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**SUBSTITUTE HOUSE BILL 1025**

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**State of Washington                      63rd Legislature                      2013 Regular Session**

**By** House Labor & Workforce Development (originally sponsored by Representatives Moeller, Appleton, Ormsby, and Pollet)

READ FIRST TIME 02/18/13.

1            AN ACT Relating to extending the application of prevailing wage  
2 requirements; amending RCW 39.12.010, 39.12.030, 39.12.040, 39.12.042,  
3 39.12.050, 39.12.065, 39.12.070, 82.60.025, 82.75.010, 82.82.010,  
4 82.08.820, 82.08.900, 82.08.955, and 82.12.955; reenacting and amending  
5 RCW 82.63.010; and adding new sections to chapter 39.12 RCW.

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

7            **Sec. 1.** RCW 39.12.010 and 1989 c 12 s 6 are each amended to read  
8 as follows:

9            (1) The "prevailing rate of wage," for the intents and purposes of  
10 this chapter, shall be the rate of hourly wage, usual benefits, and  
11 overtime paid in the locality, as hereinafter defined, to the majority  
12 of workers, laborers, or mechanics, in the same trade or occupation.  
13 In the event that there is not a majority in the same trade or  
14 occupation paid at the same rate, then the average rate of hourly wage  
15 and overtime paid to such laborers, workers, or mechanics in the same  
16 trade or occupation shall be the prevailing rate. If the wage paid by  
17 any contractor or subcontractor to laborers, workers, or mechanics on  
18 any public work is based on some period of time other than an hour, the

1 hourly wage for the purposes of this chapter shall be mathematically  
2 determined by the number of hours worked in such period of time.

3 (2) The "locality" for the purposes of this chapter shall be the  
4 largest city in the county wherein the physical work is being  
5 performed.

6 (3) The "usual benefits" for the purposes of this chapter shall  
7 include the amount of:

8 (a) The rate of contribution irrevocably made by a contractor or  
9 subcontractor to a trustee or to a third person pursuant to a fund,  
10 plan, or program; and

11 (b) The rate of costs to the contractor or subcontractor which may  
12 be reasonably anticipated in providing benefits to workers, laborers,  
13 and mechanics pursuant to an enforceable commitment to carry out a  
14 financially responsible plan or program which was communicated in  
15 writing to the workers, laborers, and mechanics affected, for medical  
16 or hospital care, pensions on retirement or death, compensation for  
17 injuries or illness resulting from occupational activity, or insurance  
18 to provide any of the foregoing, for unemployment benefits, life  
19 insurance, disability and sickness insurance, or accident insurance,  
20 for vacation and holiday pay, for defraying costs of apprenticeship or  
21 other similar programs, or for other bona fide fringe benefits, but  
22 only where the contractor or subcontractor is not required by other  
23 federal, state, or local law to provide any of such benefits.

24 (4) An "interested party" for the purposes of this chapter shall  
25 include a contractor, subcontractor, an employee of a contractor or  
26 subcontractor, an organization whose members' wages, benefits, and  
27 conditions of employment are affected by this chapter, and the director  
28 of labor and industries or the director's designee.

29 (5)(a) "Subsidized public work" means all work, construction,  
30 alterations, repairs, or improvements other than ordinary maintenance  
31 where:

32 (i) One or more parties to the contract for the project received or  
33 will receive a qualifying tax preference for the project; or

34 (ii) One or more parties to the contract for the project received  
35 or will receive a loan for the project from the state or any county,  
36 municipality, or political subdivision.

37 (b) "Subsidized public work" does not include:

1        (i) Work financed by a loan provided by a housing authority created  
2 pursuant to chapter 35.82 RCW; or

3        (ii) Affordable housing projects that receive financing from the  
4 Washington state housing finance commission and are not subject to  
5 federal prevailing wage requirements.

6        (6) "Qualifying tax preference" means a tax preference under  
7 chapter 82.60, 82.63, 82.75, or 82.82 RCW, or RCW 82.08.820, 82.08.900,  
8 82.08.955, 82.12.900, or 82.12.955.

9        (7) "Subsidy recipient" means the private party to a contract for  
10 subsidized public work who received a tax preference or received a  
11 public loan as described in subsection (5)(a) of this section.

12        NEW SECTION. Sec. 2. A new section is added to chapter 39.12 RCW  
13 to read as follows:

14        (1) The requirements of this chapter apply to subsidized public  
15 works projects.

16        (2) Upon request from a party to a contract for subsidized public  
17 work, as defined in RCW 39.12.010(5)(a)(i), the department of labor and  
18 industries must provide written certification of the party's compliance  
19 with this chapter.

20        **Sec. 3.** RCW 39.12.030 and 2009 c 62 s 1 are each amended to read  
21 as follows:

22        (1) The specifications for every contract for the construction,  
23 reconstruction, maintenance, or repair of any public work (~~to which~~  
24 ~~the state or any county, municipality, or political subdivision created~~  
25 ~~by its laws is a party,~~) shall contain a provision stating the hourly  
26 minimum rate of wage, not less than the prevailing rate of wage, which  
27 may be paid to laborers, workers, or mechanics in each trade or  
28 occupation required for such public work employed in the performance of  
29 the contract either by the contractor, subcontractor, or other person  
30 doing or contracting to do the whole or any part of the work  
31 contemplated by the contract, and the contract shall contain a  
32 stipulation that such laborers, workers, or mechanics shall be paid not  
33 less than such specified hourly minimum rate of wage. If the awarding  
34 agency or subsidy recipient determines that the work contracted for  
35 meets the definition of residential construction, the contract must  
36 include that information.

