
HOUSE BILL 2212

State of Washington

54th Legislature

1996 Regular Session

By Representatives B. Thomas, Carrell, Talcott, Honeyford, Benton, Schoesler, Mastin, Sheldon, Radcliff, Koster, Campbell, Smith, Huff, Horn, Morris, Thompson, Cooke, Goldsmith, Backlund, Hargrove and McMahan

Read first time 01/08/96. Referred to Committee on Finance.

1 AN ACT Relating to taxation of services included in the definition
2 of retail sales; amending RCW 82.04.050; and providing an effective
3 date.

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

5 **Sec. 1.** RCW 82.04.050 and 1995 1st sp.s. c 12 s 2 are each amended
6 to read as follows:

7 (1) "Sale at retail" or "retail sale" means every sale of tangible
8 personal property (including articles produced, fabricated, or
9 imprinted) to all persons irrespective of the nature of their business
10 and including, among others, without limiting the scope hereof, persons
11 who install, repair, clean, alter, improve, construct, or decorate real
12 or personal property of or for consumers other than a sale to a person
13 who presents a resale certificate under RCW 82.04.470 and who:

14 (a) Purchases for the purpose of resale as tangible personal
15 property in the regular course of business without intervening use by
16 such person; or

17 (b) Installs, repairs, cleans, alters, imprints, improves,
18 constructs, or decorates real or personal property of or for consumers,
19 if such tangible personal property becomes an ingredient or component

1 of such real or personal property without intervening use by such
2 person; or

3 (c) Purchases for the purpose of consuming the property purchased
4 in producing for sale a new article of tangible personal property or
5 substance, of which such property becomes an ingredient or component or
6 is a chemical used in processing, when the primary purpose of such
7 chemical is to create a chemical reaction directly through contact with
8 an ingredient of a new article being produced for sale; or

9 (d) Purchases for the purpose of consuming the property purchased
10 in producing ferrosilicon which is subsequently used in producing
11 magnesium for sale, if the primary purpose of such property is to
12 create a chemical reaction directly through contact with an ingredient
13 of ferrosilicon; or

14 (e) Purchases for the purpose of providing the property to
15 consumers as part of competitive telephone service, as defined in RCW
16 82.04.065. The term shall include every sale of tangible personal
17 property which is used or consumed or to be used or consumed in the
18 performance of any activity classified as a "sale at retail" or "retail
19 sale" even though such property is resold or utilized as provided in
20 (a), (b), (c), (d), or (e) of this subsection following such use. The
21 term also means every sale of tangible personal property to persons
22 engaged in any business which is taxable under RCW 82.04.280 (2) and
23 (7) and 82.04.290.

24 (2) The term "sale at retail" or "retail sale" shall include the
25 sale of or charge made for tangible personal property consumed and/or
26 for labor and services rendered in respect to the following:

27 (a) The installing, repairing, cleaning, altering, imprinting, or
28 improving of tangible personal property of or for consumers, including
29 charges made for the mere use of facilities in respect thereto, but
30 excluding charges made for the use of coin-operated laundry facilities
31 when such facilities are situated in an apartment house, hotel, motel,
32 rooming house, trailer camp, or tourist camp for the exclusive use of
33 the tenants thereof, and also excluding sales of laundry service to
34 members by nonprofit associations composed exclusively of nonprofit
35 hospitals, and excluding services rendered in respect to live animals,
36 birds and insects;

37 (b) The constructing, repairing, decorating, or improving of new or
38 existing buildings or other structures under, upon, or above real
39 property of or for consumers, including the installing or attaching of

1 any article of tangible personal property therein or thereto, whether
2 or not such personal property becomes a part of the realty by virtue of
3 installation, and shall also include the sale of services or charges
4 made for the clearing of land and the moving of earth excepting the
5 mere leveling of land used in commercial farming or agriculture;

6 (c) The charge for labor and services rendered in respect to
7 constructing, repairing, or improving any structure upon, above, or
8 under any real property owned by an owner who conveys the property by
9 title, possession, or any other means to the person performing such
10 construction, repair, or improvement for the purpose of performing such
11 construction, repair, or improvement and the property is then
12 reconveyed by title, possession, or any other means to the original
13 owner;

14 (d) The sale of or charge made for labor and services rendered in
15 respect to the cleaning, fumigating, razing or moving of existing
16 buildings or structures, but shall not include the charge made for
17 janitorial services; and for purposes of this section the term
18 "janitorial services" shall mean those cleaning and caretaking services
19 ordinarily performed by commercial janitor service businesses
20 including, but not limited to, wall and window washing, floor cleaning
21 and waxing, and the cleaning in place of rugs, drapes and upholstery.
22 The term "janitorial services" does not include painting, papering,
23 repairing, furnace or septic tank cleaning, snow removal or
24 sandblasting;

