
HOUSE BILL 1938

State of Washington 64th Legislature 2015 Regular Session

By Representatives Appleton, Johnson, Ryu, Muri, Van De Wege,
Tarleton, Moscoso, S. Hunt, and Tharinger

Read first time 02/03/15. Referred to Committee on Community
Development, Housing & Tribal Affairs.

1 AN ACT Relating to tourism marketing; reenacting and amending RCW
2 43.79A.040; adding a new chapter to Title 43 RCW; adding a new
3 chapter to Title 82 RCW; providing an effective date; and declaring
4 an emergency.

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

6 NEW SECTION. **Sec. 1.** FINDINGS—PURPOSE. (1) The legislature
7 finds that the tourism industry is the fourth largest economic sector
8 in the state of Washington. Since 2011 there have been no general
9 funds committed to statewide tourism marketing and Washington is the
10 only state without a state tourism office. Before 2011, the amount of
11 funds appropriated to statewide tourism marketing were not
12 significant and in fact, Washington ranked forty-eighth in state
13 tourism funding. Washington has significant attractions and
14 activities for tourists, and there should be a program to publicize
15 these assets that is implemented in an expeditious manner by tourism
16 professionals in the private sector.

17 (2) The purpose of this act is to establish the framework and
18 funding for a statewide tourism marketing program. The program needs
19 to have a structure that includes significant, stable, long-term
20 funding, and it should be implemented and managed by the tourism
21 industry. The source of funds should be from major sectors of the

1 tourism industry with government assistance in collecting these funds
2 and providing accountability for their expenditure.

3 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
4 section apply throughout this chapter unless the context clearly
5 requires otherwise.

6 (1) "Adjusted gross revenue" means the total gross income of the
7 business as defined in RCW 82.04.080 less any validly claimed
8 deductions or exempt amounts under chapter 82.04 RCW.

9 (2) "Assessed sectors" means businesses in any of the following
10 industry sectors:

11 (a) Lodging; and

12 (b) The following sectors based on NAICS codes: Food service,
13 attractions and entertainment, retail, and transportation.

14 (3) "Attractions and entertainment" means businesses whose
15 primary business activity is within any of the following NAICS codes
16 or their successor codes: 561510, 561520, 7111, 711211, 711212,
17 711219, 7113, 711410, 711510, 712110, 712120, 712130, 712190, 713110,
18 713120, 713290, 713910 (publicly owned only), 713930, and 713990.

19 (4) "Authority" means the Washington tourism marketing authority
20 created in section 3 of this act.

21 (5) "Common control" means any group of companies owned by the
22 same five or fewer people, owning at least eighty percent of the
23 companies. For the purpose of determining annual adjusted gross
24 revenues, companies under common control may choose to be treated as
25 a single company. This definition is derived from the United States
26 employee retirement income security act of 1974 and is consistent and
27 coextensive with regulations prescribed by the United States
28 secretary of the treasury.

29 (6) "Department" means the department of revenue.

30 (7) "Director" means the director of the department of revenue.

31 (8) "Food service" means businesses whose primary business
32 activity is within any of the following NAICS codes or their
33 successor codes: 722110, 722212, 722213, and 722410.

34 (9) "Lodging" means the furnishing of lodging taxable by the
35 state under chapter 82.08 RCW at a facility that contains twenty or
36 more lodging units.

37 (10) "NAICS codes" means the North American Industrial
38 Classification System codes used by federal statistical agencies and
39 the state in classifying business establishments for the purpose of

1 collecting, analyzing, and publishing statistical data related to the
2 business economy.

3 (11) "Retail" means businesses whose primary business activity is
4 within any of the following NAICS codes or their successor codes:
5 445310, 4481, 448210, 448310, 448320, 451110, 451120, 451211, 452111,
6 452112, 452910, 452990, 453110, and 453220.

7 (12) "Secretary" means the secretary of state.

8 (13) "Statewide tourism marketing account" means the account
9 created pursuant to section 5 of this act in the custody of the state
10 treasurer. This account shall be the depository for fees collected
11 pursuant to section 6 of this act and charges collected pursuant to
12 section 10 of this act.

