

2SHB 2157 - H AMD 7778

By Representative Stokesbary

1 On page 33, after line 18, insert the following:

2 **"Part VII**

3 **Royalty Income on Prewritten Computer Software**

4 **Sec. 701.** RCW 82.04.050 and 2017 3rd sp.s. c 37 s 1201 are each  
5 amended to read as follows:

6 (1)(a) "Sale at retail" or "retail sale" means every sale of  
7 tangible personal property (including articles produced, fabricated,  
8 or imprinted) to all persons irrespective of the nature of their  
9 business and including, among others, without limiting the scope  
10 hereof, persons who install, repair, clean, alter, improve,  
11 construct, or decorate real or personal property of or for consumers  
12 other than a sale to a person who:

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

17 (ii) Installs, repairs, cleans, alters, imprints, improves,  
18 constructs, or decorates real or personal property of or for  
19 consumers, if such tangible personal property becomes an ingredient  
20 or component of such real or personal property without intervening  
21 use by such person; or

22 (iii) Purchases for the purpose of consuming the property  
23 purchased in producing for sale as a new article of tangible personal  
24 property or substance, of which such property becomes an ingredient  
25 or component or is a chemical used in processing, when the primary  
26 purpose of such chemical is to create a chemical reaction directly  
27 through contact with an ingredient of a new article being produced  
28 for sale; or

29 (iv) Purchases for the purpose of consuming the property  
30 purchased in producing ferrosilicon which is subsequently used in  
31 producing magnesium for sale, if the primary purpose of such property

1 is to create a chemical reaction directly through contact with an  
2 ingredient of ferrosilicon; or

3 (v) Purchases for the purpose of providing the property to  
4 consumers as part of competitive telephone service, as defined in RCW  
5 82.04.065; or

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

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

16 (c) The term also means every sale of tangible personal property  
17 to persons engaged in any business that is taxable under RCW  
18 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

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

29 (b) The constructing, repairing, decorating, or improving of new  
30 or existing buildings or other structures under, upon, or above real  
31 property of or for consumers, including the installing or attaching  
32 of any article of tangible personal property therein or thereto,  
33 whether or not such personal property becomes a part of the realty by  
34 virtue of installation, and also includes the sale of services or  
35 charges made for the clearing of land and the moving of earth  
36 excepting the mere leveling of land used in commercial farming or  
37 agriculture;

38 (c) The constructing, repairing, or improving of any structure  
39 upon, above, or under any real property owned by an owner who conveys  
40 the property by title, possession, or any other means to the person

1 performing such construction, repair, or improvement for the purpose  
2 of performing such construction, repair, or improvement and the  
3 property is then reconveyed by title, possession, or any other means  
4 to the original owner;

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

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

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

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

31 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)  
32 of this subsection when such sales or charges are for property, labor  
33 and services which are used or consumed in whole or in part by such  
34 persons in the performance of any activity defined as a "sale at  
35 retail" or "retail sale" even though such property, labor and  
36 services may be resold after such use or consumption. Nothing  
37 contained in this subsection may be construed to modify subsection  
38 (1) of this section and nothing contained in subsection (1) of this  
39 section may be construed to modify this subsection.

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

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

7 (b) Credit bureau services;

8 (c) Automobile parking and storage garage services;

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

14 (e) Service charges associated with tickets to professional  
15 sporting events;

16 (f) The following personal services: Tanning salon services,  
17 tattoo parlor services, steam bath services, turkish bath services,  
18 escort services, and dating services; and

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

22 (ii) Notwithstanding anything to the contrary in (g) (i) of this  
23 subsection (3), the term "sale at retail" and "retail sale" under  
24 this subsection does not include:

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

28 (B) Separately stated charges for the use of a discrete portion  
29 of an athletic or fitness facility, other than a pool, where such  
30 discrete portion of the facility does not by itself meet the  
31 definition of "athletic or fitness facility" in this subsection;

32 (C) Separately stated charges for services, such as advertising,  
33 massage, nutritional consulting, and body composition testing, that  
34 do not require the customer to engage in physical fitness activities  
35 to receive the service. The exclusion in this subsection  
36 (3) (g) (ii) (C) does not apply to personal training services and  
37 instruction in a physical fitness activity;

38 (D) Separately stated charges for physical therapy provided by a  
39 physical therapist, as those terms are defined in RCW 18.74.010, or  
40 occupational therapy provided by an occupational therapy

1 practitioner, as those terms are defined in RCW 18.59.020, when  
2 performed pursuant to a referral from an authorized health care  
3 practitioner or in consultation with an authorized health care  
4 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an  
5 authorized health care practitioner means a health care practitioner  
6 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or  
7 18.71A RCW;

8 (E) Rent or association fees charged by a landlord or residential  
9 association to a tenant or residential owner with access to an  
10 athletic or fitness facility maintained by the landlord or  
11 residential association, unless the rent or fee varies depending on  
12 whether the tenant or owner has access to the facility;

13 (F) Services provided in the regular course of employment by an  
14 employee with access to an athletic or fitness facility maintained by  
15 the employer for use without charge by its employees or their family  
16 members;

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

25 (H) Yoga, chi gong, or martial arts classes, training, or events  
26 held at a community center, park, school gymnasium, college or  
27 university, hospital or other medical facility, private residence, or  
28 any other facility that is not operated within and as part of an  
29 athletic or fitness facility.

