

May disconnect for breach.

the city or town may disconnect the sewer and for that purpose may at any time enter upon any public street or road or upon said property.

Passed the House February 24, 1941.

Passed the Senate March 11, 1941.

Approved by the Governor March 18, 1941.

CHAPTER 76.

[H. B. 575.]

3% SALES AND COMPENSATING TAXES.

AN ACT imposing an excise tax on retail sales of tangible personal property and services and on the privilege of using certain tangible personal property within this state and providing for the collection thereof, authorizing the Tax Commission to make certain rules and regulations with respect thereto, providing the form of returns to be made, amending sections 16, 21, 22, 23 and 31, chapter 180, Laws of 1935, as heretofore amended, and declaring that this act shall take effect immediately.

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

Purpose.

SECTION 1. Initiative Measure No. 141 approved by the people at the general election of November 5, 1940, provides for greatly increased grants and other benefits to citizens over the age of 65 years. To obtain funds necessary to meet this mandate of the people and to carry on all other state functions, it becomes essential for the state to provide a practical and adequate means for raising substantial additional revenues. It is recognized that the only practical and adequate source of revenue to meet these financial requirements is either a graduated personal net income tax or an increased retail sales tax and compensating tax. While under existing constitutional provisions the retail sales tax and compensating tax may be increased, it is not

known whether a graduated personal net income tax enacted at this legislative session would be declared constitutional by the courts without a validating constitutional amendment. For the purpose of assuring the adoption of a valid method of providing such increased revenue and at the same time allowing the people to decide which type of taxation they prefer, it is hereby declared to be the purpose of this act that from and after its effective date, the retail sales tax and compensating tax shall be 3%, but shall be reduced to 2% upon the enactment and judicial approval of a graduated personal net income tax law.

May be reduced to 2% upon approval of income tax law.

SEC. 2. Section 16, chapter 180, Laws of 1935, as amended by section 10, chapter 225, Laws of 1939, (section 8370-16, Remington's Revised Statutes), be and the same hereby is amended to read as follows:

Amendments.

Section 16. From and after the 1st day of May 1941, there is hereby levied and there shall be collected a tax on each retail sale in this state equal to three per cent of the selling price. The tax imposed under this title shall apply to the retail sale of intoxicating liquor by the Washington state liquor stores: *Provided*, That the rate of tax herein imposed shall be reduced from 3% to 2% on the first day of the odd numbered month following a judicial determination by the Supreme Court of this state that a law imposing a graduated personal net income tax enacted by this state is valid.

3% retail sales tax levied.

Proviso.

SEC. 3. Section 21, chapter 180, Laws of 1935, as amended by section 11, chapter 225, Laws of 1939, (section 8370-21, Remington's Revised Statutes), be and the same hereby is amended to read as follows:

Amendments.

Section 21. The tax hereby imposed shall be paid by the buyer to the seller, and it shall be the

Tax to be paid by buyer.

Duty of seller to collect.

How paid.

Tokens.

Amount collected in trust for state.

Penalty for misappropriation.

Refusal to collect a misdemeanor.

Amendments.

Powers of Tax Commission.

duty of each seller to collect from the buyer the full amount of the tax payable in respect to each taxable sale. The amount of tax shall be paid by the buyer in cash upon sales amounting to thirty cents or more and by token to be issued by the Tax Commission upon sales amounting to twenty-nine cents or less. The tax required by this title, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the Tax Commission, and any seller who appropriates or converts the tax collected to his own use or to any use other than the payment of the tax provided herein to the extent that the money required to be collected is not available for payment on the due date as prescribed in this act shall be guilty of a misdemeanor and punished in the manner prescribed by law. In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay the same to the Tax Commission in the manner prescribed by this act, whether such failure be the result of his own acts or the result of acts or conditions beyond his control, he shall, nevertheless, be personally liable to the state for the amount of such tax. The amount of tax, until paid to the seller, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the tax as required under this title with intent to violate the provisions of this act or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this title shall be guilty of a misdemeanor and punishable in the manner prescribed by law.