1 (2) If the hourly minimum rate of wage stated in the contract  
2 specifies residential construction rates and it is later determined  
3 that the work performed is commercial and subject to commercial  
4 construction rates, the state, county, municipality, (~~(or)~~) political  
5 subdivision, or subsidy recipient that entered into the contract must  
6 pay the difference between the residential rate stated and the actual  
7 commercial rate to the contractor, subcontractor, or other person doing  
8 or contracting to do the whole or any part of the work under the  
9 contract.

10 **Sec. 4.** RCW 39.12.040 and 2012 c 129 s 1 are each amended to read  
11 as follows:

12 (1) Except as provided in subsection (2) of this section, before  
13 payment is made by or on behalf of the state, or any county,  
14 municipality, or political subdivision created by its laws, or any  
15 subsidy recipient of any sum or sums due on account of a public works  
16 contract, it shall be the duty of the officer or person charged with  
17 the custody and disbursement of (~~(public)~~) funds to require the  
18 contractor and each and every subcontractor from the contractor or a  
19 subcontractor to submit to such officer a "Statement of Intent to Pay  
20 Prevailing Wages." For a contract in excess of ten thousand dollars,  
21 the statement of intent to pay prevailing wages shall include:

- 22 (a) The contractor's registration certificate number; and
- 23 (b) The prevailing rate of wage for each classification of workers  
24 entitled to prevailing wages under RCW 39.12.020 and the estimated  
25 number of workers in each classification.

26 Each statement of intent to pay prevailing wages must be approved  
27 by the industrial statistician of the department of labor and  
28 industries before it is submitted to the disbursing officer or person.  
29 Unless otherwise authorized by the department of labor and industries,  
30 each voucher claim submitted by a contractor for payment on a project  
31 estimate shall state that the prevailing wages have been paid in  
32 accordance with the prefiled statement or statements of intent to pay  
33 prevailing wages on file with the public agency or subsidy recipient.  
34 Following the final acceptance of a public works project, it shall be  
35 the duty of the officer charged with the disbursement of public  
36 funds(~~(r)~~) to require the contractor and each and every subcontractor  
37 from the contractor or a subcontractor to submit to such officer an

1 "affidavit of wages paid" before the funds retained according to the  
2 provisions of RCW 60.28.011 are released to the contractor. For  
3 subsidized public works, following the contract completion date of the  
4 project, it shall be the duty of the person employed by a subsidy  
5 recipient who is charged with the disbursement of funds to require the  
6 contractor and each and every subcontractor to submit to such person an  
7 "affidavit of wages paid" before final payment is made to the  
8 contractor. If a subcontractor performing work on a public works  
9 project fails to submit an "affidavit of wages paid" form, the  
10 contractor or subcontractor with whom the subcontractor had a  
11 contractual relationship for the project may file the forms on behalf  
12 of the nonresponsive subcontractor. Affidavit forms may only be filed  
13 on behalf of a nonresponsive subcontractor who has ceased operations or  
14 failed to file as required by this section. Filings made on behalf of  
15 a subcontractor may not be accepted sooner than thirty-one days after  
16 the acceptance date of the public works project (~~and~~) or contract  
17 completion date of a subsidized public works project. The contractor  
18 filing the affidavit must accept responsibility for payment of  
19 prevailing wages unpaid by the subcontractor on the project pursuant to  
20 RCW 39.12.020 and 39.12.065. Intentionally filing a false affidavit on  
21 behalf of a subcontractor subjects the filer to the same penalties as  
22 are provided in RCW 39.12.050. Each affidavit of wages paid must be  
23 certified by the industrial statistician of the department of labor and  
24 industries before it is submitted to the disbursing officer or person.

25 (2) As an alternate to the procedures provided for in subsection  
26 (1) of this section, for public works projects of two thousand five  
27 hundred dollars or less and for projects where the limited public works  
28 process under RCW 39.04.155(3) is followed:

29 (a) An awarding agency or subsidy recipient may authorize the  
30 contractor or subcontractor to submit the statement of intent to pay  
31 prevailing wages directly to the officer or person charged with the  
32 custody or disbursement of (~~public~~) funds in the awarding agency or  
33 subsidy recipient without approval by the industrial statistician of  
34 the department of labor and industries. The awarding agency or subsidy  
35 recipient shall retain such statement of intent to pay prevailing wages  
36 for a period of not less than three years.

37 (b) Upon final acceptance of the public works project, or upon the  
38 contract completion date of a subsidized public works project, the

1 awarding agency or subsidy recipient shall require the contractor or  
2 subcontractor to submit an affidavit of wages paid. Upon receipt of  
3 the affidavit of wages paid, the awarding agency or subsidy recipient  
4 may pay the contractor or subcontractor in full, including funds that  
5 would otherwise be retained according to the provisions of RCW  
6 60.28.011. Within thirty days of receipt of the affidavit of wages  
7 paid, the awarding agency or subsidy recipient shall submit the  
8 affidavit of wages paid to the industrial statistician of the  
9 department of labor and industries for approval.

10 (c) A statement of intent to pay prevailing wages and an affidavit  
11 of wages paid shall be on forms approved by the department of labor and  
12 industries.

13 (d) In the event of a wage claim and a finding for the claimant by  
14 the department of labor and industries where the awarding agency or  
15 subsidy recipient has used the alternative process provided for in  
16 subsection (2) of this section, the awarding agency or subsidy  
17 recipient shall pay the wages due directly to the claimant. If the  
18 contractor or subcontractor did not pay the wages stated in the  
19 affidavit of wages paid, the awarding agency or subsidy recipient may  
20 take action at law to seek reimbursement from the contractor or  
21 subcontractor of wages paid to the claimant, and may prohibit the  
22 contractor or subcontractor from bidding on any public works contract  
23 of the awarding agency or subsidy recipient for up to one year.

