
SENATE BILL 5493

State of Washington 60th Legislature 2007 Regular Session

By Senators Hargrove, Zarelli, Hatfield, Morton, Sheldon, Rasmussen, Kilmer, McAuliffe, Poulsen, Murray, Clements, Rockefeller, Swecker, Regala, Jacobsen and Shin

Read first time 01/22/2007. Referred to Committee on Ways & Means.

1 AN ACT Relating to the excise taxation of forest products
2 businesses; amending RCW 76.09.405, 82.04.261, 82.04.333, and
3 82.32.630; reenacting and amending RCW 82.04.260; adding a new section
4 to chapter 82.45 RCW; creating a new section; providing an effective
5 date; and declaring an emergency.

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

7 **Sec. 1.** RCW 76.09.405 and 2006 c 300 s 3 are each amended to read
8 as follows:

9 The forest and fish support account is hereby created in the state
10 treasury. Receipts from appropriations, the surcharge imposed under
11 RCW ((~~82.04.260(12)~~)) 82.04.261, and other sources must be deposited
12 into the account. Expenditures from the account shall be used for
13 activities pursuant to the state's implementation of the forests and
14 fish report as defined in this chapter ((~~76.09~~—RCW)) and related
15 activities((~~7~~)) including, but not limited to, adaptive management,
16 monitoring, and participation grants to tribes, state and local
17 agencies, and not-for-profit public interest organizations.
18 Expenditures from the account may be made only after appropriation by
19 the legislature.

1 **Sec. 2.** RCW 82.04.260 and 2006 c 354 s 4 and 2006 c 300 s 1 are
2 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) Beginning July 1, 2012, seafood products which remain in a raw,
12 raw frozen, or raw salted state at the completion of the manufacturing
13 by that person; as to such persons the amount of tax with respect to
14 such business shall be equal to the value of the products manufactured
15 or the gross proceeds derived from such sales, multiplied by the rate
16 of 0.138 percent;

17 (c) Beginning July 1, 2012, dairy products that as of September 20,
18 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,
19 including byproducts from the manufacturing of the dairy products such
20 as whey and casein; or selling the same to purchasers who transport in
21 the ordinary course of business the goods out of state; as to such
22 persons the tax imposed shall be equal to the value of the products
23 manufactured or the gross proceeds derived from such sales multiplied
24 by the rate of 0.138 percent. Sellers must keep and preserve records
25 for the period required by RCW 82.32.070 establishing that the goods
26 were transported by the purchaser in the ordinary course of business
27 out of this state;

28 (d) Beginning July 1, 2012, fruits or vegetables by canning,
29 preserving, freezing, processing, or dehydrating fresh fruits or
30 vegetables, or selling at wholesale fruits or vegetables manufactured
31 by the seller by canning, preserving, freezing, processing, or
32 dehydrating fresh fruits or vegetables and sold to purchasers who
33 transport in the ordinary course of business the goods out of this
34 state; as to such persons the amount of tax with respect to such
35 business shall be equal to the value of the products manufactured or
36 the gross proceeds derived from such sales multiplied by the rate of
37 0.138 percent. Sellers must keep and preserve records for the period

1 required by RCW 82.32.070 establishing that the goods were transported
2 by the purchaser in the ordinary course of business out of this state;

3 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel
4 feedstock, as those terms are defined in RCW 82.29A.135; as to such
5 persons the amount of tax with respect to the business shall be equal
6 to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock
7 manufactured, multiplied by the rate of 0.138 percent; and

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

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

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

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

26 (5) Upon every person engaging within this state in the business of
27 acting as a travel agent or tour operator; as to such persons the
28 amount of the tax with respect to such activities shall be equal to the
29 gross income derived from such activities multiplied by the rate of
30 0.275 percent.

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

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

30 (8) Upon every person engaging within this state in the business of
31 disposing of low-level waste, as defined in RCW 43.145.010; as to such
32 persons the amount of the tax with respect to such business shall be
33 equal to the gross income of the business, excluding any fees imposed
34 under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

35 If the gross income of the taxpayer is attributable to activities
36 both within and without this state, the gross income attributable to
37 this state shall be determined in accordance with the methods of
38 apportionment required under RCW 82.04.460.

1 (9) Upon every person engaging within this state as an insurance
2 agent, insurance broker, or insurance solicitor licensed under chapter
3 48.17 RCW; as to such persons, the amount of the tax with respect to
4 such licensed activities shall be equal to the gross income of such
5 business multiplied by the rate of 0.484 percent.

