
SENATE BILL 5624

State of Washington

66th Legislature

2019 Regular Session

By Senator Fortunato

1 AN ACT Relating to exempting permanently from the sales tax
2 purchases of clothing and prepared food; amending RCW 82.08.0293;
3 adding a new section to chapter 82.08 RCW; and creating a new
4 section.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08
7 RCW to read as follows:

8 (1) The tax levied by RCW 82.08.020 does not apply to sales of
9 clothing and footwear for human use.

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

12 (a)(i) "Clothing" means all human wearing apparel suitable for
13 general use. "Clothing" also includes:

14 (A) Protective equipment necessary for the daily work of the
15 user; and

16 (B) Sewing equipment and supplies.

17 (ii) "Clothing" does not include: Clothing accessories or
18 equipment, fur clothing, and sport or recreational equipment.

19 (b) "Clothing accessories or equipment" means incidental items
20 worn on the person or in conjunction with clothing that are sold
21 separately.

1 (c) "Fur clothing" means clothing that is required to be labeled
2 as a fur product under 15 U.S.C. Sec. 69, and the value of the fur
3 components in the product is more than three times the value of the
4 next most valuable tangible component. For the purposes of this
5 subsection, "fur" means any animal skin or part thereof with hair,
6 fleece, or fur fibers attached thereto, either in its raw or
7 processed state, but does not include such skins that have been
8 converted into leather or suede, or which in processing the hair,
9 fleece, or fur fiber has been completely removed.

10 (d) "Protective equipment" means items for human wear and
11 designed as protection of the wearer against injury or disease or as
12 protections against damage or injury of other persons or property but
13 not suitable for general use.

14 (e) "Sewing equipment and supplies" means sewing materials
15 including, but not limited to: Fabrics, thread, knitting yarn,
16 buttons, and zippers, purchased by noncommercial purchasers for
17 incorporation into clothing as a constituent part thereof.

18 (f) "Sport or recreational equipment" means items designed for
19 human use and worn in conjunction with an athletic or recreational
20 activity that are not suitable for general use.

21 **Sec. 2.** RCW 82.08.0293 and 2017 3rd sp.s. c 28 s 101 are each
22 amended to read as follows:

23 (1) The tax levied by RCW 82.08.020 does not apply to sales of
24 food and food ingredients. "Food and food ingredients" means
25 substances, whether in liquid, concentrated, solid, frozen, dried, or
26 dehydrated form, that are sold for ingestion or chewing by humans and
27 are consumed for their taste or nutritional value. "Food and food
28 ingredients" includes "prepared food." "Food and food ingredients"
29 does not include:

30 (a) "Alcoholic beverages," which means beverages that are
31 suitable for human consumption and contain one-half of one percent or
32 more of alcohol by volume;

33 (b) "Tobacco," which means cigarettes, cigars, chewing or pipe
34 tobacco, or any other item that contains tobacco; and

35 (c) Marijuana, useable marijuana, or marijuana-infused products.

36 (2) The exemption of "food and food ingredients" provided for in
37 subsection (1) of this section does not apply to (~~prepared food,~~)
38 soft drinks, bottled water, or dietary supplements. The definitions

1 in this subsection apply throughout this section unless the context
2 clearly requires otherwise.

3 (a) "Bottled water" means water that is placed in a safety sealed
4 container or package for human consumption. Bottled water is calorie
5 free and does not contain sweeteners or other additives except that
6 it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii)
7 carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen;
8 (vi) preservatives; and (vii) only those flavors, extracts, or
9 essences derived from a spice or fruit. "Bottled water" includes
10 water that is delivered to the buyer in a reusable container that is
11 not sold with the water.

12 (b) "Dietary supplement" means any product, other than tobacco,
13 intended to supplement the diet that:

14 (i) Contains one or more of the following dietary ingredients:

15 (A) A vitamin;

16 (B) A mineral;

17 (C) An herb or other botanical;

18 (D) An amino acid;

19 (E) A dietary substance for use by humans to supplement the diet
20 by increasing the total dietary intake; or

21 (F) A concentrate, metabolite, constituent, extract, or
22 combination of any ingredient described in this subsection;

23 (ii) Is intended for ingestion in tablet, capsule, powder,
24 softgel, gelcap, or liquid form, or if not intended for ingestion in
25 such form, is not represented as conventional food and is not
26 represented for use as a sole item of a meal or of the diet; and

27 (iii) Is required to be labeled as a dietary supplement,
28 identifiable by the "supplement facts" box found on the label as
29 required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered
30 as of January 1, 2003.

