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**SUBSTITUTE SENATE BILL 5074**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senate Committee on Commerce & Labor (originally sponsored by Senators Sellar and Snyder)

Read first time 02/20/97.

1 AN ACT Relating to increasing interstate trade through tax  
2 incentives for warehouse and grain elevator operations; amending RCW  
3 81.104.170; adding a new section to chapter 82.08 RCW; adding a new  
4 section to chapter 82.12 RCW; adding a new section to chapter 82.44  
5 RCW; adding a new section to chapter 46.87 RCW; adding a new section to  
6 chapter 82.04 RCW; adding a new section to chapter 82.14 RCW; creating  
7 new sections; providing an effective date; and declaring an emergency.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** The legislature finds that the state's  
10 overall economic health and prosperity is bolstered through tax  
11 incentives targeted to specific industries. The warehouse and  
12 distribution industry is critical to other businesses. The  
13 transportation sector, the retail sector, the ports, and the  
14 wholesalers all rely on the warehouse and distribution industry. It is  
15 the intent of the legislature to stimulate interstate trade by  
16 providing tax incentives to those persons in the warehouse and  
17 distribution industry engaged in highly competitive trade.

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

3        (1) Wholesalers or third-party warehouseers who own or operate  
4 warehouses or grain elevators and retailers who own or operate  
5 distribution centers, and who have paid the tax levied by RCW 82.08.020  
6 on:

7        (a) Material-handling and racking equipment, and labor and services  
8 rendered in respect to installing, repairing, cleaning, altering, or  
9 improving the equipment;

10       (b) Construction of a warehouse or grain elevator, including  
11 materials, and including service and labor costs; or

12       (c) Trucks for use at a warehouse or grain elevator that has  
13 received the construction exemption if the trucks are used for  
14 distribution or transport of finished goods to and from the warehouse  
15 or grain elevator and if the trucks are purchased or leased within  
16 eighteen months after construction is completed,  
17 are eligible for an exemption in the form of a remittance. The amount  
18 of the remittance is computed under subsection (3) of this section and  
19 is based on the state share of sales tax.

20       (2) For purposes of this section and sections 3, 4, 5, and 6 of  
21 this act:

22       (a) "Agricultural products" has the meaning given in RCW 82.04.213;

23       (b) "Construction" means the actual construction of a warehouse or  
24 grain elevator that did not exist before the construction began.  
25 "Construction" includes expansion if the expansion adds at least one  
26 hundred thousand square feet of additional space to an existing  
27 warehouse or additional storage capacity of at least seven hundred  
28 fifty thousand bushels to an existing grain elevator. "Construction"  
29 does not include renovation, remodeling, or repair;

30       (c) "Department" means the department of revenue;

31       (d) "Distribution center" means a warehouse that is used  
32 exclusively by a retailer solely for the storage and distribution of  
33 finished goods to retail outlets of the retailer. "Distribution  
34 center" does not include a warehouse at which retail sales occur;

35       (e) "Finished goods" means tangible personal property intended for  
36 sale by a retailer or wholesaler. "Finished goods" does not include  
37 agricultural products stored by wholesalers, third-party warehouses, or  
38 retailers if the storage takes place on the land of the person who  
39 produced the agricultural product. "Finished goods" does not include

1 logs, minerals, petroleum, gas, or other extracted products stored as  
2 raw materials or in bulk;

3 (f) "Grain elevator" means a structure used for storage and  
4 handling of grain in bulk;

5 (g) "Material-handling equipment and racking equipment" means  
6 equipment in a warehouse or grain elevator that is primarily used to  
7 handle, store, organize, convey, package, or repackage finished goods.  
8 The term includes tangible personal property with a useful life of one  
9 year or more that becomes an ingredient or component of the equipment,  
10 including repair and replacement parts. The term does not include  
11 equipment in offices, lunchrooms, restrooms, and other like space,  
12 within a warehouse or grain elevator, or equipment used for  
13 nonwarehousing purposes. "Material-handling equipment" includes but is  
14 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-  
15 place units, cranes, hoists, mechanical arms, and robots; mechanized  
16 systems, including containers that are an integral part of the system,  
17 whose purpose is to lift or move tangible personal property; and  
18 automated handling, storage, and retrieval systems, including computers  
19 that control them, whose purpose is to lift or move tangible personal  
20 property; and forklifts and other off-the-road vehicles that are used  
21 to lift or move tangible personal property and that cannot be operated  
22 legally on roads and streets. "Racking equipment" includes, but is not  
23 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
24 pallets, and other containers and storage devices that form a necessary  
25 part of the storage system;

