

2 SHB 1946 - H COMM AMD  
3 By Committee on Revenue

4

5 Strike everything after the enacting clause and insert the  
6 following:

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

9 (1) "Agricultural product" means any product of plant cultivation  
10 or animal husbandry including, but not limited to: A product of  
11 horticulture, grain cultivation, vermiculture, viticulture, or  
12 aquaculture as defined in RCW 15.85.020; plantation Christmas trees;  
13 turf; or any animal including but not limited to an animal that is a  
14 private sector cultured aquatic product as defined in RCW 15.85.020, or  
15 a bird, or insect, or the substances obtained from such an animal.  
16 "Agricultural product" does not include animals intended to be pets.

17 (2) "Farmer" means any person engaged in the business of growing or  
18 producing, upon the person's own lands or upon the lands in which the  
19 person has a present right of possession, any agricultural product  
20 whatsoever for sale. "Farmer" does not include a person using such  
21 products as ingredients in a manufacturing process, or a person growing  
22 or producing such products for the person's own consumption. "Farmer"  
23 does not include a person selling any animal or substance obtained  
24 therefrom in connection with the person's business of operating a  
25 stockyard or a slaughter or packing house. "Farmer" does not include  
26 any person in respect to the business of taking, cultivating, or  
27 raising timber. "Farmer" does not include any association of persons  
28 whatever, whether mutual, cooperative, or otherwise, engaging in any  
29 business activity with respect to which tax liability is imposed under  
30 the provisions of this chapter.

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

33 The tax levied by RCW 82.08.020 shall not apply to sales of:

34 (1) Feed, seed, seedlings, fertilizer, and spray materials to  
35 persons who participate in the federal conservation reserve program or

1 its successor administered by the United States department of  
2 agriculture with respect to land enrolled in that program, or to  
3 farmers for the purpose of producing for sale any agricultural product.

4 (2) Chemical sprays or washes to persons for the purpose of post  
5 harvest treatment of fruit for the prevention of scald, fungus, mold,  
6 or decay.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW  
8 to read as follows:

9 The provisions of this chapter shall not apply in respect to the  
10 use of:

11 (1) Feed, seed, seedlings, fertilizer, and spray materials by  
12 persons who participate in the federal conservation reserve program or  
13 its successor administered by the United States department of  
14 agriculture with respect to land enrolled in that program, or by  
15 farmers for the purpose of producing for sale any agricultural product.

16 (2) Chemical sprays or washes by persons for the purpose of post  
17 harvest treatment of fruit for the prevention of scald, fungus, mold,  
18 or decay.

19 **Sec. 4.** RCW 82.04.050 and 1988 c 253 s 1 are each amended to read  
20 as follows:

21 (1) "Sale at retail" or "retail sale" means every sale of tangible  
22 personal property (including articles produced, fabricated, or  
23 imprinted) to all persons irrespective of the nature of their business  
24 and including, among others, without limiting the scope hereof, persons  
25 who install, repair, clean, alter, improve, construct, or decorate real  
26 or personal property of or for consumers other than a sale to a person  
27 who (a) purchases for the purpose of resale as tangible personal  
28 property in the regular course of business without intervening use by  
29 such person, or (b) installs, repairs, cleans, alters, imprints,  
30 improves, constructs, or decorates real or personal property of or for  
31 consumers, if such tangible personal property becomes an ingredient or  
32 component of such real or personal property without intervening use by  
33 such person, or (c) purchases for the purpose of consuming the property  
34 purchased in producing for sale a new article of tangible personal  
35 property or substance, of which such property becomes an ingredient or  
36 component or is a chemical used in processing, when the primary purpose  
37 of such chemical is to create a chemical reaction directly through

1 contact with an ingredient of a new article being produced for sale, or  
2 (d) purchases for the purpose of consuming the property purchased in  
3 producing ferrosilicon which is subsequently used in producing  
4 magnesium for sale, if the primary purpose of such property is to  
5 create a chemical reaction directly through contact with an ingredient  
6 of ferrosilicon, or (e) purchases for the purpose of providing the  
7 property to consumers as part of competitive telephone service, as  
8 defined in RCW 82.04.065. The term shall include every sale of  
9 tangible personal property which is used or consumed or to be used or  
10 consumed in the performance of any activity classified as a "sale at  
11 retail" or "retail sale" even though such property is resold or  
12 utilized as provided in (a), (b), (c), (d), or (e) above following such  
13 use. The term also means every sale of tangible personal property to  
14 persons engaged in any business which is taxable under RCW 82.04.280,  
15 subsections (2) and (7) and RCW 82.04.290.

