
SENATE BILL 6501

State of Washington

65th Legislature

2018 Regular Session

By Senator Baumgartner

1 AN ACT Relating to exempting athletic and fitness facilities from
2 sales and use taxes; amending RCW 82.04.050; creating new sections;
3 providing an effective date; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that obesity and
6 diabetes are serious public health concerns. The legislature further
7 finds that healthy lifestyle habits, such as healthy eating and
8 physical activity, can lower the risk of becoming obese and
9 developing diabetes and other related diseases. Therefore, it is the
10 intent of the legislature to promote the accessibility of athletic
11 and fitness centers by making those facilities exempt from the
12 payment of sales and use taxes.

13 NEW SECTION. **Sec. 2.** (1) This section is the tax preference
14 performance statement for the sales and use tax exemption for
15 athletic or fitness facilities provided in section 3, chapter . . . ,
16 Laws of 2018 (section 3 of this act). This performance statement is
17 only intended to be used for subsequent evaluation of the tax
18 preference. It is not intended to create a private right of action by
19 any party or be used to determine eligibility for preferential tax
20 treatment.

1 (2) The legislature categorizes this tax preference as one
2 intended to provide tax relief for certain individuals as indicated
3 in RCW 82.32.808(2)(e).

4 (3) It is the legislature's specific public policy objective to
5 authorize a sales and use tax exemption for athletic or fitness
6 facilities to promote the accessibility of these types of facilities.

7 (4) If a review finds that there is an increase, as a result of
8 the creation of the tax preference in this act, in retail sales of
9 personal services that operate an athletic or fitness facility, as
10 described in RCW 82.04.050(3)(g) as it existed on January 1, 2018,
11 then the legislature intends to extend the expiration date of this
12 tax preference.

13 (5) In order to obtain the data necessary to perform the review
14 in subsection (4) of this section, the joint legislative audit and
15 review committee may refer to any data collected by the state.

16 **Sec. 3.** RCW 82.04.050 and 2017 3rd sp.s. c 37 s 1201 are each
17 amended to read as follows:

18 (1)(a) "Sale at retail" or "retail sale" means every sale of
19 tangible personal property (including articles produced, fabricated,
20 or imprinted) to all persons irrespective of the nature of their
21 business and including, among others, without limiting the scope
22 hereof, persons who install, repair, clean, alter, improve,
23 construct, or decorate real or personal property of or for consumers
24 other than a sale to a person who:

25 (i) Purchases for the purpose of resale as tangible personal
26 property in the regular course of business without intervening use by
27 such person, but a purchase for the purpose of resale by a regional
28 transit authority under RCW 81.112.300 is not a sale for resale; or

29 (ii) Installs, repairs, cleans, alters, imprints, improves,
30 constructs, or decorates real or personal property of or for
31 consumers, if such tangible personal property becomes an ingredient
32 or component of such real or personal property without intervening
33 use by such person; or

34 (iii) Purchases for the purpose of consuming the property
35 purchased in producing for sale as a new article of tangible personal
36 property or substance, of which such property becomes an ingredient
37 or component or is a chemical used in processing, when the primary
38 purpose of such chemical is to create a chemical reaction directly

1 through contact with an ingredient of a new article being produced
2 for sale; or

3 (iv) Purchases for the purpose of consuming the property
4 purchased in producing ferrosilicon which is subsequently used in
5 producing magnesium for sale, if the primary purpose of such property
6 is to create a chemical reaction directly through contact with an
7 ingredient of ferrosilicon; or

8 (v) Purchases for the purpose of providing the property to
9 consumers as part of competitive telephone service, as defined in RCW
10 82.04.065; or

11 (vi) Purchases for the purpose of satisfying the person's
12 obligations under an extended warranty as defined in subsection (7)
13 of this section, if such tangible personal property replaces or
14 becomes an ingredient or component of property covered by the
15 extended warranty without intervening use by such person.

