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HOUSE BILL 1732

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State of Washington                      54th Legislature                      1995 Regular Session

By Representatives Dyer, Radcliff, Backlund and Goldsmith

Read first time 02/07/95. Referred to Committee on Finance.

1            AN ACT Relating to review of increases in volume-based taxes;  
2 amending RCW 66.24.290, 82.08.150, 82.24.020, and 82.24.020; adding a  
3 new section to chapter 82.02 RCW; creating new sections; providing an  
4 effective date; providing an expiration date; and declaring an  
5 emergency.

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

7            NEW SECTION.    **Sec. 1.** (1) The legislature finds that: When taxes  
8 are increased, the sales volume of certain commodities can be adversely  
9 affected. If taxes are based on the volume of the commodity sold, this  
10 decline in sales volume can adversely affect tax revenue. Further, tax  
11 rate increases that are intended to be borne by the consumer may  
12 instead result in reduced sales revenue for businesses. The  
13 consumption of certain commodities is more affected by tax increases  
14 than formerly thought.

15            (2) The legislature intends to provide for a review of these  
16 potentially adverse effects on tax revenue and Washington businesses  
17 before tax increases take effect.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 82.02 RCW  
2 to read as follows:

3        As used in this section:

4        (1) "Volume-based commodity tax" means a tax imposed as a fixed  
5 amount per unit of a commodity sold, and includes, without being  
6 limited to, the taxes imposed in chapters 66.24, 82.24, 82.36, 82.37,  
7 82.38, 82.42, and 82.64 RCW, and RCW 82.08.150.

8        (2) "Increase in a volume-based commodity tax" means a new tax or  
9 an increase in the rate of a tax.

10        (a) Before enacting an increase in a volume-based commodity tax,  
11 the legislature shall cause to be completed and published a study of  
12 the effect of the increase, including the cumulative effect of other  
13 taxes imposed in respect to the commodity by federal, state, and local  
14 governments, on the following:

15        (i) Whether the elasticity of demand for the commodity indicates  
16 that the increase in revenue will be proportionate with the increase in  
17 tax rate.

18        (ii) The potential for increased tax noncompliance through  
19 purchases outside the jurisdiction of the state.

20        (iii) The potential for adverse impact on employment within the  
21 industries manufacturing, distributing, or selling the commodity.

22        (b) No increase in a volume-based commodity tax shall take effect  
23 unless the legislation enacting the increase includes a statement that  
24 the study required under this section has been completed and published.

25        NEW SECTION.    **Sec. 3.**    The department of revenue, with the  
26 assistance of the liquor control board, shall study the effect of the  
27 tax increases in RCW 66.24.290(4), 82.08.150(6), and 82.24.020(3), as  
28 required under section 2 of this act. The results of the study shall  
29 be submitted to the legislature on or before December 1, 1995.

30        **Sec. 4.**    RCW 66.24.290 and 1994 sp.s. c 7 s 902 are each amended to  
31 read as follows:

32        (1) Any brewer or beer wholesaler licensed under this title may  
33 sell and deliver beer to holders of authorized licenses direct, but to  
34 no other person, other than the board; and every such brewer or beer  
35 wholesaler shall report all sales to the board monthly, pursuant to the  
36 regulations, and shall pay to the board as an added tax for the  
37 privilege of manufacturing and selling the beer within the state a tax

1 of two dollars and sixty cents per barrel of thirty-one gallons on  
2 sales to licensees within the state and on sales to licensees within  
3 the state of bottled and canned beer shall pay a tax computed in  
4 gallons at the rate of two dollars and sixty cents per barrel of  
5 thirty-one gallons. Any brewer or beer wholesaler whose applicable tax  
6 payment is not postmarked by the twentieth day following the month of  
7 sale will be assessed a penalty at the rate of two percent per month or  
8 fraction thereof. Each such brewer or wholesaler shall procure from  
9 the board revenue stamps representing such tax in form prescribed by  
10 the board and shall affix the same to the barrel or package in such  
11 manner and in such denominations as required by the board, and shall  
12 cancel the same prior to commencing delivery from his or her place of  
13 business or warehouse of such barrels or packages. Beer shall be sold  
14 by brewers and wholesalers in sealed barrels or packages. The revenue  
15 stamps provided under this section need not be affixed and canceled in  
16 the making of resales of barrels or packages already taxed by the  
17 affixation and cancellation of stamps as provided in this section.

