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SENATE BILL 6184

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State of Washington

64th Legislature

2016 Regular Session

By Senators Habib, Roach, McAuliffe, and Hasegawa

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1 AN ACT Relating to the excise taxation of martial arts; amending  
2 RCW 82.04.050; creating new sections; providing an effective date;  
3 and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) This section is the tax preference  
6 performance statement for the tax preference contained in section 2  
7 of this act. It is not intended to create a private right of action  
8 by any party or be used to determine eligibility for preferential tax  
9 treatment.

10 (2) The legislature categorizes the tax preference created in  
11 this act as one intended to reduce structural inefficiencies in the  
12 tax structure as indicated in RCW 82.32.808(2)(d).

13 (3) It is the legislature's specific public policy objective to  
14 provide permanent tax relief that corrects the structural  
15 inefficiencies under RCW 82.04.050 with regard to martial arts  
16 instruction and training that takes place outside of fitness  
17 facilities.

18 **Sec. 2.** RCW 82.04.050 and 2015 3rd sp.s. c 6 s 1105 are each  
19 amended to read as follows:

1 (1)(a) "Sale at retail" or "retail sale" means every sale of  
2 tangible personal property (including articles produced, fabricated,  
3 or imprinted) to all persons irrespective of the nature of their  
4 business and including, among others, without limiting the scope  
5 hereof, persons who install, repair, clean, alter, improve,  
6 construct, or decorate real or personal property of or for consumers  
7 other than a sale to a person who:

8 (i) Purchases for the purpose of resale as tangible personal  
9 property in the regular course of business without intervening use by  
10 such person, but a purchase for the purpose of resale by a regional  
11 transit authority under RCW 81.112.300 is not a sale for resale; or

12 (ii) Installs, repairs, cleans, alters, imprints, improves,  
13 constructs, or decorates real or personal property of or for  
14 consumers, if such tangible personal property becomes an ingredient  
15 or component of such real or personal property without intervening  
16 use by such person; or

17 (iii) Purchases for the purpose of consuming the property  
18 purchased in producing for sale as a new article of tangible personal  
19 property or substance, of which such property becomes an ingredient  
20 or component or is a chemical used in processing, when the primary  
21 purpose of such chemical is to create a chemical reaction directly  
22 through contact with an ingredient of a new article being produced  
23 for sale; or

24 (iv) Purchases for the purpose of consuming the property  
25 purchased in producing ferrosilicon which is subsequently used in  
26 producing magnesium for sale, if the primary purpose of such property  
27 is to create a chemical reaction directly through contact with an  
28 ingredient of ferrosilicon; or

29 (v) Purchases for the purpose of providing the property to  
30 consumers as part of competitive telephone service, as defined in RCW  
31 82.04.065; or

32 (vi) Purchases for the purpose of satisfying the person's  
33 obligations under an extended warranty as defined in subsection (7)  
34 of this section, if such tangible personal property replaces or  
35 becomes an ingredient or component of property covered by the  
36 extended warranty without intervening use by such person.

37 (b) The term includes every sale of tangible personal property  
38 that is used or consumed or to be used or consumed in the performance  
39 of any activity defined as a "sale at retail" or "retail sale" even

1 though such property is resold or used as provided in (a)(i) through  
2 (vi) of this subsection following such use.

3 (c) The term also means every sale of tangible personal property  
4 to persons engaged in any business that is taxable under RCW  
5 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

6 (2) The term "sale at retail" or "retail sale" includes the sale  
7 of or charge made for tangible personal property consumed and/or for  
8 labor and services rendered in respect to the following:

9 (a) The installing, repairing, cleaning, altering, imprinting, or  
10 improving of tangible personal property of or for consumers,  
11 including charges made for the mere use of facilities in respect  
12 thereto, but excluding charges made for the use of self-service  
13 laundry facilities, and also excluding sales of laundry service to  
14 nonprofit health care facilities, and excluding services rendered in  
15 respect to live animals, birds and insects;

16 (b) The constructing, repairing, decorating, or improving of new  
17 or existing buildings or other structures under, upon, or above real  
18 property of or for consumers, including the installing or attaching  
19 of any article of tangible personal property therein or thereto,  
20 whether or not such personal property becomes a part of the realty by  
21 virtue of installation, and also includes the sale of services or  
22 charges made for the clearing of land and the moving of earth  
23 excepting the mere leveling of land used in commercial farming or  
24 agriculture;

