

1 **SSB 6058 - H AMD 0222 ADOPTED 04/15/99**

2 By Representative

3 Strike everything after the enacting clause and insert:

4 "Sec. 1. RCW 82.04.120 and 1998 c 168 s 1 are each amended to
5 read as follows:

6 "To manufacture" embraces all activities of a commercial or
7 industrial nature wherein labor or skill is applied, by hand or
8 machinery, to materials so that as a result thereof a new, different or
9 useful substance or article of tangible personal property is produced
10 for sale or commercial or industrial use, and shall include: (1) The
11 production or fabrication of special made or custom made articles; and
12 (2) the production or fabrication of dental appliances, devices,
13 restorations, substitutes, or other dental laboratory products by a
14 dental laboratory or dental technician.

15 "To manufacture" shall not include: Conditioning of seed for use
16 in planting; cubing hay or alfalfa; (~~or~~) activities which consist of
17 cutting, grading, or ice glazing seafood which has been cooked, frozen,
18 or canned outside this state; the growing, harvesting, or producing of
19 agricultural products; or packing of agricultural products, including
20 sorting, washing, rinsing, grading, waxing, treating with fungicide,
21 packaging, chilling, or placing in controlled atmospheric storage.

22 **Sec. 2.** RCW 82.60.020 and 1996 c 290 s 4 are each amended to read
23 as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "Applicant" means a person applying for a tax deferral under
27 this chapter.

28 (2) "Controlled atmosphere fruit storage" means any storage
29 warehouse consisting of one or more rooms, or one or more rooms in any
30 one facility in which atmospheric gases are controlled in their amount
31 and in degrees of temperature for the purpose of controlling the
32 condition and maturity of any fresh fruits in order that, upon removal,
33 they may be designated as having been exposed to controlled atmosphere.

34 (3) "Department" means the department of revenue.

1 (~~(3)~~) (4) "Eligible area" means: (a) A county in which the
2 average level of unemployment for the three years before the year in
3 which an application is filed under this chapter exceeds the average
4 state unemployment for those years by twenty percent; (b) a county that
5 has a median household income that is less than seventy-five percent of
6 the state median household income for the previous three years; (c) a
7 metropolitan statistical area, as defined by the office of federal
8 statistical policy and standards, United States department of commerce,
9 in which the average level of unemployment for the calendar year
10 immediately preceding the year in which an application is filed under
11 this chapter exceeds the average state unemployment for such calendar
12 year by twenty percent; (d) a designated community empowerment zone
13 approved under RCW 43.63A.700 or a county containing such a community
14 empowerment zone; (e) a town with a population of less than twelve
15 hundred persons in those counties that are not covered under (a) of
16 this subsection that are timber impact areas as defined in RCW
17 43.31.601; (f) a county designated by the governor as an eligible area
18 under RCW 82.60.047; or (g) a county that is contiguous to a county
19 that qualifies as an eligible area under (a) or (f) of this subsection.

20 (~~(4)~~) (5)(a) "Eligible investment project" means:

21 (i) An investment project in an eligible area as defined in
22 subsection (~~(3)~~) (4)(a), (b), (c), (e), or (f) of this section; or

23 (ii) That portion of an investment project in an eligible area as
24 defined in subsection (~~(3)~~) (4)(d) or (g) of this section which is
25 directly utilized to create at least one new full-time qualified
26 employment position for each three hundred thousand dollars of
27 investment on which a deferral is requested in an application approved
28 before July 1, 1994, and for each seven hundred fifty thousand dollars
29 of investment on which a deferral is requested in an application
30 approved after June 30, 1994.

31 (b) The lessor/owner of a qualified building is not eligible for
32 a deferral unless the underlying ownership of the buildings, machinery,
33 and equipment vests exclusively in the same person, or unless the
34 lessor by written contract agrees to pass the economic benefit of the
35 deferral to the lessee in the form of reduced rent payments.

