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**SUBSTITUTE HOUSE BILL 3116**

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**State of Washington**

**60th Legislature**

**2008 Regular Session**

**By** House Finance (originally sponsored by Representatives Kessler, Orcutt, Ericks, Linville, Newhouse, Armstrong, Grant, VanDeWege, Williams, Pearson, and Ormsby)

READ FIRST TIME 02/12/08.

1       AN ACT Relating to extending the sales and use tax exemptions  
2 related to machinery and equipment used in generating electricity to  
3 machinery and equipment used to produce electricity using certain  
4 organic materials and byproducts of pulping or wood manufacturing  
5 processes; amending RCW 82.08.02567 and 82.12.02567; and providing an  
6 effective date.

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

8       **Sec. 1.** RCW 82.08.02567 and 2004 c 152 s 1 are each amended to  
9 read as follows:

10       (1) The tax levied by RCW 82.08.020 shall not apply to sales of  
11 machinery and equipment used directly in generating electricity using  
12 fuel cells, wind, sun, biomass, or landfill gas as the principal source  
13 of power, or to sales of or charges made for labor and services  
14 rendered in respect to installing such machinery and equipment, but  
15 only if the purchaser develops with such machinery, equipment, and  
16 labor a facility capable of generating not less than two hundred watts  
17 of electricity (~~and provides~~).

18       (2) If a buyer claims an exemption under this section at the time  
19 of purchase, the buyer must provide the seller with an exemption

1 certificate in a form and manner prescribed by the department. The  
2 seller (~~shall~~) must retain a copy of the exemption certificate for  
3 the seller's files.

4 (~~(2)~~) (3) For purposes of this section and RCW 82.12.02567:

5 (a) "Landfill gas" means biomass fuel of the type qualified for  
6 federal tax credits under 26 U.S.C. Sec. 29 collected from a landfill.

7 "Landfill" means a landfill as defined under RCW 70.95.030;

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

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

20 (d) Machinery and equipment is "used directly" in generating  
21 electricity with fuel cells or by wind energy, solar energy, biomass,  
22 or landfill gas power if it provides any part of the process that  
23 captures the energy of the wind, sun, biomass, or landfill gas,  
24 converts that energy to electricity, and stores, transforms, or  
25 transmits that electricity for entry into or operation in parallel with  
26 electric transmission and distribution systems;

27 (e) "Fuel cell" means an electrochemical reaction that generates  
28 electricity by combining atoms of hydrogen and oxygen in the presence  
29 of a catalyst; and

30 (f) "Biomass" means: (i) Animal waste; (ii) food waste; (iii)  
31 solid organic fuels from wood, forest, or field residues or dedicated  
32 energy crops that do not include wood pieces that have been treated  
33 with chemical preservatives such as creosote, pentachlorophenol, or  
34 copper-chrome-arsenic; or (iv) byproducts of pulping or wood  
35 manufacturing processes, including but not limited to bark, wood chips,  
36 sawdust, and lignin in spent pulping liquors, where wood pieces were  
37 not treated with chemical preservatives. "Biomass" does not include  
38 any wood from harvesting old growth forests.

1           (~~(3)~~) (4) This section expires June 30, 2009.

2           **Sec. 2.** RCW 82.12.02567 and 2004 c 152 s 2 are each amended to  
3 read as follows:

4           (1) The provisions of this chapter shall not apply with respect to  
5 machinery and equipment used directly in generating not less than two  
6 hundred watts of electricity using fuel cells, wind, sun, biomass, or  
7 landfill gas as the principal source of power, or to the use of labor  
8 and services rendered in respect to installing such machinery and  
9 equipment.

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

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

12           NEW SECTION. **Sec. 3.** This act takes effect July 1, 2008.

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