

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 6304

58th Legislature
2004 Regular Session

Passed by the Senate March 8, 2004
YEAS 47 NAYS 0

President of the Senate

Passed by the House March 5, 2004
YEAS 91 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
SECOND SUBSTITUTE SENATE BILL 6304
as passed by the Senate and the
House of Representatives on the
dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 6304

AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

State of Washington **58th Legislature** **2004 Regular Session**

By Senate Committee on Ways & Means (originally sponsored by Senators Brandland, Parlette, Spanel, Morton, Doumit, T. Sheldon and Rasmussen)

READ FIRST TIME 02/25/04.

1 AN ACT Relating to tax relief for aluminum smelters; amending RCW
2 82.04.240, 82.04.270, 82.04.280, 82.04.440, and 82.12.022; adding new
3 sections to chapter 82.04 RCW; adding a new section to chapter 82.08
4 RCW; adding a new section to chapter 82.12 RCW; adding a new section to
5 chapter 82.16 RCW; adding a new section to chapter 82.32 RCW; creating
6 a new section; providing an effective date; and providing an expiration
7 date.

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

9 NEW SECTION. **Sec. 1.** The legislature recognizes that the loss of
10 domestic manufacturing jobs has become a national concern. Washington
11 state has lost one out of every six manufacturing jobs since July 2000.
12 The aluminum industry has long been an important component of
13 Washington state's manufacturing base, providing family-wage jobs often
14 in rural communities where unemployment rates are very high. The
15 aluminum industry is electricity intensive and was greatly affected by
16 the dramatic increase in electricity prices which began in 2000 and
17 which continues to affect the Washington economy. Before the energy
18 crisis, aluminum smelters provided about 5,000 direct jobs. Today they
19 provide fewer than 1,000 direct jobs. For every job lost in that

1 industry, almost three additional jobs are estimated to be lost
2 elsewhere in the state's economy. It is the legislature's intent to
3 preserve and restore family wage jobs by providing tax relief to the
4 state's aluminum industry.

5 The electric loads of aluminum smelters provide a unique benefit to
6 the infrastructure of the electric power system. Under the
7 transmission tariff of the Bonneville Power Administration, aluminum
8 smelter loads, whether served with federal or nonfederal power, are
9 subject to short-term interruptions that allow a higher import
10 capability on the transmission interconnection between the northwest
11 and California. These stability reserves allow more power to be
12 imported in winter months, reducing the need for additional generation
13 in the northwest, and would be used to prevent a widespread
14 transmission collapse and blackout if there were a failure in the
15 transmission interconnection between California and the northwest. It
16 is the legislature's intent to retain these benefits for the people of
17 the state.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW,
19 to be codified between RCW 82.04.020 and 82.04.220, to read as follows:

20 (1) "Direct service industrial customer" means the same as in RCW
21 82.16.0495.

22 (2) "Aluminum smelter" means the manufacturing facility of any
23 direct service industrial customer that processes alumina into
24 aluminum.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04 RCW
26 to read as follows:

27 (1) Upon every person who is an aluminum smelter engaging within
28 this state in the business of manufacturing aluminum; as to such
29 persons the amount of tax with respect to such business shall, in the
30 case of manufacturers, be equal to the value of the product
31 manufactured, or in the case of processors for hire, be equal to the
32 gross income of the business, multiplied by the rate of .2904 percent.

33 (2) Upon every person who is an aluminum smelter engaging within
34 this state in the business of making sales at wholesale of aluminum
35 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 aluminum multiplied by the rate of .2904 percent.

3 (3) This section expires January 1, 2007.

4 **Sec. 4.** RCW 82.04.240 and 1998 c 312 s 3 are each amended to read
5 as follows:

6 Upon every person (~~((except persons taxable under RCW 82.04.260 (1),~~
7 ~~(2), (4), (5), or (6)))~~) engaging within this state in business as a
8 manufacturer, except persons taxable as manufacturers under other
9 provisions of this chapter; as to such persons the amount of the tax
10 with respect to such business shall be equal to the value of the
11 products, including byproducts, manufactured, multiplied by the rate of
12 0.484 percent.

