
SENATE BILL 5853

State of Washington

58th Legislature

2003 Regular Session

By Senators Rossi and Poulsen

Read first time 02/17/2003. Referred to Committee on Ways & Means.

1 AN ACT Relating to clarifying the intentions of Senate Bill No.
2 6835, chapter 367, Laws of 2002; amending RCW 82.12.010, 82.12.020,
3 82.12.0254, 82.12.0255, 82.12.02565, 82.12.02567, 82.12.0259,
4 82.12.0277, 82.12.0279, 82.12.0315, 82.12.02595, 82.12.810, 82.12.820,
5 82.12.840, 82.12.890, 82.12.900, and 82.12.0251; adding a new section
6 to chapter 82.12 RCW; creating a new section; repealing RCW 82.12.0252;
7 and declaring an emergency.

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

9 **Sec. 1.** RCW 82.12.010 and 2002 c 367 s 3 are each amended to read
10 as follows:

11 For the purposes of this chapter:

12 (1)(a) "Value of the article used" shall mean the consideration,
13 whether money, credit, rights, or other property except trade-in
14 property of like kind, expressed in terms of money, paid or given or
15 contracted to be paid or given by the purchaser to the seller for the
16 article of tangible personal property, the use of which is taxable
17 under this chapter. The term includes the amount of any freight,
18 delivery, or other like transportation charge paid or given by the
19 purchaser to the seller with respect to the purchase of such article.

1 The term also includes, in addition to the consideration paid or given
2 or contracted to be paid or given, the amount of any tariff or duty
3 paid with respect to the importation of the article used. In case the
4 article used is acquired by lease or by gift or is extracted, produced,
5 or manufactured by the person using the same or is sold under
6 conditions wherein the purchase price does not represent the true value
7 thereof, the value of the article used shall be determined as nearly as
8 possible according to the retail selling price at place of use of
9 similar products of like quality and character under such rules as the
10 department of revenue may prescribe.

11 (b) In case the articles used are acquired by bailment, the value
12 of the use of the articles so used shall be in an amount representing
13 a reasonable rental for the use of the articles so bailed, determined
14 as nearly as possible according to the value of such use at the places
15 of use of similar products of like quality and character under such
16 rules as the department of revenue may prescribe. In case any such
17 articles of tangible personal property are used in respect to the
18 construction, repairing, decorating, or improving of, and which become
19 or are to become an ingredient or component of, new or existing
20 buildings or other structures under, upon, or above real property of or
21 for the United States, any instrumentality thereof, or a county or city
22 housing authority created pursuant to chapter 35.82 RCW, including the
23 installing or attaching of any such articles therein or thereto,
24 whether or not such personal property becomes a part of the realty by
25 virtue of installation, then the value of the use of such articles so
26 used shall be determined according to the retail selling price of such
27 articles, or in the absence of such a selling price, as nearly as
28 possible according to the retail selling price at place of use of
29 similar products of like quality and character or, in the absence of
30 either of these selling price measures, such value may be determined
31 upon a cost basis, in any event under such rules as the department of
32 revenue may prescribe.

33 (c) In the case of articles owned by a user engaged in business
34 outside the state which are brought into the state for no more than one
35 hundred eighty days in any period of three hundred sixty-five
36 consecutive days and which are temporarily used for business purposes
37 by the person in this state, the value of the article used shall be an
38 amount representing a reasonable rental for the use of the articles,

1 unless the person has paid tax under this chapter or chapter 82.08 RCW
2 upon the full value of the article used, as defined in (a) of this
3 subsection.

4 (d) In the case of articles manufactured or produced by the user
5 and used in the manufacture or production of products sold or to be
6 sold to the department of defense of the United States, the value of
7 the articles used shall be determined according to the value of the
8 ingredients of such articles.

9 (e) In the case of an article manufactured or produced for purposes
10 of serving as a prototype for the development of a new or improved
11 product, the value of the article used shall be determined by: (i) The
12 retail selling price of such new or improved product when first offered
13 for sale; or (ii) the value of materials incorporated into the
14 prototype in cases in which the new or improved product is not offered
15 for sale.

