

---

**SUBSTITUTE SENATE BILL 6656**

---

**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senators Bauer, Cantu, Sutherland, Moyer, Owen, Hale, Hargrove, Schow, Heavey, Wood, Rasmussen, Strannigan, Sheldon, Finkbeiner, Franklin, Johnson, Snyder, West, Winsley, Zarelli, Long, Deccio, Oke, Spanel and A. Anderson)

Read first time 03/07/96.

1 AN ACT Relating to sales and use tax exemptions for manufacturing  
2 machinery and equipment; amending RCW 82.04.190 and 82.08.02565;  
3 creating a new section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the health,  
6 safety, and welfare of the people of the state of Washington are  
7 heavily dependent upon the continued encouragement, development, and  
8 expansion of opportunities for family wage employment in the state's  
9 manufacturing industries.

10 The legislature also finds that sales and use tax exemptions for  
11 manufacturing machinery and equipment enacted by the 1995 legislature  
12 have improved Washington's ability to compete with other states for  
13 manufacturing investment, but that additional incentives for  
14 manufacturers need to be adopted to solidify and enhance the state's  
15 competitive position.

16 The legislature intends to accomplish this by extending the current  
17 manufacturing machinery and equipment exemptions to allow a sales tax  
18 exemption for labor and service charges for repairing, cleaning,  
19 altering, or improving machinery and equipment, and a sales and use tax

1 exemption for repair and replacement parts with a useful life of one  
2 year or more.

3 **Sec. 2.** RCW 82.04.190 and 1995 1st sp.s. c 3 s 4 are each amended  
4 to read as follows:

5 "Consumer" means the following:

6 (1) Any person who purchases, acquires, owns, holds, or uses any  
7 article of tangible personal property irrespective of the nature of the  
8 person's business and including, among others, without limiting the  
9 scope hereof, persons who install, repair, clean, alter, improve,  
10 construct, or decorate real or personal property of or for consumers  
11 other than for the purpose (a) of resale as tangible personal property  
12 in the regular course of business or (b) of incorporating such property  
13 as an ingredient or component of real or personal property when  
14 installing, repairing, cleaning, altering, imprinting, improving,  
15 constructing, or decorating such real or personal property of or for  
16 consumers or (c) of consuming such property in producing for sale a new  
17 article of tangible personal property or a new substance, of which such  
18 property becomes an ingredient or component or as a chemical used in  
19 processing, when the primary purpose of such chemical is to create a  
20 chemical reaction directly through contact with an ingredient of a new  
21 article being produced for sale or (d) purchases for the purpose of  
22 consuming the property purchased in producing ferrosilicon which is  
23 subsequently used in producing magnesium for sale, if the primary  
24 purpose of such property is to create a chemical reaction directly  
25 through contact with an ingredient of ferrosilicon;

26 (2) Any person engaged in any business activity taxable under RCW  
27 82.04.290 and any person who purchases, acquires, or uses any telephone  
28 service as defined in RCW 82.04.065, other than for resale in the  
29 regular course of business;

30 (3) Any person engaged in the business of contracting for the  
31 building, repairing or improving of any street, place, road, highway,  
32 easement, right of way, mass public transportation terminal or parking  
33 facility, bridge, tunnel, or trestle which is owned by a municipal  
34 corporation or political subdivision of the state of Washington or by  
35 the United States and which is used or to be used primarily for foot or  
36 vehicular traffic including mass transportation vehicles of any kind as  
37 defined in RCW 82.04.280, in respect to tangible personal property when  
38 such person incorporates such property as an ingredient or component of

1 such publicly owned street, place, road, highway, easement, right of  
2 way, mass public transportation terminal or parking facility, bridge,  
3 tunnel, or trestle by installing, placing or spreading the property in  
4 or upon the right of way of such street, place, road, highway,  
5 easement, bridge, tunnel, or trestle or in or upon the site of such  
6 mass public transportation terminal or parking facility;

7 (4) Any person who is an owner, lessee or has the right of  
8 possession to or an easement in real property which is being  
9 constructed, repaired, decorated, improved, or otherwise altered by a  
10 person engaged in business, excluding only (a) municipal corporations  
11 or political subdivisions of the state in respect to labor and services  
12 rendered to their real property which is used or held for public road  
13 purposes, and (b) the United States, instrumentalities thereof, and  
14 county and city housing authorities created pursuant to chapter 35.82  
15 RCW in respect to labor and services rendered to their real property.  
16 Nothing contained in this or any other subsection of this definition  
17 shall be construed to modify any other definition of "consumer";

