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SUBSTITUTE SENATE BILL 6510

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State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Loveland and Hale; by request of Governor Lowry)

Read first time 03/07/96.

1       AN ACT Relating to taxation of persons engaged in the business of  
2 cleaning up for the United States, or its instrumentalities,  
3 radioactive waste and other byproducts of weapons production and  
4 nuclear research and development; amending RCW 82.04.050, 82.04.190,  
5 and 82.04.2201; adding a new section to chapter 82.04 RCW; and  
6 providing an effective date.

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

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

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

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

1 (b) Installs, repairs, cleans, alters, imprints, improves,  
2 constructs, or decorates real or personal property of or for consumers,  
3 if such tangible personal property becomes an ingredient or component  
4 of such real or personal property without intervening use by such  
5 person; or

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

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

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

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

30 (a) The installing, repairing, cleaning, altering, imprinting, or  
31 improving of tangible personal property of or for consumers, including  
32 charges made for the mere use of facilities in respect thereto, but  
33 excluding sales of laundry service to members by nonprofit associations  
34 composed exclusively of nonprofit hospitals, and excluding services  
35 rendered in respect to live animals, birds and insects;

36 (b) The constructing, repairing, decorating, or improving of new or  
37 existing buildings or other structures under, upon, or above real  
38 property of or for consumers, including the installing or attaching of  
39 any article of tangible personal property therein or thereto, whether

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

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

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

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

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

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

1 retail" or "retail sale" even though such property, labor and services  
2 may be resold after such use or consumption. Nothing contained in this  
3 subsection shall be construed to modify subsection (1) of this section  
4 and nothing contained in subsection (1) of this section shall be  
5 construed to modify this subsection.

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

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

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

15 (c) Credit bureau services;

16 (d) Automobile parking and storage garage services;

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

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

24 (g) Guided tours and guided charters; and

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

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

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

33 (6) The term shall not include the sale of or charge made for labor  
34 and services rendered in respect to the building, repairing, or  
35 improving of any street, place, road, highway, easement, right of way,  
36 mass public transportation terminal or parking facility, bridge,  
37 tunnel, or trestle which is owned by a municipal corporation or  
38 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. Nor  
24 shall the term include the sale of services or charges made for  
25 cleaning up for the United States, or its instrumentalities,  
26 radioactive waste and other byproducts of weapons production and  
27 nuclear research and development.

28 **Sec. 2.** RCW 82.04.190 and 1995 1st sp.s. c 3 s 4 are each amended  
29 to read as follows:

30 "Consumer" means the following:

31 (1) Any person who purchases, acquires, owns, holds, or uses any  
32 article of tangible personal property irrespective of the nature of the  
33 person's business and including, among others, without limiting the  
34 scope hereof, persons who install, repair, clean, alter, improve,  
35 construct, or decorate real or personal property of or for consumers  
36 other than for the purpose (a) of resale as tangible personal property  
37 in the regular course of business or (b) of incorporating such property  
38 as an ingredient or component of real or personal property when

1 installing, repairing, cleaning, altering, imprinting, improving,  
2 constructing, or decorating such real or personal property of or for  
3 consumers or (c) of consuming such property in producing for sale a new  
4 article of tangible personal property or a new substance, of which such  
5 property becomes an ingredient or component or as a chemical used in  
6 processing, when the primary purpose of such chemical is to create a  
7 chemical reaction directly through contact with an ingredient of a new  
8 article being produced for sale or (d) purchases for the purpose of  
9 consuming the property purchased in producing ferrosilicon which is  
10 subsequently used in producing magnesium for sale, if the primary  
11 purpose of such property is to create a chemical reaction directly  
12 through contact with an ingredient of ferrosilicon;

13 (2) Any person engaged in any business activity taxable under RCW  
14 82.04.290 and any person who purchases, acquires, or uses any telephone  
15 service as defined in RCW 82.04.065, other than for resale in the  
16 regular course of business;

17 (3) Any person engaged in the business of contracting for the  
18 building, repairing or improving of any street, place, road, highway,  
19 easement, right of way, mass public transportation terminal or parking  
20 facility, bridge, tunnel, or trestle which is owned by a municipal  
21 corporation or political subdivision of the state of Washington or by  
22 the United States and which is used or to be used primarily for foot or  
23 vehicular traffic including mass transportation vehicles of any kind as  
24 defined in RCW 82.04.280, in respect to tangible personal property when  
25 such person incorporates such property as an ingredient or component of  
26 such publicly owned street, place, road, highway, easement, right of  
27 way, mass public transportation terminal or parking facility, bridge,  
28 tunnel, or trestle by installing, placing or spreading the property in  
29 or upon the right of way of such street, place, road, highway,  
30 easement, bridge, tunnel, or trestle or in or upon the site of such  
31 mass public transportation terminal or parking facility;

