

public institutions, and shall take effect immediately.

Passed the House August 31, 1951.

Passed the Senate September 1, 1951.

Approved by the Governor September 10, 1951.

CHAPTER 28.

[S. B. 22.]

REVENUE AND TAXATION.

AN ACT relating to revenue and taxation; adding to and amending title 82, R.C.W., and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. There is added to chapter 82.04, R.C.W., as derived from title II, chapter 180, Laws of 1935, as amended, a new section to read as follows:

Business and occupation tax; surtax.

From and after the first day of November, 1951, until the thirtieth day of April, 1953, there is levied and shall be collected from every person for the act or privilege of engaging in business activities, as a part of the tax imposed by this chapter and as a temporary increase thereof, a surtax in the amount of twenty per cent of the tax payable under this chapter.

SEC. 2. There is added to chapter 82.16, R.C.W., as derived from title V, chapter 180, Laws of 1935, as amended, a new section to read as follows:

Public utility tax; surtax.

From and after the first day of November, 1951, until the thirtieth day of April, 1953, there is levied and shall be collected from every person for the act or privilege of engaging within this state in one or more of the businesses named in section 82.16.020, R.C.W., as a part of the tax imposed by this chapter and as a temporary increase thereof, a surtax in the

amount of ten per cent of the tax payable under this chapter.

SEC. 3. Section 82.04.050, R.C.W., as derived from section 2, chapter 228, Laws of 1949, is amended to read as follows: Amendment.

“Sale at retail” or “retail sale” means every sale of tangible personal property (including articles produced, fabricated, or imprinted) other than a sale to one who purchases for the purpose of resale as tangible personal property in the regular course of business or for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under sections 82.04.280, subsection (2), and 82.04.290, R.C.W. Business and occupation tax; “sale at retail” or “retail sale.”

The term “sale at retail” or “retail sale” shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (1) the installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, excluding, however, services rendered in respect to live animals, birds and insects; (2) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for

the clearing of land and the moving of earth to the extent necessary for such constructing or improving, unless the charge therefor is stated separately from other charges made in connection with the work performed, under such rules as the tax commission may prescribe; (3) between November 1, 1951, and May 1, 1953, for the furnishing of lodging and related services to transients in or by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same.

Not included.

The term shall not include the sale of or charge made for labor and services rendered in respect to the mere cleaning, fumigating, razing, or moving of existing buildings or structures, or the building, repairing, or improving of any publicly owned street, place, road, highway, bridge, or trestle which is used or to be used primarily for foot or vehicular traffic, nor shall it include sales of feed, seed, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including, milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects.

[R.C.W. 82.04.050 was derived from Rem. Supp. 1949, § 8370-5, part (subsection d).]

[R.C.W. 82.04.280 and 82.04.290 were derived from section 1, chapter 5, Laws of 1950 Ex. Sess. (subsections f and g); formerly Rem. Supp. 1949, § 8370-4 (subsections f and g).]

Amendment.

SEC. 4. Section 82.04.260, R.C.W., as derived from section 1, chapter 5, Laws of 1950, Extraordinary Session, is amended to read as follows:

Business and occupation tax; grain wholesalers.

(1) Upon every person engaging within this state in the business of buying wheat, oats, corn and

barley, but not including any manufactured or processed products thereof, and selling the same at wholesale; the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of one one-hundredth of one per cent: *Provided*, That as to business conducted from and after the first day of November, 1951, until the thirtieth day of April, 1953, the rate of tax as to sales of such article purchased from the producer thereof shall be one-quarter of one per cent. Rates.

(2) Upon every person engaging within this state in the business of manufacturing wheat into flour; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour manufactured, multiplied by the rate of one-eighth of one per cent. Rate. Wheat flour manufacturers.

[Formerly Rem. Supp. 1949, § 8370-4 (subsections (d)(1) and (d)(2).]

