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SENATE BILL 5779

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State of Washington                      59th Legislature                      2005 Regular Session

By Senators Prentice, Rasmussen, Doumit and Kohl-Welles

Read first time 02/07/2005. Referred to Committee on Ways & Means.

1            AN ACT Relating to the business and occupation taxation of  
2 slaughtering, breaking and/or processing perishable meat products;  
3 reenacting and amending RCW 82.04.260; creating new sections; and  
4 declaring an emergency.

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

6            NEW SECTION.    **Sec. 1.** In 1967, the legislature amended RCW  
7 82.04.260 in chapter 149, Laws of 1967 ex. sess. to authorize a  
8 preferential business and occupation tax rate for slaughtering,  
9 breaking, and/or processing perishable meat products and/or selling the  
10 same at wholesale. The legislature finds that RCW 82.04.260 was  
11 interpreted by the state supreme court on January 13, 2005, in *Agrilink*  
12 *Foods, Inc. v. Department of Revenue*, Docket No. 74478-5. The supreme  
13 court held that the preferential business and occupation tax rate on  
14 the slaughtering, breaking, and/or processing of perishable meat  
15 products applied to the processing of perishable meat products into  
16 nonperishable finished products, such as canned food.

17            The legislature declares that the sole purpose of chapter 149, Laws  
18 of 1967 ex. sess. as codified in RCW 82.04.260 has always been to  
19 create a preferential business and occupation tax rate for the

1 slaughtering, breaking, or processing of perishable meat products  
2 and/or selling the finished perishable meat products at wholesale. The  
3 intent was not to allow the preferential tax rate for the processing of  
4 perishable meat products into nonperishable finished products or  
5 selling the nonperishable finished products at wholesale.

6 The purpose of this act is to make retroactive, remedial, curative,  
7 and technical amendments to clarify the intent of chapter 149, Laws of  
8 1967 ex. sess. and RCW 82.04.260 and resolve any ambiguity. It is the  
9 intent of the legislature to establish that, prior to the effective  
10 date of this act, the preferential business and occupation tax rate for  
11 the "slaughtering, breaking, and/or processing of perishable meat  
12 products and/or selling the same at wholesale" in RCW 82.04.260 applied  
13 only to activities in which the end products continued to be perishable  
14 meat products, and this act applies retroactively to accomplish this  
15 purpose.

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

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

20 (a) Wheat into flour, barley into pearl barley, soybeans into  
21 soybean oil, canola into canola oil, canola meal, or canola byproducts,  
22 or sunflower seeds into sunflower oil; as to such persons the amount of  
23 tax with respect to such business shall be equal to the value of the  
24 flour, pearl barley, oil, canola meal, or canola byproduct  
25 manufactured, multiplied by the rate of 0.138 percent;

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

31 (c) By canning, preserving, freezing, processing, or dehydrating  
32 fresh fruits and vegetables, or selling at wholesale fresh fruits and  
33 vegetables canned, preserved, frozen, processed, or dehydrated by the  
34 seller and sold to purchasers who transport in the ordinary course of  
35 business the goods out of this state; as to such persons the amount of  
36 tax with respect to such business shall be equal to the value of the  
37 products canned, preserved, frozen, processed, or dehydrated multiplied

1 by the rate of 0.138 percent. As proof of sale to a person who  
2 transports in the ordinary course of business goods out of this state,  
3 the seller shall annually provide a statement in a form prescribed by  
4 the department and retain the statement as a business record;

5 (d) Dairy products that as of September 20, 2001, are identified in  
6 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts  
7 from the manufacturing of the dairy products such as whey and casein;  
8 or selling the same to purchasers who transport in the ordinary course  
9 of business the goods out of state; as to such persons the tax imposed  
10 shall be equal to the value of the products manufactured multiplied by  
11 the rate of 0.138 percent. As proof of sale to a person who transports  
12 in the ordinary course of business goods out of this state, the seller  
13 shall annually provide a statement in a form prescribed by the  
14 department and retain the statement as a business record;

15 (e) Alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those  
16 terms are defined in RCW 82.29A.135; as to such persons the amount of  
17 tax with respect to the business shall be equal to the value of alcohol  
18 fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied  
19 by the rate of 0.138 percent. This subsection (1)(e) expires July 1,  
20 2009; and

21 (f) Alcohol fuel or wood biomass fuel, as those terms are defined  
22 in RCW 82.29A.135; as to such persons the amount of tax with respect to  
23 the business shall be equal to the value of alcohol fuel or wood  
24 biomass fuel manufactured, multiplied by the rate of 0.138 percent.

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

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

34 (4) Upon every person engaging within this state in the business of  
35 slaughtering, breaking and/or (~~processing~~) manufacturing perishable  
36 meat products and/or selling the (~~same~~) perishable meat products at  
37 wholesale only and not at retail; as to such persons the tax imposed

1 shall be equal to the gross proceeds derived from such sales multiplied  
2 by the rate of 0.138 percent.