16 (f) In the case of an article purchased with a direct pay permit
17 under RCW 82.32.087, the value of the article used shall be determined
18 by the retail selling price, as defined in RCW 82.08.010, of such
19 article if but for the use of the direct pay permit the transaction
20 would have been subject to sales tax;

21 (2) "Value of the service used" means the consideration, whether
22 money, credit, rights, or other property, expressed in terms of money,
23 paid or given or contracted to be paid or given by the purchaser to the
24 seller for the service, the use of which is taxable under this chapter.
25 If the service is received by gift or under conditions wherein the
26 purchase price does not represent the true value thereof, the value of
27 the service used shall be determined as nearly as possible according to
28 the retail selling price at place of use of similar services of like
29 quality and character under rules the department of revenue may
30 prescribe;

31 (3) "Use," "used," "using," or "put to use" shall have their
32 ordinary meaning, and shall mean:

33 (a) With respect to tangible personal property, the first act
34 within this state by which the taxpayer takes or assumes dominion or
35 control over the article of tangible personal property (as a consumer),
36 and include installation, storage, withdrawal from storage,
37 distribution, or any other act preparatory to subsequent actual use or
38 consumption within this state; and

1 (b) With respect to a service defined in RCW 82.04.050(2)(a), the
2 first act within this state after the service has been performed by
3 which the taxpayer takes or assumes dominion or control over the
4 article of tangible personal property upon which the service was
5 performed (as a consumer), and include installation, storage,
6 withdrawal from storage, distribution, or any other act preparatory to
7 subsequent actual use or consumption of the article within this state;

8 (4) "Taxpayer" and "purchaser" include all persons included within
9 the meaning of the word "buyer" and the word "consumer" as defined in
10 chapters 82.04 and 82.08 RCW;

11 (5) "Retailer" means every seller as defined in RCW 82.08.010 and
12 every person engaged in the business of selling tangible personal
13 property at retail and every person required to collect from purchasers
14 the tax imposed under this chapter;

15 (6) The meaning ascribed to words and phrases in chapters 82.04 and
16 82.08 RCW, insofar as applicable, shall have full force and effect with
17 respect to taxes imposed under the provisions of this chapter.
18 "Consumer," in addition to the meaning ascribed to it in chapters 82.04
19 and 82.08 RCW insofar as applicable, shall also mean any person who
20 distributes or displays, or causes to be distributed or displayed, any
21 article of tangible personal property, except newspapers, the primary
22 purpose of which is to promote the sale of products or services. With
23 respect to property distributed to persons within this state by a
24 consumer as defined in this subsection (6), the use of the property
25 shall be deemed to be by such consumer.

26 **Sec. 2.** RCW 82.12.020 and 2002 c 367 s 4 are each amended to read
27 as follows:

28 (1) There is hereby levied and there shall be collected from every
29 person in this state a tax or excise for the privilege of using within
30 this state as a consumer: (a) Any article of tangible personal
31 property purchased at retail, or acquired by lease, gift, repossession,
32 or bailment, or extracted or produced or manufactured by the person so
33 using the same, or otherwise furnished to a person engaged in any
34 business taxable under RCW 82.04.280 (2) or (7); or (b) any canned
35 software, regardless of the method of delivery, but excluding canned
36 software that is either provided free of charge or is provided for
37 temporary use in viewing information, or both.

1 (2) This tax shall apply to the use of every service defined as a
2 retail sale in RCW 82.04.050 (2)(a) or (3)(a) and the use of every
3 article of tangible personal property, including property acquired at
4 a casual or isolated sale, and including byproducts used by the
5 manufacturer thereof, except as hereinafter provided, irrespective of
6 whether the article or similar articles are manufactured or are
7 available for purchase within this state.

8 (3) The provisions of this chapter do not apply in respect to the
9 use of any article of tangible personal property or service taxable
10 under RCW 82.04.050(2)(a) or (3)(a) purchased at retail or acquired by
11 lease, gift, or bailment if the sale to, or the use by, the present
12 user or his bailor or donor has already been subjected to the tax under
13 chapter 82.08 RCW or this chapter and the tax has been paid by the
14 present user or by his bailor or donor.

