
SENATE BILL 5980

State of Washington

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By Senators Torres, Dozier, Gildon, and Warnick

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1 AN ACT Relating to exempting live presentations from retail sales
2 and use tax; amending RCW 82.04.050 and 82.04.192; creating a new
3 section; and providing an effective date.

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

5 **Sec. 1.** RCW 82.04.050 and 2025 c 422 s 101 are each amended to
6 read as follows:

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

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

18 (ii) Installs, repairs, cleans, alters, imprints, improves,
19 constructs, or decorates real or personal property of or for
20 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)~~) (f), 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;

34 (g) Information technology training services, technical support,
35 and other services including, but not limited to, assisting with
36 network operations and support, help desk services, in-person
37 training related to hardware or software, network system support
38 services, data entry services, and data processing services;

39 (h) Custom website development services. For the purposes of this
40 subsection (3), "website development services" means the design,

1 development, and support of a website provided by a website developer
2 to a customer;

3 (i) Investigation, security services, security monitoring
4 services, and armored car services including, but not limited to,
5 background checks, security guard and patrol services, personal and
6 event security, armored car transportation of cash and valuables, and
7 security system services and monitoring. This does not include
8 locksmith services;

9 (j) Temporary staffing services. For the purposes of this
10 subsection (3), "temporary staffing services" means providing workers
11 to other businesses, except for hospitals licensed under chapter
12 70.41 or 71.12 RCW, for limited periods of time to supplement their
13 workforce and fill employment vacancies on a contract or for fee
14 basis;

15 (k) Advertising services. (i) For the purposes of this subsection
16 (3), "advertising services" means all digital and nondigital services
17 related to the creation, preparation, production, or dissemination of
18 advertisements including, but not limited to:

19 (A) Layout, art direction, graphic design, mechanical
20 preparation, production supervision, placement, referrals,
21 acquisition of advertising space, and rendering advice concerning the
22 best methods of advertising products or services; and

23 (B) Online referrals, search engine marketing(~~(r)~~) and lead
24 generation optimization, web campaign planning, the acquisition of
25 advertising space in the internet media, and the monitoring and
26 evaluation of website traffic for purposes of determining the
27 effectiveness of an advertising campaign.

28 (ii) "Advertising services" do not include:

29 (A) Web hosting services and domain name registration;

30 (B) Services rendered in respect to the following:

31 (I) "Newspapers" as defined in RCW 82.04.214;

32 (II) Printing or publishing under RCW 82.04.280; and

33 (III) "Radio and television broadcasting" within this state as
34 defined in RCW 82.04.281; and

35 (C) Services rendered in respect to out-of-home advertising,
36 including: Billboard advertising; street furniture advertising;
37 transit advertising; place-based advertising, such as in-store
38 display advertising or point-of-sale advertising; dynamic or static
39 signage at live events; naming rights; and fixed signage advertising.
40 Out-of-home advertising does not include direct mail; and

1 (1) (~~Live presentations including, but not limited to, lectures,~~
2 ~~seminars, workshops, or courses where participants attend either in-~~
3 ~~person or via the internet or telecommunications equipment that~~
4 ~~allows audience members and the presenter or instructor to give,~~
5 ~~receive, and discuss information with each other in real time; and~~

6 ~~(m))~~ (i) Operating an athletic or fitness facility, including all
7 charges for the use of such a facility or for any associated services
8 and amenities, except as provided in (~~(m))~~ (1)(ii) of this
9 subsection.

10 (ii) Notwithstanding anything to the contrary in (~~(m))~~ (1)(i)
11 of this subsection (3), the term "sale at retail" and "retail sale"
12 under this subsection does not include:

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

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

20 (C) Separately stated charges for services, such as massage,
21 nutritional consulting, and body composition testing, that do not
22 require the customer to engage in physical fitness activities to
23 receive the service. The exclusion in this subsection (3)(~~(m))~~ (1)
24 (ii)(C) does not apply to personal training services and instruction
25 in a physical fitness activity;

26 (D) Separately stated charges for physical therapy provided by a
27 physical therapist, as those terms are defined in RCW 18.74.010, or
28 occupational therapy provided by an occupational therapy
29 practitioner, as those terms are defined in RCW 18.59.020, when
30 performed pursuant to a referral from an authorized health care
31 practitioner or in consultation with an authorized health care
32 practitioner. For the purposes of this subsection (3)(~~(m))~~ (1)
33 (ii)(D), an authorized health care practitioner means a health care
34 practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57,
35 18.71, or 18.71A RCW, or, until July 1, 2022, chapter 18.57A RCW;

36 (E) Rent or association fees charged by a landlord or residential
37 association to a tenant or residential owner with access to an
38 athletic or fitness facility maintained by the landlord or
39 residential association, unless the rent or fee varies depending on
40 whether the tenant or owner has access to the facility;

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

5 (G) The provision of access to an athletic or fitness facility by
6 an educational institution to its students and staff. However,
7 charges made by an educational institution to its alumni or other
8 members of the public for the use of any of the educational
9 institution's athletic or fitness facilities are a retail sale under
10 this subsection (3) ~~((m))~~ (1). For purposes of this subsection (3)
11 ~~((m))~~ (1)(ii)(G), "educational institution" has the same meaning as
12 in RCW 82.04.170;

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

18 (iii) Nothing in ~~((m))~~ (1)(ii) of this subsection (3) may be
19 construed to affect the taxation of sales made by the operator of an
20 athletic or fitness facility, where such sales are defined as a
21 retail sale under any provision of this section other than this
22 subsection (3).

23 (iv) For the purposes of this subsection (3) ~~((m))~~ (1), the
24 following definitions apply:

25 (A) "Athletic or fitness facility" means an indoor or outdoor
26 facility or portion of a facility that is primarily used for:
27 Exercise classes; strength and conditioning programs; personal
28 training services; tennis, racquetball, handball, squash, or
29 pickleball; or other activities requiring the use of exercise or
30 strength training equipment, such as treadmills, elliptical machines,
31 stair climbers, stationary cycles, rowing machines, pilates
32 equipment, balls, climbing ropes, jump ropes, and weightlifting
33 equipment.

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

39 (C) "Physical fitness activities" means activities that involve
40 physical exertion for the purpose of improving or maintaining the

1 general fitness, strength, flexibility, conditioning, or health of
2 the participant. "Physical fitness activities" includes participating
3 in yoga, chi gong, or martial arts.

4 For the purposes of (g) through (i) and (k) of this subsection
5 (3), the terms "sale at retail" and "retail sale" do not include a
6 sale between members of an affiliated group as defined in RCW
7 82.04.299(1)(f).

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

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

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

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

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

32 (ii)(A) The service described in (b)(i) of this subsection (6)
33 includes the right to access and use prewritten computer software,
34 custom software, and customization of prewritten computer software to
35 perform data processing.

36 (B) For purposes of this subsection (6)(b)(ii), "data processing"
37 means the systematic performance of operations on data to extract the
38 required information in an appropriate form or to convert the data to
39 usable information. Data processing includes check processing, image

1 processing, form processing, survey processing, payroll processing,
2 claim processing, and similar activities.

3 (7) The term also includes the sale of or charge made for an
4 extended warranty to a consumer. For purposes of this subsection,
5 "extended warranty" means an agreement for a specified duration to
6 perform the replacement or repair of tangible personal property at no
7 additional charge or a reduced charge for tangible personal property,
8 labor, or both, or to provide indemnification for the replacement or
9 repair of tangible personal property, based on the occurrence of
10 specified events. The term "extended warranty" does not include an
11 agreement, otherwise meeting the definition of extended warranty in
12 this subsection, if no separate charge is made for the agreement and
13 the value of the agreement is included in the sales price of the
14 tangible personal property covered by the agreement. For purposes of
15 this subsection, "sales price" has the same meaning as in RCW
16 82.08.010.

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

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

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

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

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

27 (b) A retail sale of digital goods, digital codes, or digital
28 automated services under this subsection (8) includes any services
29 provided by the seller exclusively in connection with the digital
30 goods, digital codes, or digital automated services, whether or not a
31 separate charge is made for such services.

