

- (8) Section 8, chapter 323, Laws of 1959 and RCW 18.08.170;
- (9) Section 9, chapter 323, Laws of 1959 and RCW 18.08.180;
- (10) Section 10, chapter 323, Laws of 1959, section 1, chapter 266, Laws of 1971 ex. sess., section 2, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.08.190;
- (11) Section 11, chapter 323, Laws of 1959 and RCW 18.08.200;
- (12) Section 12, chapter 323, Laws of 1959, section 58, chapter 81, Laws of 1971 and RCW 18.08.210;
- (13) Section 13, chapter 323, Laws of 1959, section 3, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.08.220;
- (14) Section 14, chapter 323, Laws of 1959 and RCW 18.08.230;
- (15) Section 16, chapter 323, Laws of 1959 and RCW 18.08.250;
- (16) Section 17, chapter 323, Laws of 1959 and RCW 18.08.260; and
- (17) Section 18, chapter 323, Laws of 1959 and RCW 18.08.270.

NEW SECTION. Sec. 19. Sections 2 through 17 of this act are each added to chapter 18.08 RCW.

NEW SECTION. Sec. 20. 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.

Passed the House April 5, 1985.

Passed the Senate March 29, 1985.

Approved by the Governor April 15, 1985.

Filed in Office of Secretary of State April 15, 1985.

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CHAPTER 38

[Engrossed House Bill No. 601]

SELLING PRICE—ADVERTISED PRICE—CONDITIONS ON INCLUDING  
SALES TAX IN ADVERTISED PRICE

AN ACT Relating to excise taxes; amending RCW 82.08.050, 82.08.010, and 82.08.120; adding a new section to chapter 82.08 RCW; and declaring an emergency.

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

Sec. 1. Section 82.08.050, chapter 15, Laws of 1961 as last amended by section 7, chapter 299, Laws of 1971 ex. sess. and RCW 82.08.050 are each amended to read as follows:

The tax hereby imposed shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale in accordance with the schedule of collections adopted by the department pursuant to the provisions of RCW 82.08.060. The tax required by this chapter, to be collected by the seller, shall be deemed to be held in trust by the seller until paid to the department, 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 to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter shall be guilty of a gross misdemeanor.

In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is 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 the tax.

The amount of tax, until paid by the buyer to the seller or to the department, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor. The tax required by this chapter to be collected by the seller shall be stated separately from the selling price ((and)) in any sales invoice or other instrument of sale. For purposes of determining the tax due from the buyer to the seller and from the seller to the department it shall be conclusively presumed that the selling price quoted in any price list, sales document, contract or other agreement between the parties does not include the tax imposed by this chapter, but if the seller advertises the price as including the tax or that the seller is paying the tax, the advertised price shall not be considered the selling price.

Where a buyer has failed to pay to the seller the tax imposed by this chapter and the seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the buyer for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the buyer to pay the same to the seller, regardless of when the tax may be collected by the department; and all of the provisions of chapter 82.32 RCW, including those relative to interest and penalties, shall apply in addition; and, for the sole purpose of applying the various provisions of chapter 82.32 RCW, the fifteenth day of the month following the tax period in which the purchase was made shall be considered as the due date of the tax.

**NEW SECTION.** Sec. 2. A new section is added to chapter 82.08 RCW to read as follows:

A seller may advertise the price as including the tax or that the seller is paying the tax, subject to the following conditions:

(1) Unless the advertised price is one in a listed series, the words "tax included" are stated immediately following the advertised price and in print size at least half as large as the advertised price;

(2) If the advertised prices are listed in a series, the words "tax included in all prices" are placed conspicuously at the head of the list and in the same print size as the advertised prices;

(3) If a price is advertised as "tax included," the price listed on any price tag shall be shown in the same manner; and

(4) All advertised prices and the words "tax included" are stated in the same medium, be it oral or visual, and if oral, in substantially the same inflection and volume.

Sec. 3. Section 82.08.010, chapter 15, Laws of 1961 as last amended by section 2, chapter 2, Laws of 1985 and RCW 82.08.010 are each amended to read as follows:

For the purposes of this chapter:

(1) "Selling price" means the consideration, whether money, credits, rights, or other property except trade-in property of like kind, expressed in the terms of money paid or delivered by a buyer to a seller without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes other than taxes imposed under this chapter if the seller advertises the price as including the tax or that the seller is paying the tax, or any other expenses whatsoever paid or accrued and without any deduction on account of losses; but shall not include the amount of cash discount actually taken by a buyer; and shall be subject to modification to the extent modification is provided for in RCW 82.08.080.

When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" shall be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department of revenue may prescribe;

(2) "Seller" means every person, including the state and its departments and institutions, making sales at retail or retail sales to a buyer or consumer, whether as agent, broker, or principal, except "seller" does not mean the state and its departments and institutions when making sales to the state and its departments and institutions;

(3) "Buyer" and "consumer" include, without limiting the scope hereof, every individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, municipal corporation, quasi municipal corporation, and also the state, its departments and institutions and all political subdivisions thereof, irrespective of the nature of the activities engaged in or functions performed, and also the United States or any instrumentality thereof;

(4) The meaning attributed in chapter 82.04 RCW to the terms "tax year," "taxable year," "person," "company," "sale," "sale at retail," "retail sale," "sale at wholesale," "wholesale," "business," "engaging in business,"

"cash discount," "successor," "consumer," "in this state" and "within this state" shall apply equally to the provisions of this chapter.

Sec. 4. Section 82.08.120, chapter 15, Laws of 1961 as amended by section 51, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.08.120 are each amended to read as follows:

Whoever, excepting as expressly authorized by this chapter, refunds, remits, or rebates to a buyer, either directly or indirectly and by whatever means, all or any part of the tax levied by this chapter (~~(, or makes in any form of advertising, verbal or otherwise, any statements which might infer that he is absorbing the tax or paying the tax for the buyer by an adjustment of prices, or at a price including the tax, or in any other manner whatsoever)~~) shall be guilty of a misdemeanor. The violation of this section by any person holding a license granted by the state or any political subdivision thereof shall be sufficient grounds for the cancellation of the license of such person upon written notification by the department of revenue to the proper officer of the department granting the license that such person has violated the provisions of this section. Before any license shall be canceled hereunder, the licensee shall be entitled to a hearing before the department granting the license under such regulations as the department may prescribe.

NEW SECTION. Sec. 5. 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 House April 5, 1985.

Passed the Senate April 3, 1985.

Approved by the Governor April 15, 1985.

Filed in Office of Secretary of State April 15, 1985.

## CHAPTER 39

[Substitute House Bill No. 1063]

### IMPACT CENTER—RESPONSIBILITIES MODIFIED—SUNSET PROCEDURE PROVIDED

AN ACT Relating to agricultural marketing; amending section 1, chapter 57, Laws of 1984 (uncodified); amending section 2, chapter 57, Laws of 1984 (uncodified); amending section 3, chapter 57, Laws of 1984 (uncodified); amending section 6, chapter 57, Laws of 1984 (uncodified); amending section 7, chapter 57, Laws of 1984 (uncodified); adding new sections to chapter 28B.30 RCW; adding new sections to chapter 43.131 RCW; repealing section 4, chapter 57, Laws of 1984 (uncodified); repealing section 5, chapter 57, Laws of 1984 (uncodified); repealing section 8, chapter 57, Laws of 1984 (uncodified); providing an expiration date; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 1, chapter 57, Laws of 1984 (uncodified) is amended to read as follows: