

CERTIFICATION OF ENROLLMENT

SENATE BILL 5725

58th Legislature
2003 Regular Session

Passed by the Senate April 27, 2003
YEAS 40 NAYS 8

President of the Senate

Passed by the House April 27, 2003
YEAS 94 NAYS 4

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SENATE BILL 5725 as passed by the
Senate and the House of
Representatives on the dates
hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5725

AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Senators Zarelli, T. Sheldon, Carlson, Reardon, Benton, Hewitt, Winsley, Hale, Sheahan, Honeyford, Finkbeiner, Johnson and West

Read first time 02/07/2003. Referred to Committee on Economic Development.

1 AN ACT Relating to providing tax incentives to support the
2 semiconductor cluster in Washington state; amending RCW 82.04.240 and
3 82.04.280; adding new sections to chapter 82.04 RCW; adding new
4 sections to chapter 82.08 RCW; adding new sections to chapter 82.12
5 RCW; adding a new section to chapter 84.36 RCW; adding a new section to
6 chapter 82.32 RCW; creating new sections; providing a contingent
7 effective date; and providing expiration dates.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that the welfare of
10 the people of the state of Washington is positively impacted through
11 the encouragement and expansion of family wage employment in the
12 state's manufacturing industries. The legislature further finds that
13 targeting tax incentives to focus on key industry clusters is an
14 important business climate strategy. The Washington competitiveness
15 council has recognized the semiconductor industry, which includes the
16 design and manufacture of semiconductor materials, as one of the
17 state's existing key industry clusters. Businesses in this cluster in
18 the state of Washington are facing increasing pressure to expand
19 elsewhere. The sales and use tax exemptions for manufacturing

1 machinery and equipment enacted by the 1995 legislature improved
2 Washington's ability to compete with other states for manufacturing
3 investment. However, additional incentives for the semiconductor
4 cluster need to be put in place in recognition of the unique forces and
5 global issues involved in business decisions that key businesses in
6 this cluster face.

7 Therefore, the legislature intends to enact comprehensive tax
8 incentives for the semiconductor cluster that address activities of the
9 lead product industry and its suppliers and customers. Tax incentives
10 for the semiconductor cluster are important in both retention and
11 expansion of existing business and attraction of new businesses, all of
12 which will strengthen this cluster. The legislature also recognizes
13 that the semiconductor industry involves major investment that results
14 in significant construction projects, which will create jobs and bring
15 many indirect benefits to the state during the construction phase.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW
17 to read as follows:

18 (1) The tax imposed by RCW 82.04.240(2) does not apply to any
19 person in respect to the manufacturing of semiconductor microchips.

20 (2) For the purposes of this section:

21 (a) "Manufacturing semiconductor microchips" means taking raw
22 polished semiconductor wafers and embedding integrated circuits on the
23 wafers using processes such as masking, etching, and diffusion; and

24 (b) "Integrated circuit" means a set of microminiaturized,
25 electronic circuits.

26 (3) This section expires nine years after the effective date of
27 this act.

28 **Sec. 3.** RCW 82.04.240 and 1998 c 312 s 3 are each amended to read
29 as follows:

30 (1) Upon every person ((~~except persons taxable under RCW 82.04.260~~
31 ~~(1), (2), (4), (5), or (6))~~ engaging within this state in business as
32 a manufacturer, ~~except persons taxable as manufacturers under other~~
33 provisions of this chapter; as to such persons the amount of the tax
34 with respect to such business shall be equal to the value of the
35 products, including byproducts, manufactured, multiplied by the rate of
36 0.484 percent.

1 (2) Upon every person engaging within this state in the business of
2 manufacturing semiconductor materials, as to such persons the amount of
3 tax with respect to such business shall, in the case of manufacturers,
4 be equal to the value of the product manufactured, or, in the case of
5 processors for hire, be equal to the gross income of the business,
6 multiplied by the rate of 0.275 percent. For the purposes of this
7 subsection "semiconductor materials" means silicon crystals, silicon
8 ingots, raw polished semiconductor wafers, compound semiconductors,
9 integrated circuits, and microchips. This subsection (2) expires
10 twelve years after the effective date of this act.

