

CERTIFICATION OF ENROLLMENT

SENATE BILL 6591

57th Legislature
2002 Regular Session

Passed by the Senate March 14, 2002
YEAS 44 NAYS 1

President of the Senate

Passed by the House March 13, 2002
YEAS 87 NAYS 10

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6591** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

Approved

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 6591

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By Senators Prentice and Oke; by request of Department of Revenue

Read first time 01/22/2002. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to revising the tobacco products tax by imposing
2 the tax upon those persons who acquire tobacco products for resale from
3 persons who are immune from state tax; amending RCW 82.26.010,
4 82.26.020, 82.26.025, and 82.26.030; adding a new section to chapter
5 82.26 RCW; and providing an effective date.

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

7 **Sec. 1.** RCW 82.26.010 and 1995 c 278 s 16 are each amended to read
8 as follows:

9 As used in this chapter:

10 (1) "Tobacco products" means cigars, cheroots, stogies, periques,
11 granulated, plug cut, crimp cut, ready rubbed, and other smoking
12 tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-
13 cut and other chewing tobaccos, shorts, refuse scraps, clippings,
14 cuttings and sweepings of tobacco, and other kinds and forms of
15 tobacco, prepared in such manner as to be suitable for chewing or
16 smoking in a pipe or otherwise, or both for chewing and smoking, but
17 shall not include cigarettes as defined in RCW 82.24.010;

18 (2) "Manufacturer" means a person who manufactures and sells
19 tobacco products;

1 (3) "Distributor" means (a) any person engaged in the business of
2 selling tobacco products in this state who brings, or causes to be
3 brought, into this state from without the state any tobacco products
4 for sale, (b) any person who makes, manufactures, or fabricates tobacco
5 products in this state for sale in this state, (c) any person engaged
6 in the business of selling tobacco products without this state who
7 ships or transports tobacco products to retailers in this state, to be
8 sold by those retailers, (d) any person engaged in the business of
9 selling tobacco products in this state who handles for sale any tobacco
10 products that are within this state but upon which tax has not been
11 imposed;

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

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

17 (6) "Sale" means any transfer, exchange, or barter, in any manner
18 or by any means whatsoever, for a consideration, and includes and means
19 all sales made by any person. It includes a gift by a person engaged
20 in the business of selling tobacco products, for advertising, as a
21 means of evading the provisions of this chapter, or for any other
22 purposes whatsoever;

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

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

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

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

35 (11) "Department" means the state department of revenue;

36 (12) "Person" means any individual, receiver, administrator,
37 executor, assignee, trustee in bankruptcy, trust, estate, firm,
38 copartnership, joint venture, club, company, joint stock company,
39 business trust, municipal corporation, the state and its departments

1 and institutions, political subdivision of the state of Washington,
2 corporation, limited liability company, association, society, or any
3 group of individuals acting as a unit, whether mutual, cooperative,
4 fraternal, nonprofit, or otherwise. The term excludes any person
5 immune from state taxation, including the United States or its
6 instrumentalities, and federally recognized Indian tribes and enrolled
7 tribal members, conducting business within Indian country;

8 (13) "Indian country" means the same as defined in chapter 82.24
9 RCW.

10 **Sec. 2.** RCW 82.26.020 and 1993 c 492 s 309 are each amended to
11 read as follows:

12 (1) There is levied and there shall be collected a tax upon the
13 sale, use, consumption, handling, or distribution of all tobacco
14 products in this state at the rate of forty-five percent of the
15 wholesale sales price of such tobacco products.

16 (2) Taxes under this section shall be imposed at the time the
17 distributor (a) brings, or causes to be brought, into this state from
18 without the state tobacco products for sale, (b) makes, manufactures,
19 or fabricates tobacco products in this state for sale in this state,
20 ~~((or))~~ (c) ships or transports tobacco products to retailers in this
21 state, to be sold by those retailers, or (d) handles for sale any
22 tobacco products that are within this state but upon which tax has not
23 been imposed.

24 (3) An additional tax is imposed equal to seven percent multiplied
25 by the tax payable under subsection (1) of this section.

26 (4) An additional tax is imposed equal to ten percent of the
27 wholesale sales price of tobacco products. The moneys collected under
28 this subsection shall be deposited in the health services account
29 created under RCW 43.72.900.

30 **Sec. 3.** RCW 82.26.025 and 1999 c 309 s 926 are each amended to
31 read as follows:

32 (1) In addition to the taxes imposed under RCW 82.26.020, there is
33 levied and there shall be collected a tax upon the sale, use,
34 consumption, handling, or distribution of all tobacco products in this
35 state at the rate of sixteen and three-fourths percent of the wholesale
36 sales price of such tobacco products. Such tax shall be imposed at the
37 time the distributor (a) brings, or causes to be brought, into this

1 state from without the state tobacco products for sale, (b) makes,
2 manufactures, or fabricates tobacco products in this state for sale in
3 this state, ((or)) (c) ships or transports tobacco products to
4 retailers in this state, to be sold by those retailers, or (d) handles
5 for sale any tobacco products that are within this state but upon which
6 tax has not been imposed.

7 (2) The moneys collected under this section shall be deposited as
8 follows:

9 (a) For the period ending July 1, 1999, in the water quality
10 account under RCW 70.146.030;

11 (b) For the period beginning July 1, 1999, through June 30, 2001,
12 fifty percent into the violence reduction and drug enforcement account
13 under RCW 69.50.520 and fifty percent into the salmon recovery account;

14 (c) For the period beginning July 1, 2001, through June 30, 2021,
15 into the water quality account under RCW 70.146.030; and

16 (d) For the period beginning July 1, 2021, in the general fund.

17 **Sec. 4.** RCW 82.26.030 and 1961 c 15 s 82.26.030 are each amended
18 to read as follows:

19 It is the intent and purpose of this chapter to levy a tax on all
20 tobacco products sold, used, consumed, handled, or distributed within
21 this state and to collect the tax from the distributor as defined in
22 RCW 82.26.010. It is the further intent and purpose of this chapter to
23 impose the tax once, and only once, on all tobacco products for sale in
24 this state, but nothing in this chapter shall be construed to exempt
25 any person taxable under any other law or under any other tax imposed
26 under Title 82 RCW.

27 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.26 RCW
28 to read as follows:

29 (1) The department shall by rule establish the invoice detail
30 required under RCW 82.26.060 for a distributor under RCW
31 82.26.010(3)(d) and for those invoices required to be provided to
32 retailers under RCW 82.26.070.

33 (2) If a retailer fails to keep invoices as required under chapter
34 82.32 RCW, the retailer is liable for the tax owed on any uninvoiced
35 tobacco products but not penalties and interest, except as provided in
36 subsection (3) of this section.

1 (3) If the department finds that the nonpayment of tax by the
2 retailer was willful or if in the case of a second or plural nonpayment
3 of tax by the retailer, penalties and interest shall be assessed in
4 accordance with chapter 82.32 RCW.

5 NEW SECTION. **Sec. 6.** This act takes effect July 1, 2002.

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