SEC. 4. Section 22, chapter 180, Laws of 1935, (section 8370-22, Remington's Revised Statutes), be and the same hereby is amended to read as follows:

Section 22. The Tax Commission shall have the power to adopt rules and regulations prescribing

methods and schedules for the collection of the tax required to be collected by the seller from the buyer under this title. The methods and schedules prescribed shall be adopted so as to eliminate fractions of one cent upon sales amounting to thirty cents or more and to provide for the use of tokens upon sales amounting to twenty-nine cents or less and so that the aggregate collections of all taxes by the seller shall, as far as practicable, equal the amount of tax imposed by this title. Such schedules may provide that no tax need be collected from the buyer upon sales below a stated sum and may be amended from time to time to accomplish the purposes set forth herein. The Tax Commission is hereby authorized to procure, make available and sell to buyers tokens which shall be accepted by sellers in the payment of tax imposed by this title upon sales amounting to twenty-nine cents or less. Tax tokens shall be issued by the Tax Commission in such denominations as the commission may deem necessary to enable buyers to pay, as nearly as possible, the amount of tax herein imposed upon sales amounting to twenty-nine cents or less.

To make rules and schedules.

To have tokens available.

The Tax Commission shall have the power to require that persons making retail sales amounting to twenty-nine cents or less shall purchase and keep on hand tokens for the purpose of supplying buyers therewith.

Sellers to have tokens on hand.

SEC. 5. Section 23, chapter 180, Laws of 1935, (section 8370-23, Remington's Revised Statutes), be and the same hereby is amended to read as follows:

Amendments.

Section 23. Each seller, on or before the fifteenth day of the month succeeding the end of each bi-monthly period, shall make out a return for the preceding bi-monthly period, upon forms to be provided by the Tax Commission, setting forth the

Sellers to make bi-monthly return.

Tax accrued
to be paid
by seller.

amount of all sales, non-taxable sales, all taxable sales, the amount of tax thereon, and such other information as the Tax Commission may require, sign and transmit the same to the Tax Commission. The Tax Commission may, in its discretion, require annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability. The tax accrued under the provisions of this title, whether or not collected from the buyer, shall be paid by the seller to the Tax Commission in bi-monthly installments at the time of transmitting the return above provided for. Remittances in the amount of the tax accrued may be made in the form provided in section 191 of this act: *Provided, however,* That the Commission shall have full power to provide, by regulation, methods by which tokens shall be redeemed, accepted, transmitted or cancelled in satisfaction of tax imposed under the provisions of this title.

Amend-
ments.

Sec. 6. Section 31, chapter 180, Laws of 1935, as amended by section 14, chapter 225, Laws of 1939, (section 8370-31, Remington's Revised Statutes), be and the same hereby is amended to read as follows:

Excise tax
levied.

Section 31. From and after the 1st day of May, 1941, there is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state any article of tangible personal property purchased at retail or produced or manufactured for commercial use. This tax will not apply with respect to the use of any article of tangible personal property purchased, produced or manufactured outside this state until the transportation of such article has finally ended or until such article has become commingled with the general mass of property of this state. This tax shall apply to the use of every

article of tangible personal property except as hereinafter provided, irrespective of whether the article or similar articles are manufactured within the State of Washington or are available for purchase within the State of Washington, and irrespective of any other condition. Such tax shall be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate of three per cent: *Provided, however,* That the rate of tax herein imposed shall be reduced from 3% to 2% on the first day of the odd numbered month following a judicial determination by the Supreme Court of this state that a law imposing a graduated personal net income tax enacted by this state is valid.

3 per cent.

To be reduced upon validity of income tax law.

SEC. 7. If either of the provisos contained in sections 16 and 31 of chapter 180, Laws of 1935, as amended by sections 2 and 6 of this act, should for any reason be declared unconstitutional or otherwise invalid, then both of such provisos shall become inoperative. However, except as otherwise provided in this section, an adjudication of the invalidity of any section, part of a section, paragraph, sentence, clause or word of this act shall not affect, impair or invalidate the remainder of this act.

Part/al invalidity.

SEC. 8. Sections 3, 4, 5 and 7 of this act shall become effective from and after the 1st day of May, 1941.

Part of act effective May 1st, 1941.

SEC. 9. This act is necessary for the immediate preservation of the public peace, health and safety, and the support of the state government and its existing public institutions, and, except as provided in section 8 hereof, shall take effect immediately.

Effective immediately.

Passed the House March 12, 1941.

Passed the Senate March 11, 1941.

Approved by the Governor March 17, 1941.