

**HB 2269 - H AMD 577**

By Representative McIntire

ADOPTED 06/05/2003

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 63.29.020 and 1992 c 122 s 1 are each amended to read  
4 as follows:

5 (1) Except as otherwise provided by this chapter, all intangible  
6 property, including any income or increment derived therefrom, less any  
7 lawful charges, that is held, issued, or owing in the ordinary course  
8 of the holder's business and has remained unclaimed by the owner for  
9 more than (~~five~~) three years after it became payable or distributable  
10 is presumed abandoned.

11 (2) Property, with the exception of unredeemed Washington state  
12 lottery tickets and unrepresented winning parimutuel tickets, is payable  
13 and distributable for the purpose of this chapter notwithstanding the  
14 owner's failure to make demand or to present any instrument or document  
15 required to receive payment.

16 (3) This chapter does not apply to claims drafts issued by  
17 insurance companies representing offers to settle claims unliquidated  
18 in amount or settled by subsequent drafts or other means.

19 (4) This chapter does not apply to property covered by chapter  
20 63.26 RCW.

21 (5) This chapter does not apply to used clothing, umbrellas, bags,  
22 luggage, or other used personal effects if such property is disposed of  
23 by the holder as follows:

24 (a) In the case of personal effects of negligible value, the  
25 property is destroyed; or

26 (b) The property is donated to a bona fide charity.

27 **Sec. 2.** RCW 63.29.050 and 1983 c 179 s 5 are each amended to read  
28 as follows:

29 (1) Any sum payable on a check, draft, or similar instrument,

1 except those subject to RCW 63.29.040, on which a banking or financial  
2 organization is directly liable, including a cashier's check and a  
3 certified check, which has been outstanding for more than ((five))  
4 three years after it was payable or after its issuance if payable on  
5 demand, is presumed abandoned, unless the owner, within ((five)) three  
6 years, has communicated in writing with the banking or financial  
7 organization concerning it or otherwise indicated an interest as  
8 evidenced by a memorandum or other record on file prepared by an  
9 employee thereof.

10 (2) A holder may not deduct from the amount of any instrument  
11 subject to this section any charge imposed by reason of the failure to  
12 present the instrument for payment unless there is a valid and  
13 enforceable written contract between the holder and the owner of the  
14 instrument pursuant to which the holder may impose a charge, and the  
15 holder regularly imposes such charges and does not regularly reverse or  
16 otherwise cancel them.

17 **Sec. 3.** RCW 63.29.060 and 1983 c 179 s 6 are each amended to read  
18 as follows:

19 (1) Any demand, savings, or matured time deposit with a banking or  
20 financial organization, including a deposit that is automatically  
21 renewable, and any funds paid toward the purchase of a share, a mutual  
22 investment certificate, or any other interest in a banking or financial  
23 organization is presumed abandoned unless the owner, within ((five))  
24 three years, has:

25 (a) In the case of a deposit, increased or decreased its amount or  
26 presented the passbook or other similar evidence of the deposit for the  
27 crediting of interest;

28 (b) Communicated in writing with the banking or financial  
29 organization concerning the property;

30 (c) Otherwise indicated an interest in the property as evidenced by  
31 a memorandum or other record on file prepared by an employee of the  
32 banking or financial organization;

33 (d) Owned other property to which subsection (1)(a), (b), or (c) of  
34 this section applies and if the banking or financial organization  
35 communicates in writing with the owner with regard to the property that

1 would otherwise be presumed abandoned under this subsection at the  
2 address to which communications regarding the other property regularly  
3 are sent; or

4 (e) Had another relationship with the banking or financial  
5 organization concerning which the owner has:

6 (i) In the case of a deposit, increased or decreased the amount of  
7 the deposit or presented the passbook or other similar evidence of the  
8 deposit for the crediting of interest;

9 (ii) Communicated in writing with the banking or financial  
10 organization; or

11 (iii) Otherwise indicated an interest as evidenced by a memorandum  
12 or other record on file prepared by an employee of the banking or  
13 financial organization and if the banking or financial organization  
14 communicates in writing with the owner with regard to the property that  
15 would otherwise be abandoned under this subsection at the address to  
16 which communications regarding the other relationship regularly are  
17 sent.

18 (2) For purposes of subsection (1) of this section property  
19 includes interest and dividends.

20 (3) This chapter shall not apply to deposits made by a guardian or  
21 decedent's personal representative with a banking organization when the  
22 deposit is subject to withdrawal only upon the order of the court in  
23 the guardianship or estate proceeding.

