
SUBSTITUTE SENATE BILL 5493

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Zarelli, Hatfield, Morton, Sheldon, Rasmussen, Kilmer, McAuliffe, Poulsen, Murray, Clements, Rockefeller, Swecker, Regala, Jacobsen and Shin)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to the excise taxation of forest products
2 businesses; amending RCW 76.09.405, 82.04.261, 82.04.333, and
3 82.32.630; reenacting and amending RCW 82.04.260; adding a new section
4 to chapter 82.04 RCW; adding a new section to chapter 82.45 RCW;
5 creating a new section; providing an effective date; and declaring an
6 emergency.

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

8 **Sec. 1.** RCW 76.09.405 and 2006 c 300 s 3 are each amended to read
9 as follows:

10 The forest and fish support account is hereby created in the state
11 treasury. Receipts from appropriations, the surcharge imposed under
12 RCW ((82.04.260(12))) 82.04.261, and other sources must be deposited
13 into the account. Expenditures from the account shall be used for
14 activities pursuant to the state's implementation of the forests and
15 fish report as defined in this chapter ((76.09—RCW)) and related
16 activities((7)) including, but not limited to, adaptive management,
17 monitoring, and participation grants to tribes, state and local
18 agencies, and not-for-profit public interest organizations.

1 Expenditures from the account may be made only after appropriation by
2 the legislature.

3 **Sec. 2.** RCW 82.04.260 and 2006 c 354 s 4 and 2006 c 300 s 1 are
4 each reenacted and amended to read as follows:

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

7 (a) Wheat into flour, barley into pearl barley, soybeans into
8 soybean oil, canola into canola oil, canola meal, or canola byproducts,
9 or sunflower seeds into sunflower oil; as to such persons the amount of
10 tax with respect to such business shall be equal to the value of the
11 flour, pearl barley, oil, canola meal, or canola byproduct
12 manufactured, multiplied by the rate of 0.138 percent;

13 (b) Beginning July 1, 2012, seafood products which remain in a raw,
14 raw frozen, or raw salted state at the completion of the manufacturing
15 by that person; as to such persons the amount of tax with respect to
16 such business shall be equal to the value of the products manufactured
17 or the gross proceeds derived from such sales, multiplied by the rate
18 of 0.138 percent;

19 (c) Beginning July 1, 2012, dairy products that as of September 20,
20 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
21 including byproducts from the manufacturing of the dairy products such
22 as whey and casein; or selling the same to purchasers who transport in
23 the ordinary course of business the goods out of state; as to such
24 persons the tax imposed shall be equal to the value of the products
25 manufactured or the gross proceeds derived from such sales multiplied
26 by the rate of 0.138 percent. Sellers must keep and preserve records
27 for the period required by RCW 82.32.070 establishing that the goods
28 were transported by the purchaser in the ordinary course of business
29 out of this state;

30 (d) Beginning July 1, 2012, fruits or vegetables by canning,
31 preserving, freezing, processing, or dehydrating fresh fruits or
32 vegetables, or selling at wholesale fruits or vegetables manufactured
33 by the seller by canning, preserving, freezing, processing, or
34 dehydrating fresh fruits or vegetables and sold to purchasers who
35 transport in the ordinary course of business the goods out of this
36 state; as to such persons the amount of tax with respect to such
37 business shall be equal to the value of the products manufactured or

1 the gross proceeds derived from such sales multiplied by the rate of
2 0.138 percent. Sellers must keep and preserve records for the period
3 required by RCW 82.32.070 establishing that the goods were transported
4 by the purchaser in the ordinary course of business out of this state;

5 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel
6 feedstock, as those terms are defined in RCW 82.29A.135; as to such
7 persons the amount of tax with respect to the business shall be equal
8 to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock
9 manufactured, multiplied by the rate of 0.138 percent; and

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

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

18 (3) Upon every nonprofit corporation and nonprofit association
19 engaging within this state in research and development, as to such
20 corporations and associations, the amount of tax with respect to such
21 activities shall be equal to the gross income derived from such
22 activities multiplied by the rate of 0.484 percent.

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

28 (5) Upon every person engaging within this state in the business of
29 acting as a travel agent or tour operator; as to such persons the
30 amount of the tax with respect to such activities shall be equal to the
31 gross income derived from such activities multiplied by the rate of
32 0.275 percent.

