

# FINAL BILL REPORT

## HB 2295

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Synopsis as Enacted

**Brief Description:** Providing that growing or packing agricultural products is not a manufacturing activity for tax purposes.

**Sponsors:** Representatives B. Chandler, Clements, G. Chandler, Sump, McMorris and Mulliken.

### **Background:**

The business and occupation tax (B&O) is levied for the privilege of doing business in Washington. The tax is levied on the gross receipts of all business activities conducted within the state. There are six different B&O tax rates. The three principal rates are:

Manufacturing, wholesaling, & extracting	0.484 percent
Retailing	0.471 percent
Services	1.5 percent

When a product is manufactured in Washington, the manufacturing tax applies to sales to out-of-state customers and, generally, the wholesaling tax applies to sales to in-state customers.

Sales by farmers of agricultural products at wholesale and the packing of agricultural products for farmers are exempt from the B&O tax. "Farmer" is defined to exclude a person using agricultural products as ingredients in a manufacturing process. Businesses that wash, sort, and pack fresh perishable horticultural products for farmers are exempt from the B&O tax.

There are several tax incentives for manufacturers in distressed areas, including deferral/exemption of sales and use taxes on buildings, machinery and equipment, and installation labor, and B&O tax credits for job creation and job training. These programs have not been applied to packing agricultural products. However, a recent Washington Court of Appeals case held that this activity is manufacturing and is eligible for the distressed area sales tax deferral/exemption program.

Under the B&O tax, a person who does not own a product being manufactured is a processor for hire, and the owner of the product is considered the manufacturer. If packing agricultural products is manufacturing, then the grower could be considered a manufacturer using the products as an ingredient in a manufacturing process. The

person packing the products could be considered a processor for hire. Both could be subject to the B&O tax.

**Summary:**

Farming and the packing of agricultural products are excluded from the definition of manufacturing for excise tax purposes. Thus, businesses packing agricultural products are no longer eligible for the distressed area tax incentive programs. The growing and packing of agricultural products are not subject to the B&O tax. These changes apply both retroactively and prospectively.

**Votes on Final Passage:**

First Special Session  
House 97 0  
Senate 42 2

**Effective:** June 7, 1999