24 (4) A holder may not impose with respect to property described in  
25 subsection (1) of this section any charge due to dormancy or inactivity  
26 or cease payment of interest unless:

27 (a) There is an enforceable written contract between the holder and  
28 the owner of the property pursuant to which the holder may impose a  
29 charge or cease payment of interest;

30 (b) For property in excess of ten dollars, the holder, no more than  
31 three months before the initial imposition of those charges or  
32 cessation of interest, has given written notice to the owner of the  
33 amount of those charges at the last known address of the owner stating  
34 that those charges will be imposed or that interest will cease, but the  
35 notice provided in this section need not be given with respect to  
36 charges imposed or interest ceased before June 30, 1983; and

1 (c) The holder regularly imposes such charges or ceases payment of  
2 interest and does not regularly reverse or otherwise cancel them or  
3 retroactively credit interest with respect to the property.

4 (5) Any property described in subsection (1) of this section that  
5 is automatically renewable is matured for purposes of subsection (1) of  
6 this section upon the expiration of its initial time period, or after  
7 one year if the initial period is less than one year, but in the case  
8 of any renewal to which the owner consents at or about the time of  
9 renewal by communicating in writing with the banking or financial  
10 organization or otherwise indicating consent as evidenced by a  
11 memorandum or other record on file prepared by an employee of the  
12 organization, the property is matured upon the expiration of the last  
13 time period for which consent was given. If, at the time provided for  
14 delivery in RCW 63.29.190, a penalty or forfeiture in the payment of  
15 interest would result from the delivery of the property, the time for  
16 delivery is extended until the time when no penalty or forfeiture would  
17 result.

18 **Sec. 4.** RCW 63.29.070 and 1983 c 179 s 7 are each amended to read  
19 as follows:

20 (1) Funds held or owing under any life or endowment insurance  
21 policy or annuity contract that has matured or terminated are presumed  
22 abandoned if unclaimed for more than (~~five~~) three years after the  
23 funds became due and payable as established from the records of the  
24 insurance company holding or owing the funds, but property described in  
25 subsection (3)(b) of this section is presumed abandoned if unclaimed  
26 for more than two years.

27 (2) If a person other than the insured or annuitant is entitled to  
28 the funds and an address of the person is not known to the company or  
29 it is not definite and certain from the records of the company who is  
30 entitled to the funds, it is presumed that the last known address of  
31 the person entitled to the funds is the same as the last known address  
32 of the insured or annuitant according to the records of the company.

33 (3) For purposes of this chapter, a life or endowment insurance  
34 policy or annuity contract not matured by actual proof of the death of  
35 the insured or annuitant according to the records of the company is  
36 matured and the proceeds due and payable if:

1           (a) The company knows that the insured or annuitant has died; or  
2           (b)(i) The insured has attained, or would have attained if he were  
3 living, the limiting age under the mortality table on which the reserve  
4 is based;  
5           (ii) The policy was in force at the time the insured attained, or  
6 would have attained, the limiting age specified in subparagraph (i) of  
7 this subsection; and  
8           (iii) Neither the insured nor any other person appearing to have an  
9 interest in the policy within the preceding two years, according to the  
10 records of the company, has assigned, readjusted, or paid premiums on  
11 the policy, subjected the policy to a loan, corresponded in writing  
12 with the company concerning the policy, or otherwise indicated an  
13 interest as evidenced by a memorandum or other record on file prepared  
14 by an employee of the company.  
15           (4) For purposes of this chapter, the application of an automatic  
16 premium loan provision or other nonforfeiture provision contained in an  
17 insurance policy does not prevent a policy from being matured or  
18 terminated under subsection (1) of this section if the insured has died  
19 or the insured or the beneficiaries of the policy otherwise have become  
20 entitled to the proceeds thereof before the depletion of the cash  
21 surrender value of a policy by the application of those provisions.  
22           (5) If the laws of this state or the terms of the life insurance  
23 policy require the company to give notice to the insured or owner that  
24 an automatic premium loan provision or other nonforfeiture provision  
25 has been exercised and the notice, given to an insured or owner whose  
26 last known address according to the records of the company is in this  
27 state, is undeliverable, the company shall make a reasonable search to  
28 ascertain the policyholder's correct address to which the notice must  
29 be mailed.  
30           (6) Notwithstanding any other provision of law, if the company  
31 learns of the death of the insured or annuitant and the beneficiary has  
32 not communicated with the insurer within four months after the death,  
33 the company shall take reasonable steps to pay the proceeds to the  
34 beneficiary.  
35           (7) Commencing two years after June 30, 1983, every change of  
36 beneficiary form issued by an insurance company under any life or

1 endowment insurance policy or annuity contract to an insured or owner  
2 who is a resident of this state must request the following information:

- 3 (a) The name of each beneficiary, or if a class of beneficiaries is  
4 named, the name of each current beneficiary in the class;
- 5 (b) The address of each beneficiary; and
- 6 (c) The relationship of each beneficiary to the insured.