15 (4) Except as provided in (~~RCW 82.12.0252~~) this section, payment
16 by one purchaser or user of tangible personal property or service of
17 the tax imposed by chapter 82.08 or 82.12 RCW shall not have the effect
18 of exempting any other purchaser or user of the same property or
19 service from the taxes imposed by such chapters. If the sale to, or
20 the use by, the present user or his or her bailor or donor has already
21 been subjected to the tax under chapter 82.08 RCW or this chapter and
22 the tax has been paid by the present user or by his or her bailor or
23 donor; or in respect to the use of property acquired by bailment and
24 the tax has once been paid based on reasonable rental as determined by
25 RCW 82.12.060 measured by the value of the article at time of first use
26 multiplied by the tax rate imposed by chapter 82.08 RCW or this chapter
27 as of the time of first use; or in respect to the use of any article of
28 tangible personal property acquired by bailment, if the property was
29 acquired by a previous bailee from the same bailor for use in the same
30 general activity and the original bailment was prior to June 9, 1961,
31 the tax imposed by this chapter does not apply.

32 (~~(4)~~) (5) The tax shall be levied and collected in an amount
33 equal to the value of the article used or value of the service used by
34 the taxpayer multiplied by the rate in effect for the retail sales tax
35 under RCW 82.08.020.

36 **Sec. 3.** RCW 82.12.0254 and 1998 c 311 s 7 are each amended to read
37 as follows:

1 (1) The provisions of this chapter shall not apply in respect to
2 the use of any airplane, locomotive, railroad car, or watercraft used
3 primarily in conducting interstate or foreign commerce by transporting
4 therein or therewith property and persons for hire or used primarily in
5 commercial deep sea fishing operations outside the territorial waters
6 of the state, and in respect to use of tangible personal property which
7 becomes a component part of any such airplane, locomotive, railroad
8 car, or watercraft(~~(, and)~~) in the course of repairing, cleaning,
9 altering, or improving the same; also the use of labor and services
10 rendered in respect to such repairing, cleaning, altering, or
11 improving.

12 (2) The provisions of this chapter shall not apply in respect to
13 the use by a nonresident of this state of any motor vehicle or trailer
14 used exclusively in transporting persons or property across the
15 boundaries of this state and in intrastate operations incidental
16 thereto when such motor vehicle or trailer is registered and licensed
17 in a foreign state and in respect to the use by a nonresident of this
18 state of any motor vehicle or trailer so registered and licensed and
19 used within this state for a period not exceeding fifteen consecutive
20 days under such rules as the department of revenue shall adopt:
21 PROVIDED, That under circumstances determined to be justifiable by the
22 department of revenue a second fifteen day period may be authorized
23 consecutive with the first fifteen day period; and for the purposes of
24 this exemption the term "nonresident" as used herein, shall include a
25 user who has one or more places of business in this state as well as in
26 one or more other states, but the exemption for nonresidents shall
27 apply only to those vehicles which are most frequently dispatched,
28 garaged, serviced, maintained, and operated from the user's place of
29 business in another state(~~(, and)~~).

30 (3) The provisions of this chapter shall not apply in respect to
31 the use by the holder of a carrier permit issued by the Interstate
32 Commerce Commission or its successor agency of any motor vehicle or
33 trailer whether owned by or leased with or without driver to the permit
34 holder and used in substantial part in the normal and ordinary course
35 of the user's business for transporting therein persons or property for
36 hire across the boundaries of this state; and in respect to the use of
37 any motor vehicle or trailer while being operated under the authority
38 of a one-transit permit issued by the director of licensing pursuant to

1 RCW 46.16.160 and moving upon the highways from the point of delivery
2 in this state to a point outside this state; and in respect to the use
3 of tangible personal property which becomes a component part of any
4 motor vehicle or trailer used by the holder of a carrier permit issued
5 by the Interstate Commerce Commission or its successor agency
6 authorizing transportation by motor vehicle across the boundaries of
7 this state whether such motor vehicle or trailer is owned by or leased
8 with or without driver to the permit holder, in the course of
9 repairing, cleaning, altering, or improving the same; also the use of
10 labor and services rendered in respect to such repairing, cleaning,
11 altering, or improving.

