
SUBSTITUTE SENATE BILL 6874 (Corrected Copy)

State of Washington

61st Legislature

2010 Regular Session

By Senate Ways & Means (originally sponsored by Senators Tom, Keiser, and Kohl-Welles)

READ FIRST TIME 03/06/10.

1 AN ACT Relating to providing funding for the basic health plan by
2 increasing the taxes on cigarettes and facilitating the funding within
3 the state expenditure limit; amending RCW 82.24.020, 82.24.026, and
4 43.135.035; adding a new section to chapter 82.24 RCW; adding a new
5 section to chapter 70.47 RCW; repealing RCW 82.24.027 and 82.24.028;
6 making an appropriation; providing an effective date; and declaring an
7 emergency.

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

9 **Sec. 1.** RCW 82.24.020 and 2009 c 479 s 66 are each amended to read
10 as follows:

11 (1) There is levied and (~~there shall be~~) collected as provided in
12 this chapter, a tax upon the sale, use, consumption, handling,
13 possession, or distribution of all cigarettes, in an amount equal to
14 (~~one and fifteen one hundredths~~) 12.125 cents per cigarette. All
15 revenues collected from the tax in this section must be deposited into
16 the state general fund.

17 (2) (~~An additional tax is imposed upon the sale, use, consumption,~~
18 ~~handling, possession, or distribution of all cigarettes, in an amount~~
19 ~~equal to five hundred twenty five one thousandths of a cent per~~

1 cigarette. ~~All revenues collected during any month from this~~
2 ~~additional tax shall be deposited in the state general fund by the~~
3 ~~twenty fifth day of the following month.~~

4 ~~(3) An additional tax is imposed upon the sale, use, consumption,~~
5 ~~handling, possession, or distribution of all cigarettes, in an amount~~
6 ~~equal to two and five one hundredths cents per cigarette. All revenues~~
7 ~~collected during any month from this additional tax shall be deposited~~
8 ~~in the state general fund by the twenty fifth day of the following~~
9 ~~month.~~

10 ~~(4))~~ An additional tax is imposed upon the sale, use, consumption,
11 handling, possession, or distribution of all cigarettes at no cost, or
12 reduced cost where such offer is conditioned on the purchase of one or
13 more tobacco products in an amount equal to 9.125 cents per cigarette.
14 This applies to offers of "buy-one-get-one-free," "two for one," "fifty
15 percent off the purchase of two," and offers that are substantially
16 similar. Revenues collected from the tax in this subsection must be
17 deposited into the general fund.

18 (3) Wholesalers subject to the payment of this tax may, if they
19 wish, absorb five one-hundredths cents per cigarette of the tax and not
20 pass it on to purchasers without being in violation of this section or
21 any other act relating to the sale or taxation of cigarettes.

22 ~~((+5))~~ (4) For purposes of this chapter, "possession" ~~((shall))~~
23 means both (a) physical possession by the purchaser and, (b) when
24 cigarettes are being transported to or held for the purchaser or his or
25 her designee by a person other than the purchaser, constructive
26 possession by the purchaser or his or her designee, which constructive
27 possession ~~((shall be))~~ is deemed to occur at the location of the
28 cigarettes being so transported or held.

29 ~~((+6))~~ (5) In accordance with federal law and rules prescribed by
30 the department, an enrolled member of a federally recognized Indian
31 tribe may purchase cigarettes from an Indian tribal organization under
32 the jurisdiction of the member's tribe for the member's own use exempt
33 from the applicable taxes imposed by this chapter. Except as provided
34 in subsection ~~((+7))~~ (6) of this section, any person, who purchases
35 cigarettes from an Indian tribal organization and who is not an
36 enrolled member of the federally recognized Indian tribe within whose
37 jurisdiction the sale takes place, is not exempt from the applicable
38 taxes imposed by this chapter.

1 (~~(7)~~) (6) If the state enters into a cigarette tax contract or
2 agreement with a federally recognized Indian tribe under chapter 43.06
3 RCW, the terms of the contract or agreement (~~(shall)~~) take precedence
4 over any conflicting provisions of this chapter while the contract or
5 agreement is in effect.

