

**ESSB 5974** - H AMD TO H AMD (H-2869.1/22) **1266**

By Representative Barkis

**NOT ADOPTED 03/01/2022**

1 On page 1, after line 2, insert the following:

2 "NEW SECTION. **Sec. 1.** 2022 c ... (ESSB 5693) s 710 (uncodified)  
3 is repealed.

4 **Sec. 2.** RCW 82.08.020 and 2014 c 140 s 12 are each amended to  
5 read as follows:

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

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

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

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

16 (d) Extended warranties to consumers; and

17 (e) Anything else, the sale of which is included within the RCW  
18 82.04.050 definition of retail sale.

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

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

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

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

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

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

6 (iv) Snowmobiles as defined in RCW 46.04.546.

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

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

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

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

15 ~~(d) Snowmobiles as defined in RCW 46.04.546.)~~ (a) Beginning July

16 1, 2022, and every year thereafter, 50 percent of all revenue  
17 collected under subsection (1) of this section on each new and used  
18 retail sale of a vehicle in this state, including private party  
19 sales, but excluding retail car rentals taxed under subsection (2) of  
20 this section, must be deposited into the motor vehicle fund.

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

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

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

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

31 (iv) Bicycles as defined in RCW 46.04.071; and

32 (v) Snowmobiles as defined in RCW 46.04.546.

33 (5) Beginning on December 8, 2005, 0.16 percent of the taxes  
34 collected under subsection (1) of this section must be dedicated to  
35 funding comprehensive performance audits required under RCW  
36 43.09.470. The revenue identified in this subsection must be  
37 deposited in the performance audits of government account created in  
38 RCW 43.09.475.

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

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

3 **Sec. 3.** RCW 82.12.020 and 2017 c 323 s 520 are each amended to  
4 read as follows:

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

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

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

18 (c) Services defined as a retail sale in RCW 82.04.050 (2) (a) or  
19 (g) or (6)(c), excluding services defined as a retail sale in RCW  
20 82.04.050(6)(c) that are provided free of charge;

21 (d) Extended warranty; or

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

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

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

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

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

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

37 (iii) With respect to digital goods, digital automated services,  
38 and digital codes acquired other than by purchase, the tax imposed in  
39 this subsection (1)(e) applies regardless of whether or not the

1 consumer has a right of permanent use or is obligated to make  
2 continued payment as a condition of use.

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

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

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

20 (i) If the sale to, or the use by, the present user or his or her  
21 bailor or donor has already been subjected to the tax under chapter  
22 82.08 RCW or this chapter and the tax has been paid by the present  
23 user or by his or her bailor or donor;

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

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

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

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

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

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

14 (6) Beginning July 1, 2022, and every year thereafter, 50 percent  
15 of all use tax revenue collected under subsection (1) of this section  
16 on the use of each new and used vehicle in this state, but excluding  
17 retail car rentals taxed under RCW 82.08.020, must be deposited into  
18 the motor vehicle fund."

19 Correct the title.

20 On page 126, line 1, after "Sections" insert "1 through 3,"

EFFECT: Eliminates the proposed \$2 billion transfer from the General Fund—State to the Multimodal Transportation Account—State. Beginning in fiscal year 2023, deposits 50 percent of all sales and use tax revenue collected on the sale or use of new and used motor vehicles into the Motor Vehicle Fund.

FISCAL IMPACT: Reduces Multimodal Transportation Account—State over 16 years by \$2 billion. Increases Motor Vehicle Account—State over 16 years by \$10.8 billion.

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