

control and all funds of municipal corporations, and shall be legal security for all state, county, and municipal deposits.

Passed the Senate March 31, 1961.

Passed the House March 31, 1961.

Approved by the Governor April 3, 1961.

CHAPTER 24.

[S. B. 10.]

REVENUE AND TAXATION.

AN ACT Relating to revenue and taxation; amending section 82.04.050, chapter 15, Laws of 1961 and RCW 82.04.050; amending section 82.08.150, chapter 15, Laws of 1961 and RCW 82.08.150; amending section 82.24.020, chapter 15, Laws of 1961 and RCW 82.24.020; amending section 82.24.070, chapter 15, Laws of 1961 and RCW 82.24.070; repealing section 83.40.050, chapter 15, Laws of 1961 and RCW 83.40.050; adding a new section to chapter 15, Laws of 1961 and to chapter 84.40 RCW; adding a new chapter to chapter 15, Laws of 1961 and to Title 82 RCW; and declaring an emergency.

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

SECTION 1. Section 82.04.050, chapter 15, Laws of 1961 and RCW 82.04.050 are each amended to read as follows:

RCW 82.04.050 amended.

“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

B & O tax. "Sale at retail", "retail sale".

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; (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 "sale at retail" or "retail sale" shall include the sale of or charge made for personal, business or professional services, including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities: (a) amusement and recreation businesses including but not limited to golf, pool, billiards, skating, ski lifts and tows and others but excluding bowling and excluding admission charges which may be subject to county or city admissions taxes levied under authority granted in RCW 35.21.280 or chapter 36.38 RCW; (b) abstract, title insurance and escrow businesses; (c) credit bureau businesses; (d) automobile parking and storage garage businesses.

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.

SEC. 2. Section 82.08.150, chapter 15, Laws of 1961 and RCW 82.08.150 are each amended to read as follows:

RCW 82.08.150
amended.

Retail sales
tax.
Tax on certain
sales of intoxi-
cating liquor.

(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, 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. 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) There is levied and shall be collected from and after the fifteenth day of April, 1961, an additional tax upon each retail sale of spirits in the original package at the rate of one and one-tenth cents per fluid ounce or fraction thereof contained in such original package, and the term "retail sale" as used herein shall include the meaning ascribed thereto in chapter 82.04. The additional tax imposed in this paragraph shall apply to the sale of spirits 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 paragraph. On or before the twenty-fifth day of each month beginning with the month of July, 1961, the Washington state liquor control board shall remit to the state tax commission, to be deposited with the state treasurer, all moneys collected by it under this paragraph during the preceding month on sales made and subject to this paragraph. Upon receipt of such moneys the state treasurer shall deposit in the state general fund and the provisions of RCW 82.08.160 and 82.08.170, and the provisions of chapter 43.66 relating to deposits, apportionment and distribution, shall have no application to the collections under this paragraph.

(4) 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.

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

SEC. 3. Section 82.24.020, chapter 15, Laws of 1961 and RCW 82.24.020 are each amended to read as follows:

RCW 82.24.020
amended.

There is levied and there shall be collected as hereinafter provided, a tax upon the sale, use, consumption, handling or distribution of all cigarettes, in an amount equal to the rate of two mills per cigarette.

Tax on
cigarettes.
Imposed—
Rate.

SEC. 4. Section 82.24.070, chapter 15, Laws of 1961 and RCW 82.24.070 are each amended to read as follows:

RCW 82.24.070
amended.

Wholesalers and retailers subject to the provisions of this chapter shall be allowed compensation for their services in affixing the stamps herein required a sum equal to three and three-quarters percent of the value of the stamps purchased or affixed by them.

Compensation
of dealers.

Repeal.

SEC. 5. Section 83.40.050, chapter 15, Laws of 1961 and RCW 83.40.050 are each repealed.

New section.