12 **Sec. 4.** RCW 82.12.0255 and 1980 c 37 s 55 are each amended to read
13 as follows:

14 The provisions of this chapter shall not apply in respect to the
15 use of any article of tangible personal property or service which the
16 state is prohibited from taxing under the Constitution of the state or
17 under the Constitution or laws of the United States.

18 **Sec. 5.** RCW 82.12.02565 and 1999 c 211 s 6 are each amended to
19 read as follows:

20 The provisions of this chapter shall not apply in respect to the
21 use by a manufacturer or processor for hire of machinery and equipment
22 used directly in a manufacturing operation or research and development
23 operation ~~((or))~~, to the use by a person engaged in testing for a
24 manufacturer or processor for hire of machinery and equipment used
25 directly in a testing operation, or to the use of labor and services
26 rendered in respect to installing, repairing, cleaning, altering, or
27 improving the machinery and equipment.

28 **Sec. 6.** RCW 82.12.02567 and 2001 c 213 s 2 are each amended to
29 read as follows:

30 (1) The provisions of this chapter shall not apply with respect to
31 machinery and equipment used directly in generating not less than two
32 hundred watts of electricity using wind, sun, or landfill gas as the
33 principal source of power, or to the use of labor and services rendered
34 in respect to installing such machinery and equipment.

35 (2) The definitions in RCW 82.08.02567 apply to this section.

1 (3) This section expires June 30, 2009.

2 **Sec. 7.** RCW 82.12.0259 and 1980 c 37 s 59 are each amended to read
3 as follows:

4 The provisions of this chapter shall not apply in respect to the
5 use of tangible personal property or the use of services defined in RCW
6 82.04.050(2)(a) by corporations which have been incorporated under any
7 act of the congress of the United States and whose principal purposes
8 are to furnish volunteer aid to members of the armed forces of the
9 United States and also to carry on a system of national and
10 international relief and to apply the same in mitigating the sufferings
11 caused by pestilence, famine, fire, flood, and other national
12 calamities and to devise and carry on measures for preventing the same.

13 **Sec. 8.** RCW 82.12.0277 and 2001 c 75 s 2 are each amended to read
14 as follows:

15 The provisions of this chapter shall not apply in respect to the
16 use of insulin; prosthetic devices and the components thereof; dental
17 appliances, devices, restorations, and substitutes, and the components
18 thereof, including but not limited to full and partial dentures,
19 crowns, inlays, fillings, braces, and retainers; orthotic devices
20 prescribed for an individual by a person licensed under chapters 18.22,
21 18.25, 18.57, or 18.71 RCW; hearing instruments dispensed or fitted by
22 a person licensed or certified under chapter 18.35 RCW, and the
23 components thereof; medicines of mineral, animal, and botanical origin
24 prescribed, administered, dispensed, or used in the treatment of an
25 individual by a person licensed under chapter 18.36A RCW; ostomic
26 items; and medically prescribed oxygen, including, but not limited to,
27 oxygen concentrator systems, oxygen enricher systems, liquid oxygen
28 systems, and gaseous, bottled oxygen systems prescribed for an
29 individual by a person licensed under chapter 18.57 or 18.71 RCW for
30 use in the medical treatment of that individual. In addition, the
31 provisions of this chapter shall not apply in respect to the use of
32 labor and services rendered in respect to the repairing, cleaning,
33 altering, or improving of any of the items exempted under this section.

34 **Sec. 9.** RCW 82.12.0279 and 1980 c 37 s 77 are each amended to read
35 as follows:

1 The provisions of this chapter shall not apply in respect to the
2 use of ferry vessels of the state of Washington or of local
3 governmental units in the state of Washington in transporting
4 pedestrian or vehicular traffic within and outside the territorial
5 waters of the state (~~and~~), in respect to the use of tangible personal
6 property which becomes a component part of any such ferry vessel, and
7 in respect to the use of labor and services rendered in respect to
8 improving such ferry vessels.

