

2 SHB 2590 - S COMM AMD
3 By Committee on Ways & Means

4
5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 82.04.050 and 1995 1st sp.s. c 12 s 2 are each
8 amended to read as follows:

9 (1) "Sale at retail" or "retail sale" means every sale of tangible
10 personal property (including articles produced, fabricated, or
11 imprinted) to all persons irrespective of the nature of their business
12 and including, among others, without limiting the scope hereof, persons
13 who install, repair, clean, alter, improve, construct, or decorate real
14 or personal property of or for consumers other than a sale to a person
15 who presents a resale certificate under RCW 82.04.470 and who:

16 (a) Purchases for the purpose of resale as tangible personal
17 property in the regular course of business without intervening use by
18 such person; or

19 (b) Installs, repairs, cleans, alters, imprints, improves,
20 constructs, or decorates real or personal property of or for consumers,
21 if such tangible personal property becomes an ingredient or component
22 of such real or personal property without intervening use by such
23 person; or

24 (c) Purchases for the purpose of consuming the property purchased
25 in producing for sale a new article of tangible personal property or
26 substance, of which such property becomes an ingredient or component or
27 is a chemical used in processing, when the primary purpose of such
28 chemical is to create a chemical reaction directly through contact with
29 an ingredient of a new article being produced for sale; or

30 (d) Purchases for the purpose of consuming the property purchased
31 in producing ferrosilicon which is subsequently used in producing
32 magnesium for sale, if the primary purpose of such property is to
33 create a chemical reaction directly through contact with an ingredient
34 of ferrosilicon; or

35 (e) Purchases for the purpose of providing the property to
36 consumers as part of competitive telephone service, as defined in RCW

1 82.04.065. The term shall include every sale of tangible personal
2 property which is used or consumed or to be used or consumed in the
3 performance of any activity classified as a "sale at retail" or "retail
4 sale" even though such property is resold or utilized as provided in
5 (a), (b), (c), (d), or (e) of this subsection following such use. The
6 term also means every sale of tangible personal property to persons
7 engaged in any business which is taxable under RCW 82.04.280 (2) and
8 (7) and 82.04.290.

9 (2) The term "sale at retail" or "retail sale" shall include the
10 sale of or charge made for tangible personal property consumed and/or
11 for labor and services rendered in respect to the following:

12 (a) The installing, repairing, cleaning, altering, imprinting, or
13 improving of tangible personal property of or for consumers, including
14 charges made for the mere use of facilities in respect thereto, but
15 excluding sales of laundry service to members by nonprofit associations
16 composed exclusively of nonprofit hospitals, and excluding services
17 rendered in respect to live animals, birds and insects;

18 (b) The constructing, repairing, decorating, or improving of new or
19 existing buildings or other structures under, upon, or above real
20 property of or for consumers, including the installing or attaching of
21 any article of tangible personal property therein or thereto, whether
22 or not such personal property becomes a part of the realty by virtue of
23 installation, and shall also include the sale of services or charges
24 made for the clearing of land and the moving of earth excepting the
25 mere leveling of land used in commercial farming or agriculture;

26 (c) The charge for labor and services rendered in respect to
27 constructing, repairing, or improving any structure upon, above, or
28 under any real property owned by an owner who conveys the property by
29 title, possession, or any other means to the person performing such
30 construction, repair, or improvement for the purpose of performing such
31 construction, repair, or improvement and the property is then
32 reconveyed by title, possession, or any other means to the original
33 owner;

34 (d) The sale of or charge made for labor and services rendered in
35 respect to the cleaning, fumigating, razing or moving of existing
36 buildings or structures, but shall not include the charge made for
37 janitorial services; and for purposes of this section the term
38 "janitorial services" shall mean those cleaning and caretaking services
39 ordinarily performed by commercial janitor service businesses

1 including, but not limited to, wall and window washing, floor cleaning
2 and waxing, and the cleaning in place of rugs, drapes and upholstery.
3 The term "janitorial services" does not include painting, papering,
4 repairing, furnace or septic tank cleaning, snow removal or
5 sandblasting;

