

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1359

Chapter 278, Laws of 1995

54th Legislature
1995 Regular Session

CIGARETTE TAX--ADMINISTRATION AND COLLECTION

EFFECTIVE DATE: 7/1/95

Passed by the House March 10, 1995
Yeas 97 Nays 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Passed by the Senate April 23, 1995
Yeas 44 Nays 0

JOEL PRITCHARD

President of the Senate

Approved May 9, 1995

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1359** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN

Chief Clerk

FILED

May 9, 1995 - 3:40 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 1359

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Representatives Van Luven and G. Fisher; by request of Department of Revenue

Read first time 01/23/95. Referred to Committee on Finance.

1 AN ACT Relating to the administration and collection of the
2 cigarette tax; amending RCW 82.24.010, 82.24.030, 82.24.040, 82.24.050,
3 82.24.080, 82.24.090, 82.24.110, 82.24.120, 82.24.230, 82.24.250,
4 82.24.260, and 82.26.010; adding new sections to chapter 82.24 RCW;
5 prescribing penalties; providing an effective date; and declaring an
6 emergency.

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

8 **Sec. 1.** RCW 82.24.010 and 1961 c 15 s 82.24.010 are each amended
9 to read as follows:

10 (~~For the purposes of this chapter,~~) Unless the context clearly
11 requires otherwise ((required by)), the ((context)) definitions in this
12 section apply throughout this chapter:

13 (1) (~~"Wholesaler" means every person who purchases, sells, or~~
14 ~~distributes any one or more of the articles taxed herein to retailers~~
15 ~~for the purpose of resale only;~~) "Cigarette" means any roll for
16 smoking made wholly or in part of tobacco, irrespective of size or
17 shape and irrespective of the tobacco being flavored, adulterated, or
18 mixed with any other ingredient, where such roll has a wrapper or cover

1 made of paper or any material, except where such wrapper is wholly or
2 in the greater part made of natural leaf tobacco in its natural state.

3 (2) "Indian tribal organization" means a federally recognized
4 Indian tribe, or tribal entity, and includes an Indian wholesaler or
5 retailer that is owned by an Indian who is an enrolled tribal member
6 conducting business under tribal license or similar tribal approval
7 within Indian country. For purposes of this chapter "Indian country"
8 is defined in the manner set forth in 18 U.S.C. Sec. 1151.

9 (3) "Precollection obligation" means the obligation of a seller
10 otherwise exempt from the tax imposed by this chapter to collect the
11 tax from that seller's buyer.

12 (4) "Retailer" means every person, other than a wholesaler, who
13 purchases, sells, offers for sale or distributes any one or more of the
14 articles taxed herein, irrespective of quantity or amount, or the
15 number of sales, and all persons operating under a retailer's
16 registration certificate(†).

17 ((+3)) (5) "Retail selling price" means the ordinary, customary or
18 usual price paid by the consumer for each package of cigarettes, less
19 the tax levied by this chapter and less any similar tax levied by this
20 state(†

21 ~~(4) "Cigarette" means any roll for smoking made wholly or in part~~
22 ~~of tobacco, irrespective of size or shape and irrespective of the~~
23 ~~tobacco being flavored, adulterated, or mixed with any other~~
24 ~~ingredient, where such roll has a wrapper or cover made of paper or any~~
25 ~~material, except where such wrapper is wholly or in the greater part~~
26 ~~made of natural leaf tobacco in its natural state;†).~~

27 ((+5)) (6) "Stamp" means the stamp or stamps ((or—meter
28 impressions)) by use of which the tax levy under this chapter is
29 paid(†) or identification is made of those cigarettes with respect to
30 which no tax is imposed.

31 ((+6)) (7) "Wholesaler" means every person who purchases, sells,
32 or distributes any one or more of the articles taxed herein to
33 retailers for the purpose of resale only.

34 (8) The meaning attributed, in chapter 82.04 RCW, to the words
35 "person," "sale," "business" and "successor" ((shall apply)) applies
36 equally in ((the provisions of)) this chapter.

