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**SUBSTITUTE HOUSE BILL 2221**

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**State of Washington                      59th Legislature                      2005 Regular Session**

**By** House Committee on Finance (originally sponsored by Representatives Takko, Orcutt, Grant, Kristiansen, Williams, Strow, Blake, Bailey, Kenney, Haler and Linville)

READ FIRST TIME 04/21/05.

1            AN ACT Relating to the excise taxation of fruit and vegetable  
2 processing and storage; amending RCW 82.08.820 and 82.12.820;  
3 reenacting and amending RCW 82.04.260; adding a new section to chapter  
4 82.04 RCW; adding a new chapter to Title 82 RCW; providing effective  
5 dates; providing an expiration date; and declaring an emergency.

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

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

9            This chapter shall not apply to amounts received from:

10            (1) Canning, preserving, freezing, processing, or dehydrating fresh  
11 fruits and vegetables; or

12            (2) Selling at wholesale fresh fruits and vegetables canned,  
13 preserved, frozen, processed, or dehydrated by the seller and sold to  
14 purchasers who transport in the ordinary course of business the goods  
15 out of this state. As proof of sale to a person who transports in the  
16 ordinary course of business goods out of this state, the seller shall  
17 annually provide a statement in a form prescribed by the department and  
18 retain the statement as a business record.

1       **Sec. 2.** RCW 82.04.260 and 2003 2nd sp.s. c 1 s 4 and 2003 2nd  
2 sp.s. c 1 s 3 are each reenacted and amended to read as follows:

3       (1) Upon every person engaging within this state in the business of  
4 manufacturing:

5       (a) Wheat into flour, barley into pearl barley, soybeans into  
6 soybean oil, canola into canola oil, canola meal, or canola byproducts,  
7 or sunflower seeds into sunflower oil; as to such persons the amount of  
8 tax with respect to such business shall be equal to the value of the  
9 flour, pearl barley, oil, canola meal, or canola byproduct  
10 manufactured, multiplied by the rate of 0.138 percent;

11       (b) Seafood products which remain in a raw, raw frozen, or raw  
12 salted state at the completion of the manufacturing by that person; as  
13 to such persons the amount of tax with respect to such business shall  
14 be equal to the value of the products manufactured, multiplied by the  
15 rate of 0.138 percent;

16       (c) ~~((By canning, preserving, freezing, processing, or dehydrating  
17 fresh fruits and vegetables, or selling at wholesale fresh fruits and  
18 vegetables canned, preserved, frozen, processed, or dehydrated by the  
19 seller and sold to purchasers who transport in the ordinary course of  
20 business the goods out of this state; as to such persons the amount of  
21 tax with respect to such business shall be equal to the value of the  
22 products canned, preserved, frozen, processed, or dehydrated multiplied  
23 by the rate of 0.138 percent. As proof of sale to a person who  
24 transports in the ordinary course of business goods out of this state,  
25 the seller shall annually provide a statement in a form prescribed by  
26 the department and retain the statement as a business record;~~

27       ~~(d))~~ Dairy products that as of September 20, 2001, are identified  
28 in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts  
29 from the manufacturing of the dairy products such as whey and casein;  
30 or selling the same to purchasers who transport in the ordinary course  
31 of business the goods out of state; as to such persons the tax imposed  
32 shall be equal to the value of the products manufactured multiplied by  
33 the rate of 0.138 percent. As proof of sale to a person who transports  
34 in the ordinary course of business goods out of this state, the seller  
35 shall annually provide a statement in a form prescribed by the  
36 department and retain the statement as a business record;

37       ~~((e))~~ (d) Until July 1, 2009, alcohol fuel, biodiesel fuel, or  
38 biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as

1 to such persons the amount of tax with respect to the business shall be  
2 equal to the value of alcohol fuel, biodiesel fuel, or biodiesel  
3 feedstock manufactured, multiplied by the rate of 0.138 percent(~~(-~~  
4 ~~This subsection (1)(e) expires July 1, 2009))~~); and

5 ~~((+f))~~ (e) Alcohol fuel or wood biomass fuel, as those terms are  
6 defined in RCW 82.29A.135; as to such persons the amount of tax with  
7 respect to the business shall be equal to the value of alcohol fuel or  
8 wood biomass fuel manufactured, multiplied by the rate of 0.138  
9 percent.

