

HOUSE BILL REPORT

HB 1946

As Reported By House Committee On:
Agriculture & Rural Development
Revenue

Title: An act relating to clarifying definitions.

Brief Description: Clarifying definitions relating to farmers.

Sponsors: Representatives Chappell, Brumsickle, Mastin, Grant, Rayburn and Kremen.

Brief History:

Reported by House Committee on:
Agriculture & Rural Development, March 2, 1993, DPS;
Revenue, March 8, 1993, DPS(AG-A REV).

HOUSE COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Rayburn, Chair; Kremen, Vice Chair; Chandler, Ranking Minority Member; Schoesler, Assistant Ranking Minority Member; Foreman; Grant; Karahalios; Lisk; and Roland.

Staff: Kenneth Hirst (786-7105).

Background: State laws establishing and levying the state's retail sales and use taxes depend on the definition of "sale at retail" and "retail sales" found in the laws governing the state's business and occupation (B&O) tax. Exempted from retail sales and use taxes are sales of feed, seed, seedlings, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product. However, this exemption applies only when the production and sale are also exempt from taxation under a section of the B&O tax laws which provides a general exemption for agricultural activities.

The agricultural exemption from B&O taxation applies to wholesale sales of animals or agricultural crops by the producer. It does not apply to: any person selling such products at retail or using such products as ingredients in a manufacturing process; or a sale made by a person in connection with the person's business of operating a

stockyard, slaughter house, or packing house. With regard to sales of feed, seed, fertilizer and spray materials, the exemption does not, by rule, apply to persons who extract natural resources, such as oil or gravel, or to persons who harvest fish from other than the person's own rearing areas.

Summary of Substitute Bill: General definitions of "farmer" and the "agricultural products" they produce are added to the state's agricultural laws. Agricultural products are the products of plant cultivation or animal husbandry, including the substances obtained from animals. A farmer is a person who produces, for sale, agricultural products on his or her own lands. A farmer expressly does not include a person: using such products as ingredients in a manufacturing process; producing the products for his or her own consumption; or dealing in livestock as an operator of a stockyard, slaughter house, or packing house.

This general definition of a farmer is used in the B&O tax laws for identifying the general category of farmers exempt from such taxes. Farmers who sell such products at retail now qualify for this exemption from taxation. All such sales by aquatic farmers now expressly qualify for the exemption.

Substitute Bill Compared to Original Bill: The B&O tax exemption provided by the original bill is expanded in the substitute to include agricultural products sold by a farmer exclusively at retail and sold by a farmer who is also an extractor. The substitute bill also adds the provisions which expressly include all private sector aquatic products among the agricultural products which qualify for the exemption.

Fiscal Note: Requested February 22, 1993.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (1) Nearly all farmers sell a small amount of their products at retail. The Department of Revenue is beginning to require farmers to pay retail sales taxes for seed, fertilizer, feed, and similar materials used to produce the portion of their products sold at retail. (2) At first, the department suggested that if a farmer sold any of his or her products at retail, taxes were due on all of the inputs purchased by the farmer for any product. (3) Direct marketing and, therefore, retail sales, is crucial for a large number of specialty crops. The department's tax policy would be devastating. (4) If taxing based on retail sales by farmers is going to be state policy, the tax can be avoided by farmers' organizing their growing and sales

operations as separate companies. It should not be necessary to do so. (5) Businesses do not pay retail sales taxes on the products they use to produce the products they sell. (6) All private sector aquatic products, not just fish, should expressly be considered to be agricultural products.

Testimony Against: None.

Witnesses: George Mastrodonato and Bill Roberts, State Farm Bureau (in favor); Lawrence Silk, Baron Turf Farms (in favor); Jim Zimmerman, Washington Fish Growers Association and Trout Lodge (in favor with aquaculture amendment); Chris Cheney (in favor); Brian Thompson (in favor); and Wisten Aldridge (in favor).

HOUSE COMMITTEE ON REVENUE

Majority Report: The substitute bill by Committee on Agriculture & Rural Development be substituted therefor and the substitute bill as amended by Committee on Revenue do pass. Signed by 15 members: Representatives G. Fisher, Chair; Holm, Vice Chair; Foreman, Ranking Minority Member; Fuhrman, Assistant Ranking Minority Member; Anderson; Brown; Cothorn; Leonard; Romero; Rust; Silver; Talcott; Thibaudeau; Van Luven; and Wang.

Staff: Bob Longman (786-7139).

Summary of Recommendation of Committee on Revenue Compared to Recommendation of Committee on Agriculture & Rural Development: Both the substitute bill and the amended substitute bill exempt farmers from sales and use tax on feed, seed, seedlings, fertilizer, and spray materials. The substitute bill by the Committee on Agriculture & Rural Development exempts farmers from retailing business and occupation tax when they sell their products at retail. The amended bill by the Committee on Revenue does not.

Fiscal Note: Available. New fiscal note requested March 9, 1993.

Effective Date: Ninety days after adjournment of session in which bill is passed.

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any of his or her products at retail, taxes were due on all of the inputs purchased by the farmer for any product. (3) Direct marketing and, therefore, retail sales, is crucial for a large number of specialty crops. The department's tax policy would be devastating. (4) If taxing based on retail sales by farmers is going to be state policy, the tax can be avoided by farmers organizing their growing and sales operations as separate companies. It should not be necessary to do so. (5) Businesses do not pay retail sales taxes on the products they use to produce the products they sell. (6) All private sector aquatic products, not just fish, should expressly be considered to be agricultural products.

Testimony Against: This bill creates a precedent for exemptions to agricultural products sold at the retail level. There is no corollary business and occupation tax exemption for other sellers of food.

Witnesses: Representative Chappell, prime sponsor (pro); Bill Roberts and George Mastrodonato, Washington State Farm Bureau (both pro); Greg Hanon, Washington State Christmas Tree Growers (pro); and Donn Smallwood, Department of Revenue (con).