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**HOUSE BILL 1981**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Maycumber, Chapman, Kretz, Walsh, and Eslick

AN ACT Relating to providing a business and occupation credit for manufacturers utilizing a patent; adding a new section to chapter 82.04 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in sections 2 and 3, chapter . . ., Laws of 2019 (sections 2 and 3 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to encourage businesses to invest in manufacturing.

(4) If a review finds that there are at least ten taxpayers that utilize this tax preference and that the total amount of manufacturing activities in Washington has increased, then the legislature intends to extend the expiration date of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state.

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

(1) Subject to the limits and provisions of this section, a credit is authorized against the tax otherwise due under RCW 82.04.240 for qualified expenditures by persons engaged in the business of manufacturing that utilizes a patent granted by the United States patent and trademark office.

(2)(a) Subject to the limits in (b) of this subsection, the maximum credit under this section equals five hundred thousand dollars or the amount of qualified expenditures for a calendar year, whichever is less. Unused credits may not be carried over to other years. No refunds may be granted for credits under this section.

(b) Credits are available on a first-in-time basis. The department must disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section during any calendar year to exceed fifty million dollars. In addition, the department must provide written notice to any person who has claimed tax credits in excess of the limitation of this subsection. The notice must indicate the amount of tax due and provide that the tax must be paid within thirty days from the date of the notice. The department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount is paid by the due date specified in the notice, or any extension thereof.

(3) To qualify for the credit, the person must:

(a) Be a manufacturer as defined in RCW 82.04.110;

(b) Be utilizing a patent granted by the United States patent and trademark office for:

(i) A process, machine, article of manufacture, or compositions of matter, or any new or useful improvements thereof;

(ii) A new, original, and ornamental design for an article of manufacture; or

(iii) An invention or discovery and asexual reproduction of any distinct or new variety of plant;

(c) Have or previously had a presence in Washington at:

(i) The date of patent application, including a provisional application for patent; or

(ii) The date the patent was granted; and

(d) Engage in manufacturing activities in Washington directly related to the subject matter of the patent.

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

(a) "Presence in Washington" means:

(i) Meets the criteria for "substantial nexus" pursuant to RCW 82.04.067;

(ii) Provides a Washington address on the applicable patent application; or

(iii) Holds a Washington business license.

(b) "Qualified expenditures" means any expenditures directly related to the manufacture of a patented product, utilizing a patented process, or otherwise utilizing the patent in manufacturing in Washington. This includes, but is not limited to, costs associated with constructing or remodeling manufacturing facilities, the cost of research and development associated with the patent, and operating expenses, including wages.

(5) To claim a credit under this section, a person must file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic form under this section is not filed until received by the department in an electronic format. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(6) No application is necessary for the tax credit. The person must keep records necessary for the department to verify eligibility under this section.

(7) Beginning January 1, 2020, this section applies to taxes due for all calendar years through 2030.

NEW SECTION. **Sec.**  This act takes effect January 1, 2020.

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