10 (2) Upon every person engaging within this state in the business of  
11 splitting or processing dried peas; as to such persons the amount of  
12 tax with respect to such business shall be equal to the value of the  
13 peas split or processed, multiplied by the rate of 0.138 percent.

14 (3) Upon every nonprofit corporation and nonprofit association  
15 engaging within this state in research and development, as to such  
16 corporations and associations, the amount of tax with respect to such  
17 activities shall be equal to the gross income derived from such  
18 activities multiplied by the rate of 0.484 percent.

19 (4) Upon every person engaging within this state in the business of  
20 slaughtering, breaking and/or processing perishable meat products  
21 and/or selling the same at wholesale only and not at retail; as to such  
22 persons the tax imposed shall be equal to the gross proceeds derived  
23 from such sales multiplied by the rate of 0.138 percent.

24 (5) Upon every person engaging within this state in the business of  
25 making sales, at retail or wholesale, of nuclear fuel assemblies  
26 manufactured by that person, as to such persons the amount of tax with  
27 respect to such business shall be equal to the gross proceeds of sales  
28 of the assemblies multiplied by the rate of 0.275 percent.

29 (6) Upon every person engaging within this state in the business of  
30 manufacturing nuclear fuel assemblies, as to such persons the amount of  
31 tax with respect to such business shall be equal to the value of the  
32 products manufactured multiplied by the rate of 0.275 percent.

33 (7) Upon every person engaging within this state in the business of  
34 acting as a travel agent or tour operator; as to such persons the  
35 amount of the tax with respect to such activities shall be equal to the  
36 gross income derived from such activities multiplied by the rate of  
37 0.275 percent.

1 (8) Upon every person engaging within this state in business as an  
2 international steamship agent, international customs house broker,  
3 international freight forwarder, vessel and/or cargo charter broker in  
4 foreign commerce, and/or international air cargo agent; as to such  
5 persons the amount of the tax with respect to only international  
6 activities shall be equal to the gross income derived from such  
7 activities multiplied by the rate of 0.275 percent.

8 (9) Upon every person engaging within this state in the business of  
9 stevedoring and associated activities pertinent to the movement of  
10 goods and commodities in waterborne interstate or foreign commerce; as  
11 to such persons the amount of tax with respect to such business shall  
12 be equal to the gross proceeds derived from such activities multiplied  
13 by the rate of 0.275 percent. Persons subject to taxation under this  
14 subsection shall be exempt from payment of taxes imposed by chapter  
15 82.16 RCW for that portion of their business subject to taxation under  
16 this subsection. Stevedoring and associated activities pertinent to  
17 the conduct of goods and commodities in waterborne interstate or  
18 foreign commerce are defined as all activities of a labor, service or  
19 transportation nature whereby cargo may be loaded or unloaded to or  
20 from vessels or barges, passing over, onto or under a wharf, pier, or  
21 similar structure; cargo may be moved to a warehouse or similar holding  
22 or storage yard or area to await further movement in import or export  
23 or may move to a consolidation freight station and be stuffed,  
24 unstuffed, containerized, separated or otherwise segregated or  
25 aggregated for delivery or loaded on any mode of transportation for  
26 delivery to its consignee. Specific activities included in this  
27 definition are: Wharfage, handling, loading, unloading, moving of  
28 cargo to a convenient place of delivery to the consignee or a  
29 convenient place for further movement to export mode; documentation  
30 services in connection with the receipt, delivery, checking, care,  
31 custody and control of cargo required in the transfer of cargo;  
32 imported automobile handling prior to delivery to consignee; terminal  
33 stevedoring and incidental vessel services, including but not limited  
34 to plugging and unplugging refrigerator service to containers,  
35 trailers, and other refrigerated cargo receptacles, and securing ship  
36 hatch covers.

37 (10) Upon every person engaging within this state in the business  
38 of disposing of low-level waste, as defined in RCW 43.145.010; as to

1 such persons the amount of the tax with respect to such business shall  
2 be equal to the gross income of the business, excluding any fees  
3 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3  
4 percent.

5 If the gross income of the taxpayer is attributable to activities  
6 both within and without this state, the gross income attributable to  
7 this state shall be determined in accordance with the methods of  
8 apportionment required under RCW 82.04.460.

9 (11) Upon every person engaging within this state as an insurance  
10 agent, insurance broker, or insurance solicitor licensed under chapter  
11 48.17 RCW; as to such persons, the amount of the tax with respect to  
12 such licensed activities shall be equal to the gross income of such  
13 business multiplied by the rate of 0.484 percent.

