

SEC. 2. Section 12, chapter 271, Laws of 1957 and RCW 47.65.110 are each amended to read as follows:

RCW 47.65.110 amended.

Chapter 271, Laws of 1957 and RCW 47.65.010 through 47.65.110 shall expire on June 30, 1961.

Chapter expires June 30, 1961.

SEC. 3. There is appropriated from the Puget Sound transportation stabilization fund to the Washington toll bridge authority for the biennium beginning July 1, 1959, and ending June 30, 1961, the sum of five hundred thousand dollars or so much thereof as is necessary to carry out the provisions of chapter 47.65 RCW.

Appropriation.

Passed the House March 20, 1959.

Passed the Senate March 26, 1959.

Approved by the Governor March 30, 1959.

CHAPTER 5.

[S. B. 6.]

EXCISE TAXES—BUSINESS AND OCCUPATION, SALES, TOBACCO PRODUCTS.

AN ACT relating to revenue and taxation; amending section 5, chapter 389, Laws of 1955, as amended by section 1, chapter 3, Laws of 1959 extraordinary session (Engrossed House Bill No. 1) and RCW 82.04.040; amending section 48, chapter 389, Laws of 1955 as amended by section 4, chapter 3, Laws of 1959 extraordinary session (Engrossed House Bill No. 1) and RCW 82.04.280; amending section 6, chapter 389, Laws of 1955, as last amended by section 1, chapter 279, Laws of 1957, and RCW 82.04.050; amending section 23, chapter 197, Laws of 1959 and RCW 82.04.390; amending section 1, chapter 91, Laws of 1953, as last amended by section 5, chapter 279, Laws of 1957, and RCW 82.04.296; amending section 5, chapter 28, Laws of 1951, second extraordinary session, as last amended by section 4, chapter 279, Laws of 1957, and RCW 82.08.150; amending section 49, chapter 389, Laws of 1955 and RCW 82.04.290; amending section 47, chapter 389, Laws of 1955 and RCW 82.04.270; amending section 14, chapter 197, Laws of 1959 and RCW 82.04.300; adding new sections to chapter

180, Laws of 1935, and to Title 82 RCW; and declaring an emergency with the effective date April 1, 1959, except for sections 10 through 21, which shall take effect July 1, 1959.

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

RCW 82.04.040 amended.

SECTION 1. Section 5, chapter 389, Laws of 1955, as amended by section 1, chapter 3, Laws of 1959 extraordinary session (Engrossed House Bill No. 1) and RCW 82.04.040 are each amended to read as follows:

B & O tax. "Sale," "casual or isolated sale."

"Sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail" or "retail sale" under RCW 82.04.050. It includes renting or leasing, conditional sale contracts, leases with option to purchase, and any contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It also includes the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not.

"Casual or isolated sale" means a sale made by a person who is not engaged in the business of selling the type of property involved.

RCW 82.04.050 amended.

SEC. 2. Section 6, chapter 389, Laws of 1955, as last amended by section 1, chapter 279, Laws of 1957, and RCW 82.04.050 are each amended to read as follows:

"Sale at retail," "retail sale."

"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 (a) purchases for the purpose of resale as tangible personal property in the regular course of business, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient

or component of such real or personal property, or (c) purchases 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 as 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 RCW 82.04.280, subsection (2), and 82.04.290.

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: (a) 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; (b) 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 excepting the mere leveling of land used in commercial farming or agriculture; (c) the sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; (d) the sale of or charge made for labor and services rendered in respect to automobile towing,

armored car service and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW; (e) the sale of and charge made for the furnishing of lodging and all other services 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.

The term shall not include the sale of or charge made for labor and services rendered in respect to 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.

RCW 82.04.270
amended.
Tax on
wholesalers,
distributors.

SEC. 3. Section 47, chapter 389, Laws of 1955 and RCW 82.04.270 are each amended to read as follows:

(1) Upon every person except persons taxable under subsection (1) of RCW 82.04.260 engaging within this state in the business of making sales at wholesale; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of such business multiplied by the rate of one-quarter of one percent.