6 **Sec. 2.** RCW 82.24.026 and 2009 c 479 s 67 are each amended to read
7 as follows:

8 (1) In addition to the tax imposed upon the sale, use, consumption,
9 handling, possession, or distribution of cigarettes set forth in RCW
10 82.24.020, there is imposed a tax in an amount equal to three cents per
11 cigarette.

12 (2) The revenue collected under this section (~~(shall)~~) must be
13 deposited as follows:

14 (a) (~~(28.5)~~) 14 percent (~~(shall)~~) must be deposited into the
15 general fund.

16 (b) The remainder (~~(shall)~~) must be deposited into the education
17 legacy trust account.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.24 RCW
19 to read as follows:

20 (1) As used in this section, "nonparticipating manufacturer" means
21 a tobacco product manufacturer, as defined in RCW 70.157.010(i), that
22 is not a participating manufacturer within the meaning of section
23 II(jj) of the master settlement agreement, as defined in RCW
24 70.157.010(e).

25 (2) There is levied an equity assessment at the rate of 2.1 cents
26 on each cigarette for all cigarette packages of nonparticipating
27 manufacturers to which a stamp is affixed as required under RCW
28 82.24.030. The equity assessment imposed by this section is in
29 addition to all other assessments, fees, and taxes levied under
30 existing law, and shall be paid by affixing a stamp in the manner and
31 at the time described in RCW 82.24.030.

32 (3) Except as otherwise provided in this section, the equity
33 assessment shall be collected, paid, administered, and enforced in the
34 same manner as the taxes on cigarettes levied by this chapter.

35 (4) The purposes of this equity assessment are:

1 (a) To recover health care costs to the state imposed by
2 nonparticipating manufacturers;

3 (b) To prevent nonparticipating manufacturers from undermining the
4 states policy of reducing underage smoking by offering cigarettes for
5 sale substantially below the prices of other manufacturers;

6 (c) To protect funding, which is reduced as a result of the growth
7 of nonparticipating manufacturer cigarette sales for programs funded in
8 whole or in part by payments to the state under the master settlement
9 agreement as defined in RCW 70.157.010(e);

10 (d) To recoup settlement-payment revenue lost to the state as a
11 result of nonparticipating manufacturer cigarette sales; and

12 (e) To fund the enforcement and administration of:

13 (i) The stamping requirements of this chapter;

14 (ii) The escrow payment imposed by chapter 70.157 RCW; and

15 (iii) The equity assessment imposed in this chapter.

16 (5) Each manufacturer, distributor, wholesaler, or retail dealer
17 who under RCW 82.24.030 affixes a stamp to a package of cigarettes
18 shall report monthly to the department of revenue for each place of
19 business the number and denominations of stamps affixed to individual
20 packages of nonparticipating manufacturer cigarettes sold by the
21 manufacturer, distributor, wholesaler, or retail dealer in the
22 preceding month, including the manufacturer and brand family. A person
23 required to file a report under this section is subject to the penalty
24 provisions of this chapter for failing to file a report in a timely
25 manner, or for supplying false or fraudulent information.

26 NEW SECTION. **Sec. 4.** The following acts or parts of acts are each
27 repealed:

28 (1) RCW 82.24.027 (Additional tax imposed--Rate--Deposited into the
29 general fund) and 2009 c 479 s 68, 2008 c 86 s 303, 1999 c 309 s 925,
30 & 1986 c 3 s 12; and

31 (2) RCW 82.24.028 (Additional tax imposed--Rate--Deposited into the
32 general fund) and 2009 c 479 s 69, 2008 c 86 s 304, & 2002 c 2 s 3.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.47 RCW
34 to read as follows:

35 The basic health plan stabilization account is created in the state

1 treasury. Funds from the account must be used to fund enrollment in
2 the subsidized basic health plan under this chapter.

3 NEW SECTION. **Sec. 6.** The sum of eighty-five million six hundred
4 ninety-eight thousand dollars is appropriated from the general fund for
5 deposit into the basic health plan stabilization account for the fiscal
6 year ending June 30, 2011. The funds used from this appropriation must
7 be used to support enrollment for approximately thirty-six thousand six
8 hundred low-income individuals in the subsidized basic health plan for
9 fiscal year 2011.

