

2 SHB 2590 - S COMM AMD
3 By Committee on Ways & Means

4 ADOPTED AS AMENDED 3/7/96

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 82.04.050 and 1995 1st sp.s. c 12 s 2 are each
8 amended to read 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 presents a resale certificate under RCW 82.04.470 and who:

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

19 (b) Installs, repairs, cleans, alters, imprints, improves,
20 constructs, or decorates real or personal property of or for consumers,
21 if such tangible personal property becomes an ingredient or component
22 of such real or personal property without intervening use by such
23 person; or

24 (c) Purchases for the purpose of consuming the property purchased
25 in producing for sale a new article of tangible personal property or
26 substance, of which such property becomes an ingredient or component or
27 is a chemical used in processing, when the primary purpose of such
28 chemical is to create a chemical reaction directly through contact with
29 an ingredient of a new article being produced for sale; or

30 (d) Purchases for the purpose of consuming the property purchased
31 in producing ferrosilicon which is subsequently used in producing
32 magnesium for sale, if the primary purpose of such property is to
33 create a chemical reaction directly through contact with an ingredient
34 of ferrosilicon; or

35 (e) Purchases for the purpose of providing the property to
36 consumers as part of competitive telephone service, as defined in RCW

1 82.04.065. The term shall include every sale of tangible personal
2 property which is used or consumed or to be used or consumed in the
3 performance of any activity classified as a "sale at retail" or "retail
4 sale" even though such property is resold or utilized as provided in
5 (a), (b), (c), (d), or (e) of this subsection following such use. The
6 term also means every sale of tangible personal property to persons
7 engaged in any business which is taxable under RCW 82.04.280 (2) and
8 (7) and 82.04.290.

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

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

18 (b) The constructing, repairing, decorating, or improving of new or
19 existing buildings or other structures under, upon, or above real
20 property of or for consumers, including the installing or attaching of
21 any article of tangible personal property therein or thereto, whether
22 or not such personal property becomes a part of the realty by virtue of
23 installation, and shall also include the sale of services or charges
24 made for the clearing of land and the moving of earth excepting the
25 mere leveling of land used in commercial farming or agriculture;

26 (c) The charge for labor and services rendered in respect to
27 constructing, repairing, or improving any structure upon, above, or
28 under any real property owned by an owner who conveys the property by
29 title, possession, or any other means to the person performing such
30 construction, repair, or improvement for the purpose of performing such
31 construction, repair, or improvement and the property is then
32 reconveyed by title, possession, or any other means to the original
33 owner;

34 (d) The sale of or charge made for labor and services rendered in
35 respect to the cleaning, fumigating, razing or moving of existing
36 buildings or structures, but shall not include the charge made for
37 janitorial services; and for purposes of this section the term
38 "janitorial services" shall mean those cleaning and caretaking services
39 ordinarily performed by commercial janitor service businesses

1 including, but not limited to, wall and window washing, floor cleaning
2 and waxing, and the cleaning in place of rugs, drapes and upholstery.
3 The term "janitorial services" does not include painting, papering,
4 repairing, furnace or septic tank cleaning, snow removal or
5 sandblasting;

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

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

17 (g) The sale of or charge made for tangible personal property,
18 labor and services to persons taxable under (a), (b), (c), (d), (e),
19 and (f) of this subsection when such sales or charges are for property,
20 labor and services which are used or consumed in whole or in part by
21 such persons in the performance of any activity defined as a "sale at
22 retail" or "retail sale" even though such property, labor and services
23 may be resold after such use or consumption. Nothing contained in this
24 subsection shall be construed to modify subsection (1) of this section
25 and nothing contained in subsection (1) of this section shall be
26 construed to modify this subsection.

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

32 (a) Amusement and recreation services including but not limited to
33 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips
34 for sightseeing purposes, and others, when provided to consumers;

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

36 (c) Credit bureau services;

37 (d) Automobile parking and storage garage services;

38 (e) Landscape maintenance and horticultural services but excluding

39 (i) horticultural services provided to farmers and (ii) pruning,

1 trimming, repairing, removing, and clearing of trees and brush near
2 electric transmission or distribution lines or equipment, if performed
3 by or at the direction of an electric utility;

4 (f) Service charges associated with tickets to professional
5 sporting events; and

6 (g) (~~Guided tours and guided charters; and~~

7 ~~(h))~~) The following personal services: Physical fitness services,
8 tanning salon services, tattoo parlor services, steam bath services,
9 turkish bath services, escort services, and dating services.

