

2 **ESHB 1887** - S COMM AMD  
3 By Committee on Ways & Means

4 NOT ADOPTED 4/16/99

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

7 "NEW SECTION. **Sec. 1.** The legislature finds that the application  
8 of the manufacturer's machinery and equipment sales and use tax  
9 exemption has, in some cases, been difficult and confusing for  
10 taxpayers. In this act, the legislature clarifies the original intent  
11 of the exemption and its application by explicitly and clearly defining  
12 those items of machinery and equipment that are exempt from tax. This  
13 act clarifies the definition of "manufacturing" by defining those  
14 logging, rock crushing, and testing activities that are exempt and  
15 clarifies the definition of "used directly" by clearly stating that, in  
16 order to qualify for the exemption, the machinery and equipment must be  
17 used so that the major benefit is for exempt purposes.

18 **Sec. 2.** RCW 82.04.120 and 1998 c 168 s 1 are each amended to read  
19 as follows:

20 "To manufacture" embraces all activities of a commercial or  
21 industrial nature wherein labor or skill is applied, by hand or  
22 machinery, to materials so that as a result thereof a new, different or  
23 useful substance or article of tangible personal property is produced  
24 for sale or commercial or industrial use, and shall include: (1) The  
25 production or fabrication of special made or custom made articles;  
26 ~~((and))~~ (2) the production or fabrication of dental appliances,  
27 devices, restorations, substitutes, or other dental laboratory products  
28 by a dental laboratory or dental technician; (3) cutting, delimiting,  
29 and measuring of felled, cut, or taken trees; and (4) crushing and/or  
30 blending of rock, sand, stone, gravel, or ore.

31 "To manufacture" shall not include: Conditioning of seed for use  
32 in planting; cubing hay or alfalfa; ~~((or))~~ activities which consist of  
33 cutting, grading, or ice glazing seafood which has been cooked, frozen,  
34 or canned outside this state; or the growing, harvesting, or producing  
35 of agricultural products.

1       **Sec. 3.** RCW 82.08.02565 and 1998 c 330 s 1 are each amended to  
2 read as follows:

3       (1) The tax levied by RCW 82.08.020 shall not apply to sales to a  
4 manufacturer or processor for hire of machinery and equipment used  
5 directly in a manufacturing operation or research and development  
6 operation, or to sales of or charges made for labor and services  
7 rendered in respect to installing, repairing, cleaning, altering, or  
8 improving the machinery and equipment, but only when the purchaser  
9 provides the seller with an exemption certificate in a form and manner  
10 prescribed by the department by rule. The seller shall retain a copy  
11 of the certificate for the seller's files.

12       (2) For purposes of this section and RCW 82.12.02565:

13       (a) "Machinery and equipment" means industrial fixtures, devices,  
14 and support facilities, and tangible personal property that becomes an  
15 ingredient or component thereof, including repair parts and replacement  
16 parts. "Machinery and equipment" includes pollution control equipment  
17 installed and used in a manufacturing operation or research and  
18 development operation to prevent air pollution, water pollution, or  
19 contamination that might otherwise result from the manufacturing  
20 operation or research and development operation.

21       (b) "Machinery and equipment" does not include:

22       (i) Hand-powered tools;

23       (ii) Property with a useful life of less than one year;

24       (iii) Buildings, other than machinery and equipment that is  
25 permanently affixed to or becomes a physical part of a building; and

26       (iv) Building fixtures that are not integral to the manufacturing  
27 operation or research and development operation that are permanently  
28 affixed to and become a physical part of a building, such as utility  
29 systems for heating, ventilation, air conditioning, communications,  
30 plumbing, or electrical.

31       (c) Machinery and equipment is "used directly" in a manufacturing  
32 operation or research and development operation if for at least fifty  
33 percent of its use, as measured by time, value, volume, or other  
34 measurement for comparison, the machinery and equipment:

35       (i) Acts upon or interacts with an item of tangible personal  
36 property;

37       (ii) Conveys, transports, handles, or temporarily stores an item of  
38 tangible personal property at the manufacturing site;

1 (iii) Controls, guides, measures, verifies, aligns, regulates, or  
2 tests tangible personal property either at the site or away from the  
3 site, such as the road testing, air testing, or water testing of  
4 products, or other testing that cannot be done at the manufacturing  
5 site because of the nature of the testing involved;

6 (iv) Provides physical support for or access to tangible personal  
7 property;

8 (v) Produces power for, or lubricates machinery and equipment;

9 (vi) Produces another item of tangible personal property for use in  
10 the manufacturing operation or research and development operation;

11 (vii) Places tangible personal property in the container, package,  
12 or wrapping in which the tangible personal property is normally sold or  
13 transported; or

14 (viii) Is integral to research and development as defined in RCW  
15 82.63.010.