6 (e) The sale of or charge made for labor and services rendered in
7 respect to automobile towing and similar automotive transportation
8 services, but not in respect to those required to report and pay taxes
9 under chapter 82.16 RCW;

10 (f) The sale of and charge made for the furnishing of lodging and
11 all other services by a hotel, rooming house, tourist court, motel,
12 trailer camp, and the granting of any similar license to use real
13 property, as distinguished from the renting or leasing of real
14 property, and it shall be presumed that the occupancy of real property
15 for a continuous period of one month or more constitutes a rental or
16 lease of real property and not a mere license to use or enjoy the same;

17 (g) The sale of or charge made for tangible personal property,
18 labor and services to persons taxable under (a), (b), (c), (d), (e),
19 and (f) of this subsection when such sales or charges are for property,
20 labor and services which are used or consumed in whole or in part by
21 such persons in the performance of any activity defined as a "sale at
22 retail" or "retail sale" even though such property, labor and services
23 may be resold after such use or consumption. Nothing contained in this
24 subsection shall be construed to modify subsection (1) of this section
25 and nothing contained in subsection (1) of this section shall be
26 construed to modify this subsection.

27 (3) The term "sale at retail" or "retail sale" shall include the
28 sale of or charge made for personal, business, or professional services
29 including amounts designated as interest, rents, fees, admission, and
30 other service emoluments however designated, received by persons
31 engaging in the following business activities:

32 (a) Amusement and recreation services including but not limited to
33 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips
34 for sightseeing purposes, and others, when provided to consumers;

35 (b) Abstract, title insurance, and escrow services;

36 (c) Credit bureau services;

37 (d) Automobile parking and storage garage services;

38 (e) Landscape maintenance and horticultural services but excluding

39 (i) horticultural services provided to farmers and (ii) pruning,

1 trimming, repairing, removing, and clearing of trees and brush near
2 electric transmission or distribution lines or equipment, if performed
3 by or at the direction of an electric utility;

4 (f) Service charges associated with tickets to professional
5 sporting events; and

6 (g) (~~Guided tours and guided charters; and~~

7 ~~(h))~~) The following personal services: Physical fitness services,
8 tanning salon services, tattoo parlor services, steam bath services,
9 turkish bath services, escort services, and dating services.

10 (4) The term shall also include the renting or leasing of tangible
11 personal property to consumers and the rental of equipment with an
12 operator.

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

15 (6) The term shall not include the sale of or charge made for labor
16 and services rendered in respect to the building, repairing, or
17 improving of any street, place, road, highway, easement, right of way,
18 mass public transportation terminal or parking facility, bridge,
19 tunnel, or trestle which is owned by a municipal corporation or
20 political subdivision of the state or by the United States and which is
21 used or to be used primarily for foot or vehicular traffic including
22 mass transportation vehicles of any kind.

23 (7) The term shall also not include sales of feed, seed, seedlings,
24 fertilizer, agents for enhanced pollination including insects such as
25 bees, and spray materials to persons who participate in the federal
26 conservation reserve program or its successor administered by the
27 United States department of agriculture, or to farmers for the purpose
28 of producing for sale any agricultural product, nor shall it include
29 sales of chemical sprays or washes to persons for the purpose of post-
30 harvest treatment of fruit for the prevention of scald, fungus, mold,
31 or decay.

32 (8) The term shall not include the sale of or charge made for labor
33 and services rendered in respect to the constructing, repairing,
34 decorating, or improving of new or existing buildings or other
35 structures under, upon, or above real property of or for the United
36 States, any instrumentality thereof, or a county or city housing
37 authority created pursuant to chapter 35.82 RCW, including the
38 installing, or attaching of any article of tangible personal property
39 therein or thereto, whether or not such personal property becomes a

1 part of the realty by virtue of installation. Nor shall the term
2 include the sale of services or charges made for the clearing of land
3 and the moving of earth of or for the United States, any
4 instrumentality thereof, or a county or city housing authority.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
6 to read as follows:

7 For the purposes of this chapter, unless the context requires
8 otherwise, "travel agent" has the same meaning as a "seller of travel"
9 in RCW 19.138.021.