11 (3) The measure of the tax is the value of the products, including
12 byproducts, so manufactured regardless of the place of sale or the fact
13 that deliveries may be made to points outside the state.

14 **Sec. 4.** RCW 82.04.280 and 1998 c 343 s 3 are each amended to read
15 as follows:

16 Upon every person engaging within this state in the business of:
17 (1) Printing, and of publishing newspapers, periodicals, or magazines;
18 (2) building, repairing or improving any street, place, road, highway,
19 easement, right of way, mass public transportation terminal or parking
20 facility, bridge, tunnel, or trestle which is owned by a municipal
21 corporation or political subdivision of the state or by the United
22 States and which is used or to be used, primarily for foot or vehicular
23 traffic including mass transportation vehicles of any kind and
24 including any readjustment, reconstruction or relocation of the
25 facilities of any public, private or cooperatively owned utility or
26 railroad in the course of such building, repairing or improving, the
27 cost of which readjustment, reconstruction, or relocation, is the
28 responsibility of the public authority whose street, place, road,
29 highway, easement, right of way, mass public transportation terminal or
30 parking facility, bridge, tunnel, or trestle is being built, repaired
31 or improved; (3) extracting for hire or processing for hire, except
32 persons taxable as processors for hire under another section of this
33 chapter; (4) operating a cold storage warehouse or storage warehouse,
34 but not including the rental of cold storage lockers; (5) representing
35 and performing services for fire or casualty insurance companies as an
36 independent resident managing general agent licensed under the
37 provisions of RCW 48.05.310; (6) radio and television broadcasting,

1 excluding network, national and regional advertising computed as a
2 standard deduction based on the national average thereof as annually
3 reported by the Federal Communications Commission, or in lieu thereof
4 by itemization by the individual broadcasting station, and excluding
5 that portion of revenue represented by the out-of-state audience
6 computed as a ratio to the station's total audience as measured by the
7 100 micro-volt signal strength and delivery by wire, if any; (7)
8 engaging in activities which bring a person within the definition of
9 consumer contained in RCW 82.04.190(6); as to such persons, the amount
10 of tax on such business shall be equal to the gross income of the
11 business multiplied by the rate of 0.484 percent.

12 As used in this section, "cold storage warehouse" means a storage
13 warehouse used to store fresh and/or frozen perishable fruits or
14 vegetables, meat, seafood, dairy products, or fowl, or any combination
15 thereof, at a desired temperature to maintain the quality of the
16 product for orderly marketing.

17 As used in this section, "storage warehouse" means a building or
18 structure, or any part thereof, in which goods, wares, or merchandise
19 are received for storage for compensation, except field warehouses,
20 fruit warehouses, fruit packing plants, warehouses licensed under
21 chapter 22.09 RCW, public garages storing automobiles, railroad freight
22 sheds, docks and wharves, and "self-storage" or "mini storage"
23 facilities whereby customers have direct access to individual storage
24 areas by separate entrance. "Storage warehouse" does not include a
25 building or structure, or that part of such building or structure, in
26 which an activity taxable under RCW 82.04.272 is conducted.

27 As used in this section, "periodical or magazine" means a printed
28 publication, other than a newspaper, issued regularly at stated
29 intervals at least once every three months, including any supplement or
30 special edition of the publication.

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

33 (1) The tax levied by RCW 82.08.020 shall not apply to charges made
34 for labor and services rendered in respect to the constructing of new
35 buildings used for the manufacturing of semiconductor materials, to
36 sales of tangible personal property that will be incorporated as an
37 ingredient or component of such buildings during the course of the

1 constructing, or to labor and services rendered in respect to
2 installing, during the course of constructing, building fixtures not
3 otherwise eligible for the exemption under RCW 82.08.02565(2)(b). The
4 exemption is available only when the buyer provides the seller with an
5 exemption certificate in a form and manner prescribed by the
6 department. The seller shall retain a copy of the certificate for the
7 seller's files.

