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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-2956.2/91 2nd draft

ATTY/TYPIST: LC:kls

BRIEF TITLE:

1 5347-S2 AMH APPE H2956.2

2 **2SSB 5347** - H AMD TO HC COMM AMD (H-2785.1/91)

3 By Representative Appelwick

4

5 On page 9, after line 2, strike section 13 and insert the  
6 following:

7 "NEW SECTION. **Sec. 13.** A new section is added to chapter 43.70  
8 RCW to read as follows:

9 The provisions of this chapter may be funded by the following  
10 sources: Appropriations from the general fund federal; appropriations  
11 from the general fund state; appropriations from the tobacco prevention  
12 account established in section 14 of this act; gifts; private or public  
13 grants; or other appropriate sources."

14 "NEW SECTION. **Sec. 14.** A new section is added to chapter 43.70  
15 RCW to read as follows:

16 The tobacco prevention account is created in the state treasury.  
17 All designated receipts from the taxes imposed by RCW 82.24.020 shall  
18 be deposited into the account. Moneys in the account may be spent only  
19 after appropriation. Expenditures from the account may be used only  
20 for funding services and programs under sections 1 through 12 of this  
21 act."

22 "**Sec. 15.** RCW 82.24.020 and 1989 c 271 s 504 are each amended to  
23 read as follows:

24 (1) There is levied and there shall be collected as hereinafter  
25 provided, a tax upon the sale, use, consumption, handling, possession

1 or distribution of all cigarettes, in an amount equal to the rate of  
2 eleven and one-half mills per cigarette.

3 (2) (~~Until July 1, 1995,~~) An additional tax is imposed upon the  
4 sale, use, consumption, handling, possession, or distribution of all  
5 cigarettes, in an amount equal to the rate of (~~one and~~) one-half  
6 mill(~~s~~) per cigarette. All revenues collected during any month from  
7 this additional tax shall be deposited in the (~~drug enforcement and~~  
8 ~~education account under RCW 69.50.520~~) tobacco prevention account  
9 under section 14 of this act by the twenty-fifth day of the following  
10 month.

11 (3) Wholesalers and retailers subject to the payment of this tax  
12 may, if they wish, absorb one-half mill per cigarette of the tax and  
13 not pass it on to purchasers without being in violation of this section  
14 or any other act relating to the sale or taxation of cigarettes.

15 (4) For purposes of this chapter, "possession" shall mean both (a)  
16 physical possession by the purchaser and, (b) when cigarettes are being  
17 transported to or held for the purchaser or his designee by a person  
18 other than the purchaser, constructive possession by the purchaser or  
19 his designee, which constructive possession shall be deemed to occur at  
20 the location of the cigarettes being so transported or held."

21 "Sec. 16. RCW 82.08.0293 and 1988 c 103 s 1 are each amended to  
22 read as follows:

23 (1) (a) The tax levied by RCW 82.08.020 shall not apply to sales of  
24 food products for human consumption.

25 (b) "Food products" include cereals and cereal products other than  
26 those expressly excluded under (g) or (i) of this subsection,  
27 oleomargarine, meat and meat products including livestock sold for  
28 personal consumption, fish and fish products, eggs and egg products,  
29 vegetables and vegetable products, fruit and fruit products, spices and

1 salt, sugar and sugar products, coffee and coffee substitutes, tea,  
2 cocoa and cocoa products.

3 (c) "Food products" include milk and milk products(~~(, milk shakes,~~  
4 ~~malted milks, and any other similar type beverages which are composed~~  
5 ~~at least in part of milk or a milk product and which require the use of~~  
6 ~~milk or a milk product in their preparation)) other than those  
7 expressly excluded under (h) of this subsection.~~

8 (d) "Food products" include all fruit juices, vegetable juices, and  
9 other beverages except milk shakes, malted milks, bottled water,  
10 spirituous, malt or vinous liquors or carbonated beverages, whether  
11 liquid or frozen.

12 (e) "Food products" do not include medicines and preparations in  
13 liquid, powdered, granular, tablet, capsule, lozenge, and pill form  
14 sold as dietary supplements or adjuncts.