16 (2) The term "sale at retail" or "retail sale" shall include the  
17 sale of or charge made for tangible personal property consumed and/or  
18 for labor and services rendered in respect to the following: (a) The  
19 installing, repairing, cleaning, altering, imprinting, or improving of  
20 tangible personal property of or for consumers, including charges made  
21 for the mere use of facilities in respect thereto, but excluding  
22 charges made for the use of coin operated laundry facilities when such  
23 facilities are situated in an apartment house, hotel, motel, rooming  
24 house, trailer camp or tourist camp for the exclusive use of the  
25 tenants thereof, and also excluding sales of laundry service to members  
26 by nonprofit associations composed exclusively of nonprofit hospitals,  
27 and excluding services rendered in respect to live animals, birds and  
28 insects; (b) the constructing, repairing, decorating, or improving of  
29 new or existing buildings or other structures under, upon, or above  
30 real property of or for consumers, including the installing or  
31 attaching of any article of tangible personal property therein or  
32 thereto, whether or not such personal property becomes a part of the  
33 realty by virtue of installation, and shall also include the sale of  
34 services or charges made for the clearing of land and the moving of  
35 earth excepting the mere leveling of land used in commercial farming or  
36 agriculture; (c) the charge for labor and services rendered in respect  
37 to constructing, repairing, or improving any structure upon, above, or  
38 under any real property owned by an owner who conveys the property by  
39 title, possession, or any other means to the person performing such

1 construction, repair, or improvement for the purpose of performing such  
2 construction, repair, or improvement and the property is then  
3 reconveyed by title, possession, or any other means to the original  
4 owner; (d) the sale of or charge made for labor and services rendered  
5 in respect to the cleaning, fumigating, razing or moving of existing  
6 buildings or structures, but shall not include the charge made for  
7 janitorial services; and for purposes of this section the term  
8 "janitorial services" shall mean those cleaning and caretaking services  
9 ordinarily performed by commercial janitor service businesses  
10 including, but not limited to, wall and window washing, floor cleaning  
11 and waxing, and the cleaning in place of rugs, drapes and upholstery.  
12 The term "janitorial services" does not include painting, papering,  
13 repairing, furnace or septic tank cleaning, snow removal or  
14 sandblasting; (e) the sale of or charge made for labor and services  
15 rendered in respect to automobile towing and similar automotive  
16 transportation services, but not in respect to those required to report  
17 and pay taxes under chapter 82.16 RCW; (f) the sale of and charge made  
18 for the furnishing of lodging and all other services by a hotel,  
19 rooming house, tourist court, motel, trailer camp, and the granting of  
20 any similar license to use real property, as distinguished from the  
21 renting or leasing of real property, and it shall be presumed that the  
22 occupancy of real property for a continuous period of one month or more  
23 constitutes a rental or lease of real property and not a mere license  
24 to use or enjoy the same; (g) the sale of or charge made for tangible  
25 personal property, labor and services to persons taxable under (a),  
26 (b), (c), (d), (e), and (f) above when such sales or charges are for  
27 property, labor and services which are used or consumed in whole or in  
28 part by such persons in the performance of any activity defined as a  
29 "sale at retail" or "retail sale" even though such property, labor and  
30 services may be resold after such use or consumption. Nothing  
31 contained in this paragraph shall be construed to modify the first  
32 paragraph of this section and nothing contained in the first paragraph  
33 of this section shall be construed to modify this paragraph.

34 (3) The term "sale at retail" or "retail sale" shall include the  
35 sale of or charge made for personal business or professional services  
36 including amounts designated as interest, rents, fees, admission, and  
37 other service emoluments however designated, received by persons  
38 engaging in the following business activities: (a) Amusement and  
39 recreation businesses including but not limited to golf, pool,

1 billiards, skating, bowling, ski lifts and tows and others; (b)  
2 abstract, title insurance and escrow businesses; (c) credit bureau  
3 businesses; (d) automobile parking and storage garage businesses.