13 (14) "Transportation" means businesses whose primary business
14 activity is within any of the following NAICS codes or their
15 successor codes: 483212, 485310, 485320, 485510, 48599, 487, 532111,
16 and 812930.

17 NEW SECTION. **Sec. 3.** WASHINGTON TOURISM MARKETING AUTHORITY—
18 ESTABLISHED. (1) The Washington tourism marketing authority is
19 established as a public body corporate and politic, constituting an
20 instrumentality of the state of Washington.

21 (2) The authority is responsible for acting as a business
22 management organization on behalf of the citizens of the state to
23 manage financial resources and contract for statewide tourism
24 marketing services.

25 (3) The authority must establish procedures to:

26 (a) Notify businesses within the assessed sectors included in
27 section 2(2)(b) of this act of the fee imposed in section 6 of this
28 act; and

29 (b) Maintain a database of businesses subject to the fee under
30 section 6 of this act that can be accessed by the secretary.

31 (4) Membership in the authority includes all businesses subject
32 to section 6 of this act or the charge imposed in section 10 of this
33 act.

34 (5) The office of the secretary of state must provide
35 administrative assistance to the authority.

36 NEW SECTION. **Sec. 4.** BOARD OF DIRECTORS. (1)(a) The authority
37 shall be governed by a board of directors. The board of directors
38 shall be composed of thirteen members.

1 (b) Membership shall be allocated to the assessed sectors as
2 follows:

3 (i) Lodging, four members;

4 (ii) Food service, three members;

5 (iii) Retail, two members;

6 (iv) Attractions and entertainment, one member; and

7 (v) Transportation, one member.

8 (c) In addition, there shall be two members representing regional
9 destination marketing organizations.

10 (d) The secretary and the director shall serve as ex officio
11 voting members of the authority.

12 (2) The secretary and the director must jointly make appointments
13 to the board from nominations submitted by organizations representing
14 assessed sectors and members of the authority. Appointments shall
15 reflect diversity in geography, size of businesses, gender, and
16 ethnicity.

17 (3)(a) Half of the initial appointments under subsection
18 (1)(b)(i), (ii), and (iii) of this section shall be for two years.
19 The initial appointment under subsection (1)(b)(iv) of this section
20 shall be for four years. The initial appointment under subsection
21 (1)(b)(v) of this section shall be for two years.

22 (b) After the initial appointments, all appointments shall be for
23 four years.

24 (4) The board shall select from its membership the chair of the
25 board and such other officers as it deems appropriate.

26 (5) A majority of the board constitutes a quorum.

27 (6) The board shall create its own bylaws in accordance with the
28 laws of the state of Washington.

29 (7) Any member of the board may be removed for misfeasance,
30 malfeasance, or willful neglect of duty after notice and a public
31 hearing, unless the notice and hearing are expressly waived in
32 writing by the affected member.

33 (8) If a vacancy occurs on the board, the secretary and the
34 director shall appoint a replacement from the same sector and from
35 recommendations provided by businesses in that sector. The appointed
36 member shall serve the remainder of the term.

37 (9) The members of the board serve without compensation but are
38 entitled to reimbursement, solely from the funds of the authority,
39 for expenses incurred in the discharge of their duties.

1 NEW SECTION. **Sec. 5.** STATEWIDE TOURISM MARKETING ACCOUNT. (1)

2 The statewide tourism marketing account is created in the custody of
3 the state treasurer. All receipts from fees under section 6 of this
4 act and the charge on lodging businesses imposed in section 10 of
5 this act shall be deposited into the account. Expenditures from the
6 account may be used only for expenses related to implementation of a
7 statewide tourism marketing program, including continuing
8 administrative expenses of the department of revenue and the
9 secretary associated with administration of section 6 of this act and
10 chapter 82.-- RCW (the new chapter created in section 16 of this
11 act). Only the chair of the authority or the chair's designee may
12 authorize expenditures from the account. The account is not subject
13 to appropriation or allotment procedures for expenditures.

