
HOUSE BILL 1422

State of Washington

68th Legislature

2023 Regular Session

By Representatives Springer, Corry, and Lekanoff

Read first time 01/18/23. Referred to Committee on Finance.

1 AN ACT Relating to clarifying that certain reusable packing
2 materials are exempt from sales and use tax; reenacting and amending
3 RCW 82.04.050; adding a new section to chapter 82.12 RCW; and
4 providing an effective date.

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

6 **Sec. 1.** RCW 82.04.050 and 2021 c 296 s 8 and 2021 c 143 s 2 are
7 each reenacted and amended to read as follows:

8 (1)(a) "Sale at retail" or "retail sale" means every sale of
9 tangible personal property (including articles produced, fabricated,
10 or imprinted) to all persons irrespective of the nature of their
11 business and including, among others, without limiting the scope
12 hereof, persons who install, repair, clean, alter, improve,
13 construct, or decorate real or personal property of or for consumers
14 other than a sale to a person who:

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

19 (ii) Installs, repairs, cleans, alters, imprints, improves,
20 constructs, or decorates real or personal property of or for
21 consumers, if such tangible personal property becomes an ingredient

1 or component of such real or personal property without intervening
2 use by such person; or

3 (iii) Purchases for the purpose of consuming the property
4 purchased in producing for sale as a new article of tangible personal
5 property or substance, of which such property becomes an ingredient
6 or component or is a chemical used in processing, when the primary
7 purpose of such chemical is to create a chemical reaction directly
8 through contact with an ingredient of a new article being produced
9 for sale; or

10 (iv) Purchases for the purpose of consuming the property
11 purchased in producing ferrosilicon which is subsequently used in
12 producing magnesium for sale, if the primary purpose of such property
13 is to create a chemical reaction directly through contact with an
14 ingredient of ferrosilicon; or

15 (v) Purchases for the purpose of providing the property to
16 consumers as part of competitive telephone service, as defined in RCW
17 82.04.065; or

18 (vi) Purchases for the purpose of satisfying the person's
19 obligations under an extended warranty as defined in subsection (7)
20 of this section, if such tangible personal property replaces or
21 becomes an ingredient or component of property covered by the
22 extended warranty without intervening use by such person.

23 (b) The term includes every sale of tangible personal property
24 that is used or consumed or to be used or consumed in the performance
25 of any activity defined as a "sale at retail" or "retail sale" even
26 though such property is resold or used as provided in (a)(i) through
27 (vi) of this subsection following such use.

28 (c) The term also means every sale of tangible personal property
29 to persons engaged in any business that is taxable under RCW
30 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

31 (2) The term "sale at retail" or "retail sale" includes the sale
32 of or charge made for tangible personal property consumed and/or for
33 labor and services rendered in respect to the following:

34 (a) The installing, repairing, cleaning, altering, imprinting, or
35 improving of tangible personal property of or for consumers,
36 including charges made for the mere use of facilities in respect
37 thereto, but excluding charges made for the use of self-service
38 laundry facilities, and also excluding sales of laundry service to
39 nonprofit health care facilities, and excluding services rendered in
40 respect to live animals, birds and insects;

1 (b) The constructing, repairing, decorating, or improving of new
2 or existing buildings or other structures under, upon, or above real
3 property of or for consumers, including the installing or attaching
4 of any article of tangible personal property therein or thereto,
5 whether or not such personal property becomes a part of the realty by
6 virtue of installation, and also includes the sale of services or
7 charges made for the clearing of land and the moving of earth
8 excepting the mere leveling of land used in commercial farming or
9 agriculture;

10 (c) The constructing, repairing, or improving of any structure
11 upon, above, or under any real property owned by an owner who conveys
12 the property by title, possession, or any other means to the person
13 performing such construction, repair, or improvement for the purpose
14 of performing such construction, repair, or improvement and the
15 property is then reconveyed by title, possession, or any other means
16 to the original owner;

17 (d) The cleaning, fumigating, razing, or moving of existing
18 buildings or structures, but does not include the charge made for
19 janitorial services; and for purposes of this section the term
20 "janitorial services" means those cleaning and caretaking services
21 ordinarily performed by commercial janitor service businesses
22 including, but not limited to, wall and window washing, floor
23 cleaning and waxing, and the cleaning in place of rugs, drapes and
24 upholstery. The term "janitorial services" does not include painting,
25 papering, repairing, furnace or septic tank cleaning, snow removal or
26 sandblasting;

