
SENATE BILL 5557

State of Washington

67th Legislature

2022 Regular Session

By Senator Hasegawa

Prefiled 12/17/21.

1 AN ACT Relating to providing sustainable support for new
2 businesses; adding new sections to chapter 82.04 RCW; creating new
3 sections; and providing expiration dates.

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

5 NEW SECTION. **Sec. 1.** (1) According to the institute on taxation
6 and economic policy, Washington has the most regressive tax structure
7 in the United States. The legislature finds that part of that
8 regressivity lies in the state's reliance on the business and
9 occupation tax, which requires businesses to pay a gross income tax
10 on all qualified transactions, regardless of whether the business is
11 actually profitable. The business and occupation tax structure
12 hinders the sustainability of start-up businesses because it prevents
13 them from reinvesting income back into the business at a time when it
14 is most critical.

15 (2) The legislature also finds that while Washington has one of
16 the highest annual rates of new business start-ups, it also has one
17 of the highest rates of new business failures. It is the intent of
18 the legislature to support new businesses by creating a sustainable
19 and profitability business environment, without reducing vital state
20 revenue.

1 (3) The legislature also intends for this preference to be a
2 temporary measure until such time as the state implements
3 comprehensive revenue reform that replaces its current, regressive
4 tax structure, and until such time as the business and occupation tax
5 on gross income is replaced with a graduated corporate net income
6 tax.

7 NEW SECTION. **Sec. 2.** (1) This section is the tax preference
8 performance statement for the tax preference contained in section 3,
9 chapter . . ., Laws of 2022 (section 3 of this act). This performance
10 statement is only intended to be used for subsequent evaluation of
11 the tax preference. It is not intended to create a private right of
12 action by any party or be used to determine eligibility for
13 preferential tax treatment.

14 (2) The legislature categorizes the tax preference in section 3,
15 chapter . . ., Laws of 2022 (section 3 of this act) as one intended
16 to improve industry competitiveness and provide tax relief for
17 certain businesses or individuals, as indicated in RCW 82.32.808(2)
18 (b) and (e).

19 (3) It is the legislature's specific public policy objective to
20 promote industry competitiveness and new business success by reducing
21 the tax burden on new businesses for the first 24 months of
22 operation.

23 (4) The legislature intends for any loss of revenue resulting
24 from the tax preference in section 3 of this act to be fully
25 mitigated by a commensurate general business and occupation tax
26 increase shared evenly by all persons subject to tax under chapter
27 82.04 RCW.

28 (5) The joint legislative audit and review committee must measure
29 the performance of this preference with regard to its success in
30 preventing new business failures and any subsequent increase or
31 decrease in overall revenue collections due to the success of new
32 businesses entering their taxpaying adulthood. In order to obtain the
33 data necessary to perform its review, the joint legislative audit and
34 review committee may access business licensing or other business-
35 related data from the department of revenue and the secretary of
36 state, or any other data or data sources the committee deems
37 necessary in performing the evaluation under this subsection.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04
2 RCW to read as follows:

3 (1) This chapter does not apply to a new business during the
4 first 24 months of operation of the business.

5 (2) (a) For the purposes of this section, "new business" means a
6 business that obtains or is required to obtain a registration
7 certificate under RCW 82.32.030 for the first time. "New business"
8 also includes a branch location or other facility established after
9 the effective date of this section by an entity doing business in
10 this state.

11 (b) "New business" does not include:

12 (i) A business that has been restructured, reorganized, or
13 transferred, if the activities to be conducted after restructuring,
14 reorganization, or transferal are substantially similar to the
15 activities previously conducted; or

16 (ii) A business that is substantially similar to a business
17 currently operated, or operated within the past two years, by the
18 same principals.

19 (3) This section expires January 1, 2032.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.04
21 RCW to read as follows:

22 (1) Upon every person engaging within the state in business
23 activities that are subject to tax under any other section of this
24 chapter; as to such persons, an additional mitigation tax is imposed.
25 The amount of the additional tax imposed under this section with
26 respect to such business may not reasonably exceed a rate necessary
27 to offset any loss of revenue as a result of section 3 of this act.

28 (2) The tax is due in a form and manner determined by the
29 department. The department must determine the amount collected under
30 this section based on collections from the prior year.

31 (3) This section expires January 1, 2032.

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