
SENATE BILL 5074

State of Washington

55th Legislature

1997 Regular Session

By Senators Sellar and Snyder

Read first time 01/14/97. Referred to Committee on Ways & Means.

1 AN ACT Relating to increasing interstate trade through tax
2 incentives for warehouse and grain elevator operations; amending RCW
3 81.104.170; adding a new section to chapter 82.08 RCW; adding a new
4 section to chapter 82.12 RCW; adding a new section to chapter 82.44
5 RCW; adding a new section to chapter 46.87 RCW; adding a new section to
6 chapter 82.04 RCW; adding a new section to chapter 82.14 RCW; creating
7 new sections; providing an effective date; and declaring an emergency.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that the state's
10 overall economic health and prosperity is bolstered through tax
11 incentives targeted to specific industries. The warehouse and
12 distribution industry is critical to other businesses. The
13 transportation sector, the retail sector, the ports, and the
14 wholesalers all rely on the warehouse and distribution industry. It is
15 the intent of the legislature to stimulate interstate trade by
16 providing tax incentives to those persons in the warehouse and
17 distribution industry engaged in highly competitive trade.

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

3 (1) Wholesalers or third-party warehouseers who own or operate
4 warehouses or grain elevators and retailers who own or operate
5 distribution centers, and who have paid the tax levied by RCW 82.08.020
6 on:

7 (a) Material-handling and racking equipment, and labor and services
8 rendered in respect to installing, repairing, cleaning, altering, or
9 improving the equipment;

10 (b) Construction of a warehouse or grain elevator, including
11 materials, and including service and labor costs; or

12 (c) Trucks for use at a warehouse or grain elevator that has
13 received the construction exemption if the trucks are used for
14 distribution or transport of finished goods to and from the warehouse
15 or grain elevator and if the trucks are purchased or leased within
16 eighteen months after construction is completed,
17 are eligible for an exemption in the form of a remittance. The amount
18 of the remittance is computed under subsection (3) of this section and
19 is based on the state share of sales tax.

20 (2) For purposes of this section and sections 3, 4, 5, and 6 of
21 this act:

22 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

23 (b) "Construction" means the actual construction of a warehouse or
24 grain elevator that did not exist before the construction began.
25 "Construction" includes expansion if the expansion adds at least one
26 hundred thousand square feet of additional space to an existing
27 warehouse or additional storage capacity of at least seven hundred
28 fifty thousand bushels to an existing grain elevator. "Construction"
29 does not include renovation, remodeling, or repair;

30 (c) "Department" means the department of revenue;

31 (d) "Distribution center" means a warehouse that is used
32 exclusively by a retailer solely for the storage and distribution of
33 finished products to retail outlets of the retailer. "Distribution
34 center" does not include a warehouse at which retail activity occurs;

35 (e) "Finished goods" means tangible personal property intended for
36 sale by a retailer or wholesaler. "Finished goods" does not include
37 agricultural products stored by wholesalers, third-party warehouses, or
38 retailers if the storage takes place on the land of the person who
39 produced the agricultural product. "Finished goods" does not include

1 logs, minerals, petroleum, gas, or other extracted products stored as
2 raw materials or in bulk;

3 (f) "Grain elevator" means a structure used for storage and
4 handling of grain in bulk;

5 (g) "Material-handling equipment and racking equipment" means
6 equipment in a warehouse or grain elevator that is primarily used to
7 handle, store, organize, convey, package, or repackage finished goods.
8 The term includes tangible personal property with a useful life of one
9 year or more that becomes an ingredient or component of the equipment,
10 including repair and replacement parts. The term does not include
11 equipment in offices, lunchrooms, restrooms, and other like space,
12 within a warehouse or grain elevator, or equipment used for
13 nonwarehousing purposes. "Material-handling equipment" includes but is
14 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
15 place units, cranes, hoists, mechanical arms, and robots; mechanized
16 systems, including containers that are an integral part of the system,
17 whose purpose is to lift or move tangible personal property; and
18 automated handling, storage, and retrieval systems, including computers
19 that control them, whose purpose is to lift or move tangible personal
20 property; and forklifts and other off-the-road vehicles that are used
21 to lift or move tangible personal property and that cannot be operated
22 legally on roads and streets. "Racking equipment" includes, but is not
23 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
24 pallets, and other containers and storage devices that form a necessary
25 part of the storage system;

