

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2109

Chapter 1, Laws of 1

68th Legislature
2024 Regular Session

TEST

EFFECTIVE DATE: February 29, 2024

Passed by the House February 2, 2024
Yeas 0 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate February 2, 2024
Yeas 0 Nays 0

DENNY HECK

President of the Senate

Approved February 29, 2024 12:00 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2109** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

February 29, 2024

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 2109

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Representatives Ryu, Eslick, Reed, and Reeves

Prefiled 01/03/24. Read first time 01/08/24. Referred to Committee on Consumer Protection & Business.

1 AN ACT Relating to the regulation of permanent cosmetics;
2 amending RCW 18.16.010, 18.16.020, 18.16.030, 18.16.050, 18.16.060,
3 18.16.100, 18.16.130, 18.16.170, 18.16.190, 18.16.200, 18.16.260,
4 18.16.290, 18.16.900, 18.300.010, 5.40.050, 18.235.020, 26.28.085,
5 70.54.320, 70.54.330, 70.54.340, 70.54.350, 43.24.150, and 74.08.580;
6 reenacting and amending RCW 82.04.050; adding new sections to chapter
7 18.16 RCW; and providing an effective date TESTING Engrossing.

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

9 **Sec. 1.** RCW 18.16.010 and 2015 c 62 s 13 are each amended to
10 read as follows:

11 (1) The legislature recognizes that the practices of cosmetology,
12 hair design, barbering, manicuring, (~~and~~) esthetics, and master
13 esthetics involve the use of tools and chemicals which may be
14 dangerous when mixed or applied improperly, and therefore finds it
15 necessary in the interest of the public health, safety, and welfare
16 to regulate those practices in this state.

17 (2) The legislature further recognizes that the practice of
18 permanent cosmetics and enhanced permanent cosmetics involves
19 invasive procedures using needles, sharps, and instruments. This
20 practice may be dangerous when improper sterilization techniques are
21 used, presenting a risk of infecting clients with blood-borne

1 pathogens including, but not limited to, HIV, hepatitis B, and
2 hepatitis C. It is in the interest of the state's public health,
3 safety, and welfare to establish requirements in the commercial
4 practice of this activity.

5 **Sec. 2.** RCW 18.16.020 and 2015 c 62 s 1 are each amended to read
6 as follows:

7 As used in this chapter, the following terms have the meanings
8 indicated unless the context clearly requires otherwise:

9 (1) "Apprentice" means a person who is engaged in a state-
10 approved apprenticeship program and who must receive a wage or
11 compensation while engaged in the program.

12 (2) "Apprentice monthly report" means the apprentice record of
13 daily activities and the number of hours completed in each course of
14 a curriculum that is prepared monthly by the approved apprenticeship
15 program and provided to the apprentice, audited annually by the
16 department, and kept on file by the approved apprenticeship program
17 for three years.

18 (3) "Apprentice trainer" means a person who gives training to an
19 apprentice in an approved apprenticeship program and who is approved
20 under RCW 18.16.280.

21 (4) "Apprenticeship program" means a state-approved
22 apprenticeship program pursuant to chapter 49.04 RCW and approved
23 under RCW 18.16.280 for the training of cosmetology, hair design,
24 barbering, esthetics, master esthetics, and manicuring.

25 (5) "Apprenticeship training committee" means a committee
26 approved by the Washington apprenticeship and training council
27 established in chapter 49.04 RCW.

28 (6) "Approved apprenticeship shop" means a salon/shop that has
29 been approved under RCW 18.16.280 and chapter 49.04 RCW to
30 participate in an apprenticeship program.

31 (7) "Approved security" means surety bond.

32 (8) "Barber" means a person licensed under this chapter to engage
33 in the practice of barbering.

34 (9) "Board" means the cosmetology, hair design, barbering,
35 esthetics, ~~((and))~~ master esthetics, manicuring, permanent cosmetics,
36 and enhanced permanent cosmetics advisory board.

37 (10) "Cosmetologist" means a person licensed under this chapter
38 to engage in the practice of cosmetology.

1 (11) "Crossover training" means training approved by the director
2 as training hours that may be credited to current licensees for
3 similar training received in another profession licensed under this
4 chapter.

