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SENATE BILL 6100

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State of Washington

59th Legislature

2005 Regular Session

By Senator Prentice

Read first time 03/29/2005. Referred to Committee on Ways & Means.

1 AN ACT Relating to revenue and taxation; amending RCW 82.04.060,  
2 82.12.0251, 82.12.0255, 82.12.035, 82.08.010, 82.14.020, 82.14.020,  
3 82.08.150, 82.08.160, 82.32.545, 82.32.550, 48.14.080, 82.04.298,  
4 82.04.290, and 82.71.020; amending 2004 c 153 s 502 (uncodified);  
5 amending 2003 1st sp.s. c 16 s 6 (uncodified); reenacting and amending  
6 RCW 82.04.050, 82.04.190, 82.12.010, 82.12.020, 82.12.040, 82.04.260,  
7 82.04.250, 82.04.250, and 82.04.440; adding a new section to chapter  
8 82.04 RCW; creating a new section; providing effective dates; providing  
9 a contingent effective date; providing expiration dates; and declaring  
10 an emergency.

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

12 PART I

13 EXTENDED WARRANTIES

14 **Sec. 101.** RCW 82.04.050 and 2004 c 174 s 3 and 2004 c 153 s 407  
15 are each reenacted and amended to read as follows:

16 (1) "Sale at retail" or "retail sale" means every sale of tangible  
17 personal property (including articles produced, fabricated, or  
18 imprinted) to all persons irrespective of the nature of their business

1 and including, among others, without limiting the scope hereof, persons  
2 who install, repair, clean, alter, improve, construct, or decorate real  
3 or personal property of or for consumers other than a sale to a person  
4 who presents a resale certificate under RCW 82.04.470 and who:

5 (a) Purchases for the purpose of resale as tangible personal  
6 property in the regular course of business without intervening use by  
7 such person, but a purchase for the purpose of resale by a regional  
8 transit authority under RCW 81.112.300 is not a sale for resale; or

9 (b) Installs, repairs, cleans, alters, imprints, improves,  
10 constructs, or decorates real or personal property of or for consumers,  
11 if such tangible personal property becomes an ingredient or component  
12 of such real or personal property without intervening use by such  
13 person; or

14 (c) Purchases for the purpose of consuming the property purchased  
15 in producing for sale a new article of tangible personal property or  
16 substance, of which such property becomes an ingredient or component or  
17 is a chemical used in processing, when the primary purpose of such  
18 chemical is to create a chemical reaction directly through contact with  
19 an ingredient of a new article being produced for sale; or

20 (d) Purchases for the purpose of consuming the property purchased  
21 in producing ferrosilicon which is subsequently used in producing  
22 magnesium for sale, if the primary purpose of such property is to  
23 create a chemical reaction directly through contact with an ingredient  
24 of ferrosilicon; (~~(e)~~)

25 (e) Purchases for the purpose of providing the property to  
26 consumers as part of competitive telephone service, as defined in RCW  
27 82.04.065. The term shall include every sale of tangible personal  
28 property which is used or consumed or to be used or consumed in the  
29 performance of any activity classified as a "sale at retail" or "retail  
30 sale" even though such property is resold or utilized as provided in  
31 (a), (b), (c), (d), or (e) of this subsection following such use. The  
32 term also means every sale of tangible personal property to persons  
33 engaged in any business which is taxable under RCW 82.04.280 (2) and  
34 (7), 82.04.290, and 82.04.2908; or

35 (f) Purchases for the purpose of satisfying the person's  
36 obligations under an extended warranty as defined in subsection (7) of  
37 this section, if such tangible personal property replaces or becomes an

1 ingredient or component of property covered by the extended warranty  
2 without intervening use by such person.

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

6 (a) The installing, repairing, cleaning, altering, imprinting, or  
7 improving of tangible personal property of or for consumers, including  
8 charges made for the mere use of facilities in respect thereto, but  
9 excluding charges made for the use of coin-operated laundry facilities  
10 when such facilities are situated in an apartment house, rooming house,  
11 or mobile home park for the exclusive use of the tenants thereof, and  
12 also excluding sales of laundry service to nonprofit health care  
13 facilities, and excluding services rendered in respect to live animals,  
14 birds and insects;

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

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

31 (d) The sale of or charge made for labor and services rendered in  
32 respect to the cleaning, fumigating, razing or moving of existing  
33 buildings or structures, but shall not include the charge made for  
34 janitorial services; and for purposes of this section the term  
35 "janitorial services" shall mean those cleaning and caretaking services  
36 ordinarily performed by commercial janitor service businesses  
37 including, but not limited to, wall and window washing, floor cleaning  
38 and waxing, and the cleaning in place of rugs, drapes and upholstery.

1 The term "janitorial services" does not include painting, papering,  
2 repairing, furnace or septic tank cleaning, snow removal or  
3 sandblasting;

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

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

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

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

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

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

38 (c) Credit bureau services;

1 (d) Automobile parking and storage garage services;

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

7 (f) Service charges associated with tickets to professional  
8 sporting events; and

9 (g) The following personal services: Physical fitness services,  
10 tanning salon services, tattoo parlor services, steam bath services,  
11 turkish bath services, escort services, and dating services.

12 (4)(a) The term shall also include:

13 (i) The renting or leasing of tangible personal property to  
14 consumers; and

15 (ii) Providing tangible personal property along with an operator  
16 for a fixed or indeterminate period of time. A consideration of this  
17 is that the operator is necessary for the tangible personal property to  
18 perform as designed. For the purpose of this subsection (4)(a)(ii), an  
19 operator must do more than maintain, inspect, or set up the tangible  
20 personal property.

21 (b) The term shall not include the renting or leasing of tangible  
22 personal property where the lease or rental is for the purpose of  
23 sublease or subrent.

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

26 (6) The term shall also include the sale of prewritten computer  
27 software other than a sale to a person who presents a resale  
28 certificate under RCW 82.04.470, regardless of the method of delivery  
29 to the end user, but shall not include custom software or the  
30 customization of prewritten computer software.

31 (7) The term shall also include the sale of or charge made for an  
32 extended warranty to a consumer. For purposes of this subsection,  
33 "extended warranty" means an agreement for a specified duration to  
34 perform the replacement or repair of tangible personal property at no  
35 additional charge or a reduced charge for tangible personal property,  
36 labor, or both, or to provide indemnification for the replacement or  
37 repair of tangible personal property, based on the occurrence of  
38 specified events. The term "extended warranty" does not include an

1 agreement, otherwise meeting the definition of extended warranty in  
2 this subsection, if no separate charge is made for the agreement and  
3 the value of the agreement is included in the sales price of the  
4 tangible personal property covered by the agreement. For purposes of  
5 this subsection, "sales price" has the same meaning as in RCW  
6 82.08.010.

7 (8) The term shall not include the sale of or charge made for labor  
8 and services rendered in respect to the building, repairing, or  
9 improving of any street, place, road, highway, easement, right of way,  
10 mass public transportation terminal or parking facility, bridge,  
11 tunnel, or trestle which is owned by a municipal corporation or  
12 political subdivision of the state or by the United States and which is  
13 used or to be used primarily for foot or vehicular traffic including  
14 mass transportation vehicles of any kind.

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

30 ~~((+9))~~ (10) The term shall not include the sale of or charge made  
31 for labor and services rendered in respect to the constructing,  
32 repairing, decorating, or improving of new or existing buildings or  
33 other structures under, upon, or above real property of or for the  
34 United States, any instrumentality thereof, or a county or city housing  
35 authority created pursuant to chapter 35.82 RCW, including the  
36 installing, or attaching of any article of tangible personal property  
37 therein or thereto, whether or not such personal property becomes a  
38 part of the realty by virtue of installation. Nor shall the term

1 include the sale of services or charges made for the clearing of land  
2 and the moving of earth of or for the United States, any  
3 instrumentality thereof, or a county or city housing authority. Nor  
4 shall the term include the sale of services or charges made for  
5 cleaning up for the United States, or its instrumentalities,  
6 radioactive waste and other byproducts of weapons production and  
7 nuclear research and development.

8 **Sec. 102.** RCW 82.04.060 and 2002 c 367 s 1 are each amended to  
9 read as follows:

10 "Sale at wholesale" or "wholesale sale" means: (1) Any sale of  
11 tangible personal property, any sale of services defined as a retail  
12 sale in RCW 82.04.050(2)(a), any sale of amusement or recreation  
13 services as defined in RCW 82.04.050(3)(a), any sale of canned  
14 software, any sale of an extended warranty as defined in RCW  
15 82.04.050(7), or any sale of telephone service as defined in RCW  
16 82.04.065, which is not a sale at retail; and (2) any charge made for  
17 labor and services rendered for persons who are not consumers, in  
18 respect to real or personal property, if such charge is expressly  
19 defined as a retail sale by RCW 82.04.050 when rendered to or for  
20 consumers: PROVIDED, That the term "real or personal property" as used  
21 in this subsection shall not include any natural products named in RCW  
22 82.04.100.

