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ENGROSSED HOUSE BILL 1155

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State of Washington

54th Legislature

1996 Regular Session

By Representatives Carrell, Morris, Boldt, Huff, Pennington, Dyer, McMorris, Hymes, B. Thomas, Pelesky, Van Luven, Cooke, Carlson, McMahan, Costa, Chandler, Basich, Johnson, Kessler, Sherstad, Campbell, Quall, Romero, Talcott, Buck, Brumsickle, Scott, Ballasiotes, Benton, Valle, Hatfield, Mason, Grant, Kremen, Chappell, Ebersole, Mielke, Sheahan, Sheldon, Wolfe, Foreman, Horn, L. Thomas, Blanton, Backlund, Hargrove, Dickerson, Crouse, Mulliken, Elliot, Cody, Regala, Mastin, Fuhrman, Mitchell, Hickel, Thompson, Ogden, Dellwo, Clements, Patterson, Schoesler, D. Schmidt, Conway, Skinner and Padden

Read first time 01/16/95. Referred to Committee on Finance.

1 AN ACT Relating to compensating sellers for collecting sales tax;  
2 and amending RCW 82.08.050.

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

4 **Sec. 1.** RCW 82.08.050 and 1993 sp.s. c 25 s 704 are each amended  
5 to read as follows:

6 (1)(a) The tax hereby imposed shall be paid by the buyer to the  
7 seller, and each seller shall collect from the buyer the full amount of  
8 the tax payable in respect to each taxable sale in accordance with the  
9 schedule of collections adopted by the department pursuant to the  
10 provisions of RCW 82.08.060. The tax required by this chapter, to be  
11 collected by the seller, minus the amount retained by the seller for  
12 administration as provided in subsection (2) of this section, shall be  
13 deemed to be held in trust by the seller until paid to the department,  
14 and any seller who appropriates or converts the tax collected to his or  
15 her own use or to any use other than the payment of the tax to the  
16 extent that the money required to be collected is not available for  
17 payment on the due date as prescribed in this chapter shall be guilty  
18 of a gross misdemeanor.

1       **(b)** In case any seller fails to collect the tax herein imposed or  
2 having collected the tax, fails to pay ~~((it))~~ the amount owed to the  
3 department in the manner prescribed by this chapter, whether such  
4 failure is the result of his or her own acts or the result of acts or  
5 conditions beyond his or her control, he or she shall, nevertheless, be  
6 personally liable to the state for the amount of the tax owed, unless  
7 the seller has taken from the buyer in good faith a properly executed  
8 resale certificate under RCW 82.04.470.

9       **(c)** The amount of tax, until paid by the buyer to the seller or to  
10 the department, shall constitute a debt from the buyer to the seller  
11 and any seller who fails or refuses to collect the tax as required with  
12 intent to violate the provisions of this chapter or to gain some  
13 advantage or benefit, either direct or indirect, and any buyer who  
14 refuses to pay any tax due under this chapter shall be guilty of a  
15 misdemeanor. The tax required by this chapter to be collected by the  
16 seller shall be stated separately from the selling price in any sales  
17 invoice or other instrument of sale. On all retail sales through  
18 vending machines, the tax need not be stated separately from the  
19 selling price or collected separately from the buyer. For purposes of  
20 determining the tax due from the buyer to the seller and from the  
21 seller to the department it shall be conclusively presumed that the  
22 selling price quoted in any price list, sales document, contract or  
23 other agreement between the parties does not include the tax imposed by  
24 this chapter, but if the seller advertises the price as including the  
25 tax or that the seller is paying the tax, the advertised price shall  
26 not be considered the selling price.

27       **(d)** Where a buyer has failed to pay to the seller the tax imposed  
28 by this chapter and the seller has not paid the amount of the tax owed  
29 to the department, the department may, in its discretion, proceed  
30 directly against the buyer for collection of the tax, in which case a  
31 penalty of ten percent may be added to the amount of the tax for  
32 failure of the buyer to pay the same to the seller, regardless of when  
33 the tax may be collected by the department; and all of the provisions  
34 of chapter 82.32 RCW, including those relative to interest and  
35 penalties, shall apply in addition; and, for the sole purpose of  
36 applying the various provisions of chapter 82.32 RCW, the twenty-fifth  
37 day of the month following the tax period in which the purchase was  
38 made shall be considered as the due date of the tax.

1        (2) Each seller shall retain each reporting period .30 percent of  
2 the tax collected under this section as reimbursement for the costs  
3 associated with collection and administration of the tax.

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