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

34 (iv) For the purposes of this subsection (3)(g), the following  
35 definitions apply:

36 (A) "Athletic or fitness facility" means an indoor or outdoor  
37 facility or portion of a facility that is primarily used for:  
38 Exercise classes; strength and conditioning programs; personal  
39 training services; tennis, racquetball, handball, squash, or  
40 pickleball; or other activities requiring the use of exercise or

1 strength training equipment, such as treadmills, elliptical machines,  
2 stair climbers, stationary cycles, rowing machines, pilates  
3 equipment, balls, climbing ropes, jump ropes, and weightlifting  
4 equipment.

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

10 (C) "Physical fitness activities" means activities that involve  
11 physical exertion for the purpose of improving or maintaining the  
12 general fitness, strength, flexibility, conditioning, or health of  
13 the participant. "Physical fitness activities" includes participating  
14 in yoga, chi gong, or martial arts.

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

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

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

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

32 ~~(b))~~) The term "retail sale" does not include the sale of or  
33 charge made for:

34 (i) Custom software; or

35 (ii) The customization of prewritten computer software.

36 ~~((e))~~ (b)(i) The term also includes the charge made to  
37 consumers for the right to access and use prewritten computer  
38 software, where possession of the software is maintained by the  
39 seller or a third party, regardless of whether the charge for the

1 service is on a per use, per user, per license, subscription, or some  
2 other basis.

3 (ii)(A) The service described in (~~(e)~~) (b)(i) of this  
4 subsection (6) includes the right to access and use prewritten  
5 computer software to perform data processing.

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

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

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

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

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

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

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

36 (b) A retail sale of digital goods, digital codes, or digital  
37 automated services under this subsection (8) includes any services  
38 provided by the seller exclusively in connection with the digital  
39 goods, digital codes, or digital automated services, whether or not a  
40 separate charge is made for such services.

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

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

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

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

38 (12) The term does not include the sale of or charge made for  
39 labor and services rendered in respect to the constructing,  
40 repairing, decorating, or improving of new or existing buildings or



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

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

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

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

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

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

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

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

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

25 (v) Batting cage activities;

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

32 (vii) Climbing on artificial climbing structures, whether indoors  
33 or outdoors;

34 (viii) Day trips for sightseeing purposes;

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

37 (x) Horseback riding offered to the public, where the seller  
38 furnishes the horse to the buyer and providing instruction is not the  
39 primary focus of the activity, including guided rides, but not  
40 including therapeutic horseback riding provided by an instructor

1 certified by a nonprofit organization that offers national or  
2 international certification for therapeutic riding instructors;

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

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

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

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

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

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

35 (xvii) Paintball and airsoft activities;

36 (xviii) Skating, including ice skating, roller skating, and  
37 inline skating, but only in respect to discrete charges to members of  
38 the public to engage in skating activities, but not including skating  
39 lessons, competitive events, team activities, or fees to join or

1 renew a membership at a skating facility, club, or other  
2 organization;

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

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

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

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

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

37 (iii) Made by a vocational school for commercial diver training  
38 that is licensed by the workforce training and education coordinating  
39 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 **Sec. 702.** RCW 82.04.2907 and 2015 3rd sp.s. c 5 s 101 are each  
7 amended to read as follows:

8 (1) Upon every person engaging within this state in the business  
9 of receiving income from royalties, the amount of tax with respect to  
10 the business is equal to the gross income from royalties multiplied  
11 by the rate provided in RCW 82.04.290(2)(a).

12 (2) For the purposes of this section(~~(7)~~):

13 (a) "Gross income from royalties" means compensation for the use  
14 of intangible property, including:

15 (i) Charges in the nature of royalties, regardless of where the  
16 intangible property will be used(~~(. For purposes of this~~  
17 subsection~~7~~)); and

18 (ii) The sale of prewritten computer software to a consumer,  
19 regardless of the method of delivery to the end user. The sale of  
20 prewritten computer software includes the sale of or charge made for  
21 a key or an enabling or activation code, where the key or code is  
22 required to activate prewritten computer software and put the  
23 software into use. There is no separate sale of the key or code from  
24 the prewritten computer software, regardless of how the sale may be  
25 characterized by the vendor or by the purchaser;

26 (b) "Intangible property" includes copyrights, patents, licenses,  
27 franchises, trademarks, trade names, and similar items(~~(7)~~); and

28 (c) "Gross income from royalties" does not include compensation  
29 for any natural resource(~~(, the licensing of prewritten computer~~  
30 software to the end user~~7~~)) or the licensing of digital goods,  
31 digital codes, or digital automated services to the end user as  
32 defined in RCW 82.04.190(11)."

33 Renumber the remaining part and sections consecutively, correct  
34 any internal references accordingly, and correct the title.

35 On page 33, line 25, after "IV," strike "and VI" and insert "VI,  
36 and VII"

EFFECT: Requires that business and occupation tax must be paid on the royalties income from prewritten computer software. Removes the sale of prewritten computer software from the definition of retail sale.

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