23 **Sec. 103.** RCW 82.04.190 and 2004 c 174 s 4 and 2004 c 2 s 8 are  
24 each reenacted and amended to read as follows:

25 "Consumer" means the following:

26 (1) Any person who purchases, acquires, owns, holds, or uses any  
27 article of tangible personal property irrespective of the nature of the  
28 person's business and including, among others, without limiting the  
29 scope hereof, persons who install, repair, clean, alter, improve,  
30 construct, or decorate real or personal property of or for consumers  
31 other than for the purpose (a) of resale as tangible personal property  
32 in the regular course of business or (b) of incorporating such property  
33 as an ingredient or component of real or personal property when  
34 installing, repairing, cleaning, altering, imprinting, improving,  
35 constructing, or decorating such real or personal property of or for  
36 consumers or (c) of consuming such property in producing for sale a new

1 article of tangible personal property or a new substance, of which such  
2 property becomes an ingredient or component or as a chemical used in  
3 processing, when the primary purpose of such chemical is to create a  
4 chemical reaction directly through contact with an ingredient of a new  
5 article being produced for sale or (d) (~~purchases for the purpose~~) of  
6 consuming the property purchased in producing ferrosilicon which is  
7 subsequently used in producing magnesium for sale, if the primary  
8 purpose of such property is to create a chemical reaction directly  
9 through contact with an ingredient of ferrosilicon or (e) of satisfying  
10 the person's obligations under an extended warranty as defined in RCW  
11 82.04.050(7), if such tangible personal property replaces or becomes an  
12 ingredient or component of property covered by the extended warranty  
13 without intervening use by such person;

14 (2)(a) Any person engaged in any business activity taxable under  
15 RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or  
16 uses any telephone service as defined in RCW 82.04.065, other than for  
17 resale in the regular course of business; (c) any person who purchases,  
18 acquires, or uses any service defined in RCW 82.04.050(2)(a) (~~or any~~  
19 ~~amusement and recreation service defined in RCW 82.04.050(3)(a)~~),  
20 other than for resale in the regular course of business or for the  
21 purpose of satisfying the person's obligations under an extended  
22 warranty as defined in RCW 82.04.050(7); ((and)) (d) any person who  
23 purchases, acquires, or uses any amusement and recreation service  
24 defined in RCW 82.04.050(3)(a), other than for resale in the regular  
25 course of business; (e) any person who is an end user of software; and  
26 (f) any person who purchases or acquires an extended warranty as  
27 defined in RCW 82.04.050(7) other than for resale in the regular course  
28 of business;

29 (3) Any person engaged in the business of contracting for the  
30 building, repairing or improving of any street, place, road, highway,  
31 easement, right of way, mass public transportation terminal or parking  
32 facility, bridge, tunnel, or trestle which is owned by a municipal  
33 corporation or political subdivision of the state of Washington or by  
34 the United States and which is used or to be used primarily for foot or  
35 vehicular traffic including mass transportation vehicles of any kind as  
36 defined in RCW 82.04.280, in respect to tangible personal property when  
37 such person incorporates such property as an ingredient or component of  
38 such publicly owned street, place, road, highway, easement, right of



1 way, mass public transportation terminal or parking facility, bridge,  
2 tunnel, or trestle by installing, placing or spreading the property in  
3 or upon the right of way of such street, place, road, highway,  
4 easement, bridge, tunnel, or trestle or in or upon the site of such  
5 mass public transportation terminal or parking facility;

6 (4) Any person who is an owner, lessee or has the right of  
7 possession to or an easement in real property which is being  
8 constructed, repaired, decorated, improved, or otherwise altered by a  
9 person engaged in business, excluding only (a) municipal corporations  
10 or political subdivisions of the state in respect to labor and services  
11 rendered to their real property which is used or held for public road  
12 purposes, and (b) the United States, instrumentalities thereof, and  
13 county and city housing authorities created pursuant to chapter 35.82  
14 RCW in respect to labor and services rendered to their real property.  
15 Nothing contained in this or any other subsection of this definition  
16 shall be construed to modify any other definition of "consumer";

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

21 (6) Any person engaged in the business of constructing, repairing,  
22 decorating, or improving new or existing buildings or other structures  
23 under, upon, or above real property of or for the United States, any  
24 instrumentality thereof, or a county or city housing authority created  
25 pursuant to chapter 35.82 RCW, including the installing or attaching of  
26 any article of tangible personal property therein or thereto, whether  
27 or not such personal property becomes a part of the realty by virtue of  
28 installation; also, any person engaged in the business of clearing land  
29 and moving earth of or for the United States, any instrumentality  
30 thereof, or a county or city housing authority created pursuant to  
31 chapter 35.82 RCW. Any such person shall be a consumer within the  
32 meaning of this subsection in respect to tangible personal property  
33 incorporated into, installed in, or attached to such building or other  
34 structure by such person, except that consumer does not include any  
35 person engaged in the business of constructing, repairing, decorating,  
36 or improving new or existing buildings or other structures under, upon,  
37 or above real property of or for the United States, or any

1 instrumentality thereof, if the investment project would qualify for  
2 sales and use tax deferral under chapter 82.63 RCW if undertaken by a  
3 private entity;

4 (7) Any person who is a lessor of machinery and equipment, the  
5 rental of which is exempt from the tax imposed by RCW 82.08.020 under  
6 RCW 82.08.02565, with respect to the sale of or charge made for  
7 tangible personal property consumed in respect to repairing the  
8 machinery and equipment, if the tangible personal property has a useful  
9 life of less than one year. Nothing contained in this or any other  
10 subsection of this section shall be construed to modify any other  
11 definition of "consumer"; (~~and~~)

12 (8) Any person engaged in the business of cleaning up for the  
13 United States, or its instrumentalities, radioactive waste and other  
14 byproducts of weapons production and nuclear research and development;  
15 and

16 (9) Any person who is an owner, lessee, or has the right of  
17 possession of tangible personal property that, under the terms of an  
18 extended warranty as defined in RCW 82.04.050(7), has been repaired or  
19 is replacement property, but only with respect to the sale of or charge  
20 made for the repairing of the tangible personal property or the  
21 replacement property.

22 **Sec. 104.** RCW 82.12.010 and 2003 c 168 s 102 and 2003 c 5 s 1 are  
23 each reenacted and amended to read as follows:

24 For the purposes of this chapter:

25 (1) "Purchase price" means the same as sales price as defined in  
26 RCW 82.08.010.

27 (2)(a) "Value of the article used" shall be the purchase price for  
28 the article of tangible personal property, the use of which is taxable  
29 under this chapter. The term also includes, in addition to the  
30 purchase price, the amount of any tariff or duty paid with respect to  
31 the importation of the article used. In case the article used is  
32 acquired by lease or by gift or is extracted, produced, or manufactured  
33 by the person using the same or is sold under conditions wherein the  
34 purchase price does not represent the true value thereof, the value of  
35 the article used shall be determined as nearly as possible according to  
36 the retail selling price at place of use of similar products of like  
37 quality and character under such rules as the department may prescribe.

1 (b) In case the articles used are acquired by bailment, the value  
2 of the use of the articles so used shall be in an amount representing  
3 a reasonable rental for the use of the articles so bailed, determined  
4 as nearly as possible according to the value of such use at the places  
5 of use of similar products of like quality and character under such  
6 rules as the department of revenue may prescribe. In case any such  
7 articles of tangible personal property are used in respect to the  
8 construction, repairing, decorating, or improving of, and which become  
9 or are to become an ingredient or component of, new or existing  
10 buildings or other structures under, upon, or above real property of or  
11 for the United States, any instrumentality thereof, or a county or city  
12 housing authority created pursuant to chapter 35.82 RCW, including the  
13 installing or attaching of any such articles therein or thereto,  
14 whether or not such personal property becomes a part of the realty by  
15 virtue of installation, then the value of the use of such articles so  
16 used shall be determined according to the retail selling price of such  
17 articles, or in the absence of such a selling price, as nearly as  
18 possible according to the retail selling price at place of use of  
19 similar products of like quality and character or, in the absence of  
20 either of these selling price measures, such value may be determined  
21 upon a cost basis, in any event under such rules as the department of  
22 revenue may prescribe.

23 (c) In the case of articles owned by a user engaged in business  
24 outside the state which are brought into the state for no more than one  
25 hundred eighty days in any period of three hundred sixty-five  
26 consecutive days and which are temporarily used for business purposes  
27 by the person in this state, the value of the article used shall be an  
28 amount representing a reasonable rental for the use of the articles,  
29 unless the person has paid tax under this chapter or chapter 82.08 RCW  
30 upon the full value of the article used, as defined in (a) of this  
31 subsection.

32 (d) In the case of articles manufactured or produced by the user  
33 and used in the manufacture or production of products sold or to be  
34 sold to the department of defense of the United States, the value of  
35 the articles used shall be determined according to the value of the  
36 ingredients of such articles.

