
HOUSE BILL 1178

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Holland, H. Sommers, Brough, Peery, Phillips, Cole, Miller, Rust, Ballard, Rayburn, Jacobsen, Rasmussen, Morris, Paris, Basich, Betrozoff, Nealey, Fraser and Brekke.

Read first time January 21, 1991. Referred to Committee on Capital Facilities & Financing.

1 AN ACT Relating to a dedicated revenue source for financing public
2 school and higher education construction; amending RCW 82.08.0293 and
3 82.12.0293; adding a new section to chapter 82.32 RCW; making
4 appropriations; providing an effective date; and declaring an
5 emergency.

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

7 **Sec. 1.** RCW 82.08.0293 and 1988 c 103 s 1 are each amended to read
8 as follows:

9 (1)(a) The tax levied by RCW 82.08.020 shall not apply to sales of
10 food products for human consumption.

11 (b) "Food products" include cereals and cereal products other than
12 those expressly excluded under (g) of this subsection, oleomargarine,
13 meat and meat products including livestock sold for personal
14 consumption, fish and fish products, eggs and egg products, vegetables
15 and vegetable products, fruit and fruit products, spices and salt,

1 sugar and sugar products, coffee and coffee substitutes, tea, cocoa and
2 cocoa products.

3 (c) "Food products" include milk and milk products(~~(, milk shakes,~~
4 ~~malted milks, and any other similar type beverages which are composed~~
5 ~~at least in part of milk or a milk product and which require the use of~~
6 ~~milk or a milk product in their preparation)~~ other than those
7 expressly excluded under (h) of this subsection.

8 (d) "Food products" include all fruit juices, vegetable juices, and
9 other beverages except milk shakes, malted milks, bottled water,
10 spirituous, malt or vinous liquors or carbonated beverages, whether
11 liquid or frozen.

12 (e) "Food products" do not include medicines and preparations in
13 liquid, powdered, granular, tablet, capsule, lozenge, and pill form
14 sold as dietary supplements or adjuncts.

15 (f) "Food products" do not include candy, including dietary or
16 sugarless candy except medicinal candy, candy coated snack food, and
17 candied popcorn; or chewing gum, including sugarless gum except any
18 dentifrice or medicinal gum.

19 (g) "Food products" do not include fresh or frozen, ready to eat
20 pastries, sweet rolls, doughnuts, cakes, cookies, pies, frosted baked
21 goods, and similar sweet, baked goods, sold either packaged or in bulk.

22 (h) "Food products" do not include ice cream, ice milk, ice cream
23 novelties, sherbets, frozen yogurt, and other similar frozen desserts,
24 milk shakes, malted milks, and other similar frozen beverages,
25 manufactured from either natural or artificial substances.

26 (2) The department of revenue, by rule, shall further identify food
27 items, consistent with subsection (1) (b) through (h) of this section,
28 which are not included within the definition of "food products" for
29 purposes of sales tax exemption under this chapter.

1 (3) The exemption of "food products" provided for in subsection (1)
2 of this section shall not apply: (a) When the food products are
3 ordinarily sold for immediate consumption on or near a location at
4 which parking facilities are provided primarily for the use of patrons
5 in consuming the products purchased at the location, even though such
6 products are sold on a "takeout" or "to go" order and are actually
7 packaged or wrapped and taken from the premises of the retailer, or (b)
8 when the food products are sold for consumption within a place, the
9 entrance to which is subject to an admission charge, except for
10 national and state parks and monuments, or (c) to a food product, when
11 sold by the retail vendor, which by law must be handled on the vendor's
12 premises by a person with a food and beverage service worker's permit
13 under RCW 69.06.010, including but not be limited to sandwiches
14 prepared or chicken cooked on the premises, deli trays, home-delivered
15 pizzas or meals, and salad bars but excluding:

16 (i) Raw meat prepared by persons who slaughter animals, including
17 fish and fowl, or dress or wrap slaughtered raw meat such as fish
18 mongers, butchers, or meat wrappers;

19 (ii) Meat and cheese sliced and/or wrapped, in any quantity
20 determined by the buyer, sold by vendors such as meat markets,
21 delicatessens, and grocery stores;

22 (iii) Bakeries which only sell baked goods;

23 (iv) Combination bakery businesses, as prescribed by rule of the
24 department, to the extent that sales of baked goods are separately
25 accounted for and the baked goods claimed for exemption are not sold as
26 part of meals or with beverages in unsealed containers; or

27 (v) Bulk food products sold from bins or barrels, including but not
28 limited to flour, fruits, vegetables, sugar, salt, ((candy)) chips,
29 and cocoa.