18 (2) An additional tax is imposed equal to seven percent multiplied  
19 by the tax payable under subsection (1) of this section. All revenues  
20 collected during any month from this additional tax shall be  
21 transferred to the state general fund by the twenty-fifth day of the  
22 following month.

23 (3) An additional tax is imposed on all beer subject to tax under  
24 subsection (1) of this section. The additional tax is equal to two  
25 dollars per barrel of thirty-one gallons. All revenues collected  
26 during any month from this additional tax shall be deposited in the  
27 violence reduction and drug enforcement account under RCW 69.50.520 by  
28 the twenty-fifth day of the following month.

29 (4)(a) An additional tax is imposed on all beer subject to tax  
30 under subsection (1) of this section. The additional tax is equal to  
31 ninety-six cents per barrel of thirty-one gallons through June 30,  
32 1995, two dollars and thirty-nine cents per barrel of thirty-one  
33 gallons for the period July 1, 1995, through June 30, 1997, and four  
34 dollars and seventy-eight cents per barrel of thirty-one gallons  
35 thereafter. The increases scheduled to take effect under this  
36 subsection after June 30, 1995, shall not take effect unless reenacted  
37 in legislation that complies with section 2 of this act. If the  
38 reenactment legislation does not become law on or before July 1, 1996,  
39 these increases shall be null and void.

1 (b) The additional tax imposed under this subsection does not apply  
2 to the sale of the first sixty thousand barrels of beer each year by  
3 breweries that are entitled to a reduced rate of tax under 26 U.S.C.  
4 Sec. 5051, as existing on July 1, 1993, or such subsequent date as may  
5 be provided by the board by rule consistent with the purposes of this  
6 exemption.

7 (c) All revenues collected from the additional tax imposed under  
8 this subsection (4) shall be deposited in the health services account  
9 under RCW 43.72.900.

10 (5) The tax imposed under this section shall not apply to "strong  
11 beer" as defined in this title.

12 **Sec. 5.** RCW 82.08.150 and 1994 sp.s. c 7 s 903 are each amended to  
13 read as follows:

14 (1) There is levied and shall be collected a tax upon each retail  
15 sale of spirits, or strong beer in the original package at the rate of  
16 fifteen percent of the selling price. The tax imposed in this  
17 subsection shall apply to all such sales including sales by the  
18 Washington state liquor stores and agencies, but excluding sales to  
19 class H licensees.

20 (2) There is levied and shall be collected a tax upon each sale of  
21 spirits, or strong beer in the original package at the rate of ten  
22 percent of the selling price on sales by Washington state liquor stores  
23 and agencies to class H licensees.

24 (3) There is levied and shall be collected an additional tax upon  
25 each retail sale of spirits in the original package at the rate of one  
26 dollar and seventy-two cents per liter. The additional tax imposed in  
27 this subsection shall apply to all such sales including sales by  
28 Washington state liquor stores and agencies, and including sales to  
29 class H licensees.

30 (4) An additional tax is imposed equal to fourteen percent  
31 multiplied by the taxes payable under subsections (1), (2), and (3) of  
32 this section.

33 (5) An additional tax is imposed upon each retail sale of spirits  
34 in the original package at the rate of seven cents per liter. The  
35 additional tax imposed in this subsection shall apply to all such sales  
36 including sales by Washington state liquor stores and agencies, and  
37 including sales to class H licensees. All revenues collected during  
38 any month from this additional tax shall be deposited in the violence

1 reduction and drug enforcement account under RCW 69.50.520 by the  
2 twenty-fifth day of the following month.

