
HOUSE BILL 1676

State of Washington

67th Legislature

2022 Regular Session

By Representatives Harris, Pollet, Leavitt, Ryu, Chopp, Senn, Duerr, Valdez, Callan, Cody, Macri, Wylie, Ramel, Bergquist, Gregerson, Riccelli, and Bronoske

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1 AN ACT Relating to taxation of vapor products to fund additional
2 tobacco and vapor use prevention and cessation programs and services;
3 amending RCW 82.25.005, 82.25.010, 82.25.015, 82.25.075, 82.25.080,
4 82.25.090, 82.25.065, 82.25.075, and 82.32.145; adding a new section
5 to chapter 82.25 RCW; creating a new section; repealing RCW
6 82.25.060, 82.25.085, and 82.25.105; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** The legislature intends to increase
9 funding for cancer research and tobacco cessation by changing the way
10 it taxes vapor products.

11 **Sec. 2.** RCW 82.25.005 and 2019 c 445 s 101 are each amended to
12 read as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) (~~"Accessible container" means a container that is intended~~
16 ~~to be opened. The term does not mean a closed cartridge or closed~~
17 ~~container that is not intended to be opened such as a disposable e-~~
18 ~~cigarette.~~

19 (2) ~~"Affiliated" means related in any way by virtue of any form~~
20 ~~or amount of common ownership, control, operation, or management.~~

1 ~~(3)~~) "Board" means the Washington state liquor and cannabis
2 board.

3 ~~((4))~~ (2) "Business" means any trade, occupation, activity, or
4 enterprise engaged in selling or distributing vapor products in this
5 state.

6 ~~((5))~~ (3) "Distributor" ~~((mean[s]))~~ means any person:

7 (a) Engaged in the business of selling vapor products in this
8 state who brings, or causes to be brought, into this state from
9 outside the state any vapor products for sale;

10 (b) Who makes, manufactures, fabricates, or stores vapor products
11 in this state for sale in this state;

12 (c) Engaged in the business of selling vapor products outside
13 this state who ships or transports vapor products to retailers or
14 consumers in this state; or

15 (d) Engaged in the business of selling vapor products in this
16 state who handles for sale any vapor products that are within this
17 state but upon which tax has not been imposed.

18 ~~((6))~~ (4) "Indian country" has the same meaning as provided in
19 RCW 82.24.010.

20 ~~((7))~~ (5) "Manufacturer" has the same meaning as provided in
21 RCW 70.345.010.

22 ~~((8) "Manufacturer's representative" means a person hired by a
23 manufacturer to sell or distribute the manufacturer's vapor products
24 and includes employees and independent contractors.~~

25 ~~(9))~~ (6) "Person" means: Any individual, receiver,
26 administrator, executor, assignee, trustee in bankruptcy, trust,
27 estate, firm, copartnership, joint venture, club, company, joint
28 stock company, business trust, municipal corporation, corporation,
29 limited liability company, association, or society; the state and its
30 departments and institutions; any political subdivision of the state
31 of Washington; and any group of individuals acting as a unit, whether
32 mutual, cooperative, fraternal, nonprofit, or otherwise. Except as
33 provided otherwise in this chapter, "person" does not include any
34 person immune from state taxation, including the United States or its
35 instrumentalities, and federally recognized Indian tribes and
36 enrolled tribal members, conducting business within Indian country.

37 ~~((10))~~ (7) "Place of business" means any place where vapor
38 products are sold or where vapor products are manufactured, stored,
39 or kept for the purpose of sale, including any vessel, vehicle,
40 airplane, or train.

1 (~~(11)~~) (8) "Retail outlet" has the same meaning as provided in
2 RCW 70.345.010.

3 (~~(12)~~) (9) "Retailer" has the same meaning as provided in RCW
4 70.345.010.

5 (~~(13)~~) (10) "Sale" has the same meaning as provided in RCW
6 70.345.010.

