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**SENATE BILL 5000**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Senators Hawkins and Lovelett

Prefiled 12/07/20.

1 AN ACT Relating to creating a hydrogen fuel cell electric vehicle  
2 pilot sales and use tax exemption program; adding a new section to  
3 chapter 82.08 RCW; adding a new section to chapter 82.12 RCW;  
4 creating a new section; providing an effective date; and providing  
5 expiration dates.

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

7 NEW SECTION. **Sec. 1.** This section is the tax preference  
8 performance statement for the tax preferences contained in sections 2  
9 and 3, chapter . . ., Laws of 2021 (sections 2 and 3 of this act).  
10 The performance statement is only intended to be used for subsequent  
11 evaluation of the tax preference. It is not intended to create a  
12 private right of action by any party or be used to determine  
13 eligibility for preferential tax treatment.

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

17 (2) It is the legislature's specific public policy objective to  
18 increase the use of hydrogen fuel cell electric vehicles in  
19 Washington as another way of promoting clean alternative fuel vehicle  
20 adoption in the state. It is the legislature's intent to establish an  
21 eight-year pilot tax incentive program for fuel cell electric

1 vehicles by creating a temporary partial sales and use tax exemption  
2 on fuel cell electric vehicles in order to reduce the price charged  
3 to customers and to evaluate the feasibility of wider adoption of the  
4 use of fuel cell electric technology in transportation.

5 (3) Since the tax incentive created in sections 2 and 3 of this  
6 act is limited to eight years, the joint legislative audit and review  
7 committee must, within the committee's appropriations, evaluate the  
8 effectiveness of this tax incentive on the number of hydrogen fuel  
9 cell vehicles titled in the state by November 1, 2028.

10 (4) The department of licensing and the department of revenue  
11 must, within the departments' respective appropriations, provide data  
12 needed for the joint legislative audit and review committee analysis.  
13 In addition to the data source described under this subsection, the  
14 joint legislative audit and review committee may use any other data  
15 it deems necessary.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08  
17 RCW to read as follows:

18 (1)(a) Subject to the limitations in this subsection, beginning  
19 July 1, 2022, with sales made or lease agreements signed on or after  
20 this date until the expiration of this section, fifty percent of the  
21 tax levied by RCW 82.08.020 does not apply to sales or leases of new  
22 electric passenger cars, light duty trucks, and medium duty passenger  
23 vehicles, that are powered by a fuel cell.

24 (b)(i) By the end of the fifth working day of each month, until  
25 the expiration of the exemption as described in (c) of this  
26 subsection, the department must determine the cumulative number of  
27 vehicles that have claimed the exemption as described in (a) of this  
28 subsection.

29 (ii) The department of licensing must collect and provide, upon  
30 request, information in a form or manner as required by the  
31 department to determine the number of exemptions that have been  
32 claimed.

33 (c) The exemption under this section expires after the last day  
34 of the calendar month immediately following the month the department  
35 determines that the total number of vehicles exempt under (a) of this  
36 subsection reaches 650. All leased vehicles that qualified for the  
37 exemption before the expiration of the exemption must continue to  
38 receive the exemption as described under (a) of this subsection on  
39 lease payments due through the remainder of the lease.

1 (d) The department must provide notification on its website  
2 monthly on the amount of exemptions that have been applied for, the  
3 amount issued, and the amount remaining before the limit described in  
4 (c) of this subsection has been reached, and, once that limit has  
5 been reached, the date the exemption expires pursuant to (c) of this  
6 subsection.

7 (e) A person may not claim the exemption under this subsection if  
8 the person claims the exemption under RCW 82.08.9999 or 82.12.9999.

9 (f) The per vehicle exemption must be based on the sales price  
10 for purchased vehicles and fair market value at the inception of the  
11 lease for leased vehicles.