37 (e) In the case of an article manufactured or produced for purposes  
38 of serving as a prototype for the development of a new or improved

1 product, the value of the article used shall be determined by: (i) The  
2 retail selling price of such new or improved product when first offered  
3 for sale; or (ii) the value of materials incorporated into the  
4 prototype in cases in which the new or improved product is not offered  
5 for sale.

6 (f) In the case of an article purchased with a direct pay permit  
7 under RCW 82.32.087, the value of the article used shall be determined  
8 by the purchase price of such article if, but for the use of the direct  
9 pay permit, the transaction would have been subject to sales tax;

10 (3) "Value of the service used" means the purchase price for the  
11 service, the use of which is taxable under this chapter. If the  
12 service is received by gift or under conditions wherein the purchase  
13 price does not represent the true value thereof, the value of the  
14 service used shall be determined as nearly as possible according to the  
15 retail selling price at place of use of similar services of like  
16 quality and character under rules the department may prescribe;

17 (4) "Value of the extended warranty used" means the purchase price  
18 for the extended warranty, the use of which is taxable under this  
19 chapter. If the extended warranty is received by gift or under  
20 conditions wherein the purchase price does not represent the true value  
21 of the extended warranty, the value of the extended warranty used shall  
22 be determined as nearly as possible according to the retail selling  
23 price at place of use of similar extended warranties of like quality  
24 and character under rules the department may prescribe;

25 (5) "Use," "used," "using," or "put to use" shall have their  
26 ordinary meaning, and shall mean:

27 (a) With respect to tangible personal property, the first act  
28 within this state by which the taxpayer takes or assumes dominion or  
29 control over the article of tangible personal property (as a consumer),  
30 and include installation, storage, withdrawal from storage,  
31 distribution, or any other act preparatory to subsequent actual use or  
32 consumption within this state; (~~and~~)

33 (b) With respect to a service defined in RCW 82.04.050(2)(a), the  
34 first act within this state after the service has been performed by  
35 which the taxpayer takes or assumes dominion or control over the  
36 article of tangible personal property upon which the service was  
37 performed (as a consumer), and includes installation, storage,

1 withdrawal from storage, distribution, or any other act preparatory to  
2 subsequent actual use or consumption of the article within this state;  
3 and

4 (c) With respect to an extended warranty, the first act within this  
5 state after the extended warranty has been acquired by which the  
6 taxpayer takes or assumes dominion or control over the article of  
7 tangible personal property to which the extended warranty applies, and  
8 includes installation, storage, withdrawal from storage, distribution,  
9 or any other act preparatory to subsequent actual use or consumption of  
10 the article within this state;

11 ~~((+5+))~~ (6) "Taxpayer" and "purchaser" include all persons included  
12 within the meaning of the word "buyer" and the word "consumer" as  
13 defined in chapters 82.04 and 82.08 RCW;

14 ~~((+6+))~~ (7) "Retailer" means every seller as defined in RCW  
15 82.08.010 and every person engaged in the business of selling tangible  
16 personal property at retail and every person required to collect from  
17 purchasers the tax imposed under this chapter;

18 ~~((+7+))~~ (8) "Extended warranty" has the same meaning as in RCW  
19 82.04.050(7);

20 (9) The meaning ascribed to words and phrases in chapters 82.04 and  
21 82.08 RCW, insofar as applicable, shall have full force and effect with  
22 respect to taxes imposed under the provisions of this chapter.  
23 "Consumer," in addition to the meaning ascribed to it in chapters 82.04  
24 and 82.08 RCW insofar as applicable, shall also mean any person who  
25 distributes or displays, or causes to be distributed or displayed, any  
26 article of tangible personal property, except newspapers, the primary  
27 purpose of which is to promote the sale of products or services. With  
28 respect to property distributed to persons within this state by a  
29 consumer as defined in this subsection ~~((+7+))~~ (9), the use of the  
30 property shall be deemed to be by such consumer.

31 **Sec. 105.** RCW 82.12.020 and 2003 c 361 s 302 and 2003 c 168 s 214  
32 are each reenacted and amended to read as follows:

33 (1) There is hereby levied and there shall be collected from every  
34 person in this state a tax or excise for the privilege of using within  
35 this state as a consumer: (a) Any article of tangible personal  
36 property purchased at retail, or acquired by lease, gift, repossession,  
37 or bailment, or extracted or produced or manufactured by the person so

1 using the same, or otherwise furnished to a person engaged in any  
2 business taxable under RCW 82.04.280 (2) or (7); ~~((a))~~ (b) any  
3 prewritten computer software, regardless of the method of delivery, but  
4 excluding prewritten computer software that is either provided free of  
5 charge or is provided for temporary use in viewing information, or  
6 both; or (c) any extended warranty.

7 (2) This tax shall apply to the use of every extended warranty,  
8 service defined as a retail sale in RCW 82.04.050 (2)(a) or (3)(a), and  
9 the use of every article of tangible personal property, including  
10 property acquired at a casual or isolated sale, and including  
11 byproducts used by the manufacturer thereof, except as hereinafter  
12 provided, irrespective of whether the article or similar articles are  
13 manufactured or are available for purchase within this state.

14 (3) The provisions of this chapter do not apply in respect to the  
15 use of any article of tangible personal property, extended warranty, or  
16 service taxable under RCW 82.04.050 (2)(a) or (3)(a), purchased at  
17 retail or acquired by lease, gift, or bailment if the sale to, or the  
18 use by, the present user or his bailor or donor has already been  
19 subjected to the tax under chapter 82.08 RCW or this chapter and the  
20 tax has been paid by the present user or by his bailor or donor.

21 (4) Except as provided in this section, payment by one purchaser or  
22 user of tangible personal property, extended warranty, or service of  
23 the tax imposed by chapter 82.08 or 82.12 RCW shall not have the effect  
24 of exempting any other purchaser or user of the same property, extended  
25 warranty, or service from the taxes imposed by such chapters. If the  
26 sale to, or the use by, the present user or his or her bailor or donor  
27 has already been subjected to the tax under chapter 82.08 RCW or this  
28 chapter and the tax has been paid by the present user or by his or her  
29 bailor or donor; or in respect to the use of property acquired by  
30 bailment and the tax has once been paid based on reasonable rental as  
31 determined by RCW 82.12.060 measured by the value of the article at  
32 time of first use multiplied by the tax rate imposed by chapter 82.08  
33 RCW or this chapter as of the time of first use; or in respect to the  
34 use of any article of tangible personal property acquired by bailment,  
35 if the property was acquired by a previous bailee from the same bailor  
36 for use in the same general activity and the original bailment was  
37 prior to June 9, 1961, the tax imposed by this chapter does not apply.

1 (5) The tax shall be levied and collected in an amount equal to the  
2 value of the article used, value of the extended warranty used, or  
3 value of the service used by the taxpayer multiplied by the rates in  
4 effect for the retail sales tax under RCW 82.08.020, except in the case  
5 of a seller required to collect use tax from the purchaser, the tax  
6 shall be collected in an amount equal to the purchase price multiplied  
7 by the rate in effect for the retail sales tax under RCW 82.08.020.

8 **Sec. 106.** RCW 82.12.0251 and 2003 c 5 s 18 are each amended to  
9 read as follows:

10 The provisions of this chapter shall not apply in respect to the  
11 use:

12 (1) Of any article of tangible personal property, and services that  
13 were rendered in respect to such property, brought into the state of  
14 Washington by a nonresident thereof for his or her use or enjoyment  
15 while temporarily within the state of Washington unless such property  
16 is used in conducting a nontransitory business activity within the  
17 state of Washington;

18 (2) By a nonresident of Washington of a motor vehicle or trailer  
19 which is registered or licensed under the laws of the state of his or  
20 her residence, and which is not required to be registered or licensed  
21 under the laws of Washington, including motor vehicles or trailers  
22 exempt pursuant to a declaration issued by the department of licensing  
23 under RCW 46.85.060, and services rendered outside the state of  
24 Washington in respect to such property;

25 (3) Of household goods, personal effects, and private motor  
26 vehicles, and services rendered in respect to such property, by a bona  
27 fide resident of Washington, or nonresident members of the armed forces  
28 who are stationed in Washington pursuant to military orders, if such  
29 articles and services were acquired and used by such person in another  
30 state while a bona fide resident thereof and such acquisition and use  
31 occurred more than ninety days prior to the time he or she entered  
32 Washington. For purposes of this subsection, private motor vehicles  
33 (~~does [do]~~) do not include motor homes(~~(-)~~);

34 (4) Of an extended warranty, to the extent that the property  
35 covered by the extended warranty is exempt under this section from the  
36 tax imposed under this chapter.

1 For purposes of this section, "state" means a state of the United  
2 States, any political subdivision thereof, the District of Columbia,  
3 and any foreign country or political subdivision thereof, and  
4 "services" means services defined as retail sales in RCW  
5 82.04.050(2)(a).

6 **Sec. 107.** RCW 82.12.0255 and 2003 c 5 s 4 are each amended to read  
7 as follows:

8 The provisions of this chapter shall not apply in respect to the  
9 use of any article of tangible personal property, extended warranty, or  
10 service which the state is prohibited from taxing under the  
11 Constitution of the state or under the Constitution or laws of the  
12 United States.

