**2157-S2 AMH CORR H3088.1 - NOT FOR FLOOR USE**

**2SHB 2157** - H AMD **803**

By Representative Corry

**NOT CONSIDERED 12/23/2019**

On page 33, after line 18, insert the following:

**"Part VII**

**Dedicating New Revenue Growth to a Sales Tax Holiday**

NEW SECTION. **Sec.**  The legislature finds that Washington families pay thousands of dollars in sales and use tax on their purchases of clothing and school supplies in August before the school year begins. The legislature further finds that a recent study has shown that temporarily exempting some of these purchases from sales and use tax would give Washington families a needed tax break and increase sales, which in turn would generate new jobs and more state and local tax revenue. Therefore, it is the legislature's intent to create a "back-to-school" sales tax holiday.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) Subject to the conditions and limitations provided in this section, the tax levied by RCW 82.08.020 does not apply to the sale of the following tangible personal property:

(a) Clothing items; and

(b) School supply items.

(2)(a) A clothing item is exempt under this section if the sales price of the item is less than one hundred dollars.

(b) A school supply item is exempt under this section if the sales price of the item is less than ten dollars.

(3) The exemption authorized in this section only applies to purchases made on the second adjacent Friday, Saturday, and Sunday of August subject to the department's designation of a sales tax holiday in section 705(3) of this act.

(4) Rules adopted by the department for the administration of this section must be substantially consistent with the streamlined sales and use tax agreement, as that term is used in chapter 82.58 RCW.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Clothing item" means human wearing apparel suitable for general use.

(b) "School supply item" means an item commonly used by a student in a course of study.

(6) This section expires January 1, 2030.

NEW SECTION. **Sec.**  A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply to the use of the following tangible personal property:

(a) Clothing items that are not used primarily for business-related activities; and

(b) School supply items that are not used primarily for business-related activities.

(2) The definitions, conditions, and limitations in section 702 of this act apply to this section.

(3) For the purposes of this section, "business" has the meaning provided in RCW 82.04.140 and also includes activities engaged in by a common school, school district, or educational service district.

(4) This section expires January 1, 2030.

**Sec.**  RCW 82.12.040 and 2019 c 8 s 704 are each amended to read as follows:

(1) Every person who is subject to a collection obligation under chapter 82.08 RCW must obtain from the department a certificate of registration. Such persons must, at the time of making sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)(c), or making transfers of either possession or title, or both, of tangible personal property for use in this state, collect from the purchasers or transferees the tax imposed under this chapter. The tax to be collected under this section must be in an amount equal to the purchase price multiplied by the rate in effect for the retail sales tax under RCW 82.08.020. This section does not apply to any retail sale if, in respect to such sale, the seller is subject to a tax collection obligation under chapter 82.08 RCW.

(2) Every person who engages in this state in the business of acting as an independent selling agent for persons who do not hold a valid certificate of registration, and who receives compensation by reason of sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)(c), of his or her principals for use in this state, must, at the time such sales are made, collect from the purchasers the tax imposed on the purchase price under this chapter, and for that purpose is deemed a retailer as defined in this chapter.

(3) The tax required to be collected by this chapter is deemed to be held in trust by the retailer until paid to the department, and any retailer who appropriates or converts the tax collected to the retailer's own use or to any use other than the payment of the tax provided herein to the extent that the money required to be collected is not available for payment on the due date as prescribed is guilty of a misdemeanor. In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay the same to the department in the manner prescribed, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is nevertheless personally liable to the state for the amount of such tax, unless the seller has taken from the buyer a copy of a direct pay permit issued under RCW 82.32.087.

(4) Any retailer who refunds, remits, or rebates to a purchaser, or transferee, either directly or indirectly, and by whatever means, all or any part of the tax levied by this chapter is guilty of a misdemeanor.

(5) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the person would have been obligated to collect retail sales tax on the sale absent a specific exemption provided in chapter 82.08 RCW, and there is no corresponding use tax exemption in this chapter. Nothing in this subsection (5) may be construed as relieving purchasers from liability for reporting and remitting the tax due under this chapter directly to the department.

(6) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the state is prohibited under the Constitution or laws of the United States from requiring the person to collect the tax imposed by this chapter.

(7) Notwithstanding subsections (1) through (4) of this section, any licensed dealer facilitating a firearm sale or transfer between two unlicensed persons by conducting background checks under chapter 9.41 RCW is not obligated to collect the tax imposed by this chapter.

(8) Notwithstanding subsections (1) through (4) of this section, a seller is not obligated to collect the tax imposed by this chapter if the product is exempt from retail sales tax under section 702 of this act, but is not exempt from use tax under section 703 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) Beginning December 1, 2019, and each December 1st thereafter, the department must calculate any increase in retail sales and use tax collections resulting from any changes made to this chapter and chapter 82.12 RCW by the legislature in 2019 as compared to fiscal year 2018.

(2) The department must notify the state treasurer of the amount calculated pursuant to subsection (1) of this section by December 31st and the state treasurer must transfer that amount into the sales tax holiday account created in section 706 of this act.

(3) By July 1st, the department must designate a sales tax holiday if the balance of the sales tax holiday account is at least forty-five million dollars. The department must publish notice of the sales tax holiday in the appropriate mediums, including its web site, and provide notices to retailers.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) The sales tax holiday account is created in the state treasury. Moneys in the account may be spent only after appropriation and may only be used to implement the sales tax holiday in section 705 of this act.

(2) By December 1st of each year in which there is a sales tax holiday as established in section 705 of this act, the department must calculate the amount of revenue that would have been deposited in the state general fund but for that sales tax holiday. The department must notify the state treasurer of the amount calculated under this subsection, and the state treasurer, before January 1st of each year, must transfer that amount from the sales tax holiday account into the general fund."

Renumber the remaining part and sections consecutively and correct any internal references accordingly.

On page 33, line 24, after "IV," strike "and V" and insert "V, and VII"

On page 33, line 25, after "IV," strike "and VI" and insert "VI, and VII"

Correct the title.

EFFECT: Requires all revenue generated as the result of changes to the state retail sales and use tax during 2019 to be deposited in the state back-to-school sales tax holiday account (Account). Directs the Department of Revenue to declare a sales tax holiday for the second weekend in August by July 1 of a year in which the Account has a balance of at least $45 million. Requires the Department to transfer moneys to the state general fund in an amount equal to the foregone sales and use tax revenue from the back-to-school sales tax holiday.