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HOUSE BILL 1732

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Cairnes, Radcliff, Alexander, Mielke, L. Thomas, Chandler, Smith, Zellinsky and Delvin

Read first time 02/06/97. Referred to Committee on Finance.

1 AN ACT Relating to tax exemptions for cigarettes to be consumed on  
2 vessels engaged in the commercial fishery in waters of states not  
3 contiguous with Washington state; amending RCW 82.24.290 and 82.24.040;  
4 adding a new section to chapter 82.08 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** Under existing state law, sales of  
7 cigarettes to be consumed by persons fishing in waters outside of the  
8 state of Washington are subject to state tax if delivery is taken in  
9 the state of Washington. It is the intent of the legislature to grant  
10 an exemption from retail sales tax and from cigarette tax, for sales of  
11 cigarettes to be consumed on vessels actively engaged in a commercial  
12 fishery in waters of states noncontiguous with the state of Washington.  
13 The purpose of this exemption is to acknowledge the unusual inventory  
14 supply characteristics of this specific industry and to assure that  
15 this type of taxpayer is not subjected to tax by more than one state on  
16 the same transaction. These exemptions do not affect the business and  
17 occupation tax obligations of the cigarette seller.

1        NEW SECTION.    **Sec. 2.** A new section is added to chapter 82.08 RCW  
2 to read as follows:

3        (1) The tax levied by RCW 82.08.020 does not apply to sales of  
4 cigarettes that are exempt under RCW 82.24.290(2).

5        (2) A person claiming an exemption under this section must present  
6 the seller with an exemption certificate. The exemption certificate  
7 used under RCW 82.24.290(2) shall be used for the exemption under this  
8 section.

9        **Sec. 3.** RCW 82.24.290 and 1995 c 278 s 14 are each amended to read  
10 as follows:

11        (1) The taxes imposed by this chapter do not apply to the sale of  
12 cigarettes to:

13        ~~((1))~~ (a) United States army, navy, air force, marine corps, or  
14 coast guard exchanges and commissaries and navy or coast guard ships'  
15 stores;

16        ~~((2))~~ (b) The United States veterans' administration; or

17        ~~((3))~~ (c) Any authorized purchaser from the federal  
18 instrumentalities named in (a) or (b) of this subsection ~~((1) or (2)~~  
19 of this section).

20        (2)(a) The taxes imposed by this chapter do not apply to the sale  
21 of cigarettes to an owner or operator of a fishing vessel or to an  
22 agent of such owner or operator if:

23        (i) The fishing vessel is engaged in a fishery in the waters of a  
24 state noncontiguous to the state of Washington;

25        (ii) The cigarettes are consumed by crew members of the fishing  
26 vessel and consumption occurs in the waters of the noncontiguous state;

27        (iii) The fishing vessel has a current commercial fishing license  
28 from the noncontiguous state in which the fishing vessel engages in the  
29 fishery;

30        (iv) Tax has been or will be paid on the cigarettes in the  
31 noncontiguous state in which the vessel is engaged in the fishery; and

32        (v) Delivery of the cigarettes is taken at the eligible fishing  
33 vessel if the fishing vessel is located in Washington state or is to an  
34 agent of the owner or operator of the fishing vessel and delivery is to  
35 the location from which the cigarettes will be transported to the  
36 noncontiguous state or is to the owner or operator of the fishing  
37 vessel and delivery is made by the seller or seller's agent.



1 Dated . . . . ., 19. . . .

2 \_\_\_\_\_  
3 (Purchaser)

4 By \_\_\_\_\_  
5 (Title - Officer or Agent)

6 Seller's Department of Revenue Registration No. . . . .

7 Seller's Commercial Invoice No. . . . .

8 **Sec. 4.** RCW 82.24.040 and 1995 c 278 s 3 are each amended to read  
9 as follows:

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

12 (a) Every wholesaler in the state who is licensed under Washington  
13 state law may possess within this state unstamped cigarettes for such  
14 period of time after receipt as is reasonably necessary to affix the  
15 stamps as required; and

16 (b) Any wholesaler in the state who is licensed under Washington  
17 state law and who furnishes a surety bond in a sum satisfactory to the  
18 department, shall be permitted to set aside, without affixing the  
19 stamps required by this chapter, such part of the wholesaler's stock as  
20 may be necessary for the conduct of the wholesaler's business in making  
21 sales to persons in another state or foreign country or to  
22 instrumentalities of the federal government. Such unstamped stock  
23 shall be kept separate and apart from stamped stock.

24 (2) Every wholesaler licensed under Washington state law shall, at  
25 the time of shipping or delivering any of the articles taxed or exempt  
26 herein to a point outside of this state or to a federal instrumentality  
27 or to an authorized recipient of exempt cigarettes, make a true  
28 duplicate invoice of the same which shall show full and complete  
29 details of the sale or delivery, whether or not stamps were affixed  
30 thereto, and shall transmit such true duplicate invoice to the  
31 department, at Olympia, not later than the fifteenth day of the  
32 following calendar month. For failure to comply with the requirements  
33 of this section, the department may revoke the permission granted to  
34 the taxpayer to maintain a stock of goods to which the stamps required  
35 by this chapter have not been affixed.

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

6           NEW SECTION. **Sec. 5.** This act applies retroactively to cigarettes  
7 sold after December 31, 1996.

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