Z-1174.3 _____

SENATE BILL 6470
_____

State of Washington   55th Legislature   1998 Regular Session

By Senators West, Anderson, Kohl, Snyder, Loveland, Fairley, T. Sheldon and Jacobsen; by request of Governor Locke

Read first time 01/19/98. Referred to Committee on Ways & Means.

1   AN ACT Relating to the tax treatment of canned and custom software;
2 adding a new section to chapter 82.04 RCW; creating a new section; and
3 providing an effective date.

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

5   NEW SECTION. **Sec. 1.** The legislature finds that the creation and
6 customization of software is an area not fully addressed in our excise
7 tax statutes, and that certainty of tax treatment is essential to the
8 industry and consumers. Therefore, the intent of this act is to make
9 the tax treatment of software clear and certain for developers,
10 programmers, and consumers.

11   NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
12 to read as follows:
13   (1) Software that is created for sale to more than one person is
14 called "canned software" and is tangible personal property, regardless
15 of the method of delivery to the consumer. Software that is provided
16 free of charge for temporary use in viewing information   is not
17 considered tangible personal property.

1   (2) Software created for a single consumer is called "custom
2 software." Its creation is a service. Amounts received for such
3 services are taxable under the service and other classification of the
4 business and occupation tax, RCW 82.04.290(2). Duplication of the
5 software for the same consumer, or by the same consumer for its own
6 use, does not change the character of the software.
7   (3) The customization of canned software for a single person is an
8 activity taxable under the service and other classification of the
9 business and occupation tax, RCW 82.04.290(2). "Customization of
10 canned software" includes those services represented by separately
11 stated charges for modifications, prepared to the special order of the
12 customer, to existing canned software.
13   (4) For the purposes of this chapter:
14   (a) "Customization of canned software" is any alteration,
15 modification, or development of applications using or incorporating
16 canned computer software for a specific person. Customization of
17 canned software does not change the underlying character of the
18 software, which is tangible personal property.   It includes
19 individualized configuration of software to work with other software
20 and computer hardware but does not include routine installation; and
21   (b) "Software" means any information, program, or routine, or any
22 set of one or more programs, routines, or collections of information
23 used, or intended for use, to convey information that causes one or
24 more computers or pieces of computer-related peripheral equipment, or
25 any combination thereof, to perform a task or set of tasks. Computer
26 software includes the associated documentation that describes the code
27 and its use, operation, and maintenance and typically is delivered with
28 the code to the user. All software is classified as either canned or
29 custom.

30   NEW SECTION. **Sec. 3.** This act takes effect July 1, 1998.

--- **END** ---