26 (h) "Person" has the meaning given in RCW 82.04.030;

27 (i) "Retailer" means a person who makes "sales at retail" as  
28 defined in chapter 82.04 RCW of tangible personal property;

29 (j) "Square footage" means the product of the two horizontal  
30 dimensions of each floor of a specific warehouse. The entire footprint  
31 of the warehouse shall be measured in calculating the square footage,  
32 including space that juts out from the building profile such as loading  
33 docks. "Square footage" does not mean the aggregate of the square  
34 footage of more than one warehouse at a location or the aggregate of  
35 the square footage of warehouses at more than one location;

36 (k) "Third-party warehouser" means a person taxable under RCW  
37 82.04.280(4);

38 (l) "Truck" means a motor vehicle, as defined in chapter 46.04 RCW,  
39 used for the transport of goods, and includes a tractor or trailer;

1 (m) "Warehouse" means an enclosed building or structure in which  
2 finished goods are stored. A warehouse building or structure may have  
3 more than one storage room and more than one floor. Office space,  
4 lunchrooms, restrooms, and other space within the warehouse and  
5 necessary for the operation of the warehouse are considered part of the  
6 warehouse as are loading docks and other such space attached to the  
7 building and used for handling of finished goods. Landscaping and  
8 parking lots are not considered part of the warehouse. A storage yard  
9 is not a warehouse, nor is a building in which manufacturing takes  
10 place; and

11 (n) "Wholesaler" means a person who makes "sales at wholesale" as  
12 defined in chapter 82.04 RCW of tangible personal property, but  
13 "wholesaler" does not include a person who makes sales exempt under  
14 82.04.330.

15 (3)(a) A person claiming an exemption from state tax in the form of  
16 a remittance under this section must pay the tax imposed by RCW  
17 82.08.020. The buyer may then apply to the department for remittance  
18 of all or part of the tax paid under RCW 82.08.020. For warehouses  
19 with square footage of one hundred thousand or more but less than one  
20 hundred fifty thousand, and for grain elevators with bushel capacity of  
21 seven hundred fifty thousand or more but less than one million, the  
22 remittance is equal to fifty percent of the amount of tax paid. For  
23 warehouses with square footage of one hundred fifty thousand or more  
24 but less than two hundred thousand, and for grain elevators with bushel  
25 capacity of one million or more but less than one million five hundred  
26 thousand, the remittance is equal to seventy-five percent of the amount  
27 of tax paid. For warehouses with square footage of two hundred  
28 thousand or more, and for grain elevators with bushel capacity of one  
29 million five hundred thousand or more, the remittance is equal to one  
30 hundred percent of the amount of tax paid.

31 (b) The department shall determine eligibility under this section  
32 based on information provided by the buyer and through audit and other  
33 administrative records. The buyer shall on a quarterly basis submit an  
34 information sheet, in a form and manner as required by the department  
35 by rule, specifying the amount of exempted tax claimed and the  
36 qualifying purchases or acquisitions for which the exemption is  
37 claimed. The buyer shall retain, in adequate detail to enable the  
38 department to determine whether the equipment, truck, or construction  
39 meets the criteria under this section: Invoices; proof of tax paid;

1 documents describing the material-handling equipment and racking  
2 equipment; location and size of warehouses and grain elevators; and  
3 construction invoices and documents.

4 (c) The department shall on a quarterly basis remit exempted  
5 amounts to qualifying persons who submitted applications during the  
6 previous quarter.

7 (4) Warehouses, grain elevators, and material-handling equipment  
8 and racking equipment for which an exemption, credit, or deferral has  
9 been or is being received under chapter 82.60, 82.61, 82.62, or 82.63  
10 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
11 remittance under this section. Warehouses and grain elevators upon  
12 which construction was initiated before the effective date of this act  
13 are not eligible for a remittance under this section.

14 (5) The lessor or owner of a warehouse or grain elevator is not  
15 eligible for a remittance under this section unless the underlying  
16 ownership of the warehouse or grain elevator, the material-handling  
17 equipment and racking equipment, or trucks vests exclusively in the  
18 same person, or unless the lessor by written contract agrees to pass  
19 the economic benefit of the remittance to the lessee in the form of  
20 reduced rent payments.