25 (c) The constructing, repairing, or improving of any structure  
26 upon, above, or under any real property owned by an owner who conveys  
27 the property by title, possession, or any other means to the person  
28 performing such construction, repair, or improvement for the purpose  
29 of performing such construction, repair, or improvement and the  
30 property is then reconveyed by title, possession, or any other means  
31 to the original owner;

32 (d) The cleaning, fumigating, razing, or moving of existing  
33 buildings or structures, but does not include the charge made for  
34 janitorial services; and for purposes of this section the term  
35 "janitorial services" means those cleaning and caretaking services  
36 ordinarily performed by commercial janitor service businesses  
37 including, but not limited to, wall and window washing, floor  
38 cleaning and waxing, and the cleaning in place of rugs, drapes and  
39 upholstery. The term "janitorial services" does not include painting,

1 papering, repairing, furnace or septic tank cleaning, snow removal or  
2 sandblasting;

3 (e) Automobile towing and similar automotive transportation  
4 services, but not in respect to those required to report and pay  
5 taxes under chapter 82.16 RCW;

6 (f) The furnishing of lodging and all other services by a hotel,  
7 rooming house, tourist court, motel, trailer camp, and the granting  
8 of any similar license to use real property, as distinguished from  
9 the renting or leasing of real property, and it is presumed that the  
10 occupancy of real property for a continuous period of one month or  
11 more constitutes a rental or lease of real property and not a mere  
12 license to use or enjoy the same. For the purposes of this  
13 subsection, it is presumed that the sale of and charge made for the  
14 furnishing of lodging for a continuous period of one month or more to  
15 a person is a rental or lease of real property and not a mere license  
16 to enjoy the same;

17 (g) The installing, repairing, altering, or improving of digital  
18 goods for consumers;

19 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)  
20 of this subsection when such sales or charges are for property, labor  
21 and services which are used or consumed in whole or in part by such  
22 persons in the performance of any activity defined as a "sale at  
23 retail" or "retail sale" even though such property, labor and  
24 services may be resold after such use or consumption. Nothing  
25 contained in this subsection may be construed to modify subsection  
26 (1) of this section and nothing contained in subsection (1) of this  
27 section may be construed to modify this subsection.

28 (3) The term "sale at retail" or "retail sale" includes the sale  
29 of or charge made for personal, business, or professional services  
30 including amounts designated as interest, rents, fees, admission, and  
31 other service emoluments however designated, received by persons  
32 engaging in the following business activities:

33 (a) Abstract, title insurance, and escrow services;

34 (b) Credit bureau services;

35 (c) Automobile parking and storage garage services;

36 (d) Landscape maintenance and horticultural services but  
37 excluding (i) horticultural services provided to farmers and (ii)  
38 pruning, trimming, repairing, removing, and clearing of trees and  
39 brush near electric transmission or distribution lines or equipment,  
40 if performed by or at the direction of an electric utility;

1 (e) Service charges associated with tickets to professional  
2 sporting events;

3 (f) The following personal services: Tanning salon services,  
4 tattoo parlor services, steam bath services, turkish bath services,  
5 escort services, and dating services; and

6 (g)(i) Operating an athletic or fitness facility, including all  
7 charges for the use of such a facility or for any associated services  
8 and amenities, except as provided in (g)(ii) of this subsection.

9 (ii) Notwithstanding anything to the contrary in (g)(i) of this  
10 subsection (3), the term "sale at retail" and "retail sale" under  
11 this subsection does not include:

12 (A) Separately stated charges for the use of an athletic or  
13 fitness facility where such use is primarily for a purpose other than  
14 engaging in or receiving instruction in a physical fitness activity;

15 (B) Separately stated charges for the use of a discrete portion  
16 of an athletic or fitness facility, other than a pool, where such  
17 discrete portion of the facility does not by itself meet the  
18 definition of "athletic or fitness facility" in this subsection;

19 (C) Separately stated charges for services, such as advertising,  
20 massage, nutritional consulting, and body composition testing, that  
21 do not require the customer to engage in physical fitness activities  
22 to receive the service. The exclusion in this subsection  
23 (3)(g)(ii)(C) does not apply to personal training services and  
24 instruction in a physical fitness activity;

25 (D) Separately stated charges for physical therapy provided by a  
26 physical therapist, as those terms are defined in RCW 18.74.010, or  
27 occupational therapy provided by an occupational therapy  
28 practitioner, as those terms are defined in RCW 18.59.020, when  
29 performed pursuant to a referral from an authorized health care  
30 practitioner or in consultation with an authorized health care  
31 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an  
32 authorized health care practitioner means a health care practitioner  
33 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or  
34 18.71A RCW;