26 (h) "Person" has the meaning given in RCW 82.04.030;

27 (i) "Retailer" means a person who makes "sales at retail" as
28 defined in chapter 82.04 RCW of tangible personal property;

29 (j) "Square footage" means the product of the two horizontal
30 dimensions of each floor of a specific warehouse. The entire footprint
31 of the warehouse shall be measured in calculating the square footage,
32 including space that juts out from the building profile such as loading
33 docks. "Square footage" does not mean the aggregate of the square
34 footage of more than one warehouse at a location or the aggregate of
35 the square footage of warehouses at more than one location;

36 (k) "Third-party warehouser" means a person taxable under RCW
37 82.04.280(4);

38 (l) "Truck" means a motor vehicle, as defined in chapter 46.04 RCW,
39 used for the transport of goods, and includes a tractor or trailer;

1 (m) "Warehouse" means an enclosed building or structure in which
2 finished goods are stored. A warehouse building or structure may have
3 more than one storage room and more than one floor. Office space,
4 lunchrooms, restrooms, and other space within the warehouse and
5 necessary for the operation of the warehouse are considered part of the
6 warehouse as are loading docks and other such space attached to the
7 building and used for handling of finished goods. Landscaping and
8 parking lots are not considered part of the warehouse. A storage yard
9 is not a warehouse, nor is a building in which manufacturing takes
10 place; and

11 (n) "Wholesaler" means a person who makes "sales at wholesale" as
12 defined in chapter 82.04 RCW of tangible personal property, but
13 "wholesaler" does not include a person who makes sales exempt under
14 82.04.330.

15 (3)(a) A person claiming an exemption from state tax in the form of
16 a remittance under this section shall pay the tax imposed by RCW
17 82.08.020 to the seller who shall remit the tax to the department. The
18 buyer may then apply to the department for remittance of all or part of
19 the tax paid under RCW 82.08.020. For warehouses with square footage
20 of one hundred thousand or more but less than one hundred fifty
21 thousand, and for grain elevators with bushel capacity of seven hundred
22 fifty thousand or more but less than one million, the remittance is
23 equal to fifty percent of the amount of tax paid. For warehouses with
24 square footage of one hundred fifty thousand or more but less than two
25 hundred thousand, and for grain elevators with bushel capacity of one
26 million or more but less than one million five hundred thousand, the
27 remittance is equal to seventy-five percent of the amount of tax paid.
28 For warehouses with square footage of two hundred thousand or more, and
29 for grain elevators with bushel capacity of one million five hundred
30 thousand or more, the remittance is equal to one hundred percent of the
31 amount of tax paid.

32 (b) The department shall determine eligibility under this section
33 based on information provided by the buyer and through audit and other
34 administrative records. The buyer shall submit to the department, in
35 adequate detail to enable the department to determine whether the
36 equipment, truck, or construction meets the criteria under this
37 section: Invoices; proof of tax paid; documents describing the
38 material-handling equipment and racking equipment; location and size of

1 warehouses and grain elevators; and construction invoices and
2 documents.

3 (c) The department shall on a quarterly basis remit exempted
4 amounts to those persons determined to be eligible under this section.

5 (4) Warehouses, grain elevators, and material-handling equipment
6 and racking equipment for which an exemption, credit, or deferral has
7 been or is being received under chapter 82.60, 82.61, 82.62, or 82.63
8 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
9 remittance under this section. Warehouses and grain elevators upon
10 which construction was initiated before the effective date of this act
11 are not eligible for a remittance under this section.

12 (5) The lessor or owner of a warehouse or grain elevator is not
13 eligible for a remittance under this section unless the underlying
14 ownership of the warehouse or grain elevator, the material-handling
15 equipment and racking equipment, or trucks vests exclusively in the
16 same person, or unless the lessor by written contract agrees to pass
17 the economic benefit of the remittance to the lessee in the form of
18 reduced rent payments.