5 (12) "Curriculum" means the courses of study taught at a school,
6 online training by a school, in an approved apprenticeship program
7 established by the Washington state apprenticeship and training
8 council and conducted in an approved salon/shop, or online training
9 by an approved apprenticeship program, set by rule under this
10 chapter, and approved by the department. After consulting with the
11 board, the director may set by rule a percentage of hours in a
12 curriculum, up to a maximum of ten percent, that could include hours
13 a student receives while training in a salon/shop or permanent
14 cosmetics shop under a contract approved by the department. Each
15 curriculum must include at least the following required hours:

16 (a) School curriculum:

17 (i) Cosmetologist, (~~one thousand six hundred~~) 1,600 hours;

18 (ii) Hair design, (~~one thousand four hundred~~) 1,400 hours;

19 (iii) Barber, (~~one thousand~~) 1,000 hours;

20 (iv) Manicurist, (~~six hundred~~) 600 hours;

21 (v) Esthetician, (~~seven hundred fifty~~) 750 hours;

22 (vi) Master esthetician either:

23 (A) (~~One thousand two hundred~~) 1,200 hours; or

24 (B) Esthetician licensure plus (~~four hundred fifty~~) 450 hours
25 of training;

26 (~~(vi) [(vii)]~~) (vii) Permanent cosmetics artist, 100 hours;

27 (viii) Enhanced permanent cosmetics artist either:

28 (A) 200 hours; or

29 (B) 300 hours for a scope of practice that includes performance
30 of corrective procedures; and

31 (ix) Instructor-trainee, (~~five hundred~~) 500 hours, except that
32 an instructor-trainee may submit documentation that provides evidence
33 of experience as a licensed cosmetologist, hair designer, barber,
34 manicurist, esthetician, (~~or~~) master esthetician, permanent
35 cosmetics artist, or enhanced permanent cosmetics artist for
36 competency evaluation toward credit of not more than (~~three~~
37 hundred) 300 hours of instructor-training.

38 (b) Apprentice training curriculum:

39 (i) Cosmetologist, two thousand hours;

40 (ii) Hair design, one thousand seven hundred fifty hours;

1 (iii) Barber, one thousand two hundred hours;

2 (iv) Manicurist, eight hundred hours;

3 (v) Esthetician, eight hundred hours;

4 (vi) Master esthetician, one thousand four hundred hours.

5 (13) "Department" means the department of licensing.

6 (14) "Director" means the director of the department of licensing
7 or the director's designee.

8 (15) "Esthetician" means a person licensed under this chapter to
9 engage in the practice of esthetics.

10 (16) "Hair design" means the practice of arranging, dressing,
11 cutting, trimming, styling, shampooing, permanent waving, chemical
12 relaxing, straightening, curling, bleaching, lightening, coloring,
13 mustache and beard design, and superficial skin stimulation of the
14 scalp.

15 (17) "Hair designer" means a person licensed under this chapter
16 to engage in the practice of hair design.

17 (18) "Individual license" means a cosmetology, hair design,
18 barber, manicurist, esthetician, master esthetician, permanent
19 cosmetics artist, enhanced permanent cosmetics artist, or instructor
20 license issued under this chapter.

21 (19) "Instructor" means a person who (~~gives~~):

22 (a) Gives instruction in cosmetology, hair design, barbering,
23 manicuring, esthetics, and master esthetics in a school, or who
24 provides classroom theory training to apprentices in locations other
25 than in a school, in a curriculum in which he or she holds a license
26 under this chapter, has completed at least five hundred hours of
27 instruction in teaching techniques and lesson planning in a school,
28 or who has documented experience as an instructor for more than five
29 hundred hours in another state in the curriculum of study, and has
30 passed a licensing examination approved or administered by the
31 director. An applicant who holds a degree in education from an
32 accredited postsecondary institution shall upon application be
33 licensed as an instructor to give instruction in a school, or to
34 provide classroom theory training to apprentices in locations other
35 than in a school, in a curriculum in which he or she holds a license
36 under this chapter. An applicant who holds an instructional
37 credential from an accredited community or technical college and who
38 has passed a licensing examination approved or administered by the
39 director shall upon application be licensed as an instructor to give
40 instruction in a school, or to provide classroom theory training to

1 apprentices in locations other than in a school, in a curriculum in
2 which he or she holds a license under this chapter. To be approved as
3 an "instructor" in an approved apprenticeship program, the instructor
4 must be a competent instructor as defined in rules adopted under
5 chapter 49.04 RCW; or

6 (b) (i) Provides classroom theory training on permanent cosmetics,
7 enhanced permanent cosmetics, or both, to an individual in a
8 curriculum approved by the director;

9 (ii) (A) Holds a current license as a permanent cosmetics artist
10 or enhanced permanent cosmetics artist; or (B) has held a permanent
11 cosmetics license issued by the department for the five years prior
12 to the effective date of this section; and

13 (iii) Is able to demonstrate five consecutive years of performing
14 permanent cosmetics or enhanced permanent cosmetics.

