
SENATE BILL 5223

State of Washington **67th Legislature** **2021 Regular Session**

By Senators Fortunato, Padden, Schoesler, Gildon, and Short

Read first time 01/14/21. Referred to Committee on Ways & Means.

1 AN ACT Relating to dedicating the sales tax on motor vehicles to
2 highway uses; amending RCW 82.08.020, 82.12.020, and 46.68.090;
3 providing an effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 82.08.020 and 2014 c 140 s 12 are each amended to
6 read as follows:

7 (1) There is levied and collected a tax equal to six and five-
8 tenths percent of the selling price on each retail sale in this state
9 of:

10 (a) Tangible personal property, unless the sale is specifically
11 excluded from the RCW 82.04.050 definition of retail sale;

12 (b) Digital goods, digital codes, and digital automated services,
13 if the sale is included within the RCW 82.04.050 definition of retail
14 sale;

15 (c) Services, other than digital automated services, included
16 within the RCW 82.04.050 definition of retail sale;

17 (d) Extended warranties to consumers; and

18 (e) Anything else, the sale of which is included within the RCW
19 82.04.050 definition of retail sale.

20 (2) There is levied and collected an additional tax on each
21 retail car rental, regardless of whether the vehicle is licensed in

1 this state, equal to five and nine-tenths percent of the selling
2 price. The revenue collected under this subsection must be deposited
3 in the multimodal transportation account created in RCW 47.66.070.

4 (3) (a) Beginning July 1, 2003, there is levied and collected an
5 additional tax of three-tenths of one percent of the selling price on
6 each retail sale of a motor vehicle in this state, other than retail
7 car rentals taxed under subsection (2) of this section. The revenue
8 collected under this subsection must be deposited in the multimodal
9 transportation account created in RCW 47.66.070.

10 (b) For purposes of this subsection (3), "motor vehicle" has the
11 meaning provided in RCW 46.04.320, but does not include:

12 (i) Farm tractors or farm vehicles as defined in RCW 46.04.180
13 and 46.04.181, unless the farm tractor or farm vehicle is for use in
14 the production of marijuana;

15 (ii) Off-road vehicles as defined in RCW 46.04.365;

16 (iii) Nonhighway vehicles as defined in RCW 46.09.310; and

17 (iv) Snowmobiles as defined in RCW 46.04.546.

18 ~~(4) ((For purposes of subsection (3) of this section, "motor~~
19 ~~vehicle" has the meaning provided in RCW 46.04.320, but does not~~
20 ~~include:~~

21 ~~(a) Farm tractors or farm vehicles as defined in RCW 46.04.180~~
22 ~~and 46.04.181, unless the farm tractor or farm vehicle is for use in~~
23 ~~the production of marijuana;~~

24 ~~(b) Off-road vehicles as defined in RCW 46.04.365;~~

25 ~~(c) Nonhighway vehicles as defined in RCW 46.09.310; and~~

26 ~~(d) Snowmobiles as defined in RCW 46.04.546.)) (a) Beginning July~~

27 1, 2021, all revenue collected under subsection (1) of this section
28 on each new and used retail sale of a vehicle in this state,
29 including private-party sales, but excluding retail car rentals taxed
30 under subsection (2) of this section, must be deposited in the motor
31 vehicle fund. All revenue collected under this subsection may only be
32 used for highway purposes as defined in RCW 46.68.130. For the
33 purposes of this subsection "highway purposes" also includes
34 preservation.

35 (b) For purposes of this subsection (4), "vehicle" has the
36 meaning provided in RCW 46.04.670 including, but not limited to,
37 passenger vehicles, light trucks, commercial vehicles, travel
38 trailers, recreational vehicles, intermittent use trailers,
39 motorcycles, and campers, but "vehicle" does not include:

1 (i) Farm tractors or farm vehicles as defined in RCW 46.04.180
2 and 46.04.181, unless the farm tractor or farm vehicle is for use in
3 the production of marijuana;

4 (ii) Off-road vehicles as defined in RCW 46.04.365;

5 (iii) Nonhighway vehicles as defined in RCW 46.09.310;

6 (iv) Bicycles as defined in RCW 46.04.071; and

7 (v) Snowmobiles as defined in RCW 46.04.546.

