
HOUSE BILL 1740

State of Washington

53rd Legislature

1993 Regular Session

By Representative Appelwick

Read first time 02/08/93. Referred to Committee on Revenue.

1 AN ACT Relating to taxes enacted in chapter 271, Laws of 1989,
2 known as the Omnibus Alcohol and Controlled Substances Act; amending
3 RCW 82.64.050, 66.24.210, 66.24.290, 82.08.150, and 82.24.020; adding
4 a new section to chapter 82.64 RCW; repealing RCW 82.64.900;
5 prescribing penalties; providing an effective date; and declaring an
6 emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.64 RCW
9 to read as follows:

10 Whoever, excepting as expressly authorized by this chapter,
11 refunds, remits, or rebates to a buyer, either directly or indirectly
12 and by whatever means, all or any part of the tax levied by this
13 chapter, or makes in any form of advertising, verbal or otherwise, any
14 statements that might infer that he or she is absorbing the tax or
15 paying the tax for the buyer by an adjustment of prices, or at a price
16 including the tax, or in any other manner whatsoever, is guilty of a
17 misdemeanor. The violation of this section by any person holding a
18 license granted by the state or any political subdivision of the state
19 is sufficient grounds for the cancellation of the license of such

1 person upon written notification by the department of revenue to the
2 proper officer of the department granting the license that such person
3 has violated the provisions of this section. Before any license is
4 canceled under this section, the licensee is entitled to a hearing
5 before the department granting the license under such rules as the
6 department may prescribe.

7 **Sec. 2.** RCW 82.64.050 and 1991 c 80 s 4 are each amended to read
8 as follows:

9 (1) The tax imposed in RCW 82.64.020(1) shall be paid by the buyer
10 to the wholesaler and each wholesaler shall collect from the buyer the
11 full amount of the tax payable in respect to each taxable sale, unless
12 the wholesaler is prohibited from collecting the tax from the buyer
13 under the Constitution of this state or the Constitution or laws of the
14 United States. Regardless of the obligation to collect the tax from
15 the buyer, the wholesaler is liable to the state for the amount of the
16 tax. The tax imposed in RCW 82.64.020(2) shall be paid by the
17 retailer. The buyer is not obligated to pay or report to the
18 department the taxes imposed in RCW 82.64.020.

19 (2) The tax required to be collected by the wholesaler shall be
20 stated separately from the selling price in any sales invoice or other
21 instrument of sale.

22 (3) Any wholesaler who fails or refuses to collect tax under this
23 section, with intent to violate the provisions of this chapter or to
24 gain some advantage or benefit, either direct or indirect, and any
25 buyer who refuses to pay tax under this section, is guilty of a
26 misdemeanor.

27 (4) The amount of tax required to be collected under this section
28 shall constitute a debt from the buyer to the wholesaler until paid by
29 the buyer to the wholesaler.

30 **Sec. 3.** RCW 66.24.210 and 1991 c 192 s 3 are each amended to read
31 as follows:

32 (1) There is hereby imposed upon all wines sold to wine wholesalers
33 and the Washington state liquor control board, within the state a tax
34 at the rate of twenty and one-fourth cents per liter: PROVIDED,
35 HOWEVER, That wine sold or shipped in bulk from one winery to another
36 winery shall not be subject to such tax. The tax provided for in this
37 section may, if so prescribed by the board, be collected by means of

1 stamps to be furnished by the board, or by direct payments based on
2 wine purchased by wine wholesalers. Every person purchasing wine under
3 the provisions of this section shall on or before the twentieth day of
4 each month report to the board all purchases during the preceding
5 calendar month in such manner and upon such forms as may be prescribed
6 by the board, and with such report shall pay the tax due from the
7 purchases covered by such report unless the same has previously been
8 paid. Any such purchaser of wine whose applicable tax payment is not
9 postmarked by the twentieth day following the month of purchase will be
10 assessed a penalty at the rate of two percent a month or fraction
11 thereof. If this tax be collected by means of stamps, every such
12 person shall procure from the board revenue stamps representing the tax
13 in such form as the board shall prescribe and shall affix the same to
14 the package or container in such manner and in such denomination as
15 required by the board and shall cancel the same prior to the delivery
16 of the package or container containing the wine to the purchaser. If
17 the tax is not collected by means of stamps, the board may require that
18 every such person shall execute to and file with the board a bond to be
19 approved by the board, in such amount as the board may fix, securing
20 the payment of the tax. If any such person fails to pay the tax when
21 due, the board may forthwith suspend or cancel the license until all
22 taxes are paid.