37 **Sec. 2.** RCW 82.24.030 and 1990 c 216 s 1 are each amended to read
38 as follows:

1 (1) In order to enforce collection of the tax hereby levied, the
2 department of revenue shall design and have printed stamps of such size
3 and denominations as may be determined by the department(~~(, such)~~).
4 The stamps ((to)) must be affixed on the smallest container or package
5 that will be handled, sold, used, consumed, or distributed, to permit
6 the department to readily ascertain by inspection, whether or not such
7 tax has been paid or whether an exemption from the tax applies.

8 (2) Except as otherwise provided in this chapter, every person
9 shall cause to be affixed on every package of cigarettes, stamps of an
10 amount equaling the tax due thereon or stamps identifying the
11 cigarettes as exempt before he or she sells, offers for sale, uses,
12 consumes, handles, removes, or otherwise disturbs and distributes the
13 same: PROVIDED, That where it is established to the satisfaction of
14 the department that it is impractical to affix such stamps to the
15 smallest container or package, the department may authorize the
16 affixing of stamps of appropriate denomination to a large container or
17 package.

18 (~~The department may authorize the use of meter stamping machines~~
19 ~~for imprinting stamps, which imprinted stamps shall be in lieu of those~~
20 ~~otherwise provided for under this chapter, and if such use is~~
21 ~~authorized, shall provide reasonable rules and regulations with respect~~
22 ~~thereto.))~~

23 **Sec. 3.** RCW 82.24.040 and 1990 c 216 s 2 are each amended to read
24 as follows:

25 (1) No wholesaler in this state may possess within this state
26 unstamped cigarettes except that:

27 (~~(1)~~) (a) Every wholesaler in the state who is licensed under
28 Washington state law may possess within this state unstamped cigarettes
29 for such period of time after receipt as is reasonably necessary to
30 affix the stamps as required; and

31 (~~(2)~~) (b) Any wholesaler in the state who is licensed under
32 Washington state law and who furnishes a surety bond in a sum
33 satisfactory to the department, shall be permitted to set aside,
34 without affixing the stamps required by this chapter, such part of
35 (~~his~~) the wholesaler's stock as may be necessary for the conduct of
36 (~~his~~) the wholesaler's business in making sales to persons in another
37 state or foreign country(~~(,)~~) or to instrumentalities of the federal
38 government(~~(, or to the established governing bodies of any Indian~~

1 ~~tribe, recognized as such by the United States Department of the~~
2 ~~Interior)).~~ Such unstamped stock shall be kept separate and apart from
3 stamped stock.

4 ~~((3))~~ (2) Every wholesaler licensed under Washington state law
5 shall, at the time of shipping or delivering any of the articles taxed
6 herein to a point outside of this state(~~(7)~~) or to a federal
7 instrumentality(~~(7, or to an Indian tribal organization)~~), make a true
8 duplicate invoice of the same which shall show full and complete
9 details of the sale or delivery, whether or not stamps were affixed
10 thereto, and shall transmit such true duplicate invoice to the ~~((main~~
11 ~~office of the))~~ department, at Olympia, not later than the fifteenth
12 day of the following calendar month(~~(7, and)~~). For failure to comply
13 with the requirements of this section, the department may revoke the
14 permission granted to the taxpayer to maintain a stock of goods to
15 which the stamps required by this chapter have not been affixed. ~~((The~~
16 ~~department may also revoke this permission to maintain a stock of~~
17 ~~unstamped goods for sale to a specific Indian tribal organization when~~
18 ~~it appears that sales of unstamped cigarettes to persons who are not~~
19 ~~enrolled members of a recognized Indian tribe are taking place, or have~~
20 ~~taken place, within the exterior boundaries of the reservation occupied~~
21 ~~by that tribe.))~~

22 (3) Every wholesaler who is licensed by Washington state law shall
23 sell cigarettes to retailers located in Washington only if the retailer
24 has a current cigarette retailer's license or is an Indian tribal
25 organization authorized to possess untaxed cigarettes under this
26 chapter and the rules adopted by the department.

