
SUBSTITUTE SENATE BILL 6058

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Loveland, Honeyford, Sellar, Oke, Stevens and Rasmussen; by request of Department of Revenue)

Read first time 03/08/99.

1 AN ACT Relating to stating the intent of the legislature that the
2 activities of growing or packing agricultural products is not a
3 manufacturing activity; amending RCW 82.04.120, 82.60.020, and
4 82.62.010; creating new sections; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the recent
7 appellate court decision in the case of *Valley Fruit v. Department of*
8 *Revenue*, has created confusion regarding the taxability of apple
9 growers, packers, and farmers and the availability of different
10 exemptions for apple growers, packers, and farmers. It is the intent
11 of the legislature to make clear that growing or packing any
12 agricultural product, is not a manufacturing activity.

13 **Sec. 2.** RCW 82.04.120 and 1998 c 168 s 1 are each amended to read
14 as follows:

15 "To manufacture" embraces all activities of a commercial or
16 industrial nature wherein labor or skill is applied, by hand or
17 machinery, to materials so that as a result thereof a new, different or
18 useful substance or article of tangible personal property is produced

1 for sale or commercial or industrial use, and shall include: (1) The
2 production or fabrication of special made or custom made articles; and
3 (2) the production or fabrication of dental appliances, devices,
4 restorations, substitutes, or other dental laboratory products by a
5 dental laboratory or dental technician.

6 "To manufacture" shall not include: Conditioning of seed for use
7 in planting; cubing hay or alfalfa; (~~or~~) activities which consist of
8 cutting, grading, or ice glazing seafood which has been cooked, frozen,
9 or canned outside this state; the growing, harvesting, or producing of
10 agricultural products; or packing of agricultural products, including
11 sorting, washing, rinsing, grading, waxing, treating with fungicide,
12 packaging, chilling, or placing in controlled atmospheric storage.

13 **Sec. 3.** RCW 82.60.020 and 1996 c 290 s 4 are each amended to read
14 as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

17 (1) "Applicant" means a person applying for a tax deferral under
18 this chapter.

19 (2) "Department" means the department of revenue.

20 (3) "Eligible area" means: (a) A county in which the average level
21 of unemployment for the three years before the year in which an
22 application is filed under this chapter exceeds the average state
23 unemployment for those years by twenty percent; (b) a county that has
24 a median household income that is less than seventy-five percent of the
25 state median household income for the previous three years; (c) a
26 metropolitan statistical area, as defined by the office of federal
27 statistical policy and standards, United States department of commerce,
28 in which the average level of unemployment for the calendar year
29 immediately preceding the year in which an application is filed under
30 this chapter exceeds the average state unemployment for such calendar
31 year by twenty percent; (d) a designated community empowerment zone
32 approved under RCW 43.63A.700 or a county containing such a community
33 empowerment zone; (e) a town with a population of less than twelve
34 hundred persons in those counties that are not covered under (a) of
35 this subsection that are timber impact areas as defined in RCW
36 43.31.601; (f) a county designated by the governor as an eligible area
37 under RCW 82.60.047; or (g) a county that is contiguous to a county
38 that qualifies as an eligible area under (a) or (f) of this subsection.

1 (4)(a) "Eligible investment project" means:

2 (i) An investment project in an eligible area as defined in
3 subsection (3)(a), (b), (c), (e), or (f) of this section; or

4 (ii) That portion of an investment project in an eligible area as
5 defined in subsection (3)(d) or (g) of this section which is directly
6 utilized to create at least one new full-time qualified employment
7 position for each three hundred thousand dollars of investment on which
8 a deferral is requested in an application approved before July 1, 1994,
9 and for each seven hundred fifty thousand dollars of investment on
10 which a deferral is requested in an application approved after June 30,
11 1994.

12 (b) The lessor/owner of a qualified building is not eligible for a
13 deferral unless the underlying ownership of the buildings, machinery,
14 and equipment vests exclusively in the same person, or unless the
15 lessor by written contract agrees to pass the economic benefit of the
16 deferral to the lessee in the form of reduced rent payments.

17 (c) For purposes of (a)(ii) of this subsection:

18 (i) The department shall consider the entire investment project,
19 including any investment in machinery and equipment that otherwise
20 qualifies for exemption under RCW 82.08.02565 or 82.12.02565, for
21 purposes of determining the portion of the investment project that
22 qualifies for deferral as an eligible investment project; and

23 (ii) The number of new full-time qualified employment positions
24 created by an investment project shall be deemed to be reduced by the
25 number of full-time employment positions maintained by the recipient in
26 any other community in this state that are displaced as a result of the
27 investment project.

28 (d) "Eligible investment project" does not include any portion of
29 an investment project undertaken by a light and power business as
30 defined in RCW 82.16.010(5), other than that portion of a cogeneration
31 project that is used to generate power for consumption within the
32 manufacturing site of which the cogeneration project is an integral
33 part, or investment projects which have already received deferrals
34 under this chapter.

35 (5) "Investment project" means an investment in qualified buildings
36 or qualified machinery and equipment, including labor and services
37 rendered in the planning, installation, and construction of the
38 project.