15 (20) "Instructor-trainee" means a person who is currently
16 licensed in this state as a cosmetologist, hair designer, barber,
17 manicurist, esthetician, ~~((or))~~ permanent
18 cosmetics artist, or enhanced permanent cosmetics artist and is
19 enrolled in an instructor-trainee curriculum in a school licensed
20 under this chapter.

21 (21) "Location license" means a license issued under this chapter
22 for a salon/shop, school, personal services, permanent cosmetics
23 shop, or mobile unit.

24 (22) "Manicurist" means a person licensed under this chapter to
25 engage in the practice of manicuring.

26 (23) "Master esthetician" means a person licensed under this
27 chapter to engage in the practice of master esthetics.

28 (24) "Mobile unit" is a location license under this chapter where
29 the practice of cosmetology, barbering, esthetics, master esthetics,
30 or manicuring is conducted in a mobile structure. Mobile units must
31 conform to the health and safety standards set by rule under this
32 chapter.

33 (25) "Online training" means theory training provided online, by
34 a school licensed under this chapter or an approved apprenticeship
35 program established by the Washington state apprenticeship and
36 training council, in the areas of cosmetology, hair design, master
37 esthetics, manicuring, barbering, esthetics, permanent cosmetics,
38 enhanced permanent cosmetics, and instructor-training.

1 (26) "Person" means any individual, partnership, professional
2 service corporation, joint stock association, joint venture, or any
3 other entity authorized to do business in this state.

4 (27) "Personal services" means a location licensed under this
5 chapter where the practice of cosmetology, hair design, barbering,
6 manicuring, esthetics, or master esthetics is performed for clients
7 in the client's home, office, or other location that is convenient
8 for the client.

9 (28) "Practice of barbering" means the cutting, trimming,
10 arranging, dressing, curling, shampooing, shaving, and mustache and
11 beard design of the hair of the face, neck, and scalp.

12 (29) "Practice of cosmetology" means arranging, dressing,
13 cutting, trimming, styling, shampooing, permanent waving, chemical
14 relaxing, straightening, curling, bleaching, lightening, coloring,
15 waxing, tweezing, shaving, and mustache and beard design of the hair
16 of the face, neck, and scalp; temporary removal of superfluous hair
17 by use of depilatories, waxing, or tweezing; manicuring and
18 pedicuring, limited to cleaning, shaping, polishing, decorating, and
19 caring for and treatment of the cuticles and nails of the hands and
20 feet, excluding the application and removal of sculptured or
21 otherwise artificial nails; esthetics limited to toning the skin of
22 the scalp, stimulating the skin of the body by the use of
23 preparations, tonics, lotions, or creams; and tinting eyelashes and
24 eyebrows.

25 (30) "Practice of esthetics" means the care of the skin for
26 compensation by application, use of preparations, antiseptics,
27 tonics, essential oils, exfoliants, superficial and light peels, or
28 by any device, except laser, or equipment, electrical or otherwise,
29 or by wraps, compresses, cleansing, conditioning, stimulation,
30 superficial skin stimulation, pore extraction, or product application
31 and removal; temporary removal of superfluous hair by means of
32 lotions, creams, appliance, waxing, threading, tweezing, or
33 depilatories, including chemical means; and application of product to
34 the eyelashes and eyebrows, including extensions, design and
35 treatment, tinting and lightening of the hair, excluding the scalp.
36 Under no circumstances does the practice of esthetics include the
37 administration of injections.

38 (31) "Practice of manicuring" means the cleaning, shaping,
39 polishing, decorating, and caring for and treatment of the cuticles
40 and the nails of the hands or feet, and the application and removal

1 of sculptured or otherwise artificial nails by hand or with
2 mechanical or electrical apparatus or appliances.