33 (6) Upon every person engaging within this state in business as an
34 international steamship agent, international customs house broker,
35 international freight forwarder, vessel and/or cargo charter broker in
36 foreign commerce, and/or international air cargo agent; as to such
37 persons the amount of the tax with respect to only international

1 activities shall be equal to the gross income derived from such
2 activities multiplied by the rate of 0.275 percent.

3 (7) Upon every person engaging within this state in the business of
4 stevedoring and associated activities pertinent to the movement of
5 goods and commodities in waterborne interstate or foreign commerce; as
6 to such persons the amount of tax with respect to such business shall
7 be equal to the gross proceeds derived from such activities multiplied
8 by the rate of 0.275 percent. Persons subject to taxation under this
9 subsection shall be exempt from payment of taxes imposed by chapter
10 82.16 RCW for that portion of their business subject to taxation under
11 this subsection. Stevedoring and associated activities pertinent to
12 the conduct of goods and commodities in waterborne interstate or
13 foreign commerce are defined as all activities of a labor, service or
14 transportation nature whereby cargo may be loaded or unloaded to or
15 from vessels or barges, passing over, onto or under a wharf, pier, or
16 similar structure; cargo may be moved to a warehouse or similar holding
17 or storage yard or area to await further movement in import or export
18 or may move to a consolidation freight station and be stuffed,
19 unstuffed, containerized, separated or otherwise segregated or
20 aggregated for delivery or loaded on any mode of transportation for
21 delivery to its consignee. Specific activities included in this
22 definition are: Wharfage, handling, loading, unloading, moving of
23 cargo to a convenient place of delivery to the consignee or a
24 convenient place for further movement to export mode; documentation
25 services in connection with the receipt, delivery, checking, care,
26 custody and control of cargo required in the transfer of cargo;
27 imported automobile handling prior to delivery to consignee; terminal
28 stevedoring and incidental vessel services, including but not limited
29 to plugging and unplugging refrigerator service to containers,
30 trailers, and other refrigerated cargo receptacles, and securing ship
31 hatch covers.

32 (8) Upon every person engaging within this state in the business of
33 disposing of low-level waste, as defined in RCW 43.145.010; as to such
34 persons the amount of the tax with respect to such business shall be
35 equal to the gross income of the business, excluding any fees imposed
36 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

37 If the gross income of the taxpayer is attributable to activities

1 both within and without this state, the gross income attributable to
2 this state shall be determined in accordance with the methods of
3 apportionment required under RCW 82.04.460.

4 (9) Upon every person engaging within this state as an insurance
5 agent, insurance broker, or insurance solicitor licensed under chapter
6 48.17 RCW; as to such persons, the amount of the tax with respect to
7 such licensed activities shall be equal to the gross income of such
8 business multiplied by the rate of 0.484 percent.

9 (10) Upon every person engaging within this state in business as a
10 hospital, as defined in chapter 70.41 RCW, that is operated as a
11 nonprofit corporation or by the state or any of its political
12 subdivisions, as to such persons, the amount of tax with respect to
13 such activities shall be equal to the gross income of the business
14 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
15 percent thereafter. The moneys collected under this subsection shall
16 be deposited in the health services account created under RCW
17 43.72.900.

18 (11)(a) Beginning October 1, 2005, upon every person engaging
19 within this state in the business of manufacturing commercial
20 airplanes, or components of such airplanes, as to such persons the
21 amount of tax with respect to such business shall, in the case of
22 manufacturers, be equal to the value of the product manufactured, or in
23 the case of processors for hire, be equal to the gross income of the
24 business, multiplied by the rate of:

25 (i) 0.4235 percent from October 1, 2005, through the later of June
26 30, 2007, or the day preceding the date final assembly of a
27 superefficient airplane begins in Washington state, as determined under
28 RCW 82.32.550; and

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

32 (b) Beginning October 1, 2005, upon every person engaging within
33 this state in the business of making sales, at retail or wholesale, of
34 commercial airplanes, or components of such airplanes, manufactured by
35 that person, as to such persons the amount of tax with respect to such
36 business shall be equal to the gross proceeds of sales of the airplanes
37 or components multiplied by the rate of:

1 (i) 0.4235 percent from October 1, 2005, through the later of June
2 30, 2007, or the day preceding the date final assembly of a
3 superefficient airplane begins in Washington state, as determined under
4 RCW 82.32.550; and

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

8 (c) For the purposes of this subsection (11), "commercial
9 airplane," "component," and "final assembly of a superefficient
10 airplane" have the meanings given in RCW 82.32.550.