24 (e) Nothing in this section shall be interpreted to allow an  
25 awarding agency or subsidy recipient to subdivide any public works  
26 project of more than two thousand five hundred dollars for the purpose  
27 of circumventing the procedures required by subsection (1) of this  
28 section.

29 **Sec. 5.** RCW 39.12.042 and 1993 c 404 s 3 are each amended to read  
30 as follows:

31 If any agency of the state, or any county, municipality, or  
32 political subdivision created by its laws, or any subsidy recipient  
33 shall knowingly fail to comply with the provisions of RCW 39.12.040 as  
34 now or hereafter amended, (~~such agency of the state, or county,~~  
35 ~~municipality, or political subdivision created by its laws,~~) it shall  
36 be liable to all workers, laborers, or mechanics to the full extent and

1 for the full amount of wages due, pursuant to the prevailing wage  
2 requirements of RCW 39.12.020.

3 **Sec. 6.** RCW 39.12.050 and 2009 c 219 s 3 are each amended to read  
4 as follows:

5 (1) Any contractor or subcontractor who files a false statement or  
6 fails to file any statement or record required to be filed under this  
7 chapter and the rules adopted under this chapter(~~(7)~~) shall, after a  
8 determination to that effect has been issued by the director after  
9 hearing under chapter 34.05 RCW, forfeit as a civil penalty the sum of  
10 five hundred dollars for each false filing or failure to file, and  
11 shall not be permitted to bid, or have a bid considered, on any public  
12 works contract until the penalty has been paid in full to the director.  
13 The civil penalty under this subsection shall not apply to a violation  
14 determined by the director to be an inadvertent filing or reporting  
15 error. Civil penalties shall be deposited in the public works  
16 administration account.

17 To the extent that a contractor or subcontractor has not paid wages  
18 at the rate due pursuant to RCW 39.12.020, and a finding to that effect  
19 has been made as provided by this subsection, such unpaid wages shall  
20 constitute a lien against the bonds and retainage as provided in RCW  
21 18.27.040, 19.28.041, 39.08.010, section 9 of this act, and 60.28.011.

22 (2) If a contractor or subcontractor is found to have violated the  
23 provisions of subsection (1) of this section for a second time within  
24 a five-year period, the contractor or subcontractor shall be subject to  
25 the sanctions prescribed in subsection (1) of this section and shall  
26 not be allowed to bid on any public works contract for one year. The  
27 one-year period shall run from the date of notice by the director of  
28 the determination of noncompliance. When an appeal is taken from the  
29 director's determination, the one-year period shall commence from the  
30 date of the final determination of the appeal.

31 The director shall issue his or her findings that a contractor or  
32 subcontractor has violated the provisions of this subsection after a  
33 hearing held subject to the provisions of chapter 34.05 RCW.

34 **Sec. 7.** RCW 39.12.065 and 2009 c 219 s 4 are each amended to read  
35 as follows:

36 (1) Upon complaint by an interested party, the director of labor

1 and industries shall cause an investigation to be made to determine  
2 whether there has been compliance with this chapter and the rules  
3 adopted hereunder, and, if the investigation indicates that a violation  
4 may have occurred, a hearing shall be held in accordance with chapter  
5 34.05 RCW. The director shall issue a written determination including  
6 his or her findings after the hearing. A judicial appeal from the  
7 director's determination may be taken in accordance with chapter 34.05  
8 RCW, with the prevailing party entitled to recover reasonable costs and  
9 attorneys' fees.

10 A complaint concerning nonpayment of the prevailing rate of wage  
11 shall be filed with the department of labor and industries no later  
12 than thirty days from the acceptance date of the public works project.  
13 The failure to timely file such a complaint shall not prohibit a  
14 claimant from pursuing a private right of action against a contractor  
15 or subcontractor for unpaid prevailing wages. The remedy provided by  
16 this section is not exclusive and is concurrent with any other remedy  
17 provided by law.

18 (2) To the extent that a contractor or subcontractor has not paid  
19 the prevailing rate of wage under a determination issued as provided in  
20 subsection (1) of this section, the director shall notify the agency or  
21 subsidy recipient awarding the public works contract of the amount of  
22 the violation found, and the awarding agency shall withhold, or in the  
23 case of a bond, the director shall proceed against the bond in  
24 accordance with the applicable statute to recover, such amount from the  
25 following sources in the following order of priority until the total of  
26 such amount is withheld:

27 (a) The retainage or bond in lieu of retainage as provided in RCW  
28 60.28.011;

29 (b) If the claimant was employed by the contractor or subcontractor  
30 on the public works project, the bond filed by the contractor or  
31 subcontractor with the department of labor and industries as provided  
32 in RCW 18.27.040 and 19.28.041;

33 (c) A surety bond, or at the contractor's or subcontractor's option  
34 an escrow account, running to the director in the amount of the  
35 violation found; and

36 (d) That portion of the progress payments which is properly  
37 allocable to the contractor or subcontractor who is found to be in  
38 violation of this chapter. Under no circumstances shall any portion of



1 the progress payments be withheld that are properly allocable to a  
2 contractor, subcontractor, or supplier, that is not found to be in  
3 violation of this chapter.

4 The amount withheld shall be released to the director to distribute  
5 in accordance with the director's determination.

