CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1327

55th Legislature 1997 Regular Session

Passed by the House April 21, 1997 CERTIFICATE Yeas 83 Nays 15 I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify Speaker of the that the attached is **ENGROSSED** SUBSTITUTE HOUSE BILL 1327 as passed House of Representatives by the House of Representatives and the Senate on the dates hereon set Passed by the Senate April 14, 1997 forth. Yeas 31 Nays 16 President of the Senate Chief Clerk Approved FILED

Governor of the State of Washington

Secretary of State

State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 1327

Passed Legislature - 1997 Regular Session

AS AMENDED BY THE SENATE

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Finance (originally sponsored by Representatives Huff, Carrell, Quall, Mulliken, Morris, Linville, Ogden, Dunshee, B. Thomas, Johnson, Conway, Sheldon, Grant, Mastin, D. Schmidt, Robertson, Kessler, Skinner, Boldt, Lisk, Mielke, Dickerson, L. Thomas, O'Brien, Hatfield, Kenney, Gardner, Cooke, Costa, Ballasiotes, Thompson, Koster, Lantz, Mason, Schoesler, Dunn, Alexander and Anderson)

Read first time 03/10/97.

- 1 AN ACT Relating to reimbursing sellers for sales tax collection
- 2 costs; amending RCW 82.08.050; adding a new section to chapter 82.04
- 3 RCW; providing an effective date; and declaring an emergency.
- 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 5 **Sec. 1.** RCW 82.08.050 and 1993 sp.s. c 25 s 704 are each amended 6 to read as follows:
- 7 (1)(a) The tax hereby imposed shall be paid by the buyer to the
- 8 seller, and each seller shall collect from the buyer the full amount of
- 9 the tax payable in respect to each taxable sale in accordance with the
- 10 schedule of collections adopted by the department pursuant to the
- 11 provisions of RCW 82.08.060. The tax required by this chapter, to be
- 12 collected by the seller, minus the amount retained by the seller for
- 13 administration under subsection (2) of this section, shall be deemed to
- 14 be held in trust by the seller until paid to the department, and any
- 15 seller who appropriates or converts the tax collected to his or her own
- 16 use or to any use other than the payment of the tax to the extent that
- 17 the money required to be collected is not available for payment on the
- 18 due date as prescribed in this chapter shall be guilty of a gross
- 19 misdemeanor.

(b) In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay ((it)) the amount owed to the department in the manner prescribed by this chapter, whether such failure is the result of his or her own acts or the result of acts or conditions beyond his or her control, he or she shall, nevertheless, be personally liable to the state for the amount of the tax <u>owed</u>, unless the seller has taken from the buyer in good faith a properly executed resale certificate under RCW 82.04.470.

(c) The amount of tax, until paid by the buyer to the seller or to the department, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who 13 refuses to pay any tax due under this chapter shall be guilty of a 14 misdemeanor. The tax required by this chapter to be collected by the seller shall be stated separately from the selling price in any sales 17 invoice or other instrument of sale. On all retail sales through vending machines, the tax need not be stated separately from the 19 selling price or collected separately from the buyer. For purposes of determining the tax due from the buyer to the seller and from the seller to the department it shall be conclusively presumed that the selling price quoted in any price list, sales document, contract or 22 23 other agreement between the parties does not include the tax imposed by this chapter, but if the seller advertises the price as including the tax or that the seller is paying the tax, the advertised price shall not be considered the selling price.

(d) Where a buyer has failed to pay to the seller the tax imposed by this chapter and the seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the buyer for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the buyer to pay the same to the seller, regardless of when the tax may be collected by the department; and all of the provisions of chapter 82.32 RCW, including those relative to interest and penalties, shall apply in addition; and, for the sole purpose of applying the various provisions of chapter 82.32 RCW, the twenty-fifth day of the month following the tax period in which the purchase was made shall be considered as the due date of the tax.

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- 1 (2) Each seller shall retain, as reimbursement for the costs 2 associated with collection and administration under this section, the 3 following amounts each reporting period:
- 4 <u>(a) 1.0 percent of the tax collected under this section on the</u> 5 <u>first forty thousand dollars of taxable sales per month in the</u> 6 <u>reporting period; and</u>
- 7 (b) 0.5 percent of the tax collected under this section on sales 8 greater than forty thousand dollars but less than or equal to one 9 hundred twenty thousand dollars per month in the reporting period.
- No reimbursement is allowed under this section for taxable sales in excess of one hundred twenty thousand dollars per month in the reporting period.
- NEW SECTION. Sec. 2. A new section is added to chapter 82.04 RCW to read as follows:
- 15 This chapter does not apply to amounts retained by a seller for 16 administration under RCW 82.08.050(2).
- NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1997.

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