27 **Sec. 4.** RCW 82.24.050 and 1990 c 216 s 3 are each amended to read
28 as follows:

29 No retailer in this state may possess unstamped cigarettes within
30 this state ~~((unless the retailer is licensed under Washington state law~~
31 ~~and, within a period of time after receipt of any of the articles taxed~~
32 ~~herein as is reasonably necessary for the purpose, causes the same to~~
33 ~~have the requisite denomination and amount of stamps affixed to~~
34 ~~represent the tax imposed herein: PROVIDED, That those articles to~~
35 ~~which stamps have been properly affixed by a wholesaler or another~~
36 ~~retailer, licensed under Washington state law, may be retained by any~~
37 ~~retailer, and that those articles intended for sale to qualified~~
38 ~~purchasers may, under rules adopted by the department of revenue, be~~

1 retained by federal instrumentalities and Indian tribal organizations,
2 without affixing the stamps required by)) except as provided in this
3 chapter.

4 **Sec. 5.** RCW 82.24.080 and 1993 c 492 s 308 are each amended to
5 read as follows:

6 (1) It is the intent and purpose of this chapter to levy a tax on
7 all of the articles taxed under this chapter, sold, used, consumed,
8 handled, possessed, or distributed within this state and to collect the
9 tax from the person who first sells, uses, consumes, handles, possesses
10 (either physically or constructively, in accordance with RCW 82.24.020)
11 or distributes them in the state. It is further the intent and purpose
12 of this chapter that whenever any of the articles taxed under this
13 chapter is given away for advertising or any other purpose, it shall be
14 taxed in the same manner as if it were sold, used, consumed, handled,
15 possessed, or distributed in this state.

16 (2) It is also the intent and purpose of this chapter that the tax
17 shall be imposed at the time and place of the first taxable event
18 (~~occurring~~) and upon the first taxable person within this state. Any
19 person whose activities would otherwise require payment of the tax
20 imposed by subsection (1) of this section but who is exempt from the
21 tax nevertheless has a precollection obligation for the tax that must
22 be imposed on the first taxable event within this state. A
23 precollection obligation may not be imposed upon a person exempt from
24 the tax who sells, distributes, or transfers possession of cigarettes
25 to another person who, by law, is exempt from the tax imposed by this
26 chapter or upon whom the obligation for collection of the tax may not
27 be imposed. Failure to pay the tax with respect to a taxable event
28 shall not prevent tax liability from arising by reason of a subsequent
29 taxable event.

30 (3) In the event of an increase in the rate of the tax imposed
31 under this chapter, it is the intent of the legislature that the first
32 person who sells, uses, consumes, handles, possesses, or distributes
33 previously taxed articles after the effective date of the rate increase
34 shall be liable for the additional tax, or its precollection obligation
35 as required by this chapter, represented by the rate increase(~~but~~).
36 The failure to pay the additional tax with respect to the first taxable
37 event after the effective date of a rate increase shall not prevent tax

1 liability for the additional tax from arising from a subsequent taxable
2 event.

3 **Sec. 6.** RCW 82.24.090 and 1975 1st ex.s. c 278 s 62 are each
4 amended to read as follows:

5 (1) Every wholesaler or retailer subject to the provisions of this
6 chapter shall keep and preserve for a period of five years an accurate
7 set of records(~~(, showing))~~). These records must show all transactions
8 ((had with reference)) relating to the purchase and sale of any of the
9 articles taxed ((herein and such persons shall also keep separately))
10 under this chapter and show all physical inventories performed on those
11 articles, all invoices, and ((shall keep)) a record of all stamps
12 purchased(~~(, and))~~). All such records and all stock of taxable articles
13 on hand shall be open to inspection at all reasonable times by the
14 department of revenue or its duly authorized agent.

15 (2) All wholesalers shall within fifteen days after the first day
16 of each month file with the department of revenue a report of all drop
17 shipment sales made by them to retailers within this state during the
18 preceding month(~~(, which))~~). The report shall show the name and address
19 of the retailer to whom the cigarettes were sold, the kind and
20 quantity, and the date of delivery thereof.