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

21 (1) Wholesalers or third-party warehouse owners who own or operate
22 warehouses or grain elevators, and retailers who own or operate
23 distribution centers, and who have paid the tax levied under RCW
24 82.12.020 on:

25 (a) Material-handling equipment and racking equipment;

26 (b) Materials incorporated in the construction of a warehouse or
27 grain elevator; or

28 (c) Trucks for use at a warehouse or grain elevator that has
29 received the construction exemption if the trucks are used for
30 distribution or transport of finished goods to and from the warehouse
31 or grain elevator and if the trucks are acquired or leased within
32 eighteen months after construction is completed,
33 are eligible for an exemption on tax paid in the form of a remittance
34 or credit against tax owed. The amount of the remittance or credit is
35 computed under subsection (2) of this section and is based on the state
36 share of use tax.

37 (2)(a) A person claiming an exemption from state tax in the form of
38 a remittance under this section shall pay the tax imposed by RCW

1 82.12.020 to the department. The person may then apply to the
2 department for remittance of all or part of the tax paid under RCW
3 82.12.020. For warehouses with square footage of one hundred thousand
4 or more but less than one hundred fifty thousand, and for grain
5 elevators with bushel capacity of seven hundred fifty thousand or more
6 but less than one million, the remittance is equal to fifty percent of
7 the amount of tax paid. For warehouses with square footage of one
8 hundred fifty thousand or more but less than two hundred thousand, and
9 for grain elevators with bushel capacity of one million or more but
10 less than one million five hundred thousand, the remittance is equal to
11 seventy-five percent of the amount of tax paid. For warehouses with
12 square footage of two hundred thousand or more, and for grain elevators
13 with bushel capacity of one million five hundred thousand or more, the
14 remittance is equal to one hundred percent of the amount of tax paid.

15 (b) The department shall determine eligibility under this section
16 based on information provided by the buyer and through audit and other
17 administrative records. The buyer shall submit to the department, in
18 adequate detail to enable the department to determine whether the
19 equipment, truck, or construction meets the criteria under this
20 section: Invoices; proof of tax paid; documents describing the
21 material-handling equipment and racking equipment; location and size of
22 warehouses, if applicable; and construction invoices and documents.

23 (c) The department shall on a quarterly basis remit or credit
24 exempted amounts to those persons determined to be eligible under this
25 section.

26 (3) Warehouse, grain elevators, and material-handling equipment and
27 racking equipment for which an exemption, credit, or deferral has been
28 or is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or
29 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance
30 under this section. Materials incorporated in warehouses and grain
31 elevators upon which construction was initiated prior to the effective
32 date of this act are not eligible for a remittance under this section.

33 (4) The lessor or owner of the warehouse or grain elevator is not
34 eligible for a remittance or credit under this section unless the
35 underlying ownership of the warehouse or grain elevator,
36 material-handling equipment and racking equipment, or trucks vests
37 exclusively in the same person, or unless the lessor by written
38 contract agrees to pass the economic benefit of the exemption to the
39 lessee in the form of reduced rent payments.

1 (5) The definitions in section 2 of this act apply to this section.

2 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.44 RCW
3 to read as follows:

4 (1) Wholesalers, third-party warehouse, and retailers, who
5 qualify for exemption under section 2 or 3 of this act for trucks used
6 at a warehouse, and who paid the tax owed under RCW 82.44.020 on trucks
7 exempted under section 2 or 3 of this act, are eligible for an
8 exemption in the form of a remittance as computed under subsection (2)
9 of this section. Trucks used at a grain elevator are not eligible for
10 a remittance under this section.