15 (f) "Food products" do not include candy and gum products. "Candy  
16 products" include, but are not limited to loose, bulk, and individually  
17 packaged confections that are commonly considered candy, including hard  
18 candy, caramel, chocolate candy, nuts and fruit coated in natural or  
19 artificial sweeteners, caramel-coated popcorn, licorice, jelly beans,  
20 breath mints, and cotton candy. Confections that are primarily sold for  
21 cooking purposes shall not be considered candy for the purposes of this  
22 section and are not subject to tax. Candy products do not include  
23 sweet bakery products, ice cream or other sweet dairy products, jams,  
24 jellies, preserves, honey, syrup, frosting, breakfast cereals, granola  
25 and other breakfast bars, dried fruit and preparations of fruit in a  
26 sugar or similar base, or candy and chocolate primarily intended for  
27 the preparation or decorating of baked goods. "Gum products" include  
28 all forms of chewing gum, whether sweetened with natural or artificial  
29 sweeteners. Gum products shall not include gum or other products

1 alleged by the manufacturer to contain aspirin, laxative, anti-acidity,  
2 or other medicinal properties.

3 (g) "Food products" do not include fresh or frozen doughnuts,  
4 cakes, cupcakes, cookies, and pies, other than those baked in the  
5 retail store for sale in that store.

6 (h) "Food products" do not include ice cream, ice cream bars, ice  
7 milk and ice milk products, or other products made from natural or  
8 artificial frozen dairy products, milk shakes, malted milk, and similar  
9 beverages made from natural or artificial frozen dairy products, frozen  
10 yogurt and frozen yogurt products, including beverages made with frozen  
11 yogurt, sherbet, popsicles and similar frozen drink bars, frozen fruit  
12 juice bars, frozen pudding, frozen gelatin, or any other similar frozen  
13 dessert that the general consuming public would consider to be an ice  
14 cream or similar product.

15 (i) "Food products" do not include potato chips, corn chips,  
16 tortilla chips, pretzels, puffed cheese, or similar snack products  
17 other than crackers and nuts.

18 (2) The department of revenue, by rule, shall further identify food  
19 items, consistent with subsection (1) (b) through (i) of this section,  
20 that are not included within the definition of "food products" for  
21 purposes of sales tax exemption under this chapter.

22 (3) The exemption of "food products" provided for in subsection (1)  
23 of this section shall not apply: (a) When the food products are  
24 ordinarily sold for immediate consumption on or near a location at  
25 which parking facilities are provided primarily for the use of patrons  
26 in consuming the products purchased at the location, even though such  
27 products are sold on a "takeout" or "to go" order and are actually  
28 packaged or wrapped and taken from the premises of the retailer, or (b)  
29 when the food products are sold for consumption within a place, the  
30 entrance to which is subject to an admission charge, except for

1 national and state parks and monuments, or (c) to a food product, when  
2 sold by the retail vendor, which by law must be handled on the vendor's  
3 premises by a person with a food and beverage service worker's permit  
4 under RCW 69.06.010, including but not be limited to sandwiches  
5 prepared or chicken cooked on the premises, deli trays, home-delivered  
6 pizzas or meals, and salad bars but excluding:

7 (i) Raw meat prepared by persons who slaughter animals, including  
8 fish and fowl, or dress or wrap slaughtered raw meat such as fish  
9 mongers, butchers, or meat wrappers;

10 (ii) Meat and cheese sliced and/or wrapped, in any quantity  
11 determined by the buyer, sold by vendors such as meat markets,  
12 delicatessens, and grocery stores;

13 (iii) Bakeries which only sell baked goods;

14 (iv) Combination bakery businesses, as prescribed by rule of the  
15 department, to the extent that sales of baked goods are separately  
16 accounted for and the baked goods claimed for exemption are not sold as  
17 part of meals or with beverages in unsealed containers; or

18 (v) Bulk food products sold from bins or barrels, including but not  
19 limited to flour, fruits, vegetables, sugar, salt, (~~candy, chips,~~)  
20 and cocoa.

21 ~~((+3))~~ (4) Notwithstanding anything in this section to the  
22 contrary, the exemption of "food products" provided in this section  
23 shall apply to (~~food products~~) all food items which are furnished,  
24 prepared, or served as meals:

25 (a) Under a state administered nutrition program for the aged as  
26 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW  
27 74.38.040(6); or

28 (b) Which are provided to senior citizens, disabled persons, or  
29 low-income persons by a not-for-profit organization organized under  
30 chapter 24.03 or 24.12 RCW.

1       (~~(4)~~) (5) Subsection (1) of this section notwithstanding, the  
2 retail sale of food products and all other food items excluded from the  
3 definition of "food products" under this section is subject to sales  
4 tax under RCW 82.08.020 if (~~the food products are~~) sold through a  
5 vending machine, and in this case the selling price for purposes of RCW  
6 82.08.020 is (~~fifty-seven~~) seventy-five percent of the gross  
7 receipts.

8       This (~~subsection~~) special selling price does not apply to  
9 carbonated beverages or to hot prepared food products, (~~other than~~  
10 ~~food products~~) which are heated after they have been dispensed from  
11 the vending machine.

