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HOUSE BILL 2673

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State of Washington                      58th Legislature                      2004 Regular Session

By Representative Moeller

Read first time 01/19/2004. Referred to Committee on Finance.

1            AN ACT Relating to excise taxation of fireworks; adding a new  
2 chapter to Title 82 RCW; and providing an effective date.

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

4            NEW SECTION.    **Sec. 1.** It is the intent and purpose of this chapter  
5 to impose a tax on all fireworks sold, used, consumed, handled, or  
6 distributed within this state and to collect the tax from the person  
7 who first sells, uses, consumes, handles, or distributes them in the  
8 state. It is the further intent and purpose of this chapter to impose  
9 the tax once, and only once, on all fireworks used in this state, but  
10 nothing in this chapter shall be construed to exempt any person taxable  
11 under any other law.

12           NEW SECTION.    **Sec. 2.** The definitions in this section apply  
13 throughout this chapter unless the context clearly requires otherwise.

14           (1) "Fireworks," "importer," "manufacturer," "wholesaler," and  
15 "retailer" have the meanings provided in chapter 70.77 RCW.

16           (2) "Distributor" means an importer, manufacturer, wholesaler, or  
17 any person engaged in the business of selling fireworks in this state

1 or any person who handles any fireworks that are within this state but  
2 upon which tax has not been imposed under this chapter.

3 (3) "Sale" means any transfer, exchange, or barter, in any manner  
4 or by any means whatsoever, for a consideration, and includes and means  
5 all sales made by any person. It includes a gift by a person engaged  
6 in the business of selling fireworks, for advertising, as a means of  
7 evading the provisions of this chapter, or for any other purposes  
8 whatsoever.

9 (4) "Wholesale value" means fair market wholesale value, determined  
10 as nearly as possible according to the wholesale selling price at the  
11 place of use of similar products of like quality and character, in  
12 accordance with rules of the department.

13 (5) "Business" means any trade, occupation, activity, or enterprise  
14 engaged in for the purpose of selling or distributing fireworks in this  
15 state.

16 (6) "Place of business" means any place where fireworks are sold or  
17 where fireworks are manufactured, stored, or kept for the purpose of  
18 sale or consumption, including any vessel, vehicle, airplane, train, or  
19 vending machine.

20 (7) "Retail outlet" means each place of business from which  
21 fireworks are sold to consumers.

22 (8) "Person" means any individual, receiver, administrator,  
23 executor, assignee, trustee in bankruptcy, trust, estate, firm,  
24 copartnership, joint venture, club, company, joint stock company,  
25 business trust, municipal corporation, the state and its departments  
26 and institutions, political subdivision of the state of Washington,  
27 corporation, limited liability company, association, society, or any  
28 group of individuals acting as a unit, whether mutual, cooperative,  
29 fraternal, nonprofit, or otherwise. The term excludes any person  
30 immune from state taxation, including the United States or its  
31 instrumentalities, and federally recognized Indian tribes and enrolled  
32 tribal members, conducting business within Indian country.

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

35 NEW SECTION. **Sec. 3.** (1) A tax is imposed upon the sale, use,  
36 consumption, handling, or distribution of all fireworks in this state  
37 at the rate of five percent of the wholesale value of the fireworks.

1 (2) Taxes under this section are imposed at the time the  
2 distributor (a) brings, or causes to be brought, fireworks into this  
3 state from outside the state; (b) makes, manufactures, or fabricates  
4 fireworks in this state for sale in this state; (c) ships or transports  
5 fireworks to retailers in this state, to be sold by those retailers; or  
6 (d) handles any fireworks that are within this state but the tax has  
7 not been imposed under this chapter.

8 (3) Taxes under this section shall be itemized on any sales invoice  
9 or other instrument of sale given by the distributor.

10 NEW SECTION. **Sec. 4.** (1) Every distributor shall keep at each  
11 registered place of business complete and accurate records for that  
12 place of business, including itemized invoices, of fireworks held,  
13 purchased, manufactured, brought in or caused to be brought in from  
14 outside the state, or shipped or transported to retailers in this  
15 state, and of all sales of fireworks made, except sales to the ultimate  
16 consumer.

17 (2) These records shall show the names and addresses of purchasers,  
18 and other pertinent papers and documents relating to the purchase,  
19 sale, or disposition of fireworks.

20 (3) When a distributor sells fireworks exclusively to the ultimate  
21 consumer at the address given in the distributor's registration  
22 certificate under RCW 82.32.030, no invoice of those sales is required,  
23 but itemized invoices shall be made of all fireworks transferred to  
24 other retail outlets owned or controlled by that distributor.

25 (4) Every retailer shall obtain itemized invoices of all fireworks  
26 purchased. The invoices shall show the name and address of the seller  
27 and the date of purchase. If a retailer fails to keep and preserve  
28 invoices as required under chapter 82.32 RCW, the retailer is liable  
29 for the tax owed on any uninvoiced fireworks. Penalties and interest  
30 are not due on uninvoiced fireworks, unless the department finds that  
31 the nonpayment of tax by the retailer was willful or if in the case of  
32 a second or plural nonpayment of tax by the retailer, in which cases  
33 penalties and interest shall be assessed under chapter 82.32 RCW.

34 (5) The department shall by rule establish the invoice detail  
35 required for distributors and retailers under this section.

1        NEW SECTION.    **Sec. 5.**    When fireworks upon which the tax imposed by  
2 this chapter has been reported and paid, are shipped or transported by  
3 the distributor outside the state, or are returned to the manufacturer  
4 by the distributor or destroyed by the distributor, credit of the tax  
5 may be made to the distributor in accordance with the rules of the  
6 department.

7        NEW SECTION.    **Sec. 6.**    Revenue from taxes imposed in this chapter  
8 shall be deposited in the fire services trust fund under RCW 43.43.946,  
9 and used solely for grants to city fire departments, city police  
10 departments, county sheriff departments, and fire districts to defray  
11 the public costs associated with fireworks.

12        NEW SECTION.    **Sec. 7.**    Chapter 82.32 RCW applies to the taxes  
13 imposed in this chapter.    The tax due dates, reporting periods, and  
14 return requirements applicable to chapter 82.04 RCW apply equally to  
15 the taxes imposed in this chapter.

16        NEW SECTION.    **Sec. 8.**    This act takes effect October 1, 2004.

17        NEW SECTION.    **Sec. 9.**    Sections 1 through 8 of this act constitute  
18 a new chapter in Title 82 RCW.

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