27 (e) Automobile towing and similar automotive transportation
28 services, but not in respect to those required to report and pay
29 taxes under chapter 82.16 RCW;

30 (f) The furnishing of lodging and all other services by a hotel,
31 rooming house, tourist court, motel, trailer camp, and the granting
32 of any similar license to use real property, as distinguished from
33 the renting or leasing of real property, and it is presumed that the
34 occupancy of real property for a continuous period of one month or
35 more constitutes a rental or lease of real property and not a mere
36 license to use or enjoy the same. For the purposes of this
37 subsection, it is presumed that the sale of and charge made for the
38 furnishing of lodging for a continuous period of one month or more to
39 a person is a rental or lease of real property and not a mere license
40 to enjoy the same. For the purposes of this section, it is presumed

1 that the sale of and charge made for the furnishing of lodging
2 offered regularly for public occupancy for periods of less than a
3 month constitutes a license to use or enjoy the property subject to
4 sales and use tax and not a rental or lease of property;

5 (g) The installing, repairing, altering, or improving of digital
6 goods for consumers;

7 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)
8 of this subsection when such sales or charges are for property, labor
9 and services which are used or consumed in whole or in part by such
10 persons in the performance of any activity defined as a "sale at
11 retail" or "retail sale" even though such property, labor and
12 services may be resold after such use or consumption. Nothing
13 contained in this subsection may be construed to modify subsection
14 (1) of this section and nothing contained in subsection (1) of this
15 section may be construed to modify this subsection.

16 (3) The term "sale at retail" or "retail sale" includes the sale
17 of or charge made for personal, business, or professional services
18 including amounts designated as interest, rents, fees, admission, and
19 other service emoluments however designated, received by persons
20 engaging in the following business activities:

21 (a) Abstract, title insurance, and escrow services;

22 (b) Credit bureau services;

23 (c) Automobile parking and storage garage services;

24 (d) Landscape maintenance and horticultural services but
25 excluding (i) horticultural services provided to farmers and (ii)
26 pruning, trimming, repairing, removing, and clearing of trees and
27 brush near electric transmission or distribution lines or equipment,
28 if performed by or at the direction of an electric utility;

29 (e) Service charges associated with tickets to professional
30 sporting events;

31 (f) The following personal services: Tanning salon services,
32 tattoo parlor services, steam bath services, turkish bath services,
33 escort services, and dating services; and

34 (g)(i) Operating an athletic or fitness facility, including all
35 charges for the use of such a facility or for any associated services
36 and amenities, except as provided in (g)(ii) of this subsection.

37 (ii) Notwithstanding anything to the contrary in (g)(i) of this
38 subsection (3), the term "sale at retail" and "retail sale" under
39 this subsection does not include:

1 (A) Separately stated charges for the use of an athletic or
2 fitness facility where such use is primarily for a purpose other than
3 engaging in or receiving instruction in a physical fitness activity;

4 (B) Separately stated charges for the use of a discrete portion
5 of an athletic or fitness facility, other than a pool, where such
6 discrete portion of the facility does not by itself meet the
7 definition of "athletic or fitness facility" in this subsection;

8 (C) Separately stated charges for services, such as advertising,
9 massage, nutritional consulting, and body composition testing, that
10 do not require the customer to engage in physical fitness activities
11 to receive the service. The exclusion in this subsection
12 (3)(g)(ii)(C) does not apply to personal training services and
13 instruction in a physical fitness activity;

14 (D) Separately stated charges for physical therapy provided by a
15 physical therapist, as those terms are defined in RCW 18.74.010, or
16 occupational therapy provided by an occupational therapy
17 practitioner, as those terms are defined in RCW 18.59.020, when
18 performed pursuant to a referral from an authorized health care
19 practitioner or in consultation with an authorized health care
20 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an
21 authorized health care practitioner means a health care practitioner
22 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.71, or 18.71A
23 RCW, or, until July 1, 2022, chapter 18.57A RCW;

24 (E) Rent or association fees charged by a landlord or residential
25 association to a tenant or residential owner with access to an
26 athletic or fitness facility maintained by the landlord or
27 residential association, unless the rent or fee varies depending on
28 whether the tenant or owner has access to the facility;

29 (F) Services provided in the regular course of employment by an
30 employee with access to an athletic or fitness facility maintained by
31 the employer for use without charge by its employees or their family
32 members;