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

15 (11)(a) Beginning October 1, 2005, upon every person engaging
16 within this state in the business of manufacturing commercial
17 airplanes, or components of such airplanes, as to such persons the
18 amount of tax with respect to such business shall, in the case of
19 manufacturers, be equal to the value of the product manufactured, or in
20 the case of processors for hire, be equal to the gross income of the
21 business, multiplied by the rate of:

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

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

29 (b) Beginning October 1, 2005, upon every person engaging within
30 this state in the business of making sales, at retail or wholesale, of
31 commercial airplanes, or components of such airplanes, manufactured by
32 that person, as to such persons the amount of tax with respect to such
33 business shall be equal to the gross proceeds of sales of the airplanes
34 or components multiplied by the rate of:

35 (i) 0.4235 percent from October 1, 2005, through the later of June
36 30, 2007, or the day preceding the date final assembly of a
37 superefficient airplane begins in Washington state, as determined under
38 RCW 82.32.550; and

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

4 (c) For the purposes of this subsection (11), "commercial
5 airplane," "component," and "final assembly of a superefficient
6 airplane" have the meanings given in RCW 82.32.550.

7 (d) In addition to all other requirements under this title, a
8 person eligible for the tax rate under this subsection (11) must report
9 as required under RCW 82.32.545.

10 (e) This subsection (11) does not apply after the earlier of: July
11 1, 2024; or December 31, 2007, if assembly of a superefficient airplane
12 does not begin by December 31, 2007, as determined under RCW 82.32.550.

13 (12)(a) Until July 1, 2024, upon every person engaging within this
14 state in the business of extracting timber or extracting for hire
15 timber; as to such persons the amount of tax with respect to the
16 business shall, in the case of extractors, be equal to the value of
17 products, including byproducts, extracted, or in the case of extractors
18 for hire, be equal to the gross income of the business, multiplied by
19 the rate of 0.4235 percent from July 1, 2006, through June 30, 2007,
20 and 0.2904 percent from July 1, 2007, through June 30, 2024.

21 (b) Until July 1, 2024, upon every person engaging within this
22 state in the business of manufacturing or processing for hire: (i)
23 Timber into timber products or wood products; or (ii) timber products
24 into other timber products or wood products; as to such persons the
25 amount of the tax with respect to the business shall, in the case of
26 manufacturers, be equal to the value of products, including byproducts,
27 manufactured, or in the case of processors for hire, be equal to the
28 gross income of the business, multiplied by the rate of 0.4235 percent
29 from July 1, 2006, through June 30, 2007, and 0.2904 percent from July
30 1, 2007, through June 30, 2024.

31 (c) Until July 1, 2024, upon every person engaging within this
32 state in the business of selling at wholesale: (i) Timber either
33 extracted or grown or both by that person; (ii) timber products
34 manufactured by that person from timber or other timber products; or
35 (iii) wood products manufactured by that person from timber or timber
36 products; as to such persons the amount of the tax with respect to the
37 business shall be equal to the gross proceeds of sales of the timber,

1 timber products, or wood products multiplied by the rate of 0.4235
2 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent
3 from July 1, 2007, through June 30, 2024.

4 (d) For purposes of this subsection, the following definitions
5 apply:

6 (i) "Timber" means forest trees, standing or down, on privately or
7 publicly owned land. "Timber" includes short-rotation hardwoods that
8 are cultivated by agricultural methods on land classified as timber
9 land under chapter 84.34 RCW. "Timber" does not include Christmas
10 trees that are cultivated by agricultural methods.

11 (ii) "Timber products" means logs, wood chips, sawdust, wood waste,
12 and similar products obtained wholly from the processing of timber; and
13 pulp(~~(; and recycled paper products)~~), including pulp derived from
14 reclaimed paper or paper products.

15 (~~(ii)~~) (iii) "Wood products" means paper and paper products;
16 dimensional lumber; engineered wood products such as particleboard,
17 oriented strand board, medium density fiberboard, and plywood; wood
18 doors; and wood windows.

19 (13) Upon every person engaging within this state in inspecting,
20 testing, labeling, and storing canned salmon owned by another person,
21 as to such persons, the amount of tax with respect to such activities
22 shall be equal to the gross income derived from such activities
23 multiplied by the rate of 0.484 percent.