36 (c) For purposes of (a)(ii) of this subsection:

37 (i) The department shall consider the entire investment project,
38 including any investment in machinery and equipment that otherwise

1 qualifies for exemption under RCW 82.08.02565 or 82.12.02565, for
2 purposes of determining the portion of the investment project that
3 qualifies for deferral as an eligible investment project; and

4 (ii) The number of new full-time qualified employment positions
5 created by an investment project shall be deemed to be reduced by the
6 number of full-time employment positions maintained by the recipient in
7 any other community in this state that are displaced as a result of the
8 investment project.

9 (d) "Eligible investment project" does not include any portion of
10 an investment project undertaken by a light and power business as
11 defined in RCW 82.16.010(5), other than that portion of a cogeneration
12 project that is used to generate power for consumption within the
13 manufacturing site of which the cogeneration project is an integral
14 part, or investment projects which have already received deferrals
15 under this chapter.

16 ~~((+5))~~ (6) "Investment project" means an investment in qualified
17 buildings or qualified machinery and equipment, including labor and
18 services rendered in the planning, installation, and construction of
19 the project.

20 ~~((+6))~~ (7) "Manufacturing" means ~~((all activities of a commercial
21 or industrial nature wherein labor or skill is applied, by hand or
22 machinery, to materials so that as a result thereof a new, different,
23 or useful substance or article of tangible personal property is
24 produced for sale or commercial or industrial use and shall include the
25 production or fabrication of specially made or custom made articles))~~
26 the same as defined in RCW 82.04.120. "Manufacturing" also includes
27 computer programming, the production of computer software, and other
28 computer-related services, and the activities performed by research and
29 development laboratories and commercial testing laboratories.

30 ~~((+7))~~ (8) "Person" has the meaning given in RCW 82.04.030.

31 ~~((+8))~~ (9) "Qualified buildings" means construction of new
32 structures, and expansion or renovation of existing structures for the
33 purpose of increasing floor space or production capacity used for
34 manufacturing, controlled atmosphere fruit storage, and research and
35 development activities, including plant offices and warehouses or other
36 facilities for the storage of raw material or finished goods if such
37 facilities are an essential or an integral part of a factory, mill,
38 plant, or laboratory used for manufacturing, controlled atmosphere

1 fruit storage, or research and development. If a building is used
2 partly for manufacturing, controlled atmosphere fruit storage, or
3 research and development and partly for other purposes, the applicable
4 tax deferral shall be determined by apportionment of the costs of
5 construction under rules adopted by the department.

6 ((+9+)) (10) "Qualified employment position" means a permanent
7 full-time employee employed in the eligible investment project during
8 the entire tax year.

9 ((+10+)) (11) "Qualified machinery and equipment" means all new
10 industrial and research fixtures, equipment, and support facilities
11 that are an integral and necessary part of a manufacturing, controlled
12 atmosphere fruit storage, or research and development operation.
13 "Qualified machinery and equipment" includes: Computers; software;
14 data processing equipment; laboratory equipment; ((manufacturing))
15 components such as belts, pulleys, shafts, and moving parts; molds,
16 tools, and dies; operating structures; and all equipment used to
17 control or operate the machinery.

18 ((+11+)) (12) "Recipient" means a person receiving a tax deferral
19 under this chapter.

20 ((+12+)) (13) "Research and development" means the development,
21 refinement, testing, marketing, and commercialization of a product,
22 service, or process before commercial sales have begun. As used in
23 this subsection, "commercial sales" excludes sales of prototypes or
24 sales for market testing if the total gross receipts from such sales of
25 the product, service, or process do not exceed one million dollars.

26 **Sec. 3.** RCW 82.62.010 and 1996 c 290 s 5 are each amended to read
27 as follows:

28 Unless the context clearly requires otherwise, the definitions in
29 this section apply throughout this chapter.

30 (1) "Applicant" means a person applying for a tax credit under
31 this chapter.

32 (2) "Department" means the department of revenue.

33 (3) "Eligible area" means: (a) A county in which the average
34 level of unemployment for the three years before the year in which an
35 application is filed under this chapter exceeds the average state
36 unemployment for those years by twenty percent; (b) a county that has
37 a median household income that is less than seventy-five percent of the

1 state median household income for the previous three years; (c) a
2 metropolitan statistical area, as defined by the office of federal
3 statistical policy and standards, United States department of commerce,
4 in which the average level of unemployment for the calendar year
5 immediately preceding the year in which an application is filed under
6 this chapter exceeds the average state unemployment for such calendar
7 year by twenty percent; (d) a designated community empowerment zone
8 approved under RCW 43.63A.700; or (e) subcounty areas in those counties
9 that are not covered under (a) of this subsection that are timber
10 impact areas as defined in RCW 43.31.601.