33 (G) The provision of access to an athletic or fitness facility by
34 an educational institution to its students and staff. However,
35 charges made by an educational institution to its alumni or other
36 members of the public for the use of any of the educational
37 institution's athletic or fitness facilities are a retail sale under
38 this subsection (3)(g). For purposes of this subsection
39 (3)(g)(ii)(G), "educational institution" has the same meaning as in
40 RCW 82.04.170;

1 (H) Yoga, chi gong, or martial arts classes, training, or events
2 held at a community center, park, school gymnasium, college or
3 university, hospital or other medical facility, private residence, or
4 any other facility that is not operated within and as part of an
5 athletic or fitness facility.

6 (iii) Nothing in (g)(ii) of this subsection (3) may be construed
7 to affect the taxation of sales made by the operator of an athletic
8 or fitness facility, where such sales are defined as a retail sale
9 under any provision of this section other than this subsection (3).

10 (iv) For the purposes of this subsection (3)(g), the following
11 definitions apply:

12 (A) "Athletic or fitness facility" means an indoor or outdoor
13 facility or portion of a facility that is primarily used for:
14 Exercise classes; strength and conditioning programs; personal
15 training services; tennis, racquetball, handball, squash, or
16 pickleball; or other activities requiring the use of exercise or
17 strength training equipment, such as treadmills, elliptical machines,
18 stair climbers, stationary cycles, rowing machines, pilates
19 equipment, balls, climbing ropes, jump ropes, and weightlifting
20 equipment.

21 (B) "Martial arts" means any of the various systems of training
22 for physical combat or self-defense. "Martial arts" includes, but is
23 not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing,
24 kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido,
25 Kendo, tai chi, and mixed martial arts.

26 (C) "Physical fitness activities" means activities that involve
27 physical exertion for the purpose of improving or maintaining the
28 general fitness, strength, flexibility, conditioning, or health of
29 the participant. "Physical fitness activities" includes participating
30 in yoga, chi gong, or martial arts.

31 (4)(a) The term also includes the renting or leasing of tangible
32 personal property to consumers.

33 (b) The term does not include the renting or leasing of tangible
34 personal property where the lease or rental is for the purpose of
35 sublease or subrent.

36 (c) The term does not include the sale of reusable packing
37 materials, including the rental or lease of such materials, under a
38 packing material sharing and reuse program. This exclusion applies
39 regardless of the person that retains title to or ends up in

1 possession of the packing materials. For purposes of this subsection
2 (4) (c):

3 (i) "Packing material sharing and reuse program" means a system
4 for sharing reusable packing materials involving more than one
5 person.

6 (ii) "Reusable packing materials" means all reusable boxes,
7 crates, or pallets used to package or contain personal property.

8 (5) The term also includes the providing of "competitive
9 telephone service," "telecommunications service," or "ancillary
10 services," as those terms are defined in RCW 82.04.065, to consumers.

11 (6) (a) The term also includes the sale of prewritten computer
12 software to a consumer, regardless of the method of delivery to the
13 end user. For purposes of (a) and (b) of this subsection, the sale of
14 prewritten computer software includes the sale of or charge made for
15 a key or an enabling or activation code, where the key or code is
16 required to activate prewritten computer software and put the
17 software into use. There is no separate sale of the key or code from
18 the prewritten computer software, regardless of how the sale may be
19 characterized by the vendor or by the purchaser.

20 (b) The term "retail sale" does not include the sale of or charge
21 made for:

22 (i) Custom software; or

23 (ii) The customization of prewritten computer software.

24 (c) (i) The term also includes the charge made to consumers for
25 the right to access and use prewritten computer software, where
26 possession of the software is maintained by the seller or a third
27 party, regardless of whether the charge for the service is on a per
28 use, per user, per license, subscription, or some other basis.

29 (ii) (A) The service described in (c) (i) of this subsection (6)
30 includes the right to access and use prewritten computer software to
31 perform data processing.

32 (B) For purposes of this subsection (6) (c) (ii), "data processing"
33 means the systematic performance of operations on data to extract the
34 required information in an appropriate form or to convert the data to
35 usable information. Data processing includes check processing, image
36 processing, form processing, survey processing, payroll processing,
37 claim processing, and similar activities.