16 (b) The term includes every sale of tangible personal property
17 that is used or consumed or to be used or consumed in the performance
18 of any activity defined as a "sale at retail" or "retail sale" even
19 though such property is resold or used as provided in (a)(i) through
20 (vi) of this subsection following such use.

21 (c) The term also means every sale of tangible personal property
22 to persons engaged in any business that is taxable under RCW
23 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

24 (2) The term "sale at retail" or "retail sale" includes the sale
25 of or charge made for tangible personal property consumed and/or for
26 labor and services rendered in respect to the following:

27 (a) The installing, repairing, cleaning, altering, imprinting, or
28 improving of tangible personal property of or for consumers,
29 including charges made for the mere use of facilities in respect
30 thereto, but excluding charges made for the use of self-service
31 laundry facilities, and also excluding sales of laundry service to
32 nonprofit health care facilities, and excluding services rendered in
33 respect to live animals, birds and insects;

34 (b) The constructing, repairing, decorating, or improving of new
35 or existing buildings or other structures under, upon, or above real
36 property of or for consumers, including the installing or attaching
37 of any article of tangible personal property therein or thereto,
38 whether or not such personal property becomes a part of the realty by
39 virtue of installation, and also includes the sale of services or
40 charges made for the clearing of land and the moving of earth

1 excepting the mere leveling of land used in commercial farming or
2 agriculture;

3 (c) The constructing, repairing, or improving of any structure
4 upon, above, or under any real property owned by an owner who conveys
5 the property by title, possession, or any other means to the person
6 performing such construction, repair, or improvement for the purpose
7 of performing such construction, repair, or improvement and the
8 property is then reconveyed by title, possession, or any other means
9 to the original owner;

10 (d) The cleaning, fumigating, razing, or moving of existing
11 buildings or structures, but does not include the charge made for
12 janitorial services; and for purposes of this section the term
13 "janitorial services" means those cleaning and caretaking services
14 ordinarily performed by commercial janitor service businesses
15 including, but not limited to, wall and window washing, floor
16 cleaning and waxing, and the cleaning in place of rugs, drapes and
17 upholstery. The term "janitorial services" does not include painting,
18 papering, repairing, furnace or septic tank cleaning, snow removal or
19 sandblasting;

20 (e) Automobile towing and similar automotive transportation
21 services, but not in respect to those required to report and pay
22 taxes under chapter 82.16 RCW;

23 (f) The furnishing of lodging and all other services by a hotel,
24 rooming house, tourist court, motel, trailer camp, and the granting
25 of any similar license to use real property, as distinguished from
26 the renting or leasing of real property, and it is presumed that the
27 occupancy of real property for a continuous period of one month or
28 more constitutes a rental or lease of real property and not a mere
29 license to use or enjoy the same. For the purposes of this
30 subsection, it is presumed that the sale of and charge made for the
31 furnishing of lodging for a continuous period of one month or more to
32 a person is a rental or lease of real property and not a mere license
33 to enjoy the same;

34 (g) The installing, repairing, altering, or improving of digital
35 goods for consumers;

36 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)
37 of this subsection when such sales or charges are for property, labor
38 and services which are used or consumed in whole or in part by such
39 persons in the performance of any activity defined as a "sale at
40 retail" or "retail sale" even though such property, labor and

1 services may be resold after such use or consumption. Nothing
2 contained in this subsection may be construed to modify subsection
3 (1) of this section and nothing contained in subsection (1) of this
4 section may be construed to modify this subsection.