14 (2) Expenses of the department of revenue and the secretary to
15 administer section 6 of this act and chapter 82.-- RCW (the new
16 chapter created in section 16 of this act) must be reimbursed from
17 the statewide tourism marketing account.

18 NEW SECTION. **Sec. 6.** AUTHORIZATION AND COLLECTION OF FEES. (1)

19 Fees shall be imposed on all businesses in those assessed sectors
20 included in section 2(2)(b) of this act and that are required to
21 annually renew a license or registration with the secretary.

22 (2) All revenue from fees imposed under this section shall be
23 deposited in the statewide tourism marketing account.

24 (3) Food service fees shall be assessed using the definition of
25 common control.

26 (4) Beginning on the effective date of this section, the fees
27 imposed in subsection (1) of this section shall be collected annually
28 from each business subject to the fee. The fee is due on the due date
29 of the business's annual license or registration renewal with the
30 secretary. The amount of the fee is based on the business's annual
31 adjusted gross revenue from the previous calendar year. If a business
32 did not operate during the entire previous calendar year and the
33 business is the result of a mere change in identity or form of
34 ownership of a business that did operate during the previous calendar
35 year, the fee under this section is based on the combined annual
36 adjusted gross revenues of both businesses from the previous calendar
37 year. The rate of the fee imposed in this section is as provided in
38 this subsection (4).

39 (a) Food service.

1	Less than \$500,000	\$ 25
2	\$500,000 – \$999,999	\$ 175
3	\$1,000,000 – \$1,499,999	\$ 350
4	\$1,500,000 – \$1,999,999	\$ 525
5	\$2,000,000 – \$2,499,999	\$ 700
6	\$2,500,000 – \$2,999,999	\$ 875
7	\$3,000,000 – \$3,499,999	\$ 1,050
8	\$3,500,000 – \$3,999,999	\$ 1,225
9	\$4,000,000 – \$4,499,999	\$ 1,400
10	\$4,500,000 – \$4,999,999	\$ 1,575
11	\$5,000,000 – \$5,499,999	\$ 1,750
12	\$5,500,000 – \$5,999,999	\$ 1,925
13	\$6,000,000 – \$6,499,999	\$ 2,100
14	\$6,500,000 – \$6,999,999	\$ 2,275
15	\$7,000,000 – \$7,499,999	\$ 2,450
16	\$7,500,000 – \$7,999,999	\$ 2,625
17	\$8,000,000 – \$8,499,999	\$ 2,800
18	\$8,500,000 – \$8,999,999	\$ 2,975
19	\$9,000,000 – \$9,499,999	\$ 3,150
20	\$9,500,000 – \$9,999,999	\$ 3,325
21	Over \$10,000,000	\$ 3,500

22 (b) Attractions and entertainment.

23	\$200,000 – \$599,999	\$ 100
24	\$600,000 – \$999,999	\$ 250
25	\$1,000,000 – \$1,999,999	\$ 400
26	\$2,000,000 – \$4,999,999	\$ 1,000
27	Greater than \$5 million	\$ 2,500

28 (c) Retail.

29	\$200,000 – \$599,999	\$ 100
30	\$600,000 – \$999,999	\$ 200
31	\$1 million – \$5 million	\$ 600
32	Greater than \$5 million	\$ 1,200

1 (d) Transportation.

2	Less than \$500,000	\$ 125
3	\$500,000 – \$999,999	\$ 250
4	\$1 million – \$4,999,999	\$ 1,000
5	Greater than \$5 million	\$ 2,500

6 (5) Fees shall be collected through the secretary's registration
7 system for corporations and limited liability companies in
8 collaboration with the department's business licensing service.

9 (6) The department must send a list of businesses in assessed
10 sectors to the secretary and the authority annually at a time and in
11 a form and format as mutually agreed to by the department, the
12 secretary, and the authority. The list must identify lodging
13 separately from other assessed sectors.

14 (7) Any business subject to a fee under this section may be
15 audited by the department to determine if the correct fee was paid.

16 (8) If the legislature redirects or changes the use of the
17 statewide tourism marketing account to a use other than that
18 authorized in this chapter, fees shall not be imposed under this
19 section.