7 (~~(14)~~) (11) "Taxpayer" means a person liable for the tax
8 imposed by this chapter.

9 (~~(15)~~) (12) "Vapor product" means any noncombustible product
10 containing a solution or other consumable substance, regardless of
11 whether it contains nicotine, which employs a mechanical heating
12 element, battery, or electronic circuit regardless of shape or size
13 that can be used to produce vapor from the solution or other
14 substance, including an electronic cigarette, electronic cigar,
15 electronic cigarillo, electronic pipe, or similar product or device.
16 The term also includes any cartridge or other container of liquid
17 nicotine, solution, or other consumable substance, regardless of
18 whether it contains nicotine, that is intended to be used with or in
19 a device that can be used to deliver aerosolized or vaporized
20 nicotine to a person inhaling from the device and is sold for such
21 purpose.

22 (a) The term does not include:

23 (i) Any product approved by the United States food and drug
24 administration for sale as a tobacco cessation product, medical
25 device, or for other therapeutic purposes when such product is
26 marketed and sold solely for such an approved purpose;

27 (ii) Any product that will become an ingredient or component in a
28 vapor product manufactured by a distributor; or

29 (iii) Any product that meets the definition of marijuana, useable
30 marijuana, marijuana concentrates, marijuana-infused products,
31 cigarette, or tobacco products.

32 (b) For purposes of this subsection (~~(15)~~) (12):

33 (i) "Cigarette" has the same meaning as provided in RCW
34 82.24.010; and

35 (ii) "Marijuana," "useable marijuana," "marijuana concentrates,"
36 and "marijuana-infused products" have the same meaning as provided in
37 RCW 69.50.101.

38 **Sec. 3.** RCW 82.25.010 and 2019 c 445 s 102 are each amended to
39 read as follows:

1 (1) (a) There is levied and collected a (~~tax upon the sale, use,~~
2 ~~consumption, handling, possession, or distribution of all vapor~~
3 ~~products in this state as follows:~~

4 ~~(i) All vapor products other than those taxed under (a) (ii) of~~
5 ~~this subsection are taxed at a rate equal to twenty-seven cents per~~
6 ~~milliliter of solution, regardless of whether it contains nicotine,~~
7 ~~and a proportionate tax at the like rate on all fractional parts of a~~
8 ~~milliliter thereof.~~

9 ~~(ii) Any accessible container of solution, regardless of whether~~
10 ~~it contains nicotine, that is greater than five milliliters, is taxed~~
11 ~~at a rate equal to nine cents per milliliter of solution and a~~
12 ~~proportionate tax at the like rate on all fractional parts of a~~
13 ~~milliliter thereof.~~

14 ~~(b) The tax in this section must be imposed based on the volume~~
15 ~~of the solution as listed by the manufacturer.~~

16 ~~(2) (a) The tax under this section must be collected at the time~~
17 ~~the distributor: (i) Brings, or causes to be brought, into this state~~
18 ~~from without the state vapor products for sale; (ii) makes,~~
19 ~~manufactures, fabricates, or stores vapor products in this state for~~
20 ~~sale in this state; (iii) ships or transports vapor products to~~
21 ~~retailers or consumers in this state; or (iv) handles for sale any~~
22 ~~vapor products that are within this state but upon which tax has not~~
23 ~~been imposed.~~

24 ~~(b) The tax imposed under this section must also be collected by~~
25 ~~the department from the consumer of vapor products where the tax~~
26 ~~imposed under this section was not paid by the distributor on such~~
27 ~~vapor products.~~

28 (3) (a)) vapor product excise tax equal to 33 percent of the
29 selling price on each retail sale in this state of vapor products.
30 This tax is separate and in addition to general state and local sales
31 and use taxes that apply to retail sales of tangible personal
32 property, and is not part of the total retail price to which general
33 state and local sales and use taxes apply. The tax must be separately
34 itemized from the state and local retail sales tax on the sales
35 receipt provided to the buyer.