12 (2)(a) Subject to the limitations in this subsection (2),  
13 beginning July 1, 2022, with sales made or lease agreements signed on  
14 or after this date until the expiration of this section, the entire  
15 tax levied by RCW 82.08.020 does not apply to the sale or lease of  
16 used electric passenger cars, light duty trucks, and medium duty  
17 passenger vehicles, that are powered by a fuel cell.

18 (b) The per vehicle exemption must be based on the sales price  
19 for purchased vehicles and fair market value at the inception of the  
20 lease for leased vehicles. However, the maximum value amount eligible  
21 for the exemption under (a) of this subsection is the lesser of  
22 either sixteen thousand dollars or the fair market value of the  
23 vehicle.

24 (c) A person may not claim the exemption under this subsection  
25 (2) if the person claims the exemption under RCW 82.08.9999 or  
26 82.12.9999.

27 (3)(a) For qualifying vehicles sold by a person licensed to do  
28 business in the state of Washington, the seller must keep records  
29 necessary for the department to verify eligibility under this  
30 section. The seller reporting the exemption must also submit itemized  
31 information to the department for all vehicles for which an exemption  
32 is claimed that must include the following: Vehicle make; vehicle  
33 model; model year; whether the vehicle has been sold or leased; date  
34 of sale or start date of lease; length of lease; sales price for  
35 purchased vehicles and fair market value at the inception of the  
36 lease for leased vehicles; and the total amount qualifying for the  
37 incentive claimed for each vehicle, in addition to the future monthly  
38 amount to be claimed for each leased vehicle. This information must  
39 be provided in a form and manner prescribed by the department.

1 (b) For vehicles purchased from (i) a seller that is not licensed  
2 to do business in the state of Washington, or (ii) a private party,  
3 the buyer must keep records necessary for the department to verify  
4 eligibility under this section. The buyer claiming the exemption must  
5 also submit itemized information to the department for all vehicles  
6 for which an exemption is claimed that must include the following:  
7 Vehicle make; vehicle model; model year; date of sale; sales price;  
8 and the total amount qualifying for the incentive claimed for each  
9 vehicle. This information must be provided in a form and manner  
10 prescribed by the department.

11 (4) (a) The department of licensing must maintain and publish a  
12 list of all vehicle models qualifying for the tax exemptions under  
13 this section and section 3 of this act until the expiration of this  
14 section, and is authorized to issue final rulings on vehicle model  
15 qualification for these criteria.

16 (b) The department of revenue retains responsibility for  
17 determining whether a vehicle meets the applicable qualifying  
18 criterion under subsections (1) and (2) of this section.

19 (5) On the last day of July, October, January, and April of each  
20 year, the state treasurer, based upon information provided by the  
21 department, must transfer from the electric vehicle account to the  
22 general fund a sum equal to the dollar amount that would otherwise  
23 have been deposited into the general fund during the prior fiscal  
24 quarter but for the exemptions provided in this section. Information  
25 provided by the department to the state treasurer must be based on  
26 the best available data, except that the department may provide  
27 estimates of taxes exempted under this section until such time as  
28 retailers are able to report such exempted amounts on their tax  
29 returns.

30 (6) By the last day of August 2023, and annually thereafter until  
31 this section expires, based on the best available data, the  
32 department must report the following information to the  
33 transportation committees of the legislature: The cumulative number  
34 of fuel cell electric vehicles that qualified for the exemptions  
35 under this section and section 3 of this act by month of purchase or  
36 lease start and vehicle make and model; the dollar amount of all  
37 state retail sales and use taxes exempted on or after the  
38 qualification period start date, under this section and section 3 of  
39 this act; and estimates of the future costs of leased vehicles that

1 qualified for the exemptions under this section and section 3 of this  
2 act.

3 (7) (a) Sales of vehicles delivered to the buyer after the  
4 expiration of this section, or leased vehicles for which the lease  
5 agreement was signed after the expiration of this section, do not  
6 qualify for the exemptions under this section.

