
SUBSTITUTE HOUSE BILL 2267

State of Washington 58th Legislature 2003 Regular Session

By House Committee on Finance (originally sponsored by Representatives Gombosky, Sommers, Moeller, Cody, Conway, Fromhold and McIntire)

READ FIRST TIME 04/26/03.

1 AN ACT Relating to revenue for dedicated accounts; amending RCW
2 48.32A.125, 63.29.020, 63.29.050, 63.29.060, 63.29.100, 63.29.120,
3 63.29.140, 82.08.0293, 82.08.0293, 82.12.0293, 82.12.0293, 82.08.150,
4 82.32.090, and 82.08.064; adding a new section to chapter 82.24 RCW;
5 adding a new section to chapter 82.32 RCW; adding a new section to
6 chapter 43.135 RCW; creating new sections; repealing RCW 48.32.145;
7 providing effective dates; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** (1)(a) The legislature finds that the people
10 of Washington want their children to be healthy and well-educated. In
11 2000, the voters overwhelmingly passed Initiative Measure No. 728,
12 creating the student achievement account. School districts around the
13 state use critical Initiative Measure No. 728 funds to improve student
14 achievement by reducing class size, providing early childhood
15 education, and expanding before-and-after school programs. Education
16 is the key to a vital economy and a prosperous future for our children.

17 (b) This act improves funding for education by providing dedicated
18 revenue from the following sources:

19 (i) Eliminating the tax deductions for insurance guarantee funds;

1 (ii) Additional taxes on liquor;

2 (iii) Shortening the holding period for unclaimed property; and
3 increasing penalties on underpayments of state excise taxes.

4 (c) The revenues from these sources are deposited in the student
5 achievement account and will provide three hundred dollars per pupil
6 funding in school year 2005.

7 (2)(a) In order for children to succeed in school they also need
8 adequate health care. Washington has been a national leader in
9 providing medical insurance for children.

10 (b) This act improves funding for health care by providing
11 dedicated revenue from the following sources:

12 (i) An additional tax on cigarettes of fifty cents per pack; and

13 (ii) Repealing the sales and use tax exemptions for candy and gum.

14 (c) The revenues from these sources are deposited in the health
15 services account and will provide funding for children's medical
16 coverage up to two hundred fifty percent of the federal poverty level
17 and enrollment in the basic health plan.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.24 RCW
19 to read as follows:

20 (1) There is hereby levied and there shall be collected by the
21 department of revenue from the persons mentioned in and in the manner
22 provided by this chapter, an additional tax upon the sale, use,
23 consumption, handling, possession, or distribution of cigarettes in an
24 amount equal to the rate of twenty-five mills per cigarette.

25 (2) The revenue collected under this section shall be deposited in
26 the health services account. To ensure continued availability of
27 previously dedicated revenues for existing programs, each fiscal year
28 eight million five hundred thousand dollars shall be transferred to the
29 general fund, two million nine hundred thousand dollars shall be
30 transferred to the water quality account, and three million nine
31 hundred thousand dollars shall be transferred to the violence reduction
32 and drug enforcement account.

33 **Sec. 3.** RCW 48.32A.125 and 2001 c 50 s 13 are each amended to read
34 as follows:

35 ~~((1) A member insurer may offset against its premium tax liability~~
36 ~~to this state an assessment described in RCW 48.32A.085(8) to the~~

1 ~~extent of twenty percent of the amount of the assessment for each of~~
2 ~~the five calendar years following the year in which the assessment was~~
3 ~~paid. In the event a member insurer ceases doing business, all~~
4 ~~uncredited assessments may be credited against its premium tax~~
5 ~~liability for the year it ceases doing business.~~

6 (2)) Any sums that are acquired by refund, under RCW
7 48.32A.085(6), from the association by member insurers, and that have
8 been offset against premium taxes (~~as provided in subsection (1) of~~
9 ~~this section~~), must be paid by the insurers to the commissioner and
10 then deposited with the state treasurer for credit to the general fund
11 of the state of Washington. The association shall notify the
12 commissioner that refunds have been made.

13 **Sec. 4.** RCW 63.29.020 and 1992 c 122 s 1 are each amended to read
14 as follows:

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

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

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

29 (4) This chapter does not apply to property covered by chapter
30 63.26 RCW.

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

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

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

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

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

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

20 **Sec. 6.** RCW 63.29.060 and 1983 c 179 s 6 are each amended to read
21 as follows:

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

28 (a) In the case of a deposit, increased or decreased its amount or
29 presented the passbook or other similar evidence of the deposit for the
30 crediting of interest;

31 (b) Communicated in writing with the banking or financial
32 organization concerning the property;

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

36 (d) Owned other property to which subsection (1)(a), (b), or (c) of
37 this section applies and if the banking or financial organization

1 communicates in writing with the owner with regard to the property that
2 would otherwise be presumed abandoned under this subsection at the
3 address to which communications regarding the other property regularly
4 are sent; or

