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HOUSE BILL 2434

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State of Washington

57th Legislature

2002 Regular Session

By Representatives Gombosky, Berkey and Rockefeller; by request of Department of Revenue

Read first time 01/16/2002. Referred to Committee on Finance.

1 AN ACT Relating to revising the tobacco products tax by imposing  
2 the tax upon those persons who acquire tobacco products for resale from  
3 persons who are immune from state tax; amending RCW 82.26.010,  
4 82.26.020, 82.26.025, and 82.26.030; and providing an effective date.

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

6 **Sec. 1.** RCW 82.26.010 and 1995 c 278 s 16 are each amended to read  
7 as follows:

8 As used in this chapter:

9 (1) "Tobacco products" means cigars, cheroots, stogies, periques,  
10 granulated, plug cut, crimp cut, ready rubbed, and other smoking  
11 tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-  
12 cut and other chewing tobaccos, shorts, refuse scraps, clippings,  
13 cuttings and sweepings of tobacco, and other kinds and forms of  
14 tobacco, prepared in such manner as to be suitable for chewing or  
15 smoking in a pipe or otherwise, or both for chewing and smoking, but  
16 shall not include cigarettes as defined in RCW 82.24.010;

17 (2) "Manufacturer" means a person who manufactures and sells  
18 tobacco products;

1 (3) "Distributor" means (a) any person engaged in the business of  
2 selling tobacco products in this state who brings, or causes to be  
3 brought, into this state from without the state any tobacco products  
4 for sale, (b) any person who makes, manufactures, or fabricates tobacco  
5 products in this state for sale in this state, (c) any person engaged  
6 in the business of selling tobacco products without this state who  
7 ships or transports tobacco products to retailers in this state, to be  
8 sold by those retailers, (d) any person engaged in the business of  
9 selling tobacco products in this state who handles for sale any tobacco  
10 products that are within this state but upon which tax has not been  
11 imposed;

12 (4) "Subjobber" means any person, other than a manufacturer or  
13 distributor, who buys tobacco products from a distributor and sells  
14 them to persons other than the ultimate consumers;

15 (5) "Retailer" means any person engaged in the business of selling  
16 tobacco products to ultimate consumers;

17 (6) "Sale" means any transfer, exchange, or barter, in any manner  
18 or by any means whatsoever, for a consideration, and includes and means  
19 all sales made by any person. It includes a gift by a person engaged  
20 in the business of selling tobacco products, for advertising, as a  
21 means of evading the provisions of this chapter, or for any other  
22 purposes whatsoever;

23 (7) "Wholesale sales price" means the established price for which  
24 a manufacturer sells a tobacco product to a distributor, exclusive of  
25 any discount or other reduction;

26 (8) "Business" means any trade, occupation, activity, or enterprise  
27 engaged in for the purpose of selling or distributing tobacco products  
28 in this state;

29 (9) "Place of business" means any place where tobacco products are  
30 sold or where tobacco products are manufactured, stored, or kept for  
31 the purpose of sale or consumption, including any vessel, vehicle,  
32 airplane, train, or vending machine;

33 (10) "Retail outlet" means each place of business from which  
34 tobacco products are sold to consumers;

35 (11) "Department" means the state department of revenue;

36 (12) "Person" means any individual, receiver, administrator,  
37 executor, assignee, trustee in bankruptcy, trust, estate, firm,  
38 copartnership, joint venture, club, company, joint stock company,  
39 business trust, municipal corporation, the state and its departments

1 and institutions, political subdivision of the state of Washington,  
2 corporation, limited liability company, association, society, or any  
3 group of individuals acting as a unit, whether mutual, cooperative,  
4 fraternal, nonprofit, or otherwise. The term excludes any person  
5 immune from state taxation, including the United States or its  
6 instrumentalities, and federally recognized Indian tribes and enrolled  
7 tribal members, conducting business within Indian country;

8 (13) "Indian country" means the same as defined in chapter 82.24  
9 RCW.

10 **Sec. 2.** RCW 82.26.020 and 1993 c 492 s 309 are each amended to  
11 read as follows:

12 (1) There is levied and there shall be collected a tax upon the  
13 sale, use, consumption, handling, or distribution of all tobacco  
14 products in this state at the rate of forty-five percent of the  
15 wholesale sales price of such tobacco products.

16 (2) Taxes under this section shall be imposed at the time the  
17 distributor (a) brings, or causes to be brought, into this state from  
18 without the state tobacco products for sale, (b) makes, manufactures,  
19 or fabricates tobacco products in this state for sale in this state,  
20 ~~((or))~~ (c) ships or transports tobacco products to retailers in this  
21 state, to be sold by those retailers, or (d) handles for sale any  
22 tobacco products that are within this state but upon which tax has not  
23 been imposed.

24 (3) An additional tax is imposed equal to seven percent multiplied  
25 by the tax payable under subsection (1) of this section.

26 (4) An additional tax is imposed equal to ten percent of the  
27 wholesale sales price of tobacco products. The moneys collected under  
28 this subsection shall be deposited in the health services account  
29 created under RCW 43.72.900.

30 **Sec. 3.** RCW 82.26.025 and 1999 c 309 s 926 are each amended to  
31 read as follows:

32 (1) In addition to the taxes imposed under RCW 82.26.020, there is  
33 levied and there shall be collected a tax upon the sale, use,  
34 consumption, handling, or distribution of all tobacco products in this  
35 state at the rate of sixteen and three-fourths percent of the wholesale  
36 sales price of such tobacco products. Such tax shall be imposed at the  
37 time the distributor (a) brings, or causes to be brought, into this

1 state from without the state tobacco products for sale, (b) makes,  
2 manufactures, or fabricates tobacco products in this state for sale in  
3 this state, ~~((or))~~ (c) ships or transports tobacco products to  
4 retailers in this state, to be sold by those retailers, or (d) handles  
5 for sale any tobacco products that are within this state but upon which  
6 tax has not been imposed.

7 (2) The moneys collected under this section shall be deposited as  
8 follows:

9 (a) For the period ending July 1, 1999, in the water quality  
10 account under RCW 70.146.030;

11 (b) For the period beginning July 1, 1999, through June 30, 2001,  
12 fifty percent into the violence reduction and drug enforcement account  
13 under RCW 69.50.520 and fifty percent into the salmon recovery account;

14 (c) For the period beginning July 1, 2001, through June 30, 2021,  
15 into the water quality account under RCW 70.146.030; and

16 (d) For the period beginning July 1, 2021, in the general fund.

17 **Sec. 4.** RCW 82.26.030 and 1961 c 15 s 82.26.030 are each amended  
18 to read as follows:

19 It is the intent and purpose of this chapter to levy a tax on all  
20 tobacco products sold, used, consumed, handled, or distributed within  
21 this state and to collect the tax from the distributor as defined in  
22 RCW 82.26.010. It is the further intent and purpose of this chapter to  
23 impose the tax once, and only once, on all tobacco products for sale in  
24 this state, but nothing in this chapter shall be construed to exempt  
25 any person taxable under any other law or under any other tax imposed  
26 under Title 82 RCW.

27 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2002.

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