10 **Sec. 7.** RCW 43.135.035 and 2010 c ... (ESSB 6130 as amended by the
11 House) s 2 are each amended to read as follows:

12 (1) After July 1, 2011, any action or combination of actions by the
13 legislature that raises taxes may be taken only if approved by a
14 two-thirds vote of each house of the legislature, and then only if
15 state expenditures in any fiscal year, including the new revenue, will
16 not exceed the state expenditure limits established under this chapter.
17 Pursuant to the referendum power set forth in Article II, section 1(b)
18 of the state Constitution, tax increases may be referred to the voters
19 for their approval or rejection at an election.

20 (2)(a) If the legislative action under subsection (1) of this
21 section will result in expenditures in excess of the state expenditure
22 limit, then the action of the legislature (~~shall~~) may not take effect
23 until approved by a vote of the people at a November general election.
24 The state expenditure limit committee (~~shall~~) must adjust the state
25 expenditure limit by the amount of additional revenue approved by the
26 voters under this section. This adjustment (~~shall~~) may not exceed
27 the amount of revenue generated by the legislative action during the
28 first full fiscal year in which it is in effect. The state expenditure
29 limit (~~shall~~) must be adjusted downward upon expiration or repeal of
30 the legislative action.

31 (b) The ballot title for any vote of the people required under this
32 section shall be substantially as follows:

33 "Shall taxes be imposed on in order to allow a
34 spending increase above last year's authorized spending adjusted for
35 personal income growth?"

1 (3)(a) The state expenditure limit may be exceeded upon declaration
2 of an emergency for a period not to exceed twenty-four months by a law
3 approved by a two-thirds vote of each house of the legislature and
4 signed by the governor. The law (~~shall~~) must set forth the nature of
5 the emergency, which is limited to natural disasters that require
6 immediate government action to alleviate human suffering and provide
7 humanitarian assistance. The state expenditure limit may be exceeded
8 for no more than twenty-four months following the declaration of the
9 emergency and only for the purposes contained in the emergency
10 declaration.

11 (b) Additional taxes required for an emergency under this section
12 may be imposed only until thirty days following the next general
13 election, unless an extension is approved at that general election.
14 The additional taxes (~~shall~~) expire upon expiration of the
15 declaration of emergency. The legislature (~~shall~~) may not impose
16 additional taxes for emergency purposes under this subsection unless
17 funds in the education construction fund have been exhausted.

18 (c) The state or any political subdivision of the state (~~shall~~)
19 may not impose any tax on intangible property listed in RCW 84.36.070
20 as that statute exists on January 1, 1993.

21 (4) If the cost of any state program or function is shifted from
22 the state general fund to another source of funding, or if moneys are
23 transferred from the state general fund to another fund or account, the
24 state expenditure limit committee, acting pursuant to RCW
25 43.135.025(5), (~~shall~~) must lower the state expenditure limit to
26 reflect the shift. For the purposes of this section, a transfer of
27 money from the state general fund to another fund or account includes
28 any state legislative action taken that has the effect of reducing
29 revenues from a particular source, where such revenues would otherwise
30 be deposited into the state general fund, while increasing the revenues
31 from that particular source to another state or local government
32 account. This subsection does not apply to: (a) The dedication or use
33 of lottery revenues under RCW 67.70.240(3), in support of education or
34 education expenditures; (~~or~~) (b) a transfer of moneys to, or an
35 expenditure from, the budget stabilization account; or (c) the deposit
36 of funds to the basic health plan stabilization account under section
37 6 of this act or the appropriation of those funds.

1 (5) If the cost of any state program or function and the ongoing
2 revenue necessary to fund the program or function are shifted to the
3 state general fund on or after January 1, 2007, the state expenditure
4 limit committee, acting pursuant to RCW 43.135.025(5), (~~shall~~) must
5 increase the state expenditure limit to reflect the shift unless the
6 shifted revenue had previously been shifted from the general fund.

7 (6) For the purposes of chapter 1, Laws of 2008, "raises taxes"
8 means any action or combination of actions by the legislature that
9 increases state tax revenue deposited in any fund, budget, or account,
10 regardless of whether the revenues are deposited into the general fund.

11 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and takes effect
14 June 1, 2010.

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