12       For tax collected under this subsection, the requirements that the  
13 tax be collected from the buyer and that the amount of tax be stated as  
14 a separate item are waived."

15       "**Sec. 17.** RCW 82.12.0293 and 1988 c 103 s 2 are each amended to  
16 read as follows:

17       (1)(a) The provisions of this chapter shall not apply in respect to  
18 the use of food products for human consumption.

19       (b) "Food products" include cereals and cereal products other than  
20 those expressly excluded under (g) or (i) of this subsection,  
21 oleomargarine, meat and meat products including livestock sold for  
22 personal consumption, fish and fish products, eggs and egg products,  
23 vegetables and vegetable products, fruit and fruit products, spices and  
24 salt, sugar and sugar products, coffee and coffee substitutes, tea,  
25 cocoa and cocoa products.

26       (c) "Food products" include milk and milk products(~~, milk shakes,~~  
27 ~~malted milks, and any other similar type beverages which are composed~~  
28 ~~at least in part of milk or a milk product and which require the use of~~

1 ~~milk or a milk product in their preparation))~~ other than those  
2 expressly excluded under (h) of this subsection.

3 (d) "Food products" include all fruit juices, vegetable juices, and  
4 other beverages except milk shakes, malted milks, bottled water,  
5 spirituous, malt or vinous liquors or carbonated beverages, whether  
6 liquid or frozen.

7 (e) "Food products" do not include medicines and preparations in  
8 liquid, powdered, granular, tablet, capsule, lozenge, and pill form  
9 sold as dietary supplements or adjuncts.

10 (f) "Food products" do not include candy and gum products. "Candy  
11 products" include, but are not limited to loose, bulk, and individually  
12 packaged confections that are commonly considered candy, including hard  
13 candy, caramel, chocolate candy, nuts and fruit coated in natural or  
14 artificial sweeteners, caramel-coated popcorn, licorice, jelly beans,  
15 breath mints, and cotton candy. Confections that are primarily sold for  
16 cooking purposes shall not be considered candy for the purposes of this  
17 section and are not subject to tax. Candy products do not include  
18 sweet bakery products, ice cream or other sweet dairy products, jams,  
19 jellies, preserves, honey, syrup, frosting, breakfast cereals, granola  
20 and other breakfast bars, dried fruit and preparations of fruit in a  
21 sugar or similar base, or candy and chocolate primarily intended for  
22 the preparation or decorating of baked goods. "Gum products" include  
23 all forms of chewing gum, whether sweetened with natural or artificial  
24 sweeteners. Gum products shall not include gum or other products  
25 alleged by the manufacturer to contain aspirin, laxative, anti-acidity,  
26 or other medicinal properties.

27 (g) "Food products" do not include fresh or frozen doughnuts,  
28 cakes, cupcakes, cookies, and pies, other than those baked in the  
29 retail store for sale in that store.



1       (h) "Food products" do not include ice cream, ice cream bars, ice  
2 milk and ice milk products, or other products made from natural or  
3 artificial frozen dairy products, milk shakes, malted milk, and similar  
4 beverages made from natural or artificial frozen dairy products, frozen  
5 yogurt and frozen yogurt products, including beverages made with frozen  
6 yogurt, sherbet, popsicles and similar frozen drink bars, frozen fruit  
7 juice bars, frozen pudding, frozen gelatin, or any other similar frozen  
8 dessert that the general consuming public would consider to be an ice  
9 cream or similar product.

10       (i) "Food products" do not include potato chips, corn chips,  
11 tortilla chips, pretzels, puffed cheese, or similar snack products  
12 other than crackers and nuts.

13       (2) The department of revenue, by rule, shall further identify food  
14 items, consistent with subsection (1) (b) through (i) of this section,  
15 that are not included within the definition of "food products" for  
16 purposes of sales tax exemption under this chapter.