20 NEW SECTION. **Sec. 7. USE OF FUNDS.** (1) The authority shall use
21 any funds legally available to it for any purpose specifically
22 authorized by this chapter, including:

23 (a) Entering into a contract for a multiple-year statewide
24 tourism marketing plan with a statewide nonprofit organization
25 existing on the effective date of this section whose sole purpose is
26 marketing Washington to tourists;

27 (b) Contracting for the evaluation of the impact of the statewide
28 tourism marketing program;

29 (c) Paying for the costs to administer section 6 of this act and
30 chapter 82.--- RCW (the new chapter created in section 16 of this
31 act) as provided in section 5(2) of this act; and

32 (d) Paying for other administrative expenses of the authority,
33 which shall not exceed one and one-half percent of funds collected in
34 any fiscal year.

35 (2) In entering into a contract for a statewide marketing
36 program, the authority must consider a statewide nonprofit
37 organization governed by a board reflecting all sectors of the

1 tourism industry and having geographically diverse representation.
2 If, after appropriate notice, the authority determines that there is
3 only one qualified entity, then the authority may issue a sole source
4 contract. The authority shall include a provision in such a contract
5 that will enable the contractor to pay expenses in a timely manner.

6 (3) The authority must avoid creating new infrastructure already
7 available through private industry in the state.

8 (4) All funds collected by the authority under this chapter,
9 including interest, dividends, and other profits, are and must remain
10 under the complete control of the authority and its board of
11 directors, be fully available to achieve the intent of this chapter,
12 and be used for the sole purpose of achieving the intent of this
13 chapter.

14 (5) The authority may suspend the fees if the authority, by a
15 majority vote, determines that the program as implemented pursuant to
16 subsection (1)(a) of this section is not effective.

17 NEW SECTION. **Sec. 8.** SHORT TITLE. This chapter may be known and
18 cited as the statewide tourism marketing act.

19 NEW SECTION. **Sec. 9.** The definitions in this section apply
20 throughout this chapter unless the context clearly requires
21 otherwise.

22 (1) "Lodging business" means a person that furnishes
23 lodging taxable by the state under chapter 82.08 RCW at a facility
24 that has twenty or more lodging units.

25 (2) "Occupied room" means a room in a facility operated by a
26 lodging business, if the room is used by an overnight guest for
27 consideration.

28 (3) Unless the context clearly requires otherwise, the
29 definitions in chapters 82.04, 82.08, and 82.12 RCW apply to this
30 chapter.

31 NEW SECTION. **Sec. 10.** (1) There is imposed on every lodging
32 business in the state a charge of fifteen cents per occupied room per
33 night. The charge is the sole obligation of the lodging business, but
34 the lodging business may separately itemize the charge on any invoice
35 or other document of sale provided to the guest.

36 (2) Chapter 82.32 RCW applies to the charge imposed in this
37 section. The due dates, reporting periods, and return requirements

1 applicable to a lodging business for the taxes imposed in chapters
2 82.04 and 82.08 RCW also apply to the charge on lodging imposed in
3 this section.

4 (3) All revenue collected under this section, including penalties
5 and interest on delinquent lodging charges, must be deposited in the
6 statewide tourism marketing account.

7 NEW SECTION. **Sec. 11.** The charge on lodging authorized under
8 this chapter does not apply with respect to lodging if the charge
9 made for the lodging is not subject to the tax imposed in chapter
10 82.08 RCW.

11 NEW SECTION. **Sec. 12.** RCW 82.32.805 and 82.32.808 do not apply
12 to this chapter.

13 NEW SECTION. **Sec. 13.** The department may adopt rules to
14 implement this chapter.

15 **Sec. 14.** RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are
16 each reenacted and amended to read as follows:

17 (1) Money in the treasurer's trust fund may be deposited,
18 invested, and reinvested by the state treasurer in accordance with
19 RCW 43.84.080 in the same manner and to the same extent as if the
20 money were in the state treasury, and may be commingled with moneys
21 in the state treasury for cash management and cash balance purposes.

