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**HOUSE BILL 2640**

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**State of Washington****57th Legislature****2002 Regular Session****By** Representative Gombosky; by request of Governor Locke

Read first time 01/23/2002. Referred to Committee on Finance.

1       AN ACT Relating to including shipping charges in the measure of tax  
2 for use tax purposes; amending RCW 82.12.010; providing an effective  
3 date; and declaring an emergency.

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

5       **Sec. 1.** RCW 82.12.010 and 2001 c 188 s 3 are each amended to read  
6 as follows:

7       For the purposes of this chapter:

8       (1)(a) "Value of the article used" shall mean the consideration,  
9 whether money, credit, rights, or other property except trade-in  
10 property of like kind, expressed in terms of money, paid or given or  
11 contracted to be paid or given by the purchaser to the seller for the  
12 article of tangible personal property, the use of which is taxable  
13 under this chapter. The term includes the amount of any freight,  
14 delivery, or other like transportation charge paid or given by the  
15 purchaser to the seller with respect to the purchase of such article.  
16 The term also includes, in addition to the consideration paid or given  
17 or contracted to be paid or given, the amount of any tariff or duty  
18 paid with respect to the importation of the article used. In case the  
19 article used is acquired by lease or by gift or is extracted, produced,

1 or manufactured by the person using the same or is sold under  
2 conditions wherein the purchase price does not represent the true value  
3 thereof, the value of the article used shall be determined as nearly as  
4 possible according to the retail selling price at place of use of  
5 similar products of like quality and character under such rules as the  
6 department of revenue may prescribe.

7 (b) In case the articles used are acquired by bailment, the value  
8 of the use of the articles so used shall be in an amount representing  
9 a reasonable rental for the use of the articles so bailed, determined  
10 as nearly as possible according to the value of such use at the places  
11 of use of similar products of like quality and character under such  
12 rules as the department of revenue may prescribe. In case any such  
13 articles of tangible personal property are used in respect to the  
14 construction, repairing, decorating, or improving of, and which become  
15 or are to become an ingredient or component of, new or existing  
16 buildings or other structures under, upon, or above real property of or  
17 for the United States, any instrumentality thereof, or a county or city  
18 housing authority created pursuant to chapter 35.82 RCW, including the  
19 installing or attaching of any such articles therein or thereto,  
20 whether or not such personal property becomes a part of the realty by  
21 virtue of installation, then the value of the use of such articles so  
22 used shall be determined according to the retail selling price of such  
23 articles, or in the absence of such a selling price, as nearly as  
24 possible according to the retail selling price at place of use of  
25 similar products of like quality and character or, in the absence of  
26 either of these selling price measures, such value may be determined  
27 upon a cost basis, in any event under such rules as the department of  
28 revenue may prescribe.

29 (c) In the case of articles owned by a user engaged in business  
30 outside the state which are brought into the state for no more than one  
31 hundred eighty days in any period of three hundred sixty-five  
32 consecutive days and which are temporarily used for business purposes  
33 by the person in this state, the value of the article used shall be an  
34 amount representing a reasonable rental for the use of the articles,  
35 unless the person has paid tax under this chapter or chapter 82.08 RCW  
36 upon the full value of the article used, as defined in (a) of this  
37 subsection.

38 (d) In the case of articles manufactured or produced by the user  
39 and used in the manufacture or production of products sold or to be

1 sold to the department of defense of the United States, the value of  
2 the articles used shall be determined according to the value of the  
3 ingredients of such articles.

4 (e) In the case of an article manufactured or produced for purposes  
5 of serving as a prototype for the development of a new or improved  
6 product, the value of the article used shall be determined by: (i) The  
7 retail selling price of such new or improved product when first offered  
8 for sale; or (ii) the value of materials incorporated into the  
9 prototype in cases in which the new or improved product is not offered  
10 for sale.

11 (f) In the case of an article purchased with a direct pay permit  
12 under RCW 82.32.087, the value of the article used shall be determined  
13 by the retail selling price, as defined in RCW 82.08.010, of such  
14 article if but for the use of the direct pay permit the transaction  
15 would have been subject to sales tax;

16 (2) "Use," "used," "using," or "put to use" shall have their  
17 ordinary meaning, and shall mean the first act within this state by  
18 which the taxpayer takes or assumes dominion or control over the  
19 article of tangible personal property (as a consumer), and include  
20 installation, storage, withdrawal from storage, or any other act  
21 preparatory to subsequent actual use or consumption within this state;

22 (3) "Taxpayer" and "purchaser" include all persons included within  
23 the meaning of the word "buyer" and the word "consumer" as defined in  
24 chapters 82.04 and 82.08 RCW;

25 (4) "Retailer" means every seller as defined in RCW 82.08.010 and  
26 every person engaged in the business of selling tangible personal  
27 property at retail and every person required to collect from purchasers  
28 the tax imposed under this chapter;

29 (5) The meaning ascribed to words and phrases in chapters 82.04 and  
30 82.08 RCW, insofar as applicable, shall have full force and effect with  
31 respect to taxes imposed under the provisions of this chapter.  
32 "Consumer," in addition to the meaning ascribed to it in chapters 82.04  
33 and 82.08 RCW insofar as applicable, shall also mean any person who  
34 distributes or displays, or causes to be distributed or displayed, any  
35 article of tangible personal property, except newspapers, the primary  
36 purpose of which is to promote the sale of products or services.

37 NEW SECTION. **Sec. 2.** This act is necessary for the immediate  
38 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect  
2 June 1, 2002.

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