21 **Sec. 7.** RCW 82.24.110 and 1990 c 216 s 4 are each amended to read
22 as follows:

23 (1) Each of the following acts is a gross misdemeanor and
24 punishable as such:

25 (a) To sell, except as a licensed wholesaler (~~(or licensed~~
26 ~~retailer)) engaged in interstate commerce as to the article being taxed~~
27 herein, without the stamp first being affixed;

28 (b) To sell in Washington as a wholesaler to a retailer who does
29 not possess and is required to possess a current cigarette retailer's
30 license;

31 (c) To use or have in possession knowingly or intentionally any
32 forged or counterfeit stamps;

33 ~~((e))~~ (d) For any person other than the department of revenue or
34 its duly authorized agent to sell any stamps not affixed to any of the
35 articles taxed herein whether such stamps are genuine or counterfeit;

36 ~~((d))~~ (e) To violate any of the provisions of this chapter;

1 ~~((e))~~ (f) To violate any lawful rule ~~((or regulation))~~ made and
2 published by the department of revenue;

3 ~~((f))~~ (g) To use any stamps more than once;

4 ~~((g))~~ (h) To refuse to allow the department of revenue or ~~((any))~~
5 its duly authorized agent ~~((thereof))~~, on demand, to make full
6 inspection of any place of business where any of the articles herein
7 taxed are sold or otherwise hinder or prevent such inspection;

8 ~~((h))~~ (i) Except as provided in this chapter, for any retailer~~((~~
9 ~~except one permitted to maintain an unstamped stock to engage in~~
10 ~~interstate business as provided herein,))~~ to have in possession in any
11 place of business any of the articles herein taxed, unless the same
12 have the proper stamps attached;

13 ~~((i))~~ (j) For any person to make, use, or present or exhibit to
14 the department of revenue or ~~((any))~~ its duly authorized agent
15 ~~((thereof))~~, any invoice for any of the articles herein taxed which
16 bears an untrue date or falsely states the nature or quantity of the
17 goods therein invoiced;

18 ~~((j))~~ (k) For any wholesaler or retailer or his or her agents or
19 employees to fail to produce on demand of the department of revenue all
20 invoices of all the articles herein taxed or stamps bought by him or
21 her or received in his or her place of business within five years prior
22 to such demand unless he or she can show by satisfactory proof that the
23 nonproduction of the invoices was due to causes beyond his or her
24 control;

25 ~~((k))~~ (l) For any person to receive in this state any shipment of
26 any of the articles taxed herein, when the same are not stamped, for
27 the purpose of avoiding payment of tax. It is presumed that persons
28 other than dealers who purchase or receive shipments of unstamped
29 cigarettes do so to avoid payment of the tax imposed herein;

30 ~~((l))~~ (m) For any person to possess or transport ~~((upon the~~
31 ~~public highways, roads, or streets of))~~ in this state a quantity of
32 sixty thousand cigarettes or less unless the proper stamps required by
33 this chapter have been affixed or unless: (i) Notice of the possession
34 or transportation has been given as required by RCW 82.24.250; (ii) the
35 person transporting the cigarettes has in actual possession invoices or
36 delivery tickets ~~((therefor))~~ which show the true name and address of
37 the consignor or seller, the true name and address of the consignee or
38 purchaser, and the quantity and brands of the cigarettes so
39 transported; and ~~((unless))~~ (iii) the cigarettes are consigned to or

1 purchased by any person in this state who is (~~a purchaser or~~
2 ~~consignee~~) authorized by this chapter to possess unstamped cigarettes
3 in this state.

4 (2) It is unlawful for any person knowingly or intentionally to
5 possess or to transport (~~upon the public highways, roads, or streets~~
6 ~~of~~) in this state a quantity in excess of sixty thousand cigarettes
7 unless the proper stamps required by this chapter are affixed thereto
8 or unless: (a) Proper notice as required by RCW 82.24.250 has been
9 given; (b) the person transporting the cigarettes actually possesses
10 invoices or delivery tickets showing the true name and address of the
11 consignor or seller, the true name and address of the consignee or
12 purchaser, and the quantity and brands of the cigarettes so
13 transported; and (c) the cigarettes are consigned to or purchased by a
14 person in this state who is authorized by this chapter to possess
15 unstamped cigarettes in this state. Violation of this section shall be
16 punished as a class C felony under Title 9A RCW.

17 (3) All agents, employees, and others who aid, abet, or otherwise
18 participate in any way in the violation of the provisions of this
19 chapter or in any of the offenses described in this chapter shall be
20 guilty and punishable as principals, to the same extent as any
21 wholesaler or retailer or any other person violating (~~the provisions~~
22 ~~thereof~~) this chapter.