(2) The tax imposed by this section is levied and shall be collected from every person engaged in the business of distributing in this state articles of tangible personal property, owned by them from their own warehouse or other central location in

this state to two or more of their own retail stores or outlets, where no change of title or ownership occurs, the intent hereof being to impose a tax equal to the wholesaler's tax upon persons performing functions essentially comparable to those of a wholesaler, but not actually making sales: *Provided*, That the tax designated in this section may not be assessed twice to the same person for the same article. The amount of the tax as to such persons shall be computed by multiplying one-quarter of one percent the value of the article so distributed as of the time of such distribution: *Provided*, That persons engaged in the activities described in this subsection shall not be liable for the tax imposed if by proper invoice it can be shown that they have purchased such property from a wholesaler who has paid a business and occupation tax to the state upon the same articles. This proviso shall not apply to purchases from manufacturers as defined in RCW 82.04.110. The tax commission shall prescribe uniform and equitable rules for the purpose of ascertaining such value, which value shall correspond as nearly as possible to the gross proceeds from sales at wholesale in this state of similar articles of like quality and character, and in similar quantities by other taxpayers: *Provided further*, That delivery trucks or vans will not under the purposes of this section be considered to be retail stores or outlets.

SEC. 4. Section 48, chapter 389, Laws of 1955 as amended by section 4, chapter 3, Laws of 1959 extraordinary session (Engrossed House Bill No. 1) and RCW 82.04.280 are each amended to read as follows:

RCW 82.04.280
amended.

Upon every person engaging within this state in the business of: (1) Printing, and of publishing newspapers, periodicals or magazines; (2) building, repairing or improving any publicly owned street, place, road, highway, bridge or trestle which is used,

Tax on
printers,
publishers . . .
lessors of
real property.

or to be used, primarily for foot or vehicular traffic including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, bridge or trestle is being built, repaired or improved; (3) extracting for hire or processing for hire; (4) operating a cold storage warehouse, but not including the rental of cold storage lockers; (5) the renting or leasing of real property; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of one-quarter of one percent.

RCW 82.04.290 amended.

SEC. 5. Section 49, chapter 389, Laws of 1955 and RCW 82.04.290 are each amended to read as follows:

Tax on other business or service activities.

Upon every person engaging within this state in any business activity other than or in addition to those enumerated in RCW 82.04.230, 82.04.240, 82.04.250, 82.04.260, 82.04.270 and 82.04.280; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of one percent. This section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The additional tax imposed in RCW 82.04.296 shall not apply to persons or activities taxable under this section.

RCW 82.04.296 amended.

SEC. 6. Section 1, chapter 91, Laws of 1953, as last amended by section 5, chapter 279, Laws of 1957,

and RCW 82.04.296 are each amended to read as follows:

From and after the first day of May, 1955, 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, other than those activities taxed pursuant to RCW 82.04.260, an additional tax in the amount of sixty percent of the tax payable under this chapter: *Provided*, That from April 1, 1959 until July 1, 1961 the additional tax imposed under this section shall be in the amount of seventy-six percent of the tax payable under this chapter. To facilitate collection of this additional tax, the tax commission is authorized to adjust the basic rates of persons to which this section applies in such manner as to reflect the exact amount of the additional tax hereby imposed.

Additional
tax imposed.
Temporary
rate.

SEC. 7. Section 14, chapter 197, Laws of 1959 and RCW 82.04.300 are each amended to read as follows:

RCW 82.04.300
amended.

This chapter shall apply to any person engaging in any business activity taxable under RCW 82.04.230, 82.04.240, 82.04.250, 82.04.260, 82.04.270 and 82.04.280 other than those whose value of products, gross proceeds of sales, or gross income of the business is less than three hundred dollars per month: *Provided*, That where one person engages in more than one business activity and the combined measures of the tax applicable to such businesses equal or exceed three hundred dollars per month, no exemption or deduction from the amount of tax is allowed by this section.

Exemption
based on
monthly,
yearly gross.

This chapter shall apply to any person engaging in any business activity taxable under RCW 82.04.290 other than those whose value of products, gross proceeds of sales, or gross income of the business is less than thirty-six hundred dollars per year: *Pro-*

vided, That where one person engages in more than one business activity and the combined measures of tax applicable to such business equals or exceeds thirty-six hundred dollars, no exemption or deduction from the amount of tax is allowed by this section.

Any person claiming exemption under the provisions of this section may be required to file returns even though no tax may be due: *Provided, further*, That the tax commission may allow exemptions, by general rule or regulation, in those instances in which quarterly, semi-annual, or annual returns are permitted. Exemptions for such periods shall be equivalent in amount to the total of exemptions for each month of a reporting period.

RCW 82.04.390 amended.

SEC. 8. Section 23, chapter 197, Laws of 1959 and RCW 82.04.390 are each amended to read as follows:

Chapter not to apply to sale of real estate.

This chapter shall not apply to gross proceeds derived from the sale of real estate. This however, shall not be construed to allow a deduction of amounts received as commissions from the sale of real estate, nor as fees, handling charges, discounts, interest or similar financial charges resulting from, or relating to, real estate transactions.

