

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6510

54th Legislature
1996 Regular Session

Passed by the Senate March 7, 1996
YEAS 47 NAYS 0

President of the Senate

Passed by the House March 7, 1996
YEAS 93 NAYS 5

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6510** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6510

Passed Legislature - 1996 Regular Session

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Loveland and Hale; by request of Governor Lowry)

Read first time 03/07/96.

1 AN ACT Relating to taxation of persons engaged in the business of
2 cleaning up for the United States, or its instrumentalities,
3 radioactive waste and other byproducts of weapons production and
4 nuclear research and development; amending RCW 82.04.050, 82.04.190,
5 and 82.04.2201; adding a new section to chapter 82.04 RCW; and
6 providing an effective date.

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

8 **Sec. 1.** RCW 82.04.050 and 1995 1st sp.s. c 12 s 2 are each amended
9 to read as follows:

10 (1) "Sale at retail" or "retail sale" means every sale of tangible
11 personal property (including articles produced, fabricated, or
12 imprinted) to all persons irrespective of the nature of their business
13 and including, among others, without limiting the scope hereof, persons
14 who install, repair, clean, alter, improve, construct, or decorate real
15 or personal property of or for consumers other than a sale to a person
16 who presents a resale certificate under RCW 82.04.470 and who:

17 (a) Purchases for the purpose of resale as tangible personal
18 property in the regular course of business without intervening use by
19 such person; or

1 (b) Installs, repairs, cleans, alters, imprints, improves,
2 constructs, or decorates real or personal property of or for consumers,
3 if such tangible personal property becomes an ingredient or component
4 of such real or personal property without intervening use by such
5 person; or

6 (c) Purchases for the purpose of consuming the property purchased
7 in producing for sale a new article of tangible personal property or
8 substance, of which such property becomes an ingredient or component or
9 is a chemical used in processing, when the primary purpose of such
10 chemical is to create a chemical reaction directly through contact with
11 an ingredient of a new article being produced for sale; or

12 (d) Purchases for the purpose of consuming the property purchased
13 in producing ferrosilicon which is subsequently used in producing
14 magnesium for sale, if the primary purpose of such property is to
15 create a chemical reaction directly through contact with an ingredient
16 of ferrosilicon; or

17 (e) Purchases for the purpose of providing the property to
18 consumers as part of competitive telephone service, as defined in RCW
19 82.04.065. The term shall include every sale of tangible personal
20 property which is used or consumed or to be used or consumed in the
21 performance of any activity classified as a "sale at retail" or "retail
22 sale" even though such property is resold or utilized as provided in
23 (a), (b), (c), (d), or (e) of this subsection following such use. The
24 term also means every sale of tangible personal property to persons
25 engaged in any business which is taxable under RCW 82.04.280 (2) and
26 (7) and 82.04.290.

27 (2) The term "sale at retail" or "retail sale" shall include the
28 sale of or charge made for tangible personal property consumed and/or
29 for labor and services rendered in respect to the following:

30 (a) The installing, repairing, cleaning, altering, imprinting, or
31 improving of tangible personal property of or for consumers, including
32 charges made for the mere use of facilities in respect thereto, but
33 excluding sales of laundry service to members by nonprofit associations
34 composed exclusively of nonprofit hospitals, and excluding services
35 rendered in respect to live animals, birds and insects;

36 (b) The constructing, repairing, decorating, or improving of new or
37 existing buildings or other structures under, upon, or above real
38 property of or for consumers, including the installing or attaching of
39 any article of tangible personal property therein or thereto, whether

1 or not such personal property becomes a part of the realty by virtue of
2 installation, and shall also include the sale of services or charges
3 made for the clearing of land and the moving of earth excepting the
4 mere leveling of land used in commercial farming or agriculture;

5 (c) The charge for labor and services rendered in respect to
6 constructing, repairing, or improving any structure upon, above, or
7 under any real property owned by an owner who conveys the property by
8 title, possession, or any other means to the person performing such
9 construction, repair, or improvement for the purpose of performing such
10 construction, repair, or improvement and the property is then
11 reconveyed by title, possession, or any other means to the original
12 owner;

13 (d) The sale of or charge made for labor and services rendered in
14 respect to the cleaning, fumigating, razing or moving of existing
15 buildings or structures, but shall not include the charge made for
16 janitorial services; and for purposes of this section the term
17 "janitorial services" shall mean those cleaning and caretaking services
18 ordinarily performed by commercial janitor service businesses
19 including, but not limited to, wall and window washing, floor cleaning
20 and waxing, and the cleaning in place of rugs, drapes and upholstery.
21 The term "janitorial services" does not include painting, papering,
22 repairing, furnace or septic tank cleaning, snow removal or
23 sandblasting;

24 (e) The sale of or charge made for labor and services rendered in
25 respect to automobile towing and similar automotive transportation
26 services, but not in respect to those required to report and pay taxes
27 under chapter 82.16 RCW;

