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**SENATE BILL 5223**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Fortunato, Padden, Schoesler, Gildon, and Short

AN ACT Relating to dedicating the sales tax on motor vehicles to highway uses; amending RCW 82.08.020, 82.12.020, and 46.68.090; providing an effective date; and declaring an emergency.

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

**Sec.**  RCW 82.08.020 and 2014 c 140 s 12 are each amended to read as follows:

(1) There is levied and collected a tax equal to six and five-tenths percent of the selling price on each retail sale in this state of:

(a) Tangible personal property, unless the sale is specifically excluded from the RCW 82.04.050 definition of retail sale;

(b) Digital goods, digital codes, and digital automated services, if the sale is included within the RCW 82.04.050 definition of retail sale;

(c) Services, other than digital automated services, included within the RCW 82.04.050 definition of retail sale;

(d) Extended warranties to consumers; and

(e) Anything else, the sale of which is included within the RCW 82.04.050 definition of retail sale.

(2) There is levied and collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection must be deposited in the multimodal transportation account created in RCW 47.66.070.

(3)(a) Beginning July 1, 2003, there is levied and collected an additional tax of three-tenths of one percent of the selling price on each retail sale of a motor vehicle in this state, other than retail car rentals taxed under subsection (2) of this section. The revenue collected under this subsection must be deposited in the multimodal transportation account created in RCW 47.66.070.

(b) For purposes of this subsection (3), "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include:

(i) Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, unless the farm tractor or farm vehicle is for use in the production of marijuana;

(ii) Off-road vehicles as defined in RCW 46.04.365;

(iii) Nonhighway vehicles as defined in RCW 46.09.310; and

(iv) Snowmobiles as defined in RCW 46.04.546.

(4) ((~~For purposes of subsection (3) of this section, "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include:~~

~~(a) Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, unless the farm tractor or farm vehicle is for use in the production of marijuana;~~

~~(b) Off-road vehicles as defined in RCW 46.04.365;~~

~~(c) Nonhighway vehicles as defined in RCW 46.09.310; and~~

~~(d) Snowmobiles as defined in RCW 46.04.546.~~)) (a) Beginning July 1, 2021, all revenue collected under subsection (1) of this section on each new and used retail sale of a vehicle in this state, including private-party sales, but excluding retail car rentals taxed under subsection (2) of this section, must be deposited in the motor vehicle fund. All revenue collected under this subsection may only be used for highway purposes as defined in RCW 46.68.130. For the purposes of this subsection "highway purposes" also includes preservation.

(b) For purposes of this subsection (4), "vehicle" has the meaning provided in RCW 46.04.670 including, but not limited to, passenger vehicles, light trucks, commercial vehicles, travel trailers, recreational vehicles, intermittent use trailers, motorcycles, and campers, but "vehicle" does not include:

(i) Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, unless the farm tractor or farm vehicle is for use in the production of marijuana;

(ii) Off-road vehicles as defined in RCW 46.04.365;

(iii) Nonhighway vehicles as defined in RCW 46.09.310;

(iv) Bicycles as defined in RCW 46.04.071; and

(v) Snowmobiles as defined in RCW 46.04.546.

(5) Beginning on December 8, 2005, 0.16 percent of the taxes collected under subsection (1) of this section must be dedicated to funding comprehensive performance audits required under RCW 43.09.470. The revenue identified in this subsection must be deposited in the performance audits of government account created in RCW 43.09.475.

(6) The taxes imposed under this chapter apply to successive retail sales of the same property.

(7) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

**Sec.**  RCW 82.12.020 and 2017 c 323 s 520 are each amended to read as follows:

(1) There is levied and collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any:

(a) Article of tangible personal property acquired by the user in any manner, including tangible personal property acquired at a casual or isolated sale, and including by-products used by the manufacturer thereof, except as otherwise provided in this chapter, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state;

(b) Prewritten computer software, regardless of the method of delivery, but excluding prewritten computer software that is either provided free of charge or is provided for temporary use in viewing information, or both;

(c) Services defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)(c), excluding services defined as a retail sale in RCW 82.04.050(6)(c) that are provided free of charge;

