

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5074

Chapter 450, Laws of 1997

55th Legislature
1997 Regular Session

WAREHOUSE AND GRAIN ELEVATOR OPERATIONS TAX EXEMPTIONS

EFFECTIVE DATE: 5/20/97

Passed by the Senate April 17, 1997
YEAS 45 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 26, 1997
YEAS 84 NAYS 14

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 20, 1997

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5074** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

May 20, 1997 - 4:33 p.m.

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5074

Passed Legislature - 1997 Regular Session

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Sellar and Snyder)

Read first time 04/07/97.

1 AN ACT Relating to increasing interstate trade through tax
2 incentives for warehouse and grain elevator operations; amending RCW
3 81.104.170; adding a new section to chapter 82.08 RCW; adding a new
4 section to chapter 82.12 RCW; adding a new section to chapter 82.14
5 RCW; creating new sections; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that the state's
8 overall economic health and prosperity is bolstered through tax
9 incentives targeted to specific industries. The warehouse and
10 distribution industry is critical to other businesses. The
11 transportation sector, the retail sector, the ports, and the
12 wholesalers all rely on the warehouse and distribution industry. It is
13 the intent of the legislature to stimulate interstate trade by
14 providing tax incentives to those persons in the warehouse and
15 distribution industry engaged in highly competitive trade.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW
17 to read as follows:

1 (1) Wholesalers or third-party warehouse owners who own or operate
2 warehouses or grain elevators and retailers who own or operate
3 distribution centers, and who have paid the tax levied by RCW 82.08.020
4 on:

5 (a) Material-handling and racking equipment, and labor and services
6 rendered in respect to installing, repairing, cleaning, altering, or
7 improving the equipment; or

8 (b) Construction of a warehouse or grain elevator, including
9 materials, and including service and labor costs,
10 are eligible for an exemption in the form of a remittance. The amount
11 of the remittance is computed under subsection (3) of this section and
12 is based on the state share of sales tax.

13 (2) For purposes of this section and section 3 of this act:

14 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

15 (b) "Construction" means the actual construction of a warehouse or
16 grain elevator that did not exist before the construction began.
17 "Construction" includes expansion if the expansion adds at least two
18 hundred thousand square feet of additional space to an existing
19 warehouse or additional storage capacity of at least one million
20 bushels to an existing grain elevator. "Construction" does not include
21 renovation, remodeling, or repair;

22 (c) "Department" means the department of revenue;

23 (d) "Distribution center" means a warehouse that is used
24 exclusively by a retailer solely for the storage and distribution of
25 finished goods to retail outlets of the retailer. "Distribution
26 center" does not include a warehouse at which retail sales occur;

27 (e) "Finished goods" means tangible personal property intended for
28 sale by a retailer or wholesaler. "Finished goods" does not include
29 agricultural products stored by wholesalers, third-party warehouses, or
30 retailers if the storage takes place on the land of the person who
31 produced the agricultural product. "Finished goods" does not include
32 logs, minerals, petroleum, gas, or other extracted products stored as
33 raw materials or in bulk;

34 (f) "Grain elevator" means a structure used for storage and
35 handling of grain in bulk;

36 (g) "Material-handling equipment and racking equipment" means
37 equipment in a warehouse or grain elevator that is primarily used to
38 handle, store, organize, convey, package, or repackage finished goods.
39 The term includes tangible personal property with a useful life of one

1 year or more that becomes an ingredient or component of the equipment,
2 including repair and replacement parts. The term does not include
3 equipment in offices, lunchrooms, restrooms, and other like space,
4 within a warehouse or grain elevator, or equipment used for
5 nonwarehousing purposes. "Material-handling equipment" includes but is
6 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-
7 place units, cranes, hoists, mechanical arms, and robots; mechanized
8 systems, including containers that are an integral part of the system,
9 whose purpose is to lift or move tangible personal property; and
10 automated handling, storage, and retrieval systems, including computers
11 that control them, whose purpose is to lift or move tangible personal
12 property; and forklifts and other off-the-road vehicles that are used
13 to lift or move tangible personal property and that cannot be operated
14 legally on roads and streets. "Racking equipment" includes, but is not
15 limited to, conveying systems, chutes, shelves, racks, bins, drawers,
16 pallets, and other containers and storage devices that form a necessary
17 part of the storage system;

18 (h) "Person" has the meaning given in RCW 82.04.030;