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

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

12 (7) Upon every person engaging within this state in the business of  
13 acting as a travel agent or tour operator; as to such persons the  
14 amount of the tax with respect to such activities shall be equal to the  
15 gross income derived from such activities multiplied by the rate of  
16 0.275 percent.

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

24 (9) Upon every person engaging within this state in the business of  
25 stevedoring and associated activities pertinent to the movement of  
26 goods and commodities in waterborne interstate or foreign commerce; as  
27 to such persons the amount of tax with respect to such business shall  
28 be equal to the gross proceeds derived from such activities multiplied  
29 by the rate of 0.275 percent. Persons subject to taxation under this  
30 subsection shall be exempt from payment of taxes imposed by chapter  
31 82.16 RCW for that portion of their business subject to taxation under  
32 this subsection. Stevedoring and associated activities pertinent to  
33 the conduct of goods and commodities in waterborne interstate or  
34 foreign commerce are defined as all activities of a labor, service or  
35 transportation nature whereby cargo may be loaded or unloaded to or  
36 from vessels or barges, passing over, onto or under a wharf, pier, or  
37 similar structure; cargo may be moved to a warehouse or similar holding  
38 or storage yard or area to await further movement in import or export

1 or may move to a consolidation freight station and be stuffed,  
2 unstuffed, containerized, separated or otherwise segregated or  
3 aggregated for delivery or loaded on any mode of transportation for  
4 delivery to its consignee. Specific activities included in this  
5 definition are: Wharfage, handling, loading, unloading, moving of  
6 cargo to a convenient place of delivery to the consignee or a  
7 convenient place for further movement to export mode; documentation  
8 services in connection with the receipt, delivery, checking, care,  
9 custody and control of cargo required in the transfer of cargo;  
10 imported automobile handling prior to delivery to consignee; terminal  
11 stevedoring and incidental vessel services, including but not limited  
12 to plugging and unplugging refrigerator service to containers,  
13 trailers, and other refrigerated cargo receptacles, and securing ship  
14 hatch covers.

15 (10) Upon every person engaging within this state in the business  
16 of disposing of low-level waste, as defined in RCW 43.145.010; as to  
17 such persons the amount of the tax with respect to such business shall  
18 be equal to the gross income of the business, excluding any fees  
19 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3  
20 percent.

21 If the gross income of the taxpayer is attributable to activities  
22 both within and without this state, the gross income attributable to  
23 this state shall be determined in accordance with the methods of  
24 apportionment required under RCW 82.04.460.

25 (11) Upon every person engaging within this state as an insurance  
26 agent, insurance broker, or insurance solicitor licensed under chapter  
27 48.17 RCW; as to such persons, the amount of the tax with respect to  
28 such licensed activities shall be equal to the gross income of such  
29 business multiplied by the rate of 0.484 percent.

30 (12) Upon every person engaging within this state in business as a  
31 hospital, as defined in chapter 70.41 RCW, that is operated as a  
32 nonprofit corporation or by the state or any of its political  
33 subdivisions, as to such persons, the amount of tax with respect to  
34 such activities shall be equal to the gross income of the business  
35 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5  
36 percent thereafter. The moneys collected under this subsection shall  
37 be deposited in the health services account created under RCW  
38 43.72.900.

1 (13)(a) Beginning October 1, 2005, upon every person engaging  
2 within this state in the business of manufacturing commercial  
3 airplanes, or components of such airplanes, as to such persons the  
4 amount of tax with respect to such business shall, in the case of  
5 manufacturers, be equal to the value of the product manufactured, or in  
6 the case of processors for hire, be equal to the gross income of the  
7 business, multiplied by the rate of:

8 (i) 0.4235 percent from October 1, 2005, through the later of June  
9 30, 2007, or the day preceding the date final assembly of a  
10 superefficient airplane begins in Washington state, as determined under  
11 RCW 82.32.550; and

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

15 (b) Beginning October 1, 2005, upon every person engaging within  
16 this state in the business of making sales, at retail or wholesale, of  
17 commercial airplanes, or components of such airplanes, manufactured by  
18 that person, as to such persons the amount of tax with respect to such  
19 business shall be equal to the gross proceeds of sales of the airplanes  
20 or components multiplied by the rate of:

21 (i) 0.4235 percent from October 1, 2005, through the later of June  
22 30, 2007, or the day preceding the date final assembly of a  
23 superefficient airplane begins in Washington state, as determined under  
24 RCW 82.32.550; and

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

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

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

34 (e) This subsection (13) does not apply after the earlier of: July  
35 1, 2024; or December 31, 2007, if assembly of a superefficient airplane  
36 does not begin by December 31, 2007, as determined under RCW 82.32.550.

37 NEW SECTION. **Sec. 3.** This act applies retroactively.

1        NEW SECTION.   **Sec. 4.**   This act is necessary for the immediate  
2   preservation of the public peace, health, or safety, or support of the  
3   state government and its existing public institutions, and takes effect  
4   immediately.

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