14 (12) Upon every person engaging within this state in business as a  
15 hospital, as defined in chapter 70.41 RCW, that is operated as a  
16 nonprofit corporation or by the state or any of its political  
17 subdivisions, as to such persons, the amount of tax with respect to  
18 such activities shall be equal to the gross income of the business  
19 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
20 percent thereafter. The moneys collected under this subsection shall  
21 be deposited in the health services account created under RCW  
22 43.72.900.

23 (13)(a) Beginning October 1, 2005, upon every person engaging  
24 within this state in the business of manufacturing commercial  
25 airplanes, or components of such airplanes, as to such persons the  
26 amount of tax with respect to such business shall, in the case of  
27 manufacturers, be equal to the value of the product manufactured, or in  
28 the case of processors for hire, be equal to the gross income of the  
29 business, multiplied by the rate of:

30 (i) 0.4235 percent from October 1, 2005, through the later of June  
31 30, 2007, or the day preceding the date final assembly of a  
32 superefficient airplane begins in Washington state, as determined under  
33 RCW 82.32.550; and

34 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the  
35 date final assembly of a superefficient airplane begins in Washington  
36 state, as determined under RCW 82.32.550.

37 (b) Beginning October 1, 2005, upon every person engaging within  
38 this state in the business of making sales, at retail or wholesale, of

1 commercial airplanes, or components of such airplanes, manufactured by  
2 that person, as to such persons the amount of tax with respect to such  
3 business shall be equal to the gross proceeds of sales of the airplanes  
4 or components multiplied by the rate of:

5 (i) 0.4235 percent from October 1, 2005, through the later of June  
6 30, 2007, or the day preceding the date final assembly of a  
7 superefficient airplane begins in Washington state, as determined under  
8 RCW 82.32.550; and

9 (ii) 0.2904 percent beginning on the later of July 1, 2007, or the  
10 date final assembly of a superefficient airplane begins in Washington  
11 state, as determined under RCW 82.32.550.

12 (c) For the purposes of this subsection (13), "commercial  
13 airplane," "component," and "final assembly of a superefficient  
14 airplane" have the meanings given in RCW 82.32.550.

15 (d) In addition to all other requirements under this title, a  
16 person eligible for the tax rate under this subsection (13) must report  
17 as required under RCW 82.32.545.

18 (e) This subsection (13) does not apply after the earlier of: July  
19 1, 2024; or December 31, 2007, if assembly of a superefficient airplane  
20 does not begin by December 31, 2007, as determined under RCW 82.32.550.

21 NEW SECTION. **Sec. 3.** Unless the context clearly requires  
22 otherwise, the definitions in this section apply throughout this  
23 chapter.

24 (1) "Applicant" means a person applying for a tax deferral under  
25 this chapter.

26 (2) "Cold storage warehouse" means a storage warehouse used to  
27 store fresh and/or frozen perishable fruits or vegetables, or any  
28 combination thereof, at a desired temperature to maintain the quality  
29 of the product for orderly marketing.

30 (3) "Department" means the department of revenue.

31 (4) "Eligible investment project" means an investment in qualified  
32 buildings or qualified machinery and equipment, including labor and  
33 services rendered in the planning, installation, and construction of  
34 the project. The lessor or owner of a qualified building is not  
35 eligible for a deferral unless (a) the underlying ownership of the  
36 buildings, machinery, and equipment vests exclusively in the same  
37 person; or (b)(i) the lessor by written contract agrees to pass the

1 economic benefit of the deferral to the lessee in the form of reduced  
2 rent payments, and (ii) the lessee that receives the economic benefit  
3 of the deferral agrees in writing with the department to complete the  
4 annual survey under section 6 of this act. The economic benefit of the  
5 deferral to the lessee may be evidenced by any type of payment, credit,  
6 or any other financial arrangement between the lessor or owner of the  
7 qualified building and the lessee.

8 (5) "Fresh fruit and vegetable processing" means manufacturing as  
9 defined in RCW 82.04.120 which consists of the canning, preserving,  
10 freezing, processing, or dehydrating fresh fruits and/or vegetables.