5 (3) The term "sale at retail" or "retail sale" includes the sale
6 of or charge made for personal, business, or professional services
7 including amounts designated as interest, rents, fees, admission, and
8 other service emoluments however designated, received by persons
9 engaging in the following business activities:

10 (a) Abstract, title insurance, and escrow services;

11 (b) Credit bureau services;

12 (c) Automobile parking and storage garage services;

13 (d) Landscape maintenance and horticultural services but
14 excluding (i) horticultural services provided to farmers and (ii)
15 pruning, trimming, repairing, removing, and clearing of trees and
16 brush near electric transmission or distribution lines or equipment,
17 if performed by or at the direction of an electric utility;

18 (e) Service charges associated with tickets to professional
19 sporting events; and

20 (f) The following personal services: Tanning salon services,
21 tattoo parlor services, steam bath services, turkish bath services,
22 escort services, and dating services(~~;~~ and

23 ~~(g)(i) Operating an athletic or fitness facility, including all~~
24 ~~charges for the use of such a facility or for any associated services~~
25 ~~and amenities, except as provided in (g)(ii) of this subsection.~~

26 ~~(ii) Notwithstanding anything to the contrary in (g)(i) of this~~
27 ~~subsection (3), the term "sale at retail" and "retail sale" under~~
28 ~~this subsection does not include:~~

29 ~~(A) Separately stated charges for the use of an athletic or~~
30 ~~fitness facility where such use is primarily for a purpose other than~~
31 ~~engaging in or receiving instruction in a physical fitness activity;~~

32 ~~(B) Separately stated charges for the use of a discrete portion~~
33 ~~of an athletic or fitness facility, other than a pool, where such~~
34 ~~discrete portion of the facility does not by itself meet the~~
35 ~~definition of "athletic or fitness facility" in this subsection;~~

36 ~~(C) Separately stated charges for services, such as advertising,~~
37 ~~massage, nutritional consulting, and body composition testing, that~~
38 ~~do not require the customer to engage in physical fitness activities~~
39 ~~to receive the service. The exclusion in this subsection~~

1 ~~(3)(g)(ii)(C) does not apply to personal training services and~~
2 ~~instruction in a physical fitness activity;~~

3 ~~(D) Separately stated charges for physical therapy provided by a~~
4 ~~physical therapist, as those terms are defined in RCW 18.74.010, or~~
5 ~~occupational therapy provided by an occupational therapy~~
6 ~~practitioner, as those terms are defined in RCW 18.59.020, when~~
7 ~~performed pursuant to a referral from an authorized health care~~
8 ~~practitioner or in consultation with an authorized health care~~
9 ~~practitioner. For the purposes of this subsection (3)(g)(ii)(D), an~~
10 ~~authorized health care practitioner means a health care practitioner~~
11 ~~licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or~~
12 ~~18.71A RCW;~~

13 ~~(E) Rent or association fees charged by a landlord or residential~~
14 ~~association to a tenant or residential owner with access to an~~
15 ~~athletic or fitness facility maintained by the landlord or~~
16 ~~residential association, unless the rent or fee varies depending on~~
17 ~~whether the tenant or owner has access to the facility;~~

18 ~~(F) Services provided in the regular course of employment by an~~
19 ~~employee with access to an athletic or fitness facility maintained by~~
20 ~~the employer for use without charge by its employees or their family~~
21 ~~members;~~

22 ~~(G) The provision of access to an athletic or fitness facility by~~
23 ~~an educational institution to its students and staff. However,~~
24 ~~charges made by an educational institution to its alumni or other~~
25 ~~members of the public for the use of any of the educational~~
26 ~~institution's athletic or fitness facilities are a retail sale under~~
27 ~~this subsection (3)(g). For purposes of this subsection~~
28 ~~(3)(g)(ii)(G), "educational institution" has the same meaning as in~~
29 ~~RCW 82.04.170;~~

30 ~~(H) Yoga, chi gong, or martial arts classes, training, or events~~
31 ~~held at a community center, park, school gymnasium, college or~~
32 ~~university, hospital or other medical facility, private residence, or~~
33 ~~any other facility that is not operated within and as part of an~~
34 ~~athletic or fitness facility.~~

35 ~~(iii) Nothing in (g)(ii) of this subsection (3) may be construed~~
36 ~~to affect the taxation of sales made by the operator of an athletic~~
37 ~~or fitness facility, where such sales are defined as a retail sale~~
38 ~~under any provision of this section other than this subsection (3).~~