9 **Sec. 10.** RCW 82.12.0315 and 1995 2nd sp.s. c 5 s 2 are each
10 amended to read as follows:

11 (1) The provisions of this chapter shall not apply in respect to
12 the use of:

13 (a) Production equipment rented to a motion picture or video
14 production business;

15 (b) Production equipment acquired and used by a motion picture or
16 video production business in another state, if the acquisition and use
17 occurred more than ninety days before the time the motion picture or
18 video production business entered this state; and

19 (c) Production services that are within the scope of RCW
20 82.04.050(2)(a) and are sold to a motion picture or video production
21 business.

22 (2) As used in this section, "production equipment," "production
23 services," and "motion picture or video production business" have the
24 meanings given in RCW 82.08.0315.

25 (3) The exemption provided for in this section shall not apply to
26 the use of production equipment rented to, or production equipment or
27 production services that are within the scope of RCW 82.04.050(2)(a)
28 acquired and used by, a motion picture or video production business
29 that is engaged, to any degree, in the production of erotic material,
30 as defined in RCW 9.68.050.

31 **Sec. 11.** RCW 82.12.02595 and 1998 c 182 s 1 are each amended to
32 read as follows:

33 (1) This chapter does not apply to the use by a nonprofit
34 charitable organization or state or local governmental entity of any
35 item of tangible personal property that has been donated to the
36 nonprofit charitable organization or state or local governmental

1 entity, or to the subsequent use of the property by a person to whom
2 the property is donated or bailed in furtherance of the purpose for
3 which the property was originally donated.

4 (2) This chapter does not apply to the donation of tangible
5 personal property without intervening use to a nonprofit charitable
6 organization, or to the incorporation of tangible personal property
7 without intervening use into real or personal property of or for a
8 nonprofit charitable organization in the course of installing,
9 repairing, cleaning, altering, imprinting, improving, constructing, or
10 decorating the real or personal property for no charge.

11 (3) This chapter does not apply to the use by a nonprofit
12 charitable organization of labor and services rendered in respect to
13 installing, repairing, cleaning, altering, imprinting, or improving
14 personal property provided to the charitable organization at no charge,
15 or to the donation of such services.

16 **Sec. 12.** RCW 82.12.810 and 1997 c 368 s 3 are each amended to read
17 as follows:

18 (1) For the purposes of this section, "air pollution control
19 facilities" mean any treatment works, control devices and disposal
20 systems, machinery, equipment, structures, property, property
21 improvements, and accessories, that are installed or acquired for the
22 primary purpose of reducing, controlling, or disposing of industrial
23 waste that, if released to the outdoor atmosphere, could cause air
24 pollution, or that are required to meet regulatory requirements
25 applicable to their construction, installation, or operation.

26 (2) The provisions of this chapter do not apply in respect to:

27 (a) The use of air pollution control facilities installed and used
28 by a light and power business, as defined in RCW 82.16.010, in
29 generating electric power; or

30 (b) The use of labor and services performed in respect to the
31 installing of air pollution control facilities.

32 (3) The exemption provided under this section applies only to air
33 pollution control facilities that are:

34 (a) Constructed or installed after May 15, 1997, and used in a
35 thermal electric generation facility placed in operation after December
36 31, 1969, and before July 1, 1975; and

1 (b) Constructed or installed to meet applicable regulatory
2 requirements established under state or federal law, including the
3 Washington clean air act, chapter 70.94 RCW.

4 (4) This section does not apply to the use of tangible personal
5 property for maintenance or repairs of the pollution control equipment
6 or to labor and services performed in respect to such maintenance or
7 repairs.

8 (5) If production of electricity at a thermal electric generation
9 facility for any calendar year after 2002 and before 2023 falls below
10 a twenty percent annual capacity factor for the generation facility,
11 all or a portion of the tax previously exempted under this section in
12 respect to construction or installation of air pollution control
13 facilities at the generation facility shall be due according to the
14 schedule provided in RCW 82.08.810(5).

15 (6) RCW 82.32.393 applies to this section.

