
HOUSE BILL 2448

State of Washington 59th Legislature 2006 Regular Session

By Representatives Campbell and Conway

Prefiled 1/5/2006. Read first time 01/09/2006. Referred to
Committee on Criminal Justice & Corrections.

1 AN ACT Relating to excise taxation of illegal drugs and alcohol;
2 adding a new 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.** The purpose of this chapter is to impose an
5 excise tax to generate revenue for state and local law enforcement
6 agencies for use by those agencies to investigate, combat, prevent, and
7 reduce drug crimes, and for the general fund. Nothing in this chapter
8 in any manner provides immunity from criminal prosecution for a person
9 who possesses an illegal substance.

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

12 (1) "Controlled substance" means a controlled substance as defined
13 in RCW 69.50.101, but does not include a low street-value drug.

14 (2) "Dealer" means any of the following:

15 (a) A person who actually or constructively possesses more than
16 forty-two and one-half grams of marijuana, seven or more grams of any
17 other unauthorized substance that is sold by weight, or ten or more

1 dosage units of any other unauthorized substance that is not sold by
2 weight; or

3 (b) A person who possesses an illicit alcoholic beverage for sale
4 in violation of Title 66 RCW.

5 (3) "Illicit alcoholic beverage" means liquor, as defined in RCW
6 66.04.010, not authorized by the liquor control board. "Illicit
7 alcoholic beverage" includes, but is not limited to, products known as
8 "bootleg liquor," "moonshine," "nontax-paid liquor," and "white
9 liquor."

10 (4) "Local law enforcement agency" means a municipal police
11 department or a sheriff's office.

12 (5) "Low street-value drug" means any of the following controlled
13 substances:

14 (a) A hallucinogenic substance described in RCW 69.50.204;

15 (b) A stimulant described in RCW 69.50.204;

16 (c) An anabolic steroid as defined in RCW 69.50.208;

17 (d) A depressant described in RCW 69.50.210; or

18 (e) A controlled substance described in RCW 69.50.212.

19 (6) "Marijuana" means all parts of the plant of the genus cannabis,
20 whether growing or not; the seeds of this plant; the resin extracted
21 from any part of this plant; and every compound, salt, derivative,
22 mixture, or preparation of this plant, its seeds, or its resin.

23 (7) "Possess" and "possession" include active or constructive
24 possession.

25 (8) "State law enforcement agency" means any state agency, force,
26 department, or unit responsible for enforcing criminal laws.

27 (9) "Unauthorized substance" means a controlled substance, a low
28 street-value drug, or an illicit alcoholic beverage.

29 NEW SECTION. **Sec. 3.** (1) An excise tax is imposed on unauthorized
30 substances possessed by dealers, at the following rates:

31 (a) Forty cents for each gram, or fraction thereof, of harvested
32 marijuana stems and stalks that have been separated from and are not
33 mixed with any other parts of the marijuana plant;

34 (b) Three dollars and fifty cents for each gram, or fraction
35 thereof, of marijuana, other than separated stems and stalks taxed
36 under (a) of this subsection;

37 (c) Fifty dollars for each gram, or fraction thereof, of cocaine;

1 (d) Two hundred dollars for each gram, or fraction thereof, of any
2 other controlled substance or low street-value drug that is sold by
3 weight;

4 (e) Fifty dollars for each ten dosage units, or fraction thereof,
5 of any low street-value drug that is not sold by weight; or

6 (f) Two hundred dollars for each ten dosage units, or fraction
7 thereof, of any other controlled substance that is not sold by weight.

8 (2) A quantity of marijuana or other unauthorized substance is
9 measured by the weight of the substance whether pure, impure, or
10 dilute, or by the number of dosage units in the dealer's possession
11 when the substance is not sold by weight. A quantity of an
12 unauthorized substance is dilute if it consists of a detectable
13 quantity of pure controlled substance and any excipients or fillers.

14 (3) An excise tax is imposed on illicit alcoholic beverages
15 possessed by a dealer at the following rates:

16 (a) Thirty-one dollars and seventy cents for each gallon, or
17 fraction thereof, of illicit alcoholic beverages sold by the drink; or

18 (b) Twelve dollars and eighty cents for each gallon, or fraction
19 thereof, of illicit alcoholic beverages not sold by the drink.

20 NEW SECTION. **Sec. 4.** (1) The tax imposed in this chapter does not
21 apply to a substance in the possession of a dealer who is authorized by
22 law to possess the substance. This exemption applies only during the
23 time the dealer's possession of the substance is authorized by law.

24 (2) The tax imposed in this chapter does not apply to the following
25 marijuana:

26 (a) Harvested mature marijuana stalks when separated from and not
27 mixed with any other parts of the marijuana plant;

28 (b) Fiber or any other product of marijuana stalks described in (a)
29 of this subsection, except resin extracted from the stalks;

30 (c) Marijuana seeds that have been sterilized and are incapable of
31 germination; or

32 (d) Roots of the marijuana plant.

33 NEW SECTION. **Sec. 5.** (1) The department shall issue stamps to
34 affix to unauthorized substances to indicate payment of the tax
35 required by this chapter. Dealers shall report the taxes payable under
36 this chapter at the time and on the form prescribed by the department.

1 Dealers are not required to give their name, address, social security
2 number, or other identifying information on the form. Upon payment of
3 the tax, the department shall issue stamps in an amount equal to the
4 amount of the tax paid. Taxes may be paid and stamps may be issued
5 either by mail or in person.