RCW 82.08.150 amended.

SEC. 9. Section 5, chapter 28, Laws of 1951, second extraordinary session, as last amended by section 4, chapter 279, Laws of 1957, and RCW 82.08.150 are each amended to read as follows:

Retail sales tax. Tax on certain sales of intoxicating liquors—Additional tax.

(1) There is levied and shall be collected from and after the first day of November, 1951, a tax upon each retail sale of spirits, wine, or strong beer in the original package at the rate of ten percent 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 RCW, 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 and agencies, including sales to Class H licensees. The tax imposed in RCW 82.08.020 as now or hereafter amended shall not apply to sales subject to the tax imposed by this section.

(2) There is levied and shall be collected from and after the first day of April, 1959, an additional tax upon each retail sale of spirits, wine, or strong beer in the original package at the rate of five percent of the selling price, and the term "retail sale" as used herein shall include the meaning ascribed thereto in chapter 82.04 RCW. The additional tax imposed in this paragraph shall apply to the sale of spirits, wine, or strong beer by the Washington state liquor stores and agencies, excluding sales to Class H licensees. The tax imposed in RCW 82.08.020 as now or hereafter amended shall not apply to sales subject to the tax imposed by this paragraph.

(3) The additional five percent tax enacted in subdivision (2) of this section shall not be levied upon or applied to sales of wine which have been subjected to the tax imposed by RCW 66.24.220.

(4) As used in this section, the terms "spirits," "wine," "strong beer," and "package" shall have the meaning ascribed to them in chapter 66.04 RCW.

SEC. 10. There is added to chapter 180, Laws of 1935 and to Title 82 RCW 11 new sections to read as set forth in sections 11 through 21 of this act. New sections.

SEC. 11. As used in sections 11 through 21:

(1) "Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such

Definitions.
"Tobacco
products."

manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, but shall not include cigarettes as defined in RCW 82.24.010 (4);

"Manufacturer."

(2) "Manufacturer" means a person who manufactures and sells tobacco products;

"Distributor."

(3) "Distributor" means (a) any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale, (b) any person who makes, manufactures, or fabricates tobacco products in this state for sale in this state, (c) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers;

"Subjobber."

(4) "Subjobber" means any person, other than a manufacturer or distributor, who buys tobacco products from a distributor and sells them to persons other than the ultimate consumers;

"Retailer."

(5) "Retailer" means any person engaged in the business of selling tobacco products to ultimate consumers;

"Sale."

(6) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person. It includes a gift by a person engaged in the business of selling tobacco products, for advertising, as a means of evading the provisions of this act, or for any other purposes whatsoever.

"Wholesale sales price."

(7) "Wholesale sales price" means the established price for which a manufacturer sells a tobacco product to a distributor, exclusive of any discount or other reduction;

"Business."

(8) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state;

"Place of business."

(9) "Place of business" means any place where

tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine;

(10) "Retail outlet" means each place of business from which tobacco products are sold to consumers; "Retail outlet."

(11) "Commission" means the state tax commission. "Commission."

SEC. 12. (1) From and after July 1, 1959, there is levied and there shall be collected a tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of twenty-five percent of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state, or (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers. Tax on tobacco products.

(2) A floor stocks tax is hereby imposed upon every distributor of tobacco products at the rate of twenty-five percent of the wholesale sales price of each tobacco product in his possession or under his control on the effective date of this amendatory act. Floor stocks tax on tobacco.

Each distributor, within twenty days after the effective date of this amendatory act shall file a report with the commission, in such form as the commission may prescribe, showing the tobacco products on hand on the effective date of this amendatory act and the amount of tax due thereon.

The tax imposed by this subdivision shall be due and payable within twenty days after the effective date of this amendatory act and thereafter shall bear interest at the rate of one percent per month.

SEC. 13. It is the intent and purpose of this amendatory act to levy a tax on all tobacco products Purpose.

sold, used, consumed, handled, or distributed within this state and to collect the tax from the distributor as defined in section 11. It is the further intent and purpose of this amendatory act to impose the tax only once but nothing in this amendatory act shall be construed to exempt any person taxable under any other law or under any other tax imposed under Title 82 RCW.

Exemption.

SEC. 14. The tax imposed by section 12 shall not apply with respect to any tobacco products which under the constitution and laws of the United States may not be made the subject of taxation by this state.

Distributor, subjobber, certificate of registration.