23 **Sec. 8.** RCW 82.24.120 and 1990 c 267 s 1 are each amended to read
24 as follows:

25 (1) If any person, subject to the provisions of this chapter or any
26 rules (~~and regulations promulgated~~) adopted by the department of
27 revenue under authority hereof, is found to have failed to affix the
28 stamps required, or to have them affixed as herein provided, or to pay
29 any tax due hereunder, or to have violated any of the provisions of
30 this chapter or rules (~~and regulations promulgated~~) adopted by the
31 department of revenue in the administration hereof, there shall be
32 assessed and collected from such person, in addition to any tax that
33 may be found due, a remedial penalty equal to the greater of ten
34 dollars per package of unstamped cigarettes or two hundred fifty
35 dollars, plus interest thereon at the rate (~~of one percent for each~~
36 ~~thirty days or portions thereof~~) as computed under RCW 82.32.050(2)
37 from the date the tax became due, and upon notice mailed to the last
38 known address of the person (~~said~~). The amount shall become due and

1 payable in ~~((ten))~~ thirty days from the date of the notice. If the
2 amount remains unpaid, ~~((at which time))~~ the department or its duly
3 authorized agent may make immediate demand upon such person for the
4 payment of all such taxes ~~((and)),~~ penalties, and interest.

5 (2) The department, for good reason shown, may remit all or any
6 part of penalties imposed, but the taxpayer must pay all taxes due and
7 interest thereon, at the rate ~~((of one percent for each thirty days or
8 portion thereof))~~ as computed under RCW 82.32.050(2) from the date the
9 tax became due.

10 (3) The keeping of any unstamped articles coming within the
11 provisions of this chapter shall be prima facie evidence of intent to
12 violate the provisions of this chapter.

13 (4) This section does not apply to taxes or tax increases due under
14 sections 12 and 13 of this act.

15 **Sec. 9.** RCW 82.24.230 and 1961 c 15 s 82.24.230 are each amended
16 to read as follows:

17 All of the provisions contained in chapter 82.32 RCW shall have
18 full force and application with respect to taxes imposed under the
19 provisions of this chapter, except the following sections ~~((thereof))~~:
20 RCW 82.32.050, 82.32.060, 82.32.070, 82.32.100, and 82.32.270, except
21 as noted otherwise in sections 12 and 13 of this act.

22 **Sec. 10.** RCW 82.24.250 and 1990 c 216 s 6 are each amended to read
23 as follows:

24 (1) No person other than ~~((+1))~~; (a) A licensed wholesaler in
25 ~~((its))~~ the wholesaler's own vehicle~~((+))~~; or ~~((+2))~~ (b) a person who
26 has given notice to the department in advance of the commencement of
27 transportation shall transport or cause to be transported in this state
28 cigarettes not having the stamps affixed to the packages or
29 containers ~~((, upon the public highways, roads or streets of this state.~~
30 ~~In the case of transportation of))~~.

31 (2) When transporting unstamped cigarettes, such persons shall have
32 in their actual possession or cause to have in the actual possession of
33 those persons transporting such cigarettes on their behalf invoices or
34 delivery tickets for such cigarettes, which shall show the true name
35 and address of the consignor or seller, the true name and address of
36 the consignee or purchaser, and the quantity and brands of the
37 cigarettes so transported.

1 (3) If the cigarettes are consigned to or purchased by any person
2 in this state such purchaser or consignee must be a person who is
3 authorized by chapter 82.24 RCW to possess unstamped cigarettes in this
4 state.

5 (4) In the absence of the notice of transportation required by this
6 section or in the absence of such invoices or delivery tickets, or, if
7 the name or address of the consignee or purchaser is falsified or if
8 the purchaser or consignee is not a person authorized by chapter 82.24
9 RCW to possess unstamped cigarettes, the cigarettes so transported
10 shall be deemed contraband subject to seizure and sale under the
11 provisions of RCW 82.24.130.

12 (5) Transportation of cigarettes from a point outside this state to
13 a point in some other state will not be considered a violation of this
14 section provided that the person so transporting such cigarettes has in
15 his possession adequate invoices or delivery tickets which give the
16 true name and address of such out-of-state seller or consignor and such
17 out-of-state purchaser or consignee.