7 **Sec. 5.** RCW 63.29.100 and 1996 c 45 s 1 are each amended to read  
8 as follows:

9 (1) Except as provided in subsections (2) and (5) of this section,  
10 stock or other intangible ownership interest in a business association,  
11 the existence of which is evidenced by records available to the  
12 association, is presumed abandoned and, with respect to the interest,  
13 the association is the holder, if a dividend, distribution, or other  
14 sum payable as a result of the interest has remained unclaimed by the  
15 owner for (~~five~~) three years and the owner within (~~five~~) three  
16 years has not:

17 (a) Communicated in writing with the association regarding the  
18 interest or a dividend, distribution, or other sum payable as a result  
19 of the interest; or

20 (b) Otherwise communicated with the association regarding the  
21 interest or a dividend, distribution, or other sum payable as a result  
22 of the interest, as evidenced by a memorandum or other record on file  
23 with the association prepared by an employee of the association.

24 (2) At the expiration of a (~~five-year~~) three-year period  
25 following the failure of the owner to claim a dividend, distribution,  
26 or other sum payable to the owner as a result of the interest, the  
27 interest is not presumed abandoned unless there have been at least five  
28 dividends, distributions, or other sums paid during the period, none of  
29 which has been claimed by the owner. If five dividends, distributions,  
30 or other sums are paid during the (~~five-year~~) three-year period, the  
31 period leading to a presumption of abandonment commences on the date  
32 payment of the first such unclaimed dividend, distribution, or other  
33 sum became due and payable. If five dividends, distributions, or other  
34 sums are not paid during the presumptive period, the period continues  
35 to run until there have been five dividends, distributions, or other  
36 sums that have not been claimed by the owner.

1 (3) The running of the (~~five-year~~) three-year period of  
2 abandonment ceases immediately upon the occurrence of a communication  
3 referred to in subsection (1) of this section. If any future dividend,  
4 distribution, or other sum payable to the owner as a result of the  
5 interest is subsequently not claimed by the owner, a new period of  
6 abandonment commences and relates back to the time a subsequent  
7 dividend, distribution, or other sum became due and payable.

8 (4) At the time any interest is presumed abandoned under this  
9 section, any dividend, distribution, or other sum then held for or  
10 owing to the owner as a result of the interest, and not previously  
11 presumed abandoned, is presumed abandoned.

12 (5) This chapter shall not apply to any stock or other intangible  
13 ownership interest enrolled in a plan that provides for the automatic  
14 reinvestment of dividends, distributions, or other sums payable as a  
15 result of the interest unless:

16 (a) The records available to the administrator of the plan show,  
17 with respect to any intangible ownership interest not enrolled in the  
18 reinvestment plan, that the owner has not within (~~five~~) three years  
19 communicated in any manner described in subsection (1) of this section;  
20 or

21 (b) (~~Five~~) Three years have elapsed since the location of the  
22 owner became unknown to the association, as evidenced by the return of  
23 official shareholder notifications or communications by the postal  
24 service as undeliverable, and the owner has not within those (~~five~~)  
25 three years communicated in any manner described in subsection (1) of  
26 this section. The (~~five-year~~) three-year period from the return of  
27 official shareholder notifications or communications shall commence  
28 from the earlier of the return of the second such mailing or the date  
29 the holder discontinues mailings to the shareholder.

30 **Sec. 6.** RCW 63.29.120 and 1983 c 179 s 12 are each amended to read  
31 as follows:

32 (1) Intangible property and any income or increment derived  
33 therefrom held in a fiduciary capacity for the benefit of another  
34 person is presumed abandoned unless the owner, within (~~five~~) three  
35 years after it has become payable or distributable, has increased or  
36 decreased the principal, accepted payment of principal or income,

1 communicated concerning the property, or otherwise indicated an  
2 interest as evidenced by a memorandum or other record on file prepared  
3 by the fiduciary.

