
HOUSE BILL 1575

State of Washington

57th Legislature

2001 Regular Session

By Representatives Quall, Cairnes, Morris, O'Brien, Roach, Reardon, Grant, Woods, Linville, Pflug, Hatfield, Carrell, Eickmeyer, Bush, Gombosky, Miloscia, Ruderman, Fromhold, Wood, Lovick, Delvin, Haigh, Hurst, Edmonds, Schoesler, Simpson, Lambert, Cooper, Lantz, Rockefeller, Esser, Barlean, Cox, Sehlin and Van Luven

Read first time 01/30/2001. Referred to Committee on Finance.

1 AN ACT Relating to the taxation of physical fitness services;
2 amending RCW 82.04.050; creating a new section; providing an
3 effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 82.04.050 and 2000 2nd sp.s. c 4 s 23 are each amended
6 to read as follows:

7 (1) "Sale at retail" or "retail sale" means every sale of
8 tangible personal property (including articles produced,
9 fabricated, or imprinted) to all persons irrespective of the
10 nature of their business and including, among others, without
11 limiting the scope hereof, persons who install, repair, clean,
12 alter, improve, construct, or decorate real or personal property
13 of or for consumers other than a sale to a person who presents a
14 resale certificate under RCW 82.04.470 and who:

15 (a) Purchases for the purpose of resale as tangible personal
16 property in the regular course of business without intervening use
17 by such person, but a purchase for the purpose of resale by a
18 regional transit authority under RCW 81.112.300 is not a sale for

1 resale; or

2 (b) Installs, repairs, cleans, alters, imprints, improves,
3 constructs, or decorates real or personal property of or for
4 consumers, if such tangible personal property becomes an
5 ingredient or component of such real or personal property without
6 intervening use by such person; or

7 (c) Purchases for the purpose of consuming the property
8 purchased in producing for sale a new article of tangible personal
9 property or substance, of which such property becomes an
10 ingredient or component or is a chemical used in processing, when
11 the primary purpose of such chemical is to create a chemical
12 reaction directly through contact with an ingredient of a new
13 article being produced for sale; or

14 (d) Purchases for the purpose of consuming the property
15 purchased in producing ferrosilicon which is subsequently used in
16 producing magnesium for sale, if the primary purpose of such
17 property is to create a chemical reaction directly through contact
18 with an ingredient of ferrosilicon; or

19 (e) Purchases for the purpose of providing the property to
20 consumers as part of competitive telephone service, as defined in
21 RCW 82.04.065. The term shall include every sale of tangible
22 personal property which is used or consumed or to be used or
23 consumed in the performance of any activity classified as a "sale
24 at retail" or "retail sale" even though such property is resold or
25 utilized as provided in (a), (b), (c), (d), or (e) of this
26 subsection following such use. The term also means every sale of
27 tangible personal property to persons engaged in any business
28 which is taxable under RCW 82.04.280 (2) and (7) and 82.04.290.

29 (2) The term "sale at retail" or "retail sale" shall include
30 the sale of or charge made for tangible personal property consumed
31 and/or for labor and services rendered in respect to the
32 following:

33 (a) The installing, repairing, cleaning, altering, imprinting,
34 or improving of tangible personal property of or for consumers,
35 including charges made for the mere use of facilities in respect
36 thereto, but excluding charges made for the use of coin-operated
37 laundry facilities when such facilities are situated in an
38 apartment house, rooming house, or mobile home park for the

1 exclusive use of the tenants thereof, and also excluding sales of
2 laundry service to nonprofit health care facilities, and excluding
3 services rendered in respect to live animals, birds and insects;

4 (b) The constructing, repairing, decorating, or improving of
5 new or existing buildings or other structures under, upon, or
6 above real property of or for consumers, including the installing
7 or attaching of any article of tangible personal property therein
8 or thereto, whether or not such personal property becomes a part
9 of the realty by virtue of installation, and shall also include
10 the sale of services or charges made for the clearing of land and
11 the moving of earth excepting the mere leveling of land used in
12 commercial farming or agriculture;

13 (c) The charge for labor and services rendered in respect to
14 constructing, repairing, or improving any structure upon, above,
15 or under any real property owned by an owner who conveys the
16 property by title, possession, or any other means to the person
17 performing such construction, repair, or improvement for the
18 purpose of performing such construction, repair, or improvement
19 and the property is then reconveyed by title, possession, or any
20 other means to the original owner;

21 (d) The sale of or charge made for labor and services rendered
22 in respect to the cleaning, fumigating, razing or moving of
23 existing buildings or structures, but shall not include the charge
24 made for janitorial services; and for purposes of this section the
25 term "janitorial services" shall mean those cleaning and
26 caretaking services ordinarily performed by commercial janitor
27 service businesses including, but not limited to, wall and window
28 washing, floor cleaning and waxing, and the cleaning in place of
29 rugs, drapes and upholstery. The term "janitorial services" does
30 not include painting, papering, repairing, furnace or septic tank
31 cleaning, snow removal or sandblasting;

32 (e) The sale of or charge made for labor and services rendered
33 in respect to automobile towing and similar automotive
34 transportation services, but not in respect to those required to
35 report and pay taxes under chapter 82.16 RCW;

