

SHB 1597 - S AMD 457  
By Senator Tom

1 On page 133, after line 35, insert the following:

2 "NEW SECTION. **Sec. 502.** (1) Through sections 503 and 504 of this  
3 act the legislature intends to address the taxation of persons  
4 manufacturing and/or selling bunker fuel. Bunker fuel is fuel intended  
5 for consumption outside the waters of the United States by vessels in  
6 foreign commerce. Although the state has historically collected tax  
7 from bunker fuel manufacturers, recently questions have arisen whether  
8 the manufacture of bunker fuel is subject to business and occupation  
9 tax under RCW 82.04.240. Pursuant to sections 503 and 504 of this act,  
10 the activity is taxable under RCW 82.04.240.

11 (2) The legislature finds that at the time the deduction allowed  
12 under RCW 82.04.433 was enacted in 1985, it was intended to apply only  
13 to the wholesaling or retailing of bunker fuel. In 1987 the  
14 legislature enacted the multiple activities tax credit in RCW  
15 82.04.440. Enactment of the multiple activities tax credit resulted in  
16 changed tax liability for certain taxpayers. In particular, some  
17 taxpayers that engaged in activities that had been exempt under the  
18 prior multiple activities exemption became subject to tax on  
19 manufacturing activities upon enactment of the multiple activities tax  
20 credit in its place. The manufacturing of bunker fuel is one such  
21 activity.

22 **Sec. 503.** RCW 82.04.433 and 1985 c 471 s 16 are each amended to  
23 read as follows:

24 (1) In computing tax there may be deducted from the measure of tax  
25 imposed under RCW 82.04.250 and 82.04.270 amounts derived from sales of  
26 fuel for consumption outside the territorial waters of the United  
27 States, by vessels used primarily in foreign commerce.

28 (2) ~~((Nothing in this section shall be construed to imply that~~  
29 ~~amounts which may be deducted under this section were taxable under~~

1 ~~Title 82 RCW prior to the enactment of this section.)~~ The deduction in  
2 subsection (1) of this section does not apply with respect to the tax  
3 imposed under RCW 82.04.240, whether the value of the fuel under that  
4 tax is measured by the gross proceeds derived from the sale thereof or  
5 otherwise under RCW 82.04.450.

6 NEW SECTION. Sec. 504. The department of revenue must take any  
7 actions that are necessary to ensure that its rules and other  
8 interpretive statements are consistent with sections 502 and 503 of  
9 this act."

10 Renumber the remaining sections consecutively.

11 On page 134, after line 23, insert the following:

12 "NEW SECTION. Sec. 512. Sections 502 through 504 of this act  
13 apply both prospectively and retroactively.

14 NEW SECTION. Sec. 513. Sections 502 through 504 of this act are  
15 necessary for the immediate preservation of the public peace, health,  
16 or safety, or support of the state government and its existing public  
17 institutions, and take effect immediately."

18 Renumber the remaining section consecutively.

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19 On page 1, line 21 of the title, after "87.03.265," strike "and  
20 87.03.270" and insert "87.03.270, and 82.04.433"

21 On page 2, line 8 of the title, after "date;" strike "and providing  
22 expiration dates" and insert "providing expiration dates; and declaring  
23 an emergency"

EFFECT: Clarifies income from wholesaling and retailing of bunker fuel can be deducted from the B&O tax; however, manufacturing of bunker fuel is taxable under the B&O manufacturing classification.

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