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**SUBSTITUTE SENATE BILL 5109**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** Senate Trade & Economic Development (originally sponsored by Senators Padden, Benton, Smith, and Conway)

READ FIRST TIME 02/21/13.

1 AN ACT Relating to creating a business and occupation tax credit  
2 for new businesses; adding a new section to chapter 82.04 RCW;  
3 providing an effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW  
6 to read as follows:

7 (1) In computing the tax imposed under this chapter, an eligible  
8 new business is allowed a credit under either (a) or (b) of this  
9 subsection. The credit must be taken after all other credits and  
10 deductions have been applied.

11 (a) During the first twelve months after being approved by the  
12 department a credit is allowed in an amount equal to one hundred  
13 percent of the tax otherwise due under this chapter; or

14 (b) If a new business has less than twenty-five employment  
15 positions at the time it applies for the credit during the first  
16 twenty-four months after being approved by the department, a credit is  
17 allowed in an amount equal to one hundred percent of the tax otherwise  
18 due under this chapter. During the next twelve months of operation of

1 the business, the business is allowed a credit equal to fifty percent  
2 of the tax otherwise due under this chapter.

3 (2) The following definitions in this subsection apply throughout  
4 this section unless the context clearly requires otherwise.

5 (a) "Employment position" means a full-time, permanent employee of  
6 the new business.

7 (b)(i) "New business" means a business that has not been operating  
8 in Washington longer than twelve months from the time the business  
9 applies for the credit under this section. The date that a new  
10 business began operating in Washington, for purposes of this section,  
11 is calculated from the date that a new business first engages in  
12 business in Washington or engages in any activity that generates gross  
13 income of the business from sources within this state regardless of  
14 physical presence.

15 (ii) "New business" does not include:

16 (A) A business that has been reincorporated, restructured,  
17 reorganized, or transferred, unless the majority of the activities to  
18 be conducted after the reincorporation, restructuring, reorganization,  
19 or transfer, calculated by relative gross income, are significantly  
20 different from the activities previously conducted;

21 (B) A new branch location or other facility, unless such new branch  
22 location or other facility is by an existing out-of-state entity first  
23 doing business in this state; and

24 (C) A business that is substantially similar to a business  
25 currently operated, or operated within the past five years, when the  
26 majority of the beneficial ownership is the same.

27 (iii) For the purposes of this section, a business or business  
28 activities are presumed to be "substantially similar" and not  
29 "significantly different" if properly within the same industry group of  
30 the North American industry classification system.

31 (3) A new business must file an application, in the form and manner  
32 required by the department, to qualify for the credit under this  
33 section.

34 (4) The credit under this section is not available during any  
35 period in which a business is operating in Washington but has not  
36 registered with the department as required under RCW 82.32.030.

1        NEW SECTION.    **Sec. 2.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of the  
3    state government and its existing public institutions, and takes effect  
4    July 1, 2013.

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