8 (2) To be eligible under this section the manufacturer or processor
9 for hire must meet the following requirements for an eight-year period,
10 such period beginning the day the new building commences commercial
11 production, or a portion of tax otherwise due shall be immediately due
12 and payable pursuant to subsection (3) of this section:

13 (a) The manufacturer or processor for hire must maintain at least
14 seventy-five percent of full employment at the new building for which
15 the exemption under this section is claimed.

16 (b) Before commencing commercial production at a new facility the
17 manufacturer or processor for hire must meet with the department to
18 review projected employment levels in the new buildings. The
19 department, using information provided by the taxpayer, shall make a
20 determination of the number of positions that would be filled at full
21 employment. This number shall be used throughout the eight-year period
22 to determine whether any tax is to be repaid. This information is not
23 subject to the confidentiality provisions of RCW 82.32.330 and may be
24 disclosed to the public upon request.

25 (c) In those situations where a production building in existence on
26 the effective date of this section will be phased out of operation
27 during which time employment at the new building at the same site is
28 increased, the manufacturer or processor for hire shall maintain
29 seventy-five percent of full employment at the manufacturing site
30 overall.

31 (d) No application is necessary for the tax exemption. The person
32 is subject to all the requirements of chapter 82.32 RCW. A person
33 taking the exemption under this section must report as required under
34 section 11 of this act.

35 (3) If the employment requirement is not met for any one calendar
36 year, one-eighth of the exempt sales and use taxes shall be due and
37 payable by April 1st of the following year. The department shall

1 assess interest to the date the tax was imposed, but not penalties, on
2 the taxes for which the person is not eligible.

3 (4) The exemption applies to new buildings, or parts of buildings,
4 that are used exclusively in the manufacturing of semiconductor
5 materials, including the storage of raw materials and finished product.

6 (5) For the purposes of this section:

7 (a) "Commencement of commercial production" is deemed to have
8 occurred when the equipment and process qualifications in the new
9 building are completed and production for sale has begun; and

10 (b) "Full employment" is the number of positions required for full
11 capacity production at the new building, for positions such as line
12 workers, engineers, and technicians.

13 (c) "Semiconductor materials" has the same meaning as provided in
14 RCW 82.04.240(2).

15 (6) No exemption may be taken after twelve years after the
16 effective date of this act, however all of the eligibility criteria and
17 limitations are applicable to any exemptions claimed before that date.

18 (7) This section expires twelve years after the effective date of
19 this act.

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

22 (1) The provisions of this chapter do not apply with respect to the
23 use of tangible personal property that will be incorporated as an
24 ingredient or component of new buildings used for the manufacturing of
25 semiconductor materials during the course of constructing such
26 buildings or to labor and services rendered in respect to installing,
27 during the course of constructing, building fixtures not otherwise
28 eligible for the exemption under RCW 82.08.02565(2)(b).

29 (2) The eligibility requirements, conditions, and definitions in
30 section 5 of this act apply to this section.

31 (3) No exemption may be taken twelve years after the effective date
32 of this act, however all of the eligibility criteria and limitations
33 are applicable to any exemptions claimed before that date.

34 (4) This section expires twelve years after the effective date of
35 this act.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 82.08 RCW
2 to read as follows:

3 (1) The tax levied by RCW 82.08.020 shall not apply to sales of
4 gases and chemicals used by a manufacturer or processor for hire in the
5 manufacturing of semiconductor materials. This exemption is limited to
6 gases and chemicals used in the manufacturing process to grow the
7 product, deposit or grow permanent or sacrificial layers on the
8 product, to etch or remove material from the product, to anneal the
9 product, to immerse the product, to clean the product, and other such
10 uses whereby the gases and chemicals come into direct contact with the
11 product during the manufacturing process, or uses of gases and
12 chemicals to clean the chambers and other like equipment in which such
13 processing takes place. For the purposes of this section,
14 "semiconductor materials" has the same meaning as provided in RCW
15 82.04.240(2).

16 (2) A person taking the exemption under this section must report
17 under section 11 of this act. No application is necessary for the tax
18 exemption. The person is subject to all of the requirements of chapter
19 82.32 RCW.

20 (3) This section expires twelve years after the effective date of
21 this act.

