
HOUSE BILL 1457

State of Washington

65th Legislature

2017 Regular Session

By Representatives Irwin, Pettigrew, Harmsworth, Springer, Taylor, Shea, Stokesbary, Stonier, Young, Schmick, Volz, Hayes, Griffey, Riccelli, Goodman, and Van Werven

Read first time 01/20/17. Referred to Committee on Finance.

1 AN ACT Relating to creating a sales tax holiday for back-to-
2 school clothing and supplies; amending RCW 82.12.040; adding a new
3 section to chapter 82.08 RCW; adding a new section to chapter 82.12
4 RCW; creating new sections; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that Washington
7 families pay thousands of dollars in sales and use tax on their
8 purchases of clothing and school supplies in August before the school
9 year begins. The legislature further finds that a recent study has
10 shown that temporarily exempting some of these purchases from sales
11 and use tax would give Washington families a needed tax break and
12 increase sales, which in turn would generate new jobs and more state
13 and local tax revenue. Therefore, it is the legislature's intent to
14 create a "back-to-school" sales tax holiday.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08
16 RCW to read as follows:

17 (1) Subject to the conditions and limitations provided in this
18 section, the tax levied by RCW 82.08.020 does not apply to the sale
19 of the following tangible personal property: (a) Clothing items; and
20 (b) school supply items.

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

3 (b) A school supply item is exempt under this section if the
4 sales price of the item is less than ten dollars.

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

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

12 (5) The definitions in this subsection apply throughout this
13 section unless the context clearly requires otherwise.

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

16 (b) "School supply item" means an item commonly used by a student
17 in a course of study.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12
19 RCW to read as follows:

20 (1) The provisions of this chapter do not apply to the use of the
21 following tangible personal property: (a) Clothing items that are not
22 used primarily for business-related activities; and (b) school supply
23 items that are not used primarily for business-related activities.

24 (2) The definitions, conditions, and limitations in section 2 of
25 this act apply to this section.

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

29 **Sec. 4.** RCW 82.12.040 and 2015 c 169 s 9 are each amended to
30 read as follows:

31 (1) Every person who maintains in this state a place of business
32 or a stock of goods, or engages in business activities within this
33 state, must obtain from the department a certificate of registration,
34 and must, at the time of making sales of tangible personal property,
35 digital goods, digital codes, digital automated services, extended
36 warranties, or sales of any service defined as a retail sale in RCW
37 82.04.050 (2) (a) or (g) or (6)((~~b~~)) (c), or making transfers of
38 either possession or title, or both, of tangible personal property

1 for use in this state, collect from the purchasers or transferees the
2 tax imposed under this chapter. The tax to be collected under this
3 section must be in an amount equal to the purchase price multiplied
4 by the rate in effect for the retail sales tax under RCW 82.08.020.
5 For the purposes of this chapter, the phrase "maintains in this state
6 a place of business" includes the solicitation of sales and/or taking
7 of orders by sales agents or traveling representatives. For the
8 purposes of this chapter, "engages in business activity within this
9 state" includes every activity which is sufficient under the
10 Constitution of the United States for this state to require
11 collection of tax under this chapter. The department must in rules
12 specify activities which constitute engaging in business activity
13 within this state, and must keep the rules current with future court
14 interpretations of the Constitution of the United States.

15 (2) Every person who engages in this state in the business of
16 acting as an independent selling agent for persons who do not hold a
17 valid certificate of registration, and who receives compensation by
18 reason of sales of tangible personal property, digital goods, digital
19 codes, digital automated services, extended warranties, or sales of
20 any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g)
21 or (6)((~~b~~)) (c), of his or her principals for use in this state,
22 must, at the time such sales are made, collect from the purchasers
23 the tax imposed on the purchase price under this chapter, and for
24 that purpose is deemed a retailer as defined in this chapter.

25 (3) The tax required to be collected by this chapter is deemed to
26 be held in trust by the retailer until paid to the department, and
27 any retailer who appropriates or converts the tax collected to the
28 retailer's own use or to any use other than the payment of the tax
29 provided herein to the extent that the money required to be collected
30 is not available for payment on the due date as prescribed is guilty
31 of a misdemeanor. In case any seller fails to collect the tax herein
32 imposed or having collected the tax, fails to pay the same to the
33 department in the manner prescribed, whether such failure is the
34 result of the seller's own acts or the result of acts or conditions
35 beyond the seller's control, the seller is nevertheless personally
36 liable to the state for the amount of such tax, unless the seller has
37 taken from the buyer a copy of a direct pay permit issued under RCW
38 82.32.087.

39 (4) Any retailer who refunds, remits, or rebates to a purchaser,
40 or transferee, either directly or indirectly, and by whatever means,

1 all or any part of the tax levied by this chapter is guilty of a
2 misdemeanor.

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

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

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

9 (ii) The taking of orders; or

10 (iii) The processing of payments; and

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

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

22 (7) Notwithstanding subsections (1) through (4) of this section,
23 any person making sales is not obligated to collect the tax imposed
24 by this chapter if the person would have been obligated to collect
25 retail sales tax on the sale absent a specific exemption provided in
26 chapter 82.08 RCW, and there is no corresponding use tax exemption in
27 this chapter. Nothing in this subsection (7) may be construed as
28 relieving purchasers from liability for reporting and remitting the
29 tax due under this chapter directly to the department.

30 (8) Notwithstanding subsections (1) through (4) of this section,
31 any person making sales is not obligated to collect the tax imposed
32 by this chapter if the state is prohibited under the Constitution or
33 laws of the United States from requiring the person to collect the
34 tax imposed by this chapter.

35 (9) Notwithstanding subsections (1) through (4) of this section,
36 any licensed dealer facilitating a firearm sale or transfer between
37 two unlicensed persons by conducting background checks under chapter
38 9.41 RCW is not obligated to collect the tax imposed by this chapter.

39 (10) Notwithstanding subsections (1) through (4) of this section,
40 a seller is not obligated to collect the tax imposed by this chapter

1 if the product is exempt from retail sales tax under section 2 of
2 this act, but is not exempt from use tax under section 3 of this act.

3 NEW SECTION. **Sec. 5.** The provisions of RCW 82.32.808 do not
4 apply to this act.

5 NEW SECTION. **Sec. 6.** This act expires January 1, 2028.

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