11 (6)(a) "Initiation of construction" means the date that a building  
12 permit is issued under the building code adopted under RCW 19.27.031  
13 for:

14 (i) Construction of the qualified building, if the underlying  
15 ownership of the building vests exclusively with the person receiving  
16 the economic benefit of the deferral;

17 (ii) Construction of the qualified building, if the economic  
18 benefits of the deferral are passed to a lessee as provided in  
19 subsection (4) of this section; or

20 (iii) Tenant improvements for a qualified building, if the economic  
21 benefits of the deferral are passed to a lessee as provided in  
22 subsection (4) of this section.

23 (b) "Initiation of construction" does not include soil testing,  
24 site clearing and grading, site preparation, or any other related  
25 activities that are initiated before the issuance of a building permit  
26 for the construction of the foundation of the building.

27 (c) If the investment project is a phased project, "initiation of  
28 construction" applies separately to each phase.

29 (7) "Person" has the meaning given in RCW 82.04.030.

30 (8) "Qualified buildings" means construction of new structures, and  
31 expansion or renovation of existing structures for the purpose of  
32 increasing floor space or production capacity used for fresh fruit and  
33 vegetable processing, cold storage warehouse, and research and  
34 development activities, including plant offices and warehouses or other  
35 facilities for the storage of raw material or finished goods if such  
36 facilities are an essential or an integral part of a factory, plant, or  
37 laboratory used for fresh fruit and vegetable processing, cold storage  
38 warehousing, or research and development. If a building is used partly

1 for fresh fruit and vegetable processing, cold storage warehousing, or  
2 research and development and partly for other purposes, the applicable  
3 tax deferral shall be determined by apportionment of the costs of  
4 construction under rules adopted by the department.

5 (9) "Qualified machinery and equipment" means all industrial and  
6 research fixtures, equipment, and support facilities that are an  
7 integral and necessary part of a fresh fruit and vegetable processing,  
8 cold storage warehouse, or research and development operation.  
9 "Qualified machinery and equipment" includes: Computers; software;  
10 data processing equipment; laboratory equipment; manufacturing  
11 components such as belts, pulleys, shafts, and moving parts; molds,  
12 tools, and dies; operating structures; and all equipment used to  
13 control or operate the machinery.

14 (10) "Recipient" means a person receiving a tax deferral under this  
15 chapter.

16 (11) "Research and development" means the development, refinement,  
17 testing, marketing, and commercialization of a product, service, or  
18 process related to fresh fruit and vegetable processing or cold storage  
19 warehousing before commercial sales have begun. As used in this  
20 subsection, "commercial sales" excludes sales of prototypes or sales  
21 for market testing if the total gross receipts from such sales of the  
22 product, service, or process do not exceed one million dollars.

23 NEW SECTION. **Sec. 4.** (1) Application for deferral of taxes under  
24 this chapter must be made before initiation of the construction of the  
25 investment project or acquisition of equipment or machinery. The  
26 application shall be made to the department in a form and manner  
27 prescribed by the department. The application shall contain  
28 information regarding the location of the investment project, the  
29 applicant's average employment in the state for the prior year,  
30 estimated or actual new employment related to the project, estimated or  
31 actual wages of employees related to the project, estimated or actual  
32 costs, time schedules for completion and operation, and other  
33 information required by the department.

34 (2) The department shall rule on the application within sixty days.  
35 The department shall keep a running total of all deferrals granted  
36 under this chapter during each fiscal biennium.

1 (3) No application may be made under this chapter for a project for  
2 which a refund is requested under RCW 82.08.820 or 82.12.820.

3 NEW SECTION. **Sec. 5.** (1) The department shall issue a sales and  
4 use tax deferral certificate for state and local sales and use taxes  
5 due under chapters 82.08, 82.12, and 82.14 RCW on each eligible  
6 investment project if the investment project is undertaken for the  
7 purpose of fresh fruit and vegetable processing, cold storage  
8 warehousing, or research and development.

9 (2) This section expires July 1, 2012.

10 NEW SECTION. **Sec. 6.** (1)(a) The legislature finds that  
11 accountability and effectiveness are important aspects of setting tax  
12 policy. In order to make policy choices regarding the best use of  
13 limited state resources the legislature needs information on how a tax  
14 incentive is used.

