

---

SENATE BILL 5248

---

State of Washington                      53rd Legislature                      1993 Regular Session

By Senators M. Rasmussen, Barr, Loveland, Newhouse and Bauer

Read first time 01/19/93. Referred to Committee on Agriculture.

1            AN ACT Relating to the sale of pollination agents; amending RCW  
2 82.04.050; and declaring an emergency.

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

4            **Sec. 1.** RCW 82.04.050 and 1988 c 253 s 1 are each amended to read  
5 as follows:

6            (1) "Sale at retail" or "retail sale" means every sale of tangible  
7 personal property (including articles produced, fabricated, or  
8 imprinted) to all persons irrespective of the nature of their business  
9 and including, among others, without limiting the scope hereof, persons  
10 who install, repair, clean, alter, improve, construct, or decorate real  
11 or personal property of or for consumers other than a sale to a person  
12 who (a) purchases for the purpose of resale as tangible personal  
13 property in the regular course of business without intervening use by  
14 such person, or (b) installs, repairs, cleans, alters, imprints,  
15 improves, constructs, or decorates real or personal property of or for  
16 consumers, if such tangible personal property becomes an ingredient or  
17 component of such real or personal property without intervening use by  
18 such person, or (c) purchases for the purpose of consuming the property  
19 purchased in producing for sale a new article of tangible personal

1 property or substance, of which such property becomes an ingredient or  
2 component or is a chemical used in processing, when the primary purpose  
3 of such chemical is to create a chemical reaction directly through  
4 contact with an ingredient of a new article being produced for sale, or  
5 (d) purchases for the purpose of consuming the property purchased in  
6 producing ferrosilicon which is subsequently used in producing  
7 magnesium for sale, if the primary purpose of such property is to  
8 create a chemical reaction directly through contact with an ingredient  
9 of ferrosilicon, or (e) purchases for the purpose of providing the  
10 property to consumers as part of competitive telephone service, as  
11 defined in RCW 82.04.065. The term shall include every sale of  
12 tangible personal property which is used or consumed or to be used or  
13 consumed in the performance of any activity classified as a "sale at  
14 retail" or "retail sale" even though such property is resold or  
15 utilized as provided in (a), (b), (c), (d), or (e) above following such  
16 use. The term also means every sale of tangible personal property to  
17 persons engaged in any business which is taxable under RCW 82.04.280,  
18 subsections (2) and (7) and RCW 82.04.290.

19 (2) The term "sale at retail" or "retail sale" shall include the  
20 sale of or charge made for tangible personal property consumed and/or  
21 for labor and services rendered in respect to the following: (a) The  
22 installing, repairing, cleaning, altering, imprinting, or improving of  
23 tangible personal property of or for consumers, including charges made  
24 for the mere use of facilities in respect thereto, but excluding  
25 charges made for the use of coin operated laundry facilities when such  
26 facilities are situated in an apartment house, hotel, motel, rooming  
27 house, trailer camp or tourist camp for the exclusive use of the  
28 tenants thereof, and also excluding sales of laundry service to members  
29 by nonprofit associations composed exclusively of nonprofit hospitals,  
30 and excluding services rendered in respect to live animals, birds and  
31 insects; (b) the constructing, repairing, decorating, or improving of  
32 new or existing buildings or other structures under, upon, or above  
33 real property of or for consumers, including the installing or  
34 attaching of any article of tangible personal property therein or  
35 thereto, whether or not such personal property becomes a part of the  
36 realty by virtue of installation, and shall also include the sale of  
37 services or charges made for the clearing of land and the moving of  
38 earth excepting the mere leveling of land used in commercial farming or  
39 agriculture; (c) the charge for labor and services rendered in respect

