

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5175

Chapter 384, Laws of 1997
(partial veto)

55th Legislature
1997 Regular Session

CUBING OF HAY OR ALFALFA--BUSINESS AND OCCUPATION TAX REVISIONS

EFFECTIVE DATE: 7/1/97

Passed by the Senate April 8, 1997
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 22, 1997
YEAS 76 NAYS 22

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 15, 1997, with the
exception of section 2, which is
vetoed.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the
Senate of the State of Washington, do
hereby certify that the attached is
SUBSTITUTE SENATE BILL 5175 as passed
by the Senate and the House of
Representatives on the dates hereon
set forth.

MIKE O'CONNELL

Secretary

FILED

May 15, 1997 - 4:34 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5175

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By Senate Committee on Agriculture & Environment (originally sponsored by Senators Morton, Rasmussen, Hochstatter, Goings and Roach; by request of Department of Revenue)

Read first time 02/06/97.

1 AN ACT Relating to business and occupation tax on the handling of
2 hay, alfalfa, and seed; amending RCW 82.04.120; reenacting and amending
3 RCW 82.04.260; providing an effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 82.04.120 and 1989 c 302 s 201 are each amended to
6 read as follows:

7 "To manufacture" embraces all activities of a commercial or
8 industrial nature wherein labor or skill is applied, by hand or
9 machinery, to materials so that as a result thereof a new, different or
10 useful substance or article of tangible personal property is produced
11 for sale or commercial or industrial use, and shall include the
12 production or fabrication of special made or custom made articles.

13 "To manufacture" shall not include: Conditioning of seed for use
14 in planting; cubing hay or alfalfa; or activities which consist of
15 cutting, grading, or ice glazing seafood which has been cooked, frozen,
16 or canned outside this state.

17 ***Sec. 2.** *RCW 82.04.260 and 1996 c 148 s 2 and 1996 c 115 s 1 are*
18 *each reenacted and amended to read as follows:*

1 (1) Upon every person engaging within this state in the business of
2 buying wheat, oats, dry peas, dry beans, lentils, triticale, canola,
3 corn, rye and barley, but not including any manufactured or processed
4 products thereof, and selling the same at wholesale; the tax imposed
5 shall be equal to the gross proceeds derived from such sales multiplied
6 by the rate of 0.011 percent.

7 (2) Upon every person engaging within this state in the business of
8 manufacturing wheat into flour, barley into pearl barley, soybeans into
9 soybean oil, canola into canola oil, canola meal, or canola byproducts,
10 or sunflower seeds into sunflower oil; as to such persons the amount of
11 tax with respect to such business shall be equal to the value of the
12 flour, pearl barley, oil, canola meal, or canola byproduct
13 manufactured, multiplied by the rate of 0.138 percent.

14 (3) Upon every person engaging within this state in the business of
15 splitting or processing dried peas; as to such persons the amount of
16 tax with respect to such business shall be equal to the value of the
17 peas split or processed, multiplied by the rate of 0.275 percent.

18 (4) Upon every person engaging within this state in the business of
19 manufacturing seafood products which remain in a raw, raw frozen, or
20 raw salted state at the completion of the manufacturing by that person;
21 as to such persons the amount of tax with respect to such business
22 shall be equal to the value of the products manufactured, multiplied by
23 the rate of 0.138 percent.

24 (5) Upon every person engaging within this state in the business of
25 manufacturing by canning, preserving, freezing, processing, or
26 dehydrating fresh fruits and vegetables, or selling at wholesale fresh
27 fruits and vegetables canned, preserved, frozen, processed, or
28 dehydrated by the seller and sold to purchasers who transport in the
29 ordinary course of business the goods out of this state; as to such
30 persons the amount of tax with respect to such business shall be equal
31 to the value of the products canned, preserved, frozen, processed, or
32 dehydrated multiplied by the rate of 0.33 percent. As proof of sale to
33 a person who transports in the ordinary course of business goods out of
34 this state, the seller shall annually provide a statement in a form
35 prescribed by the department and retain the statement as a business
36 record.

37 (6) Upon every nonprofit corporation and nonprofit association
38 engaging within this state in research and development, as to such
39 corporations and associations, the amount of tax with respect to such

1 activities shall be equal to the gross income derived from such
2 activities multiplied by the rate of 0.484 percent.

3 (7) Upon every person engaging within this state in the business of
4 slaughtering, breaking and/or processing perishable meat products
5 and/or selling the same at wholesale only and not at retail; as to such
6 persons the tax imposed shall be equal to the gross proceeds derived
7 from such sales multiplied by the rate of 0.138 percent.

8 (8) Upon every person engaging within this state in the business of
9 making sales, at retail or wholesale, of nuclear fuel assemblies
10 manufactured by that person, as to such persons the amount of tax with
11 respect to such business shall be equal to the gross proceeds of sales
12 of the assemblies multiplied by the rate of 0.275 percent.

13 (9) Upon every person engaging within this state in the business of
14 manufacturing nuclear fuel assemblies, as to such persons the amount of
15 tax with respect to such business shall be equal to the value of the
16 products manufactured multiplied by the rate of 0.275 percent.

17 (10) Upon every person engaging within this state in the business
18 of acting as a travel agent or tour operator; as to such persons the
19 amount of the tax with respect to such activities shall be equal to the
20 gross income derived from such activities multiplied by the rate of
21 0.275 percent.