11 (4)(a) "Eligible business project" means manufacturing or research
12 and development activities which are conducted by an applicant in an
13 eligible area at a specific facility, provided the applicant's average
14 full-time qualified employment positions at the specific facility will
15 be at least fifteen percent greater in the year for which the credit is
16 being sought than the applicant's average full-time qualified
17 employment positions at the same facility in the immediately preceding
18 year.

19 (b) "Eligible business project" does not include any portion of a
20 business project undertaken by a light and power business as defined in
21 RCW 82.16.010(5) or that portion of a business project creating
22 qualified full-time employment positions outside an eligible area or
23 those recipients of a sales tax deferral under chapter 82.61 RCW.

24 (5) "Manufacturing" means (~~all activities of a commercial or~~
25 ~~industrial nature wherein labor or skill is applied, by hand or~~
26 ~~machinery, to materials so that as a result thereof a new, different,~~
27 ~~or useful substance or article of tangible personal property is~~
28 ~~produced for sale or commercial or industrial use and shall include the~~
29 ~~production or fabrication of specially made or custom made articles))
30 the same as defined in RCW 82.04.120. "Manufacturing" also includes
31 computer programming, the production of computer software, and other
32 computer-related services, and the activities performed by research and
33 development laboratories and commercial testing laboratories.~~

34 (6) "Person" has the meaning given in RCW 82.04.030.

35 (7) "Qualified employment position" means a permanent full-time
36 employee employed in the eligible business project during the entire
37 tax year.

38 (8) "Tax year" means the calendar year in which taxes are due.

1 (9) "Recipient" means a person receiving tax credits under this
2 chapter.

3 (10) "Research and development" means the development, refinement,
4 testing, marketing, and commercialization of a product, service, or
5 process before commercial sales have begun. As used in this
6 subsection, "commercial sales" excludes sales of prototypes or sales
7 for market testing if the total gross receipts from such sales of the
8 product, service, or process do not exceed one million dollars.

9 **Sec. 4.** RCW 82.04.120 and 1999 c . . . s 1 (section 1 of this
10 act) are each amended to read as follows:

11 "To manufacture" embraces all activities of a commercial or
12 industrial nature wherein labor or skill is applied, by hand or
13 machinery, to materials so that as a result thereof a new, different or
14 useful substance or article of tangible personal property is produced
15 for sale or commercial or industrial use, and shall include: (1) The
16 production or fabrication of special made or custom made articles; and
17 (2) the production or fabrication of dental appliances, devices,
18 restorations, substitutes, or other dental laboratory products by a
19 dental laboratory or dental technician.

20 "To manufacture" shall not include: Conditioning of seed for use
21 in planting; cubing hay or alfalfa; activities which consist of
22 cutting, grading, or ice glazing seafood which has been cooked, frozen,
23 or canned outside this state; the growing, harvesting, or producing of
24 agricultural products; ~~((or))~~ packing of agricultural products,
25 including sorting, washing, rinsing, grading, waxing, treating with
26 fungicide, packaging, chilling, or placing in controlled atmospheric
27 storage; or activities which consist of the assembly of an article from
28 pumping equipment, motor equipment, or compressor equipment, including
29 starters, controls, couplings, blowers, and other accessories for such
30 equipment, if some of the equipment and accessories are purchased from
31 another person and the amount paid for the purchased equipment and
32 accessories is at least eighty percent of the costs of the goods sold,
33 based on materials, labor, and direct overhead.

34 NEW SECTION. **Sec. 5.** Sections 1, 2(7), and 3 of this act are
35 intended to clarify that this is the intent of the legislature both
36 retroactively and prospectively.

1 NEW SECTION. **Sec. 6.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately."

9 Correct the title.

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EFFECT: Controlled atmosphere fruit storage facilities are eligible for sales tax exemption in distressed areas.