36 (f) The sale of and charge made for the furnishing of lodging
37 and all other services by a hotel, rooming house, tourist court,
38 motel, trailer camp, and the granting of any similar license to

1 use real property, as distinguished from the renting or leasing of
2 real property, and it shall be presumed that the occupancy of real
3 property for a continuous period of one month or more constitutes
4 a rental or lease of real property and not a mere license to use
5 or enjoy the same;

6 (g) The sale of or charge made for tangible personal property,
7 labor and services to persons taxable under (a), (b), (c), (d),
8 (e), and (f) of this subsection when such sales or charges are for
9 property, labor and services which are used or consumed in whole
10 or in part by such persons in the performance of any activity
11 defined as a "sale at retail" or "retail sale" even though such
12 property, labor and services may be resold after such use or
13 consumption. Nothing contained in this subsection shall be
14 construed to modify subsection (1) of this section and nothing
15 contained in subsection (1) of this section shall be construed to
16 modify this subsection.

17 (3) The term "sale at retail" or "retail sale" shall include
18 the sale of or charge made for personal, business, or professional
19 services including amounts designated as interest, rents, fees,
20 admission, and other service emoluments however designated,
21 received by persons engaging in the following business activities:

22 (a) Amusement and recreation services including but not limited
23 to golf, pool, billiards, skating, bowling, ski lifts and tows,
24 day trips for sightseeing purposes, and others, when provided to
25 consumers;

26 (b) Abstract, title insurance, and escrow services;

27 (c) Credit bureau services;

28 (d) Automobile parking and storage garage services;

29 (e) Landscape maintenance and horticultural services but
30 excluding (i) horticultural services provided to farmers and (ii)
31 pruning, trimming, repairing, removing, and clearing of trees and
32 brush near electric transmission or distribution lines or
33 equipment, if performed by or at the direction of an electric
34 utility;

35 (f) Service charges associated with tickets to professional
36 sporting events; and

37 (g) The following personal services: (~~Physical fitness~~

1 ~~services,~~) Tanning salon services, tattoo parlor services, steam
2 bath services, turkish bath services, escort services, and dating
3 services.

4 (4) The term shall also include the renting or leasing of
5 tangible personal property to consumers and the rental of
6 equipment with an operator.

7 (5) The term shall also include the providing of telephone
8 service, as defined in RCW 82.04.065, to consumers.

9 (6) The term shall also include the sale of canned software
10 other than a sale to a person who presents a resale certificate
11 under RCW 82.04.470, regardless of the method of delivery to the
12 end user, but shall not include custom software or the
13 customization of canned software.

14 (7) The term shall not include the sale of or charge made for
15 labor and services rendered in respect to the building, repairing,
16 or improving of any street, place, road, highway, easement, right
17 of way, mass public transportation terminal or parking facility,
18 bridge, tunnel, or trestle which is owned by a municipal
19 corporation or political subdivision of the state or by the United
20 States and which is used or to be used primarily for foot or
21 vehicular traffic including mass transportation vehicles of any
22 kind.

23 (8) The term shall also not include sales of chemical sprays or
24 washes to persons for the purpose of postharvest treatment of
25 fruit for the prevention of scald, fungus, mold, or decay, nor
26 shall it include sales of feed, seed, seedlings, fertilizer,
27 agents for enhanced pollination including insects such as bees,
28 and spray materials to: (a) Persons who participate in the
29 federal conservation reserve program, the environmental quality
30 incentives program, the wetlands reserve program, and the wildlife
31 habitat incentives program, or their successors administered by
32 the United States department of agriculture; (b) farmers for the
33 purpose of producing for sale any agricultural product; and (c)
34 farmers acting under cooperative habitat development or access
35 contracts with an organization exempt from federal income tax
36 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department
37 of fish and wildlife to produce or improve wildlife habitat on
38 land that the farmer owns or leases.

1 (9) The term shall not include the sale of or charge made for
2 labor and services rendered in respect to the constructing,
3 repairing, decorating, or improving of new or existing buildings
4 or other structures under, upon, or above real property of or for
5 the United States, any instrumentality thereof, or a county or
6 city housing authority created pursuant to chapter 35.82 RCW,
7 including the installing, or attaching of any article of tangible
8 personal property therein or thereto, whether or not such personal
9 property becomes a part of the realty by virtue of installation.
10 Nor shall the term include the sale of services or charges made
11 for the clearing of land and the moving of earth of or for the
12 United States, any instrumentality thereof, or a county or city
13 housing authority. Nor shall the term include the sale of services
14 or charges made for cleaning up for the United States, or its
15 instrumentalities, radioactive waste and other byproducts of
16 weapons production and nuclear research and development.

17 (10) Until July 1, 2003, the term shall not include the sale of
18 or charge made for labor and services rendered for environmental
19 remedial action as defined in RCW 82.04.2635(2).

20 NEW SECTION. **Sec. 2.** This act applies to physical fitness
21 services rendered on and after July 1, 2001.

22 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of
24 the state government and its existing public institutions, and
25 takes effect July 1, 2001.

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