38 (7) The term also includes the sale of or charge made for an
39 extended warranty to a consumer. For purposes of this subsection,
40 "extended warranty" means an agreement for a specified duration to

1 perform the replacement or repair of tangible personal property at no
2 additional charge or a reduced charge for tangible personal property,
3 labor, or both, or to provide indemnification for the replacement or
4 repair of tangible personal property, based on the occurrence of
5 specified events. The term "extended warranty" does not include an
6 agreement, otherwise meeting the definition of extended warranty in
7 this subsection, if no separate charge is made for the agreement and
8 the value of the agreement is included in the sales price of the
9 tangible personal property covered by the agreement. For purposes of
10 this subsection, "sales price" has the same meaning as in RCW
11 82.08.010.

12 (8) (a) The term also includes the following sales to consumers of
13 digital goods, digital codes, and digital automated services:

14 (i) Sales in which the seller has granted the purchaser the right
15 of permanent use;

16 (ii) Sales in which the seller has granted the purchaser a right
17 of use that is less than permanent;

18 (iii) Sales in which the purchaser is not obligated to make
19 continued payment as a condition of the sale; and

20 (iv) Sales in which the purchaser is obligated to make continued
21 payment as a condition of the sale.

22 (b) A retail sale of digital goods, digital codes, or digital
23 automated services under this subsection (8) includes any services
24 provided by the seller exclusively in connection with the digital
25 goods, digital codes, or digital automated services, whether or not a
26 separate charge is made for such services.

27 (c) For purposes of this subsection, "permanent" means perpetual
28 or for an indefinite or unspecified length of time. A right of
29 permanent use is presumed to have been granted unless the agreement
30 between the seller and the purchaser specifies or the circumstances
31 surrounding the transaction suggest or indicate that the right to use
32 terminates on the occurrence of a condition subsequent.

33 (9) The term also includes the charge made for providing tangible
34 personal property along with an operator for a fixed or indeterminate
35 period of time. A consideration of this is that the operator is
36 necessary for the tangible personal property to perform as designed.
37 For the purpose of this subsection (9), an operator must do more than
38 maintain, inspect, or set up the tangible personal property.

39 (10) The term does not include the sale of or charge made for
40 labor and services rendered in respect to the building, repairing, or

1 improving of any street, place, road, highway, easement, right-of-
2 way, mass public transportation terminal or parking facility, bridge,
3 tunnel, or trestle which is owned by a municipal corporation or
4 political subdivision of the state or by the United States and which
5 is used or to be used primarily for foot or vehicular traffic
6 including mass transportation vehicles of any kind.

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

24 (12) The term does not include the sale of or charge made for
25 labor and services rendered in respect to the constructing,
26 repairing, decorating, or improving of new or existing buildings or
27 other structures under, upon, or above real property of or for the
28 United States, any instrumentality thereof, or a county or city
29 housing authority created pursuant to chapter 35.82 RCW, including
30 the installing, or attaching of any article of tangible personal
31 property therein or thereto, whether or not such personal property
32 becomes a part of the realty by virtue of installation. Nor does the
33 term include the sale of services or charges made for the clearing of
34 land and the moving of earth of or for the United States, any
35 instrumentality thereof, or a county or city housing authority. Nor
36 does the term include the sale of services or charges made for
37 cleaning up for the United States, or its instrumentalities,
38 radioactive waste and other by-products of weapons production and
39 nuclear research and development.

1 (13) The term does not include the sale of or charge made for
2 labor, services, or tangible personal property pursuant to agreements
3 providing maintenance services for bus, rail, or rail fixed guideway
4 equipment when a regional transit authority is the recipient of the
5 labor, services, or tangible personal property, and a transit agency,
6 as defined in RCW 81.104.015, performs the labor or services.

7 (14) The term does not include the sale for resale of any service
8 described in this section if the sale would otherwise constitute a
9 "sale at retail" and "retail sale" under this section.

10 (15)(a) The term "sale at retail" or "retail sale" includes
11 amounts charged, however labeled, to consumers to engage in any of
12 the activities listed in this subsection (15)(a), including the
13 furnishing of any associated equipment or, except as otherwise
14 provided in this subsection, providing instruction in such
15 activities, where such charges are not otherwise defined as a "sale
16 at retail" or "retail sale" in this section:

17 (i)(A) Golf, including any variant in which either golf balls or
18 golf clubs are used, such as miniature golf, hitting golf balls at a
19 driving range, and golf simulators, and including fees charged by a
20 golf course to a player for using his or her own cart. However,
21 charges for golf instruction are not a retail sale, provided that if
22 the instruction involves the use of a golfing facility that would
23 otherwise require the payment of a fee, such as green fees or driving
24 range fees, such fees, including the applicable retail sales tax,
25 must be separately identified and charged by the golfing facility
26 operator to the instructor or the person receiving the instruction.

