
HOUSE BILL 1087

State of Washington

59th Legislature

2005 Regular Session

By Representatives McIntire, Sommers and Dickerson; by request of Governor Locke

Read first time 01/13/2005. Referred to Committee on Finance.

1 AN ACT Relating to imposing a tax on the privilege of handling
2 carbonated beverages for sale; adding a new chapter to Title 82 RCW;
3 providing an effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) Unless the context clearly requires
6 otherwise, the definitions in this section apply throughout this
7 chapter.

8 (a) "Carbonated beverage," otherwise known as "soda pop," means any
9 packaged nonalcoholic liquid intended for human consumption that
10 contains carbon dioxide and syrup, whether carbonation is obtained by
11 natural or artificial means. "Packaged" includes cans, bottles, or
12 other similar containers.

13 (b) "Handling" or "handle" means having control of the carbonated
14 beverage within this state and includes both actual and constructive
15 handling of the beverage. "Actual handling" occurs when the person
16 with control has physical possession over the beverage. "Constructive
17 handling" occurs when the person with control does not have physical
18 possession over the beverage. "Control" means the power to sell
19 carbonated beverage or to authorize the sale by another.

1 (c) "Previously taxed carbonated beverage" means a carbonated
2 beverage in respect to which a tax has been paid under this chapter.

3 (d) "Retailer" means a person who makes sales at retail.

4 (e) "Syrup" means the concentrated mixture in either liquid or
5 powdered form that contains sugar or a sugar substitute and that is an
6 ingredient used to make carbonated beverages.

7 (f) "Wholesaler" means a person making sales at wholesale.

8 (2) The definitions in chapters 82.04, 82.08, and 82.12 RCW apply
9 to this chapter.

10 NEW SECTION. **Sec. 2.** (1) A tax is imposed on the privilege of
11 handling for sale a carbonated beverage in this state. The rate of the
12 tax shall be equal to forty-two one-hundredths cents per ounce.
13 Fractional amounts shall be taxed proportionately.

14 (2) Chapter 82.32 RCW applies to the tax imposed in this chapter.
15 The tax due dates, reporting periods, and return requirements
16 applicable to chapter 82.04 RCW apply equally to the tax imposed in
17 this chapter.

18 (3)(a) It is the intent of the legislature that the tax be imposed
19 on the privilege of handling for sale carbonated beverages in this
20 state, to impose such tax on the first handling of the carbonated
21 beverage in this state, and to impose the tax only once. It is the
22 legislature's expectation that in most instances the imposition of tax
23 will be at the wholesale level.

24 (b) If tax under this chapter has not been paid with respect to a
25 carbonated beverage, the department may collect the tax from any other
26 person who handles the carbonated beverage. If tax is paid by any
27 person other than the person subject to tax under this chapter, the
28 amount of tax paid constitutes a debt owed by the person subject to tax
29 to the person who paid the tax.

30 (c) If the person who first handles for sale a carbonated beverage
31 is not subject to tax by the state, the tax is imposed on the first
32 person handling for sale the carbonated beverage who is subject to tax
33 by the state.

34 (d) In no instance may the tax be imposed upon a person who buys as
35 a consumer.

36 (4)(a) Every person who sells carbonated beverages to persons other
37 than the ultimate consumer shall provide with each sale an itemized

1 invoice showing the seller's name and address, the purchaser's name and
2 address, the date of sale, and shall separately state the amount of tax
3 paid on any carbonated beverages. The seller shall preserve legible
4 copies of all such invoices for five years from the date of sale.

5 (b) Every retailer shall procure itemized invoices of all
6 carbonated beverages purchased. The invoices shall show the name and
7 address of the seller, the date of purchase, and shall separately state
8 the amount of tax paid on any carbonated beverages. The retailer shall
9 preserve a legible copy of all such invoices for five years from the
10 date of purchase.

11 (c) Invoices shall be available for inspection by the department at
12 the wholesaler's or retailer's place of business.

13 (d) Notwithstanding (a) and (b) of this subsection, if a person
14 subject to tax makes both retail and wholesale sales of carbonated
15 beverages, the department may provide special instructions regarding
16 invoices for such person and its customers.

17 (5) Moneys collected under this chapter shall be deposited into the
18 health services account in accordance with RCW 43.72.900.

19 NEW SECTION. **Sec. 3.** The following are exempt from the tax
20 imposed in this chapter:

21 (1) Any successive handling of a previously taxed carbonated
22 beverage;

23 (2) The handling of any carbonated beverage that is shipped or
24 transported to a point outside the state for sale outside the state;
25 and

26 (3) Any handling of a carbonated beverage where the first handling
27 in this state occurred before the effective date of this section.

28 NEW SECTION. **Sec. 4.** (1) Credit shall be allowed against taxes
29 imposed in this chapter for any carbonated beverage tax paid to another
30 state with respect to the same carbonated beverage. The amount of the
31 credit shall not exceed the tax liability arising under this chapter
32 with respect to the handling of that carbonated beverage.

33 (2) For the purpose of this section:

34 (a) "Carbonated beverage tax" means a tax:

35 (i) That is imposed on the privilege of handling for sale

1 carbonated beverages and that is not generally imposed on other
2 activities or privileges; and

3 (ii) That is measured by the volume of the carbonated beverage.

4 (b) "State" means (i) a state of the United States other than
5 Washington, or any political subdivision of such other state; (ii) the
6 District of Columbia; (iii) any foreign country or political
7 subdivision thereof; and (iv) any federally recognized Indian tribe.

8 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and takes effect
11 June 1, 2005.

12 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
13 a new chapter in Title 82 RCW.

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