

2 SHB 2138 - H AMD **ADOPTED 4/17/01**
3 By Representative

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

7 **"PART I: Dairy Products B&O Tax Exemption**

8 NEW SECTION. **Sec. 1.** The purpose of sections 2 and 3 of this act
9 is to provide a tax rate for persons who manufacture dairy products
10 that is commensurate to the rate imposed on certain other processors of
11 agricultural commodities. This tax rate applies to persons who
12 manufacture dairy products from raw materials such as fluid milk,
13 dehydrated milk, or byproducts of milk such as cream, buttermilk, whey,
14 butter, or casein. It is not the intent of the legislature to provide
15 this tax rate to persons who use dairy products as an ingredient or
16 component of their manufactured product, such as milk-based soups or
17 pizza. It is the intent that persons who manufacture products such as
18 milk, cheese, yogurt, ice cream, whey, or whey products be subject to
19 this rate.

20 **Sec. 2.** RCW 82.04.260 and 1998 c 312 s 5 and 1998 c 311 s 2 are
21 each reenacted and amended to read as follows:

22 (1) Upon every person engaging within this state in the business of
23 manufacturing:

24 (a) Wheat into flour, barley into pearl barley, soybeans into
25 soybean oil, canola into canola oil, canola meal, or canola byproducts,
26 or sunflower seeds into sunflower oil; as to such persons the amount of
27 tax with respect to such business shall be equal to the value of the
28 flour, pearl barley, oil, canola meal, or canola byproduct
29 manufactured, multiplied by the rate of 0.138 percent;

30 (b) Seafood products which remain in a raw, raw frozen, or raw
31 salted state at the completion of the manufacturing by that person; as
32 to such persons the amount of tax with respect to such business shall
33 be equal to the value of the products manufactured, multiplied by the
34 rate of 0.138 percent; ((and))

1 (c) By canning, preserving, freezing, processing, or dehydrating
2 fresh fruits and vegetables, or selling at wholesale fresh fruits and
3 vegetables canned, preserved, frozen, processed, or dehydrated by the
4 seller and sold to purchasers who transport in the ordinary course of
5 business the goods out of this state; as to such persons the amount of
6 tax with respect to such business shall be equal to the value of the
7 products canned, preserved, frozen, processed, or dehydrated multiplied
8 by the rate of 0.138 percent. As proof of sale to a person who
9 transports in the ordinary course of business goods out of this state,
10 the seller shall annually provide a statement in a form prescribed by
11 the department and retain the statement as a business record; and

12 (d) Dairy products that as of the effective date of this section
13 are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
14 including byproducts from the manufacturing of the dairy products such
15 as whey and casein; or selling the same to purchasers who transport in
16 the ordinary course of business the goods out of state; as to such
17 persons the tax imposed shall be equal to the value of the products
18 manufactured multiplied by the rate of 0.138 percent. As proof of sale
19 to a person who transports in the ordinary course of business goods out
20 of this state, the seller shall annually provide a statement in a form
21 prescribed by the department and retain the statement as a business
22 record.

23 (2) Upon every person engaging within this state in the business of
24 splitting or processing dried peas; as to such persons the amount of
25 tax with respect to such business shall be equal to the value of the
26 peas split or processed, multiplied by the rate of 0.138 percent.

27 (3) Upon every nonprofit corporation and nonprofit association
28 engaging within this state in research and development, as to such
29 corporations and associations, the amount of tax with respect to such
30 activities shall be equal to the gross income derived from such
31 activities multiplied by the rate of 0.484 percent.

32 (4) Upon every person engaging within this state in the business of
33 slaughtering, breaking and/or processing perishable meat products
34 and/or selling the same at wholesale only and not at retail; as to such
35 persons the tax imposed shall be equal to the gross proceeds derived
36 from such sales multiplied by the rate of 0.138 percent.

37 (5) Upon every person engaging within this state in the business of
38 making sales, at retail or wholesale, of nuclear fuel assemblies
39 manufactured by that person, as to such persons the amount of tax with

1 respect to such business shall be equal to the gross proceeds of sales
2 of the assemblies multiplied by the rate of 0.275 percent.

3 (6) Upon every person engaging within this state in the business of
4 manufacturing nuclear fuel assemblies, as to such persons the amount of
5 tax with respect to such business shall be equal to the value of the
6 products manufactured multiplied by the rate of 0.275 percent.

7 (7) Upon every person engaging within this state in the business of
8 acting as a travel agent or tour operator; as to such persons the
9 amount of the tax with respect to such activities shall be equal to the
10 gross income derived from such activities multiplied by the rate of
11 0.275 percent.

12 (8) Upon every person engaging within this state in business as an
13 international steamship agent, international customs house broker,
14 international freight forwarder, vessel and/or cargo charter broker in
15 foreign commerce, and/or international air cargo agent; as to such
16 persons the amount of the tax with respect to only international
17 activities shall be equal to the gross income derived from such
18 activities multiplied by the rate of 0.275 percent.