36 (b) The tax levied in this section must be reflected in the price
37 list or quoted shelf price in the vapor products retail store, on the
38 website or sales platform of a delivery seller, and in any
39 advertising of vapor products that includes prices for vapor
40 products.

1 (2)(a) The moneys collected under this section must be deposited
2 as follows:

3 ~~(i) ((Fifty percent into the))~~ The first \$30,000,000 must be
4 split evenly between the following:

5 (A) The Andy Hill cancer research endowment fund match transfer
6 account created in RCW 43.348.080;

7 (B) The department of health to be used exclusively for tobacco
8 and vapor product use prevention and cessation services and projects;
9 and

10 ~~((ii) Fifty percent into the))~~ (C) The foundational public
11 health services account created in RCW 82.25.015.

12 (ii) All subsequent revenue must be split evenly between:

13 (A) The department of health to be used exclusively for tobacco
14 and vapor product use prevention and cessation services and projects;
15 and

16 (B) The foundational public health services account created in
17 RCW 82.25.015.

18 (b) The funding provided under this subsection is intended to
19 supplement and not supplant general fund investments in cancer
20 research and foundational public health services.

21 **Sec. 4.** RCW 82.25.015 and 2019 c 445 s 103 are each amended to
22 read as follows:

23 The foundational public health services account is created in the
24 state treasury. ~~((Half of all of the moneys collected from the tax~~
25 ~~imposed on vapor products under RCW 66.44.010 must be deposited into~~
26 ~~the account.))~~ Moneys in the account may be spent only after
27 appropriation. Moneys in the account are to be used for the following
28 purposes:

29 (1) To fund foundational health services. In the 2019-2021
30 biennium, at least twelve million dollars of the funds deposited into
31 the account must be appropriated for this purpose. Beginning in the
32 2021-2023 biennium, fifty percent of the funds deposited into the
33 account, but not less than twelve million dollars each biennium, are
34 to be used for this purpose;

35 (2) To fund tobacco, vapor product, and nicotine control and
36 prevention, and other substance use prevention and education.
37 Beginning in the 2021-2023 biennium, seventeen percent of the funds
38 deposited into the account are to be used for this purpose;

1 (3) To support increased access and training of public health
2 professionals at public health programs at accredited public
3 institutions of higher education in Washington. Beginning in the
4 2021-2023 biennium, five percent of the funds deposited into the
5 account are to be used for this purpose;

6 (4) To fund enforcement by the state liquor and cannabis board of
7 the provisions of this chapter to prevent sales of vapor products to
8 minors and related provisions for control of marketing and product
9 safety, provided that no more than eight percent of the funds
10 deposited into the account may be appropriated for these enforcement
11 purposes.

12 **Sec. 5.** RCW 82.25.075 and 2019 c 445 s 115 are each amended to
13 read as follows:

14 (1) No person engaged in or conducting business as a distributor
15 or retailer in this state may:

16 (a) Make, use, or present or exhibit to the department or the
17 board any invoice for any of the vapor products taxed under this
18 chapter that bears an untrue date or falsely states the nature or
19 quantity of the goods invoiced; or

20 (b) Fail to produce on demand of the department or the board all
21 invoices of all the vapor products taxed under this chapter within
22 five years prior to such demand unless the person can show by
23 satisfactory proof that the nonproduction of the invoices was due to
24 causes beyond the person's control.