SEC. 15. From and after the effective date of this amendatory act no person shall engage in the business of a distributor or subjobber of tobacco products at any place of business without first having received from the commission a certificate of registration as provided in RCW 82.32.030.

Distributor to keep records —Right of inspection.

SEC. 16. Every distributor shall keep at each registered place of business complete and accurate records for that place of business, including itemized invoices, of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the state, or shipped or transported to retailers in this state, and of all sales of tobacco products made, except sales to the ultimate consumer.

These records shall show the names and addresses of purchasers, the inventory of all tobacco products on hand on the effective date of this amendatory act, and other pertinent papers and documents relating to the purchase, sale, or disposition of tobacco products.

When a registered distributor sells tobacco products exclusively to the ultimate consumer at the address given in the certificate, no invoice of those

sales shall be required, but itemized invoices shall be made of all tobacco products transferred to other retail outlets owned or controlled by that registered distributor. All books, records, and other papers and documents required by this section to be kept shall be preserved for a period of at least five years after the date of the documents, as aforesaid, or the date of the entries thereof appearing in the records, unless the commission, in writing, authorizes their destruction or disposal at an earlier date. At any time during usual business hours the commission, or its duly authorized agents or employees, may enter any place of business of a distributor, without a search warrant, and inspect the premises, the records required to be kept under this amendatory act, and the tobacco products contained therein, to determine whether or not all the provisions of this amendatory act are being fully complied with. If the commission, or any of its agents or employees, are denied free access or are hindered or interfered with in making such examination, the registration certificate of the distributor at such premises shall be subject to revocation by the commission.

SEC. 17. Every person who sells tobacco products to persons other than the ultimate consumer shall render with each sale itemized invoices showing the seller's name and address, the purchaser's name and address, the date of sale, and all prices and discounts. He shall preserve legible copies of all such invoices for five years from the date of sale.

Reports when
sales to
retailers.

SEC. 18. Every retailer and subjobber shall procure itemized invoices of all tobacco products purchased. The invoices shall show the name and address of the seller and the date of purchase. The retailer and subjobber shall preserve a legible copy of each such invoice for five years from the date of purchase. Invoices shall be available for inspec-

Retailers,
subjobbers,
reports of
purchases.

tion by the commission or its authorized agents or employees at the retailer's or subjobber's place of business.

Public ware-
house reports.

SEC. 19. Records of all deliveries or shipments of tobacco products from any public warehouse of first destination in this state shall be kept by the warehouse and be available to the commission for inspection. They shall show the name and address of the consignee, the date, the quantity of tobacco products delivered, and such other information as the commission may require. These records shall be preserved for five years from the date of delivery of the tobacco products.

Distributor
returns as in
RCW 82.04.490.

SEC. 20. Every distributor shall report and make returns as provided in RCW 82.04.490 and as it may be amended. Every registered distributor outside of this state shall in like manner report and make returns.

Credit on taxes
by commission.

SEC. 21. Where tobacco products upon which the tax imposed by this amendatory act has been reported and paid, are shipped or transported by the distributor to retailers without the state, to be sold by those retailers, or are returned to the manufacturer by the distributor or destroyed by the distributor, credit of such tax may be made to the distributor in accordance with regulations prescribed by the commission.

Severability.

SEC. 22. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Emergency,
effective date.

SEC. 23. 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 April 1,

1959 except sections 10 through 21, which shall take effect July 1, 1959.

Passed the Senate March 26, 1959.

Passed the House March 26, 1959.

Approved by the Governor March 30, 1959.

CHAPTER 6.

[S. B. 4.]

EXCISE TAXES—REAL ESTATE.

AN ACT relating to the support of the common schools; and amending section 1, chapter 16, Laws of 1951 second extraordinary session and RCW 28.45.110.

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

SECTION 1. Section 1, chapter 16, Laws of 1951 second extraordinary session and RCW 28.45.110 are each amended to read as follows:

RCW 28.45.110
amended.

If the excise tax herein authorized shall be levied in any county for a period of twelve or any lesser number of months and it shall appear upon the first day of May of any year that such tax has not produced seventeen cents per day's attendance credit or such proportion thereof as such lesser number of months, or major fraction thereof, during which the tax was levied, bears to twelve, the deficit shall be certified by the board of county commissioners to the state superintendent of public instruction as a charge against the state general fund for the schools of such county. The sum so certified shall be paid to the county treasurer from the state general fund and allotted to the school districts in the same manner as other money is distributed from the county school fund: *Provided*, That whenever in the judgment of the county superintendent of schools and the county treasurer

Deficiency
after tax,
made up from
equalization
fund—Esti-
mated deficit.