
SENATE BILL 6650

State of Washington

64th Legislature

2016 Regular Session

By Senator Darneille

Read first time 02/05/16. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to eliminating the manufacturing machinery and
2 equipment exemption for methanol manufactured in part from liquid
3 natural gas or compressed natural gas; and amending RCW 82.08.02565
4 and 82.12.02565.

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

6 **Sec. 1.** RCW 82.08.02565 and 2015 3rd sp.s. c 5 s 301 are each
7 amended to read as follows:

8 (1)(a) The tax levied by RCW 82.08.020 does not apply to sales to
9 a manufacturer or processor for hire of machinery and equipment used
10 directly in a manufacturing operation or research and development
11 operation, to sales to a person engaged in testing for a manufacturer
12 or processor for hire of machinery and equipment used directly in a
13 testing operation, or to sales of or charges made for labor and
14 services rendered in respect to installing, repairing, cleaning,
15 altering, or improving the machinery and equipment.

16 (b) Except as provided in (c) of this subsection, sellers making
17 tax-exempt sales under this section must obtain from the purchaser an
18 exemption certificate in a form and manner prescribed by the
19 department by rule. The seller must retain a copy of the certificate
20 for the seller's files.

1 (c)(i) The exemption under this section is in the form of a
2 remittance for a gas distribution business, as defined in RCW
3 82.16.010, claiming the exemption for machinery and equipment used
4 for the production of compressed natural gas or liquefied natural gas
5 for use as a transportation fuel.

6 (ii) A gas distribution business claiming an exemption from state
7 and local tax in the form of a remittance under this section must pay
8 the tax under RCW 82.08.020 and all applicable local sales taxes.
9 Beginning July 1, 2017, the gas distribution business may then apply
10 to the department for remittance of state and local sales and use
11 taxes. A gas distribution business may not apply for a remittance
12 more frequently than once a quarter. The gas distribution business
13 must specify the amount of exempted tax claimed and the qualifying
14 purchases for which the exemption is claimed. The gas distribution
15 business must retain, in adequate detail, records to enable the
16 department to determine whether the business is entitled to an
17 exemption under this section, including: Invoices; proof of tax paid;
18 and documents describing the machinery and equipment.

19 (iii) The department must determine eligibility under this
20 section based on the information provided by the gas distribution
21 business, which is subject to audit verification by the department.
22 The department must on a quarterly basis remit exempted amounts to
23 qualifying businesses who submitted applications during the previous
24 quarter.

25 (iv) Beginning July 1, 2028, a gas distribution business may not
26 apply for a refund under this section or RCW 82.12.02565.

27 (2) For purposes of this section and RCW 82.12.02565:

28 (a) "Machinery and equipment" means industrial fixtures, devices,
29 and support facilities, and tangible personal property that becomes
30 an ingredient or component thereof, including repair parts and
31 replacement parts. "Machinery and equipment" includes pollution
32 control equipment installed and used in a manufacturing operation,
33 testing operation, or research and development operation to prevent
34 air pollution, water pollution, or contamination that might otherwise
35 result from the manufacturing operation, testing operation, or
36 research and development operation. "Machinery and equipment" also
37 includes digital goods.

38 (b) "Machinery and equipment" does not include:

39 (i) Hand-powered tools;

40 (ii) Property with a useful life of less than one year;

1 (iii) Buildings, other than machinery and equipment that is
2 permanently affixed to or becomes a physical part of a building; and

3 (iv) Building fixtures that are not integral to the manufacturing
4 operation, testing operation, or research and development operation
5 that are permanently affixed to and become a physical part of a
6 building, such as utility systems for heating, ventilation, air
7 conditioning, communications, plumbing, or electrical.

8 (c) Machinery and equipment is "used directly" in a manufacturing
9 operation, testing operation, or research and development operation
10 if the machinery and equipment:

11 (i) Acts upon or interacts with an item of tangible personal
12 property;

13 (ii) Conveys, transports, handles, or temporarily stores an item
14 of tangible personal property at the manufacturing site or testing
15 site;

16 (iii) Controls, guides, measures, verifies, aligns, regulates, or
17 tests tangible personal property at the site or away from the site;

18 (iv) Provides physical support for or access to tangible personal
19 property;

20 (v) Produces power for, or lubricates machinery and equipment;

21 (vi) Produces another item of tangible personal property for use
22 in the manufacturing operation, testing operation, or research and
23 development operation;

24 (vii) Places tangible personal property in the container,
25 package, or wrapping in which the tangible personal property is
26 normally sold or transported; or

27 (viii) Is integral to research and development as defined in RCW
28 82.63.010.

29 (d) "Manufacturer" means a person that qualifies as a
30 manufacturer under RCW 82.04.110. "Manufacturer" also includes a
31 person that:

32 (i) Prints newspapers or other materials; or

33 (ii) Is engaged in the development of prewritten computer
34 software that is not transferred to purchasers by means of tangible
35 storage media.