32 (c) A retail sale of digital goods, digital codes, or digital
33 automated services does not include the following services if the
34 sale occurs between members of an affiliated group as defined in RCW
35 82.04.299(1) (f):

36 (i) Any service that primarily involves the application of human
37 effort by the seller, and the human effort originated after the
38 customer requested the service;

39 (ii) ~~((Live presentations, such as lectures, seminars, workshops,
40 or courses, where participants are connected to other participants~~

1 ~~via the internet or telecommunications equipment, which allows~~
2 ~~audience members and the presenter or instructor to give, receive,~~
3 ~~and discuss information with each other in real time;~~

4 ~~(iii))~~) Advertising services. For purposes of this subsection
5 (8)(c), "advertising services" means all services directly related to
6 the creation, preparation, production, or dissemination of
7 advertisements. Advertising services include layout, art direction,
8 graphic design, mechanical preparation, production supervision,
9 placement, and rendering advice to a client concerning the best
10 methods of advertising that client's products or services.
11 Advertising services also include online referrals, search engine
12 marketing and lead generation optimization, web campaign planning,
13 the acquisition of advertising space in the internet media, and the
14 monitoring and evaluation of website traffic for purposes of
15 determining the effectiveness of an advertising campaign. Advertising
16 services do not include web hosting services and domain name
17 registration; and

18 ~~((iv))~~) (iii) Data processing services. For purposes of this
19 subsection (8)(c), "data processing service" means a primarily
20 automated service provided to a business or other organization where
21 the primary object of the service is the systematic performance of
22 operations by the service provider on data supplied in whole or in
23 part by the customer to extract the required information in an
24 appropriate form or to convert the data to usable information. Data
25 processing services include check processing, image processing, form
26 processing, survey processing, payroll processing, claim processing,
27 and similar activities. Data processing does not include the service
28 described in subsection (6)(b) of this section.

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

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

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

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

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

1 radioactive waste and other by-products of weapons production and
2 nuclear research and development.

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

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

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

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

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

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

- 1 (iii) Air hockey, billiards, pool, foosball, darts, shuffleboard,
2 ping pong, and similar games;
- 3 (iv) Access to amusement park, theme park, and water park
4 facilities, including but not limited to charges for admission and
5 locker or cabana rentals. Discrete charges for rides or other
6 attractions or entertainment that are in addition to the charge for
7 admission are not a retail sale under this subsection (15)(a)(iv).
8 For the purposes of this subsection, an amusement park or theme park
9 is a location that provides permanently affixed amusement rides,
10 games, and other entertainment, but does not include parks or zoos
11 for which the primary purpose is the exhibition of wildlife, or
12 fairs, carnivals, and festivals as defined in (b)(i) of this
13 subsection;
- 14 (v) Batting cage activities;
- 15 (vi) Bowling, but not including competitive events, except that
16 amounts paid by the event participants to the bowling alley operator
17 are retail sales under this subsection (15)(a)(vi). Likewise, amounts
18 paid by the event organizer to the operator of the bowling alley are
19 retail sales under this subsection (15)(a)(vi), if such amounts vary
20 based on the number of event participants;
- 21 (vii) Climbing on artificial climbing structures, whether indoors
22 or outdoors;
- 23 (viii) Day trips for sightseeing purposes;
- 24 (ix) Bungee jumping, zip lining, and riding inside a ball,
25 whether inflatable or otherwise;
- 26 (x) Horseback riding offered to the public, where the seller
27 furnishes the horse to the buyer and providing instruction is not the
28 primary focus of the activity, including guided rides, but not
29 including therapeutic horseback riding provided by an instructor
30 certified by a nonprofit organization that offers national or
31 international certification for therapeutic riding instructors;
- 32 (xi) Fishing, including providing access to private fishing areas
33 and charter or guided fishing, except that fishing contests and
34 license fees imposed by a government entity are not a retail sale
35 under this subsection;
- 36 (xii) Guided hunting and hunting at game farms and shooting
37 preserves, except that hunting contests and license fees imposed by a
38 government entity are not a retail sale under this subsection;
- 39 (xiii) Swimming, but only in respect to (A) recreational or
40 fitness swimming that is open to the public, such as open swim, lap