16 **Sec. 13.** RCW 82.12.820 and 2000 c 103 s 9 are each amended to read
17 as follows:

18 (1) Wholesalers or third-party warehouse owners who own or operate
19 warehouses or grain elevators, and retailers who own or operate
20 distribution centers, and who have paid the tax levied under RCW
21 82.12.020 on:

22 (a) Material-handling equipment and racking equipment and labor and
23 services rendered in respect to installing, repairing, cleaning,
24 altering, or improving the equipment; or

25 (b) Materials incorporated in the construction of a warehouse or
26 grain elevator, are eligible for an exemption on tax paid in the form
27 of a remittance or credit against tax owed. The amount of the
28 remittance or credit is computed under subsection (2) of this section
29 and is based on the state share of use tax.

30 (2)(a) A person claiming an exemption from state tax in the form of
31 a remittance under this section must pay the tax imposed by RCW
32 82.12.020 to the department. The person may then apply to the
33 department for remittance of all or part of the tax paid under RCW
34 82.12.020. For grain elevators with bushel capacity of one million but
35 less than two million, the remittance is equal to fifty percent of the
36 amount of tax paid. For warehouses with square footage of two hundred
37 thousand and for grain elevators with bushel capacity of two million or

1 more, the remittance is equal to one hundred percent of the amount of
2 tax paid for qualifying construction materials, and fifty percent of
3 the amount of tax paid for qualifying material-handling equipment and
4 racking equipment.

5 (b) The department shall determine eligibility under this section
6 based on information provided by the buyer and through audit and other
7 administrative records. The buyer shall on a quarterly basis submit an
8 information sheet, in a form and manner as required by the department
9 by rule, specifying the amount of exempted tax claimed and the
10 qualifying purchases or acquisitions for which the exemption is
11 claimed. The buyer shall retain, in adequate detail to enable the
12 department to determine whether the equipment or construction meets the
13 criteria under this section: Invoices; proof of tax paid; documents
14 describing the material-handling equipment and racking equipment;
15 location and size of warehouses, if applicable; and construction
16 invoices and documents.

17 (c) The department shall on a quarterly basis remit or credit
18 exempted amounts to qualifying persons who submitted applications
19 during the previous quarter.

20 (3) Warehouse, grain elevators, and material-handling equipment and
21 racking equipment for which an exemption, credit, or deferral has been
22 or is being received under chapter 82.60, 82.61, 82.62, or 82.63 RCW or
23 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance
24 under this section. Materials incorporated in warehouses and grain
25 elevators upon which construction was initiated prior to May 20, 1997,
26 are not eligible for a remittance under this section.

27 (4) The lessor or owner of the warehouse or grain elevator is not
28 eligible for a remittance or credit under this section unless the
29 underlying ownership of the warehouse or grain elevator and
30 material-handling equipment and racking equipment vests exclusively in
31 the same person, or unless the lessor by written contract agrees to
32 pass the economic benefit of the exemption to the lessee in the form of
33 reduced rent payments.

34 (5) The definitions in RCW 82.08.820 apply to this section.

35 **Sec. 14.** RCW 82.12.840 and 2000 c 40 s 3 are each amended to read
36 as follows:

37 (1) The provisions of this chapter do not apply in respect to the

1 use of machinery and equipment, and to services rendered in respect to
2 installing, repairing, cleaning, altering, or improving of eligible
3 machinery and equipment, or tangible personal property that becomes an
4 ingredient or component of eligible machinery and equipment used more
5 than half of the time:

6 (a) For gathering, densifying, processing, handling, storing,
7 transporting, or incorporating straw or straw-based products that will
8 result in a reduction in field burning of cereal grains and field and
9 turf grass grown for seed; or

10 (b) To decrease air emissions resulting from field burning of
11 cereal grains and field and turf grass grown for seed.

12 (2) A person taking the exemption under this section must keep
13 records necessary for the department to verify eligibility under this
14 section.

15 (3) The department of ecology shall provide the department with the
16 information necessary for the department to administer this section.

17 (4) This section expires January 1, 2006.