11 (d) In addition to all other requirements under this title, a
12 person eligible for the tax rate under this subsection (11) must report
13 as required under RCW 82.32.545.

14 (e) This subsection (11) does not apply after the earlier of: July
15 1, 2024; or December 31, 2007, if assembly of a superefficient airplane
16 does not begin by December 31, 2007, as determined under RCW 82.32.550.

17 (12)(a) Until July 1, 2024, upon every person engaging within this
18 state in the business of extracting timber or extracting for hire
19 timber; as to such persons the amount of tax with respect to the
20 business shall, in the case of extractors, be equal to the value of
21 products, including byproducts, extracted, or in the case of extractors
22 for hire, be equal to the gross income of the business, multiplied by
23 the rate of 0.4235 percent from July 1, 2006, through June 30, 2007,
24 and 0.2904 percent from July 1, 2007, through June 30, 2024.

25 (b) Until July 1, 2024, upon every person engaging within this
26 state in the business of manufacturing or processing for hire: (i)
27 Timber into timber products or wood products; or (ii) timber products
28 into other timber products or wood products; as to such persons the
29 amount of the tax with respect to the business shall, in the case of
30 manufacturers, be equal to the value of products, including byproducts,
31 manufactured, or in the case of processors for hire, be equal to the
32 gross income of the business, multiplied by the rate of 0.4235 percent
33 from July 1, 2006, through June 30, 2007, and 0.2904 percent from July
34 1, 2007, through June 30, 2024.

35 (c) Until July 1, 2024, upon every person engaging within this
36 state in the business of selling at wholesale: (i) Timber extracted by
37 that person; (ii) timber products manufactured by that person from
38 timber or other timber products; or (iii) wood products manufactured by

1 that person from timber or timber products; as to such persons the
2 amount of the tax with respect to the business shall be equal to the
3 gross proceeds of sales of the timber, timber products, or wood
4 products multiplied by the rate of 0.4235 percent from July 1, 2006,
5 through June 30, 2007, and 0.2904 percent from July 1, 2007, through
6 June 30, 2024.

7 (d) Until July 1, 2024, upon every person engaging within this
8 state in the business of selling standing timber; as to such persons
9 the amount of the tax with respect to the business shall be equal to
10 the gross income of the business multiplied by the rate of 0.2904
11 percent. For purposes of this subsection (12)(d), "selling standing
12 timber" means the sale of timber apart from the land, where the buyer
13 is required to sever the timber within thirty months from the date of
14 the original contract, regardless of the method of payment for the
15 timber and whether title to the timber transfers before, upon, or after
16 severance.

17 (e) For purposes of this subsection, the following definitions
18 apply:

19 (i) "Paper and paper products" mean products made of interwoven
20 cellulosic fibers held together largely by hydrogen bonding. "Paper
21 and paper products" includes newsprint; office, printing, fine, and
22 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
23 kraft bag, construction, and other kraft industrial papers; paperboard,
24 liquid packaging containers, containerboard, corrugated, and solid-
25 fiber containers including linerboard and corrugated medium; and
26 related types of cellulosic products containing primarily, by weight or
27 volume, cellulosic materials. "Paper and paper products" does not
28 include books, newspapers, magazines, periodicals, and other printed
29 publications, advertising materials, calendars, and similar types of
30 printed materials.

31 (ii) "Timber" means forest trees, standing or down, on privately or
32 publicly owned land. "Timber" does not include Christmas trees that
33 are cultivated by agricultural methods or short-rotation hardwoods as
34 defined in RCW 84.33.035.

35 (iii) "Timber products" means logs, wood chips, sawdust, wood
36 waste, and similar products obtained wholly from the processing of
37 timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

1 and pulp((; and recycled paper products)), including market pulp and
2 pulp derived from recovered paper or paper products.

3 ((~~(ii)~~)) (iv) "Wood products" means paper and paper products;
4 dimensional lumber; engineered wood products such as particleboard,
5 oriented strand board, medium density fiberboard, and plywood; wood
6 doors; and wood windows.

7 (13) Upon every person engaging within this state in inspecting,
8 testing, labeling, and storing canned salmon owned by another person,
9 as to such persons, the amount of tax with respect to such activities
10 shall be equal to the gross income derived from such activities
11 multiplied by the rate of 0.484 percent.

12 NEW SECTION. Sec. 3. A new section is added to chapter 82.04 RCW
13 to read as follows:

14 This chapter shall not apply to any sale of standing timber
15 excluded from the definition of "sale" in RCW 82.45.010(3). The
16 definitions in RCW 82.04.260(12) apply to this section.

