

2 SHB 1185 - H AMD 1014 FAILED 2-27-98

3 By Representative Dunshee

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

7 "Sec. 1. RCW 82.04.050 and 1997 c 127 s 1 are each amended to read
8 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 in excess of
39 one hundred dollars per month but excluding (i) horticultural services

1 provided to farmers and (ii) pruning, trimming, repairing, removing,
2 and clearing of trees and brush near electric transmission or
3 distribution lines or equipment, if performed by or at the direction of
4 an electric utility;

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

7 (g) 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 chemical sprays or
24 washes to persons for the purpose of postharvest treatment of fruit for
25 the prevention of scald, fungus, mold, or decay, nor shall it include
26 sales of feed, seed, seedlings, fertilizer, agents for enhanced
27 pollination including insects such as bees, and spray materials to:

28 (a) Persons who participate in the federal conservation reserve
29 program, the environmental quality incentives program, the wetlands
30 reserve program, and the wildlife habitat incentives program, or their
31 successors administered by the United States department of agriculture;

32 (b) farmers for the purpose of producing for sale any agricultural
33 product; and (c) farmers acting under cooperative habitat development
34 or access contracts with an organization exempt from federal income tax
35 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of
36 fish and wildlife to produce or improve wildlife habitat on land that
37 the farmer owns or leases.

38 (8) The term shall not include the sale of or charge made for labor
39 and services rendered in respect to the constructing, repairing,

1 decorating, or improving of new or existing buildings or other
2 structures under, upon, or above real property of or for the United
3 States, any instrumentality thereof, or a county or city housing
4 authority created pursuant to chapter 35.82 RCW, including the
5 installing, or attaching of any article of tangible personal property
6 therein or thereto, whether or not such personal property becomes a
7 part of the realty by virtue of installation. Nor shall the term
8 include the sale of services or charges made for the clearing of land
9 and the moving of earth of or for the United States, any
10 instrumentality thereof, or a county or city housing authority. Nor
11 shall the term include the sale of services or charges made for
12 cleaning up for the United States, or its instrumentalities,
13 radioactive waste and other byproducts of weapons production and
14 nuclear research and development.

15 NEW SECTION. **Sec. 2.** This act takes effect July 1, 1998."

16 EFFECT: Exempts from sales tax landscape services of less than
17 \$100 per month.

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