
HOUSE BILL 1199

State of Washington

54th Legislature

1995 Regular Session

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

Read first time 01/17/95. Referred to Committee on Finance.

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

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

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

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

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

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

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

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

15 ~~((3))~~ (5) "Retail selling price" means the ordinary, customary or
16 usual price paid by the consumer for each package of cigarettes, less
17 the tax levied by this chapter and less any similar tax levied by this
18 state(†

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

25 ~~((5))~~ (6) "Stamp" means the stamp or stamps ((or meter
26 impressions)) by use of which the tax levy under this chapter is
27 paid(†) or identification is made of those cigarettes with respect to
28 which no tax is imposed.

29 ~~((6))~~ (7) "Wholesaler" means every person who purchases, sells,
30 or distributes any one or more of the articles taxed herein to
31 retailers for the purpose of resale only.

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

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

37 (1) In order to enforce collection of the tax hereby levied, the
38 department of revenue shall design and have printed stamps of such size

1 and denominations as may be determined by the department (~~(, such)~~).
2 The stamps ((to)) must be affixed on the smallest container or package
3 that will be handled, sold, used, consumed, or distributed, to permit
4 the department to readily ascertain by inspection, whether or not such
5 tax has been paid or whether an exemption from the tax applies.

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

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

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

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

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

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

1 Interior)). Such unstamped stock shall be kept separate and apart from
2 stamped stock.

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

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

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

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

1 ~~without affixing the stamps required by))~~ except as provided in this
2 chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 authorized agent may make immediate demand upon such person for the
2 payment of all such taxes ~~((and))~~, penalties, and interest.

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

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

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

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

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

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

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

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

36 (3) If the cigarettes are consigned to or purchased by any person
37 in this state such purchaser or consignee must be a person who is

1 authorized by chapter 82.24 RCW to possess unstamped cigarettes in this
2 state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (1) All cigarettes taxed under this chapter that are given away for
38 advertising or other purposes are not required to have the state tax

1 stamp affixed. Instead, the manufacturer of the cigarettes shall pay
2 the tax on a monthly tax return to be supplied by the department.

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

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

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

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

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

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

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

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

1 pay the additional amount within thirty days from the date of the
2 notice, or within such further time as the department may provide.

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

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

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

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

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

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

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

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

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

20 As used in this chapter:

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

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

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

1 ships or transports tobacco products to retailers in this state, to be
2 sold by those retailers;

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

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

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

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

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

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

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

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

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

--- END ---