4 (2) Funds in an individual retirement account or a retirement plan  
5 for self-employed individuals or similar account or plan established  
6 pursuant to the internal revenue laws of the United States are not  
7 payable or distributable within the meaning of subsection (1) of this  
8 section unless, under the terms of the account or plan, distribution of  
9 all or part of the funds would then be mandatory.

10 (3) For the purpose of this section, a person who holds property as  
11 an agent for a business association is deemed to hold the property in  
12 a fiduciary capacity for that business association alone, unless the  
13 agreement between him and the business association provides otherwise.

14 (4) For the purposes of this chapter, a person who is deemed to  
15 hold property in a fiduciary capacity for a business association alone  
16 is the holder of the property only insofar as the interest of the  
17 business association in the property is concerned, and the business  
18 association is the holder of the property insofar as the interest of  
19 any other person in the property is concerned.

20 **Sec. 7.** RCW 63.29.140 and 1983 c 179 s 14 are each amended to read  
21 as follows:

22 (1) A gift certificate or a credit memo issued in the ordinary  
23 course of an issuer's business which remains unclaimed by the owner for  
24 more than (~~five~~) three years after becoming payable or distributable  
25 is presumed abandoned.

26 (2) In the case of a gift certificate, the amount presumed  
27 abandoned is the price paid by the purchaser for the gift certificate.  
28 In the case of a credit memo, the amount presumed abandoned is the  
29 amount credited to the recipient of the memo.

30 **Sec. 8.** RCW 82.32.045 and 1999 c 357 s 1 are each amended to read  
31 as follows:

32 (1) Except as otherwise provided in this chapter, payments of the  
33 taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW,  
34 along with reports and returns on forms prescribed by the department,



1 are due monthly within (~~twenty-five~~) twenty days after the end of the  
2 month in which the taxable activities occur.

3 (2) The department of revenue may relieve any taxpayer or class of  
4 taxpayers from the obligation of remitting monthly and may require the  
5 return to cover other longer reporting periods, but in no event may  
6 returns be filed for a period greater than one year. For these  
7 taxpayers, tax payments are due on or before the last day of the month  
8 next succeeding the end of the period covered by the return.

9 (3) The department of revenue may also require verified annual  
10 returns from any taxpayer, setting forth such additional information as  
11 it may deem necessary to correctly determine tax liability.

12 (4) Notwithstanding subsections (1) and (2) of this section, the  
13 department may relieve any person of the requirement to file returns if  
14 the following conditions are met:

15 (a) The person's value of products, gross proceeds of sales, or  
16 gross income of the business, from all business activities taxable  
17 under chapter 82.04 RCW, is less than twenty-eight thousand dollars per  
18 year;

19 (b) The person's gross income of the business from all activities  
20 taxable under chapter 82.16 RCW is less than twenty-four thousand  
21 dollars per year; and

22 (c) The person is not required to collect or pay to the department  
23 of revenue any other tax or fee which the department is authorized to  
24 collect.

25 **Sec. 9.** RCW 82.23B.020 and 2000 c 69 s 25 are each amended to read  
26 as follows:

27 (1) An oil spill response tax is imposed on the privilege of  
28 receiving crude oil or petroleum products at a marine terminal within  
29 this state from a waterborne vessel or barge operating on the navigable  
30 waters of this state. The tax imposed in this section is levied upon  
31 the owner of the crude oil or petroleum products immediately after  
32 receipt of the same into the storage tanks of a marine terminal from a  
33 waterborne vessel or barge at the rate of one cent per barrel of crude  
34 oil or petroleum product received.

35 (2) In addition to the tax imposed in subsection (1) of this  
36 section, an oil spill administration tax is imposed on the privilege of

1 receiving crude oil or petroleum products at a marine terminal within  
2 this state from a waterborne vessel or barge operating on the navigable  
3 waters of this state. The tax imposed in this section is levied upon  
4 the owner of the crude oil or petroleum products immediately after  
5 receipt of the same into the storage tanks of a marine terminal from a  
6 waterborne vessel or barge at the rate of four cents per barrel of  
7 crude oil or petroleum product.

8 (3) The taxes imposed by this chapter shall be collected by the  
9 marine terminal operator from the taxpayer. If any person charged with  
10 collecting the taxes fails to bill the taxpayer for the taxes, or in  
11 the alternative has not notified the taxpayer in writing of the  
12 imposition of the taxes, or having collected the taxes, fails to pay  
13 them to the department in the manner prescribed by this chapter,  
14 whether such failure is the result of the person's own acts or the  
15 result of acts or conditions beyond the person's control, he or she  
16 shall, nevertheless, be personally liable to the state for the amount  
17 of the taxes. Payment of the taxes by the owner to a marine terminal  
18 operator shall relieve the owner from further liability for the taxes.