1 (~~(3)~~) (4) Notwithstanding anything in this section to the
2 contrary, the exemption of "food products" provided in this section
3 shall apply to (~~(food products)~~) all food items which are furnished,
4 prepared, or served as meals:

5 (a) Under a state administered nutrition program for the aged as
6 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW
7 74.38.040(6); or

8 (b) Which are provided to senior citizens, disabled persons, or
9 low-income persons by a not-for-profit organization organized under
10 chapter 24.03 or 24.12 RCW.

11 (~~(4)~~) (5) Subsection (1) of this section notwithstanding, the
12 retail sale of food products is subject to sales tax under RCW
13 82.08.020 if the food products are sold through a vending machine, and
14 in this case the selling price for purposes of RCW 82.08.020 is fifty-
15 seven percent of the gross receipts.

16 This subsection does not apply to hot prepared food products, other
17 than food products which are heated after they have been dispensed from
18 the vending machine.

19 For tax collected under this subsection, the requirements that the
20 tax be collected from the buyer and that the amount of tax be stated as
21 a separate item are waived.

22 **Sec. 2.** RCW 82.12.0293 and 1988 c 103 s 2 are each amended to read
23 as follows:

24 (1) (a) The provisions of this chapter shall not apply in respect
25 to the use of food products for human consumption.

26 (b) "Food products" include cereals and cereal products other than
27 those expressly excluded under (g) of this subsection, oleomargarine,
28 meat and meat products including livestock sold for personal
29 consumption, fish and fish products, eggs and egg products, vegetables

1 and vegetable products, fruit and fruit products, spices and salt,
2 sugar and sugar products, coffee and coffee substitutes, tea, cocoa and
3 cocoa products.

4 (c) "Food products" include milk and milk products(~~(, milk shakes,~~
5 malted milks, and any other similar type beverages which are composed
6 at least in part of milk or a milk product and which require the use of
7 milk or a milk product in their preparation)) other than those
8 expressly excluded under (h) of this subsection.

9 (d) "Food products" include all fruit juices, vegetable juices, and
10 other beverages except milk shakes, malted milks, bottled water,
11 spirituous, malt or vinous liquors or carbonated beverages, whether
12 liquid or frozen.

13 (e) "Food products" do not include medicines and preparations in
14 liquid, powdered, granular, tablet, capsule, lozenge, and pill form
15 sold as dietary supplements or adjuncts.

16 (f) "Food products" do not include candy, including dietary or
17 sugarless candy except medicinal candy, candy coated snack food, and
18 candied popcorn; or chewing gum, including sugarless gum except any
19 dentifrice or medicinal gum.

20 (g) "Food products" do not include fresh or frozen, ready to eat
21 pastries, sweet rolls, doughnuts, cakes, cookies, pies, frosted baked
22 goods, and similar sweet, baked goods, sold either packaged or in bulk.

23 (h) "Food products" do not include ice cream, ice milk, ice cream
24 novelties, sherbets, frozen yogurt, and other similar frozen desserts,
25 milk shakes, malted milks, and other similar frozen beverages,
26 manufactured from either natural or artificial substances.

27 (2) The department of revenue, by rule, shall further identify food
28 items, consistent with subsection (1) (b) through (h) of this section,
29 which are not included within the definition of "food products" for
30 purposes of sales tax exemption under this chapter.

1 (3) The exemption of "food products" provided for in subsection (1)
2 of this section shall not apply: (a) When the food products are
3 ordinarily sold for immediate consumption on or near a location at
4 which parking facilities are provided primarily for the use of patrons
5 in consuming the products purchased at the location, even though such
6 products are sold on a "takeout" or "to go" order and are actually
7 packaged or wrapped and taken from the premises of the retailer, or (b)
8 when the food products are sold for consumption within a place, the
9 entrance to which is subject to an admission charge, except for
10 national and state parks and monuments, or (c) to a food product, when
11 sold by the retail vendor, which by law must be handled on the vendor's
12 premises by a person with a food and beverage service worker's permit
13 under RCW 69.06.010, including but not be limited to sandwiches
14 prepared or chicken cooked on the premises, deli trays, home-delivered
15 pizzas or meals, and salad bars but excluding:

16 (i) Raw meat prepared by persons who slaughter animals, including
17 fish and fowl, or dress or wrap slaughtered raw meat such as fish
18 mongers, butchers, or meat wrappers;

19 (ii) Meat and cheese sliced and/or wrapped, in any quantity
20 determined by the buyer, sold by vendors such as meat markets,
21 delicatessens, and grocery stores;

22 (iii) Bakeries which only sell baked goods;

23 (iv) Combination bakery businesses, as prescribed by rule of the
24 department, to the extent that sales of baked goods are separately
25 accounted for and the baked goods claimed for exemption are not sold as
26 part of meals or with beverages in unsealed containers; or

27 (v) Bulk food products sold from bins or barrels, including but not
28 limited to flour, fruits, vegetables, sugar, salt, ((candy)) chips,
29 and cocoa.

