

HOUSE BILL REPORT

ESHB 2137

As Amended by the Senate

Title: An act relating to excise taxes on carbonated beverages and syrups.

Brief Description: Changing excise tax on carbonated beverages and syrups.

Sponsor(s): By House Committee on Revenue (originally sponsored by Representatives Wang, Holland, Ebersole, Ballard, Appelwick, Fraser, McLean, May, Winsley, Phillips, Peery, Bowman and Miller).

Brief History:

Reported by House Committee on:
Revenue, March 8, 1991, DPS;
Passed House, March 19, 1991, 96-0;
Amended by Senate.

**HOUSE COMMITTEE ON
REVENUE**

Majority Report: *That Substitute House Bill No. 2137 be substituted therefor, and the substitute bill do pass.*
Signed by 14 members: Representatives Wang, Chair; Fraser, Vice Chair; Holland, Ranking Minority Member; Wynne, Assistant Ranking Minority Member; Appelwick; Belcher; Brumsickle; Day; Leonard; Morris; Morton; Phillips; Rust; and Silver.

Staff: Bob Longman (786-7139).

Background: The 1989 Legislature enacted the Omnibus Drug bill to increase penalties for drug-related offenses, provide for greater surveillance and enforcement, and to combat drug abuse. The Legislature raised tax rates on liquor, beer, wine, and tobacco products, and imposed a new tax on carbonated beverages to fund the programs. The tax on carbonated beverages is the main revenue source, and is estimated to generate approximately \$45 million for the 1991-1993 biennium.

The carbonated beverages tax applies to the first possession of a soft drink or concentrate within the state. The intent is that the tax be paid by bottlers and wholesalers. The rates are one cent per 12-ounce container, or 75 cents per

gallon of concentrate used to generate soft drinks. The tax expires July 1, 1995.

Summary of Bill: The carbonated beverages tax is changed from a first possession tax to a tax on the wholesale sale of carbonated beverages or syrup in the state. A compensating tax is applied to retail sales of carbonated beverages or syrups that have not been previously taxed at the wholesale level. This compensating tax would apply to beverages purchased by the retailer from out of state wholesalers.

The tax does not apply to successive sales of previously taxed beverages or syrups.

The tax is to be paid by the buyer to the wholesaler, and is to be stated separately from the selling price in any invoice or other instrument of sale.

Each retailer at a retail store with more than 4,000 square feet may:

1. Include in all print advertising of carbonated beverages a notice stating: "Price includes (amount) of Washington Drug Fund Tax."
2. Post notices on shelves containing carbonated beverage that include the statement "Price includes (amount) of Washington Drug Fund Tax."

EFFECT OF SENATE AMENDMENT(S): The exemption for wholesales to bottlers is clarified. Subsequent wholesales by these bottlers remains subject to tax.

An explicit statement is added requiring retailers to pay the retail compensating tax to the Department of Revenue, while clarifying that purchasers are not required to pay any carbonated beverage tax to the department.

An intent statement authorizing and encouraging retailers and wholesalers to agree on shelf notice procedures is deleted. This provision apparently related to anti-trust restrictions applicable to the soft drink industry.

Fiscal Note: Available. New fiscal note requested on March 13, 1991.

Effective Date: The bill contains an emergency clause and takes effect June 1, 1991.

Testimony For: In discussing the drug bill two years ago, the Legislature acknowledged that drugs are a societal

problem. The hope in imposing the pop tax was that it would be passed on to the consumer, and therefore society at large. This has not happened because the industry is so competitive. This bill will help wholesalers pass the tax on to consumers, and will lead to full disclosure of the tax to consumers.

Testimony Against: The retailers are sympathetic to the wholesalers' position. However, the Washington Retail Association is concerned about the misdemeanor charge, and the requirements on shelf space notices and advertising provisions. If the pop industry gets this treatment, the beer, wine, and tobacco industries may want it as well.

Witnesses: David Michener, Carl Behnke, Steve Saropis, Todd Fine, and Pat Weinstein, Wash. State Soft Drink Assoc. (pro); Brian Charneski, L&E Bottling (pro); Jim Boldt, Wash. Food Dealers Assoc. (pro if amended); Dick Ducharme, Wash. Beer & Wine Wholesalers (pro if amended); and Jan Gee, Wash Retail Assoc. (con as drafted).

VOTE ON FINAL PASSAGE:

Yeas 96; Nays 0; Excused 2

Excused: Representatives McLean and Miller.