39 ~~(iv) For the purposes of this subsection (3)(g), the following~~
40 ~~definitions apply:~~

1 ~~(A) "Athletic or fitness facility" means an indoor or outdoor~~
2 ~~facility or portion of a facility that is primarily used for:~~
3 ~~Exercise classes; strength and conditioning programs; personal~~
4 ~~training services; tennis, racquetball, handball, squash, or~~
5 ~~pickleball; or other activities requiring the use of exercise or~~
6 ~~strength training equipment, such as treadmills, elliptical machines,~~
7 ~~stair climbers, stationary cycles, rowing machines, pilates~~
8 ~~equipment, balls, climbing ropes, jump ropes, and weightlifting~~
9 ~~equipment.~~

10 ~~(B) "Martial arts" means any of the various systems of training~~
11 ~~for physical combat or self-defense. "Martial arts" includes, but is~~
12 ~~not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing,~~
13 ~~kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido,~~
14 ~~Kendo, tai chi, and mixed martial arts.~~

15 ~~(C) "Physical fitness activities" means activities that involve~~
16 ~~physical exertion for the purpose of improving or maintaining the~~
17 ~~general fitness, strength, flexibility, conditioning, or health of~~
18 ~~the participant. "Physical fitness activities" includes participating~~
19 ~~in yoga, chi gong, or martial arts)).~~

20 (4)(a) The term also includes the renting or leasing of tangible
21 personal property to consumers.

22 (b) The term does not include the renting or leasing of tangible
23 personal property where the lease or rental is for the purpose of
24 sublease or subrent.

25 (5) The term also includes the providing of "competitive
26 telephone service," "telecommunications service," or "ancillary
27 services," as those terms are defined in RCW 82.04.065, to consumers.

28 (6)(a) The term also includes the sale of prewritten computer
29 software to a consumer, regardless of the method of delivery to the
30 end user. For purposes of (a) and (b) of this subsection, the sale of
31 prewritten computer software includes the sale of or charge made for
32 a key or an enabling or activation code, where the key or code is
33 required to activate prewritten computer software and put the
34 software into use. There is no separate sale of the key or code from
35 the prewritten computer software, regardless of how the sale may be
36 characterized by the vendor or by the purchaser.

37 (b) The term "retail sale" does not include the sale of or charge
38 made for:

39 (i) Custom software; or

40 (ii) The customization of prewritten computer software.

1 (c)(i) The term also includes the charge made to consumers for
2 the right to access and use prewritten computer software, where
3 possession of the software is maintained by the seller or a third
4 party, regardless of whether the charge for the service is on a per
5 use, per user, per license, subscription, or some other basis.

6 (ii)(A) The service described in (c)(i) of this subsection (6)
7 includes the right to access and use prewritten computer software to
8 perform data processing.

9 (B) For purposes of this subsection (6)(c)(ii), "data processing"
10 means the systematic performance of operations on data to extract the
11 required information in an appropriate form or to convert the data to
12 usable information. Data processing includes check processing, image
13 processing, form processing, survey processing, payroll processing,
14 claim processing, and similar activities.

15 (7) The term also includes the sale of or charge made for an
16 extended warranty to a consumer. For purposes of this subsection,
17 "extended warranty" means an agreement for a specified duration to
18 perform the replacement or repair of tangible personal property at no
19 additional charge or a reduced charge for tangible personal property,
20 labor, or both, or to provide indemnification for the replacement or
21 repair of tangible personal property, based on the occurrence of
22 specified events. The term "extended warranty" does not include an
23 agreement, otherwise meeting the definition of extended warranty in
24 this subsection, if no separate charge is made for the agreement and
25 the value of the agreement is included in the sales price of the
26 tangible personal property covered by the agreement. For purposes of
27 this subsection, "sales price" has the same meaning as in RCW
28 82.08.010.