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

23 (1) Wholesalers or third-party warehouseers who own or operate  
24 warehouses or grain elevators, and retailers who own or operate  
25 distribution centers, and who have paid the tax levied under RCW  
26 82.12.020 on:

27 (a) Material-handling equipment and racking equipment;

28 (b) Materials incorporated in the construction of a warehouse or  
29 grain elevator; or

30 (c) Trucks for use at a warehouse or grain elevator that has  
31 received the construction exemption if the trucks are used for  
32 distribution or transport of finished goods to and from the warehouse  
33 or grain elevator and if the trucks are acquired or leased within  
34 eighteen months after construction is completed,  
35 are eligible for an exemption on tax paid in the form of a remittance  
36 or credit against tax owed. The amount of the remittance or credit is  
37 computed under subsection (2) of this section and is based on the state  
38 share of use tax.

1           (2)(a) A person claiming an exemption from state tax in the form of  
2 a remittance under this section must pay the tax imposed by RCW  
3 82.12.020 to the department. The person may then apply to the  
4 department for remittance of all or part of the tax paid under RCW  
5 82.12.020. For warehouses with square footage of one hundred thousand  
6 or more but less than one hundred fifty thousand, and for grain  
7 elevators with bushel capacity of seven hundred fifty thousand or more  
8 but less than one million, the remittance is equal to fifty percent of  
9 the amount of tax paid. For warehouses with square footage of one  
10 hundred fifty thousand or more but less than two hundred thousand, and  
11 for grain elevators with bushel capacity of one million or more but  
12 less than one million five hundred thousand, the remittance is equal to  
13 seventy-five percent of the amount of tax paid. For warehouses with  
14 square footage of two hundred thousand or more, and for grain elevators  
15 with bushel capacity of one million five hundred thousand or more, the  
16 remittance is equal to one hundred percent of the amount of tax paid.

17           (b) The department shall determine eligibility under this section  
18 based on information provided by the buyer and through audit and other  
19 administrative records. The buyer shall on a quarterly basis submit an  
20 information sheet, in a form and manner as required by the department  
21 by rule, specifying the amount of exempted tax claimed and the  
22 qualifying purchases or acquisitions for which the exemption is  
23 claimed. The buyer shall retain, in adequate detail to enable the  
24 department to determine whether the equipment, truck, or construction  
25 meets the criteria under this section: Invoices; proof of tax paid;  
26 documents describing the material-handling equipment and racking  
27 equipment; location and size of warehouses, if applicable; and  
28 construction invoices and documents.

29           (c) The department shall on a quarterly basis remit or credit  
30 exempted amounts to qualifying persons who submitted applications  
31 during the previous quarter.

32           (3) Warehouse, grain elevators, and material-handling equipment and  
33 racking equipment for which an exemption, credit, or deferral has been  
34 or is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or  
35 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance  
36 under this section. Materials incorporated in warehouses and grain  
37 elevators upon which construction was initiated prior to the effective  
38 date of this act are not eligible for a remittance under this section.

1 (4) The lessor or owner of the warehouse or grain elevator is not  
2 eligible for a remittance or credit under this section unless the  
3 underlying ownership of the warehouse or grain elevator,  
4 material-handling equipment and racking equipment, or trucks vests  
5 exclusively in the same person, or unless the lessor by written  
6 contract agrees to pass the economic benefit of the exemption to the  
7 lessee in the form of reduced rent payments.

8 (5) The definitions in section 2 of this act apply to this section.

9 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.44 RCW  
10 to read as follows:

11 (1) Wholesalers, third-party warehousemen, and retailers, who  
12 qualify for exemption under section 2 or 3 of this act for trucks used  
13 at a warehouse, and who paid the tax owed under RCW 82.44.020(1) on  
14 trucks exempted under section 2 or 3 of this act, are eligible for an  
15 exemption in the form of a remittance as computed under subsection (2)  
16 of this section. Trucks used at a grain elevator are not eligible for  
17 a remittance under this section.