18 (6) In any case where the department or its duly authorized agent,
19 or any peace officer of the state, has knowledge or reasonable grounds
20 to believe that any vehicle is transporting cigarettes in violation of
21 this section, the department, such agent, or such police officer, is
22 authorized to stop such vehicle and to inspect the same for contraband
23 cigarettes.

24 (7) For purposes of this section, the term "person authorized by
25 chapter 82.24 RCW to possess unstamped cigarettes" (~~shall~~) means:

26 (a) A wholesaler or retailer, licensed under Washington state
27 law((~~7~~))i

28 (b) The United States or an agency thereof((~~7~~))i and

29 (c) Any person, including an Indian tribal organization
30 ((authorized under rules adopted by the department of revenue to
31 possess unstamped cigarettes)), who, after notice has been given to the
32 department as provided in this section, brings or causes to be brought
33 into the state unstamped cigarettes, if within a period of time after
34 receipt of the cigarettes as the department determines by rule to be
35 reasonably necessary for the purpose the person has caused stamps to be
36 affixed in accordance with RCW 82.24.030 or otherwise made payment of
37 the tax required by this chapter in the manner set forth in rules
38 adopted by the department.

1 **Sec. 11.** RCW 82.24.260 and 1987 c 80 s 3 are each amended to read
2 as follows:

3 ~~((Any retailer who sells or otherwise disposes of any unstamped~~
4 ~~cigarettes))~~ (1) Other than ((+1)):

5 (a) A person required to be licensed under this chapter;

6 (b) A federal instrumentality with respect to sales to authorized
7 military personnel ((and (2) a federally recognized)); or

8 (c) An Indian tribal organization with respect to sales to enrolled
9 members of the tribe,

10 a person who is in lawful possession of unstamped cigarettes and who
11 intends to sell or otherwise dispose of the cigarettes shall ((collect
12 from the buyer or transferee thereof the tax imposed on such buyer or
13 transferee by this chapter and remit the same to the department after
14 deducting)) pay, or satisfy its precollection obligation that is
15 imposed by this chapter, the tax required by this chapter by remitting
16 the tax or causing stamps to be affixed in the manner provided in rules
17 adopted by the department.

18 (2) When stamps are required to be affixed, the person may deduct
19 from the tax collected the compensation ((he would have been entitled
20 to)) allowable under ((the provisions of)) this chapter ((if he had
21 affixed stamps to the unstamped cigarettes. Such)). The remittance or
22 the affixing of stamps shall, in the case of cigarettes obtained in the
23 manner set forth in RCW 82.24.250(7)(c), be made at the same time and
24 manner as ((remittances of the retail sales tax as required under
25 chapters 82.08 and 82.32 RCW. In the event the retailer fails to
26 collect the tax from the buyer or transferee, or fails to remit the
27 same, the retailer shall be personally liable therefor, and shall be
28 subject to the administrative provisions of RCW 82.24.230 with respect
29 to the collection thereof by the department)) required in RCW
30 82.24.250(7)(c). ((The provisions of))

31 (3) This section shall not relieve the buyer or possessor of
32 unstamped cigarettes from personal liability for the tax imposed by
33 this chapter.

34 (4) Nothing in this section shall relieve a wholesaler or a
35 retailer from the requirements of affixing stamps pursuant to RCW
36 82.24.040 and 82.24.050.

37 NEW SECTION. Sec. 12. A new section is added to chapter 82.24 RCW
38 to read as follows:

1 (1) All cigarettes taxed under this chapter that are given away for
2 advertising or other purposes are not required to have the state tax
3 stamp affixed. Instead, the manufacturer of the cigarettes shall pay
4 the tax on a monthly tax return to be supplied by the department.

5 (2) The tax is due on or before the twenty-fifth day of the month
6 following the month in which the taxable activities, that is the
7 providing of cigarette samples, occur. If not paid by the due date,
8 interest applies to any unpaid tax or penalty. Interest shall be
9 calculated at the rate as computed under RCW 82.32.050(2) from the date
10 the tax became due.