SEC. 5. There is added to chapter 82.08, R.C.W., as derived from title III, chapter 180, Laws of 1935, as amended, a new section to read as follows:

There is levied and shall be collected from and after the first day of November, 1951, until the thirtieth day of April, 1953, a tax upon each retail sale of spirits, wine, or strong beer in the original package at the rate of ten per cent of the selling price, and the term "retail sale" as used herein shall include, in addition to the meaning ascribed thereto in chapter 82.04, R.C.W., any sale not for resale in such original package. The tax imposed in this section shall apply to the sale of spirits, wine, or strong beer by the Washington state liquor stores, including sales to Class H licensees. The tax imposed in section 82.08-.020, R.C.W., shall not apply to sales subject to the tax imposed by this section. Retail sale tax; spirits, wine, or strong beer in original package.

As used in this section, the terms "spirits," "wine," "strong beer," and "package" shall have the meaning ascribed to them in section 66.04.200 [chapter 66.04], R.C.W.

[Pertinent section of chapter 82.04 R.C.W. appears as section 3, *supra*; R.C.W. 82.08.020 was derived from Rem. Supp. 1949, § 8370-16.]

[Chapter 66.04 was derived from Rem. Supp. 7306-3.]

SEC. 6. There is added to title 82, R.C.W., a new chapter comprised of the following sections 7 to 17, inclusive, to be known as the "Soft Drink Tax."

SEC. 7. For the purposes of this chapter:

(1) "Bottled soft drinks" means any and all bottled, canned, or otherwise packaged nonintoxicating beverage, whether carbonated or not, whether concentrated or not, including but not limited to soda water, ginger ale, seven-up, coca cola, pepsi cola, and other cola beverages, near beer, fruit juice, milk drinks (but not milk, cream, or buttermilk), cider, and carbonated water;

(2) "Syrup" means the compound mixture or basic ingredient used in the making, mixing, or compounding of soft drinks by the mixing of the same with water, carbonated water, ice, fruit, milk, or any other product, among such syrups being simple syrup, coca cola syrup, vanilla syrup, chocolate syrup, and various fruit and fruit flavor syrups, and all other syrups usable for the purpose of mixing soft drinks;

(3) "Wholesaler" means every person who sells or distributes any one or more of the articles taxed herein to other persons for the purpose of resale only;

(4) "Retailer" means every person other than a wholesaler who sells or distributes any one or more of the articles taxed herein to consumers.

(5) The meaning ascribed to words and phrases in chapter 82.04, R.C.W., as derived from title II, chapter 180, Laws of 1935, as amended, insofar as ap-

Vetoed.

plicable, shall have full force and effect with respect to taxes imposed by this act.

SEC. 8. There is levied and shall be collected a tax upon the sale, use, consumption, handling, or distribution of (1) bottled soft drinks in an amount equal to one-half cent for every twelve fluid ounces or fraction thereof of the capacity of the bottle or smallest container in which the soft drink is contained, and (2) syrups in an amount equal to forty cents per gallon of syrups.

SEC. 9. The tax hereby levied shall not apply to syrups used or to be used in the making, mixing, manufacture, or production of bottled soft drinks for sale.

SEC. 10. In order to enforce collection of the tax the tax commission shall design and have printed stamps of such size and denominations as it may determine, to be affixed on the smallest container or package that will be handled, sold, used, consumed, or distributed. Every person shall cause to be affixed on every such container of the taxed articles stamps of an amount equal to the tax due before he sells, offers for sale, uses, consumes, or distributes the same: *Provided*, That in lieu of stamps the commission may sell to manufacturers, bottlers, or distributors crowns which must be affixed to the product sold, such crowns to be in such denominations as will equal the tax due on the commodity to which the crown is affixed. Crowns shall be sold at their face value plus manufacturers' price and transportation charges. Vetoed.

SEC. 11. Except as provided in section 13, every wholesaler in this state shall, immediately after receipt of any of the articles taxed herein, cause the same to have the requisite denomination and amount of stamps affixed to represent the tax imposed herein.