4 (4) The term shall also include the renting or leasing of tangible  
5 personal property to consumers.

6 (5) The term shall also include the providing of telephone service,  
7 as defined in RCW 82.04.065, to consumers.

8 (6) The term shall not include the sale of or charge made for labor  
9 and services rendered in respect to the building, repairing, or  
10 improving of any street, place, road, highway, easement, right of way,  
11 mass public transportation terminal or parking facility, bridge,  
12 tunnel, or trestle which is owned by a municipal corporation or  
13 political subdivision of the state or by the United States and which is  
14 used or to be used primarily for foot or vehicular traffic including  
15 mass transportation vehicles of any kind. (~~The term shall also not  
16 include sales of feed, seed, seedlings, fertilizer, and spray materials  
17 to persons who participate in the federal conservation reserve program  
18 or its successor administered by the United States department of  
19 agriculture, or to persons for the purpose of producing for sale any  
20 agricultural product whatsoever, including plantation Christmas trees  
21 and milk, eggs, wool, fur, meat, honey, or other substances obtained  
22 from animals, birds, or insects but only when such production and  
23 subsequent sale are exempt from tax under RCW 82.04.330, nor shall it  
24 include sales of chemical sprays or washes to persons for the purpose  
25 of post harvest treatment of fruit for the prevention of scald, fungus,  
26 mold, or decay.~~)

27 (7) The term shall not include the sale of or charge made for labor  
28 and services rendered in respect to the constructing, repairing,  
29 decorating, or improving of new or existing buildings or other  
30 structures under, upon, or above real property of or for the United  
31 States, any instrumentality thereof, or a county or city housing  
32 authority created pursuant to chapter 35.82 RCW, including the  
33 installing, or attaching of any article of tangible personal property  
34 therein or thereto, whether or not such personal property becomes a  
35 part of the realty by virtue of installation. Nor shall the term  
36 include the sale of services or charges made for the clearing of land  
37 and the moving of earth of or for the United States, any  
38 instrumentality thereof, or a county or city housing authority.

1       **Sec. 5.** RCW 82.04.330 and 1988 c 253 s 2 are each amended to read  
2 as follows:

3       This chapter shall not apply to any (~~person in respect to the~~  
4 ~~business of growing or producing for sale upon the person's own lands~~  
5 ~~or upon land in which the person has a present right of possession, any~~  
6 ~~agricultural or horticultural produce or crop, or of raising upon the~~  
7 ~~person's own lands or upon land in which the person has a present right~~  
8 ~~of possession, any plantation Christmas tree or any animal, bird, fish,~~  
9 ~~or insect, or the milk, eggs, wool, fur, meat, honey, or other~~  
10 ~~substance obtained therefrom, or in respect to the sale of such~~  
11 ~~products)) farmer that sells any agricultural product at wholesale ((by  
12 ~~such grower, producer, or raiser thereof)). This exemption shall not~~  
13 ~~apply to any person selling such products at retail ((or using such~~  
14 ~~products as ingredients in a manufacturing process; nor to the sale of~~  
15 ~~any animal or substance obtained therefrom by a person in connection~~  
16 ~~with the person's business of operating a stockyard or a slaughter or~~  
17 ~~packing house; nor to any person in respect to the business of taking,~~  
18 ~~cultivating, or raising timber; nor to any association of persons~~  
19 ~~whatever, whether mutual, cooperative or otherwise, engaging in any~~  
20 ~~business activity with respect to which tax liability is imposed under~~  
21 ~~the provisions of this chapter. As used in this section, "fish" means~~  
22 ~~fish which are cultivated or raised entirely within confined rearing~~  
23 ~~areas on the person's own land or on land in which the person has a~~  
24 ~~present right of possession)).~~~~

25       This chapter shall also not apply to any persons who participate in  
26 the federal conservation reserve program or its successor administered  
27 by the United States department of agriculture with respect to land  
28 enrolled in that program.

29       NEW SECTION.   **Sec. 6.** This act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and shall take  
32 effect immediately."

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