
HOUSE BILL 2058

State of Washington

61st Legislature

2009 Regular Session

By Representatives Hope, Kristiansen, Haler, Pettigrew, McCune, Pearson, Warnick, Cox, Schmick, Hinkle, Rodne, Smith, Bailey, Johnson, Kelley, and Condotta

Read first time 02/09/09. Referred to Committee on Finance.

1 AN ACT Relating to an annual sales and use tax holiday to assist
2 families with educational supplies; amending RCW 82.12.040; adding a
3 new section to chapter 82.08 RCW; and adding a new section to chapter
4 82.12 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW
7 to read as follows:

8 (1) Subject to the conditions and limitations provided in this
9 section, the tax levied by RCW 82.08.020 does not apply to the sale of
10 the following tangible personal property: (a) Clothing items; (b)
11 computers; (c) school art supply items; (d) school computer supply
12 items; (e) school instructional material items; and (f) school supply
13 items.

14 (2)(a) A clothing item is exempt under this section if the sales
15 price of the item is less than one hundred fifty dollars.

16 (b) A computer is exempt under this section if the sales price of
17 the item is less than one thousand five hundred dollars.

18 (c) A school art supply item, school instructional material item,

1 or school supply item, is exempt under this section if the sales price
2 of the item is less than one hundred fifty dollars.

3 (d) A school computer supply item is exempt under this section if
4 the sales price of the item is less than one thousand five hundred
5 dollars.

6 (3) The exemption authorized in this section only applies to
7 purchases made on the second adjacent Saturday and Sunday of August of
8 each year.

9 (4) Rules adopted by the department for the administration of this
10 section must be substantially consistent with the streamlined sales and
11 use tax agreement, as that term is used in chapter 82.58 RCW.

12 (5) The definitions in this subsection apply for the purposes of
13 this section.

14 (a) "Clothing item" means human wearing apparel suitable for
15 general use.

16 (i) "Clothing item" includes, but is not limited to, the following:
17 Aprons, household and shop; athletic supporters; baby receiving
18 blankets; bathing suits and caps; beach capes and coats; belts and
19 suspenders; boots; coats and jackets; costumes; diapers, children and
20 adult, including disposable diapers; ear muffs; footlets; formal wear;
21 garters and garter belts; girdles; gloves and mittens for general use;
22 hats and caps; hosiery; insoles for shoes; lab coats; neckties;
23 overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes
24 and shoe laces; slippers; sneakers; socks and stockings; steel toed
25 shoes; underwear; uniforms, athletic and nonathletic; and wedding
26 apparel.

27 (ii) "Clothing item" does not include: Belt buckles sold
28 separately; costume masks sold separately; patches and emblems sold
29 separately; sewing equipment and supplies including, but not limited
30 to, knitting needles, patterns, pins, scissors, sewing machines, sewing
31 needles, tape measures, and thimbles; and sewing materials that become
32 part of "clothing" including, but not limited to, buttons, fabric,
33 lace, thread, yarn, and zippers.

34 (b) "Computer" means an electronic device that accepts information
35 in digital or similar form and manipulates it for a result based on a
36 sequence of instructions.

37 (c) "School art supply item" means clay and glazes; paints;

1 acrylic, tempera, and oil; paintbrushes for artwork; sketch and drawing
2 pads; or watercolors.

3 (d) "School computer supply item" means computer storage media;
4 handheld electronic schedulers, except devices that are cellular
5 phones; personal digital assistants, except devices that are cellular
6 phones; computer printers; or printer supplies for computer printers
7 such as printer paper and printer ink.

8 (e) "School instructional material item" means reference books;
9 reference maps and globes; textbooks; or workbooks.

10 (f) "School supply item" means binders; book bags; calculators;
11 cellophane tape; blackboard chalk; compasses; composition books;
12 crayons; erasers; folders, expandable, pocket, plastic, and manila;
13 glue, paste, and paste sticks; highlighters; index cards; index card
14 boxes; legal pads; lunch boxes; markers; notebooks; paper; loose leaf
15 ruled notebook paper, copy paper, graph paper, tracing paper, manila
16 paper, colored paper, poster board, and construction paper; pencil
17 boxes and other school supply boxes; pencil sharpeners; pencils; pens;
18 protractors; rulers; scissors; or writing tablets.

19 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW
20 to read as follows:

21 (1) The provisions of this chapter do not apply to the use of the
22 following tangible personal property: (a) Clothing items not used
23 primarily for conducting business; (b) computers not used primarily for
24 conducting business; (c) school art supply items not used primarily for
25 conducting business; (d) school computer supply items not used
26 primarily for conducting business; (e) school instructional material
27 items not used primarily for conducting business; and (f) school supply
28 items not used primarily for conducting business.

