
HOUSE BILL 2211

State of Washington

59th Legislature

2005 Regular Session

By Representative Kagi

Read first time 02/23/2005. Referred to Committee on Finance.

1 AN ACT Relating to the excise taxation of toxic shot; adding a new
2 section to chapter 77.12 RCW; 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) "Handling" or "handle" means having control of the toxic shot
9 within this state and includes both actual and constructive handling of
10 the shot. "Actual handling" occurs when the person with control has
11 physical possession over the shot. "Constructive handling" occurs when
12 the person with control does not have physical possession over the
13 shot. "Control" means the power to sell toxic shot or to authorize the
14 sale by another.

15 (b) "Previously taxed toxic shot" means toxic shot in respect to
16 which a tax has been paid under this chapter.

17 (c) "Retailer" means a person who makes sales at retail.

18 (d) "Toxic shot" means shot ammunition, either packaged in shells
19 or loose, that contains more than one percent lead, by weight.

1 (e) "Wholesaler" means a person making sales at wholesale.

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

4 NEW SECTION. **Sec. 2.** (1) A tax is imposed on the privilege of
5 handling toxic shot for sale in this state. The rate of the tax shall
6 be equal to twenty-four cents per ounce of toxic shot. Fractional
7 amounts shall be taxed proportionately.

8 (2) Chapter 82.32 RCW applies to the tax imposed in this chapter.
9 The tax due dates, reporting periods, and return requirements
10 applicable to chapter 82.04 RCW apply equally to the tax imposed in
11 this chapter.

12 (3)(a) It is the intent of the legislature that the tax be imposed
13 on the privilege of handling toxic shot for sale in this state, to
14 impose such tax on the first handling of the toxic shot in this state,
15 and to impose the tax only once. It is the legislature's expectation
16 that in most instances the imposition of tax will be at the wholesale
17 level.

18 (b) If tax under this chapter has not been paid with respect to
19 toxic shot, the department may collect the tax from any other person
20 who handles the toxic shot. If tax is paid by any person other than
21 the person subject to tax under this chapter, the amount of tax paid
22 constitutes a debt owed by the person subject to tax to the person who
23 paid the tax.

24 (c) If the person who first handles toxic shot for sale is not
25 subject to tax by the state, the tax is imposed on the first person
26 handling toxic shot for sale who is subject to tax by the state.

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

29 (4)(a) Every person who sells toxic shot to persons other than the
30 ultimate consumer shall provide with each sale an itemized invoice
31 showing the seller's name and address, the purchaser's name and
32 address, the date of sale, and shall separately state the amount of tax
33 paid on any toxic shot. The seller shall preserve legible copies of
34 all such invoices for five years from the date of sale.

35 (b) Every retailer shall procure itemized invoices of all toxic
36 shot purchased. The invoices shall show the name and address of the

1 seller, the date of purchase, and shall separately state the amount of
2 tax paid on any toxic shot. The retailer shall preserve a legible copy
3 of all such invoices for five years from the date of purchase.

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

6 (d) Notwithstanding (a) and (b) of this subsection, if a person
7 subject to tax makes both retail and wholesale sales of toxic shot, the
8 department may provide special instructions regarding invoices for such
9 person and its customers.

10 (5) Moneys collected under this chapter shall be deposited into the
11 wild swan recovery account created in section 5 of this act.

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

14 (1) Any successive handling of a previously taxed toxic shot;

15 (2) The handling of any toxic shot that is shipped or transported
16 to a point outside the state for sale outside the state; and

17 (3) Any handling of any toxic shot where the first handling in this
18 state occurred before the effective date of this section.

19 NEW SECTION. **Sec. 4.** (1) Credit shall be allowed against taxes
20 imposed in this chapter for any toxic shot tax paid to another state
21 with respect to the same toxic shot. The amount of the credit shall
22 not exceed the tax liability arising under this chapter with respect to
23 the handling of that toxic shot.

24 (2) For the purpose of this section:

25 (a) "Toxic shot tax" means a tax:

26 (i) That is imposed on the privilege of handling for sale toxic
27 shot and that is not generally imposed on other activities or
28 privileges; and

29 (ii) That is measured by the weight of the toxic shot.

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

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 77.12 RCW
35 to read as follows:

1 The wild swan recovery account is created in the custody of the
2 state treasurer. All receipts from section 2 of this act must be
3 deposited into the account. Expenditures from the account may be used
4 only for the removal of toxic shot from areas that have been
5 contaminated with shot. Only the director of the department of fish
6 and wildlife or the director's designee may authorize expenditures from
7 the account. The account is subject to allotment procedures under
8 chapter 43.88 RCW, but an appropriation is not required for
9 expenditures.

10 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 June 1, 2005.

14 NEW SECTION. **Sec. 7.** Sections 1 through 4 of this act constitute
15 a new chapter in Title 82 RCW.

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