

2 SB 5881 - S AMD - 112
3 By Senator Deccio

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5 On page 8, after line 2, insert the following:

6 "Sec. 9. RCW 82.24.110 and 1997 c 420 s 4 are each amended to read
7 as follows:

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

10 (a) To sell, except as a licensed wholesaler engaged in interstate
11 commerce as to the article being taxed herein, without the stamp first
12 being affixed;

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

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

18 (d) For any person other than the department of revenue or its duly
19 authorized agent to sell any stamps not affixed to any of the articles
20 taxed herein whether such stamps are genuine or counterfeit;

21 (e) To violate any of the provisions of this chapter;

22 (f) To violate any lawful rule made and published by the department
23 of revenue or the board;

24 (g) To use any stamps more than once;

25 (h) To refuse to allow the department of revenue or its duly
26 authorized agent, on demand, to make full inspection of any place of
27 business where any of the articles herein taxed are sold or otherwise
28 hinder or prevent such inspection;

29 (i) Except as provided in this chapter, for any retailer to have in
30 possession in any place of business any of the articles herein taxed,
31 unless the same have the proper stamps attached;

32 (j) For any person to make, use, or present or exhibit to the
33 department of revenue or its duly authorized agent, any invoice for any
34 of the articles herein taxed which bears an untrue date or falsely
35 states the nature or quantity of the goods therein invoiced;

1 (k) For any wholesaler or retailer or his or her agents or
2 employees to fail to produce on demand of the department of revenue all
3 invoices of all the articles herein taxed or stamps bought by him or
4 her or received in his or her place of business within five years prior
5 to such demand unless he or she can show by satisfactory proof that the
6 nonproduction of the invoices was due to causes beyond his or her
7 control;

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

13 (m) For any person to possess or transport in this state a quantity
14 of ((~~sixty~~)) thirty thousand cigarettes or less unless the proper
15 stamps required by this chapter have been affixed or unless: (i)
16 Notice of the possession or transportation has been given as required
17 by RCW 82.24.250; (ii) the person transporting the cigarettes has in
18 actual possession invoices or delivery tickets which show the true name
19 and address of the consignor or seller, the true name and address of
20 the consignee or purchaser, and the quantity and brands of the
21 cigarettes so transported; and (iii) the cigarettes are consigned to or
22 purchased by any person in this state who is authorized by this chapter
23 to possess unstamped cigarettes in this state.

24 (2) It is unlawful for any person knowingly or intentionally to
25 possess or to transport in this state a quantity in excess of ((~~sixty~~))
26 thirty thousand cigarettes unless the proper stamps required by this
27 chapter are affixed thereto or unless: (a) Proper notice as required
28 by RCW 82.24.250 has been given; (b) the person transporting the
29 cigarettes actually possesses invoices or delivery tickets showing the
30 true name and address of the consignor or seller, the true name and
31 address of the consignee or purchaser, and the quantity and brands of
32 the cigarettes so transported; and (c) the cigarettes are consigned to
33 or purchased by a person in this state who is authorized by this
34 chapter to possess unstamped cigarettes in this state. Violation of
35 this section shall be punished as a class C felony under Title 9A RCW.

36 (3) All agents, employees, and others who aid, abet, or otherwise
37 participate in any way in the violation of the provisions of this
38 chapter or in any of the offenses described in this chapter shall be

1 guilty and punishable as principals, to the same extent as any
2 wholesaler or retailer or any other person violating this chapter.

3 **Sec. 10.** RCW 82.24.130 and 1997 c 420 s 5 are each amended to read
4 as follows:

5 (1) The following are subject to seizure and forfeiture:

6 (a) Subject to RCW 82.24.250, any articles taxed in this chapter
7 that are found at any point within this state, which articles are held,
8 owned, or possessed by any person, and that do not have the stamps
9 affixed to the packages or containers.

10 (b) All conveyances, including aircraft, vehicles, or vessels,
11 which are used, or intended for use, to transport, or in any manner to
12 facilitate the transportation, for the purpose of sale or receipt of
13 property described in (a) of this subsection, except:

14 (i) A conveyance used by any person as a common or contract carrier
15 having in actual possession invoices or delivery tickets showing the
16 true name and address of the consignor or seller, the true name of the
17 consignee or purchaser, and the quantity and brands of the cigarettes
18 transported, unless it appears that the owner or other person in charge
19 of the conveyance is a consenting party or privy to a violation of this
20 chapter;

21 (ii) A conveyance subject to forfeiture under this section by
22 reason of any act or omission of which the owner thereof establishes to
23 have been committed or omitted without his or her knowledge or consent;

24 (iii) A conveyance encumbered by a bona fide security interest if
25 the secured party neither had knowledge of nor consented to the act or
26 omission.

27 (c) Any vending machine used for the purpose of violating the
28 provisions of this chapter.

29 (2) Property subject to forfeiture under this chapter may be seized
30 by any agent of the department authorized to collect taxes, any
31 enforcement officer of the board, or law enforcement officer of this
32 state upon process issued by any superior court or district court
33 having jurisdiction over the property. Seizure without process may be
34 made if:

35 (a) The seizure is incident to an arrest or a search under a search
36 warrant or an inspection under an administrative inspection warrant; or

37 (b) The department, the board, or the law enforcement officer has
38 probable cause to believe that the property was used or is intended to

1 be used in violation of this chapter and exigent circumstances exist
2 making procurement of a search warrant impracticable.

3 (3) Notwithstanding the foregoing provisions of this section,
4 articles taxed in this chapter which are in the possession of a
5 wholesaler or retailer, licensed under Washington state law, for a
6 period of time necessary to affix the stamps after receipt of the
7 articles, shall not be considered contraband.

8 (4) The director of the department of licensing may suspend for six
9 months the driver's license of a person found to be operating a
10 conveyance transporting property subject to forfeiture under this
11 chapter."

12 Renumber the remaining sections consecutively and correct any
13 internal references accordingly.

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17 On page 1, line 3 of the title, after "70.155.110," strike "and
18 70.155.130" and insert "70.155.130, 82.24.110, and 82.24.130"

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