3 (6)(a) An additional tax is imposed upon retail sale of spirits in  
4 the original package at the rate of one and seven-tenths percent of the  
5 selling price through June 30, 1995, two and six-tenths percent of the  
6 selling price for the period July 1, 1995, through June 30, 1997, and  
7 three and four-tenths of the selling price thereafter. This additional  
8 tax applies to all such sales including sales by Washington state  
9 liquor stores and agencies, but excluding sales to class H licensees.

10 (b) An additional tax is imposed upon retail sale of spirits in the  
11 original package at the rate of one and one-tenth percent of the  
12 selling price through June 30, 1995, one and seven-tenths percent of  
13 the selling price for the period July 1, 1995, through June 30, 1997,  
14 and two and three-tenths of the selling price thereafter. This  
15 additional tax applies to all such sales to class H licensees.

16 (c) An additional tax is imposed upon each retail sale of spirits  
17 in the original package at the rate of twenty cents per liter through  
18 June 30, 1995, thirty cents per liter for the period July 1, 1995,  
19 through June 30, 1997, and forty-one cents per liter thereafter. This  
20 additional tax applies to all such sales including sales by Washington  
21 state liquor stores and agencies, and including sales to class H  
22 licensees.

23 (d) All revenues collected during any month from additional taxes  
24 under this subsection shall be deposited in the health services account  
25 created under RCW 43.72.900 by the twenty-fifth day of the following  
26 month. The increases scheduled to take effect under this subsection  
27 after June 30, 1995, shall not take effect unless reenacted in  
28 legislation that complies with section 2 of this act. If the  
29 reenactment legislation does not become law on or before July 1, 1996,  
30 these increases shall be null and void, and rates in effect on June 30,  
31 1995, shall remain in effect thereafter.

32 (7) The tax imposed in RCW 82.08.020 shall not apply to sales of  
33 spirits or strong beer in the original package.

34 (8) The taxes imposed in this section shall be paid by the buyer to  
35 the seller, and each seller shall collect from the buyer the full  
36 amount of the tax payable in respect to each taxable sale under this  
37 section. The taxes required by this section to be collected by the  
38 seller shall be stated separately from the selling price and for  
39 purposes of determining the tax due from the buyer to the seller, it

1 shall be conclusively presumed that the selling price quoted in any  
2 price list does not include the taxes imposed by this section.

3 (9) As used in this section, the terms, "spirits," "strong beer,"  
4 and "package" shall have the meaning ascribed to them in chapter 66.04  
5 RCW.

6 **Sec. 6.** RCW 82.24.020 and 1993 c 492 s 307 are each amended to  
7 read as follows:

8 (1) There is levied and there shall be collected as provided in  
9 this chapter, a tax upon the sale, use, consumption, handling,  
10 possession or distribution of all cigarettes, in an amount equal to the  
11 rate of eleven and one-half mills per cigarette.

12 (2) Until July 1, 1995, an additional tax is imposed upon the sale,  
13 use, consumption, handling, possession, or distribution of all  
14 cigarettes, in an amount equal to the rate of one and one-half mills  
15 per cigarette. All revenues collected during any month from this  
16 additional tax shall be deposited in the drug enforcement and education  
17 account under RCW 69.50.520 by the twenty-fifth day of the following  
18 month.

