

2 **2SSB 5850** - 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.

28 **Sec. 2.** RCW 82.04.050 and 1988 c 253 s 1 are each amended to read  
29 as follows:

30 (1) "Sale at retail" or "retail sale" means every sale of tangible  
31 personal property (including articles produced, fabricated, or  
32 imprinted) to all persons irrespective of the nature of their business  
33 and including, among others, without limiting the scope hereof, persons  
34 who install, repair, clean, alter, improve, construct, or decorate real  
35 or personal property of or for consumers other than a sale to a person

1 who (a) purchases for the purpose of resale as tangible personal  
2 property in the regular course of business without intervening use by  
3 such person, or (b) installs, repairs, cleans, alters, imprints,  
4 improves, constructs, or decorates real or personal property of or for  
5 consumers, if such tangible personal property becomes an ingredient or  
6 component of such real or personal property without intervening use by  
7 such person, or (c) purchases for the purpose of consuming the property  
8 purchased in producing for sale a new article of tangible personal  
9 property or substance, of which such property becomes an ingredient or  
10 component or is a chemical used in processing, when the primary purpose  
11 of such chemical is to create a chemical reaction directly through  
12 contact with an ingredient of a new article being produced for sale, or  
13 (d) purchases for the purpose of consuming the property purchased in  
14 producing ferrosilicon which is subsequently used in producing  
15 magnesium for sale, if the primary purpose of such property is to  
16 create a chemical reaction directly through contact with an ingredient  
17 of ferrosilicon, or (e) purchases for the purpose of providing the  
18 property to consumers as part of competitive telephone service, as  
19 defined in RCW 82.04.065. The term shall include every sale of  
20 tangible personal property which is used or consumed or to be used or  
21 consumed in the performance of any activity classified as a "sale at  
22 retail" or "retail sale" even though such property is resold or  
23 utilized as provided in (a), (b), (c), (d), or (e) above following such  
24 use. The term also means every sale of tangible personal property to  
25 persons engaged in any business which is taxable under RCW 82.04.280,  
26 subsections (2) and (7) and RCW 82.04.290.

27 (2) The term "sale at retail" or "retail sale" shall include the  
28 sale of or charge made for tangible personal property consumed and/or  
29 for labor and services rendered in respect to the following: (a) The  
30 installing, repairing, cleaning, altering, imprinting, or improving of  
31 tangible personal property of or for consumers, including charges made  
32 for the mere use of facilities in respect thereto, but excluding  
33 charges made for the use of coin operated laundry facilities when such  
34 facilities are situated in an apartment house, hotel, motel, rooming  
35 house, trailer camp or tourist camp for the exclusive use of the  
36 tenants thereof, and also excluding sales of laundry service to members  
37 by nonprofit associations composed exclusively of nonprofit hospitals,  
38 and excluding services rendered in respect to live animals, birds and  
39 insects; (b) the constructing, repairing, decorating, or improving of

1 new or existing buildings or other structures under, upon, or above  
2 real property of or for consumers, including the installing or  
3 attaching of any article of tangible personal property therein or  
4 thereto, whether or not such personal property becomes a part of the  
5 realty by virtue of installation, and shall also include the sale of  
6 services or charges made for the clearing of land and the moving of  
7 earth excepting the mere leveling of land used in commercial farming or  
8 agriculture; (c) the charge for labor and services rendered in respect  
9 to constructing, repairing, or improving any structure upon, above, or  
10 under any real property owned by an owner who conveys the property by  
11 title, possession, or any other means to the person performing such  
12 construction, repair, or improvement for the purpose of performing such  
13 construction, repair, or improvement and the property is then  
14 reconveyed by title, possession, or any other means to the original  
15 owner; (d) the sale of or charge made for labor and services rendered  
16 in respect to the cleaning, fumigating, razing or moving of existing  
17 buildings or structures, but shall not include the charge made for  
18 janitorial services; and for purposes of this section the term  
19 "janitorial services" shall mean those cleaning and caretaking services  
20 ordinarily performed by commercial janitor service businesses  
21 including, but not limited to, wall and window washing, floor cleaning  
22 and waxing, and the cleaning in place of rugs, drapes and upholstery.  
23 The term "janitorial services" does not include painting, papering,  
24 repairing, furnace or septic tank cleaning, snow removal or  
25 sandblasting; (e) the sale of or charge made for labor and services  
26 rendered in respect to automobile towing and similar automotive  
27 transportation services, but not in respect to those required to report  
28 and pay taxes under chapter 82.16 RCW; (f) the sale of and charge made  
29 for the furnishing of lodging and all other services by a hotel,  
30 rooming house, tourist court, motel, trailer camp, and the granting of  
31 any similar license to use real property, as distinguished from the  
32 renting or leasing of real property, and it shall be presumed that the  
33 occupancy of real property for a continuous period of one month or more  
34 constitutes a rental or lease of real property and not a mere license  
35 to use or enjoy the same; (g) the sale of or charge made for tangible  
36 personal property, labor and services to persons taxable under (a),  
37 (b), (c), (d), (e), and (f) above when such sales or charges are for  
38 property, labor and services which are used or consumed in whole or in  
39 part by such persons in the performance of any activity defined as a

1 "sale at retail" or "retail sale" even though such property, labor and  
2 services may be resold after such use or consumption. Nothing  
3 contained in this paragraph shall be construed to modify the first  
4 paragraph of this section and nothing contained in the first paragraph  
5 of this section shall be construed to modify this paragraph.

6 (3) The term "sale at retail" or "retail sale" shall include the  
7 sale of or charge made for personal business or professional services  
8 including amounts designated as interest, rents, fees, admission, and  
9 other service emoluments however designated, received by persons  
10 engaging in the following business activities: (a) Amusement and  
11 recreation businesses including but not limited to golf, pool,  
12 billiards, skating, bowling, ski lifts and tows and others; (b)  
13 abstract, title insurance and escrow businesses; (c) credit bureau  
14 businesses; (d) automobile parking and storage garage businesses.

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

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

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

1 (7) The term shall not include the sale of or charge made for labor  
2 and services rendered in respect to the constructing, repairing,  
3 decorating, or improving of new or existing buildings or other  
4 structures under, upon, or above real property of or for the United  
5 States, any instrumentality thereof, or a county or city housing  
6 authority created pursuant to chapter 35.82 RCW, including the  
7 installing, or attaching of any article of tangible personal property  
8 therein or thereto, whether or not such personal property becomes a  
9 part of the realty by virtue of installation. Nor shall the term  
10 include the sale of services or charges made for the clearing of land  
11 and the moving of earth of or for the United States, any  
12 instrumentality thereof, or a county or city housing authority.

13 **Sec. 3.** RCW 82.04.330 and 1988 c 253 s 2 are each amended to read  
14 as follows:

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

37 This chapter shall also not apply to any persons who participate in  
38 the federal conservation reserve program or its successor administered

1 by the United States department of agriculture with respect to land  
2 enrolled in that program.

3 NEW SECTION. **Sec. 4.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and shall take  
6 effect immediately."

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