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

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

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

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

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

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

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

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

31 (b) For property in excess of ten dollars, the holder, no more than
32 three months before the initial imposition of those charges or
33 cessation of interest, has given written notice to the owner of the
34 amount of those charges at the last known address of the owner stating
35 that those charges will be imposed or that interest will cease, but the
36 notice provided in this section need not be given with respect to
37 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. 7.** RCW 63.29.100 and 1996 c 45 s 1 are each amended to read
19 as follows:

20 (1) Except as provided in subsections (2) and (5) of this section,
21 stock or other intangible ownership interest in a business association,
22 the existence of which is evidenced by records available to the
23 association, is presumed abandoned and, with respect to the interest,
24 the association is the holder, if a dividend, distribution, or other
25 sum payable as a result of the interest has remained unclaimed by the
26 owner for ((five)) three years and the owner within ((five)) three
27 years has not:

28 (a) Communicated in writing with the association regarding the
29 interest or a dividend, distribution, or other sum payable as a result
30 of the interest; or

31 (b) Otherwise communicated with the association regarding the
32 interest or a dividend, distribution, or other sum payable as a result
33 of the interest, as evidenced by a memorandum or other record on file
34 with the association prepared by an employee of the association.

35 (2) At the expiration of a ((five-year)) three-year period
36 following the failure of the owner to claim a dividend, distribution,
37 or other sum payable to the owner as a result of the interest, the

1 interest is not presumed abandoned unless there have been at least five
2 dividends, distributions, or other sums paid during the period, none of
3 which has been claimed by the owner. If five dividends, distributions,
4 or other sums are paid during the (~~five-year~~) three-year period, the
5 period leading to a presumption of abandonment commences on the date
6 payment of the first such unclaimed dividend, distribution, or other
7 sum became due and payable. If five dividends, distributions, or other
8 sums are not paid during the presumptive period, the period continues
9 to run until there have been five dividends, distributions, or other
10 sums that have not been claimed by the owner.

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

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

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

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

31 (b) (~~Five~~) Three years have elapsed since the location of the
32 owner became unknown to the association, as evidenced by the return of
33 official shareholder notifications or communications by the postal
34 service as undeliverable, and the owner has not within those (~~five~~)
35 three years communicated in any manner described in subsection (1) of
36 this section. The (~~five-year~~) three-year period from the return of
37 official shareholder notifications or communications shall commence

1 from the earlier of the return of the second such mailing or the date
2 the holder discontinues mailings to the shareholder.

3 **Sec. 8.** RCW 63.29.120 and 1983 c 179 s 12 are each amended to read
4 as follows:

5 (1) Intangible property and any income or increment derived
6 therefrom held in a fiduciary capacity for the benefit of another
7 person is presumed abandoned unless the owner, within (~~five~~) three
8 years after it has become payable or distributable, has increased or
9 decreased the principal, accepted payment of principal or income,
10 communicated concerning the property, or otherwise indicated an
11 interest as evidenced by a memorandum or other record on file prepared
12 by the fiduciary.

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

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

23 (4) For the purposes of this chapter, a person who is deemed to
24 hold property in a fiduciary capacity for a business association alone
25 is the holder of the property only insofar as the interest of the
26 business association in the property is concerned, and the business
27 association is the holder of the property insofar as the interest of
28 any other person in the property is concerned.

29 **Sec. 9.** RCW 63.29.140 and 1983 c 179 s 14 are each amended to read
30 as follows:

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

35 (2) In the case of a gift certificate, the amount presumed

1 abandoned is the price paid by the purchaser for the gift certificate.
2 In the case of a credit memo, the amount presumed abandoned is the
3 amount credited to the recipient of the memo.

4 **Sec. 10.** RCW 82.08.0293 and 1988 c 103 s 1 are each amended to
5 read as follows:

6 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
7 food products for human consumption.

8 "Food products" include cereals and cereal products, oleomargarine,
9 meat and meat products including livestock sold for personal
10 consumption, fish and fish products, eggs and egg products, vegetables
11 and vegetable products, fruit and fruit products, spices and salt,
12 sugar and sugar products, coffee and coffee substitutes, tea, cocoa and
13 cocoa products.

14 "Food products" include milk and milk products, milk shakes, malted
15 milks, and any other similar type beverages which are composed at least
16 in part of milk or a milk product and which require the use of milk or
17 a milk product in their preparation.

18 "Food products" include all fruit juices, vegetable juices, and
19 other beverages except bottled water, spirituous, malt or vinous
20 liquors or carbonated beverages, whether liquid or frozen.

21 "Food products" do not include medicines and preparations in
22 liquid, powdered, granular, tablet, capsule, lozenge, and pill form
23 sold as dietary supplements or adjuncts.

24 "Food products" do not include candy. "Candy" means a preparation
25 of sugar, honey, or other natural or artificial sweeteners in
26 combination with chocolate, fruits, nuts, or other ingredients or
27 flavorings in the form of bars, drops, or pieces. "Candy" does not
28 include any preparation containing flour or any product that requires
29 refrigeration.