8 (5) Beginning on December 8, 2005, 0.16 percent of the taxes
9 collected under subsection (1) of this section must be dedicated to
10 funding comprehensive performance audits required under RCW
11 43.09.470. The revenue identified in this subsection must be
12 deposited in the performance audits of government account created in
13 RCW 43.09.475.

14 (6) The taxes imposed under this chapter apply to successive
15 retail sales of the same property.

16 (7) The rates provided in this section apply to taxes imposed
17 under chapter 82.12 RCW as provided in RCW 82.12.020.

18 **Sec. 2.** RCW 82.12.020 and 2017 c 323 s 520 are each amended to
19 read as follows:

20 (1) There is levied and collected from every person in this state
21 a tax or excise for the privilege of using within this state as a
22 consumer any:

23 (a) Article of tangible personal property acquired by the user in
24 any manner, including tangible personal property acquired at a casual
25 or isolated sale, and including by-products used by the manufacturer
26 thereof, except as otherwise provided in this chapter, irrespective
27 of whether the article or similar articles are manufactured or are
28 available for purchase within this state;

29 (b) Prewritten computer software, regardless of the method of
30 delivery, but excluding prewritten computer software that is either
31 provided free of charge or is provided for temporary use in viewing
32 information, or both;

33 (c) Services defined as a retail sale in RCW 82.04.050 (2) (a) or
34 (g) or (6)(c), excluding services defined as a retail sale in RCW
35 82.04.050(6)(c) that are provided free of charge;

36 (d) Extended warranty; or

37 (e)(i) Digital good, digital code, or digital automated service,
38 including the use of any services provided by a seller exclusively in

1 connection with digital goods, digital codes, or digital automated
2 services, whether or not a separate charge is made for such services.

3 (ii) With respect to the use of digital goods, digital automated
4 services, and digital codes acquired by purchase, the tax imposed in
5 this subsection (1)(e) applies in respect to:

6 (A) Sales in which the seller has granted the purchaser the right
7 of permanent use;

8 (B) Sales in which the seller has granted the purchaser a right
9 of use that is less than permanent;

10 (C) Sales in which the purchaser is not obligated to make
11 continued payment as a condition of the sale; and

12 (D) Sales in which the purchaser is obligated to make continued
13 payment as a condition of the sale.

14 (iii) With respect to digital goods, digital automated services,
15 and digital codes acquired other than by purchase, the tax imposed in
16 this subsection (1)(e) applies regardless of whether or not the
17 consumer has a right of permanent use or is obligated to make
18 continued payment as a condition of use.

19 (2) The provisions of this chapter do not apply in respect to the
20 use of any article of tangible personal property, extended warranty,
21 digital good, digital code, digital automated service, or service
22 taxable under RCW 82.04.050 (2) (a) or (g) or (6)(c), if the sale to,
23 or the use by, the present user or the present user's bailor or donor
24 has already been subjected to the tax under chapter 82.08 RCW or this
25 chapter and the tax has been paid by the present user or by the
26 present user's bailor or donor.

27 (3)(a) Except as provided in this section, payment of the tax
28 imposed by this chapter or chapter 82.08 RCW by one purchaser or user
29 of tangible personal property, extended warranty, digital good,
30 digital code, digital automated service, or other service does not
31 have the effect of exempting any other purchaser or user of the same
32 property, extended warranty, digital good, digital code, digital
33 automated service, or other service from the taxes imposed by such
34 chapters.