6 (3)(a) A contractor or subcontractor that is found, in accordance  
7 with subsection (1) of this section, to have violated the requirement  
8 to pay the prevailing rate of wage shall be subject to a civil penalty  
9 of not less than one thousand dollars or an amount equal to twenty  
10 percent of the total prevailing wage violation found on the contract,  
11 whichever is greater, and shall not be permitted to bid, or have a bid  
12 considered, on any public works contract until such civil penalty has  
13 been paid in full to the director. If the contractor or subcontractor  
14 performs work on a subsidized public works project, the subsidy  
15 recipient shall also be subject to a civil penalty in the amount of the  
16 unpaid wages or the value of the qualifying tax preference, whichever  
17 is greater. Civil penalties shall be deposited in the public works  
18 administration account.

19 (b) If a contractor or subcontractor is found to have participated  
20 in a violation of the requirement to pay the prevailing rate of wage  
21 for a second time within a five-year period, the contractor or  
22 subcontractor shall be subject to the sanctions prescribed in (a) of  
23 this subsection and as an additional sanction shall not be allowed to  
24 bid on any public works contract for two years. (~~Civil penalties~~  
25 ~~shall be deposited in the public works administration account.~~) If a  
26 previous or subsequent violation of a requirement to pay a prevailing  
27 rate of wage under federal or other state law is found against the  
28 contractor or subcontractor within five years from a violation under  
29 this section, the contractor or subcontractor shall not be allowed to  
30 bid on any public works contract for two years. A contractor or  
31 subcontractor shall not be barred from bidding on any public works  
32 contract if the contractor or subcontractor relied upon written  
33 information from the department to pay a prevailing rate of wage that  
34 is later determined to be in violation of this chapter.

35 (c) The civil penalty and sanctions under this subsection (3) shall  
36 not apply to a violation determined by the director to be an  
37 inadvertent filing or reporting error.

1        (d) To the extent that a contractor or subcontractor has not paid  
2 the prevailing wage rate under a determination issued as provided in  
3 subsection (1) of this section, the unpaid wages shall constitute a  
4 lien against the bonds and retainage as provided herein and in RCW  
5 18.27.040, 19.28.041, 39.08.010, section 9 of this act, and 60.28.011.

6        **Sec. 8.** RCW 39.12.070 and 2008 c 285 s 2 are each amended to read  
7 as follows:

8        The department of labor and industries may charge fees to awarding  
9 agencies or subsidy recipients on public works for the approval of  
10 statements of intent to pay prevailing wages and the certification of  
11 affidavits of wages paid. The department may also charge fees to  
12 persons or organizations requesting the arbitration of disputes under  
13 RCW 39.12.060. The amount of the fees shall be established by rules  
14 adopted by the department under the procedures in the administrative  
15 procedure act, chapter 34.05 RCW. The fees shall apply to all  
16 approvals, certifications, and arbitration requests made after the  
17 effective date of the rules. All fees shall be deposited in the public  
18 works administration account. The department may refuse to arbitrate  
19 for contractors, subcontractors, persons, or organizations which have  
20 not paid the proper fees. The department may, if necessary, request  
21 the attorney general to take legal action to collect delinquent fees.

22        The department shall set the fees permitted by this section at a  
23 level that generates revenue that is as near as practicable to the  
24 amount of the appropriation to administer this chapter((7)) including,  
25 but not limited to, the performance of adequate wage surveys, and to  
26 investigate and enforce all alleged violations of this chapter((7))  
27 including, but not limited to, incorrect statements of intent to pay  
28 prevailing wage, incorrect certificates of affidavits of wages paid,  
29 and wage claims, as provided for in this chapter and chapters 49.48 and  
30 49.52 RCW. However, the fees charged for the approval of statements of  
31 intent to pay prevailing wages and the certification of affidavits of  
32 wages paid shall be forty dollars.

33        NEW SECTION. **Sec. 9.** A new section is added to chapter 39.12 RCW  
34 to read as follows:

35        (1) Every contractor and subcontractor on a subsidized public works  
36 project must file with the department of labor and industries a surety

1 bond issued by a surety insurer who meets the requirements of chapter  
2 48.28 RCW in the sum of five percent of the amount due on the public  
3 works contract. The bond must name the state of Washington as obligee  
4 with good and sufficient surety in a form to be approved by the  
5 department. The bond must be continuous and may be canceled by the  
6 surety upon the surety giving written notice to the director of labor  
7 and industries. The bond must be conditioned to recover against the  
8 contractor and its officers, agents, and employees by reason of its  
9 violation of this chapter. A change in the name of a business or a  
10 change in the type of business entity does not impair a bond for the  
11 purposes of this section so long as one of the original applicants for  
12 the bond maintains partial ownership in the business covered by the  
13 bond.

14 (2) In lieu of posting a bond, the contractor and subcontractor on  
15 a subsidized public works project may deposit five percent of the  
16 amount due on the subsidized public works contract in an interest-  
17 bearing account.

18 **Sec. 10.** RCW 82.60.025 and 2010 1st sp.s. c 16 s 4 are each  
19 amended to read as follows:

20 The lessor or owner of a qualified building is not eligible for a  
21 deferral unless:

22 (1) The lessor or owner complies with the requirements of chapter  
23 39.12 RCW; and

24 (2) The underlying ownership of the buildings, machinery, and  
25 equipment vests exclusively in the same person; or

26 ((+2)) (3)(a) The lessor by written contract agrees to pass the  
27 economic benefit of the deferral to the lessee;

28 (b) The lessee that receives the economic benefit of the deferral  
29 agrees in writing with the department to complete the annual survey  
30 required under RCW 82.60.070; and

31 (c) The economic benefit of the deferral passed to the lessee is no  
32 less than the amount of tax deferred by the lessor and is evidenced by  
33 written documentation of any type of payment, credit, or other  
34 financial arrangement between the lessor or owner of the qualified  
35 building and the lessee.