35 (E) Rent or association fees charged by a landlord or residential  
36 association to a tenant or residential owner with access to an  
37 athletic or fitness facility maintained by the landlord or  
38 residential association, unless the rent or fee varies depending on  
39 whether the tenant or owner has access to the facility;

1 (F) Services provided in the regular course of employment by an  
2 employee with access to an athletic or fitness facility maintained by  
3 the employer for use without charge by its employees or their family  
4 members;

5 (G) The provision of access to an athletic or fitness facility by  
6 an educational institution to its students and staff. However,  
7 charges made by an educational institution to its alumni or other  
8 members of the public for the use of any of the educational  
9 institution's athletic or fitness facilities are a retail sale under  
10 this subsection (3)(g). For purposes of this subsection  
11 (3)(g)(ii)(G), "educational institution" has the same meaning as in  
12 RCW 82.04.170; ~~((and))~~

13 (H) Yoga, ~~((tai chi, or))~~ chi gong, or martial arts classes,  
14 training, or events held at a community center, park, school,  
15 gymnasium, college or university, hospital or other medical facility,  
16 private residence, or any facility that is not primarily used for  
17 physical fitness activities other than yoga, ~~((tai chi, or))~~ chi  
18 gong, or martial arts classes, training, or events.

19 (iii) Nothing in (g)(ii) of this subsection (3) may be construed  
20 to affect the taxation of sales made by the operator of an athletic  
21 or fitness facility, where such sales are defined as a retail sale  
22 under any provision of this section other than this subsection (3).

23 (iv) For the purposes of this subsection (3)(g), the following  
24 definitions apply:

25 (A) "Athletic or fitness facility" means an indoor or outdoor  
26 facility or portion of a facility that is primarily used for:  
27 Exercise classes; strength and conditioning programs; personal  
28 training services; tennis, racquetball, handball, squash, or  
29 pickleball; yoga; boxing, kickboxing, wrestling, martial arts, or  
30 mixed martial arts training; or other activities requiring the use of  
31 exercise or strength training equipment, such as treadmills,  
32 elliptical machines, stair climbers, stationary cycles, rowing  
33 machines, pilates equipment, balls, climbing ropes, jump ropes, and  
34 weightlifting equipment.

35 (B) "Martial arts" means any of the various systems of training  
36 for physical combat or self-defense. "Martial arts" includes, but is  
37 not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing,  
38 kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido,  
39 Kendo, tai chi, and mixed martial arts.

1       (C) "Physical fitness activities" means activities that involve  
2 physical exertion for the purpose of improving or maintaining the  
3 general fitness, strength, flexibility, conditioning, or health of  
4 the participant.

5       (4)(a) The term also includes the renting or leasing of tangible  
6 personal property to consumers.

7       (b) The term does not include the renting or leasing of tangible  
8 personal property where the lease or rental is for the purpose of  
9 sublease or subrent.

10       (5) The term also includes the providing of "competitive  
11 telephone service," "telecommunications service," or "ancillary  
12 services," as those terms are defined in RCW 82.04.065, to consumers.

13       (6)(a) The term also includes the sale of prewritten computer  
14 software to a consumer, regardless of the method of delivery to the  
15 end user. For purposes of (a) and (b) of this subsection, the sale of  
16 prewritten computer software includes the sale of or charge made for  
17 a key or an enabling or activation code, where the key or code is  
18 required to activate prewritten computer software and put the  
19 software into use. There is no separate sale of the key or code from  
20 the prewritten computer software, regardless of how the sale may be  
21 characterized by the vendor or by the purchaser.

22       (b) The term "retail sale" does not include the sale of or charge  
23 made for:

24       (i) Custom software; or

25       (ii) The customization of prewritten computer software.

26       (c)(i) The term also includes the charge made to consumers for  
27 the right to access and use prewritten computer software, where  
28 possession of the software is maintained by the seller or a third  
29 party, regardless of whether the charge for the service is on a per  
30 use, per user, per license, subscription, or some other basis.

31       (ii)(A) The service described in (c)(i) of this subsection (6)  
32 includes the right to access and use prewritten computer software to  
33 perform data processing.

