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SENATE BILL 5585

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State of Washington

56th Legislature

1999 Regular Session

By Senators Rasmussen, Honeyford, Stevens, Morton, Snyder, Prentice and T. Sheldon

Read first time . Referred to Committee on .

1 AN ACT Relating to tax rate modifications for animal health  
2 products; reenacting and amending RCW 82.04.050; and providing an  
3 effective date.

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

5 **Sec. 1.** RCW 82.04.050 and 1998 c 332 s 2, 1998 c 315 s 1, 1998 c  
6 308 s 1, and 1998 c 275 s 1 are each reenacted and amended to read as  
7 follows:

8 (1) "Sale at retail" or "retail sale" means every sale of tangible  
9 personal property (including articles produced, fabricated, or  
10 imprinted) to all persons irrespective of the nature of their business  
11 and including, among others, without limiting the scope hereof, persons  
12 who install, repair, clean, alter, improve, construct, or decorate real  
13 or personal property of or for consumers other than a sale to a person  
14 who presents a resale certificate under RCW 82.04.470 and who:

15 (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

18 (b) Installs, repairs, cleans, alters, imprints, improves,  
19 constructs, or decorates real or personal property of or for consumers,

1 if such tangible personal property becomes an ingredient or component  
2 of such real or personal property without intervening use by such  
3 person; or

4 (c) Purchases for the purpose of consuming the property purchased  
5 in producing for sale a new article of tangible personal property or  
6 substance, of which such property becomes an ingredient or component or  
7 is a chemical used in processing, when the primary purpose of such  
8 chemical is to create a chemical reaction directly through contact with  
9 an ingredient of a new article being produced for sale; or

10 (d) Purchases for the purpose of consuming the property purchased  
11 in producing ferrosilicon which is subsequently used in producing  
12 magnesium for sale, if the primary purpose of such property is to  
13 create a chemical reaction directly through contact with an ingredient  
14 of ferrosilicon; or

15 (e) Purchases for the purpose of providing the property to  
16 consumers as part of competitive telephone service, as defined in RCW  
17 82.04.065. The term shall include every sale of tangible personal  
18 property which is used or consumed or to be used or consumed in the  
19 performance of any activity classified as a "sale at retail" or "retail  
20 sale" even though such property is resold or utilized as provided in  
21 (a), (b), (c), (d), or (e) of this subsection following such use. The  
22 term also means every sale of tangible personal property to persons  
23 engaged in any business which is taxable under RCW 82.04.280 (2) and  
24 (7) and 82.04.290.

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

28 (a) The installing, repairing, cleaning, altering, imprinting, or  
29 improving of tangible personal property of or for consumers, including  
30 charges made for the mere use of facilities in respect thereto, but  
31 excluding charges made for the use of coin-operated laundry facilities  
32 when such facilities are situated in an apartment house, rooming house,  
33 or mobile home park for the exclusive use of the tenants thereof, and  
34 also excluding sales of laundry service to nonprofit health care  
35 facilities, and excluding services rendered in respect to live animals,  
36 birds and insects;

37 (b) The constructing, repairing, decorating, or improving of new or  
38 existing buildings or other structures under, upon, or above real  
39 property of or for consumers, including the installing or attaching of

1 any article of tangible personal property therein or thereto, whether  
2 or not such personal property becomes a part of the realty by virtue of  
3 installation, and shall also include the sale of services or charges  
4 made for the clearing of land and the moving of earth excepting the  
5 mere leveling of land used in commercial farming or agriculture;

6 (c) The charge for labor and services rendered in respect to  
7 constructing, repairing, or improving any structure upon, above, or  
8 under any real property owned by an owner who conveys the property by  
9 title, possession, or any other means to the person performing such  
10 construction, repair, or improvement for the purpose of performing such  
11 construction, repair, or improvement and the property is then  
12 reconveyed by title, possession, or any other means to the original  
13 owner;