24 **Sec. 3.** RCW 82.04.261 and 2006 c 300 s 2 are each amended to read
25 as follows:

26 (1) In addition to the taxes imposed under RCW 82.04.260(12), a
27 surcharge is imposed on those persons who are subject to any of the
28 taxes imposed under RCW 82.04.260(12). Except as otherwise provided in
29 this section, the surcharge is equal to 0.052 percent. The surcharge
30 is added to the rates provided in RCW 82.04.260(12) (a), (b), and (c).
31 The surcharge and this section expire July 1, 2024.

32 (2) All receipts from the surcharge imposed under this section
33 shall be deposited into the forest and fish support account created in
34 RCW 76.09.405.

35 (3)(a) The surcharge imposed under this section shall be suspended
36 if:

1 (i) Receipts from the surcharge total at least eight million
2 dollars during any fiscal biennium; or

3 (ii) The office of financial management certifies to the department
4 that the federal government has appropriated at least two million
5 dollars for participation in forest and fish report-related activities
6 by federally recognized Indian tribes located within the geographical
7 boundaries of the state of Washington for any federal fiscal year.

8 (b)(i) The suspension of the surcharge under (a)(i) of this
9 subsection (3) shall take effect on the first day of the calendar month
10 that is at least thirty days after the end of the month during which
11 the department determines that receipts from the surcharge total at
12 least eight million dollars during the fiscal biennium. The surcharge
13 shall be imposed again at the beginning of the following fiscal
14 biennium.

15 (ii) The suspension of the surcharge under (a)(ii) of this
16 subsection (3) shall take effect on the later of the first day of
17 October of any federal fiscal year for which the federal government
18 appropriates at least two million dollars for participation in forest
19 and fish report-related activities by federally recognized Indian
20 tribes located within the geographical boundaries of the state of
21 Washington, or the first day of a calendar month that is at least
22 thirty days following the date that the office of financial management
23 makes a certification to the department under subsection (5) of this
24 section. The surcharge shall be imposed again on the first day of the
25 following July.

26 (4)(a) If, by October 1st of any federal fiscal year, the office of
27 financial management certifies to the department that the federal
28 government has appropriated funds for participation in forest and fish
29 report-related activities by federally recognized Indian tribes located
30 within the geographical boundaries of the state of Washington but the
31 amount of the appropriation is less than two million dollars, the
32 department shall adjust the surcharge in accordance with this
33 subsection.

34 (b) The department shall adjust the surcharge by an amount that the
35 department estimates will cause the amount of funds deposited into the
36 forest and fish support account for the state fiscal year that begins
37 July 1st and that includes the beginning of the federal fiscal year for
38 which the federal appropriation is made, to be reduced by twice the

1 amount of the federal appropriation for participation in forest and
2 fish report-related activities by federally recognized Indian tribes
3 located within the geographical boundaries of the state of Washington.

4 (c) Any adjustment in the surcharge shall take effect at the
5 beginning of a calendar month that is at least thirty days after the
6 date that the office of financial management makes the certification
7 under subsection (5) of this section.

8 (d) The surcharge shall be imposed again at the rate provided in
9 subsection (1) of this section on the first day of the following state
10 fiscal year unless the surcharge is suspended under subsection (3) of
11 this section or adjusted for that fiscal year under this subsection.

12 (e) Adjustments of the amount of the surcharge by the department
13 are final and shall not be used to challenge the validity of the
14 surcharge imposed under this section.

15 (f) The department shall provide timely notice to affected
16 taxpayers of the suspension of the surcharge or an adjustment of the
17 surcharge.

18 (5) The office of financial management shall make the certification
19 to the department as to the status of federal appropriations for tribal
20 participation in forest and fish report-related activities.

21 **Sec. 4.** RCW 82.04.333 and 1990 c 141 s 1 are each amended to read
22 as follows:

23 ~~((This chapter shall not apply to the gross receipts or value of
24 products proceeding or accruing from timber harvested by))~~ In computing
25 tax under this chapter, a person who is a small harvester as defined in
26 RCW ~~((84.33.073 and whose value of products, gross proceeds of sales,~~
27 ~~or gross income of the business is less than))~~ 84.33.035(14) may deduct
28 an amount not to exceed one hundred thousand dollars per tax year from
29 the gross receipts or value of products proceeding or accruing from
30 timber harvested by that person. A deduction under this section may
31 not reduce the amount of tax due to less than zero.

