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**SENATE BILL 6009**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senator Parlette

AN ACT Relating to providing sales and use tax exemptions to persons who suffered property damage in a catastrophic wildfire as defined in this act; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec.**  This section is the tax preference performance statement for the tax preferences contained in sections 2 and 3 of this act. This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes these tax preferences as intended to provide tax relief to certain individuals and businesses, as indicated in RCW 82.32.808(2)(e).

(2) It is the legislature's specific public policy objective to provide individuals and entities that suffered property damage caused by the Carlton complex fire with sales and use tax exemptions for qualifying purchases of services and tangible personal property relating to (a) the rebuilding or restoring of structures destroyed or damaged by the fire, (b) repairing tangible personal property damaged by the fire, (c) replacing tangible personal property destroyed or damaged by the fire, and (d) restoring and revegetating land damaged by the fire.

(3) To measure the effectiveness of the exemptions provided in this act in achieving the specific public policy objective described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the fiscal impact of the sales and use tax exemptions in this act. In order to obtain the data necessary to perform the review in this subsection (3), the joint legislative audit and review committee should refer to data maintained by the department of revenue.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) Eligible consumers are exempt from the tax imposed in RCW 82.08.020 in accordance with this section on purchases made for the following:

(a) Construction services purchased to rebuild or repair any structures destroyed or damaged by a catastrophic wildfire;

(b) Tangible personal property purchased for the purpose of incorporating the property as a component of a structure during the course of rebuilding or repairing any structure destroyed or damaged by a catastrophic wildfire;

(c) Labor and services rendered in respect to repairing tangible personal property damaged by a catastrophic wildfire;

(d) Tangible personal property purchased to replace tangible personal property destroyed or damaged by a catastrophic wildfire;

(e) Landscape maintenance and horticultural services purchased to restore land damaged by a catastrophic wildfire; and

(f) Plant material purchased to revegetate lands damaged by a catastrophic wildfire.

(2)(a) In order to claim the exemption under this section, an eligible consumer must apply to the department for an exemption certificate. A single application may be submitted for two or more members of the same household who desire to make qualifying tax-exempt purchases under this section. The application must include the information necessary, as required by the department, to determine that a consumer qualifies for the exemption under this section. Such information may include copies of relevant insurance documents and documents submitted to local, state, or federal agencies for the purposes of reporting damage from a catastrophic wildfire. If the application is for multiple members of the same household, the application must also include the names of all members of the applicant's household who would be making qualifying tax-exempt purchases under this section.

(b) The department must issue exemption certificates to eligible consumers and may assign a unique identification number to each exemption certificate issued under this section. The department may issue a single exemption certificate for approved applications submitted for multiple members of the same household. In such cases, each individual listed on the exemption certificate is entitled to use the exemption certificate to make tax-exempt purchases authorized under this section.

(c) Exemption certificates issued under this section expire July 1, 2017.

(3) An eligible consumer is not entitled to an exemption under this section for any purchases made before the consumer received an exemption certificate issued by the department in accordance with subsection (2) of this section.

(4)(a) Sellers making tax-exempt sales under this section must obtain from the purchaser a copy of the purchaser's exemption certificate issued by the department under subsection (2) of this section. The seller must retain a copy of the certificate for the seller's files. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement.

(b) Sellers making tax-exempt sales under this section must also report gross retail sales on their excise tax returns and deduct the exempt sales under this section from their reported gross sales. The department must provide a unique deduction code to report the deduction as required by this subsection (4)(b) for sellers that file returns electronically using the department's online tax filing service. The department must also include the deduction identification code on its paper tax returns unless this may not be accomplished without adding another page to the tax return or reducing the existing font size of the deduction detail pages.

(5)(a) Any consumer using an exemption certificate for nonexempt purchases must repay the taxes due under this chapter on such purchases. Except as otherwise provided in this subsection, taxes due under this subsection are subject to interest from the date of purchase until the taxes due are paid in full, and a penalty of fifty percent of the tax due, which is in addition to the penalty in RCW 82.08.050(10) and any other applicable penalties provided in chapter 82.32 RCW. However, the department may not impose both the fifty percent penalty authorized in this subsection and the evasion penalty under RCW 82.32.090(7) on the same tax due.

(b)(i) The taxes required to be repaid under this subsection are not subject to interest or penalties if the amount due is self-reported to the department and is accompanied with payment in full of the amount of tax due. This relief from interest and penalties does not apply if (A) the department previously notified the taxpayer in writing that the department intended to review the taxpayer's use of its exemption certificate for compliance with this section, or (B) the taxpayer is required by subsection (6) of this section to repay exempted amounts.

(ii) For taxes not self-reported to the department, interest does not apply to taxes due under this subsection if the full amount of taxes and penalties due is received within thirty days of the date of the department's assessment of tax and penalties due under this subsection.

(iii) For consumers not entitled to penalty relief under (b)(i) of this subsection (5), other than consumers required by subsection (6) of this section to repay exempted amounts, the department must waive or cancel the penalty imposed under RCW 82.08.050(10) and reduce the fifty percent penalty in (a) of this subsection (5) to twenty-five percent if the consumer fully complies with every request made by the department for information, documents, and to physically inspect the consumer's property, for the purpose of evaluating the consumer's compliance with this section and determining the correct amount due under this subsection.

(c) Each household member listed on an exemption certificate is jointly and severally liable for amounts due under this subsection when any such household member uses the exemption certificate to make nonexempt purchases.

(6) The department may physically inspect an applicant's property to determine eligibility for an exemption certificate under this section and compliance with this section in the use of an exemption certificate. The department may deny an application for an exemption certificate if the applicant refuses to allow the department to inspect the applicant's property as authorized by this subsection. If a holder of an exemption certificate refuses to allow the department to inspect the holder's property, the holder's exemption certificate under this section is no longer valid, and the holder must repay previously exempted amounts as provided in subsection (5) of this section.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Catastrophic wildfire" means a wildfire that burned more than two hundred fifty-five thousand acres within an area solely comprised of parts of Okanogan county, Chelan county, and the Colville Indian reservation.

(b) "Construction services" means services defined as a retail sale in RCW 82.04.050(2) (b) and (d).

(c) "Eligible consumer" means a consumer who had property destroyed or damaged by a catastrophic wildfire. Every member of the same household whose name is listed on an exemption certificate is also an eligible consumer.

(d) "Plant material" means any plant, including a tree or shrub, and any part of a plant capable of reproduction.

NEW SECTION. **Sec.**  A new section is added to chapter 82.12 RCW to read as follows:

(1) Eligible consumers are exempt from the tax imposed in RCW 82.12.020 on their use of the following:

(a) Tangible personal property incorporated as a component of a structure during the course of rebuilding or repairing any structure destroyed or damaged by a catastrophic wildfire;

(b) Labor and services rendered in respect to repairing tangible personal property damaged by a catastrophic wildfire;

(c) Tangible personal property that replaces tangible personal property destroyed or damaged by a catastrophic wildfire; and

(d) Plant material used to revegetate lands damaged by a catastrophic wildfire.

(2) A consumer is not eligible for the exemption under this section unless the department issued an exemption certificate to the consumer for the exemption provided in section 2 of this act.

(3) The definitions, requirements, and conditions in section 2 of this act apply to this section.

(4) The exemption provided in this section applies only with respect to articles of tangible personal property and repair services first used in this state on or after the date the consumer received a department-issued exemption certificate under section 2 of this act, but before July 1, 2017.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

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