22 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.12 RCW
23 to read as follows:

24 (1) The provisions of this chapter do not apply with respect to the
25 use of gases and chemicals used by a manufacturer or processor for hire
26 in the manufacturing of semiconductor materials. This exemption is
27 limited to gases and chemicals used in the manufacturing process to
28 grow the product, deposit or grow permanent or sacrificial layers on
29 the product, to etch or remove material from the product, to anneal the
30 product, to immerse the product, to clean the product, and other such
31 uses whereby the gases and chemicals come into direct contact with the
32 product during the manufacturing process, or uses of gases and
33 chemicals to clean the chambers and other like equipment in which such
34 processing takes place. For purposes of this section, "semiconductor
35 materials" has the same meaning as provided in RCW 82.04.240(2).

36 (2) A person taking the exemption under this section must report

1 under section 11 of this act. No application is necessary for the tax
2 exemption. The person is subject to all of the requirements of chapter
3 82.32 RCW.

4 (3) This section expires twelve years after the effective date of
5 this act.

6 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04 RCW
7 to read as follows:

8 (1) Subject to the limits and provisions of this section, a credit
9 is authorized against the tax otherwise due under RCW 82.04.240(2) for
10 persons engaged in the business of manufacturing semiconductor
11 materials. For the purposes of this section "semiconductor materials"
12 has the same meaning as provided in RCW 82.04.240(2).

13 (2)(a) The credit under this section shall equal three thousand
14 dollars for each employment position used in manufacturing production
15 that takes place in a new building exempt from sales and use tax under
16 sections 5 and 6 of this act. A credit is earned for the calendar year
17 a person fills a position. Additionally a credit is earned for each
18 year the position is maintained over the subsequent consecutive years,
19 up to eight years. Those positions that are not filled for the entire
20 year are eligible for fifty percent of the credit if filled less than
21 six months, and the entire credit if filled more than six months.

22 (b) To qualify for the credit, the manufacturing activity of the
23 person must be conducted at a new building that qualifies for the
24 exemption from sales and use tax under sections 5 and 6 of this act.

25 (c) In those situations where a production building in existence on
26 the effective date of this section will be phased out of operation,
27 during which time employment at the new building at the same site is
28 increased, the person is eligible for credit for employment at the
29 existing building and new building, with the limitation that the
30 combined eligible employment not exceed full employment at the new
31 building. "Full employment" has the same meaning as in section 5 of
32 this act. The credit may not be earned until the commencement of
33 commercial production, as that term is used in section 5 of this act.

34 (3) No application is necessary for the tax credit. The person is
35 subject to all of the requirements of chapter 82.32 RCW. In no case
36 may a credit earned during one calendar year be carried over to be

1 credited against taxes incurred in a subsequent calendar year. No
2 refunds may be granted for credits under this section.

3 (4) If at any time the department finds that a person is not
4 eligible for tax credit under this section, the amount of taxes for
5 which a credit has been claimed shall be immediately due. The
6 department shall assess interest, but not penalties, on the taxes for
7 which the person is not eligible. The interest shall be assessed at
8 the rate provided for delinquent excise taxes under chapter 82.32 RCW,
9 shall be retroactive to the date the tax credit was taken, and shall
10 accrue until the taxes for which a credit has been used are repaid.

11 (5) A person taking the credit under this section must report under
12 section 11 of this act.

13 (6) Credits may be taken after twelve years after the effective
14 date of this act, for those buildings at which commercial production
15 began before twelve years after the effective date of this act, subject
16 to all of the eligibility criteria and limitations of this section.

17 (7) This section expires twelve years after the effective date of
18 this act.

19 NEW SECTION. **Sec. 10.** A new section is added to chapter 84.36 RCW
20 to read as follows:

21 (1) Machinery and equipment exempt under RCW 82.08.02565 or
22 82.12.02565 used in manufacturing semiconductor materials at a building
23 exempt from sales and use tax and in compliance with the employment
24 requirement under sections 5 and 6 of this act are tax exempt from
25 taxation. "Semiconductor materials" has the same meaning as provided
26 in RCW 82.04.240(2).

27 (2) A person seeking this exemption must make application to the
28 county assessor, on forms prescribed by the department.