28 (f) The sale of and charge made for the furnishing of lodging and
29 all other services by a hotel, rooming house, tourist court, motel,
30 trailer camp, and the granting of any similar license to use real
31 property, as distinguished from the renting or leasing of real
32 property, and it shall be presumed that the occupancy of real property
33 for a continuous period of one month or more constitutes a rental or
34 lease of real property and not a mere license to use or enjoy the same;

35 (g) The sale of or charge made for tangible personal property,
36 labor and services to persons taxable under (a), (b), (c), (d), (e),
37 and (f) of this subsection when such sales or charges are for property,
38 labor and services which are used or consumed in whole or in part by
39 such persons in the performance of any activity defined as a "sale at

1 retail" or "retail sale" even though such property, labor and services
2 may be resold after such use or consumption. Nothing contained in this
3 subsection shall be construed to modify subsection (1) of this section
4 and nothing contained in subsection (1) of this section shall be
5 construed to modify this subsection.

6 (3) The term "sale at retail" or "retail sale" shall include the
7 sale of or charge made for personal, business, or professional services
8 including amounts designated as interest, rents, fees, admission, and
9 other service emoluments however designated, received by persons
10 engaging in the following business activities:

11 (a) Amusement and recreation services including but not limited to
12 golf, pool, billiards, skating, bowling, ski lifts and tows, and
13 others;

14 (b) Abstract, title insurance, and escrow services;

15 (c) Credit bureau services;

16 (d) Automobile parking and storage garage services;

17 (e) Landscape maintenance and horticultural services but excluding
18 (i) horticultural services provided to farmers and (ii) pruning,
19 trimming, repairing, removing, and clearing of trees and brush near
20 electric transmission or distribution lines or equipment, if performed
21 by or at the direction of an electric utility;

22 (f) Service charges associated with tickets to professional
23 sporting events;

24 (g) Guided tours and guided charters; and

25 (h) The following personal services: Physical fitness services,
26 tanning salon services, tattoo parlor services, steam bath services,
27 turkish bath services, escort services, and dating services.

28 (4) The term shall also include the renting or leasing of tangible
29 personal property to consumers and the rental of equipment with an
30 operator.

31 (5) The term shall also include the providing of telephone service,
32 as defined in RCW 82.04.065, to consumers.

33 (6) The term shall not include the sale of or charge made for labor
34 and services rendered in respect to the building, repairing, or
35 improving of any street, place, road, highway, easement, right of way,
36 mass public transportation terminal or parking facility, bridge,
37 tunnel, or trestle which is owned by a municipal corporation or
38 political subdivision of the state or by the United States and which is

1 used or to be used primarily for foot or vehicular traffic including
2 mass transportation vehicles of any kind.

3 (7) The term shall also not include sales of feed, seed, seedlings,
4 fertilizer, agents for enhanced pollination including insects such as
5 bees, and spray materials to persons who participate in the federal
6 conservation reserve program or its successor administered by the
7 United States department of agriculture, or to farmers for the purpose
8 of producing for sale any agricultural product, nor shall it include
9 sales of chemical sprays or washes to persons for the purpose of post-
10 harvest treatment of fruit for the prevention of scald, fungus, mold,
11 or decay.

12 (8) The term shall not include the sale of or charge made for labor
13 and services rendered in respect to the constructing, repairing,
14 decorating, or improving of new or existing buildings or other
15 structures under, upon, or above real property of or for the United
16 States, any instrumentality thereof, or a county or city housing
17 authority created pursuant to chapter 35.82 RCW, including the
18 installing, or attaching of any article of tangible personal property
19 therein or thereto, whether or not such personal property becomes a
20 part of the realty by virtue of installation. Nor shall the term
21 include the sale of services or charges made for the clearing of land
22 and the moving of earth of or for the United States, any
23 instrumentality thereof, or a county or city housing authority. Nor
24 shall the term include the sale of services or charges made for
25 cleaning up for the United States, or its instrumentalities,
26 radioactive waste and other byproducts of weapons production and
27 nuclear research and development.

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

30 "Consumer" means the following:

31 (1) Any person who purchases, acquires, owns, holds, or uses any
32 article of tangible personal property irrespective of the nature of the
33 person's business and including, among others, without limiting the
34 scope hereof, persons who install, repair, clean, alter, improve,
35 construct, or decorate real or personal property of or for consumers
36 other than for the purpose (a) of resale as tangible personal property
37 in the regular course of business or (b) of incorporating such property
38 as an ingredient or component of real or personal property when

1 installing, repairing, cleaning, altering, imprinting, improving,
2 constructing, or decorating such real or personal property of or for
3 consumers or (c) of consuming such property in producing for sale a new
4 article of tangible personal property or a new substance, of which such
5 property becomes an ingredient or component or as a chemical used in
6 processing, when the primary purpose of such chemical is to create a
7 chemical reaction directly through contact with an ingredient of a new
8 article being produced for sale or (d) purchases for the purpose of
9 consuming the property purchased in producing ferrosilicon which is
10 subsequently used in producing magnesium for sale, if the primary
11 purpose of such property is to create a chemical reaction directly
12 through contact with an ingredient of ferrosilicon;