19 (4) Taxes collected under this chapter shall be held in trust until  
20 paid to the department. Any person collecting the taxes who  
21 appropriates or converts the taxes collected shall be guilty of a gross  
22 misdemeanor if the money required to be collected is not available for  
23 payment on the date payment is due. The taxes required by this chapter  
24 to be collected shall be stated separately from other charges made by  
25 the marine terminal operator in any invoice or other statement of  
26 account provided to the taxpayer.

27 (5) If a taxpayer fails to pay the taxes imposed by this chapter to  
28 the person charged with collection of the taxes and the person charged  
29 with collection fails to pay the taxes to the department, the  
30 department may, in its discretion, proceed directly against the  
31 taxpayer for collection of the taxes.

32 (6) The taxes shall be due from the marine terminal operator, along  
33 with reports and returns on forms prescribed by the department, within  
34 (~~twenty-five~~) twenty days after the end of the month in which the  
35 taxable activity occurs.

36 (7) The amount of taxes, until paid by the taxpayer to the marine  
37 terminal operator or to the department, shall constitute a debt from

1 the taxpayer to the marine terminal operator. Any person required to  
2 collect the taxes under this chapter who, with intent to violate the  
3 provisions of this chapter, fails or refuses to do so as required and  
4 any taxpayer who refuses to pay any taxes due under this chapter, shall  
5 be guilty of a misdemeanor as provided in chapter 9A.20 RCW.

6 (8) Upon prior approval of the department, the taxpayer may pay the  
7 taxes imposed by this chapter directly to the department. The  
8 department shall give its approval for direct payment under this  
9 section whenever it appears, in the department's judgment, that direct  
10 payment will enhance the administration of the taxes imposed under this  
11 chapter. The department shall provide by rule for the issuance of a  
12 direct payment certificate to any taxpayer qualifying for direct  
13 payment of the taxes. Good faith acceptance of a direct payment  
14 certificate by a terminal operator shall relieve the marine terminal  
15 operator from any liability for the collection or payment of the taxes  
16 imposed under this chapter.

17 (9) All receipts from the tax imposed in subsection (1) of this  
18 section shall be deposited into the state oil spill response account.  
19 All receipts from the tax imposed in subsection (2) of this section  
20 shall be deposited into the oil spill prevention account.

21 (10) Within forty-five days after the end of each calendar quarter,  
22 the office of financial management shall determine the balance of the  
23 oil spill response account as of the last day of that calendar quarter.  
24 Balance determinations by the office of financial management under this  
25 section are final and shall not be used to challenge the validity of  
26 any tax imposed under this chapter. The office of financial management  
27 shall promptly notify the departments of revenue and ecology of the  
28 account balance once a determination is made. For each subsequent  
29 calendar quarter, the tax imposed by subsection (1) of this section  
30 shall be imposed during the entire calendar quarter unless:

31 (a) Tax was imposed under subsection (1) of this section during the  
32 immediately preceding calendar quarter, and the most recent quarterly  
33 balance is more than nine million dollars; or

34 (b) Tax was not imposed under subsection (1) of this section during  
35 the immediately preceding calendar quarter, and the most recent  
36 quarterly balance is more than eight million dollars.

1           **Sec. 10.** RCW 82.27.060 and 1990 c 214 s 1 are each amended to read  
2 as follows:

3           The taxes levied by this chapter shall be due for payment monthly  
4 and remittance therefor shall be made within (~~(twenty-five)~~) twenty  
5 days after the end of the month in which the taxable activity occurs.  
6 The taxpayer on or before the due date shall make out a signed return,  
7 setting out such information as the department of revenue may require,  
8 including the gross measure of the tax, any deductions, credits, or  
9 exemptions claimed, and the amount of tax due for the preceding monthly  
10 period, which amount shall be transmitted to the department along with  
11 the return.

12           The department may relieve any taxpayer from the obligation of  
13 filing a monthly return and may require the return to cover other  
14 periods, but in no event may periodic returns be filed for a period  
15 greater than one year. In such cases tax payments are due on or before  
16 the last day of the month next succeeding the end of the period covered  
17 by the return.