18 **Sec. 15.** RCW 82.12.890 and 2001 2nd sp.s. c 18 s 3 are each
19 amended to read as follows:

20 The provisions of this chapter do not apply with respect to the use
21 by an eligible person of tangible personal property that becomes an
22 ingredient or component of dairy nutrient management equipment and
23 facilities, as defined in RCW 82.08.890, or to labor and services
24 rendered in respect to repairing, cleaning, altering, or improving
25 eligible tangible personal property. The equipment and facilities must
26 be used exclusively for activities necessary to maintain a dairy
27 management plan as required under chapter 90.64 RCW. This exemption
28 applies to the use of tangible personal property or labor and services
29 made after the dairy nutrient management plan is certified under
30 chapter 90.64 RCW. The exemption certificate and recordkeeping
31 requirements of RCW 82.08.890 apply to this section.

32 **Sec. 16.** RCW 82.12.900 and 2001 2nd sp.s. c 18 s 5 are each
33 amended to read as follows:

34 The provisions of this chapter do not apply with respect to the use
35 of anaerobic digesters (~~(or)~~), tangible personal property that becomes
36 an ingredient or component of anaerobic digesters (~~(to treat primarily~~

1 dairy manure)), or the use of services rendered in respect to
2 installing, repairing, cleaning, altering, or improving eligible
3 tangible personal property by an eligible person establishing or
4 operating an anaerobic digester, as defined in RCW 82.08.900. The
5 anaerobic digester must be used primarily to treat dairy manure.

6 NEW SECTION. Sec. 17. A new section is added to chapter 82.12 RCW
7 to read as follows:

8 The provisions of this chapter do not apply with respect to the use
9 by municipal corporations, the state, and all political subdivisions
10 thereof of tangible personal property consumed and/or of labor and
11 services as defined in RCW 82.04.050(2)(a) rendered in respect to
12 contracts for watershed protection and/or flood prevention. This
13 exemption is limited to that portion of the selling price that is
14 reimbursed by the United States government according to the provisions
15 of the watershed protection and flood prevention act (68 Stat. 666; 16
16 U.S.C. Sec. 101 et seq.).

17 **Sec. 18.** RCW 82.12.0251 and 1997 c 301 s 1 are each amended to
18 read as follows:

19 (1) The provisions of this chapter shall not apply in respect to
20 the use of any article of tangible personal property brought into the
21 state of Washington by a nonresident thereof for his or her use or
22 enjoyment while temporarily within the state of Washington unless such
23 property is used in conducting a nontransitory business activity within
24 the state of Washington; or in respect to the use by a nonresident of
25 Washington of a motor vehicle or trailer which is registered or
26 licensed under the laws of the state of his or her residence, and which
27 is not required to be registered or licensed under the laws of
28 Washington, including motor vehicles or trailers exempt pursuant to a
29 declaration issued by the department of licensing under RCW 46.85.060;
30 or in respect to the use of household goods, personal effects, and
31 private motor vehicles, not including motor homes, by a bona fide
32 resident of Washington, or nonresident members of the armed forces who
33 are stationed in Washington pursuant to military orders, if such
34 articles were acquired and used by such person in another state while
35 a bona fide resident thereof and such acquisition and use occurred more
36 than ninety days prior to the time he or she entered Washington.

1 (2) The provisions of this chapter shall not apply to any services
2 as defined in RCW 82.04.050(2)(a) rendered with respect to any property
3 exempt under this section.

4 (3) For purposes of this section, "state" means a state of the
5 United States, any political subdivision thereof, the District of
6 Columbia, and any foreign country or political subdivision thereof.

7 NEW SECTION. Sec. 19. RCW 82.12.0252 (Exemptions--Use of tangible
8 personal property upon which tax has been paid--Use of tangible
9 personal property acquired by a previous bailee from same bailor before
10 June 9, 1961) and 1980 c 37 s 52 are each repealed.

11 NEW SECTION. Sec. 20. Sections 1 through 19 of this act apply
12 retroactively to June 1, 2002.

13 NEW SECTION. Sec. 21. This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 immediately.

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