

# SENATE BILL REPORT

## SSB 6058

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As Passed Senate, March 12, 1999

**Title:** An act relating to stating the intent of the legislature that the activities of growing or packing agricultural products is not a manufacturing activity.

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

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Loveland, Honeyford, Sellar, Oke, Stevens and Rasmussen; by request of Department of Revenue).

**Brief History:**

**Committee Activity:** Ways & Means: 3/4/99, 3/5/99 [DPS].  
Passed Senate, 3/12/99, 48-0.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 6058 be substituted therefor, and the substitute bill do pass.

Signed by Senators Loveland, Chair; Bauer, Vice Chair; Brown, Vice Chair; Fairley, Fraser, Kline, Kohl-Welles, Rasmussen, Roach, Rossi, B. Sheldon, Snyder, Spanel, Thibaudeau, West, Winsley, Wojahn and Zarelli.

**Staff:** Terry Wilson (786-7433)

**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. Currently, there are 6 different B&O tax rates. The three principal rates are:

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

The B&O tax does not apply to sales by farmers of agricultural products at wholesale or to the packing of agricultural products for farmers. "Farmer" is defined to exclude a person using agricultural products as ingredients in a manufacturing process.

There are several tax incentive programs for manufacturers in distressed areas:

- deferral/exemption of sales and use taxes on buildings, machinery and equipment, and installation labor.
- an employment creation B&O tax credit.
- a job training B&O tax credit.

By rule, these programs use the B&O tax definition of manufacturer. These programs have not been applied to packing agricultural products. However, a recent Court of Appeals case held that this activity is manufacturing and 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 a farmer is now a manufacturer using the products as an ingredient in a manufacturing process, the person packing the products is a processor for hire, and both are subject to B&O tax.

**Summary of Bill:** Farming and the packing of agricultural products are excluded from the definition of manufacturing for purposes of the B&O tax and the distressed area tax incentive programs.

The bill is intended to clarify the intent of the Legislature both retroactively and prospectively.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** This bill shows the complex interrelationship between various taxes. It is an example of the effect of unintended consequences. The bill is intended to relieve growers of paying the B&O tax. The court case made apple packers apples for one tax and oranges for another. This bill makes them both apples again. This activity was not originally intended to be included under the tax incentive programs for manufacturing in distressed counties. The tax incentive programs for manufacturing in distressed counties should now include this activity because of changes in the industry, but it should not be done by a court decision.

**Testimony Against:** None.

**Testified:** Tim Sekerak, DOR (pro); Dick Ducharme, Yakima Growers and Shippers Wenatchee (pro).

**House Amendment(s):** Manufacturing is defined to exclude the assembly of pumps, motors, and compressor equipment if some of the components are purchased from other businesses and the amount paid for the components is at least 80 percent of the value of the assembled product. This results in a B&O tax exemption for sales to out-of-state customers.

The distressed areas sales tax exemption program is expanded to include controlled atmosphere fruit storage facilities.