13 **Sec. 108.** RCW 82.12.035 and 2002 c 367 s 5 are each amended to  
14 read as follows:

15 A credit shall be allowed against the taxes imposed by this chapter  
16 upon the use of tangible personal property, extended warranty, or  
17 services taxable under RCW 82.04.050 (2)(a) or (3)(a), in the state of  
18 Washington in the amount that the present user thereof or his or her  
19 bailor or donor has paid a retail sales or use tax with respect to such  
20 property, extended warranty, or service to any other state of the  
21 United States, any political subdivision thereof, the District of  
22 Columbia, and any foreign country or political subdivision thereof,  
23 prior to the use of such property, extended warranty, or service in  
24 Washington.

25 **Sec. 109.** RCW 82.12.040 and 2003 c 168 s 215 and 2003 c 76 s 4 are  
26 each reenacted and amended to read as follows:

27 (1) Every person who maintains in this state a place of business or  
28 a stock of goods, or engages in business activities within this state,  
29 shall obtain from the department a certificate of registration, and  
30 shall, at the time of making sales of tangible personal property,  
31 extended warranties, or sales of any service defined as a retail sale  
32 in RCW 82.04.050 (2)(a) or (3)(a), or making transfers of either  
33 possession or title, or both, of tangible personal property for use in  
34 this state, collect from the purchasers or transferees the tax imposed  
35 under this chapter. The tax to be collected under this section shall



1 be in an amount equal to the purchase price multiplied by the rate in  
2 effect for the retail sales tax under RCW 82.08.020. For the purposes  
3 of this chapter, the phrase "maintains in this state a place of  
4 business" shall include the solicitation of sales and/or taking of  
5 orders by sales agents or traveling representatives. For the purposes  
6 of this chapter, "engages in business activity within this state"  
7 includes every activity which is sufficient under the Constitution of  
8 the United States for this state to require collection of tax under  
9 this chapter. The department shall in rules specify activities which  
10 constitute engaging in business activity within this state, and shall  
11 keep the rules current with future court interpretations of the  
12 Constitution of the United States.

13 (2) Every person who engages in this state in the business of  
14 acting as an independent selling agent for persons who do not hold a  
15 valid certificate of registration, and who receives compensation by  
16 reason of sales of tangible personal property, extended warranties, or  
17 sales of any service defined as a retail sale in RCW 82.04.050 (2)(a)  
18 or (3)(a), of his or her principals for use in this state, shall, at  
19 the time such sales are made, collect from the purchasers the tax  
20 imposed on the purchase price under this chapter, and for that purpose  
21 shall be deemed a retailer as defined in this chapter.

22 (3) The tax required to be collected by this chapter shall be  
23 deemed to be held in trust by the retailer until paid to the department  
24 and any retailer who appropriates or converts the tax collected to the  
25 retailer's own use or to any use other than the payment of the tax  
26 provided herein to the extent that the money required to be collected  
27 is not available for payment on the due date as prescribed shall be  
28 guilty of a misdemeanor. In case any seller fails to collect the tax  
29 herein imposed or having collected the tax, fails to pay the same to  
30 the department in the manner prescribed, whether such failure is the  
31 result of the seller's own acts or the result of acts or conditions  
32 beyond the seller's control, the seller shall nevertheless, be  
33 personally liable to the state for the amount of such tax, unless the  
34 seller has taken from the buyer in good faith a copy of a direct pay  
35 permit issued under RCW 82.32.087.

36 (4) Any retailer who refunds, remits, or rebates to a purchaser, or  
37 transferee, either directly or indirectly, and by whatever means, all

1 or any part of the tax levied by this chapter shall be guilty of a  
2 misdemeanor.

3 (5) Notwithstanding subsections (1) through (4) of this section,  
4 any person making sales is not obligated to collect the tax imposed by  
5 this chapter if:

6 (a) The person's activities in this state, whether conducted  
7 directly or through another person, are limited to:

8 (i) The storage, dissemination, or display of advertising;

9 (ii) The taking of orders; or

10 (iii) The processing of payments; and

11 (b) The activities are conducted electronically via a web site on  
12 a server or other computer equipment located in Washington that is not  
13 owned or operated by the person making sales into this state nor owned  
14 or operated by an affiliated person. "Affiliated persons" has the same  
15 meaning as provided in RCW 82.04.424.

16 (6) Subsection (5) of this section expires when: (a) The United  
17 States congress grants individual states the authority to impose sales  
18 and use tax collection duties on remote sellers; or (b) it is  
19 determined by a court of competent jurisdiction, in a judgment not  
20 subject to review, that a state can impose sales and use tax collection  
21 duties on remote sellers.

22 **Sec. 110.** RCW 82.08.010 and 2004 c 153 s 406 are each amended to  
23 read as follows:

24 For the purposes of this chapter:

25 (1) "Selling price" includes "sales price." "Sales price" means  
26 the total amount of consideration, except separately stated trade-in  
27 property of like kind, including cash, credit, property, and services,  
28 for which tangible personal property, extended warranties, or services  
29 defined as a "retail sale" under RCW 82.04.050 are sold, leased, or  
30 rented, valued in money, whether received in money or otherwise. No  
31 deduction from the total amount of consideration is allowed for the  
32 following: (a) The seller's cost of the property sold; (b) the cost of  
33 materials used, labor or service cost, interest, losses, all costs of  
34 transportation to the seller, all taxes imposed on the seller, and any  
35 other expense of the seller; (c) charges by the seller for any services  
36 necessary to complete the sale, other than delivery and installation  
37 charges; (d) delivery charges; (e) installation charges; and (f) the

1 value of exempt tangible personal property given to the purchaser where  
2 taxable and exempt tangible personal property have been bundled  
3 together and sold by the seller as a single product or piece of  
4 merchandise.

5 When tangible personal property is rented or leased under  
6 circumstances that the consideration paid does not represent a  
7 reasonable rental for the use of the articles so rented or leased, the  
8 "selling price" shall be determined as nearly as possible according to  
9 the value of such use at the places of use of similar products of like  
10 quality and character under such rules as the department may prescribe.

11 "Selling price" or "sales price" does not include: Discounts,  
12 including cash, term, or coupons that are not reimbursed by a third  
13 party that are allowed by a seller and taken by a purchaser on a sale;  
14 interest, financing, and carrying charges from credit extended on the  
15 sale of tangible personal property, extended warranties, or services,  
16 if the amount is separately stated on the invoice, bill of sale, or  
17 similar document given to the purchaser; and any taxes legally imposed  
18 directly on the consumer that are separately stated on the invoice,  
19 bill of sale, or similar document given to the purchaser;

20 (2) "Seller" means every person, including the state and its  
21 departments and institutions, making sales at retail or retail sales to  
22 a buyer, purchaser, or consumer, whether as agent, broker, or  
23 principal, except "seller" does not mean the state and its departments  
24 and institutions when making sales to the state and its departments and  
25 institutions;

26 (3) "Buyer," "purchaser," and "consumer" include, without limiting  
27 the scope hereof, every individual, receiver, assignee, trustee in  
28 bankruptcy, trust, estate, firm, copartnership, joint venture, club,  
29 company, joint stock company, business trust, corporation, association,  
30 society, or any group of individuals acting as a unit, whether mutual,  
31 cooperative, fraternal, nonprofit, or otherwise, municipal corporation,  
32 quasi municipal corporation, and also the state, its departments and  
33 institutions and all political subdivisions thereof, irrespective of  
34 the nature of the activities engaged in or functions performed, and  
35 also the United States or any instrumentality thereof;

36 (4) "Delivery charges" means charges by the seller of personal  
37 property or services for preparation and delivery to a location

1 designated by the purchaser of personal property or services including,  
2 but not limited to, transportation, shipping, postage, handling,  
3 crating, and packing;

4 (5) The meaning attributed in chapter 82.04 RCW to the terms "tax  
5 year," "taxable year," "person," "company," "sale," "sale at retail,"  
6 "retail sale," "sale at wholesale," "wholesale," "business," "engaging  
7 in business," "cash discount," "successor," "consumer," "in this state"  
8 and "within this state" shall apply equally to the provisions of this  
9 chapter;

10 (6) For the purposes of the taxes imposed under this chapter and  
11 under chapter 82.12 RCW, "tangible personal property" means personal  
12 property that can be seen, weighed, measured, felt, or touched, or that  
13 is in any other manner perceptible to the senses. Tangible personal  
14 property includes electricity, water, gas, steam, and prewritten  
15 computer software;

16 (7) "Extended warranty" has the same meaning as in RCW  
17 82.04.050(7).