1 (~~(3)~~) (4) Notwithstanding anything in this section to the
2 contrary, the exemption of "food products" provided in this section
3 shall apply to (~~(food products)~~) all food items which are furnished,
4 prepared, or served as meals:

5 (a) Under a state administered nutrition program for the aged as
6 provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW
7 74.38.040(6); or

8 (b) Which are provided to senior citizens, disabled persons, or
9 low-income persons by a not-for-profit organization organized under
10 chapter 24.03 or 24.12 RCW.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.32 RCW
12 to read as follows:

13 (1) The intent of RCW 82.08.0293 and 82.12.0293 is to provide a
14 dedicated revenue source for education construction purposes. Since it
15 is not practical to determine precisely the revenues derived from the
16 termination of tax exemptions for certain items excluded from the
17 definition of food products under RCW 82.08.0293(1) (f), (g), and (h)
18 and 82.12.0293(1) (f), (g), and (h), a fixed percentage of all sales
19 and use taxes shall be dedicated in lieu thereof.

20 (2) On or before January 1 of each year, the department of revenue
21 shall provide the legislature with an updated estimate of the
22 percentage of sales and use tax revenues attributable to the
23 termination of tax exemptions for certain items excluded from the
24 definition of food products under RCW 82.08.0293(1) (f), (g), and (h)
25 and 82.12.0293(1) (f), (g), and (h).

26 (3) The education construction account is created in the state
27 treasury. One and one-tenth percent of all receipts from the taxes
28 imposed in RCW 82.08.020 and 82.12.020 shall be deposited in the
29 account. Expenditures from the account may be used only for the

1 purpose of acquisition, construction, alteration, repair, or equipping
2 of facilities for the common schools, community colleges, University of
3 Washington, Washington State University, Central Washington University,
4 Eastern Washington University, Western Washington University, and The
5 Evergreen State College. The moneys in this account shall not be used
6 for debt service payments nor shall they be used to incur state
7 indebtedness.

8 NEW SECTION. **Sec. 4.** The sum of fifty million dollars, or as
9 much thereof as may be necessary, is appropriated for the biennium
10 ending June 30, 1993, from the education construction account to the
11 state board of education for public school building construction.

12 NEW SECTION. **Sec. 5.** The sum of three million seven hundred
13 fifty thousand dollars, or as much thereof as may be necessary, is
14 appropriated for the biennium ending June 30, 1993, from the education
15 construction account to the state board for community college education
16 for minor capital improvements.

17 NEW SECTION. **Sec. 6.** The sum of three million seven hundred
18 fifty thousand dollars, or as much thereof as may be necessary, is
19 appropriated for the biennium ending June 30, 1993, from the education
20 construction account to the University of Washington for minor repairs
21 and improvements to various buildings on campus.

22 NEW SECTION. **Sec. 7.** The sum of two million dollars, or as
23 much thereof as may be necessary, is appropriated for the biennium
24 ending June 30, 1993, from the education construction account to
25 Washington State University for minor repairs and improvements to
26 various buildings on campus.

1 NEW SECTION. **Sec. 8.** The sum of one million dollars, or as
2 much thereof as may be necessary, is appropriated for the biennium
3 ending June 30, 1993, from the education construction account to
4 Central Washington University for minor repairs and improvements to
5 various buildings on campus.

6 NEW SECTION. **Sec. 9.** The sum of one million dollars, or as
7 much thereof as may be necessary, is appropriated for the biennium
8 ending June 30, 1993, from the education construction account to
9 Eastern Washington University for minor repairs and improvements to
10 various buildings on campus.

11 NEW SECTION. **Sec. 10.** The sum of one million dollars, or as
12 much thereof as may be necessary, is appropriated for the biennium
13 ending June 30, 1993, from the education construction account to
14 Western Washington University for minor repairs and improvements to
15 various buildings on campus.

16 NEW SECTION. **Sec. 11.** The sum of five hundred thousand
17 dollars, or as much thereof as may be necessary, is appropriated for
18 the biennium ending June 30, 1993, from the education construction
19 account to The Evergreen State College for minor repairs and
20 improvements to various buildings on campus.

21 NEW SECTION. **Sec. 12.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and shall take
4 effect July 1, 1991.