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SENATE BILL 6059

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State of Washington

57th Legislature

2001 Regular Session

By Senators Fraser, Constantine and Winsley; by request of Department of Revenue

Read first time 02/15/2001. Referred to Committee on Environment, Energy & Water.

1 AN ACT Relating to restructuring the litter tax and a portion of  
2 the hazardous substance tax to simplify the taxes while maintaining  
3 funding; amending RCW 82.04.270, 82.04.272, and 82.21.020; reenacting  
4 and amending RCW 82.04.250; adding new sections to chapter 82.04 RCW;  
5 creating new sections; repealing RCW 82.19.010, 82.19.020, 82.19.030,  
6 82.19.040, and 82.19.050; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that roadside  
9 littering and illegal dumping negatively impact our state's beauty and  
10 quality of life, and the health and safety of our residents.

11 The legislature further finds that all purchased tangible personal  
12 property, its packaging, and related services contribute to the litter  
13 and waste streams. But not all purchased tangible personal property  
14 and related services, including substantial contributors to the litter  
15 and waste streams, are reached under the litter tax and hazardous  
16 substance tax, which together fund waste reduction, waste management,  
17 and site clean-up programs. Both taxes are based on individual  
18 inventory items, rather than gross proceeds, and have proved difficult

1 for taxpayers to remit correctly. Additionally, both taxes have not  
2 been reliable program funding sources.

3 Therefore, the legislature intends that taxes dedicated to the  
4 waste reduction, waste management, and site clean-up programs should  
5 provide stable funding, should be easy for taxpayers to understand and  
6 pay, and should come from a base that truly reflects the scope of the  
7 contributing sources.

8 **Sec. 2.** RCW 82.04.250 and 1998 c 343 s 5 and 1998 c 312 s 4 are  
9 each reenacted and amended to read as follows:

10 (1)(a) Upon every person except persons taxable under RCW  
11 82.04.260(5), 82.04.272, or subsection (2) of this section engaging  
12 within this state in the business of making sales at retail, as to such  
13 persons, the amount of tax with respect to such business shall be equal  
14 to the gross proceeds of sales of the business, multiplied by the rate  
15 of 0.471 percent.

16 (b) In addition to the tax imposed in (a) of this subsection, a  
17 litter control tax is imposed equal to the rate specified in section 5  
18 of this act upon every person taxable under (a) of this subsection.

19 (2) Upon every person engaging within this state in the business of  
20 making sales at retail that are exempt from the tax imposed under  
21 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or  
22 82.08.0263, as to such persons, the amount of tax with respect to such  
23 business shall be equal to the gross proceeds of sales of the business,  
24 multiplied by the rate of 0.484 percent.

25 **Sec. 3.** RCW 82.04.270 and 1999 c 358 s 2 are each amended to read  
26 as follows:

27 (1) Upon every person except persons taxable under RCW 82.04.260(5)  
28 or 82.04.272 engaging within this state in the business of making sales  
29 at wholesale; as to such persons the amount of tax with respect to such  
30 business shall be equal to the gross proceeds of sales of such business  
31 multiplied by the rate of 0.484 percent.

32 (2) In addition to the tax imposed in subsection (1) of this  
33 section, a litter control tax is imposed equal to the rate specified in  
34 section 5 of this act upon every person taxable under subsection (1) of  
35 this section.

1       **Sec. 4.** RCW 82.04.272 and 1998 c 343 s 1 are each amended to read  
2 as follows:

3       (1)(a) Upon every person engaging within this state in the business  
4 of warehousing and reselling prescription drugs; as to such persons,  
5 the amount of the tax shall be equal to the gross income of the  
6 business multiplied by the rate of 0.138 percent.

7       (b) In addition to the tax imposed in (a) of this subsection, a  
8 litter control tax is imposed equal to the rate specified in section 5  
9 of this act upon every person taxable under (a) of this subsection.

10       (2) For the purposes of this section:

11       (a) "Prescription drug" has the same meaning as that term is given  
12 in RCW 82.08.0281; and

13       (b) "Warehousing and reselling prescription drugs" means the buying  
14 of prescription drugs from a manufacturer or another wholesaler, and  
15 reselling of the drugs to persons selling at retail or to hospitals,  
16 clinics, health care providers, or other providers of health care  
17 services, by a wholesaler or retailer who is registered with the  
18 federal drug enforcement administration and licensed by the state board  
19 of pharmacy.

20       NEW SECTION. **Sec. 5.** A new section is added to chapter 82.04 RCW  
21 to read as follows:

22       (1) The rate of the litter control tax under RCW 82.04.250(1)(b),  
23 82.04.270(2), and 82.04.272(1)(b) shall be six one-thousandths of one  
24 percent.

25       (2) Sixty-two percent of the taxes collected under RCW  
26 82.04.250(1)(b), 82.04.270(2), and 82.04.272(1)(b) shall be deposited  
27 in the waste reduction, recycling, and litter control account under RCW  
28 70.93.180 and thirty-eight percent shall be deposited in the toxics  
29 control accounts under RCW 70.105D.070.