35 (b) The tax imposed by this chapter does not apply:

36 (i) If the sale to, or the use by, the present user or his or her
37 bailor or donor has already been subjected to the tax under chapter
38 82.08 RCW or this chapter and the tax has been paid by the present
39 user or by his or her bailor or donor;

1 (ii) In respect to the use of any article of tangible personal
2 property acquired by bailment and the tax has once been paid based on
3 reasonable rental as determined by RCW 82.12.060 measured by the
4 value of the article at time of first use multiplied by the tax rate
5 imposed by chapter 82.08 RCW or this chapter as of the time of first
6 use;

7 (iii) In respect to the use of any article of tangible personal
8 property acquired by bailment, if the property was acquired by a
9 previous bailee from the same bailor for use in the same general
10 activity and the original bailment was prior to June 9, 1961; or

11 (iv) To the use of digital goods or digital automated services,
12 which were obtained through the use of a digital code, if the sale of
13 the digital code to, or the use of the digital code by, the present
14 user or the present user's bailor or donor has already been subjected
15 to the tax under chapter 82.08 RCW or this chapter and the tax has
16 been paid by the present user or by the present user's bailor or
17 donor.

18 (4) (a) Except as provided in (b) of this subsection (4), the tax
19 is levied and must be collected in an amount equal to the value of
20 the article used, value of the digital good or digital code used,
21 value of the extended warranty used, or value of the service used by
22 the taxpayer, multiplied by the applicable rates in effect for the
23 retail sales tax under RCW 82.08.020.

24 (b) In the case of a seller required to collect use tax from the
25 purchaser, the tax must be collected in an amount equal to the
26 purchase price multiplied by the applicable rate in effect for the
27 retail sales tax under RCW 82.08.020.

28 (5) For purposes of the tax imposed in this section, "person"
29 includes anyone within the definition of "buyer," "purchaser," and
30 "consumer" in RCW 82.08.010.

31 (6) (a) Beginning July 1, 2021, all use tax revenue collected
32 under subsection (1) of this section on the use of each new and used
33 vehicle in this state, but excluding retail car rentals taxed under
34 RCW 82.08.020, must be deposited in the motor vehicle fund. All
35 revenue collected under this subsection may only be used for highway
36 purposes as defined in RCW 46.68.130.

37 (b) For purposes of this subsection (6):

38 (i) "Highway purposes" also includes preservation; and

39 (ii) "Vehicle" has the meaning provided in RCW 46.04.670
40 including, but not limited to, passenger vehicles, light trucks,

1 commercial vehicles, travel trailers, recreational vehicles,
2 intermittent use trailers, motorcycles, and campers, but "vehicle"
3 does not include:

4 (A) Farm tractors or farm vehicles as defined in RCW 46.04.180
5 and 46.04.181, unless the farm tractor or farm vehicle is for use in
6 the production of marijuana;

7 (B) Off-road vehicles as defined in RCW 46.04.365;

8 (C) Nonhighway vehicles as defined in RCW 46.09.310;

9 (D) Bicycles as defined in RCW 46.04.071; and

10 (E) Snowmobiles as defined in RCW 46.04.546.

11 **Sec. 3.** RCW 46.68.090 and 2015 3rd sp.s. c 44 s 105 are each
12 amended to read as follows:

13 (1) All moneys that have accrued or may accrue to the motor
14 vehicle fund from the fuel tax and/or the tax imposed under RCW
15 82.08.020(4) and 82.12.020(6) must be first expended for purposes
16 enumerated in (a) and (b) of this subsection. The remaining net tax
17 amount must be distributed monthly by the state treasurer in
18 accordance with subsections (2) through (8) of this section.

19 (a) For payment of refunds of fuel tax that has been paid and is
20 refundable as provided by law;

21 (b) For payment of amounts to be expended pursuant to
22 appropriations for the administrative expenses of the offices of
23 state treasurer, state auditor, and the department of licensing of
24 the state of Washington in the administration of the fuel tax, which
25 sums must be distributed monthly.

26 (2) All of the remaining net tax amount collected under RCW
27 82.38.030(1) must be distributed as set forth in (a) through (j) of
28 this subsection.

29 (a) For distribution to the motor vehicle fund an amount equal to
30 44.387 percent to be expended for highway purposes of the state as
31 defined in RCW 46.68.130;

32 (b) (i) For distribution to the special category C account, hereby
33 created in the motor vehicle fund, an amount equal to 3.2609 percent
34 to be expended for special category C projects. Special category C
35 projects are category C projects that, due to high cost only, will
36 require bond financing to complete construction.

