

2 SHB 1946 - H COMM AMD
3 By Committee on Revenue

4

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
8 to read as follows:

9 (1) "Agricultural product" means any product of plant cultivation
10 or animal husbandry including, but not limited to: A product of
11 horticulture, grain cultivation, vermiculture, viticulture, or
12 aquaculture as defined in RCW 15.85.020; plantation Christmas trees;
13 turf; or any animal including but not limited to an animal that is a
14 private sector cultured aquatic product as defined in RCW 15.85.020, or
15 a bird, or insect, or the substances obtained from such an animal.
16 "Agricultural product" does not include animals intended to be pets.

17 (2) "Farmer" means any person engaged in the business of growing or
18 producing, upon the person's own lands or upon the lands in which the
19 person has a present right of possession, any agricultural product
20 whatsoever for sale. "Farmer" does not include a person using such
21 products as ingredients in a manufacturing process, or a person growing
22 or producing such products for the person's own consumption. "Farmer"
23 does not include a person selling any animal or substance obtained
24 therefrom in connection with the person's business of operating a
25 stockyard or a slaughter or packing house. "Farmer" does not include
26 any person in respect to the business of taking, cultivating, or
27 raising timber. "Farmer" does not include any association of persons
28 whatever, whether mutual, cooperative, or otherwise, engaging in any
29 business activity with respect to which tax liability is imposed under
30 the provisions of this chapter.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW
32 to read as follows:

33 The tax levied by RCW 82.08.020 shall not apply to sales of:

34 (1) Feed, seed, seedlings, fertilizer, and spray materials to
35 persons who participate in the federal conservation reserve program or

1 its successor administered by the United States department of
2 agriculture with respect to land enrolled in that program, or to
3 farmers for the purpose of producing for sale any agricultural product.

4 (2) Chemical sprays or washes to persons for the purpose of post
5 harvest treatment of fruit for the prevention of scald, fungus, mold,
6 or decay.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW
8 to read as follows:

9 The provisions of this chapter shall not apply in respect to the
10 use of:

11 (1) Feed, seed, seedlings, fertilizer, and spray materials by
12 persons who participate in the federal conservation reserve program or
13 its successor administered by the United States department of
14 agriculture with respect to land enrolled in that program, or by
15 farmers for the purpose of producing for sale any agricultural product.

16 (2) Chemical sprays or washes by persons for the purpose of post
17 harvest treatment of fruit for the prevention of scald, fungus, mold,
18 or decay.

19 **Sec. 4.** RCW 82.04.050 and 1988 c 253 s 1 are each amended to read
20 as follows:

21 (1) "Sale at retail" or "retail sale" means every sale of tangible
22 personal property (including articles produced, fabricated, or
23 imprinted) to all persons irrespective of the nature of their business
24 and including, among others, without limiting the scope hereof, persons
25 who install, repair, clean, alter, improve, construct, or decorate real
26 or personal property of or for consumers other than a sale to a person
27 who (a) purchases for the purpose of resale as tangible personal
28 property in the regular course of business without intervening use by
29 such person, or (b) installs, repairs, cleans, alters, imprints,
30 improves, constructs, or decorates real or personal property of or for
31 consumers, if such tangible personal property becomes an ingredient or
32 component of such real or personal property without intervening use by
33 such person, or (c) purchases for the purpose of consuming the property
34 purchased in producing for sale a new article of tangible personal
35 property or substance, of which such property becomes an ingredient or
36 component or is a chemical used in processing, when the primary purpose
37 of such chemical is to create a chemical reaction directly through

1 contact with an ingredient of a new article being produced for sale, or
2 (d) purchases for the purpose of consuming the property purchased in
3 producing ferrosilicon which is subsequently used in producing
4 magnesium for sale, if the primary purpose of such property is to
5 create a chemical reaction directly through contact with an ingredient
6 of ferrosilicon, or (e) purchases for the purpose of providing the
7 property to consumers as part of competitive telephone service, as
8 defined in RCW 82.04.065. The term shall include every sale of
9 tangible personal property which is used or consumed or to be used or
10 consumed in the performance of any activity classified as a "sale at
11 retail" or "retail sale" even though such property is resold or
12 utilized as provided in (a), (b), (c), (d), or (e) above following such
13 use. The term also means every sale of tangible personal property to
14 persons engaged in any business which is taxable under RCW 82.04.280,
15 subsections (2) and (7) and RCW 82.04.290.

16 (2) The term "sale at retail" or "retail sale" shall include the
17 sale of or charge made for tangible personal property consumed and/or
18 for labor and services rendered in respect to the following: (a) The
19 installing, repairing, cleaning, altering, imprinting, or improving of
20 tangible personal property of or for consumers, including charges made
21 for the mere use of facilities in respect thereto, but excluding
22 charges made for the use of coin operated laundry facilities when such
23 facilities are situated in an apartment house, hotel, motel, rooming
24 house, trailer camp or tourist camp for the exclusive use of the
25 tenants thereof, and also excluding sales of laundry service to members
26 by nonprofit associations composed exclusively of nonprofit hospitals,
27 and excluding services rendered in respect to live animals, birds and
28 insects; (b) the constructing, repairing, decorating, or improving of
29 new or existing buildings or other structures under, upon, or above
30 real property of or for consumers, including the installing or
31 attaching of any article of tangible personal property therein or
32 thereto, whether or not such personal property becomes a part of the
33 realty by virtue of installation, and shall also include the sale of
34 services or charges made for the clearing of land and the moving of
35 earth excepting the mere leveling of land used in commercial farming or
36 agriculture; (c) the charge for labor and services rendered in respect
37 to constructing, repairing, or improving any structure upon, above, or
38 under any real property owned by an owner who conveys the property by
39 title, possession, or any other means to the person performing such