25 ~~(2) ((a) No person, other than a licensed distributor, retailer~~
26 ~~or delivery sales licensee, or manufacturer's representative, may~~
27 ~~transport vapor products for sale in this state for which the taxes~~
28 ~~imposed under this chapter have not been paid unless:~~

29 ~~(i) Notice of the transportation has been given as required under~~
30 ~~RCW 82.25.065;~~

31 ~~(ii) The person transporting the vapor products actually~~
32 ~~possesses invoices or delivery tickets showing the true name and~~
33 ~~address of the consignor or seller, the true name and address of the~~
34 ~~consignee or purchaser, and the quantity and brands of vapor products~~
35 ~~being transported; and~~

36 ~~(iii) The vapor products are consigned to or purchased by a~~
37 ~~person in this state who is licensed under chapter 70.345 RCW.~~

38 ~~(b) A violation of this subsection (2) is a gross misdemeanor.~~

1 ~~(3))~~ Any person licensed under chapter 70.345 RCW as a
2 distributor, and any person licensed under chapter 70.345 RCW as a
3 retailer, may not operate in any other capacity unless the additional
4 appropriate license is first secured, except as otherwise provided by
5 law. A violation of this subsection (~~((3))~~) (2) is a misdemeanor.

6 ~~((4))~~ (3) The penalties provided in this section are in
7 addition to any other penalties provided by law for violating the
8 provisions of this chapter or the rules adopted under this chapter.

9 ~~((5) This section does not apply to a motor carrier or freight
10 forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier
11 as defined in Title 49 U.S.C. Sec. 40102.))~~

12 **Sec. 6.** RCW 82.25.080 and 2019 c 445 s 116 are each amended to
13 read as follows:

14 (1) A retailer that obtains vapor products from an unlicensed
15 distributor or any other person that is not licensed under chapter
16 70.345 RCW must be licensed both as a retailer and a distributor
17 (~~and is liable for the tax imposed under RCW 82.25.010 with respect
18 to the vapor products acquired from the unlicensed person that are
19 held for sale, handling, or distribution in this state~~). For the
20 purposes of this subsection, "person" includes both persons defined
21 in chapter 445, Laws of 2019 and any person immune from state
22 taxation, such as the United States or its instrumentalities, and
23 federally recognized Indian tribes and enrolled tribal members,
24 conducting business within Indian country.

25 (2) Every distributor licensed under chapter 70.345 RCW may sell
26 vapor products to retailers located in Washington only if the
27 retailer has a current retailer's license under chapter 70.345 RCW.

28 **Sec. 7.** RCW 82.25.090 and 2019 c 445 s 118 are each amended to
29 read as follows:

30 (1) Any vapor products in the possession of a person selling
31 vapor products in this state acting as a distributor or retailer and
32 who is not licensed as required under chapter 70.345 RCW, or a person
33 who is selling vapor products in violation of RCW 82.24.550(6), may
34 be seized without a warrant by any agent of the department, agent of
35 the board, or law enforcement officer of this state. Any vapor
36 products seized under this subsection are deemed forfeited.

37 (2) Any vapor products in the possession of a person who is not a
38 licensed distributor, delivery seller, (~~manufacturer's~~

1 ~~representative,~~) or retailer and who transports vapor products for
2 sale without having provided notice to the board required under RCW
3 82.25.065, or without invoices or delivery tickets showing the true
4 name and address of the consignor or seller, the true name and
5 address of the consignee or purchaser, and the quantity and brands of
6 vapor products being transported may be seized and are subject to
7 forfeiture.

8 (3) All conveyances, including aircraft, vehicles, or vessels
9 that are used, or intended for use to transport, or in any manner to
10 facilitate the transportation, for the purpose of sale or receipt of
11 vapor products under subsection (2) of this section, may be seized
12 and are subject to forfeiture except:

13 (a) A conveyance used by any person as a common or contract
14 carrier having in actual possession invoices or delivery tickets
15 showing the true name and address of the consignor or seller, the
16 true name of the consignee or purchaser, and the quantity and brands
17 of the vapor products transported, unless it appears that the owner
18 or other person in charge of the conveyance is a consenting party or
19 privy to a violation of this chapter;

20 (b) A conveyance subject to forfeiture under this section by
21 reason of any act or omission of which the owner establishes to have
22 been committed or omitted without his or her knowledge or consent; or

23 (c) A conveyance encumbered by a bona fide security interest if
24 the secured party neither had knowledge of nor consented to the act
25 or omission.