37 (ii) The following criteria, listed in order of priority, must be
38 used in determining which special category C projects have the
39 highest priority:

1 (A) Accident experience;

2 (B) Fatal accident experience;

3 (C) Capacity to move people and goods safely and at reasonable

4 speeds without undue congestion; and

5 (D) Continuity of development of the highway transportation

6 network.

7 (iii) Moneys deposited in the special category C account in the

8 motor vehicle fund may be used for payment of debt service on bonds

9 the proceeds of which are used to finance special category C projects

10 under this subsection (2) (b);

11 (c) For distribution to the Puget Sound ferry operations account

12 in the motor vehicle fund an amount equal to 2.3283 percent;

13 (d) For distribution to the Puget Sound capital construction

14 account in the motor vehicle fund an amount equal to 2.3726 percent;

15 (e) For distribution to the transportation improvement account in

16 the motor vehicle fund an amount equal to 7.5597 percent;

17 (f) For distribution to the transportation improvement account in

18 the motor vehicle fund an amount equal to 5.6739 percent and expended

19 in accordance with RCW 47.26.086;

20 (g) For distribution to the cities and towns from the motor

21 vehicle fund an amount equal to 10.6961 percent in accordance with

22 RCW 46.68.110;

23 (h) For distribution to the counties from the motor vehicle fund

24 an amount equal to 19.2287 percent: (i) Out of which there must be

25 distributed from time to time, as directed by the department of

26 transportation, those sums as may be necessary to carry out the

27 provisions of RCW 47.56.725; and (ii) less any amounts appropriated

28 to the county road administration board to implement the provisions

29 of RCW 47.56.725(4), with the balance of such county share to be

30 distributed monthly as the same accrues for distribution in

31 accordance with RCW 46.68.120;

32 (i) For distribution to the county arterial preservation account,

33 hereby created in the motor vehicle fund an amount equal to 1.9565

34 percent. These funds must be distributed by the county road

35 administration board to counties in proportions corresponding to the

36 number of paved arterial lane miles in the unincorporated area of

37 each county and must be used for improvements to sustain the

38 structural, safety, and operational integrity of county arterials.

39 The county road administration board must adopt reasonable rules and

1 develop policies to implement this program and to assure that a
2 pavement management system is used;

3 (j) For distribution to the rural arterial trust account in the
4 motor vehicle fund an amount equal to 2.5363 percent and expended in
5 accordance with RCW 36.79.020.

6 (3) The remaining net tax amount collected under RCW 82.38.030(2)
7 must be distributed to the transportation 2003 account (nickel
8 account).

9 (4) The remaining net tax amount collected under RCW 82.38.030(3)
10 must be distributed as follows:

11 (a) 8.3333 percent must be distributed to the incorporated cities
12 and towns of the state in accordance with RCW 46.68.110;

13 (b) 8.3333 percent must be distributed to counties of the state
14 in accordance with RCW 46.68.120; and

15 (c) The remainder must be distributed to the transportation
16 partnership account created in RCW 46.68.290.

17 (5) The remaining net tax amount collected under RCW 82.38.030(4)
18 must be distributed as follows:

19 (a) 8.3333 percent must be distributed to the incorporated cities
20 and towns of the state in accordance with RCW 46.68.110;

21 (b) 8.3333 percent must be distributed to counties of the state
22 in accordance with RCW 46.68.120; and

23 (c) The remainder must be distributed to the transportation
24 partnership account created in RCW 46.68.290.

25 (6) The remaining net tax amount collected under RCW 82.38.030
26 (5) and (6) must be distributed to the transportation partnership
27 account created in RCW 46.68.290.

28 (7) The remaining net tax amount collected under RCW 82.38.030
29 (7) and (8) must be distributed to the connecting Washington account
30 created in RCW 46.68.395.

31 (8) Nothing in this section or in RCW 46.68.130 may be construed
32 so as to violate any terms or conditions contained in any highway
33 construction bond issues now or hereafter authorized by statute and
34 whose payment is by such statute pledged to be paid from any excise
35 taxes on fuel.

36 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
37 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect July 1, 2021.

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