29 (8)(a) The term also includes the following sales to consumers of
30 digital goods, digital codes, and digital automated services:

31 (i) Sales in which the seller has granted the purchaser the right
32 of permanent use;

33 (ii) Sales in which the seller has granted the purchaser a right
34 of use that is less than permanent;

35 (iii) Sales in which the purchaser is not obligated to make
36 continued payment as a condition of the sale; and

37 (iv) Sales in which the purchaser is obligated to make continued
38 payment as a condition of the sale.

39 (b) A retail sale of digital goods, digital codes, or digital
40 automated services under this subsection (8) includes any services

1 provided by the seller exclusively in connection with the digital
2 goods, digital codes, or digital automated services, whether or not a
3 separate charge is made for such services.

4 (c) For purposes of this subsection, "permanent" means perpetual
5 or for an indefinite or unspecified length of time. A right of
6 permanent use is presumed to have been granted unless the agreement
7 between the seller and the purchaser specifies or the circumstances
8 surrounding the transaction suggest or indicate that the right to use
9 terminates on the occurrence of a condition subsequent.

10 (9) The term also includes the charge made for providing tangible
11 personal property along with an operator for a fixed or indeterminate
12 period of time. A consideration of this is that the operator is
13 necessary for the tangible personal property to perform as designed.
14 For the purpose of this subsection (9), an operator must do more than
15 maintain, inspect, or set up the tangible personal property.

16 (10) The term does not include the sale of or charge made for
17 labor and services rendered in respect to the building, repairing, or
18 improving of any street, place, road, highway, easement, right-of-
19 way, mass public transportation terminal or parking facility, bridge,
20 tunnel, or trestle which is owned by a municipal corporation or
21 political subdivision of the state or by the United States and which
22 is used or to be used primarily for foot or vehicular traffic
23 including mass transportation vehicles of any kind.

24 (11) The term also does not include sales of chemical sprays or
25 washes to persons for the purpose of postharvest treatment of fruit
26 for the prevention of scald, fungus, mold, or decay, nor does it
27 include sales of feed, seed, seedlings, fertilizer, agents for
28 enhanced pollination including insects such as bees, and spray
29 materials to: (a) Persons who participate in the federal conservation
30 reserve program, the environmental quality incentives program, the
31 wetlands reserve program, and the wildlife habitat incentives
32 program, or their successors administered by the United States
33 department of agriculture; (b) farmers for the purpose of producing
34 for sale any agricultural product; (c) farmers for the purpose of
35 providing bee pollination services; and (d) farmers acting under
36 cooperative habitat development or access contracts with an
37 organization exempt from federal income tax under 26 U.S.C. Sec.
38 501(c)(3) of the federal internal revenue code or the Washington
39 state department of fish and wildlife to produce or improve wildlife
40 habitat on land that the farmer owns or leases.

1 (12) The term does not include the sale of or charge made for
2 labor and services rendered in respect to the constructing,
3 repairing, decorating, or improving of new or existing buildings or
4 other structures under, upon, or above real property of or for the
5 United States, any instrumentality thereof, or a county or city
6 housing authority created pursuant to chapter 35.82 RCW, including
7 the installing, or attaching of any article of tangible personal
8 property therein or thereto, whether or not such personal property
9 becomes a part of the realty by virtue of installation. Nor does the
10 term include the sale of services or charges made for the clearing of
11 land and the moving of earth of or for the United States, any
12 instrumentality thereof, or a county or city housing authority. Nor
13 does the term include the sale of services or charges made for
14 cleaning up for the United States, or its instrumentalities,
15 radioactive waste and other by-products of weapons production and
16 nuclear research and development.

17 (13) The term does not include the sale of or charge made for
18 labor, services, or tangible personal property pursuant to agreements
19 providing maintenance services for bus, rail, or rail fixed guideway
20 equipment when a regional transit authority is the recipient of the
21 labor, services, or tangible personal property, and a transit agency,
22 as defined in RCW 81.104.015, performs the labor or services.