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

16 **Sec. 5.** RCW 82.04.270 and 2003 2nd sp.s. c 1 s 5 are each amended
17 to read as follows:

18 Upon every person (~~((except persons taxable under RCW 82.04.260 (5)~~
19 ~~or (13), 82.04.298, or 82.04.272))~~) engaging within this state in the
20 business of making sales at wholesale, except persons taxable as
21 wholesalers under other provisions of this chapter; as to such persons
22 the amount of tax with respect to such business shall be equal to the
23 gross proceeds of sales of such business multiplied by the rate of
24 0.484 percent.

25 **Sec. 6.** RCW 82.04.280 and 1998 c 343 s 3 are each amended to read
26 as follows:

27 Upon every person engaging within this state in the business of:
28 (1) Printing, and of publishing newspapers, periodicals, or magazines;
29 (2) building, repairing or improving any street, place, road, highway,
30 easement, right of way, mass public transportation terminal or parking
31 facility, bridge, tunnel, or trestle which is owned by a municipal
32 corporation or political subdivision of the state or by the United
33 States and which is used or to be used, primarily for foot or vehicular
34 traffic including mass transportation vehicles of any kind and
35 including any readjustment, reconstruction or relocation of the

1 facilities of any public, private or cooperatively owned utility or
2 railroad in the course of such building, repairing or improving, the
3 cost of which readjustment, reconstruction, or relocation, is the
4 responsibility of the public authority whose street, place, road,
5 highway, easement, right of way, mass public transportation terminal or
6 parking facility, bridge, tunnel, or trestle is being built, repaired
7 or improved; (3) extracting for hire or processing for hire, except
8 persons taxable as processors for hire under another section of this
9 chapter; (4) operating a cold storage warehouse or storage warehouse,
10 but not including the rental of cold storage lockers; (5) representing
11 and performing services for fire or casualty insurance companies as an
12 independent resident managing general agent licensed under the
13 provisions of RCW 48.05.310; (6) radio and television broadcasting,
14 excluding network, national and regional advertising computed as a
15 standard deduction based on the national average thereof as annually
16 reported by the Federal Communications Commission, or in lieu thereof
17 by itemization by the individual broadcasting station, and excluding
18 that portion of revenue represented by the out-of-state audience
19 computed as a ratio to the station's total audience as measured by the
20 100 micro-volt signal strength and delivery by wire, if any; (7)
21 engaging in activities which bring a person within the definition of
22 consumer contained in RCW 82.04.190(6); as to such persons, the amount
23 of tax on such business shall be equal to the gross income of the
24 business multiplied by the rate of 0.484 percent.

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

30 As used in this section, "storage warehouse" means a building or
31 structure, or any part thereof, in which goods, wares, or merchandise
32 are received for storage for compensation, except field warehouses,
33 fruit warehouses, fruit packing plants, warehouses licensed under
34 chapter 22.09 RCW, public garages storing automobiles, railroad freight
35 sheds, docks and wharves, and "self-storage" or "mini storage"
36 facilities whereby customers have direct access to individual storage
37 areas by separate entrance. "Storage warehouse" does not include a

1 building or structure, or that part of such building or structure, in
2 which an activity taxable under RCW 82.04.272 is conducted.

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

7 **Sec. 7.** RCW 82.04.440 and 2003 2nd sp.s. c 1 s 6 are each amended
8 to read as follows:

9 (1) Every person engaged in activities which are within the purview
10 of the provisions of two or more of sections RCW 82.04.230 to
11 82.04.290, inclusive, shall be taxable under each paragraph applicable
12 to the activities engaged in.

13 (2) Persons taxable under section 3(2) of this act, RCW 82.04.250,
14 82.04.270, or 82.04.260 (4) or (13) with respect to selling products in
15 this state shall be allowed a credit against those taxes for any (a)
16 manufacturing taxes paid with respect to the manufacturing of products
17 so sold in this state, and/or (b) extracting taxes paid with respect to
18 the extracting of products so sold in this state or ingredients of
19 products so sold in this state. Extracting taxes taken as credit under
20 subsection (3) of this section may also be taken under this subsection,
21 if otherwise allowable under this subsection. The amount of the credit
22 shall not exceed the tax liability arising under this chapter with
23 respect to the sale of those products.