18 **Sec. 111.** RCW 82.14.020 and 2003 c 168 s 502 are each amended to  
19 read as follows:

20 For purposes of this chapter:

21 (1) A retail sale consisting solely of the sale of tangible  
22 personal property shall be deemed to have occurred at the retail outlet  
23 at or from which delivery is made to the consumer;

24 (2) A retail sale consisting essentially of the performance of  
25 personal, business, or professional services shall be deemed to have  
26 occurred at the place at which such services were primarily performed,  
27 except that for the performance of a tow truck service, as defined in  
28 RCW 46.55.010, the retail sale shall be deemed to have occurred at the  
29 place of business of the operator of the tow truck service;

30 (3) A retail sale consisting of the rental of tangible personal  
31 property shall be deemed to have occurred (a) in the case of a rental  
32 involving periodic rental payments, at the place of primary use by the  
33 lessee during the period covered by each payment, or (b) in all other  
34 cases, at the place of first use by the lessee;

35 (4) A retail sale within the scope of RCW 82.04.050(2), and a  
36 retail sale of taxable personal property to be installed by the seller

1 shall be deemed to have occurred at the place where the labor and  
2 services involved were primarily performed;

3 (5)(a) A retail sale consisting of the providing to a consumer of  
4 telephone service, as defined in RCW 82.04.065, other than a sale of  
5 tangible personal property under subsection (1) of this section or a  
6 rental of tangible personal property under subsection (3) of this  
7 section or a sale of mobile telecommunications services, shall be  
8 deemed to have occurred at the situs of the telephone or other  
9 instrument through which the telephone service is rendered;

10 (b) A retail sale consisting of the providing of telecommunications  
11 services shall be sourced in accordance with RCW 82.32.520;

12 (6) A retail sale of linen and uniform supply services is deemed to  
13 occur as provided in RCW 82.08.0202;

14 (7) A retail sale consisting of an extended warranty shall be  
15 deemed to have occurred at the business location of the seller if the  
16 extended warranty is received by the purchaser at that location. If an  
17 extended warranty is not received by the purchaser at the business  
18 location of the seller, a retail sale of an extended warranty shall be  
19 deemed to have occurred at the location where receipt by the buyer  
20 occurs;

21 (8) "City" means a city or town;

22 ((+8)) (9) The meaning ascribed to words and phrases in chapters  
23 82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as  
24 applicable, shall have full force and effect with respect to taxes  
25 imposed under authority of this chapter;

26 ((+9)) (10) "Taxable event" shall mean any retail sale, or any  
27 use, upon which a state tax is imposed pursuant to chapter 82.08 or  
28 82.12 RCW, as they now exist or may hereafter be amended: PROVIDED,  
29 HOWEVER, That the term shall not include a retail sale taxable pursuant  
30 to RCW 82.08.150, as now or hereafter amended;

31 ((+10)) (11) "Treasurer or other legal depository" shall mean the  
32 treasurer or legal depository of a county or city.

33 **Sec. 112.** RCW 82.14.020 and 2003 c 168 s 503 are each amended to  
34 read as follows:

35 For purposes of this chapter:

36 (1) A retail sale consisting solely of the sale of tangible

1 personal property shall be deemed to have occurred at the retail outlet  
2 at or from which delivery is made to the consumer;

3 (2) A retail sale consisting essentially of the performance of  
4 personal, business, or professional services shall be deemed to have  
5 occurred at the place at which such services were primarily performed,  
6 except that for the performance of a tow truck service, as defined in  
7 RCW 46.55.010, the retail sale shall be deemed to have occurred at the  
8 place of business of the operator of the tow truck service;

9 (3) A retail sale consisting of the rental of tangible personal  
10 property shall be deemed to have occurred (a) in the case of a rental  
11 involving periodic rental payments, at the primary place of use by the  
12 lessee during the period covered by each payment, or (b) in all other  
13 cases, at the place of first use by the lessee;

14 (4) A retail sale within the scope of RCW 82.04.050(2), and a  
15 retail sale of taxable personal property to be installed by the seller  
16 shall be deemed to have occurred at the place where the labor and  
17 services involved were primarily performed;

18 (5) A retail sale consisting of the providing of telecommunications  
19 services shall be sourced in accordance with RCW 82.32.520;

20 (6) A retail sale of linen and uniform supply services is deemed to  
21 occur as provided in RCW 82.08.0202;

22 (7) A retail sale consisting of an extended warranty shall be  
23 deemed to have occurred at the business location of the seller if the  
24 extended warranty is received by the purchaser at that location. If an  
25 extended warranty is not received by the purchaser at the business  
26 location of the seller, a retail sale of an extended warranty shall be  
27 deemed to have occurred at the location where receipt by the buyer  
28 occurs;

29 (8) "City" means a city or town;

30 ((+8)) (9) The meaning ascribed to words and phrases in chapters  
31 82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as  
32 applicable, shall have full force and effect with respect to taxes  
33 imposed under authority of this chapter;

34 ((+9)) (10) "Taxable event" shall mean any retail sale, or any  
35 use, upon which a state tax is imposed pursuant to chapter 82.08 or  
36 82.12 RCW, as they now exist or may hereafter be amended: PROVIDED,  
37 HOWEVER, That the term shall not include a retail sale taxable pursuant  
38 to RCW 82.08.150, as now or hereafter amended;



1 Washington state liquor stores and agencies, and including sales to  
2 spirits, beer, and wine restaurant licensees.

3 (4) An additional tax is imposed equal to fourteen percent  
4 multiplied by the taxes payable under subsections (1), (2), and (3) of  
5 this section.

6 (5) An additional tax is imposed upon each retail sale of spirits  
7 in the original package at the rate of seven cents per liter. The  
8 additional tax imposed in this subsection shall apply to all such sales  
9 including sales by Washington state liquor stores and agencies, and  
10 including sales to spirits, beer, and wine restaurant licensees. All  
11 revenues collected during any month from this additional tax shall be  
12 deposited in the violence reduction and drug enforcement account under  
13 RCW 69.50.520 by the twenty-fifth day of the following month.

14 (6)(a) An additional tax is imposed upon retail sale of spirits in  
15 the original package at the rate of one and seven-tenths percent of the  
16 selling price through June 30, 1995, two and six-tenths percent of the  
17 selling price for the period July 1, 1995, through June 30, 1997, and  
18 three and four-tenths of the selling price thereafter. This additional  
19 tax applies to all such sales including sales by Washington state  
20 liquor stores and agencies, but excluding sales to spirits, beer, and  
21 wine restaurant licensees.

22 (b) An additional tax is imposed upon retail sale of spirits in the  
23 original package at the rate of one and one-tenth percent of the  
24 selling price through June 30, 1995, one and seven-tenths percent of  
25 the selling price for the period July 1, 1995, through June 30, 1997,  
26 and two and three-tenths of the selling price thereafter. This  
27 additional tax applies to all such sales to spirits, beer, and wine  
28 restaurant licensees.

29 (c) An additional tax is imposed upon each retail sale of spirits  
30 in the original package at the rate of twenty cents per liter through  
31 June 30, 1995, thirty cents per liter for the period July 1, 1995,  
32 through June 30, 1997, and forty-one cents per liter thereafter. This  
33 additional tax applies to all such sales including sales by Washington  
34 state liquor stores and agencies, and including sales to spirits, beer,  
35 and wine restaurant licensees.

36 (d) All revenues collected during any month from additional taxes  
37 under this subsection shall be deposited in the health services account



1 created under RCW 43.72.900 by the twenty-fifth day of the following  
2 month.

3 (7) There is levied and shall be collected an additional tax upon  
4 each retail sale of spirits in the original package at the rate of one  
5 dollar per liter. The additional tax imposed in this subsection shall  
6 apply to all such sales including sales by Washington state liquor  
7 stores and agencies, and including sales to spirits, beer, and wine  
8 restaurant licensees.

9 (8) The tax imposed in RCW 82.08.020 shall not apply to sales of  
10 spirits in the original package.

11 ~~((+8+))~~ (9) The taxes imposed in this section shall be paid by the  
12 buyer to the seller, and each seller shall collect from the buyer the  
13 full amount of the tax payable in respect to each taxable sale under  
14 this section. The taxes required by this section to be collected by  
15 the seller shall be stated separately from the selling price and for  
16 purposes of determining the tax due from the buyer to the seller, it  
17 shall be conclusively presumed that the selling price quoted in any  
18 price list does not include the taxes imposed by this section.

19 ~~((+9+))~~ (10) As used in this section, the terms, "spirits" and  
20 "package" shall have the meaning ascribed to them in chapter 66.04 RCW.

21 **Sec. 202.** RCW 82.08.160 and 1982 1st ex.s. c 35 s 4 are each  
22 amended to read as follows:

23 On or before the twenty-fifth day of each month, all taxes  
24 collected under RCW 82.08.150 during the preceding month shall be  
25 remitted to the state department of revenue, to be deposited with the  
26 state treasurer. Upon receipt of such moneys the state treasurer shall  
27 credit sixty-five percent of the sums collected and remitted under RCW  
28 82.08.150 (1) and (2) and one hundred percent of the sums collected and  
29 remitted under RCW 82.08.150 (3) ~~((and))~~, (4), and (7) to the state  
30 general fund and thirty-five percent of the sums collected and remitted  
31 under RCW 82.08.150 (1) and (2) to a fund which is hereby created to be  
32 known as the "liquor excise tax fund."