19 (9) Upon every person engaging within this state in the business of
20 stevedoring and associated activities pertinent to the movement of
21 goods and commodities in waterborne interstate or foreign commerce; as
22 to such persons the amount of tax with respect to such business shall
23 be equal to the gross proceeds derived from such activities multiplied
24 by the rate of 0.275 percent. Persons subject to taxation under this
25 subsection shall be exempt from payment of taxes imposed by chapter
26 82.16 RCW for that portion of their business subject to taxation under
27 this subsection. Stevedoring and associated activities pertinent to
28 the conduct of goods and commodities in waterborne interstate or
29 foreign commerce are defined as all activities of a labor, service or
30 transportation nature whereby cargo may be loaded or unloaded to or
31 from vessels or barges, passing over, onto or under a wharf, pier, or
32 similar structure; cargo may be moved to a warehouse or similar holding
33 or storage yard or area to await further movement in import or export
34 or may move to a consolidation freight station and be stuffed,
35 unstuffed, containerized, separated or otherwise segregated or
36 aggregated for delivery or loaded on any mode of transportation for
37 delivery to its consignee. Specific activities included in this
38 definition are: Wharfage, handling, loading, unloading, moving of
39 cargo to a convenient place of delivery to the consignee or a

1 convenient place for further movement to export mode; documentation
2 services in connection with the receipt, delivery, checking, care,
3 custody and control of cargo required in the transfer of cargo;
4 imported automobile handling prior to delivery to consignee; terminal
5 stevedoring and incidental vessel services, including but not limited
6 to plugging and unplugging refrigerator service to containers,
7 trailers, and other refrigerated cargo receptacles, and securing ship
8 hatch covers.

9 (10) Upon every person engaging within this state in the business
10 of disposing of low-level waste, as defined in RCW 43.145.010; as to
11 such persons the amount of the tax with respect to such business shall
12 be equal to the gross income of the business, excluding any fees
13 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
14 percent.

15 If the gross income of the taxpayer is attributable to activities
16 both within and without this state, the gross income attributable to
17 this state shall be determined in accordance with the methods of
18 apportionment required under RCW 82.04.460.

19 (11) Upon every person engaging within this state as an insurance
20 agent, insurance broker, or insurance solicitor licensed under chapter
21 48.17 RCW; as to such persons, the amount of the tax with respect to
22 such licensed activities shall be equal to the gross income of such
23 business multiplied by the rate of 0.484 percent.

24 (12) Upon every person engaging within this state in business as a
25 hospital, as defined in chapter 70.41 RCW, that is operated as a
26 nonprofit corporation or by the state or any of its political
27 subdivisions, as to such persons, the amount of tax with respect to
28 such activities shall be equal to the gross income of the business
29 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
30 percent thereafter. The moneys collected under this subsection shall
31 be deposited in the health services account created under RCW
32 43.72.900.

33 **PART II: Retail Sales Tax Exemption - Poultry Farming**

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08 RCW
35 to read as follows:

36 (1) The tax levied by RCW 82.08.020 does not apply to sales to
37 farmers of propane or natural gas used to heat structures used to house

1 chickens. The propane or natural gas must be used exclusively to heat
2 the structures. The structures must be used exclusively to house
3 chickens that are sold as agricultural products.

4 (2) The exemption is available only when the buyer provides the
5 seller with an exemption certificate in a form and manner prescribed by
6 the department. The seller must retain a copy of the certificate for
7 the seller's files.

8 (3) The definitions in this subsection apply to this section and
9 section 4 of this act.

10 (a) "Structures" means barns, sheds, and other similar buildings in
11 which chickens are housed.

12 (b) "Farmer" has the same meaning as provided in RCW 82.04.213.

13 (c) "Agricultural product" has the same meaning as provided in RCW
14 82.04.213.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12 RCW
16 to read as follows:

17 (1) The provisions of this chapter do not apply with respect to the
18 use by a farmer of propane or natural gas to heat structures used to
19 house chickens. The propane or natural gas must be used exclusively to
20 heat the structures used to house chickens. The structures must be
21 used exclusively to house chickens that are sold as agricultural
22 products.

23 (2) The exemption certificate, recordkeeping requirements, and
24 definitions of section 3 of this act apply to this section.

25 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.08 RCW
26 to read as follows:

27 (1) The tax levied by RCW 82.08.020 does not apply to sales to a
28 farmer of bedding materials used to accumulate and facilitate the
29 removal of chicken manure. The farmer must be raising chickens that
30 are sold as agricultural products.

31 (2) The exemption is available only when the buyer provides the
32 seller with an exemption certificate in a form and manner prescribed by
33 the department. The seller must retain a copy of the certificate for
34 the seller's files.

35 (3) The definitions in this subsection apply to this section and
36 section 6 of this act.

1 (a) "Bedding materials" means wood shavings, straw, sawdust,
2 shredded paper, and other similar materials.

3 (b) "Farmer" has the same meaning as provided in RCW 82.04.213.

4 (c) "Agricultural product" has the same meaning as provided in RCW
5 82.04.213.

6 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.12 RCW
7 to read as follows:

8 (1) The provisions of this chapter do not apply with respect to the
9 use by a farmer of bedding materials used to accumulate and facilitate
10 the removal of chicken manure. The farmer must be raising chickens
11 that are sold as agricultural products.

12 (2) The exemption certificate, recordkeeping requirements, and
13 definitions of section 5 of this act apply to this section.

14 NEW SECTION. **Sec. 7.** Part headings used in this act are not any
15 part of the law."

16 **SHB 2138** - H AMD
17 By Representative

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19 On page 1, line 1 of the title, after "development;" strike the
20 remainder of the title and insert "reenacting and amending RCW
21 82.04.260; adding new sections to chapter 82.08 RCW; adding new
22 sections to chapter 82.12 RCW; and creating new sections."

EFFECT: Exempts propane or natural gas used to heat structures
that house chickens and bedding materials used to accumulate chicken
manure from the retail sales and use taxes. Reduces business and
occupation tax rate for the manufacturing of dairy products.
Eliminates the other tax provisions of the substitute bill.

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