
HOUSE BILL 1975

State of Washington 59th Legislature 2005 Regular Session

By Representatives Springer, Tom, B. Sullivan, O'Brien, Cody, Kagi, Blake, Orcutt, McIntire, Nixon, Hinkle, Condotta, Haigh and Kenney

Read first time 02/14/2005. Referred to Committee on Finance.

1 AN ACT Relating to the excise taxation of trail maintenance and
2 construction services; reenacting and amending RCW 82.04.190; adding a
3 new section to chapter 82.04 RCW; adding a new section to chapter 82.08
4 RCW; creating a new section; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the state is home
7 to an extensive trail network that accommodates a physically active and
8 demographically diverse public. An important community resource, this
9 network of trails provides pathways through which people can experience
10 our unique wilderness lands. The legislature further finds that
11 nonprofit organizations play a vital role in building and maintaining
12 Washington's hiking trail network. The legislature declares that it is
13 in the public interest to encourage these nonprofit organizations
14 through the provision of tax relief. The tax relief provided by this
15 act reduces the tax burden on nonprofit organizations that build and
16 maintain trails and increases the impact and effectiveness of trail
17 building and maintenance activities provided by these organizations.

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

3 (1) This chapter does not apply to amounts received by nonprofit
4 organizations, as defined in subsection (2) of this section, from the
5 United States or any of its instrumentalities, the state of Washington
6 or any of its municipal corporations or political subdivisions, or from
7 another nonprofit organization for the constructing or reconstructing
8 of trails or trail maintenance activities.

9 (2) For purposes of this section, the following definitions apply:

10 (a) "Nonprofit organization" means an organization exempt from tax
11 under section 501(c)(3) or (4) of the federal internal revenue code (26
12 U.S.C. Sec. 501(c)(3) or (4)).

13 (b) "Trail maintenance activities" include removing plants or tree
14 limbs encroaching on the trailway; restoring tread, including the
15 removal of slough from a trail, returning a trail to its proper width,
16 removing organic matter, removing protruding roots and rocks, restoring
17 the outslope of a trail, and removing berms from the outside edge of a
18 trail; constructing, repairing, or improving raised trail structures
19 such as turnpikes or puncheon; clearing ditches, drain-dips, and
20 culverts, constructing, installing, repairing, and improving drainage
21 structures such as culverts, drain-dips, waterbars, and check-dams;
22 clearing puncheon, turnpikes, curb logs, and bridges of dirt and
23 plants; blocking off social trails; rerouting trails; postexcavation
24 cleanup; naturalizing abandoned trails, removing trash near trailheads;
25 and recruiting volunteers, educating and training the volunteers in
26 techniques of trail maintenance, and supervising and monitoring the
27 volunteers.

28 **Sec. 3.** RCW 82.04.190 and 2004 c 174 s 4 and 2004 c 2 s 8 are each
29 reenacted and amended to read as follows:

30 "Consumer" means the following:

31 (1) Any person who purchases, acquires, owns, holds, or uses any
32 article of tangible personal property irrespective of the nature of the
33 person's business and including, among others, without limiting the
34 scope hereof, persons who install, repair, clean, alter, improve,
35 construct, or decorate real or personal property of or for consumers
36 other than for the purpose (a) of resale as tangible personal property
37 in the regular course of business or (b) of incorporating such property

1 as an ingredient or component of real or personal property when
2 installing, repairing, cleaning, altering, imprinting, improving,
3 constructing, or decorating such real or personal property of or for
4 consumers or (c) of consuming such property in producing for sale a new
5 article of tangible personal property or a new substance, of which such
6 property becomes an ingredient or component or as a chemical used in
7 processing, when the primary purpose of such chemical is to create a
8 chemical reaction directly through contact with an ingredient of a new
9 article being produced for sale or (d) purchases for the purpose of
10 consuming the property purchased in producing ferrosilicon which is
11 subsequently used in producing magnesium for sale, if the primary
12 purpose of such property is to create a chemical reaction directly
13 through contact with an ingredient of ferrosilicon;

14 (2)(a) Any person engaged in any business activity taxable under
15 RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or
16 uses any telephone service as defined in RCW 82.04.065, other than for
17 resale in the regular course of business; (c) any person who purchases,
18 acquires, or uses any service defined in RCW 82.04.050(2)(a) or any
19 amusement and recreation service defined in RCW 82.04.050(3)(a), other
20 than for resale in the regular course of business; and (d) any person
21 who is an end user of software;