18           **Sec. 11.** RCW 82.04.180 and 1985 c 414 s 6 are each amended to read  
19 as follows:

- 20           (1) "Successor" means:  
21           (a) Any person to whom a taxpayer quitting, selling out,  
22 exchanging, or disposing of a business sells or otherwise conveys,  
23 directly or indirectly, in bulk and not in the ordinary course of the  
24 taxpayer's business, (~~(a major part of the materials, supplies,~~  
25 merchandise, inventory, fixtures, or equipment)) more than fifty  
26 percent of the fair market value of either the (i) tangible assets or  
27 (ii) intangible assets of the taxpayer; or  
28           (b) A surviving corporation of a statutory merger.  
29           (2) Any person obligated to fulfill the terms of a contract shall  
30 be deemed a successor to any contractor defaulting in the performance  
31 of any contract as to which such person is a surety or guarantor.

32           **Sec. 12.** RCW 82.32.140 and 1985 c 414 s 7 are each amended to read  
33 as follows:

34           (1) Whenever any taxpayer quits business, or sells out, exchanges,  
35 or otherwise disposes of (~~(his business or his stock of goods)) more~~

1 than fifty percent of the fair market value of either its tangible or  
2 intangible assets, any tax payable hereunder shall become immediately  
3 due and payable, and such taxpayer shall, within ten days thereafter,  
4 make a return and pay the tax due(~~(+and)~~).

5 (2) Any person who becomes a successor shall (~~become liable for~~  
6 ~~the full amount of the tax and~~) withhold from the purchase price a sum  
7 sufficient to pay any tax due from the taxpayer until such time as the  
8 taxpayer shall produce a receipt from the department of revenue showing  
9 payment in full of any tax due or a certificate that no tax is due  
10 (~~and, if such~~). If any tax is not paid by the taxpayer within ten  
11 days from the date of such sale, exchange, or disposal, the successor  
12 shall become liable for the payment of the full amount of tax(~~(, and~~  
13 ~~the payment thereof by such)~~). If the fair market value of the assets  
14 acquired by a successor is less than fifty thousand dollars, the  
15 successor's liability for payment of the unpaid tax is limited to the  
16 fair market value of the assets acquired from the taxpayer. The burden  
17 of establishing the fair market value of the assets acquired is on the  
18 successor.

19 (3) The payment of any tax by a successor shall, to the extent  
20 thereof, be deemed a payment upon the purchase price(~~(+)~~)i and if such  
21 payment is greater in amount than the purchase price the amount of the  
22 difference shall become a debt due (~~(such)~~) the successor from the  
23 taxpayer.

24 (4) No successor shall be liable for any tax due from the person  
25 from whom (~~he~~) the successor has acquired a business or stock of  
26 goods if (~~he~~) the successor gives written notice to the department of  
27 revenue of such acquisition and no assessment is issued by the  
28 department of revenue within six months of receipt of such notice  
29 against the former operator of the business and a copy thereof mailed  
30 to (~~such~~) the successor.

31 **Sec. 13.** RCW 82.32.090 and 2000 c 229 s 7 are each amended to read  
32 as follows:

33 (1) If payment of any tax due on a return to be filed by a taxpayer  
34 is not received by the department of revenue by the due date, there  
35 shall be assessed a penalty of five percent of the amount of the tax;  
36 and if the tax is not received on or before the last day of the month

1 following the due date, there shall be assessed a total penalty of  
2 ~~((ten))~~ fifteen percent of the amount of the tax under this subsection;  
3 and if the tax is not received on or before the last day of the second  
4 month following the due date, there shall be assessed a total penalty  
5 of ~~((twenty))~~ twenty-five percent of the amount of the tax under this  
6 subsection. No penalty so added shall be less than five dollars.

7 (2) If the department of revenue determines that any tax is due,  
8 there shall be assessed a penalty of five percent of the amount of the  
9 tax determined by the department to be due; and if payment of any tax  
10 (~~(assessed)~~) determined by the department (~~(of revenue)~~) to be due is  
11 not received by the department by the due date specified in the notice,  
12 or any extension thereof, (~~(the department shall add a penalty of ten~~  
13 percent of the amount of the additional tax found due)) there shall be  
14 assessed a total penalty of fifteen percent of the amount of the tax  
15 under this subsection; and if the tax is not received on or before the  
16 thirtieth day following the due date specified in the notice of tax  
17 due, or any extension thereof, there shall be assessed a total penalty  
18 of twenty-five percent of the amount of the tax under this subsection.  
19 No penalty so added shall be less than five dollars.

20 (3) If a warrant be issued by the department of revenue for the  
21 collection of taxes, increases, and penalties, there shall be added  
22 thereto a penalty of ~~((five))~~ ten percent of the amount of the tax, but  
23 not less than ten dollars.