23 (2) An additional tax is imposed equal to the rate specified in RCW
24 82.02.030 multiplied by the tax payable under subsection (1) of this
25 section. All revenues collected during any month from this additional
26 tax shall be transferred to the state general fund by the twenty-fifth
27 day of the following month.

28 (3) An additional tax is imposed on wines subject to tax under
29 subsection (1) of this section, at the rate of one-fourth of one cent
30 per liter for wine sold after June 30, 1987. Such additional tax shall
31 cease to be imposed on July 1, 1993. All revenues collected under this
32 subsection (3) shall be disbursed quarterly to the Washington wine
33 commission for use in carrying out the purposes of chapter 15.88 RCW.

34 (4) (~~Until July 1, 1995,~~) An additional tax is imposed on all
35 wine subject to tax under subsection (1) of this section. The
36 additional tax is equal to twenty-three and forty-four one-hundredths
37 cents per liter on fortified wine as defined in RCW 66.04.010(34) when
38 bottled or packaged by the manufacturer and one cent per liter on all
39 other wine. All revenues collected during any month from this

1 additional tax shall be deposited in the drug enforcement and education
2 account under RCW 69.50.520 by the twenty-fifth day of the following
3 month.

4 **Sec. 4.** RCW 66.24.290 and 1989 c 271 s 502 are each amended to
5 read as follows:

6 (1) Any brewer or beer wholesaler licensed under this title may
7 sell and deliver beer to holders of authorized licenses direct, but to
8 no other person, other than the board; and every such brewer or beer
9 wholesaler shall report all sales to the board monthly, pursuant to the
10 regulations, and shall pay to the board as an added tax for the
11 privilege of manufacturing and selling the beer within the state a tax
12 of two dollars and sixty cents per barrel of thirty-one gallons on
13 sales to licensees within the state and on sales to licensees within
14 the state of bottled and canned beer shall pay a tax computed in
15 gallons at the rate of two dollars and sixty cents per barrel of
16 thirty-one gallons. Any brewer or beer wholesaler whose applicable tax
17 payment is not postmarked by the twentieth day following the month of
18 sale will be assessed a penalty at the rate of two percent per month or
19 fraction thereof. Each such brewer or wholesaler shall procure from
20 the board revenue stamps representing such tax in form prescribed by
21 the board and shall affix the same to the barrel or package in such
22 manner and in such denominations as required by the board, and shall
23 cancel the same prior to commencing delivery from his place of business
24 or warehouse of such barrels or packages. Beer shall be sold by
25 brewers and wholesalers in sealed barrels or packages. The revenue
26 stamps herein provided for need not be affixed and canceled in the
27 making of resales of barrels or packages already taxed by the
28 affixation and cancellation of stamps as provided in this section.

29 (2) An additional tax is imposed equal to the rate specified in RCW
30 82.02.030 multiplied by the tax payable under subsection (1) of this
31 section. All revenues collected during any month from this additional
32 tax shall be transferred to the state general fund by the twenty-fifth
33 day of the following month.

34 (3) (~~Until July 1, 1995,~~) An additional tax is imposed on all
35 beer subject to tax under subsection (1) of this section. The
36 additional tax is equal to two dollars per barrel of thirty-one
37 gallons. All revenues collected during any month from this additional

1 tax shall be deposited in the drug enforcement and education account
2 under RCW 69.50.520 by the twenty-fifth day of the following month.