19 (3) An additional tax is imposed upon the sale, use, consumption,  
20 handling, possession, or distribution of all cigarettes, in an amount  
21 equal to the rate of ten mills per cigarette through June 30, 1994,  
22 eleven and one-fourth mills per cigarette for the period July 1, 1994,  
23 through June 30, 1995, twenty mills per cigarette for the period July  
24 1, 1995, through June 30, 1996, and twenty and one-half mills per  
25 cigarette thereafter. All revenues collected during any month from  
26 this additional tax shall be deposited in the health services account  
27 created under RCW 43.72.900 by the twenty-fifth day of the following  
28 month. The increases scheduled to take effect under this subsection  
29 after June 30, 1995, shall not take effect unless reenacted in  
30 legislation that complies with section 2 of this act. If the  
31 reenactment legislation does not become law on or before July 1, 1996,  
32 these increases shall be null and void, and the rate in effect on June  
33 30, 1995, shall remain in effect thereafter.

34 (4) Wholesalers and retailers subject to the payment of this tax  
35 may, if they wish, absorb one-half mill per cigarette of the tax and  
36 not pass it on to purchasers without being in violation of this section  
37 or any other act relating to the sale or taxation of cigarettes.

1 (5) For purposes of this chapter, "possession" shall mean both (a)  
2 physical possession by the purchaser and, (b) when cigarettes are being  
3 transported to or held for the purchaser or his or her designee by a  
4 person other than the purchaser, constructive possession by the  
5 purchaser or his designee, which constructive possession shall be  
6 deemed to occur at the location of the cigarettes being so transported  
7 or held.

8 **Sec. 7.** RCW 82.24.020 and 1994 sp.s. c 7 s 904 are each amended to  
9 read as follows:

10 (1) There is levied and there shall be collected as provided in  
11 this chapter, a tax upon the sale, use, consumption, handling,  
12 possession or distribution of all cigarettes, in an amount equal to the  
13 rate of eleven and one-half mills per cigarette.

14 (2) An additional tax is imposed upon the sale, use, consumption,  
15 handling, possession, or distribution of all cigarettes, in an amount  
16 equal to the rate of five and one-fourth mills per cigarette. All  
17 revenues collected during any month from this additional tax shall be  
18 deposited in the violence reduction and drug enforcement account under  
19 RCW 69.50.520 by the twenty-fifth day of the following month.

20 (3) An additional tax is imposed upon the sale, use, consumption,  
21 handling, possession, or distribution of all cigarettes, in an amount  
22 equal to the rate of ten mills per cigarette through June 30, 1994,  
23 eleven and one-fourth mills per cigarette for the period July 1, 1994,  
24 through June 30, 1995, twenty mills per cigarette for the period July  
25 1, 1995, through June 30, 1996, and twenty and one-half mills per  
26 cigarette thereafter. All revenues collected during any month from  
27 this additional tax shall be deposited in the health services account  
28 created under RCW 43.72.900 by the twenty-fifth day of the following  
29 month. The increases scheduled to take effect under this subsection  
30 after June 30, 1995, shall not take effect unless reenacted in  
31 legislation that complies with section 2 of this act. If the  
32 reenactment legislation does not become law on or before July 1, 1996,  
33 these increases shall be null and void, and the rate in effect on June  
34 30, 1995, shall remain in effect thereafter.

35 (4) Wholesalers and retailers subject to the payment of this tax  
36 may, if they wish, absorb one-half mill per cigarette of the tax and  
37 not pass it on to purchasers without being in violation of this section  
38 or any other act relating to the sale or taxation of cigarettes.

1 (5) For purposes of this chapter, "possession" shall mean both (a)  
2 physical possession by the purchaser and, (b) when cigarettes are being  
3 transported to or held for the purchaser or his or her designee by a  
4 person other than the purchaser, constructive possession by the  
5 purchaser or his or her designee, which constructive possession shall  
6 be deemed to occur at the location of the cigarettes being so  
7 transported or held.

8 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
9 preservation of the public peace, health, or safety, or support of the  
10 state government and its existing public institutions, and shall take  
11 effect immediately, except for section 7 of this act which takes effect  
12 July 1, 1995.

13 NEW SECTION. **Sec. 9.** Section 6 of this act expires July 1, 1995.

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