34       (B) For purposes of this subsection (6)(c)(ii), "data processing"  
35 means the systematic performance of operations on data to extract the  
36 required information in an appropriate form or to convert the data to  
37 usable information. Data processing includes check processing, image  
38 processing, form processing, survey processing, payroll processing,  
39 claim processing, and similar activities.

1 (7) The term also includes the sale of or charge made for an  
2 extended warranty to a consumer. For purposes of this subsection,  
3 "extended warranty" means an agreement for a specified duration to  
4 perform the replacement or repair of tangible personal property at no  
5 additional charge or a reduced charge for tangible personal property,  
6 labor, or both, or to provide indemnification for the replacement or  
7 repair of tangible personal property, based on the occurrence of  
8 specified events. The term "extended warranty" does not include an  
9 agreement, otherwise meeting the definition of extended warranty in  
10 this subsection, if no separate charge is made for the agreement and  
11 the value of the agreement is included in the sales price of the  
12 tangible personal property covered by the agreement. For purposes of  
13 this subsection, "sales price" has the same meaning as in RCW  
14 82.08.010.

15 (8)(a) The term also includes the following sales to consumers of  
16 digital goods, digital codes, and digital automated services:

17 (i) Sales in which the seller has granted the purchaser the right  
18 of permanent use;

19 (ii) Sales in which the seller has granted the purchaser a right  
20 of use that is less than permanent;

21 (iii) Sales in which the purchaser is not obligated to make  
22 continued payment as a condition of the sale; and

23 (iv) Sales in which the purchaser is obligated to make continued  
24 payment as a condition of the sale.

25 (b) A retail sale of digital goods, digital codes, or digital  
26 automated services under this subsection (8) includes any services  
27 provided by the seller exclusively in connection with the digital  
28 goods, digital codes, or digital automated services, whether or not a  
29 separate charge is made for such services.

30 (c) For purposes of this subsection, "permanent" means perpetual  
31 or for an indefinite or unspecified length of time. A right of  
32 permanent use is presumed to have been granted unless the agreement  
33 between the seller and the purchaser specifies or the circumstances  
34 surrounding the transaction suggest or indicate that the right to use  
35 terminates on the occurrence of a condition subsequent.

36 (9) The term also includes the charge made for providing tangible  
37 personal property along with an operator for a fixed or indeterminate  
38 period of time. A consideration of this is that the operator is  
39 necessary for the tangible personal property to perform as designed.

1 For the purpose of this subsection (9), an operator must do more than  
2 maintain, inspect, or set up the tangible personal property.

3 (10) The term does not include the sale of or charge made for  
4 labor and services rendered in respect to the building, repairing, or  
5 improving of any street, place, road, highway, easement, right-of-  
6 way, mass public transportation terminal or parking facility, bridge,  
7 tunnel, or trestle which is owned by a municipal corporation or  
8 political subdivision of the state or by the United States and which  
9 is used or to be used primarily for foot or vehicular traffic  
10 including mass transportation vehicles of any kind.

11 (11) The term also does not include sales of chemical sprays or  
12 washes to persons for the purpose of postharvest treatment of fruit  
13 for the prevention of scald, fungus, mold, or decay, nor does it  
14 include sales of feed, seed, seedlings, fertilizer, agents for  
15 enhanced pollination including insects such as bees, and spray  
16 materials to: (a) Persons who participate in the federal conservation  
17 reserve program, the environmental quality incentives program, the  
18 wetlands reserve program, and the wildlife habitat incentives  
19 program, or their successors administered by the United States  
20 department of agriculture; (b) farmers for the purpose of producing  
21 for sale any agricultural product; (c) farmers for the purpose of  
22 providing bee pollination services; and (d) farmers acting under  
23 cooperative habitat development or access contracts with an  
24 organization exempt from federal income tax under 26 U.S.C. Sec.  
25 501(c)(3) of the federal internal revenue code or the Washington  
26 state department of fish and wildlife to produce or improve wildlife  
27 habitat on land that the farmer owns or leases.

28 (12) The term does not include the sale of or charge made for  
29 labor and services rendered in respect to the constructing,  
30 repairing, decorating, or improving of new or existing buildings or  
31 other structures under, upon, or above real property of or for the  
32 United States, any instrumentality thereof, or a county or city  
33 housing authority created pursuant to chapter 35.82 RCW, including  
34 the installing, or attaching of any article of tangible personal  
35 property therein or thereto, whether or not such personal property  
36 becomes a part of the realty by virtue of installation. Nor does the  
37 term include the sale of services or charges made for the clearing of  
38 land and the moving of earth of or for the United States, any  
39 instrumentality thereof, or a county or city housing authority. Nor  
40 does the term include the sale of services or charges made for

1 cleaning up for the United States, or its instrumentalities,  
2 radioactive waste and other by-products of weapons production and  
3 nuclear research and development.