30 (2) The exemption of "food products" provided for in subsection (1)
31 of this section shall not apply: (a) When the food products are
32 ordinarily sold for immediate consumption on or near a location at
33 which parking facilities are provided primarily for the use of patrons
34 in consuming the products purchased at the location, even though such
35 products are sold on a "takeout" or "to go" order and are actually
36 packaged or wrapped and taken from the premises of the retailer, or (b)
37 when the food products are sold for consumption within a place, the

1 entrance to which is subject to an admission charge, except for
2 national and state parks and monuments, or (c) to a food product, when
3 sold by the retail vendor, which by law must be handled on the vendor's
4 premises by a person with a food and beverage service worker's permit
5 under RCW 69.06.010, including but not be limited to sandwiches
6 prepared or chicken cooked on the premises, deli trays, home-delivered
7 pizzas or meals, and salad bars but excluding:

8 (i) Raw meat prepared by persons who slaughter animals, including
9 fish and fowl, or dress or wrap slaughtered raw meat such as fish
10 mongers, butchers, or meat wrappers;

11 (ii) Meat and cheese sliced and/or wrapped, in any quantity
12 determined by the buyer, sold by vendors such as meat markets,
13 delicatessens, and grocery stores;

14 (iii) Bakeries which only sell baked goods;

15 (iv) Combination bakery businesses, as prescribed by rule of the
16 department, to the extent that sales of baked goods are separately
17 accounted for and the baked goods claimed for exemption are not sold as
18 part of meals or with beverages in unsealed containers; or

19 (v) Bulk food products sold from bins or barrels, including but not
20 limited to flour, fruits, vegetables, sugar, salt, (~~candy,~~) chips,
21 and cocoa.

22 (3) Notwithstanding anything in this section to the contrary, the
23 exemption of "food products" provided in this section shall apply to
24 food products which are furnished, prepared, or served as meals:

25 (a) Under a state administered nutrition program for the aged as
26 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW
27 74.38.040(6); or

28 (b) Which are provided to senior citizens, disabled persons, or
29 low-income persons by a not-for-profit organization organized under
30 chapter 24.03 or 24.12 RCW.

31 (4) Subsection (1) of this section notwithstanding, the retail sale
32 of food products is subject to sales tax under RCW 82.08.020 if the
33 food products are sold through a vending machine, and in this case the
34 selling price for purposes of RCW 82.08.020 is fifty-seven percent of
35 the gross receipts.

36 This subsection does not apply to hot prepared food products, other
37 than food products which are heated after they have been dispensed from
38 the vending machine.

1 For tax collected under this subsection, the requirements that the
2 tax be collected from the buyer and that the amount of tax be stated as
3 a separate item are waived.

4 **Sec. 11.** RCW 82.08.0293 and 2003 c . . . s 10 (section 10 of this
5 act) are each amended to read as follows:

6 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
7 food (~~(products for human consumption.~~

8 ~~"Food products" include cereals and cereal products, oleomargarine,~~
9 ~~meat and meat products including livestock sold for personal~~
10 ~~consumption, fish and fish products, eggs and egg products, vegetables~~
11 ~~and vegetable products, fruit and fruit products, spices and salt,~~
12 ~~sugar and sugar products, coffee and coffee substitutes, tea, cocoa and~~
13 ~~cocoa products.~~

14 ~~"Food products" include milk and milk products, milk shakes, malted~~
15 ~~milks, and any other similar type beverages which are composed at least~~
16 ~~in part of milk or a milk product and which require the use of milk or~~
17 ~~a milk product in their preparation.~~

18 ~~"Food products" include all fruit juices, vegetable juices, and~~
19 ~~other beverages except bottled water, spirituous, malt or vinous~~
20 ~~liquors or carbonated beverages, whether liquid or frozen.~~

21 ~~"Food products" do not include medicines and preparations in~~
22 ~~liquid, powdered, granular, tablet, capsule, lozenge, and pill form~~
23 ~~sold as dietary supplements or adjuncts.~~

24 ~~"Food products" do not include candy. "Candy" means a preparation~~
25 ~~of sugar, honey, or other natural or artificial sweeteners in~~
26 ~~combination with chocolate, fruits, nuts, or other ingredients or~~
27 ~~flavorings in the form of bars, drops, or pieces. "Candy" does not~~
28 ~~include any preparation containing flour or any product that requires~~

29 ~~refrigeration)) and food ingredients. "Food and food ingredients"~~
30 ~~means substances, whether in liquid, concentrated, solid, frozen,~~
31 ~~dried, or dehydrated form, that are sold for ingestion or chewing by~~
32 ~~humans and are consumed for their taste or nutritional value. "Food~~
33 ~~and food ingredients" does not include:~~

34 ~~(a) "Alcoholic beverages," which means beverages that are suitable~~
35 ~~for human consumption and contain one-half of one percent or more of~~
36 ~~alcohol by volume; and~~

1 (b) "Tobacco," which means cigarettes, cigars, chewing or pipe
2 tobacco, or any other item that contains tobacco.

