

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1887**

Chapter 211, Laws of 1999

(partial veto)

56th Legislature  
1999 Regular Session

**MACHINERY AND EQUIPMENT TAX EXEMPTION**

EFFECTIVE DATE: 7/25/99 - Except sections 1 through 4 which become effective on 5/7/99.

Passed by the House March 15, 1999  
Yeas 93 Nays 0

CLYDE BALLARD  
**Speaker of the House of Representatives**

FRANK CHOPP  
**Speaker of the House of Representatives**

Passed by the Senate April 16, 1999  
Yeas 47 Nays 0

BRAD OWEN  
**President of the Senate**

Approved May 7, 1999, with the exception of section 8, which is vetoed.

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1887** as passed by the House of Representatives and the Senate on the dates hereon set forth.

DEAN R. FOSTER  
**Chief Clerk**

TIMOTHY A. MARTIN  
**Chief Clerk**

FILED

May 7, 1999 - 3:52 p.m.

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE HOUSE BILL 1887**

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Passed Legislature - 1999 Regular Session

**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** House Committee on Finance (originally sponsored by Representatives Kessler, Lisk, Grant, Wensman, Wolfe and Pennington; by request of Department of Revenue)

Read first time 03/08/1999.

1       AN ACT Relating to revising the machinery and equipment tax  
2 exemption by more precisely describing terminology and eligibility;  
3 amending RCW 82.04.120, 82.08.02565, 82.08.02565, and 82.12.02565;  
4 creating new sections; providing an effective date; and declaring an  
5 emergency.

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

7       NEW SECTION.   **Sec. 1.** The legislature finds that the application  
8 of the manufacturer's machinery and equipment sales and use tax  
9 exemption has, in some instances, been difficult and confusing for  
10 taxpayers, and included difficult reporting and recordkeeping  
11 requirements. In this act, it is the intent of the legislature to make  
12 clear its intent for the application of the exemption, and to extend  
13 the exemption to the purchase and use of machinery and equipment for  
14 businesses that perform testing of manufactured goods for manufacturers  
15 or processors for hire.

16       **Sec. 2.** RCW 82.04.120 and 1998 c 168 s 1 are each amended to read  
17 as follows:

1 "To manufacture" embraces all activities of a commercial or  
2 industrial nature wherein labor or skill is applied, by hand or  
3 machinery, to materials so that as a result thereof a new, different or  
4 useful substance or article of tangible personal property is produced  
5 for sale or commercial or industrial use, and shall include: (1) The  
6 production or fabrication of special made or custom made articles;  
7 ~~((and))~~ (2) the production or fabrication of dental appliances,  
8 devices, restorations, substitutes, or other dental laboratory products  
9 by a dental laboratory or dental technician; (3) cutting, delimiting,  
10 and measuring of felled, cut, or taken trees; and (4) crushing and/or  
11 blending of rock, sand, stone, gravel, or ore.

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

17 **Sec. 3.** RCW 82.08.02565 and 1998 c 330 s 1 are each amended to  
18 read as follows:

19 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a  
20 manufacturer or processor for hire of machinery and equipment used  
21 directly in a manufacturing operation or research and development  
22 operation, or to sales of or charges made for labor and services  
23 rendered in respect to installing, repairing, cleaning, altering, or  
24 improving the machinery and equipment, but only when the purchaser  
25 provides the seller with an exemption certificate in a form and manner  
26 prescribed by the department by rule. The seller shall retain a copy  
27 of the certificate for the seller's files.

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

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

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

38 (i) Hand-powered tools;

1 (ii) Property with a useful life of less than one year;  
2 (iii) Buildings, other than machinery and equipment that is  
3 permanently affixed to or becomes a physical part of a building; and  
4 (iv) Building fixtures that are not integral to the manufacturing  
5 operation or research and development operation that are permanently  
6 affixed to and become a physical part of a building, such as utility  
7 systems for heating, ventilation, air conditioning, communications,  
8 plumbing, or electrical.

9 (c) Machinery and equipment is "used directly" in a manufacturing  
10 operation or research and development operation if the machinery and  
11 equipment:

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

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

16 (iii) Controls, guides, measures, verifies, aligns, regulates, or  
17 tests tangible personal property at the site or away from the site;

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

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

21 (vi) Produces another item of tangible personal property for use in  
22 the manufacturing operation or research and development operation;

23 (vii) Places tangible personal property in the container, package,  
24 or wrapping in which the tangible personal property is normally sold or  
25 transported; or

26 (viii) Is integral to research and development as defined in RCW  
27 82.63.010.

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

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

3 (f) "Research and development operation" means engaging in research  
4 and development as defined in RCW 82.63.010 by a manufacturer or  
5 processor for hire.

6 NEW SECTION. **Sec. 4.** The legislature intends that sections 2 and  
7 3 of this act be clarifying in nature and are retroactive in response  
8 to the administrative difficulties encountered in implementing the  
9 original legislation.

10 **Sec. 5.** RCW 82.08.02565 and 1999 c . . . s 3 (section 3 of this  
11 act) are each amended to read as follows:

12 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a  
13 manufacturer or processor for hire of machinery and equipment used  
14 directly in a manufacturing operation or research and development  
15 operation, to sales to a person engaged in testing for a manufacturer  
16 or processor for hire of machinery and equipment used directly in a  
17 testing operation, or to sales of or charges made for labor and  
18 services rendered in respect to installing, repairing, cleaning,  
19 altering, or improving the machinery and equipment, but only when the  
20 purchaser provides the seller with an exemption certificate in a form  
21 and manner prescribed by the department by rule. The seller shall  
22 retain a copy of the certificate for the seller's files.