22 (2) All income received from investment of the treasurer's trust
23 fund must be set aside in an account in the treasury trust fund to be
24 known as the investment income account.

25 (3) The investment income account may be utilized for the payment
26 of purchased banking services on behalf of treasurer's trust funds
27 including, but not limited to, depository, safekeeping, and
28 disbursement functions for the state treasurer or affected state
29 agencies. The investment income account is subject in all respects to
30 chapter 43.88 RCW, but no appropriation is required for payments to
31 financial institutions. Payments must occur prior to distribution of
32 earnings set forth in subsection (4) of this section.

33 (4)(a) Monthly, the state treasurer must distribute the earnings
34 credited to the investment income account to the state general fund
35 except under (b), (c), and (d) of this subsection.

1 (b) The following accounts and funds must receive their
2 proportionate share of earnings based upon each account's or fund's
3 average daily balance for the period: The Washington promise
4 scholarship account, the Washington advanced college tuition payment
5 program account, the accessible communities account, the community
6 and technical college innovation account, the agricultural local
7 fund, the American Indian scholarship endowment fund, the foster care
8 scholarship endowment fund, the foster care endowed scholarship trust
9 fund, the contract harvesting revolving account, the Washington state
10 combined fund drive account, the commemorative works account, the
11 county enhanced 911 excise tax account, the toll collection account,
12 the developmental disabilities endowment trust fund, the energy
13 account, the fair fund, the family leave insurance account, the food
14 animal veterinarian conditional scholarship account, the fruit and
15 vegetable inspection account, the future teachers conditional
16 scholarship account, the game farm alternative account, the GET ready
17 for math and science scholarship account, the Washington global
18 health technologies and product development account, the grain
19 inspection revolving fund, the industrial insurance rainy day fund,
20 the juvenile accountability incentive account, the law enforcement
21 officers' and firefighters' plan 2 expense fund, the local tourism
22 promotion account, the multiagency permitting team account, the
23 pilotage account, the produce railcar pool account, the regional
24 transportation investment district account, the rural rehabilitation
25 account, the statewide tourism marketing account, the stadium and
26 exhibition center account, the youth athletic facility account, the
27 self-insurance revolving fund, the children's trust fund, the
28 Washington horse racing commission Washington bred owners' bonus fund
29 and breeder awards account, the Washington horse racing commission
30 class C purse fund account, the individual development account
31 program account, the Washington horse racing commission operating
32 account, the life sciences discovery fund, the Washington state
33 heritage center account, the reduced cigarette ignition propensity
34 account, the center for childhood deafness and hearing loss account,
35 the school for the blind account, the Millersylvania park trust fund,
36 the public employees' and retirees' insurance reserve fund, and the
37 radiation perpetual maintenance fund.

38 (c) The following accounts and funds must receive eighty percent
39 of their proportionate share of earnings based upon each account's or
40 fund's average daily balance for the period: The advanced right-of-

1 way revolving fund, the advanced environmental mitigation revolving
2 account, the federal narcotics asset forfeitures account, the high
3 occupancy vehicle account, the local rail service assistance account,
4 and the miscellaneous transportation programs account.

5 (d) Any state agency that has independent authority over accounts
6 or funds not statutorily required to be held in the custody of the
7 state treasurer that deposits funds into a fund or account in the
8 custody of the state treasurer pursuant to an agreement with the
9 office of the state treasurer shall receive its proportionate share
10 of earnings based upon each account's or fund's average daily balance
11 for the period.

12 (5) In conformance with Article II, section 37 of the state
13 Constitution, no trust accounts or funds shall be allocated earnings
14 without the specific affirmative directive of this section.

15 NEW SECTION. **Sec. 15.** Sections 1 through 8 of this act
16 constitute a new chapter in Title 43 RCW.

17 NEW SECTION. **Sec. 16.** Sections 9 through 13 of this act
18 constitute a new chapter in Title 82 RCW.

19 NEW SECTION. **Sec. 17.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of
21 the state government and its existing public institutions, and takes
22 effect July 1, 2015.

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