3 (2) The exemption of "food (~~(products)) and food ingredients"~~
4 provided for in subsection (1) of this section shall not apply(~~(a)~~
5 ~~When the food products are ordinarily sold for immediate consumption on~~
6 ~~or near a location at which parking facilities are provided primarily~~
7 ~~for the use of patrons in consuming the products purchased at the~~
8 ~~location, even though such products are sold on a "takeout" or "to go"~~
9 ~~order and are actually packaged or wrapped and taken from the premises~~
10 ~~of the retailer, or (b) when the food products are sold for consumption~~
11 ~~within a place, the entrance to which is subject to an admission~~
12 ~~charge, except for national and state parks and monuments, or (c) to a~~
13 ~~food product, when sold by the retail vendor, which by law must be~~
14 ~~handled on the vendor's premises by a person with a food and beverage~~
15 ~~service worker's permit under RCW 69.06.010, including but not be~~
16 ~~limited to sandwiches prepared or chicken cooked on the premises, deli~~
17 ~~trays, home delivered pizzas or meals, and salad bars but excluding:~~

18 ~~(i) Raw meat prepared by persons who slaughter animals, including~~
19 ~~fish and fowl, or dress or wrap slaughtered raw meat such as fish~~
20 ~~mongers, butchers, or meat wrappers;~~

21 ~~(ii) Meat and cheese sliced and/or wrapped, in any quantity~~
22 ~~determined by the buyer, sold by vendors such as meat markets,~~
23 ~~delicatessens, and grocery stores;~~

24 ~~(iii) Bakeries which only sell baked goods;~~

25 ~~(iv) Combination bakery businesses, as prescribed by rule of the~~
26 ~~department, to the extent that sales of baked goods are separately~~
27 ~~accounted for and the baked goods claimed for exemption are not sold as~~
28 ~~part of meals or with beverages in unsealed containers; or~~

29 ~~(v) Bulk food products sold from bins or barrels, including but not~~
30 ~~limited to flour, fruits, vegetables, sugar, salt, chips, and cocoa))~~
31 to prepared food, soft drinks, dietary supplements, or candy.

32 (a) "Prepared food" means:

33 (i) Food sold in a heated state or heated by the seller;

34 (ii) Two or more food ingredients mixed or combined by the seller
35 for sale as a single item; or

36 (iii) Food sold with eating utensils provided by the seller,
37 including plates, knives, forks, spoons, glasses, cups, napkins, or

1 straws. A plate does not include a container or packaging used to
2 transport the food.

3 (b) "Prepared food" in (a)(ii) of this subsection, does not include
4 food that is only cut, repackaged, or pasteurized by the seller and raw
5 eggs, fish, meat, poultry, and foods containing these raw animal foods
6 requiring cooking by the consumer as recommended by the federal food
7 and drug administration in chapter 3, part 401.11 of the food code,
8 published by the food and drug administration, as amended or renumbered
9 as of January 1, 2003, so as to prevent foodborne illness; or bakery
10 items, including bread, rolls, buns, biscuits, bagels, croissants,
11 pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,
12 cookies, or tortillas.

13 (c) "Soft drinks" means nonalcoholic beverages that contain natural
14 or artificial sweeteners. "Soft drinks" do not include beverages that
15 contain: Milk or milk products; soy, rice, or similar milk
16 substitutes; or greater than fifty percent of vegetable or fruit juice
17 by volume.

18 (d) "Dietary supplement" means any product, other than tobacco,
19 intended to supplement the diet that:

20 (i) Contains one or more of the following dietary ingredients: A
21 vitamin; a mineral; an herb or other botanical; an amino acid; a
22 dietary substance for use by humans to supplement the diet by
23 increasing the total dietary intake; or a concentrate, metabolite,
24 constituent, extract, or combination of any ingredient described in
25 this subsection; and is intended for ingestion in tablet, capsule,
26 powder, softgel, gelcap, or liquid form, or if not intended for
27 ingestion in such form, is not represented as conventional food and is
28 not represented for use as a sole item of a meal or of the diet; and

29 (ii) Is required to be labeled as a dietary supplement,
30 identifiable by the "supplement facts" box found on the label as
31 required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as
32 of January 1, 2003.

33 (e) "Candy" means a preparation of sugar, honey, or other natural
34 or artificial sweeteners in combination with chocolate, fruits, nuts,
35 or other ingredients or flavorings in the form of bars, drops, or
36 pieces. "Candy" does not include any preparation containing flour or
37 any product that requires refrigeration.

1 (3) Notwithstanding anything in this section to the contrary, the
2 exemption of "food (~~(products)~~) and food ingredients" provided in this
3 section shall apply to food (~~(products)~~) and food ingredients which are
4 furnished, prepared, or served as meals:

5 (a) Under a state administered nutrition program for the aged as
6 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW
7 74.38.040(6); or

8 (b) Which are provided to senior citizens, disabled persons, or
9 low-income persons by a not-for-profit organization organized under
10 chapter 24.03 or 24.12 RCW.

11 (4)(a) Subsection (1) of this section notwithstanding, the retail
12 sale of food (~~(products)~~) and food ingredients is subject to sales tax
13 under RCW 82.08.020 if the food (~~(products)~~) and food ingredients are
14 sold through a vending machine, and in this case the selling price for
15 purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

16 (b) This subsection does not apply to hot prepared food
17 (~~(products)~~) and food ingredients, other than food (~~(products)~~) and
18 food ingredients which are heated after they have been dispensed from
19 the vending machine.