3 (32) "Practice of master esthetics" means the care of the skin
4 for compensation including all of the methods allowed in the
5 definition of the practice of esthetics. It also includes the
6 performance of medium depth peels and the use of medical devices for
7 care of the skin and permanent hair reduction. The medical devices
8 include, but are not limited to, lasers, light, radio frequency,
9 plasma, intense pulsed light, and ultrasound. The use of a medical
10 device must comply with state law and rules, including any laws or
11 rules that require delegation or supervision by a licensed health
12 professional acting within the scope of practice of that health
13 profession.

14 (33) "Salon/shop" means any building, structure, or any part
15 thereof, other than a school, where the commercial practice of
16 cosmetology, barbering, hair design, esthetics, master esthetics, or
17 manicuring is conducted; provided that any person, except employees
18 of a salon/shop, who operates from a salon/shop is required to meet
19 all salon/shop licensing requirements and may participate in the
20 apprenticeship program when certified as established by the
21 Washington state apprenticeship and training council established in
22 chapter 49.04 RCW.

23 (34) "School" means any establishment that offers curriculum of
24 instruction in the practice of cosmetology, hair design, barbering,
25 esthetics, master esthetics, manicuring, permanent cosmetics,
26 enhanced permanent cosmetics, or instructor-trainee to students,
27 including permanent cosmetics programs, and is licensed under this
28 chapter.

29 (35) "Student" means ~~((a))~~: (a) A person ((sixteen)) 16 years of
30 age or older who is enrolled in a school licensed under this chapter
31 and receives instruction in any of the curricula of cosmetology,
32 barbering, hair design, esthetics, master esthetics, manicuring, or
33 instructor-training with or without tuition, fee, or cost, and who
34 does not receive any wage or commission; and (b) for permanent
35 cosmetics and enhanced permanent cosmetics, a person 18 years of age
36 or older who is enrolled in a school licensed under this chapter,
37 including a permanent cosmetics program, and receives instruction in
38 the curricula of permanent cosmetics or enhanced permanent cosmetics
39 with or without tuition, fee, or cost, and who does not receive any
40 wage or commission.

1 (36) "Student monthly report" means the student record of daily
2 activities and the number of hours completed in each course of a
3 curriculum that is prepared monthly by the school and provided to the
4 student, audited annually by the department, and kept on file by the
5 school for three years.

6 (37) "Enhanced permanent cosmetics artist" means a person
7 licensed under this chapter to engage in the practice of enhanced
8 permanent cosmetics.

9 (38) "Permanent cosmetics artist" means a person licensed under
10 this chapter to engage in the practice of permanent cosmetics.

11 (39) "Permanent cosmetics program" means any program that offers
12 curriculum of instruction exclusively in the practice of permanent
13 cosmetics or the practice of enhanced permanent cosmetics or both to
14 students and is licensed under this chapter.

15 (40) "Permanent cosmetics shop" means any building, structure, or
16 any part thereof, other than a school, where the commercial practice
17 of permanent cosmetics or the commercial practice of enhanced
18 permanent cosmetics is conducted.

19 (41) "Practice of enhanced permanent cosmetics" means the
20 piercing or puncturing of the human skin with a needle or other
21 instrument for all purposes allowed in the definition of the practice
22 of permanent cosmetics. It also includes the piercing or puncturing
23 of human skin including mucous membranes and areas adjacent to mucous
24 membranes for purposes including the application of eyeliner, lip
25 liner, and lip color. The practice of enhanced permanent cosmetics is
26 prohibited on any individual under the age of 18.

27 (42) "Practice of permanent cosmetics" means the piercing or
28 puncturing of the human skin with a needle or other instrument for
29 the purpose of applying permanent eyebrows, hair follicles, or scar
30 camouflage, to improve or restore a person's appearance. The practice
31 of permanent cosmetics is prohibited on any individual under the age
32 of 18.