24 (4) If the department finds that a person has engaged in any  
25 business or performed any act upon which a tax is imposed under this  
26 title and that person has not obtained from the department a  
27 registration certificate as required by RCW 82.32.030, the department  
28 shall impose a penalty of five percent of the amount of tax due from  
29 that person for the period that the person was not registered as  
30 required by RCW 82.32.030. The department shall not impose the penalty  
31 under this subsection (4) if a person who has engaged in business  
32 taxable under this title without first having registered as required by  
33 RCW 82.32.030, prior to any notification by the department of the need  
34 to register, obtains a registration certificate from the department.

35 (5) If the department finds that all or any part of a deficiency  
36 resulted from the disregard of specific written instructions as to  
37 reporting or tax liabilities, the department shall add a penalty of ten

1 percent of the amount of the additional tax found due because of the  
2 failure to follow the instructions. A taxpayer disregards specific  
3 written instructions when the department of revenue has informed the  
4 taxpayer in writing of the taxpayer's tax obligations and the taxpayer  
5 fails to act in accordance with those instructions unless the  
6 department has not issued final instructions because the matter is  
7 under appeal pursuant to this chapter or departmental regulations. The  
8 department shall not assess the penalty under this section upon any  
9 taxpayer who has made a good faith effort to comply with the specific  
10 written instructions provided by the department to that taxpayer.  
11 Specific written instructions may be given as a part of a tax  
12 assessment, audit, determination, or closing agreement, provided that  
13 such specific written instructions shall apply only to the taxpayer  
14 addressed or referenced on such documents. Any specific written  
15 instructions by the department of revenue shall be clearly identified  
16 as such and shall inform the taxpayer that failure to follow the  
17 instructions may subject the taxpayer to the penalties imposed by this  
18 subsection.

19 ~~((+5))~~ (6) If the department finds that all or any part of the  
20 deficiency resulted from an intent to evade the tax payable hereunder,  
21 a further penalty of fifty percent of the additional tax found to be  
22 due shall be added.

23 ~~((+6))~~ (7) The ~~((aggregate of))~~ penalties imposed under  
24 subsections (1)~~((, (2), and (3)))~~ through (4) of this section ~~((shall~~  
25 ~~not exceed thirty five percent of the tax due, or twenty dollars,~~  
26 ~~whichever is greater))~~ can each be imposed on the same tax found to be  
27 due. This subsection does not prohibit or restrict the application of  
28 other penalties authorized by law.

29 ~~((+7))~~ (8) The department of revenue may not impose both the  
30 evasion penalty and the penalty for disregarding specific written  
31 instructions on the same tax found to be due.

32 ~~((+8))~~ (9) For the purposes of this section, "return" means any  
33 document a person is required by the state of Washington to file to  
34 satisfy or establish a tax or fee obligation that is administered or  
35 collected by the department of revenue, and that has a statutorily  
36 defined due date.

1        NEW SECTION.    **Sec. 14.**    Except as otherwise provided in this  
2 section, section 13 of this act applies to all penalties imposed after  
3 June 30, 2003.    The five percent penalty imposed in section 13(2) of  
4 this act applies to all assessments originally issued after June 30,  
5 2003.

6        NEW SECTION.    **Sec. 15.**    A new section is added to chapter 82.32 RCW  
7 to read as follows:

8            (1) A promoter of a special event within the state of Washington  
9 shall not permit a vendor to make or solicit retail sales of tangible  
10 personal property or services at the special event unless the promoter  
11 obtains verification that the vendor has obtained a certificate of  
12 registration from the department.

13            (2) A promoter of a special event shall:

14            (a) Keep, in addition to the records required under RCW 82.32.070,  
15 a record of the dates and place of each special event, and the name,  
16 address, and registration certificate number of vendors permitted to  
17 make or solicit retail sales of tangible personal property or services  
18 at the special event; and

19            (b) Provide to the department, within twenty days of receipt of a  
20 written request from the department, a list of vendors permitted to  
21 make or solicit retail sales of tangible personal property or services.  
22 The list shall be in a form and contain such information as the  
23 department may require, and shall include the date and place of the  
24 event, and the name, address, and registration certificate number of  
25 each vendor.

26            (3) If a promoter fails to comply with the provisions of this  
27 section, the promoter is liable for the penalties provided in this  
28 subsection (3).

29            (a) If a promoter fails to comply with the provisions of subsection  
30 (1) of this section, the department shall impose a penalty of one  
31 hundred dollars for each vendor permitted to make or solicit retail  
32 sales of tangible personal property or services at the special event.