24 (3) Persons taxable under RCW 82.04.240 or 82.04.260(1)(b) shall be
25 allowed a credit against those taxes for any extracting taxes paid with
26 respect to extracting the ingredients of the products so manufactured
27 in this state. The amount of the credit shall not exceed the tax
28 liability arising under this chapter with respect to the manufacturing
29 of those products.

30 (4) Persons taxable under RCW 82.04.230, 82.04.240, section 3(1) of
31 this act, or 82.04.260 (1), (2), (4), (6), or (13) with respect to
32 extracting or manufacturing products in this state shall be allowed a
33 credit against those taxes for any (i) gross receipts taxes paid to
34 another state with respect to the sales of the products so extracted or
35 manufactured in this state, (ii) manufacturing taxes paid with respect
36 to the manufacturing of products using ingredients so extracted in this
37 state, or (iii) manufacturing taxes paid with respect to manufacturing

1 activities completed in another state for products so manufactured in
2 this state. The amount of the credit shall not exceed the tax
3 liability arising under this chapter with respect to the extraction or
4 manufacturing of those products.

5 (5) For the purpose of this section:

6 (a) "Gross receipts tax" means a tax:

7 (i) Which is imposed on or measured by the gross volume of
8 business, in terms of gross receipts or in other terms, and in the
9 determination of which the deductions allowed would not constitute the
10 tax an income tax or value added tax; and

11 (ii) Which is also not, pursuant to law or custom, separately
12 stated from the sales price.

13 (b) "State" means (i) the state of Washington, (ii) a state of the
14 United States other than Washington, or any political subdivision of
15 such other state, (iii) the District of Columbia, and (iv) any foreign
16 country or political subdivision thereof.

17 (c) "Manufacturing tax" means a gross receipts tax imposed on the
18 act or privilege of engaging in business as a manufacturer, and
19 includes (i) the taxes imposed in RCW 82.04.240, section 3(1) of this
20 act, and 82.04.260 (1), (2), (4), and (13), and (ii) similar gross
21 receipts taxes paid to other states.

22 (d) "Extracting tax" means a gross receipts tax imposed on the act
23 or privilege of engaging in business as an extractor, and includes the
24 tax imposed in RCW 82.04.230 and similar gross receipts taxes paid to
25 other states.

26 (e) "Business", "manufacturer", "extractor", and other terms used
27 in this section have the meanings given in RCW 82.04.020 through
28 82.04.212, notwithstanding the use of those terms in the context of
29 describing taxes imposed by other states.

30 NEW SECTION. **Sec. 8.** A new section is added to chapter 82.04 RCW
31 to read as follows:

32 (1) In computing the tax imposed under this chapter, a credit is
33 allowed for all property taxes paid during the calendar year on
34 property owned by a direct service industrial customer and reasonably
35 necessary for the purposes of an aluminum smelter.

36 (2) A person taking the credit under this section is subject to all
37 the requirements of chapter 82.32 RCW. A credit earned during one

1 calendar year may be carried over to be credited against taxes incurred
2 in the subsequent calendar year, but may not be carried over a second
3 year. Credits carried over must be applied to tax liability before new
4 credits. No refunds may be granted for credits under this section.

5 (3) Credits may not be claimed under this section for property
6 taxes levied for collection in 2007 and thereafter.

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

9 (1) A person who is subject to tax under this chapter on gross
10 income from sales of electricity, natural gas, or manufactured gas made
11 to an aluminum smelter is eligible for an exemption from the tax in the
12 form of a credit, if the contract for sale of electricity or gas to the
13 aluminum smelter specifies that the price charged for the electricity
14 or gas will be reduced by an amount equal to the credit.

15 (2) The credit is equal to the gross income from the sale of the
16 electricity or gas to an aluminum smelter multiplied by the
17 corresponding rate in effect at the time of the sale under this
18 chapter.

19 (3) The exemption provided for in this section does not apply to
20 amounts received from the remarketing or resale of electricity
21 originally obtained by contract for the smelting process.