1       **Sec. 11.** RCW 82.63.010 and 2009 c 268 s 2 are each reenacted and  
2 amended to read as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

5       (1) "Advanced computing" means technologies used in the designing  
6 and developing of computing hardware and software, including  
7 innovations in designing the full spectrum of hardware from hand-held  
8 calculators to super computers, and peripheral equipment.

9       (2) "Advanced materials" means materials with engineered properties  
10 created through the development of specialized processing and synthesis  
11 technology, including ceramics, high value-added metals, electronic  
12 materials, composites, polymers, and biomaterials.

13       (3) "Applicant" means a person applying for a tax deferral under  
14 this chapter.

15       (4) "Biotechnology" means the application of technologies, such as  
16 recombinant DNA techniques, biochemistry, molecular and cellular  
17 biology, genetics and genetic engineering, cell fusion techniques, and  
18 new bioprocesses, using living organisms, or parts of organisms, to  
19 produce or modify products, to improve plants or animals, to develop  
20 microorganisms for specific uses, to identify targets for small  
21 molecule pharmaceutical development, or to transform biological systems  
22 into useful processes and products or to develop microorganisms for  
23 specific uses.

24       (5) "Department" means the department of revenue.

25       (6) "Electronic device technology" means technologies involving  
26 microelectronics; semiconductors; electronic equipment and  
27 instrumentation; radio frequency, microwave, and millimeter  
28 electronics; optical and optic-electrical devices; and data and digital  
29 communications and imaging devices.

30       (7) "Eligible investment project" means an investment project which  
31 either initiates a new operation, or expands or diversifies a current  
32 operation by expanding, renovating, or equipping an existing facility.  
33 The lessor or owner of the qualified building is not eligible for a  
34 deferral unless:

35       (a) The lessor or owner complies with the requirements of chapter  
36 39.12 RCW; and

37       (b) The underlying ownership of the buildings, machinery, and  
38 equipment vests exclusively in the same person; or

1       (~~(b)~~) (c)(i) The lessor by written contract agrees to pass the  
2 economic benefit of the deferral to the lessee;

3       (ii) The lessee that receives the economic benefit of the deferral  
4 agrees in writing with the department to complete the annual survey  
5 required under RCW 82.63.020(2); and

6       (iii) The economic benefit of the deferral passed to the lessee is  
7 no less than the amount of tax deferred by the lessor and is evidenced  
8 by written documentation of any type of payment, credit, or other  
9 financial arrangement between the lessor or owner of the qualified  
10 building and the lessee.

11       (8) "Environmental technology" means assessment and prevention of  
12 threats or damage to human health or the environment, environmental  
13 cleanup, and the development of alternative energy sources.

14       (9)(a) "Initiation of construction" means the date that a building  
15 permit is issued under the building code adopted under RCW 19.27.031  
16 for:

17       (i) Construction of the qualified building, if the underlying  
18 ownership of the building vests exclusively with the person receiving  
19 the economic benefit of the deferral;

20       (ii) Construction of the qualified building, if the economic  
21 benefits of the deferral are passed to a lessee as provided in  
22 subsection (7) of this section; or

23       (iii) Tenant improvements for a qualified building, if the economic  
24 benefits of the deferral are passed to a lessee as provided in  
25 subsection (7) of this section.

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

30       (c) If the investment project is a phased project, "initiation of  
31 construction" shall apply separately to each phase.

32       (10) "Investment project" means an investment in qualified  
33 buildings or qualified machinery and equipment, including labor and  
34 services rendered in the planning, installation, and construction or  
35 improvement of the project.

36       (11) "Multiple qualified buildings" means qualified buildings  
37 leased to the same person when such structures: (a) Are located within

1 a five-mile radius; and (b) the initiation of construction of each  
2 building begins within a sixty-month period.

3 (12) "Person" has the meaning given in RCW 82.04.030 and includes  
4 state universities as defined in RCW 28B.10.016.

5 (13) "Pilot scale manufacturing" means design, construction, and  
6 testing of preproduction prototypes and models in the fields of  
7 biotechnology, advanced computing, electronic device technology,  
8 advanced materials, and environmental technology other than for  
9 commercial sale. As used in this subsection, "commercial sale"  
10 excludes sales of prototypes or sales for market testing if the total  
11 gross receipts from such sales of the product, service, or process do  
12 not exceed one million dollars.

13 (14) "Qualified buildings" means construction of new structures,  
14 and expansion or renovation of existing structures for the purpose of  
15 increasing floor space or production capacity used for pilot scale  
16 manufacturing or qualified research and development, including plant  
17 offices and other facilities that are an essential or an integral part  
18 of a structure used for pilot scale manufacturing or qualified research  
19 and development. If a building or buildings are used partly for pilot  
20 scale manufacturing or qualified research and development, and partly  
21 for other purposes, the applicable tax deferral shall be determined by  
22 apportionment of the costs of construction under rules adopted by the  
23 department. Such rules may include provisions for determining the  
24 amount of the deferral based on apportionment of costs of construction  
25 of an investment project consisting of a building or multiple  
26 buildings, where qualified research and development or pilot scale  
27 manufacturing activities are shifted within a building or from one  
28 building to another building.