1 swimming, and special events like kids night out and pool parties
2 during open swim time, and (B) pool parties for private events, such
3 as birthdays, family gatherings, and employee outings. Fees for
4 swimming lessons, to participate in swim meets and other
5 competitions, or to join a swim team, club, or aquatic facility are
6 not retail sales under this subsection (15)(a)(xiii);

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

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

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

24 (xvii) Paintball and airsoft activities;

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

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

1 subsection (15)(a)(xix): (A) Instructional lessons; (B) permits
2 issued by a governmental entity to park a vehicle on or access public
3 lands; and (C) permits or leases granted by an owner of private
4 timberland for recreational access to areas used primarily for
5 growing and harvesting timber; and

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

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

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

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

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

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

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

1 by a recipient of either a qualifying grant exempt from tax under RCW
2 82.04.767 or a grant deductible under RCW 82.04.4339, or by any other
3 person.

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

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

12 (ii) The clearing of land or the moving of earth, whether or not
13 associated with activities described in (b)(i) of this subsection
14 (16);

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

17 (iv) Landscape maintenance and horticultural services.

18 **Sec. 2.** RCW 82.04.192 and 2025 c 422 s 201 are each amended to
19 read as follows:

20 (1) "Digital audio works" means works that result from the
21 fixation of a series of musical, spoken, or other sounds, including
22 ringtones.

23 (2) "Digital audiovisual works" means a series of related images
24 which, when shown in succession, impart an impression of motion,
25 together with accompanying sounds, if any.

26 (3)(a) "Digital automated service," except as provided in (b) of
27 this subsection (3), means any service transferred electronically
28 that uses one or more software applications.

29 (b) "Digital automated service" does not include:

30 (i) The loaning or transferring of money or the purchase, sale,
31 or transfer of financial instruments. For purposes of this subsection
32 (3)(b)(i), "financial instruments" include cash, accounts receivable
33 and payable, loans and notes receivable and payable, debt securities,
34 equity securities, as well as derivative contracts such as forward
35 contracts, swap contracts, and options;

36 (ii) Dispensing cash or other physical items from a machine;

37 (iii) Payment processing services;

38 (iv) Parimutuel wagering and handicapping contests as authorized
39 by chapter 67.16 RCW;

1 (v) Telecommunications services and ancillary services as those
2 terms are defined in RCW 82.04.065;

3 (vi) The internet and internet access as those terms are defined
4 in RCW 82.04.297;

5 (vii) The service described in RCW 82.04.050(6)(b);

6 (viii) Online educational programs provided by a:

7 (A) Public or private elementary or secondary school; or

8 (B) An institution of higher education as defined in sections
9 1001 or 1002 of the federal higher education act of 1965 (Title 20
10 U.S.C. Secs. 1001 and 1002), as existing on July 1, 2009. For
11 purposes of this subsection (3)(b)(viii)(B), an online educational
12 program must be encompassed within the institution's accreditation;

13 (ix) Travel agent services, including online travel services, and
14 automated systems used by travel agents to book reservations;

15 (x) (A) A service that allows the person receiving the service to
16 make online sales of products or services, digital or otherwise,
17 using either: (I) The service provider's website; or (II) the service
18 recipient's website, but only when the service provider's technology
19 is used in creating or hosting the service recipient's website or is
20 used in processing orders from customers using the service
21 recipient's website.

22 (B) The service described in this subsection (3)(b)(x) does not
23 include the underlying sale of the products or services, digital or
24 otherwise, by the person receiving the service;

25 (xi) Telehealth as defined in RCW 18.134.010 or telemedicine as
26 defined in RCW 48.43.735;

27 (xii) The mere storage of digital products, digital codes,
28 computer software, or master copies of software. This exclusion from
29 the definition of digital automated services includes providing space
30 on a server for web hosting or the backing up of data or other
31 information; (~~and~~)

32 (xiii) Live presentations, such as lectures, seminars, workshops,
33 or courses, where participants are connected to other participants
34 through the internet or telecommunications equipment, which allows
35 audience members and the presenter or instructor to give, receive,
36 and discuss information with each other in real time; and

37 (xiv) Digital goods.