33 **PART III**  
34 **MEAT PROCESSING**

1        NEW SECTION.    **Sec. 301.**    A new section is added to chapter 82.04

2    RCW to read as follows:

3        (1) Upon every person engaging within this state in the business of  
4    manufacturing:

5        (a) Perishable meat products, by slaughtering, breaking, or  
6    processing, if the finished product is a perishable meat product; as to  
7    such persons the tax imposed shall be equal to the value of the  
8    perishable meat products so manufactured, or in the case of a processor  
9    for hire the gross proceeds from such activities, multiplied by the  
10   rate of 0.138 percent;

11       (b) Meat products, by dehydration, curing, smoking, or any  
12   combination of dehydration, curing, and smoking, if the finished meat  
13   products are not canned; as to such persons the tax imposed shall be  
14   equal to the gross proceeds derived from such sales multiplied by the  
15   rate of 0.138 percent;

16       (c) Hides, tallow, meat meal, and other similar meat by-products,  
17   if such products are derived in part from animals and manufactured in  
18   a rendering plant licensed under chapter 16.68 RCW; as to such persons  
19   the tax imposed shall be equal to the value of products manufactured  
20   multiplied by the rate of 0.138 percent.

21       (2) Upon every person engaging within this state in the business of  
22   selling at wholesale:

23       (a) Perishable meat products; as to such persons the tax imposed  
24   shall be equal to the gross proceeds derived from such sales multiplied  
25   by the rate of 0.138 percent;

26       (b) Meat products that have been manufactured by that person by  
27   dehydration, curing, smoking, or any combination of dehydration,  
28   curing, and smoking, if the finished meat products are not canned; as  
29   to such persons the tax imposed shall be equal to the gross proceeds  
30   derived from such sales multiplied by the rate of 0.138 percent;

31       (c) Hides, tallow, meat meal, and other similar meat by-products if  
32   such products are derived in part from animals and manufactured by the  
33   seller in a rendering plant; as to such persons the tax imposed shall  
34   be equal to the gross proceeds derived from such sales multiplied by  
35   the rate of 0.138 percent.

36       (3) The definitions in this subsection apply throughout this  
37   section:

1 (a) "Animal" means all members of the animal kingdom except humans,  
2 fish, and insects.

3 (b) "Carcass" means all or any parts, including viscera, of a  
4 slaughtered animal.

5 (c) "Hide" means any unprocessed animal pelt or skin.

6 (d) "Fish" means any water-breathing animal, including shellfish.

7 (e) "Meat products" means products comprised exclusively of animal  
8 carcass, except that meat products includes products such as sausage  
9 and jerky that may contain water; salt; sugar; seasonings; nitrates;  
10 nitrites; acids; binders and extenders; synthetic casings; flavorings  
11 such as soy sauce, liquid smoke, and vinegar; and similar substances.  
12 "Meat products" includes only products that are intended for human  
13 consumption as food or animal consumption as feed. "Meat products"  
14 does not include products containing breading, cheese, rice, beans,  
15 fruits, vegetables, cream, mushrooms, tomato paste, and similar  
16 ingredients.

17 (f) "Perishable" means having a high risk of spoilage within thirty  
18 days of manufacture without any refrigeration or freezing.

19 (g) "Rendering plant" means any place of business or location where  
20 dead animals or any part or portion thereof, or packing house refuse,  
21 are processed for the purpose of obtaining the hide, skin, grease  
22 residue, or any other by-product whatsoever.

23 **Sec. 302.** RCW 82.04.260 and 2003 2nd sp.s. c 1 s 4 and 2003 2nd  
24 sp.s. c 1 s 3 are each reenacted and amended to read as follows:

25 (1) Upon every person engaging within this state in the business of  
26 manufacturing:

27 (a) Wheat into flour, barley into pearl barley, soybeans into  
28 soybean oil, canola into canola oil, canola meal, or canola byproducts,  
29 or sunflower seeds into sunflower oil; as to such persons the amount of  
30 tax with respect to such business shall be equal to the value of the  
31 flour, pearl barley, oil, canola meal, or canola byproduct  
32 manufactured, multiplied by the rate of 0.138 percent;

33 (b) Seafood products which remain in a raw, raw frozen, or raw  
34 salted state at the completion of the manufacturing by that person; as  
35 to such persons the amount of tax with respect to such business shall  
36 be equal to the value of the products manufactured, multiplied by the  
37 rate of 0.138 percent;

1 (c) By canning, preserving, freezing, processing, or dehydrating  
2 fresh fruits and vegetables, or selling at wholesale fresh fruits and  
3 vegetables canned, preserved, frozen, processed, or dehydrated by the  
4 seller and sold to purchasers who transport in the ordinary course of  
5 business the goods out of this state; as to such persons the amount of  
6 tax with respect to such business shall be equal to the value of the  
7 products canned, preserved, frozen, processed, or dehydrated multiplied  
8 by the rate of 0.138 percent. As proof of sale to a person who  
9 transports in the ordinary course of business goods out of this state,  
10 the seller shall annually provide a statement in a form prescribed by  
11 the department and retain the statement as a business record;

12 (d) Dairy products that as of September 20, 2001, are identified in  
13 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts  
14 from the manufacturing of the dairy products such as whey and casein;  
15 or selling the same to purchasers who transport in the ordinary course  
16 of business the goods out of state; as to such persons the tax imposed  
17 shall be equal to the value of the products manufactured multiplied by  
18 the rate of 0.138 percent. As proof of sale to a person who transports  
19 in the ordinary course of business goods out of this state, the seller  
20 shall annually provide a statement in a form prescribed by the  
21 department and retain the statement as a business record;

22 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel  
23 feedstock, as those terms are defined in RCW 82.29A.135; as to such  
24 persons the amount of tax with respect to the business shall be equal  
25 to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock  
26 manufactured, multiplied by the rate of 0.138 percent~~((.——This~~  
27 ~~subsection (1)(e) expires July 1, 2009))~~; and

28 (f) Alcohol fuel or wood biomass fuel, as those terms are defined  
29 in RCW 82.29A.135; as to such persons the amount of tax with respect to  
30 the business shall be equal to the value of alcohol fuel or wood  
31 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

32 (2) Upon every person engaging within this state in the business of  
33 splitting or processing dried peas; as to such persons the amount of  
34 tax with respect to such business shall be equal to the value of the  
35 peas split or processed, multiplied by the rate of 0.138 percent.

36 (3) Upon every nonprofit corporation and nonprofit association  
37 engaging within this state in research and development, as to such

1 corporations and associations, the amount of tax with respect to such  
2 activities shall be equal to the gross income derived from such  
3 activities multiplied by the rate of 0.484 percent.

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

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

14 ~~((+6))~~ (5) Upon every person engaging within this state in the  
15 business of manufacturing nuclear fuel assemblies, as to such persons  
16 the amount of tax with respect to such business shall be equal to the  
17 value of the products manufactured multiplied by the rate of 0.275  
18 percent.

19 ~~((+7))~~ (6) Upon every person engaging within this state in the  
20 business of acting as a travel agent or tour operator; as to such  
21 persons the amount of the tax with respect to such activities shall be  
22 equal to the gross income derived from such activities multiplied by  
23 the rate of 0.275 percent.

24 ~~((+8))~~ (7) Upon every person engaging within this state in  
25 business as an international steamship agent, international customs  
26 house broker, international freight forwarder, vessel and/or cargo  
27 charter broker in foreign commerce, and/or international air cargo  
28 agent; as to such persons the amount of the tax with respect to only  
29 international activities shall be equal to the gross income derived  
30 from such activities multiplied by the rate of 0.275 percent.

31 ~~((+9))~~ (8) Upon every person engaging within this state in the  
32 business of stevedoring and associated activities pertinent to the  
33 movement of goods and commodities in waterborne interstate or foreign  
34 commerce; as to such persons the amount of tax with respect to such  
35 business shall be equal to the gross proceeds derived from such  
36 activities multiplied by the rate of 0.275 percent. Persons subject to  
37 taxation under this subsection shall be exempt from payment of taxes  
38 imposed by chapter 82.16 RCW for that portion of their business subject

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

22 ~~((+10+))~~ (9) Upon every person engaging within this state in the  
23 business of disposing of low-level waste, as defined in RCW 43.145.010;  
24 as to such persons the amount of the tax with respect to such business  
25 shall be equal to the gross income of the business, excluding any fees  
26 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3  
27 percent.

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

32 ~~((+11+))~~ (10) Upon every person engaging within this state as an  
33 insurance agent, insurance broker, or insurance solicitor licensed  
34 under chapter 48.17 RCW; as to such persons, the amount of the tax with  
35 respect to such licensed activities shall be equal to the gross income  
36 of such business multiplied by the rate of 0.484 percent.

