivered to the  
33 buyer or leased vehicles for which the lease agreement was signed  
34 after June 30, ((2019)) 2021. All leased vehicles that qualified for  
35 the exemption before the expiration of the exemption must continue to  
36 receive the exemption as described under subsection (1)(b) of this  
37 section on lease payments due through the remainder of the lease.~~

38 ~~((e))~~ (b) Nothing in this subsection (6) may be construed to  
39 affect the validity of any exemption properly allowed by a seller  
40 under this section before the expiration of the exemption as

1 described in (a) of this subsection and reported to the department on  
2 returns filed after the expiration of the exemption.

3 ~~((f))~~ (c) Nothing in this subsection (6) may be construed to  
4 allow an exemption under this section for the purchase of a  
5 qualifying vehicle by the original lessee of the vehicle after the  
6 expiration of the exemption as provided in (a) of this subsection.

7 (7)~~((a))~~ By the end of the fifth working day of each month,  
8 until the expiration of the exemption as described in subsection (6)  
9 of this section, the department of licensing must determine the  
10 cumulative number of qualifying vehicles titled on or after July 15,  
11 2015, and provide notice of the cumulative number of these vehicles  
12 to the department.

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

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

26 ~~(9))~~ (8) For purposes of this section, "qualifying vehicle"  
27 means a vehicle qualifying for the exemption under this section or  
28 RCW 82.12.809 in which the sale was made or the lease agreement was  
29 signed on or after July 15, 2015.

30 **Sec. 3.** RCW 82.12.809 and 2016 sp.s. c 32 s 3 are each reenacted  
31 to read as follows:

32 (1)(a) Except as provided in subsection (4) of this section, the  
33 provisions of this chapter do not apply in respect to the use of new  
34 passenger cars, light duty trucks, and medium duty passenger  
35 vehicles, which (i) are exclusively powered by a clean alternative  
36 fuel or (ii) use at least one method of propulsion that is capable of  
37 being reenergized by an external source of electricity and are  
38 capable of traveling at least thirty miles using only battery power.

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

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

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

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

33 (b) For vehicles identified in subsection (1)(a) of this section  
34 purchased on or after July 15, 2015, and before July 1, 2016, or for  
35 leased vehicles identified in subsection (1)(a) of this section for  
36 which the lease agreement was signed on or after July 15, 2015, and  
37 before July 1, 2016, a vehicle is not exempt from use tax if the fair  
38 market value of the vehicle exceeds thirty-five thousand dollars at  
39 the time the tax is imposed for purchased vehicles, or at the  
40 inception of the lease for leased vehicles.

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

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

16 (6)(a) The exemption provided under this section does not apply  
17 to the use of new passenger cars, light duty trucks, and medium duty  
18 passenger vehicles, or lease payments due on such vehicles, if the  
19 date of sale of the vehicle from the seller to the buyer occurred or  
20 the lease agreement was signed after the expiration of the exemption  
21 as provided in RCW 82.08.809(6).

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

26 (c) Nothing in this subsection (6) may be construed to allow an  
27 exemption under this section for the purchase of a qualifying vehicle  
28 by the original lessee of the vehicle after the expiration of the  
29 exemption.

30 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
31 preservation of the public peace, health, or safety, or support of  
32 the state government and its existing public institutions, and takes  
33 effect immediately.

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