

# HOUSE BILL REPORT

## SSB 6058

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### As Reported By House Committee On:

Finance

**Title:** An act relating to stating the intent of the legislature that the activities of growing or packing agricultural products is not a manufacturing activity.

**Brief Description:** Providing that growing or packing agricultural products is not a manufacturing activity for tax purposes.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Loveland, Honeyford, Sellar, Oke, Stevens and Rasmussen; by request of Department of Revenue).

### Brief History:

#### Committee Activity:

Finance: 4/1/99, 4/5/99 [DPA].

#### Brief Summary of Substitute Bill (As Amended by House Committee)

- Excludes facilities that pack agricultural products from the distressed area manufacturing sales tax deferral/exemption program.
- Excludes from manufacturing business and occupation tax the assembly of pumps, motors, and compressors as long as the amount paid for the components is at least 80 percent of the value of the assembled product.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass as amended. Signed by 12 members: Representatives Dunshee, Democratic Co-Chair; Thomas, Republican Co-Chair; Carrell, Republican Vice Chair; Reardon, Democratic Vice Chair; Cairnes; Conway; Cox; Dickerson; Pennington; Santos; Van Luven and Veloria.

**Staff:** Rick Peterson (786-7150).

### Background:

The business and occupation tax (B&O) is levied for the privilege of doing business in Washington. The tax is levied on the gross receipts of all business activities conducted within the state. Currently, there are six different B&O tax rates. The three principal rates are:

Manufacturing, wholesaling, & extracting	0.484 percent
Retailing	0.471 percent
Services	1.5 percent

When a product is manufactured in Washington, the manufacturing tax applies on sales to out-of-state customers and, generally, the wholesaling tax applies on sales to in-state customers.

Sales by farmers of agricultural products at wholesale and the packing of agricultural products for farmers are exempt from B&O tax. "Farmer" is defined to exclude a person using agricultural products as ingredients in a manufacturing process. Businesses that wash, sort, and pack fresh perishable horticultural products for farmers are exempt from B&O tax.

There are several tax incentives for manufacturers in distressed areas, including deferral/exemption of sales and use taxes on buildings, machinery and equipment, and installation labor, and B&O tax credits for job creation and job training.

These programs have not been applied to packing agricultural products. However, a recent court of appeals case held that this activity is manufacturing and eligible for the distressed area sales tax deferral/exemption program.

Under the B&O tax, a person who does not own a product being manufactured is a processor for hire, and the owner of the product is considered the manufacturer. If packing agricultural products is manufacturing, then a farmer is now a manufacturer using the products as an ingredient in a manufacturing process, the person packing the products is a processor for hire, and both are subject to B&O tax.

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### **Summary of Amended Bill:**

Farming and the packing of agricultural products are excluded from the definition of manufacturing for purposes of the B&O tax. Thus, businesses packing agricultural products are no longer eligible for the distressed area tax incentive programs. The growing, harvesting, or production of agricultural products are not subject to the B&O tax. These changes apply both retroactively and prospectively.

Businesses that assemble pumps, motors, and compressor equipment are exempt from manufacturing B&O tax on sales to out-of-state customers if some of the components

are purchased from other businesses and, the amount paid for the components is at least 80 percent of the value of the assembled product.

**Amended Bill Compared to Substitute Bill:** The amended bill adds the tax exemption for businesses that assemble pumps, motors, and compressor equipment.

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**Appropriation:** None.

**Fiscal Note:** Requested on amended bill, available on substitute.

**Effective Date of Amended Bill:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** There was some ambiguity in the statutes with respect to the definition of manufacturing for the sales tax exemption/deferral program. The court of appeals ruled that apple packers are manufacturers for purposes of the distressed area sales tax exemption/deferral program. This destabilized the situation making growers potentially subject to the B&O tax. The growers did not ask for the sales tax exemption originally. But now with the severe economic conditions in the fruit industry, the industry wants an exemption for controlled atmosphere warehouses similar to the warehousing exemption allowed for large I-5 warehouses.

**Testimony Against:** None.

**Testified:** Tim Sekerak, Department of Revenue; Dick Ducharme, Yakima Growers and Shippers, Wenatchee Valley Traffic Association; and Enid Layes, Washington State Horticultural Association.