20 (c) For tax collected under this subsection, the requirements that
21 the tax be collected from the buyer and that the amount of tax be
22 stated as a separate item are waived.

23 **Sec. 12.** RCW 82.12.0293 and 1988 c 103 s 2 are each amended to
24 read as follows:

25 (1) The provisions of this chapter shall not apply in respect to
26 the use of food products for human consumption.

27 "Food products" include cereals and cereal products, oleomargarine,
28 meat and meat products including livestock sold for personal
29 consumption, fish and fish products, eggs and egg products, vegetables
30 and vegetable products, fruit and fruit products, spices and salt,
31 sugar and sugar products, coffee and coffee substitutes, tea, cocoa and
32 cocoa products.

33 "Food products" include milk and milk products, milk shakes, malted
34 milks, and any other similar type beverages which are composed at least
35 in part of milk or a milk product and which require the use of milk or
36 a milk product in their preparation.

1 "Food products" include all fruit juices, vegetable juices, and
2 other beverages except bottled water, spirituous, malt or vinous
3 liquors or carbonated beverages, whether liquid or frozen.

4 "Food products" do not include medicines and preparations in
5 liquid, powdered, granular, tablet, capsule, lozenge, and pill form
6 sold as dietary supplements or adjuncts.

7 "Food products" do not include candy. "Candy" means a preparation
8 of sugar, honey, or other natural or artificial sweeteners in
9 combination with chocolate, fruits, nuts, or other ingredients or
10 flavorings in the form of bars, drops, or pieces. "Candy" does not
11 include any preparation containing flour or any product that requires
12 refrigeration.

13 (2) The exemption of "food products" provided for in subsection (1)
14 of this section shall not apply: (a) When the food products are
15 ordinarily sold for immediate consumption on or near a location at
16 which parking facilities are provided primarily for the use of patrons
17 in consuming the products purchased at the location, even though such
18 products are sold on a "takeout" or "to go" order and are actually
19 packaged or wrapped and taken from the premises of the retailer, or (b)
20 when the food products are sold for consumption within a place, the
21 entrance to which is subject to an admission charge, except for
22 national and state parks and monuments, or (c) to a food product, when
23 sold by the retail vendor, which by law must be handled on the vendor's
24 premises by a person with a food and beverage service worker's permit
25 under RCW 69.06.010, including but not be limited to sandwiches
26 prepared or chicken cooked on the premises, deli trays, home-delivered
27 pizzas or meals, and salad bars but excluding:

28 (i) Raw meat prepared by persons who slaughter animals, including
29 fish and fowl, or dress or wrap slaughtered raw meat such as fish
30 mongers, butchers, or meat wrappers;

31 (ii) Meat and cheese sliced and/or wrapped, in any quantity
32 determined by the buyer, sold by vendors such as meat markets,
33 delicatessens, and grocery stores;

34 (iii) Bakeries which only sell baked goods;

35 (iv) Combination bakery businesses, as prescribed by rule of the
36 department, to the extent that sales of baked goods are separately
37 accounted for and the baked goods claimed for exemption are not sold as
38 part of meals or with beverages in unsealed containers; or

1 (v) Bulk food products sold from bins or barrels, including but not
2 limited to flour, fruits, vegetables, sugar, salt, (~~candy,~~) chips,
3 and cocoa.

4 (3) Notwithstanding anything in this section to the contrary, the
5 exemption of "food products" provided in this section shall apply to
6 food products which are furnished, prepared, or served as meals:

7 (a) Under a state administered nutrition program for the aged as
8 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW
9 74.38.040(6); or

10 (b) Which are provided to senior citizens, disabled persons, or
11 low-income persons by a not-for-profit organization organized under
12 chapter 24.03 or 24.12 RCW.

13 **Sec. 13.** RCW 82.12.0293 and 2003 c . . . s 12 (section 12 of this
14 act) are each amended to read as follows:

15 (1) The provisions of this chapter shall not apply in respect to
16 the use of food (~~products~~) and food ingredients for human
17 consumption. "Food and food ingredients" has the same meaning as in
18 RCW 82.08.0293.

19 (~~"Food products" include cereals and cereal products,~~
20 ~~oleomargarine, meat and meat products including livestock sold for~~
21 ~~personal consumption, fish and fish products, eggs and egg products,~~
22 ~~vegetables and vegetable products, fruit and fruit products, spices and~~
23 ~~salt, sugar and sugar products, coffee and coffee substitutes, tea,~~
24 ~~cocoa and cocoa products.~~

25 ~~"Food products" include milk and milk products, milk shakes, malted~~
26 ~~milks, and any other similar type beverages which are composed at least~~
27 ~~in part of milk or a milk product and which require the use of milk or~~
28 ~~a milk product in their preparation.~~

29 ~~"Food products" include all fruit juices, vegetable juices, and~~
30 ~~other beverages except bottled water, spirituous, malt or vinous~~
31 ~~liquors or carbonated beverages, whether liquid or frozen.~~

32 ~~"Food products" do not include medicines and preparations in~~
33 ~~liquid, powdered, granular, tablet, capsule, lozenge, and pill form~~
34 ~~sold as dietary supplements or adjuncts.~~