23 (14) The term does not include the sale for resale of any service
24 described in this section if the sale would otherwise constitute a
25 "sale at retail" and "retail sale" under this section.

26 (15)(a) The term "sale at retail" or "retail sale" includes
27 amounts charged, however labeled, to consumers to engage in any of
28 the activities listed in this subsection (15)(a), including the
29 furnishing of any associated equipment or, except as otherwise
30 provided in this subsection, providing instruction in such
31 activities, where such charges are not otherwise defined as a "sale
32 at retail" or "retail sale" in this section:

33 (i)(A) Golf, including any variant in which either golf balls or
34 golf clubs are used, such as miniature golf, hitting golf balls at a
35 driving range, and golf simulators, and including fees charged by a
36 golf course to a player for using his or her own cart. However,
37 charges for golf instruction are not a retail sale, provided that if
38 the instruction involves the use of a golfing facility that would
39 otherwise require the payment of a fee, such as green fees or driving
40 range fees, such fees, including the applicable retail sales tax,

1 must be separately identified and charged by the golfing facility
2 operator to the instructor or the person receiving the instruction.

3 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except
4 as otherwise provided in this subsection (15)(a)(i)(B), the term
5 "sale at retail" or "retail sale" does not include amounts charged to
6 participate in, or conduct, a golf tournament or other competitive
7 event. However, amounts paid by event participants to the golf
8 facility operator are retail sales under this subsection (15)(a)(i).
9 Likewise, amounts paid by the event organizer to the golf facility
10 are retail sales under this subsection (15)(a)(i), if such amounts
11 vary based on the number of event participants;

12 (ii) Ballooning, hang gliding, indoor or outdoor sky diving,
13 paragliding, parasailing, and similar activities;

14 (iii) Air hockey, billiards, pool, foosball, darts, shuffleboard,
15 ping pong, and similar games;

16 (iv) Access to amusement park, theme park, and water park
17 facilities, including but not limited to charges for admission and
18 locker or cabana rentals. Discrete charges for rides or other
19 attractions or entertainment that are in addition to the charge for
20 admission are not a retail sale under this subsection (15)(a)(iv).
21 For the purposes of this subsection, an amusement park or theme park
22 is a location that provides permanently affixed amusement rides,
23 games, and other entertainment, but does not include parks or zoos
24 for which the primary purpose is the exhibition of wildlife, or
25 fairs, carnivals, and festivals as defined in (b)(i) of this
26 subsection;

27 (v) Batting cage activities;

28 (vi) Bowling, but not including competitive events, except that
29 amounts paid by the event participants to the bowling alley operator
30 are retail sales under this subsection (15)(a)(vi). Likewise, amounts
31 paid by the event organizer to the operator of the bowling alley are
32 retail sales under this subsection (15)(a)(vi), if such amounts vary
33 based on the number of event participants;

34 (vii) Climbing on artificial climbing structures, whether indoors
35 or outdoors;

36 (viii) Day trips for sightseeing purposes;

37 (ix) Bungee jumping, zip lining, and riding inside a ball,
38 whether inflatable or otherwise;

39 (x) Horseback riding offered to the public, where the seller
40 furnishes the horse to the buyer and providing instruction is not the

1 primary focus of the activity, including guided rides, but not
2 including therapeutic horseback riding provided by an instructor
3 certified by a nonprofit organization that offers national or
4 international certification for therapeutic riding instructors;

5 (xi) Fishing, including providing access to private fishing areas
6 and charter or guided fishing, except that fishing contests and
7 license fees imposed by a government entity are not a retail sale
8 under this subsection;

9 (xii) Guided hunting and hunting at game farms and shooting
10 preserves, except that hunting contests and license fees imposed by a
11 government entity are not a retail sale under this subsection;

12 (xiii) Swimming, but only in respect to (A) recreational or
13 fitness swimming that is open to the public, such as open swim, lap
14 swimming, and special events like kids night out and pool parties
15 during open swim time, and (B) pool parties for private events, such
16 as birthdays, family gatherings, and employee outings. Fees for
17 swimming lessons, to participate in swim meets and other
18 competitions, or to join a swim team, club, or aquatic facility are
19 not retail sales under this subsection (15)(a)(xiii);