11 (2) Persons eligible for remittance under this section shall pay
12 the tax to the department of licensing. The taxpayer may then apply to
13 the department of revenue for a remittance of fifty-seven percent of
14 the tax paid on eligible trucks multiplied by the applicable proration
15 factor, multiplied by the multiple-warehouse ratio if applicable.
16 Proration factors are: For warehouses with square footage of one
17 hundred thousand or more but less than one hundred fifty thousand the
18 factor is fifty percent; for warehouses with square footage of one
19 hundred fifty thousand or more but less than two hundred thousand the
20 factor is seventy-five percent; and for facilities with square footage
21 of two hundred thousand or more the factor is one hundred percent. If
22 a qualifying truck is used at more than one warehouse and some of these
23 warehouses do not qualify for the construction exemption, the
24 remittance shall reflect this nonqualifying use through calculation of
25 the multiple-warehouse ratio. The multiple-warehouse ratio is the
26 square footage of qualifying warehouses served by the truck divided by
27 the square footage of nonqualifying warehouses served by the truck.

28 (3) The taxpayer shall submit to the department of revenue, in
29 adequate detail to enable the department to determine if a truck meets
30 the criteria under this section: Invoices; proof of tax paid; and
31 documents describing location and size of warehouses, if applicable.
32 The department of revenue shall on an annual basis remit exempted
33 amounts to those persons determined to be eligible under this section.

34 (4) Trucks for which an exemption, credit, or deferral has been or
35 is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or
36 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance
37 under this section. Acquisition or use of trucks that occurred before
38 the effective date of this act is not eligible for remittance under

1 this section. If a truck is sold or other such an action by which it
2 is not used at the warehouse to which it was originally assigned, the
3 exemption under this section is not available.

4 (5) The lessor or owner of the warehouse is not eligible for a
5 remittance unless the underlying ownership of the warehouse, equipment,
6 and trucks vests exclusively in the same person, or unless the lessor
7 by written contract agrees to pass the economic benefit of the
8 remittance to the lessee in the form of reduced rent payments.

9 (6) The definitions in section 2 of this act apply to this section.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.87 RCW
11 to read as follows:

12 (1) Wholesalers, third-party warehouse, and retailers, who
13 qualify for the exemption under section 2 or 3 of this act for trucks
14 used at a warehouse, and who paid the tax owed under RCW 82.44.020 on
15 the trucks exempted under section 2 or 3 of this act, are eligible for
16 an exemption in the form of a remittance as computed under subsection
17 (2) of this section. Trucks used at a grain elevator are not eligible
18 for a remittance under this section.

19 (2) Persons eligible for remittance under this section shall pay
20 the tax to the department of licensing. The taxpayer may then apply to
21 the department of revenue for a remittance of fifty-seven percent of
22 the tax paid on eligible trucks multiplied by the applicable proration
23 factor, multiplied by the multiple-warehouse ratio if applicable.
24 Proration factors are: For warehouses with square footage of one
25 hundred thousand or more but less than one hundred fifty thousand the
26 factor is fifty percent; for warehouses with square footage of one
27 hundred fifty thousand or more but less than two hundred thousand the
28 factor is seventy-five percent; and for facilities with square footage
29 of two hundred thousand or more the factor is one hundred percent. If
30 a qualifying truck is used at more than one warehouse and some of these
31 warehouses do not qualify for the construction exemption, the
32 remittance shall reflect this nonqualifying use through calculation of
33 the multiple-warehouse ratio. The multiple-warehouse ratio is the
34 square footage of qualifying warehouses served by the truck divided by
35 the square footage of nonqualifying warehouses served by the truck.

36 (3) The taxpayer shall submit to the department of revenue, in
37 adequate detail to enable the department to determine if a truck meets
38 the criteria under this section: Invoices; proof of tax paid; and

1 documents describing location and size of warehouses, if applicable.
2 The department of revenue shall on an annual basis remit exempted
3 amounts to those persons determined to be eligible under this section.

4 (4) Trucks for which an exemption, credit, or deferral has been or
5 is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or
6 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance
7 under this section. Acquisition or use of trucks that occurred before
8 the effective date of this act is not eligible for remittance under
9 this section. If a truck is sold or other such an action in which it
10 is not used at the warehouse to which it was originally assigned, the
11 exemption under this section is not available.