10 **Sec. 3.** RCW 82.04.060 and 1983 2nd ex.s. c 3 s 26 are each amended
11 to read as follows:

12 "Sale at wholesale" or "wholesale sale" means any sale of tangible
13 personal property, any sale of amusement or recreation services as
14 defined in RCW 82.04.050(3)(a), or any sale of telephone service as
15 defined in RCW 82.04.065, which is not a sale at retail and means any
16 charge made for labor and services rendered for persons who are not
17 consumers, in respect to real or personal property, if such charge is
18 expressly defined as a retail sale by RCW 82.04.050 when rendered to or
19 for consumers: PROVIDED, That the term "real or personal property" as
20 used in this section shall not include any natural products named in
21 RCW 82.04.100.

22 **Sec. 4.** RCW 82.04.190 and 1995 1st sp.s. c 3 s 4 are each amended
23 to read as follows:

24 "Consumer" means the following:

25 (1) Any person who purchases, acquires, owns, holds, or uses any
26 article of tangible personal property irrespective of the nature of the
27 person's business and including, among others, without limiting the
28 scope hereof, persons who install, repair, clean, alter, improve,
29 construct, or decorate real or personal property of or for consumers
30 other than for the purpose (a) of resale as tangible personal property
31 in the regular course of business or (b) of incorporating such property
32 as an ingredient or component of real or personal property when
33 installing, repairing, cleaning, altering, imprinting, improving,
34 constructing, or decorating such real or personal property of or for
35 consumers or (c) of consuming such property in producing for sale a new
36 article of tangible personal property or a new substance, of which such

1 property becomes an ingredient or component or as a chemical used in
2 processing, when the primary purpose of such chemical is to create a
3 chemical reaction directly through contact with an ingredient of a new
4 article being produced for sale or (d) purchases for the purpose of
5 consuming the property purchased in producing ferrosilicon which is
6 subsequently used in producing magnesium for sale, if the primary
7 purpose of such property is to create a chemical reaction directly
8 through contact with an ingredient of ferrosilicon;

9 (2)(a) Any person engaged in any business activity taxable under
10 RCW 82.04.290 (~~and~~); (b) any person who purchases, acquires, or uses
11 any telephone service as defined in RCW 82.04.065, other than for
12 resale in the regular course of business; and (c) any person who
13 purchases, acquires, or uses any amusement and recreation service
14 defined in RCW 82.04.050(3)(a), other than for resale in the regular
15 course of business;

16 (3) Any person engaged in the business of contracting for the
17 building, repairing or improving of any street, place, road, highway,
18 easement, right of way, mass public transportation terminal or parking
19 facility, bridge, tunnel, or trestle which is owned by a municipal
20 corporation or political subdivision of the state of Washington or by
21 the United States and which is used or to be used primarily for foot or
22 vehicular traffic including mass transportation vehicles of any kind as
23 defined in RCW 82.04.280, in respect to tangible personal property when
24 such person incorporates such property as an ingredient or component of
25 such publicly owned street, place, road, highway, easement, right of
26 way, mass public transportation terminal or parking facility, bridge,
27 tunnel, or trestle by installing, placing or spreading the property in
28 or upon the right of way of such street, place, road, highway,
29 easement, bridge, tunnel, or trestle or in or upon the site of such
30 mass public transportation terminal or parking facility;

31 (4) Any person who is an owner, lessee or has the right of
32 possession to or an easement in real property which is being
33 constructed, repaired, decorated, improved, or otherwise altered by a
34 person engaged in business, excluding only (a) municipal corporations
35 or political subdivisions of the state in respect to labor and services
36 rendered to their real property which is used or held for public road
37 purposes, and (b) the United States, instrumentalities thereof, and
38 county and city housing authorities created pursuant to chapter 35.82
39 RCW in respect to labor and services rendered to their real property.