29 (3) A person receiving an exemption under this section must report
30 in the manner prescribed in section 11 of this act.

31 (4) This section is effective for taxes levied for collection one
32 year after the effective date of this act and thereafter.

33 (5) This section expires December 31st of the year occurring twelve
34 years after the effective date of this act, for taxes levied for
35 collection in the following year.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.32 RCW
2 to read as follows:

3 (1) The legislature finds that accountability and effectiveness are
4 important aspects of setting tax policy. In order to make policy
5 choices regarding the best use of limited state resources the
6 legislature needs information on how a tax incentive is used.

7 (2)(a) A person who reports taxes under RCW 82.04.240(2) or who
8 claims an exemption or credit under section 2 or 5 through 10 of this
9 act, shall make an annual report to the department detailing
10 employment, wages, and employer-provided health and retirement benefits
11 per job at the manufacturing site. The report shall not include names
12 of employees. The report shall also detail employment by the total
13 number of full-time, part-time, and temporary positions. The first
14 report filed under this subsection shall include employment, wage, and
15 benefit information for the twelve-month period immediately before
16 first use of a preferential tax rate under RCW 82.04.240(2), or tax
17 exemption or credit under section 2 or 5 through 10 of this act. The
18 report is due by March 31st following any year in which a preferential
19 tax rate under RCW 82.04.240(2) is used, or tax exemption or credit
20 under section 2 or 5 through 10 of this act is taken. This information
21 is not subject to the confidentiality provisions of RCW 82.32.330 and
22 may be disclosed to the public upon request.

23 (b) If a person fails to submit an annual report under (a) of this
24 subsection the department shall declare the amount of taxes exempted or
25 credited for that year to be immediately due and payable. Excise taxes
26 payable under this subsection are subject to interest, as provided
27 under this chapter. This information is not subject to the
28 confidentiality provisions of RCW 82.32.330 and may be disclosed to the
29 public upon request.

30 (3) By November 1st of the year occurring five years after the
31 effective date of this act, and November 1st of the year occurring
32 eleven years after the effective date of this act, the fiscal
33 committees of the house of representatives and the senate, in
34 consultation with the department, shall report to the legislature on
35 the effectiveness of chapter . . . , Laws of 2003 (this act) in regard
36 to keeping Washington competitive. The report shall measure the effect
37 of chapter . . . , Laws of 2003 (this act) on job retention, net jobs
38 created for Washington residents, company growth, diversification of

1 the state's economy, cluster dynamics, and other factors as the
2 committees select. The reports shall include a discussion of
3 principles to apply in evaluating whether the legislature should
4 reenact any or all of the tax preferences in chapter . . ., Laws of
5 2003 (this act).

6 NEW SECTION. **Sec. 12.** (1)(a) This act is contingent upon the
7 siting and commercial operation of a significant semiconductor
8 microchip fabrication facility in the state of Washington.

9 (b) For the purposes of this section:

10 (i) "Commercial operation" means the same as "commencement of
11 commercial production" as used in section 5 of this act.

12 (ii) "Semiconductor microchip fabrication" means "manufacturing
13 semiconductor microchips" as defined in section 2 of this act.

14 (iii) "Significant" means the combined investment of new buildings
15 and new machinery and equipment in the buildings, at the commencement
16 of commercial production, will be at least one billion dollars.

17 (2) This act takes effect the first day of the month in which a
18 contract for the construction of a significant semiconductor
19 fabrication facility is signed, as determined by the director of the
20 department of revenue.

21 (3)(a) The department of revenue shall provide notice of the
22 effective date of this act to affected taxpayers, the legislature, and
23 others as deemed appropriate by the department.

24 (b) If, after making a determination that a contract has been
25 signed and this act is effective, the department discovers that
26 commencement of commercial production did not take place within three
27 years of the date the contract was signed, the department shall make a
28 determination that this act is no longer effective, and all taxes that
29 would have been otherwise due shall be deemed deferred taxes and are
30 immediately assessed and payable from any person reporting tax under
31 RCW 82.04.240(2) or claiming an exemption or credit under section 2 or
32 5 through 10 of this act. The department is not authorized to make a
33 second determination regarding the effective date of this act.

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