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

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

15 (6) The term shall not include the sale of or charge made for labor
16 and services rendered in respect to the building, repairing, or
17 improving of any street, place, road, highway, easement, right of way,
18 mass public transportation terminal or parking facility, bridge,
19 tunnel, or trestle which is owned by a municipal corporation or
20 political subdivision of the state or by the United States and which is
21 used or to be used primarily for foot or vehicular traffic including
22 mass transportation vehicles of any kind.

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

32 (8) The term shall not include the sale of or charge made for labor
33 and services rendered in respect to the constructing, repairing,
34 decorating, or improving of new or existing buildings or other
35 structures under, upon, or above real property of or for the United
36 States, any instrumentality thereof, or a county or city housing
37 authority created pursuant to chapter 35.82 RCW, including the
38 installing, or attaching of any article of tangible personal property
39 therein or thereto, whether or not such personal property becomes a

1 part of the realty by virtue of installation. Nor shall the term
2 include the sale of services or charges made for the clearing of land
3 and the moving of earth of or for the United States, any
4 instrumentality thereof, or a county or city housing authority.

5 **Sec. 2.** RCW 82.04.260 and 1995 2nd sp.s. c 12 s 1 and 1995 2nd
6 sp.s. c 6 s 1 are each reenacted and amended to read as follows:

7 (1) Upon every person engaging within this state in the business of
8 buying wheat, oats, dry peas, dry beans, lentils, triticale, canola,
9 corn, rye and barley, but not including any manufactured or processed
10 products thereof, and selling the same at wholesale; the tax imposed
11 shall be equal to the gross proceeds derived from such sales multiplied
12 by the rate of 0.011 percent.

13 (2) Upon every person engaging within this state in the business of
14 manufacturing wheat into flour, barley into pearl barley, soybeans into
15 soybean oil, canola into canola oil, canola meal, or canola byproducts,
16 or sunflower seeds into sunflower oil; as to such persons the amount of
17 tax with respect to such business shall be equal to the value of the
18 flour, pearl barley, oil, canola meal, or canola byproduct
19 manufactured, multiplied by the rate of 0.138 percent.

20 (3) Upon every person engaging within this state in the business of
21 splitting or processing dried peas; as to such persons the amount of
22 tax with respect to such business shall be equal to the value of the
23 peas split or processed, multiplied by the rate of 0.275 percent.

24 (4) Upon every person engaging within this state in the business of
25 manufacturing seafood products which remain in a raw, raw frozen, or
26 raw salted state at the completion of the manufacturing by that person;
27 as to such persons the amount of tax with respect to such business
28 shall be equal to the value of the products manufactured, multiplied by
29 the rate of 0.138 percent.

30 (5) Upon every person engaging within this state in the business of
31 manufacturing by canning, preserving, freezing or dehydrating fresh
32 fruits and vegetables; as to such persons the amount of tax with
33 respect to such business shall be equal to the value of the products
34 canned, preserved, frozen or dehydrated multiplied by the rate of 0.33
35 percent.

36 (6) Upon every nonprofit corporation and nonprofit association
37 engaging within this state in research and development, as to such
38 corporations and associations, the amount of tax with respect to such

1 activities shall be equal to the gross income derived from such
2 activities multiplied by the rate of 0.484 percent.

3 (7) Upon every person engaging within this state in the business of
4 slaughtering, breaking and/or processing perishable meat products and/
5 or selling the same at wholesale only and not at retail; as to such
6 persons the tax imposed shall be equal to the gross proceeds derived
7 from such sales multiplied by the rate of 0.138 percent.

8 (8) Upon every person engaging within this state in the business of
9 making sales, at retail or wholesale, of nuclear fuel assemblies
10 manufactured by that person, as to such persons the amount of tax with
11 respect to such business shall be equal to the gross proceeds of sales
12 of the assemblies multiplied by the rate of 0.275 percent.

13 (9) Upon every person engaging within this state in the business of
14 manufacturing nuclear fuel assemblies, as to such persons the amount of
15 tax with respect to such business shall be equal to the value of the
16 products manufactured multiplied by the rate of 0.275 percent.

