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## HOUSE BILL 1732

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State of Washington 55th Legislature 1997 Regular Session

By Representatives Cairnes, Radcliff, Alexander, Mielke, L. Thomas, Chandler, Smith, Zellinsky and Delvin

Read first time 02/06/97. Referred to Committee on Finance.

- AN ACT Relating to tax exemptions for cigarettes to be consumed on vessels engaged in the commercial fishery in waters of states not
- 3 contiguous with Washington state; amending RCW 82.24.290 and 82.24.040;
- 4 adding a new section to chapter 82.08 RCW; and creating new sections.
- 5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 6 <u>NEW SECTION.</u> **Sec. 1.** Under existing state law, sales of
- 7 cigarettes to be consumed by persons fishing in waters outside of the
- 8 state of Washington are subject to state tax if delivery is taken in
- 9 the state of Washington. It is the intent of the legislature to grant
- 10 an exemption from retail sales tax and from cigarette tax, for sales of
- 11 cigarettes to be consumed on vessels actively engaged in a commercial
- 12 fishery in waters of states noncontiguous with the state of Washington.
- 13 The purpose of this exemption is to acknowledge the unusual inventory
- 14 supply characteristics of this specific industry and to assure that
- 15 this type of taxpayer is not subjected to tax by more than one state on
- 16 the same transaction. These exemptions do not affect the business and
- 17 occupation tax obligations of the cigarette seller.

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- NEW SECTION. Sec. 2. A new section is added to chapter 82.08 RCW to read as follows:
- 3 (1) The tax levied by RCW 82.08.020 does not apply to sales of 4 cigarettes that are exempt under RCW 82.24.290(2).
- 5 (2) A person claiming an exemption under this section must present
- 6 the seller with an exemption certificate. The exemption certificate
- 7 used under RCW 82.24.290(2) shall be used for the exemption under this
- 8 section.
- 9 **Sec. 3.** RCW 82.24.290 and 1995 c 278 s 14 are each amended to read 10 as follows:
- 11 (1) The taxes imposed by this chapter do not apply to the sale of 12 cigarettes to:
- 13  $((\frac{1}{1}))$  (a) United States army, navy, air force, marine corps, or
- 14 coast guard exchanges and commissaries and navy or coast guard ships'
- 15 stores;
- 16  $((\frac{2}{2}))$  The United States veterans' administration; or
- 17  $((\frac{3}{3}))$  (c) Any authorized purchaser from the federal
- 18 instrumentalities named in (a) or (b) of this subsection ((1) or (2)
- 19 of this section)).
- 20 (2)(a) The taxes imposed by this chapter do not apply to the sale
- 21 of cigarettes to an owner or operator of a fishing vessel or to an
- 22 agent of such owner or operator if:
- 23 (i) The fishing vessel is engaged in a fishery in the waters of a
- 24 state noncontiquous to the state of Washington;
- 25 (ii) The cigarettes are consumed by crew members of the fishing
- 26 <u>vessel</u> and consumption occurs in the waters of the noncontiguous state;
- 27 (iii) The fishing vessel has a current commercial fishing license
- 28 from the noncontiquous state in which the fishing vessel engages in the
- 29 <u>fishery</u>;
- 30 (iv) Tax has been or will be paid on the cigarettes in the
- 31 noncontiguous state in which the vessel is engaged in the fishery; and
- 32 (v) Delivery of the cigarettes is taken at the eligible fishing
- 33 vessel if the fishing vessel is located in Washington state or is to an
- 34 agent of the owner or operator of the fishing vessel and delivery is to
- 35 the location from which the cigarettes will be transported to the
- 36 <u>noncontiguous state or is to the owner or operator of the fishing</u>
- 37 <u>vessel</u> and <u>delivery</u> is made by the seller or seller's agent.

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- (b) The department of revenue shall provide the noncontiguous state 1 with information identifying the owners and operators of vessels exempt 2 3 under this subsection. 4 (c) The sale of cigarettes to the owner or operator of a fishing vessel engaged in a fishery in a state noncontiquous to Washington 5 state, or an agent supplying such vessel, for which there is no proof 6 7 that a tax has been paid to another state is subject to tax under this 8 chapter and chapter 82.08 RCW. 9 (d) A person claiming an exemption under this subsection (2) must provide the seller with an exemption certificate. The exemption 10 certificate must be completed in its entirety and retained by the 11 seller at the time of sale. The certificate should be in substantially 12 13 the following form: 14 EXEMPTION CERTIFICATE 15 Name of buyer (<u>fishing vessel) ........</u> 16 17 Name of delivering carrier . . . . . . . . . . . . 18 Name of fishing vessel operator, 19 owner, or agent . . . . . . . . 20 WE HEREBY CERTIFY that: 21 (1) All the tax-exempt cigarettes purchased from you, the seller, will be for use in connection with the business of actively engaging in 22 the fishery in a state noncontiguous with the state of Washington; 23 (2) The cigarettes will be consumed by crew members while engaged 24 25 in such fishery and will not be consumed within the state of 26 Washington; (3) We, the fishing vessel, have a current license to engage in 27 such fishery or, if supplying vessels engaged in such fishery, the 28 vessels have a current license to engage in such fishery; and 29 (4) Taxes on the cigarettes will be paid to the noncontiquous 30 31 state. We are aware consumption of any of these cigarettes within the
  - state of Washington will deprive those cigarettes of the exemption and tax and applicable penalties will be due on such cigarettes. All such sales are entitled to exemption from the retail sales tax and the cigarette tax under the provisions of section 1 of this act and RCW 82.24.290.

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- 8 **Sec. 4.** RCW 82.24.040 and 1995 c 278 s 3 are each amended to read 9 as follows:
- 10 (1) No wholesaler in this state may possess within this state 11 unstamped cigarettes except that:
- (a) Every wholesaler in the state who is licensed under Washington state law may possess within this state unstamped cigarettes for such period of time after receipt as is reasonably necessary to affix the stamps as required; and
  - (b) Any wholesaler in the state who is licensed under Washington state law and who furnishes a surety bond in a sum satisfactory to the department, shall be permitted to set aside, without affixing the stamps required by this chapter, such part of the wholesaler's stock as may be necessary for the conduct of the wholesaler's business in making sales to persons in another state or foreign country or to instrumentalities of the federal government. Such unstamped stock shall be kept separate and apart from stamped stock.
- (2) Every wholesaler licensed under Washington state law shall, at 24 25 the time of shipping or delivering any of the articles taxed or exempt 26 herein to a point outside of this state or to a federal instrumentality 27 or to an authorized recipient of exempt cigarettes, make a true duplicate invoice of the same which shall show full and complete 28 29 details of the sale or delivery, whether or not stamps were affixed 30 thereto, and shall transmit such true duplicate invoice to the 31 department, at Olympia, not later than the fifteenth day of the following calendar month. For failure to comply with the requirements 32 33 of this section, the department may revoke the permission granted to the taxpayer to maintain a stock of goods to which the stamps required 34 35 by this chapter have not been affixed.

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- 1 (3) Every wholesaler who is licensed by Washington state law shall 2 sell cigarettes to retailers located in Washington only if the retailer 3 has a current cigarette retailer's license or is an Indian tribal 4 organization authorized to possess untaxed cigarettes under this 5 chapter and the rules adopted by the department.
- 6 <u>NEW SECTION.</u> **Sec. 5.** This act applies retroactively to cigarettes 7 sold after December 31, 1996.

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