

SHB 2257 - H AMD 1507

By Representative Berg

NOT CONSIDERED 03/12/2026

1 On page 2, at the beginning of line 16, insert "inhaled,"

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3 On page 23, beginning on line 26, strike all of section 5 and
4 insert the following:

5 "Sec. 5. RCW 82.04.288 and 2025 c 420 s 201 are each amended to
6 read as follows:

7 (1) Beginning January 1, 2026, in addition to all other taxes
8 imposed under this chapter, persons must pay a surcharge on
9 Washington taxable income over \$250,000,000 in a calendar year.

10 (2) The rate of the tax is 0.5 percent of the amount of
11 Washington taxable income over \$250,000,000.

12 (3)(a) Any Washington taxable income subject to the tax in RCW
13 82.04.29004 is exempt from the surcharge imposed in this section.

14 (b)(i) Any Washington taxable income subject to the
15 manufacturing tax rates in RCW 82.04.240, 82.04.2404, 82.04.241,
16 82.04.260, 82.04.2602, 82.04.287, 82.04.2909, or 82.04.294(1) is
17 exempt from the surcharge imposed in this section.

18 (ii) Any Washington taxable income attributable to the wholesale
19 or retail sale of products so manufactured by a person subject to
20 the manufacturing tax rates specified in (b)(i) of this subsection
21 (3) is exempt from the surcharge imposed in this section.

22 (iii) Any Washington taxable income attributable to retail sales
23 that are exempt from the imposition of sales tax in RCW 82.08.0293,
24 82.08.0297, and 82.08.0281 is exempt from the surcharge imposed in
25 this section.

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1 (iv) Any Washington taxable income subject to the tax rates in
2 RCW 82.04.260(12) is exempt from the surcharge imposed in this
3 section.

4 (v) Any Washington taxable income attributable to wholesale
5 sales of food and food ingredients, as defined in RCW 82.08.0293, is
6 exempt from the surcharge imposed in this section provided that it
7 is sold by a wholesaler that is not affiliated with either the
8 retailer or manufacturer, or both, of such food and food
9 ingredients. The exemption in this subsection (3)(b)(iv) does not
10 apply to Washington taxable income attributable to the wholesale
11 sale of soft drinks, bottled water, or dietary supplements, as
12 defined in RCW 81.08.0293(2).

13 (vi) Any Washington taxable income attributable to the wholesale
14 or retail sale of petroleum products by a person who is both located
15 in a state other than Washington and the owner of such materials
16 processed for it in Washington by an affiliated processor for hire
17 subject to the rate in RCW 82.04.280(1)(c), is exempt from the
18 surcharge imposed in this section. For the purposes of this
19 subsection (3)(b)((+v)) (vi), ((the following definitions apply:

20 (A) "Affiliated" means a person that directly or indirectly,
21 through one or more intermediaries, controls, is controlled by, or
22 is under common control with another person;

23 (B) "Control" means the possession, directly or indirectly, of
24 more than 50 percent of the power to direct or cause the direction
25 of the management and policies of a person, whether through the
26 ownership of voting shares, by contract, or otherwise; and

27 (C) "Petroleum" "petroleum product" has the same meaning as in
28 RCW 82.21.020.

29 (4)(a) The surcharge imposed under this section does not apply
30 to taxable income for which a credit is allowed under RCW 82.04.440.

31 (b) The surcharge imposed under this section does not apply to a
32 person engaged in business primarily as a farmer or eligible
33 apiarist as defined in RCW 82.04.213.

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1 (c) The surcharge imposed under this section does not apply to a
2 person subject to the tax imposed pursuant to RCW 82.04.299.

3 (d) The surcharge imposed under this section does not apply to
4 taxable income for wholesale and retail transactions of fuel as
5 defined in RCW 82.38.020.

6 (5) Any income that is exempt from the surcharge imposed under
7 this section is not included in the calculation of Washington
8 taxable income in subsection (1) of this section.

9 (6) For the purposes of this section, the following definitions
10 apply:

11 (a) "Affiliated" means a person that directly or indirectly,
12 through one or more intermediaries, controls, is controlled by, or is
13 under common control with another person;

14 (b) "Control" means the possession, directly or indirectly, of
15 more than 50 percent of the power to direct or cause the direction of
16 the management and policies of a person, whether through the ownership
17 of voting shares, by contract, or otherwise.

18 (7) This section expires December 31, 2029."

EFFECT: Adds a nicotine product that is inhaled to the definition of alternative nicotine product. Requires wholesalers whose gross receipts from the wholesaling of food and food ingredients are exempted from the business and occupation 0.5 percent surcharge implemented in ESHB 2081, to not be affiliated with either the retailer or manufacturer of the food and food ingredients. Moves the definition subsection to the bottom of the section.

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