17 **Sec. 4.** RCW 82.04.261 and 2006 c 300 s 2 are each amended to read
18 as follows:

19 (1) In addition to the taxes imposed under RCW 82.04.260(12), a
20 surcharge is imposed on those persons who are subject to any of the
21 taxes imposed under RCW 82.04.260(12). Except as otherwise provided in
22 this section, the surcharge is equal to 0.052 percent. The surcharge
23 is added to the rates provided in RCW 82.04.260(12) (a), (b), (~~and~~)
24 (c), and (d). The surcharge and this section expire July 1, 2024.

25 (2) All receipts from the surcharge imposed under this section
26 shall be deposited into the forest and fish support account created in
27 RCW 76.09.405.

28 (3)(a) The surcharge imposed under this section shall be suspended
29 if:

30 (i) Receipts from the surcharge total at least eight million
31 dollars during any fiscal biennium; or

32 (ii) The office of financial management certifies to the department
33 that the federal government has appropriated at least two million
34 dollars for participation in forest and fish report-related activities
35 by federally recognized Indian tribes located within the geographical
36 boundaries of the state of Washington for any federal fiscal year.

1 (b)(i) The suspension of the surcharge under (a)(i) of this
2 subsection (3) shall take effect on the first day of the calendar month
3 that is at least thirty days after the end of the month during which
4 the department determines that receipts from the surcharge total at
5 least eight million dollars during the fiscal biennium. The surcharge
6 shall be imposed again at the beginning of the following fiscal
7 biennium.

8 (ii) The suspension of the surcharge under (a)(ii) of this
9 subsection (3) shall take effect on the later of the first day of
10 October of any federal fiscal year for which the federal government
11 appropriates at least two million dollars for participation in forest
12 and fish report-related activities by federally recognized Indian
13 tribes located within the geographical boundaries of the state of
14 Washington, or the first day of a calendar month that is at least
15 thirty days following the date that the office of financial management
16 makes a certification to the department under subsection (5) of this
17 section. The surcharge shall be imposed again on the first day of the
18 following July.

19 (4)(a) If, by October 1st of any federal fiscal year, the office of
20 financial management certifies to the department that the federal
21 government has appropriated funds for participation in forest and fish
22 report-related activities by federally recognized Indian tribes located
23 within the geographical boundaries of the state of Washington but the
24 amount of the appropriation is less than two million dollars, the
25 department shall adjust the surcharge in accordance with this
26 subsection.

27 (b) The department shall adjust the surcharge by an amount that the
28 department estimates will cause the amount of funds deposited into the
29 forest and fish support account for the state fiscal year that begins
30 July 1st and that includes the beginning of the federal fiscal year for
31 which the federal appropriation is made, to be reduced by twice the
32 amount of the federal appropriation for participation in forest and
33 fish report-related activities by federally recognized Indian tribes
34 located within the geographical boundaries of the state of Washington.

35 (c) Any adjustment in the surcharge shall take effect at the
36 beginning of a calendar month that is at least thirty days after the
37 date that the office of financial management makes the certification
38 under subsection (5) of this section.

1 (d) The surcharge shall be imposed again at the rate provided in
2 subsection (1) of this section on the first day of the following state
3 fiscal year unless the surcharge is suspended under subsection (3) of
4 this section or adjusted for that fiscal year under this subsection.

5 (e) Adjustments of the amount of the surcharge by the department
6 are final and shall not be used to challenge the validity of the
7 surcharge imposed under this section.

8 (f) The department shall provide timely notice to affected
9 taxpayers of the suspension of the surcharge or an adjustment of the
10 surcharge.

11 (5) The office of financial management shall make the certification
12 to the department as to the status of federal appropriations for tribal
13 participation in forest and fish report-related activities.

14 **Sec. 5.** RCW 82.04.333 and 1990 c 141 s 1 are each amended to read
15 as follows:

16 (~~This chapter shall not apply to the gross receipts or value of~~
17 ~~products proceeding or accruing from timber harvested by~~) In computing
18 tax under this chapter, a person who is a small harvester as defined in
19 RCW (~~(84.33.073 and whose value of products, gross proceeds of sales,~~
20 ~~or gross income of the business is less than)~~) 84.33.035(14) may deduct
21 an amount not to exceed one hundred thousand dollars per tax year from
22 the gross receipts or value of products proceeding or accruing from
23 timber harvested by that person. A deduction under this section may
24 not reduce the amount of tax due to less than zero.