33            (b) If a promoter fails to comply with the provisions of subsection  
34 (2)(b) of this section, the department shall impose a penalty of:

35            (i) Two hundred fifty dollars if the information requested is not



1 received by the department within twenty days of the department's  
2 written request; and

3 (ii) One hundred dollars for each vendor for whom the information  
4 as required by subsection (2)(b) of this section is not provided to the  
5 department.

6 (4) The aggregate of penalties imposed under subsection (3) of this  
7 section may not exceed two thousand five hundred dollars for a special  
8 event if the promoter has not previously been penalized under this  
9 section. Under no circumstances is a promoter liable for sales tax or  
10 business and occupation tax not remitted to the department by a vendor  
11 at a special event.

12 (5) The department shall notify a promoter by mail of any penalty  
13 imposed under this section, and the penalty shall be due within thirty  
14 days from the date of the notice. If any penalty imposed under this  
15 section is not received by the department by the due date, there shall  
16 be assessed interest on the unpaid amount beginning the day following  
17 the due date until the penalty is paid in full. The rate of interest  
18 shall be computed on a daily basis on the amount of outstanding penalty  
19 at the rate as computed under RCW 82.32.050(2). The rate computed  
20 shall be adjusted annually in the same manner as provided in RCW  
21 82.32.050(1)(c).

22 (6) For purposes of this section:

23 (a) "Promoter" means a person who organizes, operates, or sponsors  
24 a special event and who contracts with vendors for participation in the  
25 special event.

26 (b) "Special event" means an entertainment, amusement,  
27 recreational, educational, or marketing event, whether held on a  
28 regular or irregular basis, at which more than one vendor makes or  
29 solicits retail sales of tangible personal property or services. The  
30 term includes, but is not limited to: Auto shows, recreational vehicle  
31 shows, boat shows, home shows, garden shows, hunting and fishing shows,  
32 stamp shows, comic book shows, sports memorabilia shows, craft shows,  
33 art shows, antique shows, flea markets, exhibitions, festivals,  
34 concerts, swap meets, bazaars, carnivals, athletic contests, circuses,  
35 fairs, or other similar activities. "Special event" does not include  
36 an event that is organized for the exclusive benefit of any nonprofit  
37 organization as defined in RCW 82.04.3651. An event is organized for

1 the exclusive benefit of a nonprofit organization if all of the gross  
2 proceeds of retail sales of all vendors at the event inure to the  
3 benefit of the nonprofit organization on whose behalf the event is  
4 being held. "Special event" does not include athletic contests that  
5 involve competition between teams, when such competition consists of  
6 more than five contests in a calendar year by at least one team at the  
7 same facility or site.

8 (c) "Vendor" means a person who, at a special event, makes or  
9 solicits retail sales of tangible personal property or services.

10 (7) This section does not apply to:

11 (a) A special event whose promoter does not charge more than two  
12 hundred dollars for a vendor to participate in a special event;

13 (b) A special event whose promoter charges a percentage of sales  
14 instead of, or in addition to, a flat charge for a vendor to  
15 participate in a special event if the promoter, in good faith, believes  
16 that no vendor will pay more than two hundred dollars to participate in  
17 the special event; or

18 (c) A person who does not organize, operate, or sponsor a special  
19 event, but only provides a venue, supplies, furnishings, fixtures,  
20 equipment, or services to a promoter of a special event.

21 **Sec. 16.** RCW 82.32.020 and 1983 c 3 s 220 are each amended to read  
22 as follows:

23 For the purposes of this chapter:

24 The meaning attributed in chapters 82.01 through 82.27 RCW to the  
25 words and phrases "tax year," "taxable year," "person," "company,"  
26 "gross proceeds of sales," "gross income of the business," "business,"  
27 "engaging in business," "successor," "gross operating revenue," "gross  
28 income," "taxpayer," "retail sale," and "value of products" shall apply  
29 equally to the provisions of this chapter.

30 NEW SECTION. **Sec. 17.** (1) Sections 8 through 10 of this act are  
31 necessary for the immediate preservation of the public peace, health,  
32 or safety, or support of the state government and its existing public  
33 institutions, and take effect August 1, 2003.

34 (2) Sections 11 through 16 of this act are necessary for the

1 immediate preservation of the public peace, health, or safety, or  
2 support of the state government and its existing public institutions,  
3 and take effect July 1, 2003.

4 (3) Sections 1 through 7 of this act take effect January 1, 2004."

5 Correct the title.

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