32 (4) Any person who is an owner, lessee or has the right of  
33 possession to or an easement in real property which is being  
34 constructed, repaired, decorated, improved, or otherwise altered by a  
35 person engaged in business, excluding only (a) municipal corporations  
36 or political subdivisions of the state in respect to labor and services  
37 rendered to their real property which is used or held for public road  
38 purposes, and (b) the United States, instrumentalities thereof, and  
39 county and city housing authorities created pursuant to chapter 35.82

1 RCW in respect to labor and services rendered to their real property.  
2 Nothing contained in this or any other subsection of this definition  
3 shall be construed to modify any other definition of "consumer";

4 (5) Any person who is an owner, lessee, or has the right of  
5 possession to personal property which is being constructed, repaired,  
6 improved, cleaned, imprinted, or otherwise altered by a person engaged  
7 in business;

8 (6) Any person engaged in the business of constructing, repairing,  
9 decorating, or improving new or existing buildings or other structures  
10 under, upon, or above real property of or for the United States, any  
11 instrumentality thereof, or a county or city housing authority created  
12 pursuant to chapter 35.82 RCW, including the installing or attaching of  
13 any article of tangible personal property therein or thereto, whether  
14 or not such personal property becomes a part of the realty by virtue of  
15 installation; also, any person engaged in the business of clearing land  
16 and moving earth of or for the United States, any instrumentality  
17 thereof, or a county or city housing authority created pursuant to  
18 chapter 35.82 RCW. Any such person shall be a consumer within the  
19 meaning of this subsection in respect to tangible personal property  
20 incorporated into, installed in, or attached to such building or other  
21 structure by such person; ((and))

22 (7) Any person who is a lessor of machinery and equipment, the  
23 rental of which is exempt from the tax imposed by RCW 82.08.020 under  
24 RCW 82.08.02565, with respect to the sale of or charge made for  
25 tangible personal property consumed and for labor and services rendered  
26 in respect to repairing the machinery and equipment; and

27 (8) Any person engaged in the business of cleaning up for the  
28 United States, or its instrumentalities, radioactive waste and other  
29 byproducts of weapons production and nuclear research and development.

30 Nothing contained in this or any other subsection of this  
31 definition shall be construed to modify any other definition of  
32 "consumer."

33 NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW,  
34 to be codified between RCW 82.04.220 and 82.04.290, to read as follows:

35 Upon every person engaging within this state in the business of  
36 cleaning up for the United States, or its instrumentalities,  
37 radioactive waste and other byproducts of weapons production and  
38 nuclear research and development; as to such persons the amount of the

1 tax with respect to such business shall be equal to the value of the  
2 gross income of the business multiplied by the rate of 0.471 percent.

3 For the purposes of this chapter, "cleaning up radioactive waste  
4 and other byproducts of weapons production and nuclear research and  
5 development" means the activities of handling, storing, treating,  
6 immobilizing, stabilizing, or disposing of radioactive waste,  
7 radioactive tank waste and capsules, nonradioactive hazardous solid and  
8 liquid wastes, or spent nuclear fuel; spent nuclear fuel conditioning;  
9 removal of contamination in soils and ground water; decontamination and  
10 decommissioning of facilities; and activities integral and necessary to  
11 the direct performance of cleanup.

12 **Sec. 4.** RCW 82.04.2201 and 1995 c 229 s 2 are each amended to read  
13 as follows:

14 There is levied and shall be collected for the period July 1, 1993,  
15 through June 30, 1997, from every person for the act or privilege of  
16 engaging in business activities, as a part of the tax imposed under RCW  
17 82.04.220 through 82.04.280 and 82.04.290 (3) and (4), except RCW  
18 82.04.250(1) (~~and~~), 82.04.260(15), and section 3 of this act, an  
19 additional tax equal to 4.5 percent multiplied by the tax payable under  
20 those sections.

21 To facilitate collection of these additional taxes, the department  
22 of revenue is authorized to adjust the basic rates of persons to which  
23 this section applies in such manner as to reflect the amount to the  
24 nearest one-thousandth of one percent of the additional tax hereby  
25 imposed, adjusting ten-thousandths equal to or greater than five ten-  
26 thousandths to the greater thousandth.

27 NEW SECTION. **Sec. 5.** This act shall take effect July 1, 1996.

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