13 (2) Any person engaged in any business activity taxable under RCW
14 82.04.290 and any person who purchases, acquires, or uses any telephone
15 service as defined in RCW 82.04.065, other than for resale in the
16 regular course of business;

17 (3) Any person engaged in the business of contracting for the
18 building, repairing or improving of any street, place, road, highway,
19 easement, right of way, mass public transportation terminal or parking
20 facility, bridge, tunnel, or trestle which is owned by a municipal
21 corporation or political subdivision of the state of Washington or by
22 the United States and which is used or to be used primarily for foot or
23 vehicular traffic including mass transportation vehicles of any kind as
24 defined in RCW 82.04.280, in respect to tangible personal property when
25 such person incorporates such property as an ingredient or component of
26 such publicly owned street, place, road, highway, easement, right of
27 way, mass public transportation terminal or parking facility, bridge,
28 tunnel, or trestle by installing, placing or spreading the property in
29 or upon the right of way of such street, place, road, highway,
30 easement, bridge, tunnel, or trestle or in or upon the site of such
31 mass public transportation terminal or parking facility;

32 (4) Any person who is an owner, lessee or has the right of
33 possession to or an easement in real property which is being
34 constructed, repaired, decorated, improved, or otherwise altered by a
35 person engaged in business, excluding only (a) municipal corporations
36 or political subdivisions of the state in respect to labor and services
37 rendered to their real property which is used or held for public road
38 purposes, and (b) the United States, instrumentalities thereof, and
39 county and city housing authorities created pursuant to chapter 35.82

1 RCW in respect to labor and services rendered to their real property.
2 Nothing contained in this or any other subsection of this definition
3 shall be construed to modify any other definition of "consumer";

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

8 (6) Any person engaged in the business of constructing, repairing,
9 decorating, or improving new or existing buildings or other structures
10 under, upon, or above real property of or for the United States, any
11 instrumentality thereof, or a county or city housing authority created
12 pursuant to chapter 35.82 RCW, including the installing or attaching of
13 any article of tangible personal property therein or thereto, whether
14 or not such personal property becomes a part of the realty by virtue of
15 installation; also, any person engaged in the business of clearing land
16 and moving earth of or for the United States, any instrumentality
17 thereof, or a county or city housing authority created pursuant to
18 chapter 35.82 RCW. Any such person shall be a consumer within the
19 meaning of this subsection in respect to tangible personal property
20 incorporated into, installed in, or attached to such building or other
21 structure by such person; ((and))

22 (7) Any person who is a lessor of machinery and equipment, the
23 rental of which is exempt from the tax imposed by RCW 82.08.020 under
24 RCW 82.08.02565, with respect to the sale of or charge made for
25 tangible personal property consumed and for labor and services rendered
26 in respect to repairing the machinery and equipment; and

27 (8) Any person engaged in the business of cleaning up for the
28 United States, or its instrumentalities, radioactive waste and other
29 byproducts of weapons production and nuclear research and development.

30 Nothing contained in this or any other subsection of this
31 definition shall be construed to modify any other definition of
32 "consumer."

33 NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW,
34 to be codified between RCW 82.04.220 and 82.04.290, to read as follows:

35 Upon every person engaging within this state in the business of
36 cleaning up for the United States, or its instrumentalities,
37 radioactive waste and other byproducts of weapons production and
38 nuclear research and development; as to such persons the amount of the

1 tax with respect to such business shall be equal to the value of the
2 gross income of the business multiplied by the rate of 0.471 percent.

3 For the purposes of this chapter, "cleaning up radioactive waste
4 and other byproducts of weapons production and nuclear research and
5 development" means the activities of handling, storing, treating,
6 immobilizing, stabilizing, or disposing of radioactive waste,
7 radioactive tank waste and capsules, nonradioactive hazardous solid and
8 liquid wastes, or spent nuclear fuel; spent nuclear fuel conditioning;
9 removal of contamination in soils and ground water; decontamination and
10 decommissioning of facilities; and activities integral and necessary to
11 the direct performance of cleanup.

12 **Sec. 4.** RCW 82.04.2201 and 1995 c 229 s 2 are each amended to read
13 as follows:

14 There is levied and shall be collected for the period July 1, 1993,
15 through June 30, 1997, from every person for the act or privilege of
16 engaging in business activities, as a part of the tax imposed under RCW
17 82.04.220 through 82.04.280 and 82.04.290 (3) and (4), except RCW
18 82.04.250(1) (~~and~~), 82.04.260(15), and section 3 of this act, an
19 additional tax equal to 4.5 percent multiplied by the tax payable under
20 those sections.

21 To facilitate collection of these additional taxes, the department
22 of revenue is authorized to adjust the basic rates of persons to which
23 this section applies in such manner as to reflect the amount to the
24 nearest one-thousandth of one percent of the additional tax hereby
25 imposed, adjusting ten-thousandths equal to or greater than five ten-
26 thousandths to the greater thousandth.

27 NEW SECTION. **Sec. 5.** This act shall take effect July 1, 1996.

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