

SSB 6239 - S AMD 607

By Senators Zarelli, Kohl-Welles and Sheahan

1/28/04 ADOPTED

1 On page 6, line 20, after "82.04.030", insert "and includes state
2 universities as defined in RCW 28B.10.016"

3 On page 11, after line 18, insert the following:

4 "**Sec. 8.** RCW 82.04.190 and 2002 c 367 s 2 are each amended to read
5 as follows:

6 "Consumer" means the following:

7 (1) Any person who purchases, acquires, owns, holds, or uses any
8 article of tangible personal property irrespective of the nature of the
9 person's business and including, among others, without limiting the
10 scope hereof, persons who install, repair, clean, alter, improve,
11 construct, or decorate real or personal property of or for consumers
12 other than for the purpose (a) of resale as tangible personal property
13 in the regular course of business or (b) of incorporating such property
14 as an ingredient or component of real or personal property when
15 installing, repairing, cleaning, altering, imprinting, improving,
16 constructing, or decorating such real or personal property of or for
17 consumers or (c) of consuming such property in producing for sale a new
18 article of tangible personal property or a new substance, of which such
19 property becomes an ingredient or component or as a chemical used in
20 processing, when the primary purpose of such chemical is to create a
21 chemical reaction directly through contact with an ingredient of a new
22 article being produced for sale or (d) purchases for the purpose of
23 consuming the property purchased in producing ferrosilicon which is
24 subsequently used in producing magnesium for sale, if the primary
25 purpose of such property is to create a chemical reaction directly
26 through contact with an ingredient of ferrosilicon;

27 (2)(a) Any person engaged in any business activity taxable under
28 RCW 82.04.290; (b) any person who purchases, acquires, or uses any
29 telephone service as defined in RCW 82.04.065, other than for resale in

1 the regular course of business; (c) any person who purchases, acquires,
2 or uses any service defined in RCW 82.04.050(2)(a) or any amusement and
3 recreation service defined in RCW 82.04.050(3)(a), other than for
4 resale in the regular course of business; and (d) any person who is an
5 end user of software;

6 (3) Any person engaged in the business of contracting for the
7 building, repairing or improving of any street, place, road, highway,
8 easement, right of way, mass public transportation terminal or parking
9 facility, bridge, tunnel, or trestle which is owned by a municipal
10 corporation or political subdivision of the state of Washington or by
11 the United States and which is used or to be used primarily for foot or
12 vehicular traffic including mass transportation vehicles of any kind as
13 defined in RCW 82.04.280, in respect to tangible personal property when
14 such person incorporates such property as an ingredient or component of
15 such publicly owned street, place, road, highway, easement, right of
16 way, mass public transportation terminal or parking facility, bridge,
17 tunnel, or trestle by installing, placing or spreading the property in
18 or upon the right of way of such street, place, road, highway,
19 easement, bridge, tunnel, or trestle or in or upon the site of such
20 mass public transportation terminal or parking facility;

21 (4) Any person who is an owner, lessee or has the right of
22 possession to or an easement in real property which is being
23 constructed, repaired, decorated, improved, or otherwise altered by a
24 person engaged in business, excluding only (a) municipal corporations
25 or political subdivisions of the state in respect to labor and services
26 rendered to their real property which is used or held for public road
27 purposes, and (b) the United States, instrumentalities thereof, and
28 county and city housing authorities created pursuant to chapter 35.82
29 RCW in respect to labor and services rendered to their real property.
30 Nothing contained in this or any other subsection of this definition
31 shall be construed to modify any other definition of "consumer";

32 (5) Any person who is an owner, lessee, or has the right of
33 possession to personal property which is being constructed, repaired,
34 improved, cleaned, imprinted, or otherwise altered by a person engaged
35 in business;

36 (6) Any person engaged in the business of constructing, repairing,
37 decorating, or improving new or existing buildings or other structures
38 under, upon, or above real property of or for the United States, any
39 instrumentality thereof, or a county or city housing authority created

1 pursuant to chapter 35.82 RCW, including the installing or attaching of
2 any article of tangible personal property therein or thereto, whether
3 or not such personal property becomes a part of the realty by virtue of
4 installation; also, any person engaged in the business of clearing land
5 and moving earth of or for the United States, any instrumentality
6 thereof, or a county or city housing authority created pursuant to
7 chapter 35.82 RCW. Any such person shall be a consumer within the
8 meaning of this subsection in respect to tangible personal property
9 incorporated into, installed in, or attached to such building or other
10 structure by such person, except that consumer does not include any
11 person engaged in the business of constructing, repairing, decorating,
12 or improving new or existing buildings or other structures under, upon,
13 or above real property of or for the United States, any instrumentality
14 thereof, if the investment project would qualify for sales and use tax
15 deferral under chapter 82.63 RCW if undertaken by a private entity;

16 (7) Any person who is a lessor of machinery and equipment, the
17 rental of which is exempt from the tax imposed by RCW 82.08.020 under
18 RCW 82.08.02565, with respect to the sale of or charge made for
19 tangible personal property consumed in respect to repairing the
20 machinery and equipment, if the tangible personal property has a useful
21 life of less than one year. Nothing contained in this or any other
22 subsection of this section shall be construed to modify any other
23 definition of "consumer";

24 (8) Any person engaged in the business of cleaning up for the
25 United States, or its instrumentalities, radioactive waste and other
26 byproducts of weapons production and nuclear research and development;
27 and

28 (9) Until July 1, 2003, any person engaged in the business of
29 conducting environmental remedial action as defined in *RCW
30 82.04.2635(2)."

31 Renumber the sections consecutively and correct any internal
32 references accordingly.

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2 By Senator

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4 On page 1, on line 3 of the title, strike "and 82.63.070" and
5 insert "82.63.070, and 82.04.190"

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EFFECT: Extends eligibility for the hi-tech sales and use tax deferral program to the state universities and exempts from sales and use tax hi-tech research and development projects for the federal government that would qualify for the deferral program if undertaken by a private entity.