(d) Extended warranty; or

(e)(i) Digital good, digital code, or digital automated service, including the use of any services provided by a seller exclusively in connection with digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(ii) With respect to the use of digital goods, digital automated services, and digital codes acquired by purchase, the tax imposed in this subsection (1)(e) applies in respect to:

(A) Sales in which the seller has granted the purchaser the right of permanent use;

(B) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(C) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(D) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(iii) With respect to digital goods, digital automated services, and digital codes acquired other than by purchase, the tax imposed in this subsection (1)(e) applies regardless of whether or not the consumer has a right of permanent use or is obligated to make continued payment as a condition of use.

(2) The provisions of this chapter do not apply in respect to the use of any article of tangible personal property, extended warranty, digital good, digital code, digital automated service, or service taxable under RCW 82.04.050 (2) (a) or (g) or (6)(c), if the sale to, or the use by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(3)(a) Except as provided in this section, payment of the tax imposed by this chapter or chapter 82.08 RCW by one purchaser or user of tangible personal property, extended warranty, digital good, digital code, digital automated service, or other service does not have the effect of exempting any other purchaser or user of the same property, extended warranty, digital good, digital code, digital automated service, or other service from the taxes imposed by such chapters.

(b) The tax imposed by this chapter does not apply:

(i) If the sale to, or the use by, the present user or his or her bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by his or her bailor or donor;

(ii) In respect to the use of any article of tangible personal property acquired by bailment and the tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 RCW or this chapter as of the time of first use;

(iii) In respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and the original bailment was prior to June 9, 1961; or

(iv) To the use of digital goods or digital automated services, which were obtained through the use of a digital code, if the sale of the digital code to, or the use of the digital code by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(4)(a) Except as provided in (b) of this subsection (4), the tax is levied and must be collected in an amount equal to the value of the article used, value of the digital good or digital code used, value of the extended warranty used, or value of the service used by the taxpayer, multiplied by the applicable rates in effect for the retail sales tax under RCW 82.08.020.

(b) In the case of a seller required to collect use tax from the purchaser, the tax must be collected in an amount equal to the purchase price multiplied by the applicable rate in effect for the retail sales tax under RCW 82.08.020.

(5) For purposes of the tax imposed in this section, "person" includes anyone within the definition of "buyer," "purchaser," and "consumer" in RCW 82.08.010.

(6)(a) Beginning July 1, 2021, all use tax revenue collected under subsection (1) of this section on the use of each new and used vehicle in this state, but excluding retail car rentals taxed under RCW 82.08.020, must be deposited in the motor vehicle fund. All revenue collected under this subsection may only be used for highway purposes as defined in RCW 46.68.130.

(b) For purposes of this subsection (6):

(i) "Highway purposes" also includes preservation; and

(ii) "Vehicle" has the meaning provided in RCW 46.04.670 including, but not limited to, passenger vehicles, light trucks, commercial vehicles, travel trailers, recreational vehicles, intermittent use trailers, motorcycles, and campers, but "vehicle" does not include:

(A) Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, unless the farm tractor or farm vehicle is for use in the production of marijuana;

(B) Off-road vehicles as defined in RCW 46.04.365;

(C) Nonhighway vehicles as defined in RCW 46.09.310;

(D) Bicycles as defined in RCW 46.04.071; and

(E) Snowmobiles as defined in RCW 46.04.546.

**Sec.**  RCW 46.68.090 and 2015 3rd sp.s. c 44 s 105 are each amended to read as follows:

(1) All moneys that have accrued or may accrue to the motor vehicle fund from the fuel tax and/or the tax imposed under RCW 82.08.020(4) and 82.12.020(6) must be first expended for purposes enumerated in (a) and (b) of this subsection. The remaining net tax amount must be distributed monthly by the state treasurer in accordance with subsections (2) through (8) of this section.

(a) For payment of refunds of fuel tax that has been paid and is refundable as provided by law;

(b) For payment of amounts to be expended pursuant to appropriations for the administrative expenses of the offices of state treasurer, state auditor, and the department of licensing of the state of Washington in the administration of the fuel tax, which sums must be distributed monthly.