17 (10) Upon every person engaging within this state in the business
18 of acting as a travel agent or tour operator; as to such persons the
19 amount of the tax with respect to such activities shall be equal to the
20 gross income derived from such activities multiplied by the rate of
21 0.275 percent.

22 (11) Upon every person engaging within this state in business as an
23 international steamship agent, international customs house broker,
24 international freight forwarder, vessel and/or cargo charter broker in
25 foreign commerce, and/or international air cargo agent; as to such
26 persons the amount of the tax with respect to only international
27 activities shall be equal to the gross income derived from such
28 activities multiplied by the rate of 0.363 percent.

29 (12) Upon every person engaging within this state in the business
30 of stevedoring and associated activities pertinent to the movement of
31 goods and commodities in waterborne interstate or foreign commerce; as
32 to such persons the amount of tax with respect to such business shall
33 be equal to the gross proceeds derived from such activities multiplied
34 by the rate of 0.363 percent. Persons subject to taxation under this
35 subsection shall be exempt from payment of taxes imposed by chapter
36 82.16 RCW for that portion of their business subject to taxation under
37 this subsection. Stevedoring and associated activities pertinent to
38 the conduct of goods and commodities in waterborne interstate or
39 foreign commerce are defined as all activities of a labor, service or

1 transportation nature whereby cargo may be loaded or unloaded to or
2 from vessels or barges, passing over, onto or under a wharf, pier, or
3 similar structure; cargo may be moved to a warehouse or similar holding
4 or storage yard or area to await further movement in import or export
5 or may move to a consolidation freight station and be stuffed,
6 unstuffed, containerized, separated or otherwise segregated or
7 aggregated for delivery or loaded on any mode of transportation for
8 delivery to its consignee. Specific activities included in this
9 definition are: Wharfage, handling, loading, unloading, moving of
10 cargo to a convenient place of delivery to the consignee or a
11 convenient place for further movement to export mode; documentation
12 services in connection with the receipt, delivery, checking, care,
13 custody and control of cargo required in the transfer of cargo;
14 imported automobile handling prior to delivery to consignee; terminal
15 stevedoring and incidental vessel services, including but not limited
16 to plugging and unplugging refrigerator service to containers,
17 trailers, and other refrigerated cargo receptacles, and securing ship
18 hatch covers.

19 (13) Upon every person engaging within this state in the business
20 of disposing of low-level waste, as defined in RCW 43.145.010; as to
21 such persons the amount of the tax with respect to such business shall
22 be equal to the gross income of the business, excluding any fees
23 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
24 percent.

25 If the gross income of the taxpayer is attributable to activities
26 both within and without this state, the gross income attributable to
27 this state shall be determined in accordance with the methods of
28 apportionment required under RCW 82.04.460.

29 (14) Upon every person engaging within this state as an insurance
30 agent, insurance broker, or insurance solicitor licensed under chapter
31 48.17 RCW; as to such persons, the amount of the tax with respect to
32 such licensed activities shall be equal to the gross income of such
33 business multiplied by the rate of 0.55 percent.

34 (15) Upon every person engaging within this state in business as a
35 hospital, as defined in chapter 70.41 RCW, that is operated as a
36 nonprofit corporation or by the state or any of its political
37 subdivisions, as to such persons, the amount of tax with respect to
38 such activities shall be equal to the gross income of the business
39 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5

1 percent thereafter. The moneys collected under this subsection shall
2 be deposited in the health services account created under RCW
3 43.72.900.

4 **Sec. 3.** RCW 82.04.060 and 1983 2nd ex.s. c 3 s 26 are each amended
5 to read as follows:

6 "Sale at wholesale" or "wholesale sale" means any sale of tangible
7 personal property, any sale of amusement or recreation services as
8 defined in RCW 82.04.050(3)(a), or any sale of telephone service as
9 defined in RCW 82.04.065, which is not a sale at retail and means any
10 charge made for labor and services rendered for persons who are not
11 consumers, in respect to real or personal property, if such charge is
12 expressly defined as a retail sale by RCW 82.04.050 when rendered to or
13 for consumers: PROVIDED, That the term "real or personal property" as
14 used in this section shall not include any natural products named in
15 RCW 82.04.100.