29 (15) "Qualified machinery and equipment" means fixtures, equipment,  
30 and support facilities that are an integral and necessary part of a  
31 pilot scale manufacturing or qualified research and development  
32 operation. "Qualified machinery and equipment" includes: Computers;  
33 software; data processing equipment; laboratory equipment,  
34 instrumentation, and other devices used in a process of experimentation  
35 to develop a new or improved pilot model, plant process, product,  
36 formula, invention, or similar property; manufacturing components such  
37 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;  
38 vats, tanks, and fermenters; operating structures; and all other

1 equipment used to control, monitor, or operate the machinery. For  
2 purposes of this chapter, qualified machinery and equipment must be  
3 either new to the taxing jurisdiction of the state or new to the  
4 certificate holder, except that used machinery and equipment may be  
5 treated as qualified machinery and equipment if the certificate holder  
6 either brings the machinery and equipment into Washington or makes a  
7 retail purchase of the machinery and equipment in Washington or  
8 elsewhere.

9 (16) "Qualified research and development" means research and  
10 development performed within this state in the fields of advanced  
11 computing, advanced materials, biotechnology, electronic device  
12 technology, and environmental technology.

13 (17) "Recipient" means a person receiving a tax deferral under this  
14 chapter.

15 (18) "Research and development" means activities performed to  
16 discover technological information, and technical and nonroutine  
17 activities concerned with translating technological information into  
18 new or improved products, processes, techniques, formulas, inventions,  
19 or software. The term includes exploration of a new use for an  
20 existing drug, device, or biological product if the new use requires  
21 separate licensing by the federal food and drug administration under  
22 chapter 21, C.F.R., as amended. The term does not include adaptation  
23 or duplication of existing products where the products are not  
24 substantially improved by application of the technology, nor does the  
25 term include surveys and studies, social science and humanities  
26 research, market research or testing, quality control, sale promotion  
27 and service, computer software developed for internal use, and research  
28 in areas such as improved style, taste, and seasonal design.

29 **Sec. 12.** RCW 82.75.010 and 2010 c 114 s 145 are each amended to  
30 read as follows:

31 Unless the context clearly requires otherwise, the definitions in  
32 this section apply throughout this chapter.

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

35 (2) "Biotechnology" means a technology based on the science of  
36 biology, microbiology, molecular biology, cellular biology,  
37 biochemistry, or biophysics, or any combination of these, and includes,

1 but is not limited to, recombinant DNA techniques, genetics and genetic  
2 engineering, cell fusion techniques, and new bioprocesses, using living  
3 organisms, or parts of organisms.

4 (3) "Biotechnology product" means any virus, therapeutic serum,  
5 antibody, protein, toxin, antitoxin, vaccine, blood, blood component or  
6 derivative, allergenic product, or analogous product produced through  
7 the application of biotechnology that is used in the prevention,  
8 treatment, or cure of diseases or injuries to humans.

9 (4) "Department" means the department of revenue.

10 (5)(a) "Eligible investment project" means an investment in  
11 qualified buildings or qualified machinery and equipment, including  
12 labor and services rendered in the planning, installation, and  
13 construction of the project.

14 (b) The lessor or owner of a qualified building is not eligible for  
15 a deferral unless:

16 (i) The lessor or owner complies with the requirements of chapter  
17 39.12 RCW; and

18 (ii) The underlying ownership of the buildings, machinery, and  
19 equipment vests exclusively in the same person; or

20 ~~((+ii+))~~ (iii)(A) The lessor by written contract agrees to pass the  
21 economic benefit of the deferral to the lessee;

22 (B) The lessee that receives the economic benefit of the deferral  
23 agrees in writing with the department to complete the annual survey  
24 required under RCW 82.75.070; and

25 (C) The economic benefit of the deferral passed to the lessee is no  
26 less than the amount of tax deferred by the lessor and is evidenced by  
27 written documentation of any type of payment, credit, or other  
28 financial arrangement between the lessor or owner of the qualified  
29 building and the lessee.

30 (6)(a) "Initiation of construction" means the date that a building  
31 permit is issued under the building code adopted under RCW 19.27.031  
32 for:

33 (i) Construction of the qualified building, if the underlying  
34 ownership of the building vests exclusively with the person receiving  
35 the economic benefit of the deferral;

36 (ii) Construction of the qualified building, if the economic  
37 benefits of the deferral are passed to a lessee as provided in  
38 subsection (5)(b)~~((+ii+))~~ (iii)(A) of this section; or



1 (iii) Tenant improvements for a qualified building, if the economic  
2 benefits of the deferral are passed to a lessee as provided in  
3 subsection (5)(b)(~~(ii)~~) (iii)(A) of this section.

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

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

10 (7) "Manufacturing" has the meaning provided in RCW 82.04.120.

11 (8) "Medical device" means an instrument, apparatus, implement,  
12 machine, contrivance, implant, in vitro reagent, or other similar or  
13 related article, including any component, part, or accessory, that is  
14 designed or developed and:

15 (a) Recognized in the national formulary, or the United States  
16 pharmacopeia, or any supplement to them;

17 (b) Intended for use in the diagnosis of disease, or in the cure,  
18 mitigation, treatment, or prevention of disease or other conditions in  
19 human beings or other animals; or

20 (c) Intended to affect the structure or any function of the body of  
21 human beings or other animals, and which does not achieve any of its  
22 primary intended purposes through chemical action within or on the body  
23 of human beings or other animals and which is not dependent upon being  
24 metabolized for the achievement of any of its principal intended  
25 purposes.

26 (9) "Person" has the meaning provided in RCW 82.04.030.