35 ~~"Food products" do not include candy. "Candy" means a preparation~~
36 ~~of sugar, honey, or other natural or artificial sweeteners in~~
37 ~~combination with chocolate, fruits, nuts, or other ingredients or~~

1 ~~flavorings in the form of bars, drops, or pieces. "Candy" does not~~
2 ~~include any preparation containing flour or any product that requires~~
3 ~~refrigeration.)~~)

4 (2) The exemption of "food (~~products~~) and food ingredients"
5 provided for in subsection (1) of this section shall not apply(~~:(a)~~
6 ~~When the food products are ordinarily sold for immediate consumption on~~
7 ~~or near a location at which parking facilities are provided primarily~~
8 ~~for the use of patrons in consuming the products purchased at the~~
9 ~~location, even though such products are sold on a "takeout" or "to go"~~
10 ~~order and are actually packaged or wrapped and taken from the premises~~
11 ~~of the retailer, or (b) when the food products are sold for consumption~~
12 ~~within a place, the entrance to which is subject to an admission~~
13 ~~charge, except for national and state parks and monuments, or (c) to a~~
14 ~~food product, when sold by the retail vendor, which by law must be~~
15 ~~handled on the vendor's premises by a person with a food and beverage~~
16 ~~service worker's permit under RCW 69.06.010, including but not be~~
17 ~~limited to sandwiches prepared or chicken cooked on the premises, deli~~
18 ~~trays, home delivered pizzas or meals, and salad bars but excluding:~~

19 ~~(i) Raw meat prepared by persons who slaughter animals, including~~
20 ~~fish and fowl, or dress or wrap slaughtered raw meat such as fish~~
21 ~~mongers, butchers, or meat wrappers;~~

22 ~~(ii) Meat and cheese sliced and/or wrapped, in any quantity~~
23 ~~determined by the buyer, sold by vendors such as meat markets,~~
24 ~~delicatessens, and grocery stores;~~

25 ~~(iii) Bakeries which only sell baked goods;~~

26 ~~(iv) Combination bakery businesses, as prescribed by rule of the~~
27 ~~department, to the extent that sales of baked goods are separately~~
28 ~~accounted for and the baked goods claimed for exemption are not sold as~~
29 ~~part of meals or with beverages in unsealed containers; or~~

30 ~~(v) Bulk food products sold from bins or barrels, including but not~~
31 ~~limited to flour, fruits, vegetables, sugar, salt, chips, and cocoa))~~
32 to prepared food, soft drinks, or dietary supplements. "Prepared
33 food," "soft drinks," "dietary supplements," and "candy" have the same
34 meanings as in RCW 82.08.0293.

35 (3) Notwithstanding anything in this section to the contrary, the
36 exemption of "food (~~products~~) and food ingredients" provided in this
37 section shall apply to food (~~products~~) and food ingredients which are
38 furnished, prepared, or served as meals:

1 (a) Under a state administered nutrition program for the aged as
2 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW
3 74.38.040(6); or

4 (b) Which are provided to senior citizens, disabled persons, or
5 low-income persons by a not-for-profit organization organized under
6 chapter 24.03 or 24.12 RCW.

7 **Sec. 14.** RCW 82.08.150 and 1998 c 126 s 16 are each amended to
8 read as follows:

9 (1) There is levied and shall be collected a tax upon each retail
10 sale of spirits, or strong beer in the original package at the rate of
11 fifteen percent of the selling price. The tax imposed in this
12 subsection shall apply to all such sales including sales by the
13 Washington state liquor stores and agencies, but excluding sales to
14 spirits, beer, and wine restaurant licensees.

15 (2) There is levied and shall be collected a tax upon each sale of
16 spirits, or strong beer in the original package at the rate of ten
17 percent of the selling price on sales by Washington state liquor stores
18 and agencies to spirits, beer, and wine restaurant licensees.

19 (3) There is levied and shall be collected an additional tax upon
20 each retail sale of spirits in the original package at the rate of one
21 dollar and seventy-two cents per liter. The additional tax imposed in
22 this subsection shall apply to all such sales including sales by
23 Washington state liquor stores and agencies, and including sales to
24 spirits, beer, and wine restaurant licensees.

25 (4) An additional tax is imposed equal to fourteen percent
26 multiplied by the taxes payable under subsections (1), (2), and (3) of
27 this section.

28 (5) An additional tax is imposed upon each retail sale of spirits
29 in the original package at the rate of seven cents per liter. The
30 additional tax imposed in this subsection shall apply to all such sales
31 including sales by Washington state liquor stores and agencies, and
32 including sales to spirits, beer, and wine restaurant licensees. All
33 revenues collected during any month from this additional tax shall be
34 deposited in the violence reduction and drug enforcement account under
35 RCW 69.50.520 by the twenty-fifth day of the following month.

36 (6)(a) An additional tax is imposed upon retail sale of spirits in
37 the original package at the rate of one and seven-tenths percent of the

1 selling price through June 30, 1995, two and six-tenths percent of the
2 selling price for the period July 1, 1995, through June 30, 1997, and
3 three and four-tenths of the selling price thereafter. This additional
4 tax applies to all such sales including sales by Washington state
5 liquor stores and agencies, but excluding sales to spirits, beer, and
6 wine restaurant licensees.