4 (13) The term does not include the sale of or charge made for  
5 labor, services, or tangible personal property pursuant to agreements  
6 providing maintenance services for bus, rail, or rail fixed guideway  
7 equipment when a regional transit authority is the recipient of the  
8 labor, services, or tangible personal property, and a transit agency,  
9 as defined in RCW 81.104.015, performs the labor or services.

10 (14) The term does not include the sale for resale of any service  
11 described in this section if the sale would otherwise constitute a  
12 "sale at retail" and "retail sale" under this section.

13 (15)(a) The term "sale at retail" or "retail sale" includes  
14 amounts charged, however labeled, to consumers to engage in any of  
15 the activities listed in this subsection (15)(a), including the  
16 furnishing of any associated equipment or, except as otherwise  
17 provided in this subsection, providing instruction in such  
18 activities, where such charges are not otherwise defined as a "sale  
19 at retail" or "retail sale" in this section:

20 (i)(A) Golf, including any variant in which either golf balls or  
21 golf clubs are used, such as miniature golf, hitting golf balls at a  
22 driving range, and golf simulators, and including fees charged by a  
23 golf course to a player for using his or her own cart. However,  
24 charges for golf instruction are not a retail sale, provided that if  
25 the instruction involves the use of a golfing facility that would  
26 otherwise require the payment of a fee, such as green fees or driving  
27 range fees, such fees, including the applicable retail sales tax,  
28 must be separately identified and charged by the golfing facility  
29 operator to the instructor or the person receiving the instruction.

30 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except  
31 as otherwise provided in this subsection (15)(a)(i)(B), the term  
32 "sale at retail" or "retail sale" does not include amounts charged to  
33 participate in, or conduct, a golf tournament or other competitive  
34 event. However, amounts paid by event participants to the golf  
35 facility operator are retail sales under this subsection (15)(a)(i).  
36 Likewise, amounts paid by the event organizer to the golf facility  
37 are retail sales under this subsection (15)(a)(i), if such amounts  
38 vary based on the number of event participants;

39 (ii) Ballooning, hang gliding, indoor or outdoor sky diving,  
40 paragliding, parasailing, and similar activities;

1 (iii) Air hockey, billiards, pool, foosball, darts, shuffleboard,  
2 ping pong, and similar games;

3 (iv) Access to amusement park, theme park, and water park  
4 facilities, including but not limited to charges for admission and  
5 locker or cabana rentals. Discrete charges for rides or other  
6 attractions or entertainment that are in addition to the charge for  
7 admission are not a retail sale under this subsection (15)(a)(iv).  
8 For the purposes of this subsection, an amusement park or theme park  
9 is a location that provides permanently affixed amusement rides,  
10 games, and other entertainment, but does not include parks or zoos  
11 for which the primary purpose is the exhibition of wildlife, or  
12 fairs, carnivals, and festivals as defined in (b)(i) of this  
13 subsection;

14 (v) Batting cage activities;

15 (vi) Bowling, but not including competitive events, except that  
16 amounts paid by the event participants to the bowling alley operator  
17 are retail sales under this subsection (15)(a)(vi). Likewise, amounts  
18 paid by the event organizer to the operator of the bowling alley are  
19 retail sales under this subsection (15)(a)(vi), if such amounts vary  
20 based on the number of event participants;

21 (vii) Climbing on artificial climbing structures, whether indoors  
22 or outdoors;

23 (viii) Day trips for sightseeing purposes;

24 (ix) Bungee jumping, zip lining, and riding inside a ball,  
25 whether inflatable or otherwise;

26 (x) Horseback riding offered to the public, where the seller  
27 furnishes the horse to the buyer and providing instruction is not the  
28 primary focus of the activity, including guided rides, but not  
29 including therapeutic horseback riding provided by an instructor  
30 certified by a nonprofit organization that offers national or  
31 international certification for therapeutic riding instructors;

32 (xi) Fishing, including providing access to private fishing areas  
33 and charter or guided fishing, except that fishing contests and  
34 license fees imposed by a government entity are not a retail sale  
35 under this subsection;

36 (xii) Guided hunting and hunting at game farms and shooting  
37 preserves, except that hunting contests and license fees imposed by a  
38 government entity are not a retail sale under this subsection;