30       NEW SECTION. **Sec. 6.** A new section is added to chapter 82.04 RCW  
31 to read as follows:

32       A credit is allowed against the tax imposed under RCW  
33 82.04.250(1)(b), 82.04.270(2), and 82.04.272(1)(b) equal to the rate in  
34 section 5 of this act multiplied by the gross proceeds of the sales  
35 specified in RCW 82.04.050(2) (e) and (f); RCW 82.04.050(3) (a), (b),  
36 (c), (d), (f), and (g); and RCW 82.04.060(2). For those persons  
37 subject to tax under RCW 82.04.250(2), a credit is allowed against the

1 tax imposed under RCW 82.04.250(1)(b), 82.04.270(2), and  
2 82.04.272(1)(b) equal to the rate in section 5 of this act multiplied  
3 by the gross proceeds of sales specified in RCW 82.04.270.

4 **Sec. 7.** RCW 82.21.020 and 1989 c 2 s 9 are each amended to read as  
5 follows:

6 Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout this chapter.

8 (1) "Hazardous substance" means:

9 (a) ~~((Any substance that, on March 1, 1989, is a hazardous  
10 substance under section 101(14) of the federal comprehensive  
11 environmental response, compensation, and liability act of 1980, 42  
12 U.S.C. Sec. 9601(14), as amended by Public Law 99-499;~~

13 ~~(b)))~~ Petroleum products;

14 ~~((c) Any pesticide product required to be registered under the  
15 federal insecticide, fungicide and rodenticide act; and~~

16 ~~(d)))~~ (b) Any other substance, category of substance, and any  
17 product or category of product determined by the director of ecology by  
18 rule to present a threat to human health or the environment if released  
19 into the environment. The director of ecology shall not add or delete  
20 substances from this definition more often than twice during each  
21 calendar year. For tax purposes, changes in this definition shall take  
22 effect on the first day of the next month that is at least thirty days  
23 after the effective date of the rule. The word "product" or "products"  
24 as used in this ~~((paragraph (d)))~~ subsection (1)(b) means an item or  
25 items containing both: (i) One or more substances that are hazardous  
26 substances under (a) ~~((, (b), or (c)))~~ of this subsection or that are  
27 substances or categories of substances determined under this  
28 ~~((paragraph (d)))~~ subsection (1)(b) to present a threat to human health  
29 or the environment if released into the environment; and (ii) one or  
30 more substances that are not hazardous substances.

31 (2) "Petroleum product" means plant condensate, lubricating oil,  
32 gasoline, aviation fuel, kerosene, diesel motor fuel, benzol, fuel oil,  
33 residual oil, liquefied or liquefiable gases such as butane, ethane,  
34 and propane, and every other product derived from the refining of crude  
35 oil, but the term does not include crude oil. Petroleum product does  
36 not include a product that is packaged for sale to the ultimate  
37 consumer and possessed by a wholesaler or retailer.

1 (3) "Possession" means the control of a hazardous substance located  
2 within this state and includes both actual and constructive possession.  
3 "Actual possession" occurs when the person with control has physical  
4 possession. "Constructive possession" occurs when the person with  
5 control does not have physical possession. "Control" means the power  
6 to sell or use a hazardous substance or to authorize the sale or use by  
7 another.

8 (4) "Previously taxed hazardous substance" means a hazardous  
9 substance in respect to which a tax has been paid under this chapter  
10 and which has not been remanufactured or reprocessed in any manner  
11 (other than mere repackaging or recycling for beneficial reuse) since  
12 the tax was paid.

13 (5) "Wholesale value" means fair market wholesale value, determined  
14 as nearly as possible according to the wholesale selling price at the  
15 place of use of similar substances of like quality and character, in  
16 accordance with rules of the department.

17 (6) Except for terms defined in this section, the definitions in  
18 chapters 82.04, 82.08, and 82.12 RCW apply to this chapter.

19 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each  
20 repealed:

21 (1) RCW 82.19.010 (Litter tax imposed--Report to the legislature--  
22 Time of collection) and 1998 c 257 s 7, 1992 c 175 s 3, & 1971 ex.s. c  
23 307 s 12;

24 (2) RCW 82.19.020 (Application to certain products) and 1992 c 175  
25 s 4 & 1971 ex.s. c 307 s 13;

26 (3) RCW 82.19.030 (Rule-making authority tax--Items subject to--  
27 Reporting and accounting) and 1992 c 175 s 5 & 1971 ex.s. c 307 s 14;

28 (4) RCW 82.19.040 (Application of chapters 82.04 and 82.32 RCW--  
29 Disposition of revenue) and 1992 c 175 s 6 & 1971 ex.s. c 307 s 16; and

30 (5) RCW 82.19.050 (Exemptions) and 1992 c 175 s 7 & 1971 ex.s. c  
31 307 s 17.

32 NEW SECTION. **Sec. 9.** This act does not affect any existing right  
33 acquired or liability or obligation incurred under the sections  
34 repealed or under any rule or order adopted under those statutes nor  
35 does it affect any proceeding instituted under those sections.

1      NEW SECTION.    **Sec. 10.**    This act takes effect January 1, 2002.

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