7 (b) All leased vehicles that qualified for the exemption under  
8 this section before the expiration of this section must continue to  
9 receive the exemption on any lease payments due through the remainder  
10 of the lease.

11 (8) For the purposes of this section:

12 (a) "Fair market value" has the same meaning as "value of the  
13 article used" in RCW 82.12.010.

14 (b) "Fuel cell" means a technology that uses an electrochemical  
15 reaction to generate electric energy by combining atoms of hydrogen  
16 and oxygen in the presence of a catalyst.

17 (c) "New vehicle" has the same meaning as "new motor vehicle" in  
18 RCW 46.04.358.

19 (d) "Selling price" and "sales price" have the same meaning as in  
20 RCW 82.08.010.

21 (e) "Used vehicle" has the same meaning as in RCW 46.04.660.

22 (9) This section expires June 30, 2029.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12  
24 RCW to read as follows:

25 (1) Subject to the limitations in this subsection and section  
26 2(1)(c) of this act, beginning July 1, 2022, with sales made or lease  
27 agreements signed on or after this date until the expiration of this  
28 section, fifty percent of the tax levied by RCW 82.12.020 does not  
29 apply to sales or leases of new electric passenger cars, light duty  
30 trucks, and medium duty passenger vehicles, that are powered by a  
31 fuel cell.

32 (2)(a) Subject to the limitations in this subsection (2),  
33 beginning July 1, 2022, with sales made or lease agreements signed on  
34 or after this date until the expiration of this section, the entire  
35 tax levied by RCW 82.12.020 does not apply to the sale or lease of  
36 used electric passenger cars, light duty trucks, and medium duty  
37 passenger vehicles, that are powered by a fuel cell.

38 (b) The per vehicle exemption must be based on the sales price  
39 for purchased vehicles and fair market value at the inception of the

1 lease for leased vehicles. However, the maximum value amount eligible  
2 for the exemption under (a) of this subsection is the lesser of  
3 either sixteen thousand dollars or the fair market value of the  
4 vehicle.

5 (c) A person may not claim the exemption under this subsection  
6 (2) if the person claims the exemption under RCW 82.08.9999 or  
7 82.12.9999.

8 (3) The buyer must keep records necessary for the department to  
9 verify eligibility under this section. The buyer claiming the  
10 exemption must also submit itemized information to the department for  
11 all vehicles for which an exemption is claimed that must include the  
12 following: Vehicle make; vehicle model; model year; whether the  
13 vehicle has been sold or leased; date of sale or start date of lease;  
14 length of lease; sales price for purchased vehicles and fair market  
15 value at the inception of the lease for leased vehicles; and the  
16 total amount qualifying for the incentive claimed for each vehicle,  
17 in addition to the future monthly amount to be claimed for each  
18 leased vehicle. This information must be provided in a form and  
19 manner prescribed by the department.

20 (4) On the last day of July, October, January, and April of each  
21 year, the state treasurer, based upon information provided by the  
22 department, must transfer from the electric vehicle account to the  
23 general fund a sum equal to the dollar amount that would otherwise  
24 have been deposited into the general fund during the prior fiscal  
25 quarter but for the exemptions provided in this section. Information  
26 provided by the department to the state treasurer must be based on  
27 the best available data.

28 (5)(a) Sales of vehicles delivered to the buyer after the  
29 expiration of this section, or leased vehicles for which the lease  
30 agreement was signed after the expiration of this section, do not  
31 qualify for the exemptions under this section.

32 (b) All leased vehicles that qualified for the exemption under  
33 this section before the expiration of this section must continue to  
34 receive the exemption on any lease payments due through the remainder  
35 of the lease.

36 (6) The definitions in section 2 of this act apply to this  
37 section.

38 (7) This section expires June 30, 2029.

1        NEW SECTION.    **Sec. 4.**    This act takes effect July 1, 2022.

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