17       (3) The exemption of "food products" provided for in subsection (1)  
18 of this section shall not apply: (a) When the food products are  
19 ordinarily sold for immediate consumption on or near a location at  
20 which parking facilities are provided primarily for the use of patrons  
21 in consuming the products purchased at the location, even though such  
22 products are sold on a "takeout" or "to go" order and are actually  
23 packaged or wrapped and taken from the premises of the retailer, or (b)  
24 when the food products are sold for consumption within a place, the  
25 entrance to which is subject to an admission charge, except for  
26 national and state parks and monuments, or (c) to a food product, when  
27 sold by the retail vendor, which by law must be handled on the vendor's  
28 premises by a person with a food and beverage service worker's permit  
29 under RCW 69.06.010, including but not be limited to sandwiches

1 prepared or chicken cooked on the premises, deli trays, home-delivered  
2 pizzas or meals, and salad bars but excluding:

3 (i) Raw meat prepared by persons who slaughter animals, including  
4 fish and fowl, or dress or wrap slaughtered raw meat such as fish  
5 mongers, butchers, or meat wrappers;

6 (ii) Meat and cheese sliced and/or wrapped, in any quantity  
7 determined by the buyer, sold by vendors such as meat markets,  
8 delicatessens, and grocery stores;

9 (iii) Bakeries which only sell baked goods;

10 (iv) Combination bakery businesses, as prescribed by rule of the  
11 department, to the extent that sales of baked goods are separately  
12 accounted for and the baked goods claimed for exemption are not sold as  
13 part of meals or with beverages in unsealed containers; or

14 (v) Bulk food products sold from bins or barrels, including but not  
15 limited to flour, fruits, vegetables, sugar, salt, (~~candy, chips,~~)  
16 and cocoa.

17 (~~(3)~~) (4) Notwithstanding anything in this section to the  
18 contrary, the exemption of "food products" provided in this section  
19 shall apply to (~~food products~~) all food items which are furnished,  
20 prepared, or served as meals:

21 (a) Under a state administered nutrition program for the aged as  
22 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW  
23 74.38.040(6); or

24 (b) Which are provided to senior citizens, disabled persons, or  
25 low-income persons by a not-for-profit organization organized under  
26 chapter 24.03 or 24.12 RCW."

27 "NEW SECTION. Sec. 18. A new section is added to chapter 82.32  
28 RCW to read as follows:

1 (1) The intent of this section is to provide a dedicated revenue  
2 source. Since it is not practical to determine precisely the revenues  
3 derived from the termination of tax exemptions for certain items  
4 excluded from the definition of food products under RCW 82.08.0293(1)  
5 (f), (g), (h), and (i) and 82.12.0293(1) (f), (g), (h), and (i), a  
6 fixed percentage of all sales and use taxes shall be dedicated in lieu  
7 thereof.

8 (2) On or before January 1 of each year, the department of revenue  
9 shall provide the legislature with an updated estimate of the  
10 percentage of sales and use tax revenues attributable to the  
11 termination of tax exemptions for certain items excluded from the  
12 definition of food products under RCW 82.08.0293(1) (f), (g), (h), and  
13 (i) and 82.12.0293(1) (f), (g), (h), and (i).

14 (3) Until July 1, 1995, thirty-two hundredths of one percent of all  
15 receipts from the taxes imposed in RCW 82.08.020 and 82.12.020 shall be  
16 deposited in the drug enforcement and education account under RCW  
17 69.50.520, and sixty-eight hundredths of one percent of all receipts  
18 from the taxes imposed in RCW 82.08.020 and 82.12.020 shall be  
19 deposited in the common school construction fund. On and after July 1,  
20 1995, one percent of all receipts from the taxes imposed in RCW  
21 82.08.020 and 82.12.020 shall be deposited in the common school  
22 construction fund."

23 **"Sec. 19.** RCW 69.50.520 and 1989 c 271 s 401 are each amended to  
24 read as follows:

25 The drug enforcement and education account is created in the state  
26 treasury. All designated receipts from RCW 66.24.210(4), 66.24.290(3),  
27 69.50.505(f)(2)(i)(C), 82.08.150(5), 82.24.020(2), ~~((82.64.020))~~  
28 section 18 of this act, and section 420, chapter 271, Laws of 1989

1 shall be deposited into the account. Expenditures from the account may  
2 be used only for funding services and programs under this act."

3 "NEW SECTION. Sec. 20. This act shall not be construed as  
4 affecting any existing right acquired or liability or obligation  
5 incurred under the sections amended or repealed in this act or under  
6 any rule or order adopted under those sections, nor as affecting any  
7 proceeding instituted under those sections."

8 Renumber the sections consecutively and correct any internal  
9 references accordingly.

10 **2SSB 5347** - H AMD TO HC COMM AMD (H-2785.1/91)  
11 By Representative Appelwick

12  
13 On page 9, line 23 of the title amendment, before "adding" insert  
14 "amending RCW 82.24.020, 82.08.0293, 82.12.0293, and 69.50.520;"

15 On page 9, beginning on line 24 of the title amendment, strike  
16 "adding a new section to chapter 43.70 RCW" and insert "adding new  
17 sections to chapter 43.70 RCW; adding a new section to chapter 82.32  
18 RCW; creating a new section"