27 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except
28 as otherwise provided in this subsection (15)(a)(i)(B), the term
29 "sale at retail" or "retail sale" does not include amounts charged to
30 participate in, or conduct, a golf tournament or other competitive
31 event. However, amounts paid by event participants to the golf
32 facility operator are retail sales under this subsection (15)(a)(i).
33 Likewise, amounts paid by the event organizer to the golf facility
34 are retail sales under this subsection (15)(a)(i), if such amounts
35 vary based on the number of event participants;

36 (ii) Ballooning, hang gliding, indoor or outdoor sky diving,
37 paragliding, parasailing, and similar activities;

38 (iii) Air hockey, billiards, pool, foosball, darts, shuffleboard,
39 ping pong, and similar games;

1 (iv) Access to amusement park, theme park, and water park
2 facilities, including but not limited to charges for admission and
3 locker or cabana rentals. Discrete charges for rides or other
4 attractions or entertainment that are in addition to the charge for
5 admission are not a retail sale under this subsection (15)(a)(iv).
6 For the purposes of this subsection, an amusement park or theme park
7 is a location that provides permanently affixed amusement rides,
8 games, and other entertainment, but does not include parks or zoos
9 for which the primary purpose is the exhibition of wildlife, or
10 fairs, carnivals, and festivals as defined in (b)(i) of this
11 subsection;

12 (v) Batting cage activities;

13 (vi) Bowling, but not including competitive events, except that
14 amounts paid by the event participants to the bowling alley operator
15 are retail sales under this subsection (15)(a)(vi). Likewise, amounts
16 paid by the event organizer to the operator of the bowling alley are
17 retail sales under this subsection (15)(a)(vi), if such amounts vary
18 based on the number of event participants;

19 (vii) Climbing on artificial climbing structures, whether indoors
20 or outdoors;

21 (viii) Day trips for sightseeing purposes;

22 (ix) Bungee jumping, zip lining, and riding inside a ball,
23 whether inflatable or otherwise;

24 (x) Horseback riding offered to the public, where the seller
25 furnishes the horse to the buyer and providing instruction is not the
26 primary focus of the activity, including guided rides, but not
27 including therapeutic horseback riding provided by an instructor
28 certified by a nonprofit organization that offers national or
29 international certification for therapeutic riding instructors;

30 (xi) Fishing, including providing access to private fishing areas
31 and charter or guided fishing, except that fishing contests and
32 license fees imposed by a government entity are not a retail sale
33 under this subsection;

34 (xii) Guided hunting and hunting at game farms and shooting
35 preserves, except that hunting contests and license fees imposed by a
36 government entity are not a retail sale under this subsection;

37 (xiii) Swimming, but only in respect to (A) recreational or
38 fitness swimming that is open to the public, such as open swim, lap
39 swimming, and special events like kids night out and pool parties
40 during open swim time, and (B) pool parties for private events, such

1 as birthdays, family gatherings, and employee outings. Fees for
2 swimming lessons, to participate in swim meets and other
3 competitions, or to join a swim team, club, or aquatic facility are
4 not retail sales under this subsection (15) (a) (xiii);

5 (xiv) Go-karting, bumper cars, and other motorized activities
6 where the seller provides the vehicle and the premises where the
7 buyer will operate the vehicle;

8 (xv) Indoor or outdoor playground activities, such as inflatable
9 bounce structures and other inflatables; mazes; trampolines; slides;
10 ball pits; games of tag, including laser tag and soft-dart tag; and
11 human gyroscope rides, regardless of whether such activities occur at
12 the seller's place of business, but not including playground
13 activities provided for children by a licensed child day care center
14 or licensed family day care provider as those terms are defined in
15 RCW 43.216.010;

16 (xvi) Shooting sports and activities, such as target shooting,
17 skeet, trap, sporting clays, "5" stand, and archery, but only in
18 respect to discrete charges to members of the public to engage in
19 these activities, but not including fees to enter a competitive
20 event, instruction that is entirely or predominately classroom based,
21 or to join or renew a membership at a club, range, or other facility;