16 (d) "Manufacturing operation" means the manufacturing of articles,  
17 substances, or commodities for sale as tangible personal property.  
18 ((The)) A manufacturing operation begins at the point where the raw  
19 materials enter the manufacturing site and ends at the point where the  
20 ((finished product)) processed material leaves the manufacturing site.  
21 The term also includes that portion of a cogeneration project that is  
22 used to generate power for consumption within the manufacturing site of  
23 which the cogeneration project is an integral part. The term does not  
24 include the production of electricity by a light and power business as  
25 defined in RCW 82.16.010 or the preparation of food products on the  
26 premises of a person selling food products at retail.

27 (e) "Cogeneration" means the simultaneous generation of electrical  
28 energy and low-grade heat from the same fuel.

29 (f) "Research and development operation" means engaging in research  
30 and development as defined in RCW 82.63.010 by a manufacturer or  
31 processor for hire.

32 NEW SECTION. **Sec. 4.** The legislature intends that sections 2 and  
33 3 of this act be clarifying in nature and are retroactive in response  
34 to the administrative difficulties encountered in implementing the  
35 original legislation.

36 **Sec. 5.** RCW 82.08.02565 and 1999 c . . . s 3 (section 3 of this  
37 act) are each amended to read as follows:

1 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a  
2 manufacturer or processor for hire of machinery and equipment used  
3 directly in a manufacturing operation or research and development  
4 operation, to sales to a person engaged in testing for a manufacturer  
5 or processor for hire of machinery and equipment used directly in a  
6 testing operation, or to sales of or charges made for labor and  
7 services rendered in respect to installing, repairing, cleaning,  
8 altering, or improving the machinery and equipment, but only when the  
9 purchaser provides the seller with an exemption certificate in a form  
10 and manner prescribed by the department by rule. The seller shall  
11 retain a copy of the certificate for the seller's files.

12 (2) For purposes of this section and RCW 82.12.02565:

13 (a) "Machinery and equipment" means industrial fixtures, devices,  
14 and support facilities, and tangible personal property that becomes an  
15 ingredient or component thereof, including repair parts and replacement  
16 parts. "Machinery and equipment" includes pollution control equipment  
17 installed and used in a manufacturing operation, testing operation, or  
18 research and development operation to prevent air pollution, water  
19 pollution, or contamination that might otherwise result from the  
20 manufacturing operation, testing operation, or research and development  
21 operation.

22 (b) "Machinery and equipment" does not include:

23 (i) Hand-powered tools;

24 (ii) Property with a useful life of less than one year;

25 (iii) Buildings, other than machinery and equipment that is  
26 permanently affixed to or becomes a physical part of a building; and

27 (iv) Building fixtures that are not integral to the manufacturing  
28 operation, testing operation, or research and development operation  
29 that are permanently affixed to and become a physical part of a  
30 building, such as utility systems for heating, ventilation, air  
31 conditioning, communications, plumbing, or electrical.

32 (c) Machinery and equipment is "used directly" in a manufacturing  
33 operation, testing operation, or research and development operation if  
34 for at least fifty percent of its use, as measured by time, value,  
35 volume, or other measurement for comparison, the machinery and  
36 equipment:

37 (i) Acts upon or interacts with an item of tangible personal  
38 property;

1 (ii) Conveys, transports, handles, or temporarily stores an item of  
2 tangible personal property at the manufacturing site or testing site;

3 (iii) Controls, guides, measures, verifies, aligns, regulates, or  
4 tests tangible personal property either at the site or away from the  
5 site, such as the road testing, air testing, or water testing of  
6 products, or other testing that cannot be done at the manufacturing  
7 site because of the nature of the testing involved;

8 (iv) Provides physical support for or access to tangible personal  
9 property;

10 (v) Produces power for, or lubricates machinery and equipment;

11 (vi) Produces another item of tangible personal property for use in  
12 the manufacturing operation, testing operation, or research and  
13 development operation;

14 (vii) Places tangible personal property in the container, package,  
15 or wrapping in which the tangible personal property is normally sold or  
16 transported; or

17 (viii) Is integral to research and development as defined in RCW  
18 82.63.010.

19 (d) "Manufacturing operation" means the manufacturing of articles,  
20 substances, or commodities for sale as tangible personal property. A  
21 manufacturing operation begins at the point where the raw materials  
22 enter the manufacturing site and ends at the point where the processed  
23 material leaves the manufacturing site. The term also includes that  
24 portion of a cogeneration project that is used to generate power for  
25 consumption within the manufacturing site of which the cogeneration  
26 project is an integral part. The term does not include the production  
27 of electricity by a light and power business as defined in RCW  
28 82.16.010 or the preparation of food products on the premises of a  
29 person selling food products at retail.

30 (e) "Cogeneration" means the simultaneous generation of electrical  
31 energy and low-grade heat from the same fuel.

32 (f) "Research and development operation" means engaging in research  
33 and development as defined in RCW 82.63.010 by a manufacturer or  
34 processor for hire.

35 (g) "Testing" means activities performed to establish or determine  
36 the properties, qualities, and limitations of tangible personal  
37 property.

38 (h) "Testing operation" means the testing of tangible personal  
39 property for a manufacturer or processor for hire. A testing operation