20 (xiv) Go-karting, bumper cars, and other motorized activities
21 where the seller provides the vehicle and the premises where the
22 buyer will operate the vehicle;

23 (xv) Indoor or outdoor playground activities, such as inflatable
24 bounce structures and other inflatables; mazes; trampolines; slides;
25 ball pits; games of tag, including laser tag and soft-dart tag; and
26 human gyroscope rides, regardless of whether such activities occur at
27 the seller's place of business, but not including playground
28 activities provided for children by a licensed child day care center
29 or licensed family day care provider as those terms are defined in
30 RCW ((~~43.215.010~~)) 43.216.010;

31 (xvi) Shooting sports and activities, such as target shooting,
32 skeet, trap, sporting clays, "5" stand, and archery, but only in
33 respect to discrete charges to members of the public to engage in
34 these activities, but not including fees to enter a competitive
35 event, instruction that is entirely or predominately classroom based,
36 or to join or renew a membership at a club, range, or other facility;

37 (xvii) Paintball and airsoft activities;

38 (xviii) Skating, including ice skating, roller skating, and
39 inline skating, but only in respect to discrete charges to members of
40 the public to engage in skating activities, but not including skating

1 lessons, competitive events, team activities, or fees to join or
2 renew a membership at a skating facility, club, or other
3 organization;

4 (xix) Nonmotorized snow sports and activities, such as downhill
5 and cross-country skiing, snowboarding, ski jumping, sledding, snow
6 tubing, snowshoeing, and similar snow sports and activities, whether
7 engaged in outdoors or in an indoor facility with or without snow,
8 but only in respect to discrete charges to the public for the use of
9 land or facilities to engage in nonmotorized snow sports and
10 activities, such as fees, however labeled, for the use of ski lifts
11 and tows and daily or season passes for access to trails or other
12 areas where nonmotorized snow sports and activities are conducted.
13 However, fees for the following are not retail sales under this
14 subsection (15)(a)(xix): (A) Instructional lessons; (B) permits
15 issued by a governmental entity to park a vehicle on or access public
16 lands; and (C) permits or leases granted by an owner of private
17 timberland for recreational access to areas used primarily for
18 growing and harvesting timber; and

19 (xx) Scuba diving; snorkeling; river rafting; surfing;
20 kiteboarding; flyboarding; water slides; inflatables, such as water
21 pillows, water trampolines, and water rollers; and similar water
22 sports and activities.

23 (b) Notwithstanding anything to the contrary in this subsection
24 (15), the term "sale at retail" or "retail sale" does not include
25 charges:

26 (i) Made for admission to, and rides or attractions at, fairs,
27 carnivals, and festivals. For the purposes of this subsection, fairs,
28 carnivals, and festivals are events that do not exceed twenty-one
29 days and a majority of the amusement rides, if any, are not affixed
30 to real property;

31 (ii) Made by an educational institution to its students and staff
32 for activities defined as retail sales by (a)(i) through (xx) of this
33 subsection. However, charges made by an educational institution to
34 its alumni or other members of the general public for these
35 activities are a retail sale under this subsection (15). For purposes
36 of this subsection (15)(b)(ii), "educational institution" has the
37 same meaning as in RCW 82.04.170;

38 (iii) Made by a vocational school for commercial diver training
39 that is licensed by the workforce training and education coordinating
40 board under chapter 28C.10 RCW; or

1 (iv) Made for day camps offered by a nonprofit organization or
2 state or local governmental entity that provide youth not older than
3 age eighteen, or that are focused on providing individuals with
4 disabilities or mental illness, the opportunity to participate in a
5 variety of supervised activities.

6 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2018.

7 NEW SECTION. **Sec. 5.** This act expires January 1, 2029.

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