37 ~~((+12+))~~ (11) Upon every person engaging within this state in  
38 business as a hospital, as defined in chapter 70.41 RCW, that is

1 operated as a nonprofit corporation or by the state or any of its  
2 political subdivisions, as to such persons, the amount of tax with  
3 respect to such activities shall be equal to the gross income of the  
4 business multiplied by the rate of 0.75 percent through June 30, 1995,  
5 and 1.5 percent thereafter. The moneys collected under this subsection  
6 shall be deposited in the health services account created under RCW  
7 43.72.900.

8 ~~((+13+))~~ (12)(a) Beginning October 1, 2005, upon every person  
9 engaging within this state in the business of manufacturing commercial  
10 airplanes, or components of such airplanes, as to such persons the  
11 amount of tax with respect to such business shall, in the case of  
12 manufacturers, be equal to the value of the product manufactured, or in  
13 the case of processors for hire, be equal to the gross income of the  
14 business, multiplied by the rate of:

15 (i) 0.4235 percent from October 1, 2005, through the later of June  
16 30, 2007, or the day preceding the date final assembly of a  
17 superefficient airplane begins in Washington state, as determined under  
18 RCW 82.32.550; and

19 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the  
20 date final assembly of a superefficient airplane begins in Washington  
21 state, as determined under RCW 82.32.550.

22 (b) Beginning October 1, 2005, upon every person engaging within  
23 this state in the business of making sales, at retail or wholesale, of  
24 commercial airplanes, or components of such airplanes, manufactured by  
25 that person, as to such persons the amount of tax with respect to such  
26 business shall be equal to the gross proceeds of sales of the airplanes  
27 or components multiplied by the rate of:

28 (i) 0.4235 percent from October 1, 2005, through the later of June  
29 30, 2007, or the day preceding the date final assembly of a  
30 superefficient airplane begins in Washington state, as determined under  
31 RCW 82.32.550; and

32 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the  
33 date final assembly of a superefficient airplane begins in Washington  
34 state, as determined under RCW 82.32.550.

35 (c) For the purposes of this subsection ~~((+13+))~~ (12), "commercial  
36 airplane," "component," and "final assembly of a superefficient  
37 airplane" have the meanings given in RCW 82.32.550.

1 (d) In addition to all other requirements under this title, a  
2 person eligible for the tax rate under this subsection (~~((+13+))~~) (12)  
3 must report as required under RCW 82.32.545.

4 (e) This subsection (~~((+13+))~~) (12) does not apply after the earlier  
5 of: July 1, 2024; or December 31, 2007, if assembly of a  
6 superefficient airplane does not begin by December 31, 2007, as  
7 determined under RCW 82.32.550.

8 **Sec. 303.** RCW 82.04.250 and 2003 1st sp.s. c 2 s 1 and 2003 1st  
9 sp.s. c 1 s 2 are each reenacted and amended to read as follows:

10 (1) Upon every person, except persons taxable under RCW 82.04.260  
11 (~~((+5+))~~) (4) or (~~((+13+))~~) (12), 82.04.272, or subsection (2) or (3) of  
12 this section; engaging within this state in the business of making  
13 sales at retail, as to such persons, the amount of tax with respect to  
14 such business shall be equal to the gross proceeds of sales of the  
15 business, multiplied by the rate of 0.471 percent.

16 (2) Upon every person engaging within this state in the business of  
17 making sales at retail that are exempt from the tax imposed under  
18 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or  
19 82.08.0263 except as provided in subsection (3) of this section, except  
20 persons taxable under RCW 82.04.260(~~((+13+))~~) (12) as to such persons,  
21 the amount of tax with respect to such business shall be equal to the  
22 gross proceeds of sales of the business, multiplied by the rate of  
23 0.484 percent.

24 (3) Upon every person engaging within this state in the business of  
25 making sales at retail that are exempt from the tax imposed under  
26 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or  
27 82.08.0263, that is classified by the federal aviation administration  
28 as a FAR part 145 certificated repair station with airframe and  
29 instrument ratings and limited ratings for nondestructive testing,  
30 radio, Class 3 Accessory, and specialized services, as to such persons,  
31 the amount of tax with respect to such business shall be equal to the  
32 gross proceeds of sales of the business, multiplied by the rate of .275  
33 percent.

34 **Sec. 304.** RCW 82.04.250 and 2003 2nd sp.s. c 1 s 2 are each  
35 reenacted and amended to read as follows:

36 (1) Upon every person, except persons taxable under RCW 82.04.260



1 (~~(5)~~) (4) or (~~(13)~~) (12), 82.04.272, or subsection (2) of this  
2 section; engaging within this state in the business of making sales at  
3 retail, as to such persons, the amount of tax with respect to such  
4 business shall be equal to the gross proceeds of sales of the business,  
5 multiplied by the rate of 0.471 percent.

6 (2) Upon every person engaging within this state in the business of  
7 making sales at retail that are exempt from the tax imposed under  
8 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or  
9 82.08.0263, except persons taxable under RCW 82.04.260(~~(13)~~) (12), as  
10 to such persons, the amount of tax with respect to such business shall  
11 be equal to the gross proceeds of sales of the business, multiplied by  
12 the rate of 0.484 percent.

13 **Sec. 305.** RCW 82.32.545 and 2003 2nd sp.s. c 1 s 16 are each  
14 amended to read as follows:

15 (1) The legislature finds that accountability and effectiveness are  
16 important aspects of setting tax policy. In order to make policy  
17 choices regarding the best use of limited state resources the  
18 legislature needs information on how a tax incentive is used.

19 (2)(a) A person who reports taxes under RCW 82.04.260(~~(13)~~) (12)  
20 or who claims an exemption or credit under RCW 82.04.4461, 82.08.980,  
21 82.12.980, 82.29A.137, 84.36.655, and 82.04.4463 shall make an annual  
22 report to the department detailing employment, wages, and employer-  
23 provided health and retirement benefits per job at the manufacturing  
24 site. The report shall not include names of employees. The report  
25 shall also detail employment by the total number of full-time, part-  
26 time, and temporary positions. The first report filed under this  
27 subsection shall include employment, wage, and benefit information for  
28 the twelve-month period immediately before first use of a preferential  
29 tax rate under RCW 82.04.260(~~(13)~~) (12), or tax exemption or credit  
30 under RCW 82.04.4461, 82.08.980, 82.12.980, 82.29A.137, 84.36.655, and  
31 82.04.4463. The report is due by March 31st following any year in  
32 which a preferential tax rate under RCW 82.04.260(~~(13)~~) (12) is used,  
33 or tax exemption or credit under RCW 82.04.4461, 82.08.980, 82.12.980,  
34 82.29A.137, 84.36.655, and 82.04.4463 is taken. This information is  
35 not subject to the confidentiality provisions of RCW 82.32.330 and may  
36 be disclosed to the public upon request.

1 (b) If a person fails to submit an annual report under (a) of this  
2 subsection by the due date of the report, the department shall declare  
3 the amount of taxes exempted or credited, or reduced in the case of the  
4 preferential business and occupation tax rate, for that year to be  
5 immediately due and payable. Excise taxes payable under this  
6 subsection are subject to interest but not penalties, as provided under  
7 this chapter. This information is not subject to the confidentiality  
8 provisions of RCW 82.32.330 and may be disclosed to the public upon  
9 request.

10 (3) By November 1, 2010, and by November 1, 2023, the fiscal  
11 committees of the house of representatives and the senate, in  
12 consultation with the department, shall report to the legislature on  
13 the effectiveness of chapter 1, Laws of 2003 2nd sp. sess. in regard to  
14 keeping Washington competitive. The report shall measure the effect of  
15 chapter 1, Laws of 2003 2nd sp. sess. on job retention, net jobs  
16 created for Washington residents, company growth, diversification of  
17 the state's economy, cluster dynamics, and other factors as the  
18 committees select. The reports shall include a discussion of  
19 principles to apply in evaluating whether the legislature should  
20 reenact any or all of the tax preferences in chapter 1, Laws of 2003  
21 2nd sp. sess.

22 **Sec. 306.** RCW 82.32.550 and 2003 2nd sp.s. c 1 s 17 are each  
23 amended to read as follows:

24 (1)(a) Chapter 1, Laws of 2003 2nd sp. sess. takes effect on the  
25 first day of the month in which the governor and a manufacturer of  
26 commercial airplanes sign a memorandum of agreement regarding an  
27 affirmative final decision to site a significant commercial airplane  
28 final assembly facility in Washington state. The department shall  
29 provide notice of the effective date of chapter 1, Laws of 2003 2nd sp.  
30 sess. to affected taxpayers, the legislature, and others as deemed  
31 appropriate by the department.

32 (b) Chapter 1, Laws of 2003 2nd sp. sess. is contingent upon the  
33 siting of a significant commercial airplane final assembly facility in  
34 the state of Washington. If a memorandum of agreement under subsection  
35 (1) of this section is not signed by June 30, 2005, chapter 1, Laws of  
36 2003 2nd sp. sess. is null and void.