14 (d) The sale of or charge made for labor and services rendered in  
15 respect to the cleaning, fumigating, razing or moving of existing  
16 buildings or structures, but shall not include the charge made for  
17 janitorial services; and for purposes of this section the term  
18 "janitorial services" shall mean those cleaning and caretaking services  
19 ordinarily performed by commercial janitor service businesses  
20 including, but not limited to, wall and window washing, floor cleaning  
21 and waxing, and the cleaning in place of rugs, drapes and upholstery.  
22 The term "janitorial services" does not include painting, papering,  
23 repairing, furnace or septic tank cleaning, snow removal or  
24 sandblasting;

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

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

36 (g) The sale of or charge made for tangible personal property,  
37 labor and services to persons taxable under (a), (b), (c), (d), (e),  
38 and (f) of this subsection when such sales or charges are for property,  
39 labor and services which are used or consumed in whole or in part by

1 such persons in the performance of any activity defined as a "sale at  
2 retail" or "retail sale" even though such property, labor and services  
3 may be resold after such use or consumption. Nothing contained in this  
4 subsection shall be construed to modify subsection (1) of this section  
5 and nothing contained in subsection (1) of this section shall be  
6 construed to modify this subsection.

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

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

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

16 (c) Credit bureau services;

17 (d) Automobile parking and storage garage services;

18 (e) Landscape maintenance and horticultural services but excluding  
19 (i) horticultural services provided to farmers and (ii) pruning,  
20 trimming, repairing, removing, and clearing of trees and brush near  
21 electric transmission or distribution lines or equipment, if performed  
22 by or at the direction of an electric utility;

23 (f) Service charges associated with tickets to professional  
24 sporting events; and

25 (g) The following personal services: Physical fitness services,  
26 tanning salon services, tattoo parlor services, steam bath services,  
27 turkish bath services, escort services, and dating services.

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

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

33 (6) The term shall also include the sale of canned software other  
34 than a sale to a person who presents a resale certificate under RCW  
35 82.04.470, regardless of the method of delivery to the end user, but  
36 shall not include custom software or the customization of canned  
37 software.

38 (7) The term shall not include the sale of or charge made for labor  
39 and services rendered in respect to the building, repairing, or

1 improving of any street, place, road, highway, easement, right of way,  
2 mass public transportation terminal or parking facility, bridge,  
3 tunnel, or trestle which is owned by a municipal corporation or  
4 political subdivision of the state or by the United States and which is  
5 used or to be used primarily for foot or vehicular traffic including  
6 mass transportation vehicles of any kind.

7 (8) The term shall also not include sales of chemical sprays or  
8 washes to persons for the purpose of postharvest treatment of fruit for  
9 the prevention of scald, fungus, mold, or decay, nor shall it include  
10 sales of feed, seed, seedlings, fertilizer, agents for enhanced  
11 pollination including insects such as bees, substances used to optimize  
12 animal production, vaccinations, antibiotics, parasite treatment  
13 compounds, animal pharmaceuticals approved by the United States food  
14 and drug administration, and other health products for animals, and  
15 spray materials to: (a) Persons who participate in the federal  
16 conservation reserve program, the environmental quality incentives  
17 program, the wetlands reserve program, and the wildlife habitat  
18 incentives program, or their successors administered by the United  
19 States department of agriculture; (b) farmers for the purpose of  
20 producing for sale any agricultural product; and (c) farmers acting  
21 under cooperative habitat development or access contracts with an  
22 organization exempt from federal income tax under 26 U.S.C. Sec.  
23 501(c)(3) or the Washington state department of fish and wildlife to  
24 produce or improve wildlife habitat on land that the farmer owns or  
25 leases.

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

1 radioactive waste and other byproducts of weapons production and  
2 nuclear research and development.

3 (10) Until July 1, 2003, the term shall not include the sale of or  
4 charge made for labor and services rendered for environmental remedial  
5 action as defined in RCW 82.04.2635(2).

6 NEW SECTION. **Sec. 2.** This act takes effect August 1, 1999.

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