33 **Sec. 3.** RCW 18.16.030 and 2019 c 442 s 7 are each amended to
34 read as follows:

35 In addition to any other duties imposed by law, including RCW
36 18.235.030 and 18.235.040, the director shall have the following
37 powers and duties:

38 (1) To set all license, examination, and renewal fees in
39 accordance with RCW 43.24.086;

- 1 (2) To adopt rules necessary to implement this chapter;
- 2 (3) To prepare and administer or approve the preparation and
3 administration of licensing examinations;
- 4 (4) To establish minimum safety and sanitation standards for
5 schools, including permanent cosmetics programs, instructors,
6 cosmetologists, barbers, hair designers, manicurists, estheticians,
7 master estheticians, permanent cosmetic artists, enhanced permanent
8 cosmetic artists, salons/shops, permanent cosmetics shops, personal
9 services, and mobile units;
- 10 (5) To establish curricula for the training of students and
11 apprentices under this chapter;
- 12 (6) To maintain the official department record of applicants and
13 licensees;
- 14 (7) To establish by rule the procedures for an appeal of an
15 examination failure;
- 16 (8) To set license expiration dates and renewal periods for all
17 licenses consistent with this chapter; and
- 18 (9) To make information available to the department of revenue to
19 assist in collecting taxes from persons required to be licensed under
20 this chapter.

21 **Sec. 4.** RCW 18.16.050 and 2015 c 62 s 3 are each amended to read
22 as follows:

- 23 (1) There is created a state cosmetology, hair design, barbering,
24 esthetics, ~~((and))~~ master esthetics, manicuring, permanent cosmetics,
25 and enhanced permanent cosmetics advisory board consisting of a
26 maximum of ten members appointed by the director. These members of
27 the board shall include: A representative of private schools licensed
28 under this chapter; a representative from an approved apprenticeship
29 program conducted in an approved salon/shop or permanent cosmetics
30 shop; a representative of public vocational technical schools
31 licensed under this chapter; a consumer who is unaffiliated with the
32 cosmetology, hair design, barbering, esthetics, master esthetics,
33 ~~((or))~~ manicuring, permanent cosmetics, or enhanced permanent
34 cosmetics industry; and six members who are currently practicing
35 licensees who have been engaged in the practice of manicuring,
36 esthetics, master esthetics, barbering, hair design, permanent
37 cosmetics, enhanced permanent cosmetics, or cosmetology, provided
38 that one of the six members must be a currently practicing licensee
39 engaged in the practice of permanent cosmetics or enhanced permanent

1 cosmetics, for at least three years. Members shall serve a term of
2 three years. Any board member may be removed for just cause. The
3 director may appoint a new member to fill any vacancy on the board
4 for the remainder of the unexpired term.

5 (2) Board members shall be entitled to compensation pursuant to
6 RCW 43.03.240 for each day spent conducting official business and to
7 reimbursement for travel expenses as provided by RCW 43.03.050 and
8 43.03.060.

9 (3) The board may seek the advice and input of officials from the
10 following state agencies: (a) The workforce training and education
11 coordinating board; (b) the employment security department; (c) the
12 department of labor and industries; (d) the department of health; (e)
13 the department of licensing; and (f) the department of revenue.

14 **Sec. 5.** RCW 18.16.060 and 2015 c 62 s 4 are each amended to read
15 as follows:

16 (1) It is unlawful for any person to engage in a practice listed
17 in subsection (2) of this section unless the person has a license in
18 good standing as required by this chapter. A license issued under
19 this chapter shall be considered to be "in good standing" except
20 when:

21 (a) The license has expired or has been canceled and has not been
22 renewed in accordance with RCW 18.16.110;

23 (b) The license has been denied, revoked, or suspended under RCW
24 18.16.210(~~(, 18.16.230,)~~) or 18.16.240, and has not been reinstated;

25 (c) The license is held by a person who has not fully complied
26 with an order of the director issued under RCW 18.16.210 requiring
27 the licensee to pay restitution or a fine, or to acquire additional
28 training; or

29 (d) The license has been placed on inactive status at the request
30 of the licensee, and has not been reinstated in accordance with RCW
31 18.16.110(3).

32 (2) The director may take action under RCW 18.235.150 and
33 18.235.160 against any person who does any of the following without
34 first obtaining, and maintaining in good standing, the license
35 required by this chapter:

36 (a) Except as provided in subsections (3) and (4) of this
37 section, engages in the commercial practice of cosmetology, hair
38 design, barbering, esthetics, master esthetics, (~~(or)~~) manicuring,
39 permanent cosmetics, or enhanced permanent cosmetics;

- 1 (b) Instructs in a school;
2 (c) Operates a school; or
3 (d) Operates a salon/shop, permanent cosmetics shop, personal
4 services, or mobile unit.

