
SECOND SUBSTITUTE SENATE BILL 5850

State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators M. Rasmussen, Loveland and Barr)

Read first time 03/08/93.

1 AN ACT Relating to clarifying definitions relating to farmers; and
2 amending RCW 15.04.010, 82.04.050, and 82.04.330.

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

4 **Sec. 1.** RCW 15.04.010 and 1961 c 11 s 15.04.010 are each amended
5 to read as follows:

6 As used in this title except where otherwise defined:

7 "Agricultural product" means any products of horticulture, grain
8 cultivation, vermiculture, viticulture, animal husbandry, or
9 aquaculture as defined in RCW 15.85.020, and includes but is not
10 limited to any plantation Christmas tree, turf, or any animal, bird, or
11 insect or the substances obtained from them.

12 "Department" means the department of agriculture.

13 "Director" means the director of agriculture.

14 "Farmer" means any person engaged in the business of growing or
15 producing for sale upon their own lands, or upon the lands in which
16 they have a present right of possession, any agricultural product
17 whatsoever. "Farmer" does not mean persons using such products as
18 ingredients in a manufacturing process, or persons growing or producing
19 such products for their own consumption. It does not mean any person

1 dealing in livestock as an operator of a stockyard, slaughter house, or
2 packing house.

3 "Person" includes any individual, firm, corporation, trust,
4 association, cooperative, copartnership, society, any other
5 organization of individuals, and any other business unit, device, or
6 arrangement.

7 **Sec. 2.** RCW 82.04.050 and 1988 c 253 s 1 are each amended to read
8 as follows:

9 (1) "Sale at retail" or "retail sale" means every sale of tangible
10 personal property (including articles produced, fabricated, or
11 imprinted) to all persons irrespective of the nature of their business
12 and including, among others, without limiting the scope hereof, persons
13 who install, repair, clean, alter, improve, construct, or decorate real
14 or personal property of or for consumers other than a sale to a person
15 who (a) purchases for the purpose of resale as tangible personal
16 property in the regular course of business without intervening use by
17 such person, or (b) installs, repairs, cleans, alters, imprints,
18 improves, constructs, or decorates real or personal property of or for
19 consumers, if such tangible personal property becomes an ingredient or
20 component of such real or personal property without intervening use by
21 such person, or (c) purchases for the purpose of consuming the property
22 purchased in producing for sale a new article of tangible personal
23 property or substance, of which such property becomes an ingredient or
24 component or is a chemical used in processing, when the primary purpose
25 of such chemical is to create a chemical reaction directly through
26 contact with an ingredient of a new article being produced for sale, or
27 (d) purchases for the purpose of consuming the property purchased in
28 producing ferrosilicon which is subsequently used in producing
29 magnesium for sale, if the primary purpose of such property is to
30 create a chemical reaction directly through contact with an ingredient
31 of ferrosilicon, or (e) purchases for the purpose of providing the
32 property to consumers as part of competitive telephone service, as
33 defined in RCW 82.04.065. The term shall include every sale of
34 tangible personal property which is used or consumed or to be used or
35 consumed in the performance of any activity classified as a "sale at
36 retail" or "retail sale" even though such property is resold or
37 utilized as provided in (a), (b), (c), (d), or (e) above following such
38 use. The term also means every sale of tangible personal property to

1 persons engaged in any business which is taxable under RCW 82.04.280,
2 subsections (2) and (7) and RCW 82.04.290.

3 (2) The term "sale at retail" or "retail sale" shall include the
4 sale of or charge made for tangible personal property consumed and/or
5 for labor and services rendered in respect to the following: (a) The
6 installing, repairing, cleaning, altering, imprinting, or improving of
7 tangible personal property of or for consumers, including charges made
8 for the mere use of facilities in respect thereto, but excluding
9 charges made for the use of coin operated laundry facilities when such
10 facilities are situated in an apartment house, hotel, motel, rooming
11 house, trailer camp or tourist camp for the exclusive use of the
12 tenants thereof, and also excluding sales of laundry service to members
13 by nonprofit associations composed exclusively of nonprofit hospitals,
14 and excluding services rendered in respect to live animals, birds and
15 insects; (b) the constructing, repairing, decorating, or improving of
16 new or existing buildings or other structures under, upon, or above
17 real property of or for consumers, including the installing or
18 attaching of any article of tangible personal property therein or
19 thereto, whether or not such personal property becomes a part of the
20 realty by virtue of installation, and shall also include the sale of
21 services or charges made for the clearing of land and the moving of
22 earth excepting the mere leveling of land used in commercial farming or
23 agriculture; (c) the charge for labor and services rendered in respect
24 to constructing, repairing, or improving any structure upon, above, or
25 under any real property owned by an owner who conveys the property by
26 title, possession, or any other means to the person performing such
27 construction, repair, or improvement for the purpose of performing such
28 construction, repair, or improvement and the property is then
29 reconveyed by title, possession, or any other means to the original
30 owner; (d) the sale of or charge made for labor and services rendered
31 in respect to the cleaning, fumigating, razing or moving of existing
32 buildings or structures, but shall not include the charge made for
33 janitorial services; and for purposes of this section the term
34 "janitorial services" shall mean those cleaning and caretaking services
35 ordinarily performed by commercial janitor service businesses
36 including, but not limited to, wall and window washing, floor cleaning
37 and waxing, and the cleaning in place of rugs, drapes and upholstery.
38 The term "janitorial services" does not include painting, papering,
39 repairing, furnace or septic tank cleaning, snow removal or