29 (2) The definitions, conditions, and limitations in section 1 of
30 this act apply to this section.

31 (3) For the purposes of this section, "business" has the meaning
32 provided in RCW 82.04.140 and also includes activities engaged in by a
33 common school, school district, or educational service district.

34 **Sec. 3.** RCW 82.12.040 and 2005 c 514 s 109 are each amended to
35 read as follows:

36 (1) Every person who maintains in this state a place of business or

1 a stock of goods, or engages in business activities within this state,
2 shall obtain from the department a certificate of registration, and
3 shall, at the time of making sales of tangible personal property,
4 extended warranties, or sales of any service defined as a retail sale
5 in RCW 82.04.050 (2)(a) or (3)(a), or making transfers of either
6 possession or title, or both, of tangible personal property for use in
7 this state, collect from the purchasers or transferees the tax imposed
8 under this chapter. The tax to be collected under this section shall
9 be in an amount equal to the purchase price multiplied by the rate in
10 effect for the retail sales tax under RCW 82.08.020. For the purposes
11 of this chapter, the phrase "maintains in this state a place of
12 business" shall include the solicitation of sales and/or taking of
13 orders by sales agents or traveling representatives. For the purposes
14 of this chapter, "engages in business activity within this state"
15 includes every activity which is sufficient under the Constitution of
16 the United States for this state to require collection of tax under
17 this chapter. The department shall in rules specify activities which
18 constitute engaging in business activity within this state, and shall
19 keep the rules current with future court interpretations of the
20 Constitution of the United States.

21 (2) Every person who engages in this state in the business of
22 acting as an independent selling agent for persons who do not hold a
23 valid certificate of registration, and who receives compensation by
24 reason of sales of tangible personal property, extended warranties, or
25 sales of any service defined as a retail sale in RCW 82.04.050 (2)(a)
26 or (3)(a), of his or her principals for use in this state, shall, at
27 the time such sales are made, collect from the purchasers the tax
28 imposed on the purchase price under this chapter, and for that purpose
29 shall be deemed a retailer as defined in this chapter.

30 (3) The tax required to be collected by this chapter shall be
31 deemed to be held in trust by the retailer until paid to the department
32 and any retailer who appropriates or converts the tax collected to the
33 retailer's own use or to any use other than the payment of the tax
34 provided herein to the extent that the money required to be collected
35 is not available for payment on the due date as prescribed shall be
36 guilty of a misdemeanor. In case any seller fails to collect the tax
37 herein imposed or having collected the tax, fails to pay the same to
38 the department in the manner prescribed, whether such failure is the

1 result of the seller's own acts or the result of acts or conditions
2 beyond the seller's control, the seller shall nevertheless, be
3 personally liable to the state for the amount of such tax, unless the
4 seller has taken from the buyer in good faith a copy of a direct pay
5 permit issued under RCW 82.32.087.

6 (4) Any retailer who refunds, remits, or rebates to a purchaser, or
7 transferee, either directly or indirectly, and by whatever means, all
8 or any part of the tax levied by this chapter shall be guilty of a
9 misdemeanor.

10 (5) Notwithstanding subsections (1) through (4) of this section,
11 any person making sales is not obligated to collect the tax imposed by
12 this chapter if:

13 (a) The person's activities in this state, whether conducted
14 directly or through another person, are limited to:

15 (i) The storage, dissemination, or display of advertising;

16 (ii) The taking of orders; or

17 (iii) The processing of payments; and

18 (b) The activities are conducted electronically via a web site on
19 a server or other computer equipment located in Washington that is not
20 owned or operated by the person making sales into this state nor owned
21 or operated by an affiliated person. "Affiliated persons" has the same
22 meaning as provided in RCW 82.04.424.

23 (6) Subsection (5) of this section expires when: (a) The United
24 States congress grants individual states the authority to impose sales
25 and use tax collection duties on remote sellers; or (b) it is
26 determined by a court of competent jurisdiction, in a judgment not
27 subject to review, that a state can impose sales and use tax collection
28 duties on remote sellers.

29 (7) Notwithstanding subsections (1) through (4) of this section, a
30 seller is not obligated to collect the tax imposed by this chapter if
31 the product is exempt from retail sales tax under section 1 of this
32 act, but is not exempt from use tax under section 2 of this act.

--- END ---