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**SUBSTITUTE HOUSE BILL 1154**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** House Finance (originally sponsored by Representatives Tarleton, Smith, and Santos)

AN ACT Relating to ensuring the competitiveness of Washington state's fishing and seafood processing industries by supporting the recapitalization of fishing fleets through certain tax preferences; amending RCW 82.04.440; adding a new section to chapter 82.04 RCW; creating new sections; and providing an effective date.

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

NEW SECTION. **Sec.**  It is the intent of the legislature to ensure the continued competitiveness of Washington state's maritime, fishing, and seafood processing industries, which, according to 2013 economic impact studies are contributing an estimated thirty billion dollars annually to the state's gross domestic product. The legislature notes that recently adopted federal policy encourages modernization of the nation's fishing fleet and therefore is expanding federal funding to finance fishing fleet recapitalization during the coming decade. This legislation intends to support the recapitalization of Washington's North Pacific fishing fleet by enabling our state's shipyards and maritime industries to compete for federal funding dedicated to the fishing fleet recapitalization program. Due to the fact that our state is home to the North Pacific fishing fleet, the largest fleet in the United States producing a majority of the fish harvested and consumed domestically and globally, the legislature finds a compelling need to support efforts to accelerate fleet recapitalization in order to maximize the economic benefits to our state from the national recapitalization program. Therefore, a tax preference is established to support the continued competitiveness of Washington's fishing and seafood processing industries.

NEW SECTION. **Sec.**  A new section is added to chapter 82.04 RCW to be codified between RCW 82.04.230 and 82.04.298 to read as follows:

(1) Until July 1, 2027, upon every person engaging within this state in the business of manufacturing qualified vessels or components of qualified vessels, or making sales, at retail or wholesale, of qualified vessels or components of qualified vessels, manufactured by the seller, as to such persons the amount of tax with respect to such businesses is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.2904 percent.

(2) Persons reporting under the tax rate provided in subsection (1) of this section must obtain documentation from the buyer establishing, to the department's satisfaction, that the vessel meets the definition of qualified vessel or that the component is to be installed in a qualified vessel. Such documentation must be preserved by the person for five years.

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

(a) "Qualified vessel" means a vessel that is limited to participation in rationalized federal fisheries, under the jurisdiction of the Pacific or North Pacific fishery management council, or state-managed limited entry fisheries. Questions as to a fishery's status as a rationalized fishery will be determined by the Washington department of fish and wildlife.

(b) "Rationalized fishery" means a federally managed fishery in which all participants are allocated a proportion of the harvest either through an individual share or through participation in a cooperative, and therefore are not competing for harvest. State-managed limited entry fisheries are fisheries managed by Alaska, Oregon, or Washington, occurring in either federal or state waters, in which a fixed number of participants are authorized to harvest.

**Sec.**  RCW 82.04.440 and 2011 c 2 s 205 are each amended to read as follows:

(1) Every person engaged in activities that are subject to tax under two or more provisions of RCW 82.04.230 through 82.04.298, inclusive, is taxable under each provision applicable to those activities.

(2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270, 82.04.294(2), ((~~or~~)) 82.04.260 (1)(b), (c), or (d), (4), (11), or (12), or section 2 of this act with respect to selling products in this state, including those persons who are also taxable under RCW 82.04.261, are allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the sale of those products.

(3) Persons taxable as manufacturers under RCW 82.04.240 or 82.04.260 (1)(b) or (12), including those persons who are also taxable under RCW 82.04.261, are allowed a credit against those taxes for any extracting taxes paid with respect to extracting the ingredients of the products so manufactured in this state. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

(4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1), 82.04.294(1), 82.04.2404, ((~~or~~)) 82.04.260 (1), (2), (4), (11), or (12), or section 2 of this act, including those persons who are also taxable under RCW 82.04.261, with respect to extracting or manufacturing products in this state are allowed a credit against those taxes for any ((~~(i)~~)) (a) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, ((~~(ii)~~)) (b) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or ((~~(iii)~~)) (c) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(5) ((~~For the purpose of this section:~~)) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Gross receipts tax" means a tax:

(i) Which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and

(ii) Which is also not, pursuant to law or custom, separately stated from the sales price.

(b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

(c) "Manufacturing tax" means a gross receipts tax imposed on the act or privilege of engaging in business as a manufacturer, and includes (i) the taxes imposed in RCW 82.04.240, 82.04.2404, 82.04.2909(1), 82.04.260 (1), (2), (4), (11), and (12), and 82.04.294(1); (ii) the tax imposed under RCW 82.04.261 on persons who are engaged in business as a manufacturer; and (iii) similar gross receipts taxes paid to other states.

(d) "Extracting tax" means a gross receipts tax imposed on the act or privilege of engaging in business as an extractor, and includes (i) the tax imposed on extractors in RCW 82.04.230 and 82.04.260(12); (ii) the tax imposed under RCW 82.04.261 on persons who are engaged in business as an extractor; and (iii) similar gross receipts taxes paid to other states.

(e) "Business", "manufacturer", "extractor", and other terms used in this section have the meanings given in RCW 82.04.020 through ((~~82.04.212 [82.04.217]~~)) 82.04.217, notwithstanding the use of those terms in the context of describing taxes imposed by other states.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference established in section 2, chapter . . ., Laws of 2018 (section 2 of this act). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to improve industry competitiveness, as indicated in RCW 82.32.808(2)(b).

(3) It is the legislature's specific public policy objective to increase long-term industry competitiveness and economic activity, and maintain jobs related to the maritime industry by providing a tax preference for recapitalizing the commercial fishing fleet.

(4) To measure the effectiveness of the tax preference established in section 2, chapter . . ., Laws of 2018 (section 2 of this act) in achieving the specific public policy objective described in subsection (3) of this section, the joint legislative audit and review committee must evaluate whether the number of qualified vessels manufactured in this state has increased since enactment of the tax preference. In addition, the evaluation must assess economic growth by comparing gross revenues, provided by the department of revenue, of vessel manufacturers prior to and after enactment of the preference to determine if there is an increase in vessel manufacturing gross revenues. If the review finds that the number of qualified vessels manufactured in this state has increased, along with gross revenues of vessel manufacturers, then the legislature intends for the legislative auditor to recommend extending the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to data available from the department of commerce and any other data it deems necessary.

NEW SECTION. **Sec.**  The credit authorized in section 3 of this act is not subject to the provisions of RCW 82.32.805 and 82.32.808.

NEW SECTION. **Sec.**  This act takes effect July 1, 2019.

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