1 construction, repair, or improvement for the purpose of performing such
2 construction, repair, or improvement and the property is then
3 reconveyed by title, possession, or any other means to the original
4 owner; (d) the sale of or charge made for labor and services rendered
5 in respect to the cleaning, fumigating, razing or moving of existing
6 buildings or structures, but shall not include the charge made for
7 janitorial services; and for purposes of this section the term
8 "janitorial services" shall mean those cleaning and caretaking services
9 ordinarily performed by commercial janitor service businesses
10 including, but not limited to, wall and window washing, floor cleaning
11 and waxing, and the cleaning in place of rugs, drapes and upholstery.
12 The term "janitorial services" does not include painting, papering,
13 repairing, furnace or septic tank cleaning, snow removal or
14 sandblasting; (e) the sale of or charge made for labor and services
15 rendered in respect to automobile towing and similar automotive
16 transportation services, but not in respect to those required to report
17 and pay taxes under chapter 82.16 RCW; (f) the sale of and charge made
18 for the furnishing of lodging and all other services by a hotel,
19 rooming house, tourist court, motel, trailer camp, and the granting of
20 any similar license to use real property, as distinguished from the
21 renting or leasing of real property, and it shall be presumed that the
22 occupancy of real property for a continuous period of one month or more
23 constitutes a rental or lease of real property and not a mere license
24 to use or enjoy the same; (g) the sale of or charge made for tangible
25 personal property, labor and services to persons taxable under (a),
26 (b), (c), (d), (e), and (f) above when such sales or charges are for
27 property, labor and services which are used or consumed in whole or in
28 part by such persons in the performance of any activity defined as a
29 "sale at retail" or "retail sale" even though such property, labor and
30 services may be resold after such use or consumption. Nothing
31 contained in this paragraph shall be construed to modify the first
32 paragraph of this section and nothing contained in the first paragraph
33 of this section shall be construed to modify this paragraph.

34 (3) The term "sale at retail" or "retail sale" shall include the
35 sale of or charge made for personal business or professional services
36 including amounts designated as interest, rents, fees, admission, and
37 other service emoluments however designated, received by persons
38 engaging in the following business activities: (a) Amusement and
39 recreation businesses including but not limited to golf, pool,

1 billiards, skating, bowling, ski lifts and tows and others; (b)
2 abstract, title insurance and escrow businesses; (c) credit bureau
3 businesses; (d) automobile parking and storage garage businesses.

4 (4) The term shall also include the renting or leasing of tangible
5 personal property to consumers.

6 (5) The term shall also include the providing of telephone service,
7 as defined in RCW 82.04.065, to consumers.

8 (6) The term shall not include the sale of or charge made for labor
9 and services rendered in respect to the building, repairing, or
10 improving of any street, place, road, highway, easement, right of way,
11 mass public transportation terminal or parking facility, bridge,
12 tunnel, or trestle which is owned by a municipal corporation or
13 political subdivision of the state or by the United States and which is
14 used or to be used primarily for foot or vehicular traffic including
15 mass transportation vehicles of any kind. (~~The term shall also not
16 include sales of feed, seed, seedlings, fertilizer, and spray materials
17 to persons who participate in the federal conservation reserve program
18 or its successor administered by the United States department of
19 agriculture, or to persons for the purpose of producing for sale any
20 agricultural product whatsoever, including plantation Christmas trees
21 and milk, eggs, wool, fur, meat, honey, or other substances obtained
22 from animals, birds, or insects but only when such production and
23 subsequent sale are exempt from tax under RCW 82.04.330, nor shall it
24 include sales of chemical sprays or washes to persons for the purpose
25 of post harvest treatment of fruit for the prevention of scald, fungus,
26 mold, or decay.~~)

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

1 **Sec. 5.** RCW 82.04.330 and 1988 c 253 s 2 are each amended to read
2 as follows:

3 This chapter shall not apply to any (~~person in respect to the~~
4 ~~business of growing or producing for sale upon the person's own lands~~
5 ~~or upon land in which the person has a present right of possession, any~~
6 ~~agricultural or horticultural produce or crop, or of raising upon the~~
7 ~~person's own lands or upon land in which the person has a present right~~
8 ~~of possession, any plantation Christmas tree or any animal, bird, fish,~~
9 ~~or insect, or the milk, eggs, wool, fur, meat, honey, or other~~
10 ~~substance obtained therefrom, or in respect to the sale of such~~
11 ~~products)) farmer that sells any agricultural product at wholesale ((by
12 ~~such grower, producer, or raiser thereof)). This exemption shall not~~
13 ~~apply to any person selling such products at retail ((or using such~~
14 ~~products as ingredients in a manufacturing process; nor to the sale of~~
15 ~~any animal or substance obtained therefrom by a person in connection~~
16 ~~with the person's business of operating a stockyard or a slaughter or~~
17 ~~packing house; nor to any person in respect to the business of taking,~~
18 ~~cultivating, or raising timber; nor to any association of persons~~
19 ~~whatever, whether mutual, cooperative or otherwise, engaging in any~~
20 ~~business activity with respect to which tax liability is imposed under~~
21 ~~the provisions of this chapter. As used in this section, "fish" means~~
22 ~~fish which are cultivated or raised entirely within confined rearing~~
23 ~~areas on the person's own land or on land in which the person has a~~
24 ~~present right of possession)).~~~~

25 This chapter shall also not apply to any persons who participate in
26 the federal conservation reserve program or its successor administered
27 by the United States department of agriculture with respect to land
28 enrolled in that program.

29 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and shall take
32 effect immediately."

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