19 (i) "Retailer" means a person who makes "sales at retail" as
20 defined in chapter 82.04 RCW of tangible personal property;

21 (j) "Square footage" means the product of the two horizontal
22 dimensions of each floor of a specific warehouse. The entire footprint
23 of the warehouse shall be measured in calculating the square footage,
24 including space that juts out from the building profile such as loading
25 docks. "Square footage" does not mean the aggregate of the square
26 footage of more than one warehouse at a location or the aggregate of
27 the square footage of warehouses at more than one location;

28 (k) "Third-party warehouser" means a person taxable under RCW
29 82.04.280(4);

30 (l) "Warehouse" means an enclosed building or structure in which
31 finished goods are stored. A warehouse building or structure may have
32 more than one storage room and more than one floor. Office space,
33 lunchrooms, restrooms, and other space within the warehouse and
34 necessary for the operation of the warehouse are considered part of the
35 warehouse as are loading docks and other such space attached to the
36 building and used for handling of finished goods. Landscaping and
37 parking lots are not considered part of the warehouse. A storage yard
38 is not a warehouse, nor is a building in which manufacturing takes
39 place; and

1 (m) "Wholesaler" means a person who makes "sales at wholesale" as
2 defined in chapter 82.04 RCW of tangible personal property, but
3 "wholesaler" does not include a person who makes sales exempt under
4 82.04.330.

5 (3)(a) A person claiming an exemption from state tax in the form of
6 a remittance under this section must pay the tax imposed by RCW
7 82.08.020. The buyer may then apply to the department for remittance
8 of all or part of the tax paid under RCW 82.08.020. For grain
9 elevators with bushel capacity of one million but less than two
10 million, the remittance is equal to fifty percent of the amount of tax
11 paid. For warehouses with square footage of two hundred thousand or
12 more and for grain elevators with bushel capacity of two million or
13 more, the remittance is equal to one hundred percent of the amount of
14 tax paid for qualifying construction, materials, service, and labor,
15 and fifty percent of the amount of tax paid for qualifying material-
16 handling equipment and racking equipment, and labor and services
17 rendered in respect to installing, repairing, cleaning, altering, or
18 improving the equipment.

19 (b) The department shall determine eligibility under this section
20 based on information provided by the buyer and through audit and other
21 administrative records. The buyer shall on a quarterly basis submit an
22 information sheet, in a form and manner as required by the department
23 by rule, specifying the amount of exempted tax claimed and the
24 qualifying purchases or acquisitions for which the exemption is
25 claimed. The buyer shall retain, in adequate detail to enable the
26 department to determine whether the equipment or construction meets the
27 criteria under this section: Invoices; proof of tax paid; documents
28 describing the material-handling equipment and racking equipment;
29 location and size of warehouses and grain elevators; and construction
30 invoices and documents.

31 (c) The department shall on a quarterly basis remit exempted
32 amounts to qualifying persons who submitted applications during the
33 previous quarter.

34 (4) Warehouses, grain elevators, and material-handling equipment
35 and racking equipment for which an exemption, credit, or deferral has
36 been or is being received under chapter 82.60, 82.61, 82.62, or 82.63
37 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any
38 remittance under this section. Warehouses and grain elevators upon

1 which construction was initiated before the effective date of this act
2 are not eligible for a remittance under this section.

3 (5) The lessor or owner of a warehouse or grain elevator is not
4 eligible for a remittance under this section unless the underlying
5 ownership of the warehouse or grain elevator and the material-handling
6 equipment and racking equipment vests exclusively in the same person,
7 or unless the lessor by written contract agrees to pass the economic
8 benefit of the remittance to the lessee in the form of reduced rent
9 payments.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW
11 to read as follows:

12 (1) Wholesalers or third-party warehouseers who own or operate
13 warehouses or grain elevators, and retailers who own or operate
14 distribution centers, and who have paid the tax levied under RCW
15 82.12.020 on:

16 (a) Material-handling equipment and racking equipment; or

17 (b) Materials incorporated in the construction of a warehouse or
18 grain elevator.

19 (2)(a) A person claiming an exemption from state tax in the form of
20 a remittance under this section must pay the tax imposed by RCW
21 82.12.020 to the department. The person may then apply to the
22 department for remittance of all or part of the tax paid under RCW
23 82.12.020. For grain elevators with bushel capacity of one million but
24 less than two million, the remittance is equal to fifty percent of the
25 amount of tax paid. For warehouses with square footage of two hundred
26 thousand and for grain elevators with bushel capacity of two million or
27 more, the remittance is equal to one hundred percent of the amount of
28 tax paid for qualifying construction materials, and fifty percent of
29 the amount of tax paid for qualifying material-handling equipment and
30 racking equipment.