18 (5) Any person who is an owner, lessee, or has the right of  
19 possession to personal property which is being constructed, repaired,  
20 improved, cleaned, imprinted, or otherwise altered by a person engaged  
21 in business;

22 (6) Any person engaged in the business of constructing, repairing,  
23 decorating, or improving new or existing buildings or other structures  
24 under, upon, or above real property of or for the United States, any  
25 instrumentality thereof, or a county or city housing authority created  
26 pursuant to chapter 35.82 RCW, including the installing or attaching of  
27 any article of tangible personal property therein or thereto, whether  
28 or not such personal property becomes a part of the realty by virtue of  
29 installation; also, any person engaged in the business of clearing land  
30 and moving earth of or for the United States, any instrumentality  
31 thereof, or a county or city housing authority created pursuant to  
32 chapter 35.82 RCW. Any such person shall be a consumer within the  
33 meaning of this subsection in respect to tangible personal property  
34 incorporated into, installed in, or attached to such building or other  
35 structure by such person; and

36 (7) Any person who is a lessor of machinery and equipment, the  
37 rental of which is exempt from the tax imposed by RCW 82.08.020 under  
38 RCW 82.08.02565, with respect to the sale of or charge made for  
39 tangible personal property consumed (~~and for labor and services~~

1 rendered)) in respect to repairing the machinery and equipment, if the  
2 tangible personal property has a useful life of less than one year.

3 Nothing contained in this or any other subsection of this  
4 definition shall be construed to modify any other definition of  
5 "consumer."

6 **Sec. 3.** RCW 82.08.02565 and 1995 1st sp.s. c 3 s 2 are each  
7 amended to read as follows:

8 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a  
9 manufacturer or processor for hire of machinery and equipment used  
10 directly in a manufacturing operation, or to sales of or charges made  
11 for labor and services rendered in respect to installing, repairing,  
12 cleaning, altering, or improving the machinery and equipment, but only  
13 when the purchaser provides the seller with an exemption certificate in  
14 a form and manner prescribed by the department by rule, and the  
15 purchaser provides the department with a duplicate of the certificate  
16 or a summary of exempt sales as the department may require. The seller  
17 shall retain a copy of the certificate for the seller's files.

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

19 (a) "Machinery and equipment" means industrial fixtures, devices,  
20 and support facilities, and tangible personal property that becomes an  
21 ingredient or component thereof, including repair parts and replacement  
22 parts. "Machinery and equipment" includes pollution control equipment  
23 installed and used in a manufacturing operation to prevent air  
24 pollution, water pollution, or contamination that might otherwise  
25 result from the manufacturing operation.

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

27 (i) Hand tools;

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

29 ~~(iii) ((Repair parts required to restore machinery and equipment to~~  
30 ~~normal working order;~~

31 ~~(iv) Replacement parts that do not increase productivity, improve~~  
32 ~~efficiency, or extend the useful life of the machinery and equipment;~~  
33 ~~or~~

34 ~~(v))~~ Buildings, other than machinery and equipment that is  
35 permanently affixed to or becomes a physical part of a building; and

36 (iv) Building fixtures that are not integral to the manufacturing  
37 operation that are permanently affixed to and become a physical part of

1 a building, such as utility systems for heating, ventilation, air  
2 conditioning, communications, plumbing, or electrical.

3 (c) Machinery and equipment is "used directly" in a manufacturing  
4 operation if the machinery and equipment:

5 (i) Acts upon or interacts with an item of tangible personal  
6 property;

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

9 (iii) Controls, guides, measures, verifies, aligns, regulates, or  
10 tests tangible personal property;

11 (iv) Provides physical support for or access to tangible personal  
12 property;

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

14 (vi) Produces another item of tangible personal property for use in  
15 the manufacturing operation; or

16 (vii) Places tangible personal property in the container, package,  
17 or wrapping in which the tangible personal property is normally sold or  
18 transported.

19 (d) "Manufacturing operation" means the manufacturing of articles,  
20 substances, or commodities for sale as tangible personal property. The  
21 manufacturing operation begins at the point where the raw materials  
22 enter the manufacturing site and ends at the point where the finished  
23 product leaves the manufacturing site. The term also includes that  
24 portion of a cogeneration project that is used to generate power for  
25 consumption within the manufacturing site of which the cogeneration  
26 project is an integral part. The term does not include research and  
27 development, the production of electricity by a light and power  
28 business as defined in RCW 82.16.010, or the preparation of food  
29 products on the premises of a person selling food products at retail.

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

32 NEW SECTION. **Sec. 4.** This act shall take effect January 1, 1997.

--- END ---