1 (6) "Manufacturing" means (~~all activities of a commercial or~~
2 ~~industrial nature wherein labor or skill is applied, by hand or~~
3 ~~machinery, to materials so that as a result thereof a new, different,~~
4 ~~or useful substance or article of tangible personal property is~~
5 ~~produced for sale or commercial or industrial use and shall include the~~
6 ~~production or fabrication of specially made or custom made articles))
7 the same as defined in RCW 82.04.120. "Manufacturing" also includes
8 computer programming, the production of computer software, and other
9 computer-related services, and the activities performed by research and
10 development laboratories and commercial testing laboratories.~~

11 (7) "Person" has the meaning given in RCW 82.04.030.

12 (8) "Qualified buildings" means construction of new structures, and
13 expansion or renovation of existing structures for the purpose of
14 increasing floor space or production capacity used for manufacturing
15 and research and development activities, including plant offices and
16 warehouses or other facilities for the storage of raw material or
17 finished goods if such facilities are an essential or an integral part
18 of a factory, mill, plant, or laboratory used for manufacturing or
19 research and development. If a building is used partly for
20 manufacturing or research and development and partly for other
21 purposes, the applicable tax deferral shall be determined by
22 apportionment of the costs of construction under rules adopted by the
23 department.

24 (9) "Qualified employment position" means a permanent full-time
25 employee employed in the eligible investment project during the entire
26 tax year.

27 (10) "Qualified machinery and equipment" means all new industrial
28 and research fixtures, equipment, and support facilities that are an
29 integral and necessary part of a manufacturing or research and
30 development operation. "Qualified machinery and equipment" includes:
31 Computers; software; data processing equipment; laboratory equipment;
32 manufacturing components such as belts, pulleys, shafts, and moving
33 parts; molds, tools, and dies; operating structures; and all equipment
34 used to control or operate the machinery.

35 (11) "Recipient" means a person receiving a tax deferral under this
36 chapter.

37 (12) "Research and development" means the development, refinement,
38 testing, marketing, and commercialization of a product, service, or
39 process before commercial sales have begun. As used in this

1 subsection, "commercial sales" excludes sales of prototypes or sales
2 for market testing if the total gross receipts from such sales of the
3 product, service, or process do not exceed one million dollars.

4 **Sec. 4.** RCW 82.62.010 and 1996 c 290 s 5 are each amended to read
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Applicant" means a person applying for a tax credit under this
9 chapter.

10 (2) "Department" means the department of revenue.

11 (3) "Eligible area" means: (a) A county in which the average level
12 of unemployment for the three years before the year in which an
13 application is filed under this chapter exceeds the average state
14 unemployment for those years by twenty percent; (b) a county that has
15 a median household income that is less than seventy-five percent of the
16 state median household income for the previous three years; (c) a
17 metropolitan statistical area, as defined by the office of federal
18 statistical policy and standards, United States department of commerce,
19 in which the average level of unemployment for the calendar year
20 immediately preceding the year in which an application is filed under
21 this chapter exceeds the average state unemployment for such calendar
22 year by twenty percent; (d) a designated community empowerment zone
23 approved under RCW 43.63A.700; or (e) subcounty areas in those counties
24 that are not covered under (a) of this subsection that are timber
25 impact areas as defined in RCW 43.31.601.

26 (4)(a) "Eligible business project" means manufacturing or research
27 and development activities which are conducted by an applicant in an
28 eligible area at a specific facility, provided the applicant's average
29 full-time qualified employment positions at the specific facility will
30 be at least fifteen percent greater in the year for which the credit is
31 being sought than the applicant's average full-time qualified
32 employment positions at the same facility in the immediately preceding
33 year.

34 (b) "Eligible business project" does not include any portion of a
35 business project undertaken by a light and power business as defined in
36 RCW 82.16.010(5) or that portion of a business project creating
37 qualified full-time employment positions outside an eligible area or
38 those recipients of a sales tax deferral under chapter 82.61 RCW.

1 (5) "~~Manufacturing~~" means (~~((all activities of a commercial or~~
2 ~~industrial nature wherein labor or skill is applied, by hand or~~
3 ~~machinery, to materials so that as a result thereof a new, different,~~
4 ~~or useful substance or article of tangible personal property is~~
5 ~~produced for sale or commercial or industrial use and shall include the~~
6 ~~production or fabrication of specially made or custom made articles))~~
7 the same as defined in RCW 82.04.120. "Manufacturing" also includes
8 computer programming, the production of computer software, and other
9 computer-related services, and the activities performed by research and
10 development laboratories and commercial testing laboratories.

11 (6) "Person" has the meaning given in RCW 82.04.030.

12 (7) "Qualified employment position" means a permanent full-time
13 employee employed in the eligible business project during the entire
14 tax year.

15 (8) "Tax year" means the calendar year in which taxes are due.

16 (9) "Recipient" means a person receiving tax credits under this
17 chapter.

18 (10) "Research and development" means the development, refinement,
19 testing, marketing, and commercialization of a product, service, or
20 process before commercial sales have begun. As used in this
21 subsection, "commercial sales" excludes sales of prototypes or sales
22 for market testing if the total gross receipts from such sales of the
23 product, service, or process do not exceed one million dollars.

24 NEW SECTION. **Sec. 5.** This act is intended to clarify that this is
25 the intent of the legislature both retroactively and prospectively.

26 NEW SECTION. **Sec. 6.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

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

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