22 (3) Any person engaged in the business of contracting for the
23 building, repairing or improving of any street, place, road, highway,
24 easement, right of way, mass public transportation terminal or parking
25 facility, bridge, tunnel, or trestle which is owned by a municipal
26 corporation or political subdivision of the state of Washington or by
27 the United States and which is used or to be used primarily for foot or
28 vehicular traffic including mass transportation vehicles of any kind as
29 defined in RCW 82.04.280, in respect to tangible personal property when
30 such person incorporates such property as an ingredient or component of
31 such publicly owned street, place, road, highway, easement, right of
32 way, mass public transportation terminal or parking facility, bridge,
33 tunnel, or trestle by installing, placing or spreading the property in
34 or upon the right of way of such street, place, road, highway,
35 easement, bridge, tunnel, or trestle or in or upon the site of such
36 mass public transportation terminal or parking facility;

37 (4) Any person who is an owner, lessee or has the right of
38 possession to or an easement in real property which is being

1 constructed, repaired, decorated, improved, or otherwise altered by a
2 person engaged in business, excluding only (a) municipal corporations
3 or political subdivisions of the state in respect to labor and services
4 rendered to their real property which is used or held for public road
5 purposes, and (b) the United States, instrumentalities thereof, and
6 county and city housing authorities created pursuant to chapter 35.82
7 RCW in respect to labor and services rendered to their real property.
8 Nothing contained in this or any other subsection of this definition
9 shall be construed to modify any other definition of "consumer";

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

14 (6) Any person engaged in the business of constructing, repairing,
15 decorating, or improving new or existing buildings or other structures
16 under, upon, or above real property of or for the United States, any
17 instrumentality thereof, or a county or city housing authority created
18 pursuant to chapter 35.82 RCW, including the installing or attaching of
19 any article of tangible personal property therein or thereto, whether
20 or not such personal property becomes a part of the realty by virtue of
21 installation; also, any person engaged in the business of clearing land
22 and moving earth of or for the United States, any instrumentality
23 thereof, or a county or city housing authority created pursuant to
24 chapter 35.82 RCW. Any such person shall be a consumer within the
25 meaning of this subsection in respect to tangible personal property
26 incorporated into, installed in, or attached to such building or other
27 structure by such person, except that consumer does not include any
28 person engaged in the business of constructing, repairing, decorating,
29 or improving new or existing buildings or other structures under, upon,
30 or above real property of or for the United States, or any
31 instrumentality thereof, if the investment project would qualify for
32 sales and use tax deferral under chapter 82.63 RCW if undertaken by a
33 private entity;

34 (7) Any person who is a lessor of machinery and equipment, the
35 rental of which is exempt from the tax imposed by RCW 82.08.020 under
36 RCW 82.08.02565, with respect to the sale of or charge made for
37 tangible personal property consumed in respect to repairing the
38 machinery and equipment, if the tangible personal property has a useful

1 life of less than one year. Nothing contained in this or any other
2 subsection of this section shall be construed to modify any other
3 definition of "consumer"; and

4 (8) Any person engaged in the business of cleaning up for the
5 United States, or its instrumentalities, radioactive waste and other
6 byproducts of weapons production and nuclear research and development.

7 "Consumer" does not include any person exempt from the tax imposed
8 by this chapter under section 2 of this act with respect to tangible
9 personal property incorporated as an ingredient or component of real or
10 personal property under a contract to construct or reconstruct trails
11 or to perform trail maintenance activities as defined in section 2 of
12 this act.

13 NEW SECTION. Sec. 4. A new section is added to chapter 82.08 RCW
14 to read as follows:

15 (1) The tax levied by RCW 82.08.020 does not apply to the sale of
16 or charge made for labor and services rendered in respect to the
17 construction or reconstruction of trails or to trail maintenance
18 activities by a nonprofit organization.

19 (2) For the purposes of this section, "trail maintenance
20 activities" and "nonprofit organization" have the same meaning as
21 provided in section 2 of this act.

22 NEW SECTION. Sec. 5. This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and takes effect
25 immediately.

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