

**2SHB 2157 - H AMD 803**

By Representative Corry

**NOT CONSIDERED 12/23/2019**

1 On page 33, after line 18, insert the following:

2 **"Part VII**

3 **Dedicating New Revenue Growth to a Sales Tax Holiday**

4 NEW SECTION. **Sec. 701.** The legislature finds that Washington  
5 families pay thousands of dollars in sales and use tax on their  
6 purchases of clothing and school supplies in August before the school  
7 year begins. The legislature further finds that a recent study has  
8 shown that temporarily exempting some of these purchases from sales  
9 and use tax would give Washington families a needed tax break and  
10 increase sales, which in turn would generate new jobs and more state  
11 and local tax revenue. Therefore, it is the legislature's intent to  
12 create a "back-to-school" sales tax holiday.

13 NEW SECTION. **Sec. 702.** A new section is added to chapter 82.08  
14 RCW to read as follows:

15 (1) Subject to the conditions and limitations provided in this  
16 section, the tax levied by RCW 82.08.020 does not apply to the sale  
17 of the following tangible personal property:

18 (a) Clothing items; and

19 (b) School supply items.

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

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

24 (3) The exemption authorized in this section only applies to  
25 purchases made on the second adjacent Friday, Saturday, and Sunday of  
26 August subject to the department's designation of a sales tax holiday  
27 in section 705(3) of this act.

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

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

3 (a) "Clothing item" means human wearing apparel suitable for  
4 general use.

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

7 (6) This section expires January 1, 2030.

8 NEW SECTION. **Sec. 703.** A new section is added to chapter 82.12  
9 RCW to read as follows:

10 (1) The provisions of this chapter do not apply to the use of the  
11 following tangible personal property:

12 (a) Clothing items that are not used primarily for business-  
13 related activities; and

14 (b) School supply items that are not used primarily for business-  
15 related activities.

16 (2) The definitions, conditions, and limitations in section 702  
17 of this act apply to this section.

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

21 (4) This section expires January 1, 2030.

22 **Sec. 704.** RCW 82.12.040 and 2019 c 8 s 704 are each amended to  
23 read as follows:

24 (1) Every person who is subject to a collection obligation under  
25 chapter 82.08 RCW must obtain from the department a certificate of  
26 registration. Such persons must, at the time of making sales of  
27 tangible personal property, digital goods, digital codes, digital  
28 automated services, extended warranties, or sales of any service  
29 defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)(c),  
30 or making transfers of either possession or title, or both, of  
31 tangible personal property for use in this state, collect from the  
32 purchasers or transferees the tax imposed under this chapter. The tax  
33 to be collected under this section must be in an amount equal to the  
34 purchase price multiplied by the rate in effect for the retail sales  
35 tax under RCW 82.08.020. This section does not apply to any retail  
36 sale if, in respect to such sale, the seller is subject to a tax  
37 collection obligation under chapter 82.08 RCW.

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

11 (3) The tax required to be collected by this chapter is deemed to  
12 be held in trust by the retailer until paid to the department, and  
13 any retailer who appropriates or converts the tax collected to the  
14 retailer's own use or to any use other than the payment of the tax  
15 provided herein to the extent that the money required to be collected  
16 is not available for payment on the due date as prescribed is guilty  
17 of a misdemeanor. In case any seller fails to collect the tax herein  
18 imposed or having collected the tax, fails to pay the same to the  
19 department in the manner prescribed, whether such failure is the  
20 result of the seller's own acts or the result of acts or conditions  
21 beyond the seller's control, the seller is nevertheless personally  
22 liable to the state for the amount of such tax, unless the seller has  
23 taken from the buyer a copy of a direct pay permit issued under RCW  
24 82.32.087.

25 (4) Any retailer who refunds, remits, or rebates to a purchaser,  
26 or transferee, either directly or indirectly, and by whatever means,  
27 all or any part of the tax levied by this chapter is guilty of a  
28 misdemeanor.

29 (5) Notwithstanding subsections (1) through (4) of this section,  
30 any person making sales is not obligated to collect the tax imposed  
31 by this chapter if the person would have been obligated to collect  
32 retail sales tax on the sale absent a specific exemption provided in  
33 chapter 82.08 RCW, and there is no corresponding use tax exemption in  
34 this chapter. Nothing in this subsection (5) may be construed as  
35 relieving purchasers from liability for reporting and remitting the  
36 tax due under this chapter directly to the department.

37 (6) Notwithstanding subsections (1) through (4) of this section,  
38 any person making sales is not obligated to collect the tax imposed  
39 by this chapter if the state is prohibited under the Constitution or

1 laws of the United States from requiring the person to collect the  
2 tax imposed by this chapter.

3 (7) Notwithstanding subsections (1) through (4) of this section,  
4 any licensed dealer facilitating a firearm sale or transfer between  
5 two unlicensed persons by conducting background checks under chapter  
6 9.41 RCW is not obligated to collect the tax imposed by this chapter.

7 (8) Notwithstanding subsections (1) through (4) of this section,  
8 a seller is not obligated to collect the tax imposed by this chapter  
9 if the product is exempt from retail sales tax under section 702 of  
10 this act, but is not exempt from use tax under section 703 of this  
11 act.

12 NEW SECTION. Sec. 705. A new section is added to chapter 82.08  
13 RCW to read as follows:

14 (1) Beginning December 1, 2019, and each December 1st thereafter,  
15 the department must calculate any increase in retail sales and use  
16 tax collections resulting from any changes made to this chapter and  
17 chapter 82.12 RCW by the legislature in 2019 as compared to fiscal  
18 year 2018.

19 (2) The department must notify the state treasurer of the amount  
20 calculated pursuant to subsection (1) of this section by December  
21 31st and the state treasurer must transfer that amount into the sales  
22 tax holiday account created in section 706 of this act.

23 (3) By July 1st, the department must designate a sales tax  
24 holiday if the balance of the sales tax holiday account is at least  
25 forty-five million dollars. The department must publish notice of the  
26 sales tax holiday in the appropriate mediums, including its web site,  
27 and provide notices to retailers.

28 NEW SECTION. Sec. 706. A new section is added to chapter 82.08  
29 RCW to read as follows:

30 (1) The sales tax holiday account is created in the state  
31 treasury. Moneys in the account may be spent only after appropriation  
32 and may only be used to implement the sales tax holiday in section  
33 705 of this act.

34 (2) By December 1st of each year in which there is a sales tax  
35 holiday as established in section 705 of this act, the department  
36 must calculate the amount of revenue that would have been deposited  
37 in the state general fund but for that sales tax holiday. The  
38 department must notify the state treasurer of the amount calculated

1 under this subsection, and the state treasurer, before January 1st of  
2 each year, must transfer that amount from the sales tax holiday  
3 account into the general fund."

4 Renumber the remaining part and sections consecutively and  
5 correct any internal references accordingly.

6 On page 33, line 24, after "IV," strike "and V" and insert "V,  
7 and VII"

8 On page 33, line 25, after "IV," strike "and VI" and insert "VI,  
9 and VII"

10 Correct the title.

EFFECT: Requires all revenue generated as the result of changes to the state retail sales and use tax during 2019 to be deposited in the state back-to-school sales tax holiday account (Account). Directs the Department of Revenue to declare a sales tax holiday for the second weekend in August by July 1 of a year in which the Account has a balance of at least \$45 million. Requires the Department to transfer moneys to the state general fund in an amount equal to the foregone sales and use tax revenue from the back-to-school sales tax holiday.

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