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**SENATE BILL 5407**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Mullet, Conway, and Braun

1 AN ACT Relating to providing that scan-down allowances on food  
2 and beverages intended for human and pet consumption are bona fide  
3 discounts for purposes of the business and occupation tax; adding a  
4 new section to chapter 82.04 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04  
7 RCW to read as follows:

8 (1) In computing tax under this chapter, a seller may deduct from  
9 the measure of tax imposed on the business of making retail sales the  
10 amount of scan-down allowances.

11 (2) For purposes of this section, a provision that the seller  
12 must sell at a certain retail price or a specific price reduction  
13 does not constitute either:

14 (a) A service provided by the seller to the manufacturer or  
15 wholesaler; or

16 (b) A business activity directly or indirectly benefiting the  
17 manufacturer or wholesaler.

18 (3) The definitions in this subsection apply throughout this  
19 section unless the context clearly requires otherwise.

20 (a) "Product" means:

1 (i) Food and food ingredients other than prepared food, as those  
2 terms are defined in RCW 82.08.0293, whether or not exempt from sales  
3 tax under RCW 82.08.0293; and

4 (ii) Pet food and specialty pet food as defined in RCW 15.53.901.

5 (b) "Scan-down allowance" means a payment or credit offered to a  
6 seller by a manufacturer or wholesaler of products, where:

7 (i) The amount of the payment or credit is based on the quantity  
8 of the product to be sold at retail by the seller within a specified  
9 period of time;

10 (ii) The seller knew the terms of the offer before making the  
11 sales that generated the payment or credit from the manufacturer or  
12 wholesaler; and

13 (iii) The seller is not required to provide any services to the  
14 manufacturer or wholesaler or engage in any business activities  
15 directly or indirectly benefiting the manufacturer or wholesaler, in  
16 order to receive the payment or credit from the manufacturer or  
17 wholesaler.

18 NEW SECTION. **Sec. 2.** The provisions of RCW 82.32.805 and  
19 82.32.808 do not apply to this act.

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