36 (e) "Manufacturing" means only those activities that come within
37 the definition of "to manufacture" in RCW 82.04.120 and are taxed as
38 manufacturing or processing for hire under chapter 82.04 RCW, or
39 would be taxed as such if such activity were conducted in this state
40 or if not for an exemption or deduction. "Manufacturing" also

1 includes printing newspapers or other materials. An activity is not
2 taxed as manufacturing or processing for hire under chapter 82.04 RCW
3 if the activity is within the purview of chapter 82.16 RCW.

4 (f) "Manufacturing operation" means the manufacturing of
5 articles, substances, or commodities for sale as tangible personal
6 property. A manufacturing operation begins at the point where the raw
7 materials enter the manufacturing site and ends at the point where
8 the processed material leaves the manufacturing site. With respect to
9 the production of class A or exceptional quality biosolids by a
10 wastewater treatment facility, the manufacturing operation begins at
11 the point where class B biosolids undergo additional processing to
12 achieve class A or exceptional quality standards. Notwithstanding
13 anything to the contrary in this section, the term also includes that
14 portion of a cogeneration project that is used to generate power for
15 consumption within the manufacturing site of which the cogeneration
16 project is an integral part. The term does not include the
17 preparation of food products on the premises of a person selling food
18 products at retail.

19 (g) "Cogeneration" means the simultaneous generation of
20 electrical energy and low-grade heat from the same fuel.

21 (h) "Research and development operation" means engaging in
22 research and development as defined in RCW 82.63.010 by a
23 manufacturer or processor for hire.

24 (i) "Testing" means activities performed to establish or
25 determine the properties, qualities, and limitations of tangible
26 personal property.

27 (j) "Testing operation" means the testing of tangible personal
28 property for a manufacturer or processor for hire. A testing
29 operation begins at the point where the tangible personal property
30 enters the testing site and ends at the point where the tangible
31 personal property leaves the testing site. The term also includes the
32 testing of tangible personal property for use in that portion of a
33 cogeneration project that is used to generate power for consumption
34 within the manufacturing site of which the cogeneration project is an
35 integral part. The term does not include the testing of tangible
36 personal property for use in the production of electricity by a light
37 and power business as defined in RCW 82.16.010 or the preparation of
38 food products on the premises of a person selling food products at
39 retail.

1 (3) This section does not apply (a) to sales of machinery and
2 equipment used directly in the manufacturing, research and
3 development, or testing of marijuana, useable marijuana, or
4 marijuana-infused products, or (b) to sales of or charges made for
5 labor and services rendered in respect to installing, repairing,
6 cleaning, altering, or improving such machinery and equipment.

7 (4) The exemptions in this section do not apply to an ineligible
8 person. For purposes of this subsection, the following definitions
9 apply:

10 (a) "Affiliated group" means a group of two or more entities that
11 are either:

12 (i) Affiliated as defined in RCW 82.32.655; or

13 (ii) Permitted to file a consolidated return for federal income
14 tax purposes.

15 (b) "Ineligible person" means all members of an affiliated group
16 if all of the following apply:

17 (i) At least one member of the affiliated group was registered
18 with the department to do business in Washington state on or before
19 July 1, 1981;

20 (ii) As of August 1, 2015, the combined employment in this state
21 of the affiliated group exceeds forty thousand full-time and part-
22 time employees, based on data reported to the employment security
23 department by the affiliated group; and

24 (iii) The business activities of the affiliated group primarily
25 include development, sales, and licensing of computer software and
26 services.

27 (5) The exemption in this section does not apply to methanol
28 manufactured in part from liquid natural gas or compressed natural
29 gas.

30 **Sec. 2.** RCW 82.12.02565 and 2015 3rd sp.s. c 5 s 302 are each
31 amended to read as follows:

32 (1) The provisions of this chapter do not apply in respect to the
33 use by a manufacturer or processor for hire of machinery and
34 equipment used directly in a manufacturing operation or research and
35 development operation, to the use by a person engaged in testing for
36 a manufacturer or processor for hire of machinery and equipment used
37 directly in a testing operation, or to the use of labor and services
38 rendered in respect to installing, repairing, cleaning, altering, or
39 improving the machinery and equipment.

1 (2) The definitions, conditions, and requirements in RCW
2 82.08.02565 apply to this section.

3 (3) This section does not apply to the use of (a) machinery and
4 equipment used directly in the manufacturing, research and
5 development, or testing of marijuana, useable marijuana, or
6 marijuana-infused products, or (b) labor and services rendered in
7 respect to installing, repairing, cleaning, altering, or improving
8 such machinery and equipment.

9 (4) The exemptions in this section do not apply to an ineligible
10 person as defined in RCW 82.08.02565.

11 (5) The exemption in this section does not apply to methanol
12 manufactured in part from liquid natural gas or compressed natural
13 gas.

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