27 (10) "Qualified buildings" means construction of new structures,  
28 and expansion or renovation of existing structures for the purpose of  
29 increasing floor space or production capacity used for biotechnology  
30 product manufacturing or medical device manufacturing activities,  
31 including plant offices, commercial laboratories for process  
32 development, quality assurance and quality control, and warehouses or  
33 other facilities for the storage of raw material or finished goods if  
34 the facilities are an essential or an integral part of a factory,  
35 plant, or laboratory used for biotechnology product manufacturing or  
36 medical device manufacturing. If a building is used partly for  
37 biotechnology product manufacturing or medical device manufacturing and

1 partly for other purposes, the applicable tax deferral must be  
2 determined by apportionment of the costs of construction under rules  
3 adopted by the department.

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

12 (12) "Recipient" means a person receiving a tax deferral under this  
13 chapter.

14 **Sec. 13.** RCW 82.82.010 and 2008 c 15 s 1 are each amended to read  
15 as follows:

16 The definitions in this section apply throughout this chapter  
17 unless the context clearly requires otherwise.

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

20 (2) "Corporate headquarters" means a facility or facilities where  
21 corporate staff employees are physically employed, and where the  
22 majority of the company's management services are handled either on a  
23 regional or a national basis. Company management services may include:  
24 Accounts receivable and payable, accounting, data processing,  
25 distribution management, employee benefit plan, financial and  
26 securities accounting, information technology, insurance, legal,  
27 merchandising, payroll, personnel, purchasing procurement, planning,  
28 reporting and compliance, research and development, tax, treasury, or  
29 other headquarters-related services. "Corporate headquarters" does not  
30 include a facility or facilities used for manufacturing, wholesaling,  
31 or warehousing.

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

33 (4) "Eligible area" means a designated community empowerment zone  
34 approved under RCW 43.31C.020.

35 (5)(a) "Eligible investment project" means an investment project in  
36 a qualified building or buildings in an eligible area, as defined in  
37 subsection (4) of this section, which will have employment at the

1 qualified building or buildings of at least three hundred employees in  
2 qualified employment positions, each of whom must earn for the year  
3 reported at least the average annual wage for the state for that year  
4 as determined by the employment security department.

5 (b) The lessor or owner of a qualified building or buildings is not  
6 eligible for a deferral unless:

7 (i) The lessor or owner complies with the requirements of chapter  
8 39.12 RCW; and

9 (ii) The underlying ownership of the building or buildings vests  
10 exclusively in the same person; or

11 ((+iii)) (iii)(A) The lessor by written contract agrees to pass the  
12 economic benefit of the deferral to the lessee;

13 (B) The lessee that receives the economic benefit of the deferral  
14 agrees in writing with the department to complete the annual survey  
15 required under RCW 82.82.020; and

16 (C) The economic benefit of the deferral passed to the lessee is no  
17 less than the amount of tax deferred by the lessor and is evidenced by  
18 written documentation of any type of payment, credit, or other  
19 financial arrangement between the lessor or owner of the qualified  
20 building and the lessee.

21 (6) "Investment project" means a capital investment of at least  
22 thirty million dollars in a qualified building or buildings including  
23 tangible personal property and fixtures that will be incorporated as an  
24 ingredient or component of such buildings during the course of their  
25 construction, and including labor and services rendered in the  
26 planning, installation, and construction of the project.

27 (7) "Manufacture" has the same meaning as provided in RCW  
28 82.04.120.

29 (8) "Operationally complete" means a date no later than one year  
30 from the date the project is issued an occupancy permit by the local  
31 permit issuing authority.

32 (9) "Person" has the same meaning as provided in RCW 82.04.030.

33 (10) "Qualified building or buildings" means construction of a new  
34 structure or structures or expansion of an existing structure or  
35 structures to be used for corporate headquarters. If a building is  
36 used partly for corporate headquarters and partly for other purposes,  
37 the applicable tax deferral is determined by apportionment of the costs  
38 of construction under rules adopted by the department.

1 (11) "Qualified employment position" means a permanent full-time  
2 employee employed in the eligible investment project during the entire  
3 tax year. The term "entire tax year" means a full-time position that  
4 is filled for a period of twelve consecutive months. The term "full-  
5 time" means at least thirty-five hours a week, four hundred fifty-five  
6 hours a quarter, or one thousand eight hundred twenty hours a year.

7 (12) "Recipient" means a person receiving a tax deferral under this  
8 chapter.

9 (13) "Warehouse" means a building or structure, or any part  
10 thereof, in which goods, wares, or merchandise are received for storage  
11 for compensation.

12 (14) "Wholesale sale" has the same meaning as provided in RCW  
13 82.04.060.

14 **Sec. 14.** RCW 82.08.820 and 2011 c 174 s 206 are each amended to  
15 read as follows:

16 (1) Wholesalers or third-party warehouse owners who own or operate  
17 warehouses or grain elevators and retailers who own or operate  
18 distribution centers, and who have paid the tax levied by RCW 82.08.020  
19 on:

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

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

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

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

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

37 (c) "Department" means the department of revenue;

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

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

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

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

35 (h) "Person" has the meaning given in RCW 82.04.030;

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

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

8 (k) "Third-party warehouser" means a person taxable under RCW  
9 82.04.280(1)(d);

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

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

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

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

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

16 (4) Warehouses, grain elevators, and material-handling equipment  
17 and racking equipment for which an exemption, credit, or deferral has  
18 been or is being received under chapter 82.60, 82.62, or 82.63 RCW or  
19 RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance  
20 under this section. Warehouses and grain elevators upon which  
21 construction was initiated before May 20, 1997, are not eligible for a  
22 remittance under this section.