12 (5) The lessor or owner of the warehouse is not eligible for a
13 remittance unless the underlying ownership of the warehouse, equipment,
14 and trucks vests exclusively in the same person, or unless the lessor
15 by written contract agrees to pass the economic benefit of the
16 remittance to the lessee in the form of reduced rent payments.

17 (6) Chapter 82.32 RCW applies to this section.

18 (7) The definitions in section 2 of this act apply to this section.

19 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.04 RCW
20 to read as follows:

21 (1) A credit against the tax imposed under this chapter is allowed
22 for wholesalers or third-party warehouse owners who own or operate
23 warehouses or grain elevators and retailers who own or operate
24 distribution centers, and who are eligible for an exemption in the form
25 of a remittance under section 2 or 3 of this act.

26 (2) The credit is equal to the amount of sales and use tax paid
27 under chapter 82.14 RCW and RCW 81.104.170 on retail sales that qualify
28 for an exemption in the form of a remittance under section 2 of this
29 act and on the value of articles that qualify for an exemption in the
30 form of a remittance under section 3 of this act.

31 (3) Persons claiming a credit under this section shall apply for
32 the credit in a form and manner prescribed by the department. The
33 department shall determine eligibility for the credit based on
34 information provided by the buyer and through audit and other
35 administrative records. The credit shall be taken against taxes due
36 for the calendar year in which the credit is approved by the
37 department. Any portion of the credit in excess of the tax due under

1 this chapter may be carried forward in successive years until the
2 credit is exhausted.

3 (4) The definitions in section 2 of this act apply to this section.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.14 RCW
5 to read as follows:

6 The exemptions in sections 2 and 3 of this act are for the state
7 portion of the sales and use tax and do not extend to the tax imposed
8 in this chapter.

9 **Sec. 8.** RCW 81.104.170 and 1992 c 101 s 28 are each amended to
10 read as follows:

11 Cities that operate transit systems, county transportation
12 authorities, metropolitan municipal corporations, public transportation
13 benefit areas, and regional transit authorities may submit an
14 authorizing proposition to the voters and if approved by a majority of
15 persons voting, fix and impose a sales and use tax in accordance with
16 the terms of this chapter, solely for the purpose of providing high
17 capacity transportation service.

18 The tax authorized pursuant to this section shall be in addition to
19 the tax authorized by RCW 82.14.030 and shall be collected from those
20 persons who are taxable by the state pursuant to chapters 82.08 and
21 82.12 RCW upon the occurrence of any taxable event within the taxing
22 district. The maximum rate of such tax shall be approved by the voters
23 and shall not exceed one percent of the selling price (in the case of
24 a sales tax) or value of the article used (in the case of a use tax).
25 The maximum rate of such tax that may be imposed shall not exceed
26 nine-tenths of one percent in any county that imposes a tax under RCW
27 82.14.340, or within a regional transit authority if any county within
28 the authority imposes a tax under RCW 82.14.340. The exemptions in
29 sections 2 and 3 of this act are for the state portion of the sales and
30 use tax and do not extend to the tax authorized in this section.

31 NEW SECTION. **Sec. 9.** The legislative fiscal committees shall
32 report to the legislature by December 1, 1999, on the economic impacts
33 of this act. This report shall analyze employment and other relevant
34 economic data pertaining to the tax exemptions authorized under this
35 act and shall measure the effect on the creation or retention of
36 family-wage jobs and diversification of the state's economy. Analytic

1 techniques may include, but not be limited to, comparisons of
2 Washington to other states that did not enact business tax changes,
3 comparisons across Washington counties based on usage of the tax
4 exemptions, and comparisons across similar firms based on their use of
5 the tax exemptions. In performing the analysis, the legislative fiscal
6 committees shall consult with business and labor interests. The
7 department of revenue, the employment security department, and other
8 agencies shall provide to the legislative fiscal committees such data
9 as the legislative fiscal committees may request in performing the
10 analysis required under this section.

11 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and takes effect
14 July 1, 1997.

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