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SENATE BILL 5911

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State of Washington                      59th Legislature                      2005 Regular Session

By Senators Berkey, Esser, Doumit, McCaslin, Hewitt, Delvin, Thibaudeau, Kohl-Welles and Rasmussen

Read first time 02/14/2005. Referred to Committee on Labor, Commerce, Research & Development.

1            AN ACT Relating to excluding self-service laundry from the  
2 definition of retail sale for excise tax purposes; reenacting and  
3 amending RCW 82.04.050; creating a new section; and providing an  
4 effective date.

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

6            NEW SECTION.    **Sec. 1.** The intent of this act is to provide relief  
7 for low-income families for their laundry costs.

8            **Sec. 2.** RCW 82.04.050 and 2004 c 174 s 3 and 2004 c 153 s 407 are  
9 each reenacted and amended to read as follows:

10            (1) "Sale at retail" or "retail sale" means every sale of tangible  
11 personal property (including articles produced, fabricated, or  
12 imprinted) to all persons irrespective of the nature of their business  
13 and including, among others, without limiting the scope hereof, persons  
14 who install, repair, clean, alter, improve, construct, or decorate real  
15 or personal property of or for consumers other than a sale to a person  
16 who presents a resale certificate under RCW 82.04.470 and who:

17            (a) Purchases for the purpose of resale as tangible personal

1 property in the regular course of business without intervening use by  
2 such person, but a purchase for the purpose of resale by a regional  
3 transit authority under RCW 81.112.300 is not a sale for resale; or

4 (b) Installs, repairs, cleans, alters, imprints, improves,  
5 constructs, or decorates real or personal property of or for consumers,  
6 if such tangible personal property becomes an ingredient or component  
7 of such real or personal property without intervening use by such  
8 person; or

9 (c) Purchases for the purpose of consuming the property purchased  
10 in producing for sale a new article of tangible personal property or  
11 substance, of which such property becomes an ingredient or component or  
12 is a chemical used in processing, when the primary purpose of such  
13 chemical is to create a chemical reaction directly through contact with  
14 an ingredient of a new article being produced for sale; or

15 (d) Purchases for the purpose of consuming the property purchased  
16 in producing ferrosilicon which is subsequently used in producing  
17 magnesium for sale, if the primary purpose of such property is to  
18 create a chemical reaction directly through contact with an ingredient  
19 of ferrosilicon; or

20 (e) Purchases for the purpose of providing the property to  
21 consumers as part of competitive telephone service, as defined in RCW  
22 82.04.065. The term shall include every sale of tangible personal  
23 property which is used or consumed or to be used or consumed in the  
24 performance of any activity classified as a "sale at retail" or "retail  
25 sale" even though such property is resold or utilized as provided in  
26 (a), (b), (c), (d), or (e) of this subsection following such use. The  
27 term also means every sale of tangible personal property to persons  
28 engaged in any business which is taxable under RCW 82.04.280 (2) and  
29 (7), 82.04.290, and 82.04.2908.

30 (2) The term "sale at retail" or "retail sale" shall include the  
31 sale of or charge made for tangible personal property consumed and/or  
32 for labor and services rendered in respect to the following:

33 (a) The installing, repairing, cleaning, altering, imprinting, or  
34 improving of tangible personal property of or for consumers, including  
35 charges made for the mere use of facilities in respect thereto, but  
36 excluding charges made for the use of ~~((coin-operated))~~ self-service  
37 ~~laundry facilities ((when such facilities are situated in an apartment~~  
38 ~~house, rooming house, or mobile home park for the exclusive use of the~~

1 ~~tenants thereof~~)), and also excluding sales of laundry service to  
2 nonprofit health care facilities, and excluding services rendered in  
3 respect to live animals, birds and insects;

4 (b) The constructing, repairing, decorating, or improving of new or  
5 existing buildings or other structures under, upon, or above real  
6 property of or for consumers, including the installing or attaching of  
7 any article of tangible personal property therein or thereto, whether  
8 or not such personal property becomes a part of the realty by virtue of  
9 installation, and shall also include the sale of services or charges  
10 made for the clearing of land and the moving of earth excepting the  
11 mere leveling of land used in commercial farming or agriculture;

12 (c) The charge for labor and services rendered in respect to  
13 constructing, repairing, or improving any structure upon, above, or  
14 under any real property owned by an owner who conveys the property by  
15 title, possession, or any other means to the person performing such  
16 construction, repair, or improvement for the purpose of performing such  
17 construction, repair, or improvement and the property is then  
18 reconveyed by title, possession, or any other means to the original  
19 owner;

20 (d) The sale of or charge made for labor and services rendered in  
21 respect to the cleaning, fumigating, razing or moving of existing  
22 buildings or structures, but shall not include the charge made for  
23 janitorial services; and for purposes of this section the term  
24 "janitorial services" shall mean those cleaning and caretaking services  
25 ordinarily performed by commercial janitor service businesses  
26 including, but not limited to, wall and window washing, floor cleaning  
27 and waxing, and the cleaning in place of rugs, drapes and upholstery.  
28 The term "janitorial services" does not include painting, papering,  
29 repairing, furnace or septic tank cleaning, snow removal or  
30 sandblasting;

31 (e) The sale of or charge made for labor and services rendered in  
32 respect to automobile towing and similar automotive transportation  
33 services, but not in respect to those required to report and pay taxes  
34 under chapter 82.16 RCW;