23 (5) The lessor or owner of a warehouse or grain elevator is not  
24 eligible for a remittance under this section unless:

25 (a) The lessor or owner complies with the requirements of chapter  
26 39.12 RCW; and

27 (b) The underlying ownership of the warehouse or grain elevator and  
28 the material-handling equipment and racking equipment vests exclusively  
29 in the same person((~~7~~)); or ((~~unless~~))

30 (c) The lessor by written contract agrees to pass the economic  
31 benefit of the remittance to the lessee in the form of reduced rent  
32 payments.

33 **Sec. 15.** RCW 82.08.900 and 2006 c 151 s 4 are each amended to read  
34 as follows:

35 (1) The tax levied by RCW 82.08.020 does not apply to sales to an  
36 eligible person establishing or operating an anaerobic digester or to  
37 services rendered in respect to installing, constructing, repairing,

1 cleaning, altering, or improving an anaerobic digester, or to sales of  
2 tangible personal property that becomes an ingredient or component of  
3 the anaerobic digester. The anaerobic digester must be used primarily  
4 to treat livestock manure.

5 (2)(a) The department of revenue must provide an exemption  
6 certificate to an eligible person upon application by that person. The  
7 application must be in a form and manner prescribed by the department  
8 and must contain information regarding the location of the facility and  
9 other information as the department may require.

10 (b) A person claiming an exemption under this section must keep  
11 records necessary for the department to verify eligibility under this  
12 section. The exemption is available only when the buyer provides the  
13 seller with an exemption certificate in a form and manner prescribed by  
14 the department. The seller must retain a copy of the certificate for  
15 the seller's files.

16 (3) The definitions in this subsection apply to this section and  
17 RCW 82.12.900 unless the context clearly requires otherwise:

18 (a) "Anaerobic digester" means a facility that processes manure  
19 from livestock into biogas and dried manure using microorganisms in a  
20 decomposition process within a closed, oxygen-free container.

21 (b) "Eligible person" means any person establishing or operating an  
22 anaerobic digester to treat primarily livestock manure who complies  
23 with the requirements of chapter 39.12 RCW.

24 (c) "Primarily" means more than fifty percent measured by volume or  
25 weight.

26 **Sec. 16.** RCW 82.08.955 and 2007 c 309 s 4 are each amended to read  
27 as follows:

28 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
29 machinery and equipment, or to services rendered in respect to  
30 constructing structures, installing, constructing, repairing, cleaning,  
31 decorating, altering, or improving of structures or machinery and  
32 equipment, or to sales of tangible personal property that becomes an  
33 ingredient or component of structures or machinery and equipment, if  
34 the machinery, equipment, or structure is used directly for the retail  
35 sale of a biodiesel blend or E85 motor fuel. Structures and machinery  
36 and equipment that are used for the retail sale of a biodiesel blend or



1 E85 motor fuel and for other purposes are exempt only on the portion  
2 used directly for the retail sale of a biodiesel blend or E85 motor  
3 fuel.

4 (2) The tax levied by RCW 82.08.020 does not apply to sales of fuel  
5 delivery vehicles or to sales of or charges made for labor and services  
6 rendered in respect to installing, repairing, cleaning, altering, or  
7 improving the vehicles including repair parts and replacement parts if  
8 at least seventy-five percent of the fuel distributed by the vehicles  
9 is a biodiesel blend or E85 motor fuel.

10 (3) A person taking the exemption under this section must keep  
11 records necessary for the department to verify eligibility under this  
12 section and comply with the requirements of chapter 39.12 RCW. The  
13 exemption is available only when the buyer provides the seller with an  
14 exemption certificate in a form and manner prescribed by the  
15 department. The seller shall retain a copy of the certificate for the  
16 seller's files.

17 (4) For the purposes of this section, the definitions in RCW  
18 82.04.4334 and this subsection apply.

19 (a) "Biodiesel blend" means fuel that contains at least twenty  
20 percent biodiesel fuel by volume.

21 (b) "E85 motor fuel" means an alternative fuel that is a blend of  
22 ethanol and hydrocarbon of which the ethanol portion is nominally  
23 seventy-five to eighty-five percent denatured fuel ethanol by volume  
24 that complies with the most recent version of American society of  
25 testing and materials specification D 5798.

26 (c) "Machinery and equipment" means industrial fixtures, devices,  
27 and support facilities and tangible personal property that becomes an  
28 ingredient or component thereof, including repair parts and replacement  
29 parts that are integral and necessary for the delivery of biodiesel  
30 blends or E85 motor fuel into the fuel tank of a motor vehicle.

31 (5) This section expires July 1, 2015.

32 **Sec. 17.** RCW 82.12.955 and 2007 c 309 s 5 are each amended to read  
33 as follows:

34 (1) The provisions of this chapter do not apply in respect to the  
35 use of machinery and equipment, or to services rendered in respect to  
36 installing, repairing, cleaning, altering, or improving of eligible

1 machinery and equipment, or tangible personal property that becomes an  
2 ingredient or component of machinery and equipment used directly for  
3 the retail sale of a biodiesel or E85 motor fuel.

4 (2) The provisions of this chapter do not apply in respect to the  
5 use of fuel delivery vehicles including repair parts and replacement  
6 parts and to services rendered in respect to installing, repairing,  
7 cleaning, altering, or improving the vehicles if at least seventy-five  
8 percent of the fuel distributed by the vehicles is a biodiesel or E85  
9 motor fuel.

10 (3) A person taking the exemption under this section must comply  
11 with the requirements of chapter 39.12 RCW.

12 (4) For the purposes of this section, the definitions in RCW  
13 82.04.4334 and 82.08.955 apply.

14 ((+4)) (5) This section expires July 1, 2015.

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