6 (2) Every local law enforcement agency and every state law
7 enforcement agency must report to the department within forty-eight
8 hours after seizing an unauthorized substance, or making an arrest of
9 an individual in possession of an unauthorized substance, listed in
10 this subsection (2) upon which a stamp has not been affixed. The
11 report must be in the manner required by the department and must
12 include the time and place of the arrest or seizure, the amount,
13 location, and kind of substance, the identification of any individual
14 in possession of the substance and the individual's social security
15 number, and any other information required by the department. The
16 report must be made when the arrest or seizure involves any of the
17 following unauthorized substances upon which a stamp has not been
18 affixed as required by this chapter:

- 19 (a) More than forty-two and one-half grams of marijuana;
- 20 (b) Any illicit alcoholic beverage;
- 21 (c) Seven or more grams of any other unauthorized substance that is
22 sold by weight; or
- 23 (d) Ten or more dosage units of any other unauthorized substance
24 that is not sold by weight.

25 NEW SECTION. **Sec. 6.** The tax imposed by this chapter is payable
26 by any dealer who possesses an unauthorized substance in this state
27 upon which the tax has not been paid as evidenced by a stamp issued by
28 the department. The tax is payable within forty-eight hours after the
29 dealer acquires possession of a nontax-paid unauthorized substance,
30 exclusive of Saturdays, Sundays, and legal holidays of this state, in
31 which case the tax is payable on the next working day. If the tax is
32 not paid within forty-eight hours, the tax will become delinquent and
33 will accrue penalty and interest under chapter 82.32 RCW. Upon payment
34 of the tax, the dealer shall permanently affix the appropriate stamps
35 to the unauthorized substance. Once the tax due on an unauthorized
36 substance has been paid, no additional tax is due under this chapter
37 even though the unauthorized substance may be possessed by other

1 dealers. If a dealer is found in possession of a substance taxable
2 under this chapter that does not have the appropriate tax stamp
3 affixed, it shall be presumed the dealer has been in possession of the
4 substance for longer than forty-eight hours, exclusive of Saturdays,
5 Sundays, and legal holidays of this state.

6 NEW SECTION. **Sec. 7.** An assessment against a dealer who possesses
7 an unauthorized substance to which a stamp has not been affixed as
8 required by this chapter shall be made as provided in this section.
9 The department shall immediately assess tax, applicable penalty, and
10 interest based on any information brought to the attention of the
11 department that a person is liable for unpaid tax under this chapter.
12 The tax shall be assessed in the same manner as any other excise tax
13 assessment under chapter 82.32 RCW, except when the provisions of this
14 chapter specify otherwise. The department shall notify the dealer in
15 writing of the amount of the tax, penalty, and interest due, and demand
16 its immediate payment. The notice of assessment and demand for payment
17 shall be either mailed to the dealer at the dealer's last known address
18 or served on the dealer in person. If the dealer does not pay the tax,
19 penalty, and interest immediately upon receipt of the notice and
20 demand, the department shall collect the assessment, including penalty
21 and interest, under chapter 82.32 RCW. Unless the dealer obtains a
22 stay of collection under RCW 82.32.200, the department shall treat the
23 assessment as a jeopardy assessment and immediately proceed with
24 collection actions.

25 NEW SECTION. **Sec. 8.** Information obtained under this chapter is
26 confidential and, unless independently obtained, may not be used in a
27 criminal prosecution other than a prosecution for a violation of this
28 chapter. Stamps issued under this chapter may not be used in a
29 criminal prosecution other than a prosecution for a violation of this
30 chapter. This section does not prohibit the department from publishing
31 statistics under RCW 82.32.330(3)(e).

32 NEW SECTION. **Sec. 9.** (1) The unauthorized substances tax account
33 is created in the state treasury. All receipts from the tax imposed
34 under this chapter must be deposited in the account. Money in the

1 account may be spent only after appropriation. Expenditures from the
2 account may be used as provided in this section.

3 (2) Proceeds from the tax shall be applied first to costs of
4 storing and disposing of the assets seized in payment of the assessment
5 under this chapter, which costs shall be added to and become part of
6 the assessment. From the remaining proceeds, seventy-five percent of
7 the tax proceeds that were collected by assessment shall be distributed
8 to the state or local law enforcement agency that conducted the
9 investigation of a dealer that led to the assessment. These proceeds
10 are to be used by the agency solely for the purpose of investigating,
11 combating, preventing, and reducing drug crimes. If more than one
12 state or local law enforcement agency conducted the investigation, the
13 department shall determine the equitable share for each agency based on
14 the contribution each agency made to the investigation. The
15 department's determination of the equitable share for each agency shall
16 be final, and shall not be subject to review in an administrative or
17 judicial proceeding. After this distribution, the legislature may
18 transfer the balance of tax proceeds to the general fund or appropriate
19 this balance for any purpose.

20 NEW SECTION. **Sec. 10.** The provisions of this chapter shall not be
21 construed to confer any immunity from criminal prosecution or
22 conviction for a violation of chapter 69.50 RCW upon any person who
23 voluntarily pays the tax imposed by this chapter or who otherwise
24 complies with the provisions of this chapter.

25 NEW SECTION. **Sec. 11.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 12.** This act takes effect July 1, 2006.

30 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act
31 constitute a new chapter in Title 82 RCW.

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