35 (f) The sale of and charge made for the furnishing of lodging and  
36 all other services by a hotel, rooming house, tourist court, motel,  
37 trailer camp, and the granting of any similar license to use real  
38 property, as distinguished from the renting or leasing of real

1 property, and it shall be presumed that the occupancy of real property  
2 for a continuous period of one month or more constitutes a rental or  
3 lease of real property and not a mere license to use or enjoy the same.  
4 For the purposes of this subsection, it shall be presumed that the sale  
5 of and charge made for the furnishing of lodging for a continuous  
6 period of one month or more to a person is a rental or lease of real  
7 property and not a mere license to enjoy the same;

8 (g) The sale of or charge made for tangible personal property,  
9 labor and services to persons taxable under (a), (b), (c), (d), (e),  
10 and (f) of this subsection when such sales or charges are for property,  
11 labor and services which are used or consumed in whole or in part by  
12 such persons in the performance of any activity defined as a "sale at  
13 retail" or "retail sale" even though such property, labor and services  
14 may be resold after such use or consumption. Nothing contained in this  
15 subsection shall be construed to modify subsection (1) of this section  
16 and nothing contained in subsection (1) of this section shall be  
17 construed to modify this subsection.

18 (3) The term "sale at retail" or "retail sale" shall include the  
19 sale of or charge made for personal, business, or professional services  
20 including amounts designated as interest, rents, fees, admission, and  
21 other service emoluments however designated, received by persons  
22 engaging in the following business activities:

23 (a) Amusement and recreation services including but not limited to  
24 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips  
25 for sightseeing purposes, and others, when provided to consumers;

26 (b) Abstract, title insurance, and escrow services;

27 (c) Credit bureau services;

28 (d) Automobile parking and storage garage services;

29 (e) Landscape maintenance and horticultural services but excluding  
30 (i) horticultural services provided to farmers and (ii) pruning,  
31 trimming, repairing, removing, and clearing of trees and brush near  
32 electric transmission or distribution lines or equipment, if performed  
33 by or at the direction of an electric utility;

34 (f) Service charges associated with tickets to professional  
35 sporting events; and

36 (g) The following personal services: Physical fitness services,  
37 tanning salon services, tattoo parlor services, steam bath services,  
38 turkish bath services, escort services, and dating services.

1 (4)(a) The term shall also include:

2 (i) The renting or leasing of tangible personal property to  
3 consumers; and

4 (ii) Providing tangible personal property along with an operator  
5 for a fixed or indeterminate period of time. A consideration of this  
6 is that the operator is necessary for the tangible personal property to  
7 perform as designed. For the purpose of this subsection (4)(a)(ii), an  
8 operator must do more than maintain, inspect, or set up the tangible  
9 personal property.

10 (b) The term shall not include the renting or leasing of tangible  
11 personal property where the lease or rental is for the purpose of  
12 sublease or subrent.

13 (5) The term shall also include the providing of telephone service,  
14 as defined in RCW 82.04.065, to consumers.

15 (6) The term shall also include the sale of prewritten computer  
16 software other than a sale to a person who presents a resale  
17 certificate under RCW 82.04.470, regardless of the method of delivery  
18 to the end user, but shall not include custom software or the  
19 customization of prewritten computer software.

20 (7) The term shall not include the sale of or charge made for labor  
21 and services rendered in respect to the building, repairing, or  
22 improving of any street, place, road, highway, easement, right of way,  
23 mass public transportation terminal or parking facility, bridge,  
24 tunnel, or trestle which is owned by a municipal corporation or  
25 political subdivision of the state or by the United States and which is  
26 used or to be used primarily for foot or vehicular traffic including  
27 mass transportation vehicles of any kind.

28 (8) The term shall also not include sales of chemical sprays or  
29 washes to persons for the purpose of postharvest treatment of fruit for  
30 the prevention of scald, fungus, mold, or decay, nor shall it include  
31 sales of feed, seed, seedlings, fertilizer, agents for enhanced  
32 pollination including insects such as bees, and spray materials to:

33 (a) Persons who participate in the federal conservation reserve  
34 program, the environmental quality incentives program, the wetlands  
35 reserve program, and the wildlife habitat incentives program, or their  
36 successors administered by the United States department of agriculture;

37 (b) farmers for the purpose of producing for sale any agricultural  
38 product; and (c) farmers acting under cooperative habitat development

1 or access contracts with an organization exempt from federal income tax  
2 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of  
3 fish and wildlife to produce or improve wildlife habitat on land that  
4 the farmer owns or leases.

5 (9) The term shall not include the sale of or charge made for labor  
6 and services rendered in respect to the constructing, repairing,  
7 decorating, or improving of new or existing buildings or other  
8 structures under, upon, or above real property of or for the United  
9 States, any instrumentality thereof, or a county or city housing  
10 authority created pursuant to chapter 35.82 RCW, including the  
11 installing, or attaching of any article of tangible personal property  
12 therein or thereto, whether or not such personal property becomes a  
13 part of the realty by virtue of installation. Nor shall the term  
14 include the sale of services or charges made for the clearing of land  
15 and the moving of earth of or for the United States, any  
16 instrumentality thereof, or a county or city housing authority. Nor  
17 shall the term include the sale of services or charges made for  
18 cleaning up for the United States, or its instrumentalities,  
19 radioactive waste and other byproducts of weapons production and  
20 nuclear research and development.

21 NEW SECTION. **Sec. 3.** This act takes effect August 1, 2005.

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