15 (b) Each recipient of a deferral granted under this chapter shall  
16 complete an annual survey. If the economic benefits of the deferral  
17 are passed to a lessee as provided in section 3(4) of this act, the  
18 lessee shall complete the annual survey and the applicant is not  
19 required to complete the annual survey. The survey is due by March  
20 31st of the year following the calendar year in which the investment  
21 project is certified by the department as having been operationally  
22 complete and each of the seven succeeding calendar years. The survey  
23 shall include the amount of tax deferred. The survey shall also  
24 include the following information for employment positions in  
25 Washington:

26 (i) The number of total employment positions;

27 (ii) Full-time, part-time, and temporary employment positions as a  
28 percent of total employment;

29 (iii) The number of employment positions according to the following  
30 wage bands: Less than thirty thousand dollars; thirty thousand dollars  
31 or greater, but less than sixty thousand dollars; and sixty thousand  
32 dollars or greater. A wage band containing fewer than three  
33 individuals may be combined with another wage band; and

34 (iv) The number of employment positions that have employer-provided  
35 medical, dental, and retirement benefits, by each of the wage bands.

1 (c) The department may request additional information necessary to  
2 measure the results of the deferral program, to be submitted at the  
3 same time as the survey.

4 (d) All information collected under this subsection, except the  
5 amount of the tax deferral taken, is deemed taxpayer information under  
6 RCW 82.32.330. Information on the amount of tax deferral taken is not  
7 subject to the confidentiality provisions of RCW 82.32.330 and may be  
8 disclosed to the public upon request.

9 (e) The department shall use the information from this section to  
10 prepare summary descriptive statistics by category. No fewer than  
11 three taxpayers shall be included in any category. The department  
12 shall report these statistics to the legislature each year by September  
13 1st.

14 (f) The department shall also use the information to study the tax  
15 deferral program authorized under this chapter. The department shall  
16 report to the legislature by December 1, 2011. The report shall  
17 measure the effect of the program on job creation, the number of jobs  
18 created for residents of eligible areas, company growth, the  
19 introduction of new products, the diversification of the state's  
20 economy, growth in research and development investment, the movement of  
21 firms or the consolidation of firms' operations into the state, and  
22 such other factors as the department selects.

23 (2)(a) If a recipient of the deferral fails to complete the annual  
24 survey required under subsection (1) of this section by the date due,  
25 twelve and one-half percent of the deferred tax shall be immediately  
26 due. If the economic benefits of the deferral are passed to a lessee  
27 as provided in section 3(4) of this act, the lessee shall be  
28 responsible for payment to the extent the lessee has received the  
29 economic benefit. The department shall assess interest, but not  
30 penalties, on the amounts due under this section. The interest shall  
31 be assessed at the rate provided for delinquent taxes under chapter  
32 82.32 RCW, and shall accrue until the amounts due are repaid.

33 (b) A recipient who must repay deferred taxes under section 7(2) of  
34 this act because the department has found that an investment project is  
35 used for purposes other than fresh fruit and vegetable processing, cold  
36 storage warehousing, or research and development is no longer required  
37 to file annual surveys under this section beginning on the date an  
38 investment project is used for nonqualifying purposes.



1 (b) Machinery and equipment which at the time of first use would  
2 have qualified for exemption under RCW 82.12.02565.

3 NEW SECTION. **Sec. 8.** Chapter 82.32 RCW applies to the  
4 administration of this chapter.

5 NEW SECTION. **Sec. 9.** Applications received by the department  
6 under this chapter are not confidential and are subject to disclosure.

7 **Sec. 10.** RCW 82.08.820 and 1997 c 450 s 2 are each amended to read  
8 as follows:

9 (1) Wholesalers or third-party warehouse owners who own or operate  
10 warehouses or grain elevators and retailers who own or operate  
11 distribution centers, and who have paid the tax levied by RCW 82.08.020  
12 on:

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

16 (b) Construction of a warehouse or grain elevator, including  
17 materials, and including service and labor costs,  
18 are eligible for an exemption in the form of a remittance. The amount  
19 of the remittance is computed under subsection (3) of this section and  
20 is based on the state share of sales tax.

