CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6656

Chapter 173, Laws of 1996
(partial veto)

54th Legislature
1996 Regular Session

MANUFACTURING MACHINERY AND EQUIPMENT--SALES
AND USE TAX EXEMPTIONS

EFFECTIVE DATE: 6/6/96

Passed by the Senate March 7, 1996
YEAS 47   NAYS 1

JOEL PRITCHARD
President of the Senate

Passed by the House March 7, 1996
YEAS 74   NAYS 24

CLYDE BALLARD
Speaker of the
House of Representatives

Approved March 28, 1996, with the
exception of section 4, which is
vetoed.

MARTY BROWN
Secretary

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SUBSTITUTE SENATE BILL 6656 as passed by the Senate and the House of Representatives on the dates hereon set forth.

FILED
March 28, 1996 - 11:42 a.m.

MIKE LOWRY
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to sales and use tax exemptions for manufacturing machinery and equipment; amending RCW 82.04.190 and 82.08.02565; creating a new section; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that the health, safety, and welfare of the people of the state of Washington are heavily dependent upon the continued encouragement, development, and expansion of opportunities for family wage employment in the state’s manufacturing industries.

The legislature also finds that sales and use tax exemptions for manufacturing machinery and equipment enacted by the 1995 legislature have improved Washington’s ability to compete with other states for manufacturing investment, but that additional incentives for manufacturers need to be adopted to solidify and enhance the state’s competitive position.

The legislature intends to accomplish this by extending the current manufacturing machinery and equipment exemptions to allow a sales tax exemption for labor and service charges for repairing, cleaning, altering, or improving machinery and equipment, and a sales and use tax exemption.
exemption for repair and replacement parts with a useful life of one year or more.

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

"Consumer" means the following:

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person’s business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose (a) of resale as tangible personal property in the regular course of business or (b) of incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers or (c) of consuming such property in producing for sale a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale or (d) purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon;

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

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

(4) Any person who is an owner, lessee or has the right of
possession to or an easement in real property which is being
constructed, repaired, decorated, improved, or otherwise altered by a
person engaged in business, excluding only (a) municipal corporations
or political subdivisions of the state in respect to labor and services
rendered to their real property which is used or held for public road
purposes, and (b) the United States, instrumentalities thereof, and
county and city housing authorities created pursuant to chapter 35.82
RCW in respect to labor and services rendered to their real property.
Nothing contained in this or any other subsection of this definition
shall be construed to modify any other definition of "consumer";

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

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

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

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in respect to repairing the machinery and equipment, if the tangible personal property has a useful life of less than one year.

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

Sec. 3. RCW 82.08.02565 and 1995 1st sp.s. c 3 s 2 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales to a manufacturer or processor for hire of machinery and equipment used directly in a manufacturing operation, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the machinery and equipment, but only when the purchaser provides the seller with an exemption certificate in a form and manner prescribed by the department by rule, and the purchaser provides the department with a duplicate of the certificate or a summary of exempt sales as the department may require. The seller shall retain a copy of the certificate for the seller’s files.

(2) For purposes of this section and RCW 82.12.02565:

(a) "Machinery and equipment" means industrial fixtures, devices, and support facilities, and tangible personal property that becomes an ingredient or component thereof, including repair parts and replacement parts. "Machinery and equipment" includes pollution control equipment installed and used in a manufacturing operation to prevent air pollution, water pollution, or contamination that might otherwise result from the manufacturing operation.

(b) "Machinery and equipment" does not include:

(i) Hand tools;

(ii) Property with a useful life of less than one year;

(iii) Repair parts required to restore machinery and equipment to normal working order;

(iv) Replacement parts that do not increase productivity, improve efficiency, or extend the useful life of the machinery and equipment; or

(v) Buildings, other than machinery and equipment that is permanently affixed to or becomes a physical part of a building; and

(iv) Building fixtures that are not integral to the manufacturing operation that are permanently affixed to and become a physical part of
a building, such as utility systems for heating, ventilation, air
conditioning, communications, plumbing, or electrical.

(c) Machinery and equipment is "used directly" in a manufacturing
operation if the machinery and equipment:

(i) Acts upon or interacts with an item of tangible personal
property;

(ii) Conveys, transports, handles, or temporarily stores an item of
tangible personal property at the manufacturing site;

(iii) Controls, guides, measures, verifies, aligns, regulates, or
tests tangible personal property;

(iv) Provides physical support for or access to tangible personal
property;

(v) Produces power for, or lubricates machinery and equipment;

(vi) Produces another item of tangible personal property for use in

the manufacturing operation; or

(vii) Places tangible personal property in the container, package,
or wrapping in which the tangible personal property is normally sold or
transported.

(d) "Manufacturing operation" means the manufacturing of articles,
substances, or commodities for sale as tangible personal property. The
manufacturing operation begins at the point where the raw materials
enter the manufacturing site and ends at the point where the finished
product leaves the manufacturing site. The term also includes that
portion of a cogeneration project that is used to generate power for
consumption within the manufacturing site of which the cogeneration
project is an integral part. The term does not include research and
development, the production of electricity by a light and power
business as defined in RCW 82.16.010, or the preparation of food
products on the premises of a person selling food products at retail.

(e) "Cogeneration" means the simultaneous generation of electrical
energy and low-grade heat from the same fuel.

*NEW SECTION. Sec. 4. This act shall take effect January 1, 1997.

*Sec. 4 was vetoed. See message at end of chapter.

Passed the Senate March 7, 1996.
Passed the House March 7, 1996.
Approved by the Governor March 28, 1996, with the exception of
certain items that were vetoed.
Filed in Office of Secretary of State March 28, 1996.

Note: Governor’s explanation of partial veto is as follows:
"I am returning herewith, without my approval as to section 4, Substitute Senate Bill No. 6656 entitled:

"AN ACT Relating to sales and use tax exemptions for manufacturing machinery and equipment;"

Substitute Senate Bill No. 6656 provides an exemption from the sales and use taxes for repair and replacement parts with a useful life of one year or more, as well as a sales and use tax exemption for labor and service charges for repairing, cleaning, altering, or improving machinery and equipment.

I agree with the finding of the legislature that this measure would improve the ability of Washington State to compete with other states in our region for manufacturing investment. This type of legislation helps bring more family wage jobs to the state as well as enhance and solidify the state’s competitive position. I further agree with the legislature’s finding that the health, safety, and welfare of the people of the state of Washington are heavily dependent upon the continued development and expansion of the state’s manufacturing industries. In that light, I am vetoing section 4 of Substitute Senate Bill No. 6656. This section establishes an effective date for the bill of January 1, 1997.

The necessity and importance of this type of legislation dictates that it be put into effect as soon as possible so that the economic benefits of increased employment and family wage jobs for the people of the state of Washington can begin immediately rather than next year. In addition, allowing the bill to become law within the usual 90 days after adjournment of the legislature will provide an additional $11.2 million in sales and use tax relief to manufacturers in the state.

For this reason, I have vetoed section 4 of Substitute Senate Bill No. 6656.

With the exception of section 4, Substitute Senate Bill No. 6656 is approved."