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

24 (a) "Machinery and equipment" means industrial fixtures, devices,  
25 and support facilities, and tangible personal property that becomes an  
26 ingredient or component thereof, including repair parts and replacement  
27 parts. "Machinery and equipment" includes pollution control equipment  
28 installed and used in a manufacturing operation, testing operation, or  
29 research and development operation to prevent air pollution, water  
30 pollution, or contamination that might otherwise result from the  
31 manufacturing operation, testing operation, or research and development  
32 operation.

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

34 (i) Hand-powered tools;

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

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

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

6 (c) Machinery and equipment is "used directly" in a manufacturing  
7 operation, testing operation, or research and development operation if  
8 the machinery and equipment:

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

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

13 (iii) Controls, guides, measures, verifies, aligns, regulates, or  
14 tests tangible personal property at the site or away from the site;

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

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

18 (vi) Produces another item of tangible personal property for use in  
19 the manufacturing operation, testing operation, or research and  
20 development operation;

21 (vii) Places tangible personal property in the container, package,  
22 or wrapping in which the tangible personal property is normally sold or  
23 transported; or

24 (viii) Is integral to research and development as defined in RCW  
25 82.63.010.

26 (d) "Manufacturing operation" means the manufacturing of articles,  
27 substances, or commodities for sale as tangible personal property. A  
28 manufacturing operation begins at the point where the raw materials  
29 enter the manufacturing site and ends at the point where the processed  
30 material leaves the manufacturing site. The term also includes that  
31 portion of a cogeneration project that is used to generate power for  
32 consumption within the manufacturing site of which the cogeneration  
33 project is an integral part. The term does not include the production  
34 of electricity by a light and power business as defined in RCW  
35 82.16.010 or the preparation of food products on the premises of a  
36 person selling food products at retail.

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

1 (f) "Research and development operation" means engaging in research  
2 and development as defined in RCW 82.63.010 by a manufacturer or  
3 processor for hire.

4 (g) "Testing" means activities performed to establish or determine  
5 the properties, qualities, and limitations of tangible personal  
6 property.

7 (h) "Testing operation" means the testing of tangible personal  
8 property for a manufacturer or processor for hire. A testing operation  
9 begins at the point where the tangible personal property enters the  
10 testing site and ends at the point where the tangible personal property  
11 leaves the testing site. The term also includes that portion of a  
12 cogeneration project that is used to generate power for consumption  
13 within the site of which the cogeneration project is an integral part.  
14 The term does not include the production of electricity by a light and  
15 power business as defined in RCW 82.16.010 or the preparation of food  
16 products on the premises of a person selling food products at retail.

17 **Sec. 6.** RCW 82.12.02565 and 1998 c 330 s 2 are each amended to  
18 read as follows:

19 The provisions of this chapter shall not apply in respect to the  
20 use by a manufacturer or processor for hire of machinery and equipment  
21 used directly in a manufacturing operation or research and development  
22 operation or to the use by a person engaged in testing for a  
23 manufacturer or processor for hire of machinery and equipment used  
24 directly in a testing operation.

25 NEW SECTION. **Sec. 7.** Sections 1 through 4 of this act are  
26 necessary for the immediate preservation of the public peace, health,  
27 or safety, or support of the state government and its existing public  
28 institutions, and take effect immediately.

29 ***\*NEW SECTION. Sec. 8. Sections 5 and 6 of this act are necessary***  
30 ***for the immediate preservation of the public peace, health, or safety,***  
31 ***or support of the state government and its existing public***  
32 ***institutions, and take effect July 1, 1999.***

33 ***\*Sec. 8 was vetoed. See message at end of chapter.***

Passed the House March 15, 1999.

Passed the Senate April 16, 1999.

Approved by the Governor May 7, 1999, with the exception of certain  
items that were vetoed.

Filed in Office of Secretary of State May 7, 1999.

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

2 "I am returning herewith, without my approval as to section 8,  
3 Engrossed Substitute House Bill No. 1887 entitled:

4 "AN ACT Relating to revising the machinery and equipment tax  
5 exemption by more precisely describing terminology and  
6 eligibility;"

7 Engrossed Substitute House Bill No. 1887 clarifies the intent of  
8 the legislature regarding the application of the retail sales and use  
9 tax exemption for manufacturing equipment and machinery, and extends  
10 the exemption to machinery and equipment for businesses that perform  
11 testing of manufactured goods for manufacturers or processors for hire.

12 ESHB 1887 clarifies the scope of a tax exemption and is very  
13 important. Taxpayers who are eligible for the exemption, as well as  
14 our state and local governments, need the certainty that this bill will  
15 provide. I have assumed, as did the legislature (as indicated by our  
16 respective balance sheets), that there is no fiscal impact associated  
17 with sections 1 through 4 of the bill. That is based on the continuing  
18 application of the "majority use" standard for machinery and equipment  
19 that has both qualifying and nonqualifying uses. The majority use  
20 standard affords meaningful use of the exemption to taxpayers, is fair,  
21 and is a reasonable way to administer the exemption consistent with the  
22 law, legislative intent, and promotion of economic development in our  
23 state. I strongly support the Department of Revenue's continued use of  
24 this standard.

25 Section 8 of ESHB 1887 is an emergency clause providing a July 1,  
26 1999 effective date for sections 5 and 6 of the bill. Sections 5 and  
27 6 extend the benefits of the tax exemption to testing operations.  
28 Unlike the remainder of this legislation, sections 5 and 6 represent a  
29 clear change in policy rather than a clarification of the 1995 law.  
30 The need for the policy change, although important, does not constitute  
31 an emergency.

32 For these reasons, I have vetoed section 8 of Engrossed Substitute  
33 House Bill No. 1887. With the exception of section 8, Engrossed  
34 Substitute House Bill No. 1887 is approved."