26 (4) Property subject to forfeiture under subsections (2) and (3)
27 of this section may be seized by any agent of the department, the
28 board, or law enforcement officer of this state upon process issued
29 by any superior court or district court having jurisdiction over the
30 property. Seizure without process may be made if:

31 (a) The seizure is incident to an arrest or a search warrant or
32 an inspection under an administrative inspection warrant; or

33 (b) The department, board, or law enforcement officer has
34 probable cause to believe that the property was used or is intended
35 to be used in violation of this chapter and exigent circumstances
36 exist making procurement of a search warrant impracticable.

37 (5) This section may not be construed to require the seizure of
38 vapor products if the department's agent, board's agent, or law
39 enforcement officer reasonably believes that the vapor products are

1 possessed for personal consumption by the person in possession of the
2 vapor products.

3 (6) Any vapor products seized by a law enforcement officer must
4 be turned over to the board as soon as practicable.

5 (7) This section does not apply to a motor carrier or freight
6 forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier
7 as defined in Title 49 U.S.C. Sec. 40102.

8 **Sec. 8.** RCW 82.25.065 and 2019 c 445 s 113 are each amended to
9 read as follows:

10 (1) No person may transport or cause to be transported in this
11 state vapor products for sale other than: (a) A licensed distributor
12 under chapter 70.345 RCW (~~(, or a manufacturer's representative~~
13 ~~authorized to sell or distribute vapor products in this state under~~
14 ~~chapter 70.345 RCW)); (b) a licensed retailer under chapter 70.345~~
15 RCW; (c) a seller with a valid delivery sale license under chapter
16 70.345 RCW; or (d) a person who has given notice to the board in
17 advance of the commencement of transportation.

18 (2) When transporting vapor products for sale, the person must
19 have in his or her actual possession, or cause to have in the actual
20 possession of those persons transporting such vapor products on his
21 or her behalf, invoices or delivery tickets for the vapor products,
22 which must show the true name and address of the consignor or seller,
23 the true name and address of the consignee or purchaser, and the
24 quantity and brands of the vapor products being transported.

25 (3) In any case where the department or the board, or any peace
26 officer of the state, has knowledge or reasonable grounds to believe
27 that any vehicle is transporting vapor products in violation of this
28 section, the department, board, or peace officer is authorized to
29 stop the vehicle and to inspect it for contraband vapor products.

30 (4) This section does not apply to a motor carrier or freight
31 forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier
32 as defined in Title 49 U.S.C. Sec. 40102.

33 **Sec. 9.** RCW 82.25.075 and 2019 c 445 s 115 are each amended to
34 read as follows:

35 (1) No person engaged in or conducting business as a distributor
36 or retailer in this state may:

37 (a) Make, use, or present or exhibit to the department or the
38 board any invoice for any of the vapor products taxed under this

1 chapter that bears an untrue date or falsely states the nature or
2 quantity of the goods invoiced; or

3 (b) Fail to produce on demand of the department or the board all
4 invoices of all the vapor products taxed under this chapter within
5 five years prior to such demand unless the person can show by
6 satisfactory proof that the nonproduction of the invoices was due to
7 causes beyond the person's control.

8 (2) (a) No person, other than a licensed distributor, retailer, or
9 delivery sales licensee, (~~or manufacturer's representative,~~) may
10 transport vapor products for sale in this state for which the taxes
11 imposed under this chapter have not been paid unless:

12 (i) Notice of the transportation has been given as required under
13 RCW 82.25.065;

14 (ii) The person transporting the vapor products actually
15 possesses invoices or delivery tickets showing the true name and
16 address of the consignor or seller, the true name and address of the
17 consignee or purchaser, and the quantity and brands of vapor products
18 being transported; and

19 (iii) The vapor products are consigned to or purchased by a
20 person in this state who is licensed under chapter 70.345 RCW.