22 (xvii) Paintball and airsoft activities;

23 (xviii) Skating, including ice skating, roller skating, and
24 inline skating, but only in respect to discrete charges to members of
25 the public to engage in skating activities, but not including skating
26 lessons, competitive events, team activities, or fees to join or
27 renew a membership at a skating facility, club, or other
28 organization;

29 (xix) Nonmotorized snow sports and activities, such as downhill
30 and cross-country skiing, snowboarding, ski jumping, sledding, snow
31 tubing, snowshoeing, and similar snow sports and activities, whether
32 engaged in outdoors or in an indoor facility with or without snow,
33 but only in respect to discrete charges to the public for the use of
34 land or facilities to engage in nonmotorized snow sports and
35 activities, such as fees, however labeled, for the use of ski lifts
36 and tows and daily or season passes for access to trails or other
37 areas where nonmotorized snow sports and activities are conducted.
38 However, fees for the following are not retail sales under this
39 subsection (15) (a) (xix): (A) Instructional lessons; (B) permits
40 issued by a governmental entity to park a vehicle on or access public

1 lands; and (C) permits or leases granted by an owner of private
2 timberland for recreational access to areas used primarily for
3 growing and harvesting timber; and

4 (xx) Scuba diving; snorkeling; river rafting; surfing;
5 kiteboarding; flyboarding; water slides; inflatables, such as water
6 pillows, water trampolines, and water rollers; and similar water
7 sports and activities.

8 (b) Notwithstanding anything to the contrary in this subsection
9 (15), the term "sale at retail" or "retail sale" does not include
10 charges:

11 (i) Made for admission to, and rides or attractions at, fairs,
12 carnivals, and festivals. For the purposes of this subsection, fairs,
13 carnivals, and festivals are events that do not exceed 21 days and a
14 majority of the amusement rides, if any, are not affixed to real
15 property;

16 (ii) Made by an educational institution to its students and staff
17 for activities defined as retail sales by (a)(i) through (xx) of this
18 subsection. However, charges made by an educational institution to
19 its alumni or other members of the general public for these
20 activities are a retail sale under this subsection (15). For purposes
21 of this subsection (15)(b)(ii), "educational institution" has the
22 same meaning as in RCW 82.04.170;

23 (iii) Made by a vocational school for commercial diver training
24 that is licensed by the workforce training and education coordinating
25 board under chapter 28C.10 RCW; or

26 (iv) Made for day camps offered by a nonprofit organization or
27 state or local governmental entity that provide youth not older than
28 age 18, or that are focused on providing individuals with
29 disabilities or mental illness, the opportunity to participate in a
30 variety of supervised activities.

31 (16)(a) The term "sale at retail" or "retail sale" includes the
32 purchase or acquisition of tangible personal property and specified
33 services by a person who receives either a qualifying grant exempt
34 from tax under RCW 82.04.767 or 82.16.320 or a grant deductible under
35 RCW 82.04.4339, except for transactions excluded from the definition
36 of "sale at retail" or "retail sale" by any other provision of this
37 section. Nothing in this subsection (16) may be construed to limit
38 the application of any other provision of this section to purchases
39 by a recipient of either a qualifying grant exempt from tax under RCW

1 82.04.767 or a grant deductible under RCW 82.04.4339, or by any other
2 person.

3 (b) For purposes of this subsection (16), "specified services"
4 means:

5 (i) The constructing, repairing, decorating, or improving of new
6 or existing buildings or other structures under, upon, or above real
7 property, including the installing or attaching of any article of
8 tangible personal property therein or thereto, whether or not such
9 personal property becomes a part of the realty by virtue of
10 installation;

11 (ii) The clearing of land or the moving of earth, whether or not
12 associated with activities described in (b)(i) of this subsection
13 (16);

14 (iii) The razing or moving of existing buildings or structures;
15 and

16 (iv) Landscape maintenance and horticultural services.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12
18 RCW to read as follows:

19 (1) This chapter does not apply to the use of reusable packing
20 materials that are part of a packing material sharing and reuse
21 program.

22 (2) For purposes of this section, "packing material sharing and
23 reuse program" and "reusable packing materials" have the same
24 meanings as in RCW 82.04.050(4)(c).

25 NEW SECTION. **Sec. 3.** This act takes effect August 1, 2023.

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