22 (11) Upon every person engaging within this state in business as an
23 international steamship agent, international customs house broker,
24 international freight forwarder, vessel and/or cargo charter broker in
25 foreign commerce, and/or international air cargo agent; as to such
26 persons the amount of the tax with respect to only international
27 activities shall be equal to the gross income derived from such
28 activities multiplied by the rate of 0.363 percent.

29 (12) Upon every person engaging within this state in the business
30 of stevedoring and associated activities pertinent to the movement of
31 goods and commodities in waterborne interstate or foreign commerce; as
32 to such persons the amount of tax with respect to such business shall
33 be equal to the gross proceeds derived from such activities multiplied
34 by the rate of 0.363 percent. Persons subject to taxation under this
35 subsection shall be exempt from payment of taxes imposed by chapter
36 82.16 RCW for that portion of their business subject to taxation under
37 this subsection. Stevedoring and associated activities pertinent to
38 the conduct of goods and commodities in waterborne interstate or
39 foreign commerce are defined as all activities of a labor, service or

1 transportation nature whereby cargo may be loaded or unloaded to or
2 from vessels or barges, passing over, onto or under a wharf, pier, or
3 similar structure; cargo may be moved to a warehouse or similar holding
4 or storage yard or area to await further movement in import or export
5 or may move to a consolidation freight station and be stuffed,
6 unstuffed, containerized, separated or otherwise segregated or
7 aggregated for delivery or loaded on any mode of transportation for
8 delivery to its consignee. Specific activities included in this
9 definition are: Wharfage, handling, loading, unloading, moving of
10 cargo to a convenient place of delivery to the consignee or a
11 convenient place for further movement to export mode; documentation
12 services in connection with the receipt, delivery, checking, care,
13 custody and control of cargo required in the transfer of cargo;
14 imported automobile handling prior to delivery to consignee; terminal
15 stevedoring and incidental vessel services, including but not limited
16 to plugging and unplugging refrigerator service to containers,
17 trailers, and other refrigerated cargo receptacles, and securing ship
18 hatch covers.

19 (13) Upon every person engaging within this state in the business
20 of disposing of low-level waste, as defined in RCW 43.145.010; as to
21 such persons the amount of the tax with respect to such business shall
22 be equal to the gross income of the business, excluding any fees
23 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
24 percent.

25 If the gross income of the taxpayer is attributable to activities
26 both within and without this state, the gross income attributable to
27 this state shall be determined in accordance with the methods of
28 apportionment required under RCW 82.04.460.

29 (14) Upon every person engaging within this state as an insurance
30 agent, insurance broker, or insurance solicitor licensed under chapter
31 48.17 RCW; as to such persons, the amount of the tax with respect to
32 such licensed activities shall be equal to the gross income of such
33 business multiplied by the rate of 0.55 percent.

34 (15) Upon every person engaging within this state in business as a
35 hospital, as defined in chapter 70.41 RCW, that is operated as a
36 nonprofit corporation or by the state or any of its political
37 subdivisions, as to such persons, the amount of tax with respect to
38 such activities shall be equal to the gross income of the business
39 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5

1 percent thereafter. The moneys collected under this subsection shall
2 be deposited in the health services account created under RCW
3 43.72.900.

4 (16) Upon every person engaging within this state in the business
5 of making sales at wholesale of seed conditioned for use in planting;
6 the tax imposed shall be equal to the gross proceeds derived from such
7 sales multiplied by the rate of 0.011 percent.

8 (17) Upon every person engaging within this state in the business
9 of making sales at wholesale of cubed alfalfa or hay; as to such
10 persons the amount of the tax with respect to such business shall be
11 equal to the gross income derived from such sales multiplied by the
12 rate of 0.011 percent.

13 *Sec. 2 was vetoed. See message at end of chapter.

14 NEW SECTION. Sec. 3. This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 July 1, 1997.

Passed the Senate April 8, 1997.

Passed the House April 22, 1997.

Approved by the Governor May 15, 1997, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State May 15, 1997.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to section 2,
3 Substitute Senate Bill No. 5175 entitled:

4 "AN ACT Relating to business and occupation tax on the handling of
5 hay, alfalfa, and seed;"

6 Substitute Senate Bill No. 5175 provides that cubing of hay or
7 alfalfa is a processing activity not a manufacturing activity for tax
8 purposes, wherever it is performed. The bill also lowers the business
9 and occupations (B&O) tax rate to 0.11% for hay and alfalfa cubing and
10 seed conditioning.

11 I have vetoed section 2 which pertains to the B&O tax rate
12 reductions for the sales of a broad variety of conditioned seeds, not
13 for commercial use and for the in-state sales of cubed hay and alfalfa.
14 I support the lower tax rate on conditioned seeds for agricultural use
15 but not the expanded uses found in section 2. I also support the tax
16 reduction for cubed hay and alfalfa sold outside our state. By vetoing
17 section 2, I have returned the bill to the original intent of the
18 Department of Revenue request legislation.

19 For these reasons, I have vetoed section 2 of Substitute Senate
20 Bill No. 5175.

1 With the exception of section 2, Substitute Senate Bill No. 5175 is
2 approved."