21 (2) For purposes of this section and RCW 82.12.820:

22 (a) "Agricultural products" has the meaning given in RCW 82.04.213;

23 (b) "Cold storage warehouse" means a storage warehouse used to  
24 store fresh and/or frozen perishable fruits or vegetables, or any  
25 combination thereof, at a desired temperature to maintain the quality  
26 of the product for orderly marketing;

27 (c) "Construction" means the actual construction of a warehouse or  
28 grain elevator that did not exist before the construction began.  
29 "Construction" includes expansion if the expansion adds at least  
30 twenty-five thousand square feet of additional space to an existing  
31 cold storage warehouse, at least two hundred thousand square feet of  
32 additional space to an existing warehouse other than a cold storage  
33 warehouse, or additional storage capacity of at least one million  
34 bushels to an existing grain elevator. "Construction" does not include  
35 renovation, remodeling, or repair;

1           ~~((e))~~ (d) "Department" means the department of revenue;

2           ~~((d))~~ (e) "Distribution center" means a warehouse that is used  
3 exclusively by a retailer solely for the storage and distribution of  
4 finished goods to retail outlets of the retailer. "Distribution  
5 center" does not include a warehouse at which retail sales occur;

6           ~~((e))~~ (f) "Finished goods" means tangible personal property  
7 intended for sale by a retailer or wholesaler. "Finished goods" does  
8 not include agricultural products stored by wholesalers, third-party  
9 warehouses, or retailers if the storage takes place on the land of the  
10 person who produced the agricultural product. "Finished goods" does  
11 not include logs, minerals, petroleum, gas, or other extracted products  
12 stored as raw materials or in bulk;

13           ~~((f))~~ (g) "Grain elevator" means a structure used for storage and  
14 handling of grain in bulk;

15           ~~((g))~~ (h) "Material-handling equipment and racking equipment"  
16 means equipment in a warehouse or grain elevator that is primarily used  
17 to handle, store, organize, convey, package, or repackage finished  
18 goods. The term includes tangible personal property with a useful life  
19 of one year or more that becomes an ingredient or component of the  
20 equipment, including repair and replacement parts. The term does not  
21 include equipment in offices, lunchrooms, restrooms, and other like  
22 space, within a warehouse or grain elevator, or equipment used for  
23 nonwarehousing purposes. "Material-handling equipment" includes but is  
24 not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-  
25 place units, cranes, hoists, mechanical arms, and robots; mechanized  
26 systems, including containers that are an integral part of the system,  
27 whose purpose is to lift or move tangible personal property; and  
28 automated handling, storage, and retrieval systems, including computers  
29 that control them, whose purpose is to lift or move tangible personal  
30 property; and forklifts and other off-the-road vehicles that are used  
31 to lift or move tangible personal property and that cannot be operated  
32 legally on roads and streets. "Racking equipment" includes, but is not  
33 limited to, conveying systems, chutes, shelves, racks, bins, drawers,  
34 pallets, and other containers and storage devices that form a necessary  
35 part of the storage system;

36           ~~((h))~~ (i) "Person" has the meaning given in RCW 82.04.030;

37           ~~((i))~~ (j) "Retailer" means a person who makes "sales at retail"  
38 as defined in chapter 82.04 RCW of tangible personal property;

1       (~~(j)~~) (k) "Square footage" means the product of the two  
2 horizontal dimensions of each floor of a specific warehouse. The  
3 entire footprint of the warehouse shall be measured in calculating the  
4 square footage, including space that juts out from the building profile  
5 such as loading docks. "Square footage" does not mean the aggregate of  
6 the square footage of more than one warehouse at a location or the  
7 aggregate of the square footage of warehouses at more than one  
8 location;

9       (~~(k)~~) (l) "Third-party warehouse" means a person taxable under  
10 RCW 82.04.280(4);

11       (~~(l)~~) (m) "Warehouse" means an enclosed building or structure in  
12 which finished goods are stored. A warehouse building or structure may  
13 have more than one storage room and more than one floor. Office space,  
14 lunchrooms, restrooms, and other space within the warehouse and  
15 necessary for the operation of the warehouse are considered part of the  
16 warehouse as are loading docks and other such space attached to the  
17 building and used for handling of finished goods. Landscaping and  
18 parking lots are not considered part of the warehouse. A storage yard  
19 is not a warehouse, nor is a building in which manufacturing takes  
20 place; and

21       (~~(m)~~) (n) "Wholesaler" means a person who makes "sales at  
22 wholesale" as defined in chapter 82.04 RCW of tangible personal  
23 property, but "wholesaler" does not include a person who makes sales  
24 exempt under 82.04.330.