(2) All of the remaining net tax amount collected under RCW 82.38.030(1) must be distributed as set forth in (a) through (j) of this subsection.

(a) For distribution to the motor vehicle fund an amount equal to 44.387 percent to be expended for highway purposes of the state as defined in RCW 46.68.130;

(b)(i) For distribution to the special category C account, hereby created in the motor vehicle fund, an amount equal to 3.2609 percent to be expended for special category C projects. Special category C projects are category C projects that, due to high cost only, will require bond financing to complete construction.

(ii) The following criteria, listed in order of priority, must be used in determining which special category C projects have the highest priority:

(A) Accident experience;

(B) Fatal accident experience;

(C) Capacity to move people and goods safely and at reasonable speeds without undue congestion; and

(D) Continuity of development of the highway transportation network.

(iii) Moneys deposited in the special category C account in the motor vehicle fund may be used for payment of debt service on bonds the proceeds of which are used to finance special category C projects under this subsection (2)(b);

(c) For distribution to the Puget Sound ferry operations account in the motor vehicle fund an amount equal to 2.3283 percent;

(d) For distribution to the Puget Sound capital construction account in the motor vehicle fund an amount equal to 2.3726 percent;

(e) For distribution to the transportation improvement account in the motor vehicle fund an amount equal to 7.5597 percent;

(f) For distribution to the transportation improvement account in the motor vehicle fund an amount equal to 5.6739 percent and expended in accordance with RCW 47.26.086;

(g) For distribution to the cities and towns from the motor vehicle fund an amount equal to 10.6961 percent in accordance with RCW 46.68.110;

(h) For distribution to the counties from the motor vehicle fund an amount equal to 19.2287 percent: (i) Out of which there must be distributed from time to time, as directed by the department of transportation, those sums as may be necessary to carry out the provisions of RCW 47.56.725; and (ii) less any amounts appropriated to the county road administration board to implement the provisions of RCW 47.56.725(4), with the balance of such county share to be distributed monthly as the same accrues for distribution in accordance with RCW 46.68.120;

(i) For distribution to the county arterial preservation account, hereby created in the motor vehicle fund an amount equal to 1.9565 percent. These funds must be distributed by the county road administration board to counties in proportions corresponding to the number of paved arterial lane miles in the unincorporated area of each county and must be used for improvements to sustain the structural, safety, and operational integrity of county arterials. The county road administration board must adopt reasonable rules and develop policies to implement this program and to assure that a pavement management system is used;

(j) For distribution to the rural arterial trust account in the motor vehicle fund an amount equal to 2.5363 percent and expended in accordance with RCW 36.79.020.

(3) The remaining net tax amount collected under RCW 82.38.030(2) must be distributed to the transportation 2003 account (nickel account).

(4) The remaining net tax amount collected under RCW 82.38.030(3) must be distributed as follows:

(a) 8.3333 percent must be distributed to the incorporated cities and towns of the state in accordance with RCW 46.68.110;

(b) 8.3333 percent must be distributed to counties of the state in accordance with RCW 46.68.120; and

(c) The remainder must be distributed to the transportation partnership account created in RCW 46.68.290.

(5) The remaining net tax amount collected under RCW 82.38.030(4) must be distributed as follows:

(a) 8.3333 percent must be distributed to the incorporated cities and towns of the state in accordance with RCW 46.68.110;

(b) 8.3333 percent must be distributed to counties of the state in accordance with RCW 46.68.120; and

(c) The remainder must be distributed to the transportation partnership account created in RCW 46.68.290.

(6) The remaining net tax amount collected under RCW 82.38.030 (5) and (6) must be distributed to the transportation partnership account created in RCW 46.68.290.

(7) The remaining net tax amount collected under RCW 82.38.030 (7) and (8) must be distributed to the connecting Washington account created in RCW 46.68.395.

(8) Nothing in this section or in RCW 46.68.130 may be construed so as to violate any terms or conditions contained in any highway construction bond issues now or hereafter authorized by statute and whose payment is by such statute pledged to be paid from any excise taxes on fuel.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2021.

**--- END ---**