22 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.08 RCW
23 to read as follows:

24 (1) A person who has paid tax under RCW 82.08.020 for tangible
25 personal property used at an aluminum smelter, tangible personal
26 property that will be incorporated as an ingredient or component of
27 buildings or other structures at an aluminum smelter, or for labor and
28 services rendered with respect to such buildings, structures, or
29 tangible personal property, is eligible for an exemption from the state
30 share of the tax in the form of a credit, as provided in this section.
31 A person claiming an exemption must pay the tax and may then take a
32 credit equal to the state share of retail sales tax paid under RCW
33 82.08.020. The person shall submit information, in a form and manner
34 prescribed by the department, specifying the amount of qualifying
35 purchases or acquisitions for which the exemption is claimed and the
36 amount of exempted tax.

1 (2) For the purposes of this section, "aluminum smelter" has the
2 same meaning as provided in section 2 of this act.

3 (3) Credits may not be claimed under this section for taxable
4 events occurring on or after January 1, 2007.

5 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.12 RCW
6 to read as follows:

7 (1) A person who is subject to tax under RCW 82.12.020 for tangible
8 personal property used at an aluminum smelter, or for tangible personal
9 property that will be incorporated as an ingredient or component of
10 buildings or other structures at an aluminum smelter, or for labor and
11 services rendered with respect to such buildings, structures, or
12 tangible personal property, is eligible for an exemption from the state
13 share of the tax in the form of a credit, as provided in this section.
14 The amount of the credit shall be equal to the state share of use tax
15 computed to be due under RCW 82.12.020. The person shall submit
16 information, in a form and manner prescribed by the department,
17 specifying the amount of qualifying purchases or acquisitions for which
18 the exemption is claimed and the amount of exempted tax.

19 (2) For the purposes of this section, "aluminum smelter" has the
20 same meaning as provided in section 2 of this act.

21 (3) Credits may not be claimed under this section for taxable
22 events occurring on or after January 1, 2007.

23 **Sec. 12.** RCW 82.12.022 and 1994 c 124 s 9 are each amended to read
24 as follows:

25 (1) There is hereby levied and there shall be collected from every
26 person in this state a use tax for the privilege of using natural gas
27 or manufactured gas within this state as a consumer.

28 (2) The tax shall be levied and collected in an amount equal to the
29 value of the article used by the taxpayer multiplied by the rate in
30 effect for the public utility tax on gas distribution businesses under
31 RCW 82.16.020. The "value of the article used" does not include any
32 amounts that are paid for the hire or use of a gas distribution
33 business as defined in RCW 82.16.010(7) in transporting the gas subject
34 to tax under this subsection if those amounts are subject to tax under
35 that chapter.

1 (3) The tax levied in this section shall not apply to the use of
2 natural or manufactured gas delivered to the consumer by other means
3 than through a pipeline.

4 (4) The tax levied in this section shall not apply to the use of
5 natural or manufactured gas if the person who sold the gas to the
6 consumer has paid a tax under RCW 82.16.020 with respect to the gas for
7 which exemption is sought under this subsection.

8 (5) The tax levied in this section shall not apply to the use of
9 natural or manufactured gas by an aluminum smelter as that term is
10 defined in section 2 of this act before January 1, 2007.

11 (6) There shall be a credit against the tax levied under this
12 section in an amount equal to any tax paid by:

13 (a) The person who sold the gas to the consumer when that tax is a
14 gross receipts tax similar to that imposed pursuant to RCW 82.16.020 by
15 another state with respect to the gas for which a credit is sought
16 under this subsection; or

17 (b) The person consuming the gas upon which a use tax similar to
18 the tax imposed by this section was paid to another state with respect
19 to the gas for which a credit is sought under this subsection.

20 ~~((+6))~~ (7) The use tax hereby imposed shall be paid by the
21 consumer to the department.

22 ~~((+7))~~ (8) There is imposed a reporting requirement on the person
23 who delivered the gas to the consumer to make a quarterly report to the
24 department. Such report shall contain the volume of gas delivered,
25 name of the consumer to whom delivered, and such other information as
26 the department shall require by rule.