25       (3)(a) A person claiming an exemption from state tax in the form of  
26 a remittance under this section must pay the tax imposed by RCW  
27 82.08.020. The buyer may then apply to the department for remittance  
28 of all or part of the tax paid under RCW 82.08.020. For grain  
29 elevators with bushel capacity of one million but less than two  
30 million, the remittance is equal to fifty percent of the amount of tax  
31 paid. For warehouses with square footage of two hundred thousand or  
32 more, other than cold storage warehouses, and for grain elevators with  
33 bushel capacity of two million or more, the remittance is equal to one  
34 hundred percent of the amount of tax paid for qualifying construction,  
35 materials, service, and labor, and fifty percent of the amount of tax  
36 paid for qualifying material-handling equipment and racking equipment,  
37 and labor and services rendered in respect to installing, repairing,  
38 cleaning, altering, or improving the equipment. For cold storage

1 warehouses with square footage of twenty-five thousand or more, the  
2 remittance is equal to one hundred percent of the amount of tax paid  
3 for qualifying construction, materials, service, and labor, and one  
4 hundred percent of the amount of tax paid for qualifying material-  
5 handling equipment and racking equipment, and labor and services  
6 rendered in respect to installing, repairing, cleaning, altering, or  
7 improving the equipment.

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

20 (c) The department shall on a quarterly basis remit exempted  
21 amounts to qualifying persons who submitted applications during the  
22 previous quarter.

23 (4) Warehouses, grain elevators, and material-handling equipment  
24 and racking equipment for which an exemption, credit, or deferral has  
25 been or is being received under chapter 82.60, 82.61, 82.62, or 82.63  
26 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any  
27 remittance under this section. Warehouses and grain elevators upon  
28 which construction was initiated before May 20, 1997, are not eligible  
29 for a remittance under this section.

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

1       **Sec. 11.** RCW 82.12.820 and 2003 c 5 s 13 are each amended to read  
2 as follows:

3       (1) Wholesalers or third-party warehouseers who own or operate  
4 warehouses or grain elevators, and retailers who own or operate  
5 distribution centers, and who have paid the tax levied under RCW  
6 82.12.020 on:

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

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

15       (2)(a) A person claiming an exemption from state tax in the form of  
16 a remittance under this section must pay the tax imposed by RCW  
17 82.12.020 to the department. The person may then apply to the  
18 department for remittance of all or part of the tax paid under RCW  
19 82.12.020. For grain elevators with bushel capacity of one million but  
20 less than two million, the remittance is equal to fifty percent of the  
21 amount of tax paid. For warehouses with square footage of two hundred  
22 thousand or more, other than cold storage warehouses, and for grain  
23 elevators with bushel capacity of two million or more, the remittance  
24 is equal to one hundred percent of the amount of tax paid for  
25 qualifying construction materials, and fifty percent of the amount of  
26 tax paid for qualifying material-handling equipment and racking  
27 equipment. For cold storage warehouses with square footage of twenty-  
28 five thousand or more, the remittance is equal to one hundred percent  
29 of the amount of tax paid for qualifying construction, materials,  
30 service, and labor, and one hundred percent of the amount of tax paid  
31 for qualifying material-handling equipment and racking equipment, and  
32 labor and services rendered in respect to installing, repairing,  
33 cleaning, altering, or improving the equipment.

34       (b) The department shall determine eligibility under this section  
35 based on information provided by the buyer and through audit and other  
36 administrative records. The buyer shall on a quarterly basis submit an  
37 information sheet, in a form and manner as required by the department  
38 by rule, specifying the amount of exempted tax claimed and the

1 qualifying purchases or acquisitions for which the exemption is  
2 claimed. The buyer shall retain, in adequate detail to enable the  
3 department to determine whether the equipment or construction meets the  
4 criteria under this section: Invoices; proof of tax paid; documents  
5 describing the material-handling equipment and racking equipment;  
6 location and size of warehouses, if applicable; and construction  
7 invoices and documents.

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

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

18 (4) The lessor or owner of the warehouse or grain elevator is not  
19 eligible for a remittance or credit under this section unless the  
20 underlying ownership of the warehouse or grain elevator and material-  
21 handling equipment and racking equipment vests exclusively in the same  
22 person, or unless the lessor by written contract agrees to pass the  
23 economic benefit of the exemption to the lessee in the form of reduced  
24 rent payments.

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

26 NEW SECTION. **Sec. 12.** Sections 3 through 9 of this act constitute  
27 a new chapter in Title 82 RCW.

28 NEW SECTION. **Sec. 13.** This act takes effect July 1, 2007, except  
29 for sections 1 and 2 of this act which are necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and take effect  
32 July 1, 2005.

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