25 **Sec. 6.** RCW 82.32.630 and 2006 c 300 s 9 are each amended to read
26 as follows:

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

31 (2)(a) A person who reports taxes under RCW 82.04.260(12) shall
32 file a complete annual survey with the department. The survey is due
33 by March 31st following any year in which a person reports taxes under
34 RCW 82.04.260(12). The department may extend the due date for timely
35 filing of annual surveys under this section as provided in RCW
36 82.32.590. The survey shall include the amount of tax reduced under

1 the preferential rate in RCW 82.04.260(12). The survey shall also
2 include the following information for employment positions in
3 Washington:

4 (i) The number of total employment positions;

5 (ii) Full-time, part-time, and temporary employment positions as a
6 percent of total employment;

7 (iii) The number of employment positions according to the following
8 wage bands: Less than thirty thousand dollars; thirty thousand dollars
9 or greater, but less than sixty thousand dollars; and sixty thousand
10 dollars or greater. A wage band containing fewer than three
11 individuals may be combined with another wage band; and

12 (iv) The number of employment positions that have employer-provided
13 medical, dental, and retirement benefits, by each of the wage bands.

14 (b) The first survey filed under this subsection shall include
15 employment, wage, and benefit information for the twelve-month period
16 immediately before first use of a preferential tax rate under RCW
17 82.04.260(12).

18 (c) As part of the annual survey, the department may request
19 additional information, including the amount of investment in equipment
20 used in the activities taxable under the preferential rate in RCW
21 82.04.260(12), necessary to measure the results of, or determine
22 eligibility for, the preferential tax rate in RCW 82.04.260(12).

23 (d) All information collected under this section, except the amount
24 of the tax reduced under the preferential rate in RCW 82.04.260(12), is
25 deemed taxpayer information under RCW 82.32.330. Information on the
26 amount of tax reduced is not subject to the confidentiality provisions
27 of RCW 82.32.330 and may be disclosed to the public upon request,
28 except as provided in (e) of this subsection. If the amount of the tax
29 reduced as reported on the survey is different than the amount actually
30 reduced based on the taxpayer's excise tax returns or otherwise allowed
31 by the department, the amount actually reduced may be disclosed.

32 (e) Persons for whom the actual amount of the tax reduction is less
33 than ten thousand dollars during the period covered by the survey may
34 request the department to treat the amount of the tax reduction as
35 confidential under RCW 82.32.330.

36 (f) Small harvesters as defined in RCW 84.33.035 are not required
37 to file the annual survey under this section.

1 (3) If a person fails to submit a complete annual survey under
2 subsection (2) of this section by the due date or any extension under
3 RCW 82.32.590, the department shall declare the amount of taxes reduced
4 under the preferential rate in RCW 82.04.260(12) for the period covered
5 by the survey to be immediately due and payable. The department shall
6 assess interest, but not penalties, on the taxes. Interest shall be
7 assessed at the rate provided for delinquent excise taxes under this
8 chapter, retroactively to the date the reduced taxes were due, and
9 shall accrue until the amount of the reduced taxes is repaid.

10 (4) The department shall use the information from the annual survey
11 required under subsection (2) of this section to prepare summary
12 descriptive statistics by category. The department shall report these
13 statistics to the legislature each year by September 1st. The
14 requirement to prepare and report summary descriptive statistics shall
15 cease after September 1, 2025.

16 (5) By November 1, 2011, and November 1, 2023, the fiscal
17 committees of the house of representatives and the senate, in
18 consultation with the department, shall report to the legislature on
19 the effectiveness of the preferential tax rate provided in RCW
20 82.04.260(12). The report shall measure the effect of the preferential
21 tax rate provided in RCW 82.04.260(12) on job retention, net jobs
22 created for Washington residents, company growth, and other factors as
23 the committees select. The report shall include a discussion of
24 principles to apply in evaluating whether the legislature should
25 continue the preferential tax rate provided in RCW 82.04.260(12).

26 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.45 RCW
27 to read as follows:

28 A sale of standing timber is exempt from tax under this chapter if
29 the gross income from such sale is taxable under RCW 82.04.260(12)(d).

30 NEW SECTION. **Sec. 8.** The expiration of RCW 82.04.261 does not
31 affect any existing right acquired or liability or obligation incurred
32 under that section or under any rule or order adopted under that
33 section, nor does it affect any proceeding instituted under that
34 section.

1 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 July 1, 2007.

--- END ---