SEC. 6. There is added to chapter 15, Laws of 1961 and to chapter 84.40 RCW a new section to read as follows:

Property taxes
—Listing of
property.
Right of
visitation
and examina-
tion of
personal
property—Use
of facts
obtained.

For the purpose of verifying any list, statement, or schedule required to be furnished to the assessor by any taxpayer, any assessor or his trained and qualified deputy at any reasonable time may visit, investigate and examine any personal property, and for this purpose the records, accounts and inventories also shall be subject to any such visitation, investigation and examination which shall aid in determining the amount and valuation of such property. Such powers and duties may be performed at any office of the taxpayer in this state, and the taxpayer shall furnish or make available all such information pertaining to property in this state to the assessor although the records may be maintained at any office outside this state.

Any information or facts obtained pursuant to this section shall be used only for the purpose of determining the assessed valuation of the taxpayer's property and except in a court action pertaining to the assessment or valuation for tax purposes of the property to which such information and facts relate, shall not be disclosed without the permission of the taxpayer to any person other than public officers or employees whose duties relate to valuation of property for tax purposes, and any violation of this secrecy provision shall constitute a gross misdemeanor.

Sec. 7. There is added to Title 82 RCW, a new chapter as set forth in sections 8 through 14 of this act.

Vetoed.

Sec. 8. For the purposes of this chapter, unless otherwise required by the context, terms shall have the following meanings:

“Soft drink” means any nonalcoholic beverage, carbonated or not, concentrated or not, such as, but not limited to, soda water, carbonated water, ginger ale, seven-up, coca cola, pepsicola, and other cola beverages, near beer, fruit juice to which carbonated water, flavoring or syrup is added, milk drinks to which flavoring and syrup is added, and any other preparations commonly referred to as “soft drinks.” The term “soft drinks” shall not include natural, undiluted fruit juice, vegetable juice, or fluid milk to which flavoring alone is added;

“Bottled soft drinks” means any soft drink sold in any closed container;

“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 syrups, coca cola syrup, chocolate syrup and various fruit flavor syrups, and all other syrups useable for the purpose of mixing soft drinks;

The meaning ascribed to words and phrases in chapter 82.04 RCW, insofar as applicable, shall have full force and effect with respect to the tax imposed in this chapter.

Sec. 9. There is levied and shall be collected a tax upon the manufacture, bottling, or first sale, use, consumption, handling or distribution in this state of (1) bottled soft drinks in an amount equal to one cent for each twelve fluid ounces or fraction thereof in the smallest container in which the bottled soft drink is contained; and (2) syrups in an amount equal to thirty-eight cents per gallon.

It is the intent and purpose of this chapter to levy a tax on all bottled soft drinks or syrups manufactured, bottled, or first sold, used, consumed or distributed within this state and to collect the tax from the person who manufactures, bottles, first

handles, sells, uses, consumes or distributes them in this state. It is the further intent and purpose of this chapter to impose the tax but once but nothing herein shall be construed to exempt any person taxable under any other law or under any other tax imposed under Title 82.

Sec. 10. The tax commission shall have power to adopt rules and regulations prescribing methods and schedules for the collection of the tax required to be collected under this chapter. The methods and schedules prescribed shall be adopted so as to eliminate the collections of fractions of one cent and so as to provide that the aggregate collections of all taxes under this chapter shall, insofar as practicable, equal the amount of tax imposed hereunder.

Sec. 11. Every person subject to the tax imposed by this chapter shall report and make returns as provided by regulation of the tax commission.

Vetoed.

Sec. 12. Where bottled soft drinks and/or syrup upon which the tax imposed by this chapter has been reported and paid, are shipped or transported without the state, or are returned to the manufacturer, bottler, wholesaler, or distributor without the state from whom they were obtained, or are destroyed, credit of such tax may be made in accordance with regulations prescribed by the commission.

Sec. 13. The tax imposed by this chapter shall not apply with respect to any bottled soft drinks and/or syrup which under the Constitution and laws of the United States may not be made the subject of taxation by this state.