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

18 "Consumer" means the following:

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

1 purpose of such property is to create a chemical reaction directly
2 through contact with an ingredient of ferrosilicon;

3 (2)(a) Any person engaged in any business activity taxable under
4 RCW 82.04.290 (~~and~~); (b) any person who purchases, acquires, or uses
5 any telephone service as defined in RCW 82.04.065, other than for
6 resale in the regular course of business; and (c) any person who
7 purchases, acquires, or uses any amusement and recreation service
8 defined in RCW 82.04.050(3)(a), other than for resale in the regular
9 course of business;

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

25 (4) Any person who is an owner, lessee or has the right of
26 possession to or an easement in real property which is being
27 constructed, repaired, decorated, improved, or otherwise altered by a
28 person engaged in business, excluding only (a) municipal corporations
29 or political subdivisions of the state in respect to labor and services
30 rendered to their real property which is used or held for public road
31 purposes, and (b) the United States, instrumentalities thereof, and
32 county and city housing authorities created pursuant to chapter 35.82
33 RCW in respect to labor and services rendered to their real property.
34 Nothing contained in this or any other subsection of this definition
35 shall be construed to modify any other definition of "consumer";

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

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

15 (7) Any person who is a lessor of machinery and equipment, the
16 rental of which is exempt from the tax imposed by RCW 82.08.020 under
17 RCW 82.08.02565, with respect to the sale of or charge made for
18 tangible personal property consumed and for labor and services rendered
19 in respect to repairing the machinery and equipment.

20 Nothing contained in this or any other subsection of this
21 definition shall be construed to modify any other definition of
22 "consumer."

23 **Sec. 5.** RCW 82.12.020 and 1994 c 93 s 2 are each amended to read
24 as follows:

25 (1) There is hereby levied and there shall be collected from every
26 person in this state a tax or excise for the privilege of using within
27 this state as a consumer any article of tangible personal property
28 purchased at retail, or acquired by lease, gift, repossession, or
29 bailment, or extracted or produced or manufactured by the person so
30 using the same, or otherwise furnished to a person engaged in any
31 business taxable under RCW 82.04.280 (2) or (7), or any amusement or
32 recreation service defined as a retail sale in RCW 82.04.050(3)(a).

33 (2) This tax shall apply to the use of every service defined as a
34 retail sale in RCW 82.04.050(3)(a) and the use of every article of
35 tangible personal property, including property acquired at a casual or
36 isolated sale, and including byproducts used by the manufacturer
37 thereof, except as hereinafter provided, irrespective of whether the

1 article or similar articles are manufactured or are available for
2 purchase within this state.

3 (3) Except as provided in RCW 82.12.0252, payment by one purchaser
4 or user of tangible personal property or service of the tax imposed by
5 chapter 82.08 or 82.12 RCW shall not have the effect of exempting any
6 other purchaser or user of the same property or service from the taxes
7 imposed by such chapters.

8 (4) The tax shall be levied and collected in an amount equal to the
9 value of the article used by the taxpayer multiplied by the rate in
10 effect for the retail sales tax under RCW 82.08.020.

11 **Sec. 6.** RCW 82.12.035 and 1987 c 27 s 2 are each amended to read
12 as follows:

13 A credit shall be allowed against the taxes imposed by this chapter
14 upon the use of tangible personal property, or services taxable under
15 RCW 82.04.050(3)(a), in the state of Washington in the amount that the
16 present user thereof or his or her bailor or donor has paid a retail
17 sales or use tax with respect to such property to any other state of
18 the United States, any political subdivision thereof, the District of
19 Columbia, and any foreign country or political subdivision thereof,
20 prior to the use of such property in Washington.

21 NEW SECTION. **Sec. 7.** If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and shall take
28 effect April 1, 1996."

29 **SHB 2590** - S COMM AMD
30 By Committee on Ways & Means

31 ADOPTED AS AMENDED 3/7/96

32 On page 1, line 2 of the title, after "Oklahoma;" strike the
33 remainder of the title and insert "amending RCW 82.04.050, 82.04.060,

1 82.04.190, 82.12.020, and 82.12.035; reenacting and amending RCW
2 82.04.260; providing an effective date; and declaring an emergency."

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