1 sandblasting; (e) the sale of or charge made for labor and services
2 rendered in respect to automobile towing and similar automotive
3 transportation services, but not in respect to those required to report
4 and pay taxes under chapter 82.16 RCW; (f) the sale of and charge made
5 for the furnishing of lodging and all other services by a hotel,
6 rooming house, tourist court, motel, trailer camp, and the granting of
7 any similar license to use real property, as distinguished from the
8 renting or leasing of real property, and it shall be presumed that the
9 occupancy of real property for a continuous period of one month or more
10 constitutes a rental or lease of real property and not a mere license
11 to use or enjoy the same; (g) the sale of or charge made for tangible
12 personal property, labor and services to persons taxable under (a),
13 (b), (c), (d), (e), and (f) above when such sales or charges are for
14 property, labor and services which are used or consumed in whole or in
15 part by such persons in the performance of any activity defined as a
16 "sale at retail" or "retail sale" even though such property, labor and
17 services may be resold after such use or consumption. Nothing
18 contained in this paragraph shall be construed to modify the first
19 paragraph of this section and nothing contained in the first paragraph
20 of this section shall be construed to modify this paragraph.

21 (3) The term "sale at retail" or "retail sale" shall include the
22 sale of or charge made for personal business or professional services
23 including amounts designated as interest, rents, fees, admission, and
24 other service emoluments however designated, received by persons
25 engaging in the following business activities: (a) Amusement and
26 recreation businesses including but not limited to golf, pool,
27 billiards, skating, bowling, ski lifts and tows and others; (b)
28 abstract, title insurance and escrow businesses; (c) credit bureau
29 businesses; (d) automobile parking and storage garage businesses.

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

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

34 (6) The term shall not include the sale of or charge made for labor
35 and services rendered in respect to the building, repairing, or
36 improving of any street, place, road, highway, easement, right of way,
37 mass public transportation terminal or parking facility, bridge,
38 tunnel, or trestle which is owned by a municipal corporation or
39 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. The term shall also not
3 include sales of feed, seed, seedlings, fertilizer, and spray materials
4 to persons who participate in the federal conservation reserve program
5 or its successor administered by the United States department of
6 agriculture, or to ~~((persons))~~ farmers as defined in RCW 15.04.010 for
7 the purpose of producing for sale any agricultural product
8 ~~((whatsoever, including plantation Christmas trees and milk, eggs,
9 wool, fur, meat, honey, or other substances obtained from animals,
10 birds, or insects but only when such production and subsequent sale are
11 exempt from tax under RCW 82.04.330))~~ as defined in RCW 15.04.010, nor
12 shall it include sales of chemical sprays or washes to persons for the
13 purpose of post-harvest treatment of fruit for the prevention of scald,
14 fungus, mold, or decay.

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

27 **Sec. 3.** RCW 82.04.330 and 1988 c 253 s 2 are each amended to read
28 as follows:

29 This chapter shall not apply to any ~~((person in respect to the
30 business of growing or producing for sale upon the person's own lands
31 or upon land in which the person has a present right of possession, any
32 agricultural or horticultural produce or crop, or of raising upon the
33 person's own lands or upon land in which the person has a present right
34 of possession, any plantation Christmas tree or any animal, bird, fish,
35 or insect, or the milk, eggs, wool, fur, meat, honey, or other
36 substance obtained therefrom, or in respect to the sale of such
37 products))~~ farmer as defined in RCW 15.04.010 that sells any
38 agricultural product as defined in RCW 15.04.010 at wholesale ((by such

1 ~~grower, producer, or raiser thereof~~)). This exemption shall not apply
2 to any person selling such products at retail or using such products as
3 ingredients in a manufacturing process; nor to the sale of any animal
4 or substance obtained therefrom by a person in connection with the
5 person's business of operating a stockyard or a slaughter or packing
6 house; nor to any person in respect to the business of taking,
7 cultivating, or raising timber; nor to any association of persons
8 whatever, whether mutual, cooperative or otherwise, engaging in any
9 business activity with respect to which tax liability is imposed under
10 the provisions of this chapter. (~~As used in this section, "fish"~~
11 ~~means fish which are cultivated or raised entirely within confined~~
12 ~~rearing areas on the person's own land or on land in which the person~~
13 ~~has a present right of possession.~~))

14 This chapter shall also not apply to any persons who participate in
15 the federal conservation reserve program or its successor administered
16 by the United States department of agriculture with respect to land
17 enrolled in that program.

--- END ---