21 (b) A violation of this subsection (2) is a gross misdemeanor.

22 (3) Any person licensed under chapter 70.345 RCW as a
23 distributor, and any person licensed under chapter 70.345 RCW as a
24 retailer, may not operate in any other capacity unless the additional
25 appropriate license is first secured, except as otherwise provided by
26 law. A violation of this subsection (3) is a misdemeanor.

27 (4) The penalties provided in this section are in addition to any
28 other penalties provided by law for violating the provisions of this
29 chapter or the rules adopted under this chapter.

30 (5) This section does not apply to a motor carrier or freight
31 forwarder as defined in Title 49 U.S.C. Sec. 13102 or an air carrier
32 as defined in Title 49 U.S.C. Sec. 40102.

33 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.25
34 RCW to read as follows:

35 (1) A bundled transaction that includes a vapor product is
36 subject to the tax imposed under this chapter on the entire selling
37 price of the bundled transaction.

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

1 (a) "Bundled transaction" means:

2 (i) The sale of two or more products where the products are
3 otherwise distinct and identifiable, are sold for one nonitemized
4 price, and at least one product is a vapor product subject to the tax
5 under this chapter; and

6 (ii) A vapor product provided free of charge with the required
7 purchase of another product. A vapor product is provided free of
8 charge if the sales price of the product purchased does not vary
9 depending on the inclusion of the vapor product provided free of
10 charge.

11 (b) "Distinct and identifiable" products does not include
12 packaging such as containers, boxes, sacks, bags, and bottles, or
13 materials such as wrapping, labels, tags, and instruction guides,
14 that accompany the sale of the products and are incidental or
15 immaterial to the sale of the products.

16 **Sec. 11.** RCW 82.32.145 and 2020 c 301 s 6 are each amended to
17 read as follows:

18 (1) Whenever the department has issued a warrant under RCW
19 82.32.210 for the collection of unpaid trust fund taxes from a
20 limited liability business entity and that business entity has been
21 terminated, dissolved, or abandoned, or is insolvent, the department
22 may pursue collection of the entity's unpaid trust fund taxes,
23 including penalties and interest on those taxes, against any or all
24 of the responsible individuals. For purposes of this subsection,
25 "insolvent" means the condition that results when the sum of the
26 entity's debts exceeds the fair market value of its assets. The
27 department may presume that an entity is insolvent if the entity
28 refuses to disclose to the department the nature of its assets and
29 liabilities.

30 (2) Personal liability under this section may be imposed for
31 state and local trust fund taxes.

32 (3)(a) For a responsible individual who is the current or a
33 former chief executive or chief financial officer, liability under
34 this section applies regardless of fault or whether the individual
35 was or should have been aware of the unpaid trust fund tax liability
36 of the limited liability business entity.

37 (b) For any other responsible individual, liability under this
38 section applies only if he or she willfully fails to pay or to cause

1 to be paid to the department the trust fund taxes due from the
2 limited liability business entity.

3 (4) (a) Except as provided in this subsection (4) (a), a
4 responsible individual who is the current or a former chief executive
5 or chief financial officer is liable under this section only for
6 trust fund tax liability accrued during the period that he or she was
7 the chief executive or chief financial officer. However, if the
8 responsible individual had the responsibility or duty to remit
9 payment of the limited liability business entity's trust fund taxes
10 to the department during any period of time that the person was not
11 the chief executive or chief financial officer, that individual is
12 also liable for trust fund tax liability that became due during the
13 period that he or she had the duty to remit payment of the limited
14 liability business entity's taxes to the department but was not the
15 chief executive or chief financial officer.

16 (b) All other responsible individuals are liable under this
17 section only for trust fund tax liability that became due during the
18 period he or she had the responsibility or duty to remit payment of
19 the limited liability business entity's taxes to the department.