27 ~~((+8))~~ (9) The department may adopt rules under chapter 34.05 RCW
28 for the administration and enforcement of sections 1 through 6, chapter
29 384, Laws of 1989.

30 NEW SECTION. Sec. 13. A new section is added to chapter 82.16 RCW
31 to read as follows:

32 (1) A person who is subject to tax under this chapter on gross
33 income from sales of electricity, natural gas, or manufactured gas made
34 to an aluminum smelter is eligible for an exemption from the tax in the
35 form of a credit, if the contract for sale of electricity or gas to the
36 aluminum smelter specifies that the price charged for the electricity
37 or gas will be reduced by an amount equal to the credit.

1 (2) The credit is equal to the gross income from the sale of the
2 electricity or gas to an aluminum smelter multiplied by the
3 corresponding rate in effect at the time of the sale for the public
4 utility tax under RCW 82.16.020.

5 (3) The exemption provided for in this section does not apply to
6 amounts received from the remarketing or resale of electricity
7 originally obtained by contract for the smelting process.

8 (4) For the purposes of this section, "aluminum smelter" has the
9 same meaning as provided in section 2 of this act.

10 NEW SECTION. **Sec. 14.** A new section is added to chapter 82.32 RCW
11 to read as follows:

12 (1) For the purposes of this section, "smelter tax incentive" means
13 the preferential tax rate under section 3 of this act, or an exemption
14 or credit under section 8, 10, or 11 of this act or RCW 82.12.022(5).

15 (2) The legislature finds that accountability and effectiveness are
16 important aspects of setting tax policy. In order to make policy
17 choices regarding the best use of limited state resources the
18 legislature needs information to evaluate whether the stated goals of
19 legislation were achieved.

20 (3) The goals of the smelter tax incentives are to retain family
21 wage jobs in rural areas by:

22 (a) Enabling the aluminum industry to maintain production of
23 aluminum at a level that will preserve at least 75 percent of the jobs
24 that were on the payroll effective January 1, 2004, as adjusted for
25 employment reductions publicly announced before November 30, 2003; and

26 (b) Allowing the aluminum industry to continue producing aluminum
27 in this state through 2006 so that the industry will be positioned to
28 preserve and create new jobs when the anticipated reduction of energy
29 costs occurs.

30 (4)(a) An aluminum smelter receiving the benefit of a smelter tax
31 incentive shall make an annual report to the department detailing
32 employment, wages, and employer-provided health and retirement benefits
33 per job at the manufacturing site. The report is due by March 31st
34 following any year in which a tax incentive is claimed or used. The
35 report shall not include names of employees. The report shall detail
36 employment by the total number of full-time, part-time, and temporary
37 positions. The report shall indicate the quantity of aluminum smelted

1 at the plant during the time period covered by the report. The first
2 report filed under this subsection shall include employment, wage, and
3 benefit information for the twelve-month period immediately before
4 first use of a tax incentive. Employment reports shall include data
5 for actual levels of employment and identification of the number of
6 jobs affected by any employment reductions that have been publicly
7 announced at the time of the report. Information in a report under
8 this section is not subject to the confidentiality provisions of RCW
9 82.32.330 and may be disclosed to the public upon request.

10 (b) If a person fails to submit an annual report under (a) of this
11 subsection by the due date of the report, the department shall declare
12 the amount of taxes exempted or credited, or reduced in the case of the
13 preferential business and occupation tax rate, for that year to be
14 immediately due and payable. Excise taxes payable under this
15 subsection are subject to interest but not penalties, as provided under
16 this chapter. This information is not subject to the confidentiality
17 provisions of RCW 82.32.330 and may be disclosed to the public upon
18 request.

19 (5) By December 1, 2005, and by December 1, 2006, the fiscal
20 committees of the house of representatives and the senate, in
21 consultation with the department, shall report to the legislature on
22 the effectiveness of the smelter tax incentives and, by December 1,
23 2010, on the effectiveness of the incentives under sections 9 and 13 of
24 this act. The reports shall measure the effect of the tax incentives
25 on job retention for Washington residents and any other factors the
26 committees may select.

27 NEW SECTION. **Sec. 15.** This act takes effect July 1, 2004.

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