18 (2) Persons eligible for remittance under this section shall pay  
19 the tax to the department of licensing. The taxpayer may then apply to  
20 the department of revenue for a remittance, from the general fund, of  
21 fifty-seven percent of the tax paid on eligible trucks multiplied by  
22 the applicable proration factor, multiplied by the multiple-warehouse  
23 ratio if applicable. Proration factors are: For warehouses with  
24 square footage of one hundred thousand or more but less than one  
25 hundred fifty thousand the factor is fifty percent; for warehouses with  
26 square footage of one hundred fifty thousand or more but less than two  
27 hundred thousand the factor is seventy-five percent; and for facilities  
28 with square footage of two hundred thousand or more the factor is one  
29 hundred percent. If a qualifying truck is used at more than one  
30 warehouse and some of these warehouses do not qualify for the  
31 construction exemption, the remittance shall reflect this nonqualifying  
32 use through calculation of the multiple-warehouse ratio. The multiple-  
33 warehouse ratio is the square footage of qualifying warehouses served  
34 by the truck divided by the square footage of nonqualifying warehouses  
35 served by the truck.

36 (3) The taxpayer shall submit to the department of revenue, on an  
37 annual basis, an information sheet, in a form and manner as required by  
38 the department by rule, specifying the amount of exempted tax claimed

1 and the qualifying acquisitions for which the exemption is claimed.  
2 The taxpayer shall retain, in adequate detail to enable the department  
3 to determine if a truck meets the criteria under this section:  
4 Invoices; proof of tax paid; and documents describing location and size  
5 of warehouses, if applicable. The department of revenue shall on an  
6 annual basis remit exempted amounts to those persons determined to be  
7 eligible under this section.

8 (4) Trucks for which an exemption, credit, or deferral has been or  
9 is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or  
10 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance  
11 under this section. Acquisition or use of trucks that occurred before  
12 the effective date of this act is not eligible for remittance under  
13 this section. If a truck is sold or other such an action by which it  
14 is not used at the warehouse to which it was originally assigned, the  
15 exemption under this section is not available.

16 (5) The lessor or owner of the warehouse is not eligible for a  
17 remittance unless the underlying ownership of the warehouse, equipment,  
18 and trucks vests exclusively in the same person, or unless the lessor  
19 by written contract agrees to pass the economic benefit of the  
20 remittance to the lessee in the form of reduced rent payments.

21 (6) The definitions in section 2 of this act apply to this section.

22 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.87 RCW  
23 to read as follows:

24 (1) Wholesalers, third-party warehouse, and retailers, who  
25 qualify for the exemption under section 2 or 3 of this act for trucks  
26 used at a warehouse, and who paid the tax owed under RCW 82.44.020(1)  
27 on the trucks exempted under section 2 or 3 of this act, are eligible  
28 for an exemption in the form of a remittance as computed under  
29 subsection (2) of this section. Trucks used at a grain elevator are  
30 not eligible for a remittance under this section.

31 (2) Persons eligible for remittance under this section shall pay  
32 the tax to the department of licensing. The taxpayer may then apply to  
33 the department of revenue for a remittance, from the general fund, of  
34 fifty-seven percent of the tax paid on eligible trucks multiplied by  
35 the applicable proration factor, multiplied by the multiple-warehouse  
36 ratio if applicable. Proration factors are: For warehouses with  
37 square footage of one hundred thousand or more but less than one  
38 hundred fifty thousand the factor is fifty percent; for warehouses with



1 square footage of one hundred fifty thousand or more but less than two  
2 hundred thousand the factor is seventy-five percent; and for facilities  
3 with square footage of two hundred thousand or more the factor is one  
4 hundred percent. If a qualifying truck is used at more than one  
5 warehouse and some of these warehouses do not qualify for the  
6 construction exemption, the remittance shall reflect this nonqualifying  
7 use through calculation of the multiple-warehouse ratio. The multiple-  
8 warehouse ratio is the square footage of qualifying warehouses served  
9 by the truck divided by the square footage of nonqualifying warehouses  
10 served by the truck.

11 (3) The taxpayer shall submit to the department of revenue, on an  
12 annual basis, an information sheet, in a form and manner as required by  
13 the department by rule, specifying the amount of exempted tax claimed  
14 and the qualifying acquisitions for which the exemption is claimed.  
15 The taxpayer shall retain, in adequate detail to enable the department  
16 to determine if a truck meets the criteria under this section:  
17 Invoices; proof of tax paid; and documents describing location and size  
18 of warehouses, if applicable. The department of revenue shall on an  
19 annual basis remit exempted amounts to those persons determined to be  
20 eligible under this section.

21 (4) Trucks for which an exemption, credit, or deferral has been or  
22 is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or  
23 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance  
24 under this section. Acquisition or use of trucks that occurred before  
25 the effective date of this act is not eligible for remittance under  
26 this section. If a truck is sold or other such an action in which it  
27 is not used at the warehouse to which it was originally assigned, the  
28 exemption under this section is not available.