25 (e) The sale of or charge made for labor and services rendered in
26 respect to automobile towing and similar automotive transportation
27 services, but not in respect to those required to report and pay taxes
28 under chapter 82.16 RCW;

29 (f) The sale of and charge made for the furnishing of lodging and
30 all other services by a hotel, rooming house, tourist court, motel,
31 trailer camp, and the granting of any similar license to use real
32 property, as distinguished from the renting or leasing of real
33 property, and it shall be presumed that the occupancy of real property
34 for a continuous period of one month or more constitutes a rental or
35 lease of real property and not a mere license to use or enjoy the same;

36 (g) The sale of or charge made for tangible personal property,
37 labor and services to persons taxable under (a), (b), (c), (d), (e),
38 and (f) of this subsection when such sales or charges are for property,
39 labor and services which are used or consumed in whole or in part by

1 such persons in the performance of any activity defined as a "sale at
2 retail" or "retail sale" even though such property, labor and services
3 may be resold after such use or consumption. Nothing contained in this
4 subsection shall be construed to modify subsection (1) of this section
5 and nothing contained in subsection (1) of this section shall be
6 construed to modify this subsection.

7 (3) The term "sale at retail" or "retail sale" shall include the
8 sale of or charge made for personal, business, or professional services
9 including amounts designated as interest, rents, fees, admission, and
10 other service emoluments however designated, received by persons
11 engaging in the following business activities:

12 (a) Amusement and recreation services including but not limited to
13 golf, pool, billiards, skating, bowling, ski lifts and tows, and
14 others;

15 (b) Abstract, title insurance, and escrow services;

16 (c) Credit bureau services; and

17 (d) Automobile parking and storage garage services((;

18 ~~(e) Landscape maintenance and horticultural services but excluding~~
19 ~~(i) horticultural services provided to farmers and (ii) pruning,~~
20 ~~trimming, repairing, removing, and clearing of trees and brush near~~
21 ~~electric transmission or distribution lines or equipment, if performed~~
22 ~~by or at the direction of an electric utility;~~

23 ~~(f) Service charges associated with tickets to professional~~
24 ~~sporting events;~~

25 ~~(g) Guided tours and guided charters; and~~

26 ~~(h) The following personal services: Physical fitness services,~~
27 ~~tanning salon services, tattoo parlor services, steam bath services,~~
28 ~~turkish bath services, escort services, and dating services)).~~

29 (4) The term shall also include the renting or leasing of tangible
30 personal property to consumers ((~~and the rental of equipment with an~~
31 ~~operator)).~~

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

34 (6) The term shall not include the sale of or charge made for labor
35 and services rendered in respect to the building, repairing, or
36 improving of any street, place, road, highway, easement, right of way,
37 mass public transportation terminal or parking facility, bridge,
38 tunnel, or trestle which is owned by a municipal corporation or
39 political subdivision of the state or by the United States and which is

1 used or to be used primarily for foot or vehicular traffic including
2 mass transportation vehicles of any kind.

3 (7) The term shall also not include sales of feed, seed, seedlings,
4 fertilizer, agents for enhanced pollination including insects such as
5 bees, and spray materials to persons who participate in the federal
6 conservation reserve program or its successor administered by the
7 United States department of agriculture, or to farmers for the purpose
8 of producing for sale any agricultural product, nor shall it include
9 sales of chemical sprays or washes to persons for the purpose of post-
10 harvest treatment of fruit for the prevention of scald, fungus, mold,
11 or decay.

12 (8) The term shall not include the sale of or charge made for labor
13 and services rendered in respect to the constructing, repairing,
14 decorating, or improving of new or existing buildings or other
15 structures under, upon, or above real property of or for the United
16 States, any instrumentality thereof, or a county or city housing
17 authority created pursuant to chapter 35.82 RCW, including the
18 installing, or attaching of any article of tangible personal property
19 therein or thereto, whether or not such personal property becomes a
20 part of the realty by virtue of installation. Nor shall the term
21 include the sale of services or charges made for the clearing of land
22 and the moving of earth of or for the United States, any
23 instrumentality thereof, or a county or city housing authority.

24 NEW SECTION. **Sec. 2.** This act shall take effect July 1, 1996.

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