31 (b) The department shall determine eligibility under this section
32 based on information provided by the buyer and through audit and other
33 administrative records. The buyer shall on a quarterly basis submit an
34 information sheet, in a form and manner as required by the department
35 by rule, specifying the amount of exempted tax claimed and the
36 qualifying purchases or acquisitions for which the exemption is
37 claimed. The buyer shall retain, in adequate detail to enable the
38 department to determine whether the equipment or construction meets the

1 criteria under this section: Invoices; proof of tax paid; documents
2 describing the material-handling equipment and racking equipment;
3 location and size of warehouses, if applicable; and construction
4 invoices and documents.

5 (c) The department shall on a quarterly basis remit or credit
6 exempted amounts to qualifying persons who submitted applications
7 during the previous quarter.

8 (3) Warehouse, grain elevators, and material-handling equipment and
9 racking equipment for which an exemption, credit, or deferral has been
10 or is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or
11 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance
12 under this section. Materials incorporated in warehouses and grain
13 elevators upon which construction was initiated prior to the effective
14 date of this act are not eligible for a remittance under this section.

15 (4) The lessor or owner of the warehouse or grain elevator is not
16 eligible for a remittance or credit under this section unless the
17 underlying ownership of the warehouse or grain elevator and
18 material-handling equipment and racking equipment vests exclusively in
19 the same person, or unless the lessor by written contract agrees to
20 pass the economic benefit of the exemption to the lessee in the form of
21 reduced rent payments.

22 (5) The definitions in section 2 of this act apply to this section.

23 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.14 RCW
24 to read as follows:

25 The exemptions in sections 2 and 3 of this act are for the state
26 portion of the sales and use tax and do not extend to the tax imposed
27 in this chapter.

28 **Sec. 5.** RCW 81.104.170 and 1992 c 101 s 28 are each amended to
29 read as follows:

30 Cities that operate transit systems, county transportation
31 authorities, metropolitan municipal corporations, public transportation
32 benefit areas, and regional transit authorities may submit an
33 authorizing proposition to the voters and if approved by a majority of
34 persons voting, fix and impose a sales and use tax in accordance with
35 the terms of this chapter, solely for the purpose of providing high
36 capacity transportation service.

1 The tax authorized pursuant to this section shall be in addition to
2 the tax authorized by RCW 82.14.030 and shall be collected from those
3 persons who are taxable by the state pursuant to chapters 82.08 and
4 82.12 RCW upon the occurrence of any taxable event within the taxing
5 district. The maximum rate of such tax shall be approved by the voters
6 and shall not exceed one percent of the selling price (in the case of
7 a sales tax) or value of the article used (in the case of a use tax).
8 The maximum rate of such tax that may be imposed shall not exceed
9 nine-tenths of one percent in any county that imposes a tax under RCW
10 82.14.340, or within a regional transit authority if any county within
11 the authority imposes a tax under RCW 82.14.340. The exemptions in
12 sections 2 and 3 of this act are for the state portion of the sales and
13 use tax and do not extend to the tax authorized in this section.

14 NEW SECTION. **Sec. 6.** The legislative fiscal committees shall
15 report to the legislature by December 1, 2001, on the economic impacts
16 of this act. This report shall analyze employment and other relevant
17 economic data pertaining to the tax exemptions authorized under this
18 act and shall measure the effect on the creation or retention of
19 family-wage jobs and diversification of the state's economy. The
20 report must include the committee's findings on the tax incentive
21 program's performance in achieving its goals and recommendations on
22 ways to improve its effectiveness. Analytic techniques may include,
23 but not be limited to, comparisons of Washington to other states that
24 did not enact business tax changes, comparisons across Washington
25 counties based on usage of the tax exemptions, and comparisons across
26 similar firms based on their use of the tax exemptions. In performing
27 the analysis, the legislative fiscal committees shall consult with
28 business and labor interests. The department of revenue, the
29 employment security department, and other agencies shall provide to the
30 legislative fiscal committees such data as the legislative fiscal
31 committees may request in performing the analysis required under this
32 section.

33 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of the
35 state government and its existing public institutions, and takes effect
36 immediately.

Passed the Senate April 17, 1997.
Passed the House April 26, 1997.
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