7 (b) An additional tax is imposed upon retail sale of spirits in the
8 original package at the rate of one and one-tenth percent of the
9 selling price through June 30, 1995, one and seven-tenths percent of
10 the selling price for the period July 1, 1995, through June 30, 1997,
11 and two and three-tenths of the selling price thereafter. This
12 additional tax applies to all such sales to spirits, beer, and wine
13 restaurant licensees.

14 (c) An additional tax is imposed upon each retail sale of spirits
15 in the original package at the rate of twenty cents per liter through
16 June 30, 1995, thirty cents per liter for the period July 1, 1995,
17 through June 30, 1997, and forty-one cents per liter thereafter. This
18 additional tax applies to all such sales including sales by Washington
19 state liquor stores and agencies, and including sales to spirits, beer,
20 and wine restaurant licensees.

21 (d) All revenues collected during any month from additional taxes
22 under this subsection shall be deposited in the health services account
23 created under RCW 43.72.900 by the twenty-fifth day of the following
24 month.

25 (7)(a) An additional tax is imposed upon retail sale of spirits in
26 the original package at the rate of three and nine-tenths percent of
27 the selling price. This additional tax applies to all such sales
28 including sales by Washington state liquor stores and agencies, but
29 excluding sales to spirits, beer, and wine restaurant licensees.

30 (b) An additional tax is imposed upon retail sale of spirits in the
31 original package at the rate of two and six-tenths percent of the
32 selling price. This additional tax applies to all such sales to
33 spirits, beer, and wine restaurant licensees.

34 (c) An additional tax is imposed upon each retail sale of spirits
35 in the original package at the rate of forty-six cents per liter. This
36 additional tax applies to all such sales including sales by Washington
37 state liquor stores and agencies, and including sales to spirits, beer,
38 and wine restaurant licensees.

1 (d) All revenues collected during any month from additional taxes
2 under this subsection shall be deposited in the student achievement
3 fund.

4 (8) The tax imposed in RCW 82.08.020 shall not apply to sales of
5 spirits or strong beer in the original package.

6 ~~((+8))~~ (9) The taxes imposed in this section shall be paid by the
7 buyer to the seller, and each seller shall collect from the buyer the
8 full amount of the tax payable in respect to each taxable sale under
9 this section. The taxes required by this section to be collected by
10 the seller shall be stated separately from the selling price and for
11 purposes of determining the tax due from the buyer to the seller, it
12 shall be conclusively presumed that the selling price quoted in any
13 price list does not include the taxes imposed by this section.

14 ~~((+9))~~ (10) As used in this section, the terms, "spirits(~~(+7)~~
15 ~~"strong beer,~~)" and "package" shall have the meaning ascribed to them
16 in chapter 66.04 RCW.

17 **Sec. 15.** RCW 82.32.090 and 2000 c 229 s 7 are each amended to read
18 as follows:

19 (1) If payment of any tax due on a return to be filed by a taxpayer
20 is not received by the department of revenue by the due date, there
21 shall be assessed a penalty of five percent of the amount of the tax;
22 and if the tax is not received on or before the last day of the month
23 following the due date, there shall be assessed a total penalty of
24 ~~((ten))~~ fifteen percent of the amount of the tax; and if the tax is not
25 received on or before the last day of the second month following the
26 due date, there shall be assessed a total penalty of ~~((twenty))~~ twenty-
27 five percent of the amount of the tax. No penalty so added shall be
28 less than five dollars.

29 (2) If payment of any tax assessed by the department of revenue is
30 not received by the department by the due date specified in the notice,
31 or any extension thereof, the department shall add a penalty of ten
32 percent of the amount of the additional tax found due. No penalty so
33 added shall be less than five dollars.

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

1 (4) If upon any examination of any returns or other information,
2 the department finds that a taxpayer has collected but not remitted
3 retail sales taxes due, the department shall add a penalty of twenty-
4 five percent of the amount of the retail sales tax collected but not
5 remitted. No penalty added shall be less than ten dollars.

6 (5) If the department finds that a taxpayer has substantially
7 underpaid the tax due, the department shall add a penalty of fifteen
8 percent of the underpaid amount. No penalty added shall be less than
9 ten dollars. "Substantially underpaid" means that the taxpayer paid
10 less than ninety percent of the taxes found to be due.