1 to constructing, repairing, or improving any structure upon, above, or  
2 under any real property owned by an owner who conveys the property by  
3 title, possession, or any other means to the person performing such  
4 construction, repair, or improvement for the purpose of performing such  
5 construction, repair, or improvement and the property is then  
6 reconveyed by title, possession, or any other means to the original  
7 owner; (d) the sale of or charge made for labor and services rendered  
8 in respect to the cleaning, fumigating, razing or moving of existing  
9 buildings or structures, but shall not include the charge made for  
10 janitorial services; and for purposes of this section the term  
11 "janitorial services" shall mean those cleaning and caretaking services  
12 ordinarily performed by commercial janitor service businesses  
13 including, but not limited to, wall and window washing, floor cleaning  
14 and waxing, and the cleaning in place of rugs, drapes and upholstery.  
15 The term "janitorial services" does not include painting, papering,  
16 repairing, furnace or septic tank cleaning, snow removal or  
17 sandblasting; (e) the sale of or charge made for labor and services  
18 rendered in respect to automobile towing and similar automotive  
19 transportation services, but not in respect to those required to report  
20 and pay taxes under chapter 82.16 RCW; (f) the sale of and charge made  
21 for the furnishing of lodging and all other services by a hotel,  
22 rooming house, tourist court, motel, trailer camp, and the granting of  
23 any similar license to use real property, as distinguished from the  
24 renting or leasing of real property, and it shall be presumed that the  
25 occupancy of real property for a continuous period of one month or more  
26 constitutes a rental or lease of real property and not a mere license  
27 to use or enjoy the same; (g) the sale of or charge made for tangible  
28 personal property, labor and services to persons taxable under (a),  
29 (b), (c), (d), (e), and (f) above when such sales or charges are for  
30 property, labor and services which are used or consumed in whole or in  
31 part by such persons in the performance of any activity defined as a  
32 "sale at retail" or "retail sale" even though such property, labor and  
33 services may be resold after such use or consumption. Nothing  
34 contained in this paragraph shall be construed to modify the first  
35 paragraph of this section and nothing contained in the first paragraph  
36 of this section shall be construed to modify this paragraph.

37 (3) The term "sale at retail" or "retail sale" shall include the  
38 sale of or charge made for personal business or professional services  
39 including amounts designated as interest, rents, fees, admission, and

1 other service emoluments however designated, received by persons  
2 engaging in the following business activities: (a) Amusement and  
3 recreation businesses including but not limited to golf, pool,  
4 billiards, skating, bowling, ski lifts and tows and others; (b)  
5 abstract, title insurance and escrow businesses; (c) credit bureau  
6 businesses; (d) automobile parking and storage garage businesses.

7 (4) The term shall also include the renting or leasing of tangible  
8 personal property to consumers.

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

11 (6) The term shall not include the sale of or charge made for labor  
12 and services rendered in respect to the building, repairing, or  
13 improving of any street, place, road, highway, easement, right of way,  
14 mass public transportation terminal or parking facility, bridge,  
15 tunnel, or trestle which is owned by a municipal corporation or  
16 political subdivision of the state or by the United States and which is  
17 used or to be used primarily for foot or vehicular traffic including  
18 mass transportation vehicles of any kind. The term shall also not  
19 include sales of feed, seed, seedlings, fertilizer, agents for enhanced  
20 pollination including insects such as bees, and spray materials to  
21 persons who participate in the federal conservation reserve program or  
22 its successor administered by the United States department of  
23 agriculture, or to persons for the purpose of producing for sale any  
24 agricultural product whatsoever, including plantation Christmas trees  
25 and milk, eggs, wool, fur, meat, honey, or other substances obtained  
26 from animals, birds, or insects but only when such production and  
27 subsequent sale are exempt from tax under RCW 82.04.330, nor shall it  
28 include sales of chemical sprays or washes to persons for the purpose  
29 of post-harvest treatment of fruit for the prevention of scald, fungus,  
30 mold, or decay.

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

1 include the sale of services or charges made for the clearing of land  
2 and the moving of earth of or for the United States, any  
3 instrumentality thereof, or a county or city housing authority.

4 NEW SECTION. **Sec. 2.** This act is necessary for the immediate  
5 preservation of the public peace, health, or safety, or support of the  
6 state government and its existing public institutions, and shall take  
7 effect immediately.

--- END ---