3 (4) The tax imposed under this section shall not apply to "strong
4 beer" as defined in this title.

5 **Sec. 5.** RCW 82.08.150 and 1989 c 271 s 503 are each amended to
6 read as follows:

7 (1) There is levied and shall be collected a tax upon each retail
8 sale of spirits, or strong beer in the original package at the rate of
9 fifteen percent of the selling price. The tax imposed in this
10 subsection shall apply to all such sales including sales by the
11 Washington state liquor stores and agencies, but excluding sales to
12 class H licensees.

13 (2) There is levied and shall be collected a tax upon each sale of
14 spirits, or strong beer in the original package at the rate of ten
15 percent of the selling price on sales by Washington state liquor stores
16 and agencies to class H licensees.

17 (3) There is levied and shall be collected an additional tax upon
18 each retail sale of spirits in the original package at the rate of one
19 dollar and seventy-two cents per liter. The additional tax imposed in
20 this subsection shall apply to all such sales including sales by
21 Washington state liquor stores and agencies, and including sales to
22 class H licensees.

23 (4) An additional tax is imposed equal to the rate specified in RCW
24 82.02.030 multiplied by the taxes payable under subsections (1), (2),
25 and (3) of this section.

26 (5) (~~Until July 1, 1995,~~) An additional tax is imposed upon each
27 retail sale of spirits in the original package at the rate of seven
28 cents per liter. The additional tax imposed in this subsection shall
29 apply to all such sales including sales by Washington state liquor
30 stores and agencies, and including sales to class H licensees. All
31 revenues collected during any month from this additional tax shall be
32 deposited in the drug enforcement and education account under RCW
33 69.50.520 by the twenty-fifth day of the following month.

34 (6) The tax imposed in RCW 82.08.020, as now or hereafter amended,
35 shall not apply to sales of spirits or strong beer in the original
36 package.

37 (7) The taxes imposed in this section shall be paid by the buyer to
38 the seller, and each seller shall collect from the buyer the full

1 amount of the tax payable in respect to each taxable sale under this
2 section. The taxes required by this section to be collected by the
3 seller shall be stated separately from the selling price and for
4 purposes of determining the tax due from the buyer to the seller, it
5 shall be conclusively presumed that the selling price quoted in any
6 price list does not include the taxes imposed by this section.

7 (8) As used in this section, the terms, "spirits," "strong beer,"
8 and "package" shall have the meaning ascribed to them in chapter 66.04
9 RCW.

10 **Sec. 6.** RCW 82.24.020 and 1989 c 271 s 504 are each amended to
11 read as follows:

12 (1) There is levied and there shall be collected as hereinafter
13 provided, a tax upon the sale, use, consumption, handling, possession
14 or distribution of all cigarettes, in an amount equal to the rate of
15 eleven and one-half mills per cigarette.

16 (2) (~~Until July 1, 1995,~~) An additional tax is imposed upon the
17 sale, use, consumption, handling, possession, or distribution of all
18 cigarettes, in an amount equal to the rate of one and one-half mills
19 per cigarette. All revenues collected during any month from this
20 additional tax shall be deposited in the drug enforcement and education
21 account under RCW 69.50.520 by the twenty-fifth day of the following
22 month.

23 (3) Wholesalers and retailers subject to the payment of this tax
24 may, if they wish, absorb one-half mill per cigarette of the tax and
25 not pass it on to purchasers without being in violation of this section
26 or any other act relating to the sale or taxation of cigarettes.

27 (4) For purposes of this chapter, "possession" shall mean both (a)
28 physical possession by the purchaser and, (b) when cigarettes are being
29 transported to or held for the purchaser or his designee by a person
30 other than the purchaser, constructive possession by the purchaser or
31 his designee, which constructive possession shall be deemed to occur at
32 the location of the cigarettes being so transported or held.

33 NEW SECTION. **Sec. 7.** RCW 82.64.900 and 1989 c 271 s 509 are each
34 repealed.

35 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take
2 effect July 1, 1993.

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