Sec. 14. All of the applicable provisions contained in chapter 82.32 RCW shall have full force and application with respect to taxes imposed by this chapter.

SEC. 15. 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. Severability.

SEC. 16. 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 on April 15th, 1961. Emergency.

Passed the Senate March 29, 1961.

Passed the House March 30, 1961.

Approved by the Governor April 3, 1961, with the exception of sections 7, 8, 9, 10, 11, 12, 13, and 14, which are vetoed.

NOTE: Governor's message stating reasons for vetoing sections 7, 8, 9, 10, 11, 12, 13, and 14 of this measure reads as follows: Veto message, excerpt.

"The sections vetoed add a new chapter imposing an excise tax of 1c per 12 fluid ounces or a fraction thereof, on the first handler of soft drinks, and on syrups in an amount equal to 38c per gallon.

"The Tax Commission has advised me that enforcement of the so-called 'soft drink' tax raises well nigh insurmountable administrative difficulties. It appears that it is almost impossible to decide whether the tax is to be imposed upon the bottler or manufacturer, or whether it is to be passed on and paid by the ultimate purchaser or consumer. The definitions contained in the sections vetoed pertaining to the terms 'soft drink' and 'syrup' are so vague and indefinite as to result, without question, in court litigation during the next several years.

"In addition I am convinced that the imposition of this tax will have a most serious affect upon the soft drink business. This tax may conceivably drive out of business one-third of the producers and bottlers of soft drinks. The resultant loss of business would cause further unemployment and thereby result in other tax losses.

"In addition, the tax is discriminatory as against the operators of vending machines who would be forced to absorb the tax. Furthermore, this tax would adversely affect an infant industry of this state; to wit: the sugar beet industry.

"My decision to veto the sections enumerated is further influenced by the fact that of the six states which at one time or another had imposed such a tax, only two retain it at the present time.

"Finally, I have received a petition signed by a large majority of the members of the State Senate and of the House of Representatives who voted in favor of Senate Bill No. 10. These petitioners all urge me to veto the soft drink tax. Senator M. J. Durkan and Representative Henry Backstrom, who were the chairman, respectively, of the Committee on Revenue and Taxation in the Senate and in the House of Representatives, and who were members of the Free Conference Committee which prepared this bill, also urge me to veto this tax.

"For the reasons indicated, sections 7, 8, 9, 10, 11, 12, 13, and 14 of

Senate Bill No. 10 are vetoed, the remainder of the bill is approved.”
ALBERT D. ROSELLINI,
 Governor.

CHAPTER 25.

[S. B. 2.]

CAPITAL BUDGET AND APPROPRIATIONS.

AN ACT Adopting the capital budget and making appropriations for capital improvements for the fiscal biennium beginning July 1, 1961, and ending June 30, 1963.

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

Capital budget
 —Appropriations.

SECTION 1. That a capital budget is hereby adopted and subject to the provisions hereinafter set forth the several amounts hereinafter specified, or so much thereof as shall be sufficient to accomplish the purposes designated are hereby appropriated and authorized to be disbursed for capital projects during the fiscal biennium beginning July 1, 1961, and ending June 30, 1963, out of the several funds hereinafter named:

FOR GENERAL ADMINISTRATION

	Reappropriations	From Fund Designated	From the State Building Construction (Bonds of 1961)
Site acquisition, Construct and equip buildings, Remodel and equip existing facilities (\$4,000,000)			
General Administration Construction Fund	\$2,000,000	\$2,000,000	.....
Remodel Offices, facilities—State Capitol Group .....	.....	.....	\$500,000
Site acquisition for parking and capitol expansion, Construct and equip Record Central Building (\$1,607,000)			
Capitol Building Construction Account .....	.....	857,000	.....
Capitol Purchase and Development Account .....	.....	750,000	.....
Legislative Building—Ventilation ...	.....	.....	232,000
Total (\$6,339,000)	(\$2,000,000)	(\$3,607,000)	(\$732,000)