11 (6) If the department finds that all or any part of a deficiency
12 resulted from the disregard of specific written instructions as to
13 reporting or tax liabilities, the department shall add a penalty of
14 ~~((ten))~~ fifteen percent of the amount of the additional tax found due
15 because of the failure to follow the instructions. A taxpayer
16 disregards specific written instructions when the department of revenue
17 has informed the taxpayer in writing of the taxpayer's tax obligations
18 and the taxpayer fails to act in accordance with those instructions
19 unless the department has not issued final instructions because the
20 matter is under appeal pursuant to this chapter or departmental
21 regulations. The department shall not assess the penalty under this
22 section upon any taxpayer who has made a good faith effort to comply
23 with the specific written instructions provided by the department to
24 that taxpayer. Specific written instructions may be given as a part of
25 a tax assessment, audit, determination, or closing agreement, provided
26 that such specific written instructions shall apply only to the
27 taxpayer addressed or referenced on such documents. ~~((Any specific~~
28 ~~written instructions by the department of revenue shall be clearly~~
29 ~~identified as such and shall inform the taxpayer that failure to follow~~
30 ~~the instructions may subject the taxpayer to the penalties imposed by~~
31 ~~this subsection.~~

32 ~~(+5))~~ (7) If the department finds that all or any part of the
33 deficiency resulted from an intent to evade the tax payable hereunder,
34 a further penalty of fifty percent of the additional tax found to be
35 due shall be added.

36 ~~((+6))~~ (8) The aggregate of penalties imposed under subsections
37 (1), (2), and (3) of this section shall not exceed ~~((thirty-five))~~

1 forty percent of the tax due, or twenty dollars, whichever is greater.
2 This subsection does not prohibit or restrict the application of other
3 penalties authorized by law.

4 ~~((7))~~ (9) The department of revenue may not impose:

5 (a) Both the evasion penalty and the penalty for disregarding
6 specific written instructions on the same tax found to be due;

7 (b) Both the evasion penalty and the failure to remit retail sales
8 tax penalty on the same tax found to be due;

9 (c) Both the evasion penalty and the substantial underpayment
10 penalty on the same tax found to be due;

11 (d) Both the substantial underpayment penalty and the failure to
12 remit retail sales tax penalty on the same tax found to be due.

13 ~~((8))~~ (10) For the purposes of this section, "return" means any
14 document a person is required by the state of Washington to file to
15 satisfy or establish a tax or fee obligation that is administered or
16 collected by the department of revenue, and that has a statutorily
17 defined due date.

18 NEW SECTION. Sec. 16. A new section is added to chapter 82.32 RCW
19 to read as follows:

20 (1) The changes in this act are intended to provide dedicated
21 revenue sources for the student achievement fund and health services
22 account. Since it is not practical to determine precisely the revenues
23 derived from some of these changes, portions of sales tax revenue is
24 dedicated in lieu thereof.

25 (2)(a) During the 2003-05 fiscal biennium, one and three one-
26 hundredths of one percent of all revenue from the tax imposed in RCW
27 82.08.020(1) shall be deposited in the student achievement fund.

28 (b) During the 2005-07 fiscal biennium and thereafter, seven
29 hundred thirty-eight one-thousandths of one percent of all revenue from
30 the tax imposed in RCW 82.08.020(1) shall be deposited in the student
31 achievement fund.

32 (3) Twenty-six one-hundredths of one percent of all revenue from
33 the tax imposed in RCW 82.08.020(1) shall be deposited in the health
34 services account.

35 (4) On or before January 1st of each year, the department of
36 revenue shall provide the legislature with an updated estimate of the

1 percentages of sales tax revenue attributable as dedicated revenue
2 under this section. The updated estimates are not effective until
3 adopted by the legislature.

4 NEW SECTION. **Sec. 17.** A new section is added to chapter 43.135
5 RCW to read as follows:

6 RCW 43.135.035(4) does not apply to section 16 of this act.

7 **Sec. 18.** RCW 82.08.064 and 2000 c 104 s 3 are each amended to read
8 as follows:

9 (1) A sales and use tax rate change under this chapter or chapter
10 82.12 RCW shall be imposed (1) no sooner than seventy-five days after
11 its enactment into law and (2) only on the first day of January, April,
12 July, or October.

13 (2) Subsection (1) of this section does not apply to the tax rate
14 changes in chapter ..., Laws of 2003 (this act).

15 NEW SECTION. **Sec. 19.** RCW 48.32.145 (Credit against premium tax
16 for assessments paid pursuant to RCW 48.32.060(1)(c)) and 1997 c 300 s
17 1, 1993 sp.s. c 25 s 901, 1977 ex.s. c 183 s 1, & 1975-'76 2nd ex.s. c
18 109 s 11 are each repealed.

19 NEW SECTION. **Sec. 20.** The amendatory changes in sections 11 and
20 13 of this act, to RCW 82.08.0293 and 82.12.0293, are intended to
21 supersede any other acts that amend the same sections during the 2003
22 legislative session. The rule of construction in RCW 1.12.025 does not
23 apply to multiple amendments to these sections during the 2003
24 legislative session.

25 NEW SECTION. **Sec. 21.** Section 15 of this act applies to all
26 penalties added after July 1, 2003, regardless of the due date of the
27 taxes subject to the penalty.

28 NEW SECTION. **Sec. 22.** (1) Sections 1 through 3, 10, 12, and 14
29 through 21 of this act are necessary for the immediate preservation of
30 the public peace, health, or safety, or support of the state government
31 and its existing public institutions, and take effect July 1, 2003.

- 1 (2) Sections 11 and 13 of this act take effect January 1, 2004.
2 (3) Sections 4 through 9 of this act take effect July 1, 2004.

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