1 (c)(i) The department shall make a determination regarding the date  
2 final assembly of a superefficient airplane begins in Washington state.  
3 The rates in RCW 82.04.260(~~(+13+)~~) (12) (a)(ii) and (b)(ii) take effect  
4 the first day of the month such assembly begins, or July 1, 2007,  
5 whichever is later. The department shall provide notice of the  
6 effective date of such rates to affected taxpayers, the legislature,  
7 and others as deemed appropriate by the department.

8 (ii) If on December 31, 2007, final assembly of a superefficient  
9 airplane has not begun in Washington state, the department shall  
10 provide notice of such to affected taxpayers, the legislature, and  
11 others as deemed appropriate by the department.

12 (2) The definitions in this subsection apply throughout this  
13 section.

14 (a) "Commercial airplane" has its ordinary meaning, which is an  
15 airplane certified by the federal aviation administration for  
16 transporting persons or property, and any military derivative of such  
17 an airplane.

18 (b) "Component" means a part or system certified by the federal  
19 aviation administration for installation or assembly into a commercial  
20 airplane.

21 (c) "Final assembly of a superefficient airplane" means the  
22 activity of assembling an airplane from components parts necessary for  
23 its mechanical operation such that the finished commercial airplane is  
24 ready to deliver to the ultimate consumer.

25 (d) "Significant commercial airplane final assembly facility" means  
26 a location with the capacity to produce at least thirty-six  
27 superefficient airplanes a year.

28 (e) "Siting" means a final decision by a manufacturer to locate a  
29 significant commercial airplane final assembly facility in Washington  
30 state.

31 (f) "Superefficient airplane" means a twin aisle airplane that  
32 carries between two hundred and three hundred fifty passengers, with a  
33 range of more than seven thousand two hundred nautical miles, a  
34 cruising speed of approximately mach .85, and that uses fifteen to  
35 twenty percent less fuel than other similar airplanes on the market.

36 **Sec. 307.** RCW 48.14.080 and 1998 c 312 s 1 are each amended to  
37 read as follows:

1 As to insurers, other than title insurers and taxpayers under RCW  
2 48.14.0201, the taxes imposed by this title shall be in lieu of all  
3 other taxes, except taxes on real and tangible personal property,  
4 excise taxes on the sale, purchase or use of such property, and the tax  
5 imposed in RCW 82.04.260(~~((+12+))~~) (11).

6 **Sec. 308.** RCW 82.04.440 and 2004 c 174 s 5 and 2004 c 24 s 7 are  
7 each reenacted and amended to read as follows:

8 (1) Every person engaged in activities (~~((which are within the~~  
9 ~~purview of the provisions of two or more of sections))~~) that are  
10 subject to tax under two or more provisions of RCW 82.04.230 to  
11 82.04.298, inclusive, shall be taxable under each (~~((paragraph))~~)  
12 provision applicable to (~~((the))~~) those activities (~~((engaged in))~~).

13 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270,  
14 (~~((or))~~) 82.04.260 (4) or (~~((+13+))~~) (12), or section 301(2) of this act,  
15 with respect to selling products in this state shall be allowed a  
16 credit against those taxes for any (a) manufacturing taxes paid with  
17 respect to the manufacturing of products so sold in this state, and/or  
18 (b) extracting taxes paid with respect to the extracting of products so  
19 sold in this state or ingredients of products so sold in this state.  
20 Extracting taxes taken as credit under subsection (3) of this section  
21 may also be taken under this subsection, if otherwise allowable under  
22 this subsection. The amount of the credit shall not exceed the tax  
23 liability arising under this chapter with respect to the sale of those  
24 products.

25 (3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be  
26 allowed a credit against those taxes for any extracting taxes paid with  
27 respect to extracting the ingredients of the products so manufactured  
28 in this state. The amount of the credit shall not exceed the tax  
29 liability arising under this chapter with respect to the manufacturing  
30 of those products.

31 (4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1),  
32 (~~((or))~~) 82.04.260 (1), (2), (~~((+4), (6), or (13+))~~) (5), or (12), or  
33 section 301(1) of this act, with respect to extracting or manufacturing  
34 products in this state shall be allowed a credit against those taxes  
35 for any (i) gross receipts taxes paid to another state with respect to  
36 the sales of the products so extracted or manufactured in this state,  
37 (ii) manufacturing taxes paid with respect to the manufacturing of

1 products using ingredients so extracted in this state, or (iii)  
2 manufacturing taxes paid with respect to manufacturing activities  
3 completed in another state for products so manufactured in this state.  
4 The amount of the credit shall not exceed the tax liability arising  
5 under this chapter with respect to the extraction or manufacturing of  
6 those products.

7 (5) For the purpose of this section:

8 (a) "Gross receipts tax" means a tax:

9 (i) Which is imposed on or measured by the gross volume of  
10 business, in terms of gross receipts or in other terms, and in the  
11 determination of which the deductions allowed would not constitute the  
12 tax an income tax or value added tax; and

13 (ii) Which is also not, pursuant to law or custom, separately  
14 stated from the sales price.

15 (b) "State" means (i) the state of Washington, (ii) a state of the  
16 United States other than Washington, or any political subdivision of  
17 such other state, (iii) the District of Columbia, and (iv) any foreign  
18 country or political subdivision thereof.

19 (c) "Manufacturing tax" means a gross receipts tax imposed on the  
20 act or privilege of engaging in business as a manufacturer, and  
21 includes (i) the taxes imposed in RCW 82.04.240, 82.04.2909(1), (~~and~~)  
22 82.04.260 (1), (2), (~~(4), and (13)~~) (5), and (12), and section 301(1)  
23 of this act, and (ii) similar gross receipts taxes paid to other  
24 states.

25 (d) "Extracting tax" means a gross receipts tax imposed on the act  
26 or privilege of engaging in business as an extractor, and includes the  
27 tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to  
28 other states.

29 (e) "Business", "manufacturer", "extractor", and other terms used  
30 in this section have the meanings given in RCW 82.04.020 through  
31 82.04.212, notwithstanding the use of those terms in the context of  
32 describing taxes imposed by other states.

33 **Sec. 309.** RCW 82.04.298 and 2001 1st sp.s. c 9 s 1 are each  
34 amended to read as follows:

35 (1) The amount of tax with respect to a qualified grocery  
36 distribution cooperative's sales of groceries or related goods for  
37 resale, excluding items subject to tax under (~~RCW 82.04.260(4)~~)

1 section 301 of this act, to customer-owners of the grocery distribution  
2 cooperative is equal to the gross proceeds of sales of the grocery  
3 distribution cooperative multiplied by the rate of one and one-half  
4 percent.

5 (2) A qualified grocery distribution cooperative is allowed a  
6 deduction from the gross proceeds of sales of groceries or related  
7 goods for resale, excluding items subject to tax under ((RCW  
8 ~~82.04.260(4)~~)) section 301 of this act, to customer-owners of the  
9 grocery distribution cooperative that is equal to the portion of the  
10 gross proceeds of sales for resale that represents the actual cost of  
11 the merchandise sold by the grocery distribution cooperative to  
12 customer-owners.

13 (3) The definitions in this subsection apply throughout this  
14 section unless the context clearly requires otherwise.

15 (a) "Grocery distribution cooperative" means an entity that sells  
16 groceries and related items to customer-owners of the grocery  
17 distribution cooperative and has customer-owners, in the aggregate, who  
18 own a majority of the outstanding ownership interests of the grocery  
19 distribution cooperative or of the entity controlling the grocery  
20 distribution cooperative. "Grocery distribution cooperative" includes  
21 an entity that controls a grocery distribution cooperative.

22 (b) "Qualified grocery distribution cooperative" means a grocery  
23 distribution cooperative that has been determined by a court of record  
24 of the state of Washington to be not engaged in wholesaling or making  
25 sales at wholesale, within the meaning of RCW 82.04.270 or any similar  
26 provision of a municipal ordinance that imposes a tax on gross  
27 receipts, gross proceeds of sales, or gross income, with respect to  
28 purchases made by customer-owners, and subsequently changes its form of  
29 doing business to make sales at wholesale of groceries or related items  
30 to its customer-owners.

31 (c) "Customer-owner" means a person who has an ownership interest  
32 in a grocery distribution cooperative and purchases groceries and  
33 related items at wholesale from that grocery distribution cooperative.

34 (d) "Controlling" means holding fifty percent or more of the voting  
35 interests of an entity and having at least equal power to direct or  
36 cause the direction of the management and policies of the entity,  
37 whether through the ownership of voting securities, by contract, or  
38 otherwise.







1        NEW SECTION.   **Sec. 503.**   Section 304 of this act takes effect July  
2   1, 2006.

3        NEW SECTION.   **Sec. 504.**   Sections 101 through 111, 201, 202, 401,  
4   and 402 of this act are necessary for the immediate preservation of the  
5   public peace, health, or safety, or support of the state government and  
6   its existing public institutions, and take effect July 1, 2005.

7        NEW SECTION.   **Sec. 505.**   Sections 301 through 303 and 305 through  
8   310 of this act are necessary for the immediate preservation of the  
9   public peace, health, or safety, or support of the state government and  
10   its existing public institutions, and take effect immediately.

--- END ---