32 **Sec. 5.** RCW 82.32.630 and 2006 c 300 s 9 are each amended to read
33 as follows:

34 (1) The legislature finds that accountability and effectiveness are
35 important aspects of setting tax policy. In order to make policy

1 choices regarding the best use of limited state resources, the
2 legislature needs information on how a tax incentive is used.

3 (2)(a) A person who reports taxes under RCW 82.04.260(12) shall
4 file a complete annual survey with the department. The survey is due
5 by March 31st following any year in which a person reports taxes under
6 RCW 82.04.260(12). The department may extend the due date for timely
7 filing of annual surveys under this section as provided in RCW
8 82.32.590. The survey shall include the amount of tax reduced under
9 the preferential rate in RCW 82.04.260(12). The survey shall also
10 include the following information for employment positions in
11 Washington:

12 (i) The number of total employment positions;

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

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

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

22 (b) The first survey filed under this subsection shall include
23 employment, wage, and benefit information for the twelve-month period
24 immediately before first use of a preferential tax rate under RCW
25 82.04.260(12).

26 (c) As part of the annual survey, the department may request
27 additional information, including the amount of investment in equipment
28 used in the activities taxable under the preferential rate in RCW
29 82.04.260(12), necessary to measure the results of, or determine
30 eligibility for, the preferential tax rate in RCW 82.04.260(12).

31 (d) All information collected under this section, except the amount
32 of the tax reduced under the preferential rate in RCW 82.04.260(12), is
33 deemed taxpayer information under RCW 82.32.330. Information on the
34 amount of tax reduced is not subject to the confidentiality provisions
35 of RCW 82.32.330 and may be disclosed to the public upon request,
36 except as provided in (e) of this subsection. If the amount of the tax
37 reduced as reported on the survey is different than the amount actually

1 reduced based on the taxpayer's excise tax returns or otherwise allowed
2 by the department, the amount actually reduced may be disclosed.

3 (e) Persons for whom the actual amount of the tax reduction is less
4 than ten thousand dollars during the period covered by the survey may
5 request the department to treat the amount of the tax reduction as
6 confidential under RCW 82.32.330.

7 (f) Persons who qualify as small harvesters under RCW 84.33.035(14)
8 are not required to file the annual survey under this section.

9 (3) If a person fails to submit a complete annual survey under
10 subsection (2) of this section by the due date or any extension under
11 RCW 82.32.590, the department shall declare the amount of taxes reduced
12 under the preferential rate in RCW 82.04.260(12) for the period covered
13 by the survey to be immediately due and payable. The department shall
14 assess interest, but not penalties, on the taxes. Interest shall be
15 assessed at the rate provided for delinquent excise taxes under this
16 chapter, retroactively to the date the reduced taxes were due, and
17 shall accrue until the amount of the reduced taxes is repaid.

18 (4) The department shall use the information from the annual survey
19 required under subsection (2) of this section to prepare summary
20 descriptive statistics by category. The department shall report these
21 statistics to the legislature each year by September 1st. The
22 requirement to prepare and report summary descriptive statistics shall
23 cease after September 1, 2025.

24 (5) By November 1, 2011, and November 1, 2023, the fiscal
25 committees of the house of representatives and the senate, in
26 consultation with the department, shall report to the legislature on
27 the effectiveness of the preferential tax rate provided in RCW
28 82.04.260(12). The report shall measure the effect of the preferential
29 tax rate provided in RCW 82.04.260(12) on job retention, net jobs
30 created for Washington residents, company growth, and other factors as
31 the committees select. The report shall include a discussion of
32 principles to apply in evaluating whether the legislature should
33 continue the preferential tax rate provided in RCW 82.04.260(12).

34 NEW SECTION. Sec. 6. A new section is added to chapter 82.45 RCW
35 to read as follows:

36 A sale of standing timber is exempt from tax under this chapter if

1 the timber is sold separately from the underlying land and the seller
2 requires the purchaser to sever the timber from the land within thirty
3 months or less from the date of execution of the sale agreement.

4 NEW SECTION. **Sec. 7.** The expiration of RCW 82.04.261 does not
5 affect any existing right acquired or liability or obligation incurred
6 under that section or under any rule or order adopted under that
7 section, nor does it affect any proceeding instituted under that
8 section.

9 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and takes effect
12 July 1, 2007.

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