SEC. 12. Except as provided in section 13, every retailer shall, except as to those articles on which the tax has been paid by the proper affixing of stamps by a wholesaler, as herein provided, affix the stamps in the denomination and amount necessary to represent the tax on each individual package or container, the same to be done, in all cases, immediately upon receipt by the retailer of the unstamped articles.

SEC. 13. Any wholesaler or retailer engaged in interstate business, who shall furnish surety bond in a sum satisfactory to the commission, shall be permitted to set aside such part of his stock as may be necessary for the conduct of such interstate business without affixing the stamps required by this chapter. Said interstate stock shall be kept separate and apart from stamped stock. Every wholesaler or retailer shall, at the time of shipping or delivering any of the articles taxed herein, make a true duplicate invoice of the same which shall show full and complete details of the sale or delivery of the taxable articles, and shall retain the same subject to the use and inspection of the tax commission.

Vetoed.

SEC. 14. Stamps or crowns shall be affixed in such manner that they cannot be removed from the container without the stamp being mutilated or destroyed, and stamps or crowns so affixed shall be evidence of payment of the tax imposed.

SEC. 15. Wholesalers and retailers subject to the provisions of this chapter shall be allowed as compensation for their services in affixing the stamps a sum equal to five per cent of the face value of the stamps purchased by them: *Provided*, That no such compensation shall be allowed where crowns are used.

SEC. 16. It is the intent and purpose of this chapter to levy a tax on all of the articles taxed herein,

sold, used, consumed, handled, or distributed within this state and to collect the tax from the person who first sells, uses, consumes, handles, or distributes them in the state. It is further the intent and purpose of this chapter that whenever any of the articles herein taxed is given away for advertising or any other purpose, it shall be taxed in the same manner as if it were sold, used, consumed, handled, or distributed in this state.

SEC. 17. The provisions of sections 82.24.090, 82.24.100, 82.24.110, 82.24.120, 82.24.130, and 82.24.210, R.C.W., as derived from sections 84, 85, 86, 87, 88, and 92, respectively, of chapter 180, Laws of 1935, as amended, and chapter 82.32, R.C.W., as derived from titles XVIII, XIX, and XX of chapter 180, Laws of 1935, as amended, shall have full force and application with respect to taxes imposed under the provisions of this chapter.

SEC. 18. Sections 6 to 17, inclusive, of this act shall become effective November 1, 1951, and on and after May 1, 1953, shall have no force or effect. Vetoed.

SEC. 19. For the purpose of carrying out the provisions of the "Soft Drink Tax," there is hereby created a fund, to be known as the "Soft Drink Tax Revolving Fund," to which the commission may transfer by warrant out of its appropriations, from time to time, and into which the commission shall have the power to deposit a portion of its receipts from the sale of stamps or crowns for the collection of the Soft Drink Tax: *Provided*, That such fund shall at no time exceed twenty-five thousand dollars. The commission may draw upon such fund by check or voucher or warrant for payment of stamps or crowns purchased for the collection of such tax. Such revolving fund may be deposited by the commission in such banks and financial institutions as it may select throughout the state, which banks and financial

Vetoed. } institutions shall give to the commission surety bonds executed by surety companies authorized to do business in the state, or collateral eligible as security for deposit of state funds, in at least the full amount of the deposit. None of the provisions of section '43.01-.050, R.C.W., shall be applicable to such fund nor to any of the moneys received by the commission in the collection of the Soft Drink Tax.

Severability. SEC. 20. If any title, section, subdivision of a section, paragraph, sentence, clause or word of this act for any reason shall be adjudged invalid, such judgment shall not affect, impair or invalidate the remainder of this act.

Emergency. SEC. 21. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate August 31, 1951.

Passed the House September 1, 1951.

Approved by the Governor September 10, 1951, with the exception of Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19, which are vetoed.