

# SENATE BILL REPORT

## SB 5277

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As of February 6, 2023

**Title:** An act relating to extending tax preferences for dairy, fruit and vegetable, and seafood processors.

**Brief Description:** Extending tax preferences for dairy, fruit and vegetable, and seafood processors.

**Sponsors:** Senators Wilson, L., Dozier, Lovelett, Lovick, Muzzall, Shewmake, Torres, Wagoner and Warnick.

**Brief History:**

**Committee Activity:** Agriculture, Water, Natural Resources & Parks: 1/23/23, 1/26/23 [DP-WM, w/oRec].  
Ways & Means: 2/06/23.

**Brief Summary of Bill**

- Extends the expiration date of business and occupation tax exemptions for dairy, fruit, vegetable, and seafood processors from July 1, 2025, to July 1, 2035.

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### SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Muzzall, Ranking Member; Rolfes, Shewmake, Short, Wagoner and Warnick.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Stanford.

**Staff:** Delika Steele (786-7486)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Jeffrey Mitchell (786-7438)

**Background:** Business and Occupation Tax for Food Processors. The state business and occupation (B&O) tax is Washington's primary business tax. It is a gross receipts tax measured on the value of products, gross proceeds of sale, or gross income of the business. There are no deductions from the B&O tax for labor, materials, taxes, or other costs of doing business. The B&O tax rate varies by classification (activity). The major rates are: 0.471 percent for retailing activities, 0.484 percent for manufacturing and wholesaling activities, and for service and other activities, either 1.5 percent or 1.75 percent, depending upon the amount of annual gross income of the business. The state B&O tax includes a number of preferential tax rates, credits, exemptions, and deductions as well as several increased rates or surcharges.

Dairy, fruit & vegetable, and seafood processing industries (food processors) are currently exempt from B&O taxes. The Legislature passed the exemptions in 2005 (fruit & vegetable) and 2006 (dairy and seafood), and extended them in 2012 and again in 2015. When the exemptions expire in 2025, the three industries will receive a preferential B&O tax rate of 0.138%. The preferential rate for dairy products expires January 1, 2036. The preferential rates for the other two industries do not expire.

The preferences apply to the manufacturing of these products and selling the products at wholesale to in-state buyers who transport the products out of state. Only sales by the manufacturer qualify, except for seafood manufacturers, where qualifying wholesale sales are not limited to the manufacturer and retail sales also qualify. In addition to these three preferences, the 2013 Legislature also enacted a targeted exemption for selling dairy products wholesale to buyers who use the products as ingredients or components to manufacture other dairy products (e.g., infant formula). This exemption expires June 30, 2023.

Tax Preference Review Requirements. State law provides a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics the Joint Legislative Audit and Review Committee (JLARC) can use to review the effectiveness of the preference in achieving its stated public policy objectives. Tax preferences must be reviewed by JLARC at least once every ten years, unless state statute requires otherwise. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided or the tax preference is exempted from expiration. In order to assist the Legislature in its evaluation of economic development-related tax preferences, taxpayer beneficiaries are required to file annual tax preference performance reports detailing wages and employment of the taxpayer as well as

tax savings from the tax preference.

**Summary of Bill:** The B&O tax exemptions for food processors are extended from July 1, 2025, to July 1, 2035. However, the tax exemption for dairy products sold as an ingredient or component to manufacture other dairy products expires on July 1, 2025.

A tax preference performance statement is included. The stated public policy objectives of the bill are to create and retain jobs in the food processing industry and to provide tax relief.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Agriculture, Water, Natural Resources & Parks):** PRO: Extending the exemption will continue to level the playing field for dairy, fruit and vegetable, and seafood processors against a highly competitive global market. Exemptions have played an important role in the growth and wealth of these industries. The objectives underlying these exemptions have been met and exceeded, particularly by the fruit and vegetable processors. The exemption has been very beneficial for wine companies and the long term growth of Washington wine needs support to extend beyond Washington both nationally and internationally.

The seafood industry has underperformed in part because of the disproportionate impact of COVID-19. However, there will be efforts made to make sure that this doesn't happen in the future.

**Persons Testifying (Agriculture, Water, Natural Resources & Parks):** PRO: Senator Lynda Wilson, Prime Sponsor; Craig Smith, Food Northwest; Beau Hickman, Figgins Family Wine Estates; Ryan Pennington, Ste Michelle Wine Estates; Jeremy Visser, Northwest Dairymen's Association.

**Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural Resources & Parks):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: Manufacturers exceeded their industry and state averages for wages and job growth when they received this exemption. Most employers took advantage of the exemption. The long term growth of Washington wine depends on opening markets outside of the state, this exemption will help them do that. Washington's dairy industry accounts for 2 percent of Washington's GDP. The tax exemption in this bill is important for the long term success of the dairy market. This

bill will continue to level the playing field for Washington dairy, fruit, vegetable, and seafood producers and will play an important role in the continued growth and health of this sector.

**Persons Testifying (Ways & Means):** PRO: Senator Lynda Wilson, Prime Sponsor; Craig Smith, Food Northwest; Beau Hickman, Figgins Family Wine Estates; Ryan Pennington, Ste Michelle Wine Estates; David Ward, Darigold.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.