29 (5) The lessor or owner of the warehouse is not eligible for a  
30 remittance unless the underlying ownership of the warehouse, equipment,  
31 and trucks vests exclusively in the same person, or unless the lessor  
32 by written contract agrees to pass the economic benefit of the  
33 remittance to the lessee in the form of reduced rent payments.

34 (6) Chapter 82.32 RCW applies to this section.

35 (7) The definitions in section 2 of this act apply to this section.

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

1 (1) A credit against the tax imposed under this chapter is allowed  
2 for wholesalers or third-party warehouseers who own or operate  
3 warehouses or grain elevators and retailers who own or operate  
4 distribution centers, and who are eligible for an exemption in the form  
5 of a remittance under section 2 or 3 of this act.

6 (2) The credit is equal to the amount of sales and use tax paid  
7 under chapter 82.14 RCW and RCW 81.104.170 on purchases that qualify  
8 for an exemption in the form of a remittance under section 2 of this  
9 act and on the value of articles that qualify for an exemption in the  
10 form of a remittance under section 3 of this act.

11 (3) Persons claiming a credit under this section shall apply for  
12 the credit in a form and manner prescribed by the department. The  
13 department shall determine eligibility for the credit based on  
14 information provided by the buyer and through audit and other  
15 administrative records. The credit shall be taken against taxes due  
16 for the calendar year in which the credit is approved by the  
17 department. Any portion of the credit in excess of the tax due under  
18 this chapter may be carried forward in successive years until the  
19 credit is exhausted.

20 (4) The definitions in section 2 of this act apply to this section.

21 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.14 RCW  
22 to read as follows:

23 The exemptions in sections 2 and 3 of this act are for the state  
24 portion of the sales and use tax and do not extend to the tax imposed  
25 in this chapter.

26 **Sec. 8.** RCW 81.104.170 and 1992 c 101 s 28 are each amended to  
27 read as follows:

28 Cities that operate transit systems, county transportation  
29 authorities, metropolitan municipal corporations, public transportation  
30 benefit areas, and regional transit authorities may submit an  
31 authorizing proposition to the voters and if approved by a majority of  
32 persons voting, fix and impose a sales and use tax in accordance with  
33 the terms of this chapter, solely for the purpose of providing high  
34 capacity transportation service.

35 The tax authorized pursuant to this section shall be in addition to  
36 the tax authorized by RCW 82.14.030 and shall be collected from those  
37 persons who are taxable by the state pursuant to chapters 82.08 and

1 82.12 RCW upon the occurrence of any taxable event within the taxing  
2 district. The maximum rate of such tax shall be approved by the voters  
3 and shall not exceed one percent of the selling price (in the case of  
4 a sales tax) or value of the article used (in the case of a use tax).  
5 The maximum rate of such tax that may be imposed shall not exceed  
6 nine-tenths of one percent in any county that imposes a tax under RCW  
7 82.14.340, or within a regional transit authority if any county within  
8 the authority imposes a tax under RCW 82.14.340. The exemptions in  
9 sections 2 and 3 of this act are for the state portion of the sales and  
10 use tax and do not extend to the tax authorized in this section.

11 NEW SECTION. **Sec. 9.** The legislative fiscal committees shall  
12 report to the legislature by December 1, 2001, on the economic impacts  
13 of this act. This report shall analyze employment and other relevant  
14 economic data pertaining to the tax exemptions authorized under this  
15 act and shall measure the effect on the creation or retention of  
16 family-wage jobs and diversification of the state's economy. The  
17 report must include the committee's findings on the tax incentive  
18 program's performance in achieving its goals and recommendations on  
19 ways to improve its effectiveness. Analytic techniques may include,  
20 but not be limited to, comparisons of Washington to other states that  
21 did not enact business tax changes, comparisons across Washington  
22 counties based on usage of the tax exemptions, and comparisons across  
23 similar firms based on their use of the tax exemptions. In performing  
24 the analysis, the legislative fiscal committees shall consult with  
25 business and labor interests. The department of revenue, the  
26 employment security department, and other agencies shall provide to the  
27 legislative fiscal committees such data as the legislative fiscal  
28 committees may request in performing the analysis required under this  
29 section.

30 NEW SECTION. **Sec. 10.** 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 takes effect  
33 July 1, 1997.

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