20 (5) Persons described in subsection (3) (b) of this section are
21 exempt from liability under this section in situations where
22 nonpayment of the limited liability business entity's trust fund
23 taxes is due to reasons beyond their control as determined by the
24 department by rule.

25 (6) Any person having been issued a notice of assessment under
26 this section is entitled to the appeal procedures under RCW
27 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

28 (7) This section does not relieve the limited liability business
29 entity of its trust fund tax liability or otherwise impair other tax
30 collection remedies afforded by law.

31 (8) Collection authority and procedures prescribed in this
32 chapter apply to collections under this section.

33 (9) The definitions in this subsection apply throughout this
34 section unless the context clearly requires otherwise.

35 (a) "Chief executive" means: The president of a corporation; or
36 for other entities or organizations other than corporations or if the
37 corporation does not have a president as one of its officers, the
38 highest ranking executive manager or administrator in charge of the
39 management of the company or organization.

1 (b) "Chief financial officer" means: The treasurer of a
2 corporation; or for entities or organizations other than corporations
3 or if a corporation does not have a treasurer as one of its officers,
4 the highest senior manager who is responsible for overseeing the
5 financial activities of the entire company or organization.

6 (c) "Limited liability business entity" means a type of business
7 entity that generally shields its owners from personal liability for
8 the debts, obligations, and liabilities of the entity, or a business
9 entity that is managed or owned in whole or in part by an entity that
10 generally shields its owners from personal liability for the debts,
11 obligations, and liabilities of the entity. Limited liability
12 business entities include corporations, limited liability companies,
13 limited liability partnerships, trusts, general partnerships and
14 joint ventures in which one or more of the partners or parties are
15 also limited liability business entities, and limited partnerships in
16 which one or more of the general partners are also limited liability
17 business entities.

18 (d) "Manager" has the same meaning as in RCW 25.15.006.

19 (e) "Member" has the same meaning as in RCW 25.15.006, except
20 that the term only includes members of member-managed limited
21 liability companies.

22 (f) "Officer" means any officer or assistant officer of a
23 corporation, including the president, vice president, secretary, and
24 treasurer.

25 (g) (i) "Responsible individual" includes any current or former
26 officer, manager, member, partner, or trustee of a limited liability
27 business entity with an unpaid tax warrant issued by the department.

28 (ii) "Responsible individual" also includes any current or former
29 employee or other individual, but only if the individual had the
30 responsibility or duty to remit payment of the limited liability
31 business entity's unpaid trust fund tax liability reflected in a tax
32 warrant issued by the department.

33 (iii) Whenever any taxpayer has one or more limited liability
34 business entities as a member, manager, or partner, "responsible
35 individual" also includes any current and former officers, members,
36 or managers of the limited liability business entity or entities or
37 of any other limited liability business entity involved directly in
38 the management of the taxpayer. For purposes of this subsection
39 (9) (g) (iii), "taxpayer" means a limited liability business entity
40 with an unpaid tax warrant issued against it by the department.

1 (h) "Trust fund taxes" means taxes collected from purchasers and
2 held in trust under RCW 82.08.050 or 82.25.010, including taxes
3 imposed under RCW 82.08.020, 82.08.150, 82.25.010, and 82.51.010.

4 (i) "Willfully fails to pay or to cause to be paid" means that
5 the failure was the result of an intentional, conscious, and
6 voluntary course of action.

7 NEW SECTION. **Sec. 12.** The following acts or parts of acts are
8 each repealed:

9 (1) RCW 82.25.060 (Invoice requirements—Rules—Liability) and
10 2019 c 445 s 112;

11 (2) RCW 82.25.085 (Manufacturer's representatives) and 2019 c 445
12 s 117; and

13 (3) RCW 82.25.105 (Tax credit—Sold outside state—Returned,
14 destroyed products—Sold to United States or an Indian tribal
15 organization) and 2019 c 445 s 121.

16 NEW SECTION. **Sec. 13.** This act takes effect January 1, 2023.

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