5 (3) A person who receives a license as an instructor may engage
6 in the commercial practice for which he or she held a license when
7 applying for the instructor license without also renewing the
8 previously held license. However, a person licensed as an instructor
9 whose license to engage in a commercial practice is not or at any
10 time was not renewed may not engage in the commercial practice
11 previously permitted under that license unless that person renews the
12 previously held license.

13 (4) An apprentice actively enrolled in an apprenticeship program
14 for cosmetology, barbering, hair design, esthetics, master esthetics,
15 or manicuring may engage in the commercial practice as required for
16 the apprenticeship program.

17 **Sec. 6.** RCW 18.16.100 and 2008 c 20 s 5 are each amended to read
18 as follows:

19 (1) Upon completion of an application approved by the department
20 and payment of the proper fee, the director shall issue the
21 appropriate license, except a permanent cosmetics artist license or
22 enhanced permanent cosmetics artist license, to any person who:

23 (a) Is at least (~~seventeen~~) 17 years of age or older;

24 (b) (i) Has completed and graduated from a school licensed under
25 this chapter in a curriculum approved by the director consisting of
26 the hours of training required under this chapter for a school
27 curriculum, or has met the requirements in RCW 18.16.020 or
28 18.16.130; or

29 (ii) Has successfully completed a state-approved apprenticeship
30 program consisting of the hours of training required under this
31 chapter for the apprentice training curriculum; and

32 (c) Has received a passing grade on the appropriate licensing
33 examination approved or administered by the director.

34 (2) A person currently licensed under this chapter may qualify
35 for examination and licensure, after the required examination is
36 passed, in another category if he or she has completed the crossover
37 training course.

1 (3) Upon completion of an application and payment of the proper
2 fee, the director shall issue a permanent cosmetics artist license or
3 enhanced permanent cosmetics artist license to any person who:

4 (a) Is at least 18 years old or older;

5 (b) Has completed and graduated from a school, including a
6 permanent cosmetics program, licensed under this chapter in a
7 curriculum approved by the director consisting of the hours of
8 training required under this chapter;

9 (c) Provides proof of blood-borne pathogen certification; and

10 (d) Has received a passing grade on the appropriate licensing
11 examination approved or administered by the department.

12 (4) Upon completion of an application approved by the department,
13 certification of insurance, and payment of the proper fee, the
14 director shall issue a location license to the applicant.

15 (~~(4)~~) (5) The director may consult with the state board of
16 health and the department of labor and industries in establishing
17 training, apprenticeship, and examination requirements.

18 **Sec. 7.** RCW 18.16.130 and 2015 c 62 s 5 are each amended to read
19 as follows:

20 (1) Any person who is properly licensed in any state, territory,
21 or possession of the United States, or foreign country shall be
22 eligible for examination if the applicant submits the approved
23 application and fee and provides proof to the director that he or she
24 is currently licensed in good standing as a cosmetologist, hair
25 designer, barber, manicurist, esthetician, master esthetician,
26 permanent cosmetics artist, enhanced permanent cosmetics artist,
27 instructor, or the equivalent in that jurisdiction. Upon passage of
28 the required examinations the appropriate license will be issued.

29 (2)(a) The director shall, upon passage of the required
30 examinations, issue a license as master esthetician to an applicant
31 who submits the approved application and fee and provides proof to
32 the director that the applicant is currently licensed in good
33 standing in esthetics in any state, territory, or possession of the
34 United States, or foreign country and holds a diplomate of the comite
35 international d'esthetique et de cosmetologie diploma, or an
36 international therapy examination council diploma, or a certified
37 credential awarded by the national coalition of estheticians,
38 manufacturers/distributors & associations.

1 (b) The director may upon passage of the required examinations,
2 issue a master esthetician license to an applicant that is currently
3 licensed in esthetics in any other state, territory, or possession of
4 the United States, or foreign country and submits an approved
5 application and fee and provides proof to the director that he or she
6 is licensed in good standing and:

7 (i) The licensing state, territory, or possession of the United
8 States, or foreign country has licensure requirements that the
9 director determines are substantially equivalent to a master
10 esthetician license in this state; or

11 (ii) The applicant has certification or a diploma or other
12 credentials that the director determines has licensure requirements
13 that are substantially equivalent to the degree listed in (a) of this
14 subsection.