38 (4) "Digital books" means works that are generally recognized in
39 the ordinary and usual sense as books.

1 (5) "Digital code" means a code that provides a purchaser with
2 the right to obtain one or more digital products, if all of the
3 digital products to be obtained through the use of the code have the
4 same sales and use tax treatment. "Digital code" does not include a
5 code that represents a stored monetary value that is deducted from a
6 total as it is used by the purchaser. "Digital code" also does not
7 include a code that represents a redeemable card, gift card, or gift
8 certificate that entitles the holder to select digital products of an
9 indicated cash value. A digital code may be obtained by any means,
10 including email or by tangible means regardless of its designation as
11 song code, video code, book code, or some other term.

12 (6)(a) "Digital goods," except as provided in (b) of this
13 subsection (6), means sounds, images, data, facts, or information, or
14 any combination thereof, transferred electronically, including, but
15 not limited to, specified digital products and other products
16 transferred electronically not included within the definition of
17 specified digital products.

18 (b) The term "digital goods" does not include:

19 (i) Telecommunications services and ancillary services as those
20 terms are defined in RCW 82.04.065;

21 (ii) Computer software as defined in RCW 82.04.215;

22 (iii) The internet and internet access as those terms are defined
23 in RCW 82.04.297;

24 (iv)(A) Except as provided in (b)(iv)(B) of this subsection (6),
25 the representation of a personal or professional service in
26 electronic form, such as an electronic copy of an engineering report
27 prepared by an engineer, where the service primarily involves the
28 application of human effort by the service provider, and the human
29 effort originated after the customer requested the service.

30 (B) The exclusion in (b)(iv)(A) of this subsection (6) does not
31 apply to photographers in respect to amounts received for the taking
32 of photographs that are transferred electronically to the customer,
33 but only if the customer is an end user, as defined in RCW
34 82.04.190(11), of the photographs. Such amounts are considered to be
35 for the sale of digital goods; and

36 (v) Services and activities excluded from the definition of
37 digital automated services in subsection (3)(b)(i) through ~~((xii))~~
38 (xiii) of this section and not otherwise described in (b)(i) through
39 (iv) of this subsection (6).

1 (7) "Digital products" means digital goods and digital automated
2 services.

3 (8) "Electronically transferred" or "transferred electronically"
4 means obtained by the purchaser by means other than tangible storage
5 media. It is not necessary that a copy of the product be physically
6 transferred to the purchaser. So long as the purchaser may access the
7 product, it will be considered to have been electronically
8 transferred to the purchaser.

9 (9) "Specified digital products" means electronically transferred
10 digital audiovisual works, digital audio works, and digital books.

11 (10) "Subscription radio services" means the sale of audio
12 programming by a radio broadcaster as defined in RCW 82.08.0208,
13 except as otherwise provided in this subsection. "Subscription radio
14 services" does not include audio programming that is sold on a pay-
15 per-program basis or that allows the buyer to access a library of
16 programs at any time for a specific charge for that service.

17 (11) "Subscription television services" means the sale of video
18 programming by a television broadcaster as defined in RCW 82.08.0208,
19 except as otherwise provided in this subsection. "Subscription
20 television services" does not include video programming that is sold
21 on a pay-per-program basis or that allows the buyer to access a
22 library of programs at any time for a specific charge for that
23 service, but only if the seller is not subject to a franchise fee in
24 this state under the authority of Title 47 U.S.C. Sec. 542(a) on the
25 gross revenue derived from the sale.

26 NEW SECTION. **Sec. 3.** RCW 82.32.805 and 82.32.808 do not apply
27 to this act.

28 NEW SECTION. **Sec. 4.** This act takes effect October 1, 2026.

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