11 (3) If upon examination of any returns or from other information
12 obtained by the department it appears that a tax or penalty has been
13 paid less than that properly due, the department shall assess against
14 the taxpayer the additional amount found to be due. The department
15 shall notify the taxpayer by mail of the additional amount due,
16 including any applicable penalties and interest. The tax payer shall
17 pay the additional amount within thirty days from the date of the
18 notice, or within such further time as the department may provide.

19 (4) All the cigarettes must evidence the payment of the tax by
20 having printed on their packages wording to the following effect:
21 "Complimentary, not for sale, all applicable state taxes paid by
22 manufacturer."

23 (5) All of chapter 82.32 RCW applies to taxes due under this
24 section except: RCW 82.32.050(1) and 82.32.270.

25 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.24 RCW
26 to read as follows:

27 (1) Any additional tax liability arising from a tax rate increase
28 under this chapter shall be paid, along with reports and returns
29 prescribed by the department, on or before the last day of the month in
30 which the increase becomes effective.

31 (2) If not paid by the due date, interest shall apply to any unpaid
32 tax or penalty. Interest shall be calculated at the rate as computed
33 under RCW 82.32.050(2) from the date the tax became due.

34 (3) If upon examination of any returns or from other information
35 obtained by the department it appears that a tax or penalty has been
36 paid less than that properly due, the department shall assess against
37 the taxpayer such additional amount found to be due. The department
38 shall notify the taxpayer by mail of the additional amount due,

1 including any applicable penalties and interest. The taxpayer shall
2 pay the additional amount within thirty days from the date of the
3 notice, or within such further time as the department may provide.

4 (4) All of chapter 82.32 RCW applies to tax rate increases except:
5 RCW 82.32.050(1) and 82.32.270.

6 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.24 RCW
7 to read as follows:

8 The taxes imposed by this chapter do not apply to the sale of
9 cigarettes to:

10 (1) United States army, navy, air force, marine corps, or coast
11 guard exchanges and commissaries and navy or coast guard ships' stores;

12 (2) The United States veterans' administration; or

13 (3) Any authorized purchaser from the federal instrumentalities
14 named in subsection (1) or (2) of this section.

15 NEW SECTION. **Sec. 15.** A new section is added to chapter 82.24 RCW
16 to read as follows:

17 The department may adopt such rules as are necessary to enforce and
18 administer this chapter.

19 **Sec. 16.** RCW 82.26.010 and 1975 1st ex.s. c 278 s 70 are each
20 amended to read as follows:

21 As used in this chapter:

22 (1) "Tobacco products" means cigars, cheroots, stogies, periques,
23 granulated, plug cut, crimp cut, ready rubbed, and other smoking
24 tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-
25 cut and other chewing tobaccos, shorts, refuse scraps, clippings,
26 cuttings and sweepings of tobacco, and other kinds and forms of
27 tobacco, prepared in such manner as to be suitable for chewing or
28 smoking in a pipe or otherwise, or both for chewing and smoking, but
29 shall not include cigarettes as defined in RCW 82.24.010(~~(4)~~);

30 (2) "Manufacturer" means a person who manufactures and sells
31 tobacco products;

32 (3) "Distributor" means (a) any person engaged in the business of
33 selling tobacco products in this state who brings, or causes to be
34 brought, into this state from without the state any tobacco products
35 for sale, (b) any person who makes, manufactures, or fabricates tobacco
36 products in this state for sale in this state, (c) any person engaged

1 in the business of selling tobacco products without this state who
2 ships or transports tobacco products to retailers in this state, to be
3 sold by those retailers;

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

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

9 (6) "Sale" means any transfer, exchange, or barter, in any manner
10 or by any means whatsoever, for a consideration, and includes and means
11 all sales made by any person. It includes a gift by a person engaged
12 in the business of selling tobacco products, for advertising, as a
13 means of evading the provisions of this chapter, or for any other
14 purposes whatsoever.

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

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

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

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

27 (11) "Department" means the state department of revenue.

28 NEW SECTION. **Sec. 17.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and shall take
31 effect July 1, 1995.

Passed the House March 10, 1995.

Passed the Senate April 23, 1995.

Approved by the Governor May 9, 1995.

Filed in Office of Secretary of State May 9, 1995.