15 **Sec. 8.** RCW 18.16.170 and 2015 c 62 s 6 are each amended to read
16 as follows:

17 (1) Subject to subsection (2) of this section, licenses issued
18 under this chapter expire as follows:

19 (a) A salon/shop, permanent cosmetics shop, personal services, or
20 mobile unit license expires one year from issuance or when the
21 insurance required by RCW 18.16.175(1)(g) expires, whichever occurs
22 first;

23 (b) A school license expires one year from issuance; and

24 (c) Cosmetologist, hair designer, barber, manicurist,
25 esthetician, master esthetician, permanent cosmetics artist, enhanced
26 permanent cosmetics artist, and instructor licenses expire two years
27 from issuance.

28 (2) The director may provide for expiration dates other than
29 those set forth in subsection (1) of this section for the purpose of
30 establishing staggered renewal periods.

31 **Sec. 9.** RCW 18.16.190 and 2015 c 62 s 9 are each amended to read
32 as follows:

33 (1) It is a violation of this chapter for any person to engage in
34 the commercial practice of cosmetology, hair design, barbering,
35 esthetics, master esthetics, or manicuring, except in a licensed
36 salon/shop or the home, office, or other location selected by the
37 client for obtaining the services of a personal service operator, or
38 with the appropriate individual license when delivering services to

1 placebo clients. Placebo clients are defined as persons who are
2 ill, disabled, or otherwise unable to travel to a salon/shop.

3 (2) It is a violation of this chapter for any person to engage in
4 the commercial practice of permanent cosmetics or enhanced permanent
5 cosmetics (a) except in a licensed permanent cosmetics shop, (b) in
6 violation of RCW 26.28.085, or (c) in violation of RCW 70.54.350.

7 **Sec. 10.** RCW 18.16.200 and 2015 c 62 s 10 are each amended to
8 read as follows:

9 In addition to the unprofessional conduct described in RCW
10 18.235.130, the director may take disciplinary action against any
11 applicant or licensee under this chapter if the licensee or
12 applicant:

13 (1) Has been found to have violated any provisions of chapter
14 19.86 RCW;

15 (2) Has engaged in a practice prohibited under RCW 18.16.060
16 without first obtaining, and maintaining in good standing, the
17 license required by this chapter;

18 (3) Has engaged in the commercial practice of cosmetology, hair
19 design, barbering, manicuring, esthetics, ~~((\oplus))~~ master esthetics,
20 permanent cosmetics, or enhanced permanent cosmetics in a school;

21 (4) Has not provided a safe, sanitary, and good moral environment
22 for students in a school or the public;

23 (5) Has failed to display licenses required in this chapter;
24 ~~((\oplus))~~

25 (6) Has performed the practice of permanent cosmetics or the
26 practice of enhanced permanent cosmetics on an individual under the
27 age of 18; or

28 (7) Has violated any provision of this chapter or any rule
29 adopted under it.

30 **Sec. 11.** RCW 18.16.260 and 2013 c 187 s 11 are each amended to
31 read as follows:

32 (1)(a) Prior to July 1, 2005, (i) a cosmetology licensee who held
33 a license in good standing between June 30, 1999, and June 30, 2003,
34 may request a renewal of the license or an additional license in
35 barbering, manicuring, and/or esthetics; and (ii) a licensee who held
36 a barber, manicurist, or esthetics license between June 30, 1999, and
37 June 30, 2003, may request a renewal of such licenses held during
38 that period.

1 (b) A license renewal fee, including, if applicable, a renewal
2 fee, at the current rate, for each year the licensee did not hold a
3 license in good standing between July 1, 2001, and the date of the
4 renewal request, must be paid prior to issuance of each type of
5 license requested. After June 30, 2005, any cosmetology licensee
6 wishing to renew an expired license or obtain additional licenses
7 must meet the applicable renewal, training, and examination
8 requirements of this chapter.

9 (2)(a) Any person holding an active license in good standing as
10 an esthetician prior to January 1, 2015, may be licensed as an
11 esthetician licensee after paying the appropriate license fee.