39 (xiii) Swimming, but only in respect to (A) recreational or  
40 fitness swimming that is open to the public, such as open swim, lap

1 swimming, and special events like kids night out and pool parties  
2 during open swim time, and (B) pool parties for private events, such  
3 as birthdays, family gatherings, and employee outings. Fees for  
4 swimming lessons, to participate in swim meets and other  
5 competitions, or to join a swim team, club, or aquatic facility are  
6 not retail sales under this subsection (15)(a)(xiii);

7 (xiv) Go-karting, bumper cars, and other motorized activities  
8 where the seller provides the vehicle and the premises where the  
9 buyer will operate the vehicle;

10 (xv) Indoor or outdoor playground activities, such as inflatable  
11 bounce structures and other inflatables; mazes; trampolines; slides;  
12 ball pits; games of tag, including laser tag and soft-dart tag; and  
13 human gyroscope rides, regardless of whether such activities occur at  
14 the seller's place of business, but not including playground  
15 activities provided for children by a licensed child day care center  
16 or licensed family day care provider as those terms are defined in  
17 RCW 43.215.010;

18 (xvi) Shooting sports and activities, such as target shooting,  
19 skeet, trap, sporting clays, "5" stand, and archery, but only in  
20 respect to discrete charges to members of the public to engage in  
21 these activities, but not including fees to enter a competitive  
22 event, instruction that is entirely or predominately classroom based,  
23 or to join or renew a membership at a club, range, or other facility;

24 (xvii) Paintball and airsoft activities;

25 (xviii) Skating, including ice skating, roller skating, and  
26 inline skating, but only in respect to discrete charges to members of  
27 the public to engage in skating activities, but not including skating  
28 lessons, competitive events, team activities, or fees to join or  
29 renew a membership at a skating facility, club, or other  
30 organization;

31 (xix) Nonmotorized snow sports and activities, such as downhill  
32 and cross-country skiing, snowboarding, ski jumping, sledding, snow  
33 tubing, snowshoeing, and similar snow sports and activities, whether  
34 engaged in outdoors or in an indoor facility with or without snow,  
35 but only in respect to discrete charges to the public for the use of  
36 land or facilities to engage in nonmotorized snow sports and  
37 activities, such as fees, however labeled, for the use of ski lifts  
38 and tows and daily or season passes for access to trails or other  
39 areas where nonmotorized snow sports and activities are conducted.  
40 However, fees for the following are not retail sales under this

1 subsection (15)(a)(xix): (A) Instructional lessons; (B) permits  
2 issued by a governmental entity to park a vehicle on or access public  
3 lands; and (C) permits or leases granted by an owner of private  
4 timberland for recreational access to areas used primarily for  
5 growing and harvesting timber; and

6 (xx) Scuba diving; snorkeling; river rafting; surfing;  
7 kiteboarding; flyboarding; water slides; inflatables, such as water  
8 pillows, water trampolines, and water rollers; and similar water  
9 sports and activities.

10 (b) Notwithstanding anything to the contrary in this subsection  
11 (15), the term "sale at retail" or "retail sale" does not include  
12 charges:

13 (i) Made for admission to, and rides or attractions at, fairs,  
14 carnivals, and festivals. For the purposes of this subsection, fairs,  
15 carnivals, and festivals are events that do not exceed twenty-one  
16 days and a majority of the amusement rides, if any, are not affixed  
17 to real property;

18 (ii) Made by an educational institution to its students and staff  
19 for activities defined as retail sales by (a)(i) through (xx) of this  
20 subsection. However, charges made by an educational institution to  
21 its alumni or other members of the general public for these  
22 activities are a retail sale under this subsection (15). For purposes  
23 of this subsection (15)(b)(ii), "educational institution" has the  
24 same meaning as in RCW 82.04.170;

25 (iii) Made by a vocational school for commercial diver training  
26 that is licensed by the workforce training and education coordinating  
27 board under chapter 28C.10 RCW; or

28 (iv) Made for day camps offered by a nonprofit organization or  
29 state or local governmental entity that provide youth not older than  
30 age eighteen, or that are focused on providing individuals with  
31 disabilities or mental illness, the opportunity to participate in a  
32 variety of supervised activities.

33 NEW SECTION. **Sec. 3.** RCW 82.32.805 and 82.32.808 do not apply  
34 to this act.

35 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
36 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes  
2 effect April 1, 2016.

--- END ---