31 (c) (i) "Prepared food" means:

32 (A) Food sold in a heated state or heated by the seller;

33 (B) Food sold with eating utensils provided by the seller,
34 including plates, knives, forks, spoons, glasses, cups, napkins, or
35 straws. A plate does not include a container or packaging used to
36 transport the food; or

37 (C) Two or more food ingredients mixed or combined by the seller
38 for sale as a single item, except:

39 (I) Food that is only cut, repackaged, or pasteurized by the
40 seller; or

1 (II) Raw eggs, fish, meat, poultry, and foods containing these
2 raw animal foods requiring cooking by the consumer as recommended by
3 the federal food and drug administration in chapter 3, part 401.11 of
4 The Food Code, published by the food and drug administration, as
5 amended or renumbered as of January 1, 2003, so as to prevent
6 foodborne illness.

7 (ii) "Prepared food" (~~does not~~) includes the following food or
8 food ingredients, if the food or food ingredients are sold without
9 eating utensils provided by the seller:

10 (A) Food sold by a seller whose proper primary North American
11 industry classification system (NAICS) classification is
12 manufacturing in sector 311, except subsector 3118 (bakeries), as
13 provided in the "North American industry classification system—United
14 States, 2002";

15 (B) Food sold in an unheated state by weight or volume as a
16 single item; or

17 (C) Bakery items. The term "bakery items" includes bread, rolls,
18 buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes,
19 tortes, pies, tarts, muffins, bars, cookies, or tortillas.

20 (d) "Soft drinks" means nonalcoholic beverages that contain
21 natural or artificial sweeteners. Soft drinks do not include
22 beverages that contain: Milk or milk products; soy, rice, or similar
23 milk substitutes; or greater than fifty percent of vegetable or fruit
24 juice by volume.

25 (3) Notwithstanding anything in this section to the contrary, the
26 exemption of "food and food ingredients" provided in this section
27 applies to food and food ingredients that are furnished, prepared, or
28 served as meals:

29 (a) Under a state administered nutrition program for the aged as
30 provided for in the older Americans act (P.L. 95-478 Title III) and
31 RCW 74.38.040(6);

32 (b) That are provided to senior citizens, individuals with
33 disabilities, or low-income persons by a not-for-profit organization
34 organized under chapter 24.03 or 24.12 RCW; or

35 (c) That are provided to residents, sixty-two years of age or
36 older, of a qualified low-income senior housing facility by the
37 lessor or operator of the facility. The sale of a meal that is billed
38 to both spouses of a marital community or both domestic partners of a
39 domestic partnership meets the age requirement in this subsection
40 (3)(c) if at least one of the spouses or domestic partners is at

1 least sixty-two years of age. For purposes of this subsection,
2 "qualified low-income senior housing facility" means a facility:

3 (i) That meets the definition of a qualified low-income housing
4 project under 26 U.S.C. Sec. 42 of the federal internal revenue code,
5 as existing on August 1, 2009;

6 (ii) That has been partially funded under 42 U.S.C. Sec. 1485;
7 and

8 (iii) For which the lessor or operator has at any time been
9 entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42
10 of the federal internal revenue code.

11 (4)(a) Subsection (1) of this section notwithstanding, the retail
12 sale of food and food ingredients is subject to sales tax under RCW
13 82.08.020 if the food and food ingredients are sold through a vending
14 machine. Except as provided in (b) of this subsection, the selling
15 price of food and food ingredients sold through a vending machine for
16 purposes of RCW 82.08.020 is fifty-seven percent of the gross
17 receipts.

18 (b) For soft drinks, bottled water, and hot prepared food and
19 food ingredients, other than food and food ingredients which are
20 heated after they have been dispensed from the vending machine, the
21 selling price is the total gross receipts of such sales divided by
22 the sum of one plus the sales tax rate expressed as a decimal.

23 (c) For tax collected under this subsection (4), the requirements
24 that the tax be collected from the buyer and that the amount of tax
25 be stated as a separate item are waived.

26 NEW SECTION. **Sec. 3.** The provisions of RCW 82.32.805 and
27 82.32.808 do not apply to this act.

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