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SENATE BILL 6490

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State of Washington

58th Legislature

2004 Regular Session

By Senators Zarelli and Kline; by request of Department of Revenue and Department of General Administration

Read first time 01/21/2004. Referred to Committee on Ways & Means.

1 AN ACT Relating to exempting fuel cells from sales and use taxes;  
2 and amending RCW 82.08.02567 and 82.12.02567.

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

4 **Sec. 1.** RCW 82.08.02567 and 2001 c 213 s 1 are each amended to  
5 read as follows:

6 (1) The tax levied by RCW 82.08.020 shall not apply to sales of  
7 machinery and equipment used directly in generating electricity using  
8 fuel cells, wind, sun, or landfill gas as the principal source of  
9 power, or to sales of or charges made for labor and services rendered  
10 in respect to installing such machinery and equipment, but only if the  
11 purchaser develops with such machinery, equipment, and labor a facility  
12 capable of generating not less than two hundred watts of electricity  
13 and provides the seller with an exemption certificate in a form and  
14 manner prescribed by the department. The seller shall retain a copy of  
15 the certificate for the seller's files.

16 (2) For purposes of this section and RCW 82.12.02567:

17 (a) "Landfill gas" means biomass fuel of the type qualified for  
18 federal tax credits under 26 U.S.C. Sec. 29 collected from a landfill.  
19 "Landfill" means a landfill as defined under RCW 70.95.030;

1 (b) "Machinery and equipment" means industrial fixtures, devices,  
2 and support facilities that are integral and necessary to the  
3 generation of electricity using fuel cells, wind, sun, or landfill gas  
4 as the principal source of power;

5 (c) "Machinery and equipment" does not include: (i) Hand-powered  
6 tools; (ii) property with a useful life of less than one year; (iii)  
7 repair parts required to restore machinery and equipment to normal  
8 working order; (iv) replacement parts that do not increase  
9 productivity, improve efficiency, or extend the useful life of  
10 machinery and equipment; (v) buildings; or (vi) building fixtures that  
11 are not integral and necessary to the generation of electricity that  
12 are permanently affixed to and become a physical part of a building;

13 (d) Machinery and equipment is "used directly" in generating  
14 electricity with fuel cells or by wind energy, solar energy, or  
15 landfill gas power if it provides any part of the process that captures  
16 the energy of the wind, sun, or landfill gas, converts that energy to  
17 electricity, and stores, transforms, or transmits that electricity for  
18 entry into or operation in parallel with electric transmission and  
19 distribution systems;

20 (e) "Fuel cell" means an electrochemical reaction that generates  
21 electricity by combining atoms of hydrogen and oxygen in the presence  
22 of a catalyst.

23 (3) This section expires June 30, 2009.

24 **Sec. 2.** RCW 82.12.02567 and 2003 c 5 s 6 are each amended to read  
25 as follows:

26 (1) The provisions of this chapter shall not apply with respect to  
27 machinery and equipment used directly in generating not less than two  
28 hundred watts of electricity using fuel cells, wind, sun, or landfill  
29 gas as the principal source of power, or to the use of labor and  
30 services rendered in respect to installing such machinery and  
31 equipment.

32 (2) The definitions in RCW 82.08.02567 apply to this section.

33 (3) This section expires June 30, 2009.

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