1 Nothing contained in this or any other subsection of this definition
2 shall be construed to modify any other definition of "consumer";

3 (5) Any person who is an owner, lessee, or has the right of
4 possession to personal property which is being constructed, repaired,
5 improved, cleaned, imprinted, or otherwise altered by a person engaged
6 in business;

7 (6) Any person engaged in the business of constructing, repairing,
8 decorating, or improving new or existing buildings or other structures
9 under, upon, or above real property of or for the United States, any
10 instrumentality thereof, or a county or city housing authority created
11 pursuant to chapter 35.82 RCW, including the installing or attaching of
12 any article of tangible personal property therein or thereto, whether
13 or not such personal property becomes a part of the realty by virtue of
14 installation; also, any person engaged in the business of clearing land
15 and moving earth of or for the United States, any instrumentality
16 thereof, or a county or city housing authority created pursuant to
17 chapter 35.82 RCW. Any such person shall be a consumer within the
18 meaning of this subsection in respect to tangible personal property
19 incorporated into, installed in, or attached to such building or other
20 structure by such person; and

21 (7) Any person who is a lessor of machinery and equipment, the
22 rental of which is exempt from the tax imposed by RCW 82.08.020 under
23 RCW 82.08.02565, with respect to the sale of or charge made for
24 tangible personal property consumed and for labor and services rendered
25 in respect to repairing the machinery and equipment.

26 Nothing contained in this or any other subsection of this
27 definition shall be construed to modify any other definition of
28 "consumer."

29 **Sec. 5.** RCW 82.12.020 and 1994 c 93 s 2 are each amended to read
30 as follows:

31 (1) There is hereby levied and there shall be collected from every
32 person in this state a tax or excise for the privilege of using within
33 this state as a consumer any article of tangible personal property
34 purchased at retail, or acquired by lease, gift, repossession, or
35 bailment, or extracted or produced or manufactured by the person so
36 using the same, or otherwise furnished to a person engaged in any
37 business taxable under RCW 82.04.280 (2) or (7), or any amusement or
38 recreation service defined as a retail sale in RCW 82.04.050(3)(a).

1 (2) This tax shall apply to the use of every service defined as a
2 retail sale in RCW 82.04.050(3)(a) and the use of every article of
3 tangible personal property, including property acquired at a casual or
4 isolated sale, and including byproducts used by the manufacturer
5 thereof, except as hereinafter provided, irrespective of whether the
6 article or similar articles are manufactured or are available for
7 purchase within this state.

8 (3) Except as provided in RCW 82.12.0252, payment by one purchaser
9 or user of tangible personal property or service of the tax imposed by
10 chapter 82.08 or 82.12 RCW shall not have the effect of exempting any
11 other purchaser or user of the same property or service from the taxes
12 imposed by such chapters.

13 (4) The tax shall be levied and collected in an amount equal to the
14 value of the article used by the taxpayer multiplied by the rate in
15 effect for the retail sales tax under RCW 82.08.020.

16 **Sec. 6.** RCW 82.12.035 and 1987 c 27 s 2 are each amended to read
17 as follows:

18 A credit shall be allowed against the taxes imposed by this chapter
19 upon the use of tangible personal property, or services taxable under
20 RCW 82.04.050(3)(a), in the state of Washington in the amount that the
21 present user thereof or his or her bailor or donor has paid a retail
22 sales or use tax with respect to such property to any other state of
23 the United States, any political subdivision thereof, the District of
24 Columbia, and any foreign country or political subdivision thereof,
25 prior to the use of such property in Washington.

26 NEW SECTION. **Sec. 7.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and shall take
33 effect April 1, 1996."

1 **SHB 2590** - S COMM AMD
2 By Committee on Ways & Means

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4 On page 1, line 2 of the title, after "*Oklahoma*;" strike the
5 remainder of the title and insert "amending RCW 82.04.050, 82.04.060,
6 82.04.190, 82.12.020, and 82.12.035; adding a new section to chapter
7 82.04 RCW; providing an effective date; and declaring an emergency."

--- **END** ---