12 (b) Prior to January 1, 2015, an applicant for a master
13 esthetician license must have an active license in good standing as
14 an esthetician, pay the appropriate license fee, and provide the
15 department with proof of having satisfied one or more of the
16 following requirements:

17 (i)(A)(I) A minimum of thirty-five hours employment as a provider
18 of medium depth peels under the delegation or supervision of a
19 licensed physician, advanced registered nurse practitioner, or
20 physician assistant, or other licensed professional whose licensure
21 permits such delegation or supervision; or

22 (II) Seven hours of training in theory and application of medium
23 depth peels; and

24 (B)(I) A minimum of one hundred fifty hours employment as a laser
25 operator under the delegation or supervision of a licensed physician,
26 advanced registered nurse practitioner, or physician assistant, or
27 other licensed professional whose licensure permits such delegation
28 or supervision; or

29 (II) Seventy-five hours of laser training;

30 (ii) A national or international diploma or certification in
31 esthetics that is recognized by the department by rule;

32 (iii) An instructor in esthetics who has been licensed as an
33 instructor in esthetics by the department for a minimum of three
34 years; or

35 (iv) Completion of one thousand two hundred hours of an esthetic
36 curriculum approved by the department.

37 (3)(a) Prior to December 31, 2026, any person holding an active
38 license in good standing issued under chapter 18.300 RCW may be
39 licensed as a permanent cosmetics artist under this chapter after
40 paying the appropriate license fee and demonstrating the applicant

1 has held the license in good standing for the prior three consecutive
2 years.

3 (b) Any permanent cosmetics or enhanced permanent cosmetics
4 licensee wishing to renew a license granted under this subsection (3)
5 must provide proof acceptable to the department of the individual's
6 certifications to perform the procedures the licensee performs either
7 as a permanent cosmetics artist or enhanced permanent cosmetics
8 artist, recognized by the department by rule.

9 (4) The director may, as provided in RCW 43.24.140, modify the
10 duration of any additional license granted under this section to make
11 all licenses issued to a person expire on the same date.

12 **Sec. 12.** RCW 18.16.290 and 2015 c 62 s 11 are each amended to
13 read as follows:

14 (1) If the holder of an individual license in good standing
15 submits a written and notarized request that the licensee's
16 cosmetology, hair design, barber, manicurist, esthetician and master
17 esthetician, permanent cosmetics artist, enhanced permanent cosmetics
18 artist, or instructor license be placed on inactive status, together
19 with a fee equivalent to that established by rule for a duplicate
20 license, the department shall place the license on inactive status
21 until the expiration date of the license. If the date of the request
22 is no more than six months before the expiration date of the license,
23 a request for a two-year extension of the inactive status, as
24 provided under subsection (2) of this section, may be submitted at
25 the same time as the request under this subsection.

26 (2) If the holder of a license placed on inactive status under
27 this section submits, by the expiration date of the license, a
28 written and notarized request to extend that status for an additional
29 two years, the department shall, without additional fee, extend the
30 expiration date of: (a) The licensee's individual license; and (b)
31 the inactive status for two years from the expiration date of the
32 license.

33 (3) A license placed on inactive status under this section may
34 not be extended more frequently than once in any twenty-four month
35 period or for more than six consecutive years.

36 (4) If, by the expiration date of a license placed on inactive
37 status under this section, a licensee is unable, or fails, to request
38 that the status be extended and the license is not renewed, the
39 license shall be canceled.

1 **Sec. 13.** RCW 18.16.900 and 2015 c 62 s 12 are each amended to
2 read as follows:

3 This chapter shall be known and may be cited as the "Washington
4 cosmetologists, hair designers, barbers, manicurists, ~~((and))~~
5 estheticians, and permanent cosmetics act."

6 NEW SECTION. **Sec. 14.** A new section is added to chapter 18.16
7 RCW to read as follows:

8 (1) A permanent cosmetics shop shall, at a minimum:

9 (a) Maintain an outside entrance separate from any rooms used for
10 sleeping or residential purposes;

11 (b) Provide and maintain for the use of its customers adequate
12 toilet facilities located within or adjacent to the permanent
13 cosmetics shop;

14 (c) Ensure any room used wholly or in part as a permanent
15 cosmetics shop is not used for residential purposes, except that
16 toilet facilities may be used for both residential and business
17 purposes;

18 (d) Meet the zoning requirements of the county, city, or town, as
19 appropriate;

20 (e) Provide for safe storage and labeling of equipment and
21 substances used in the practice of permanent cosmetics and enhanced
22 permanent cosmetics, as applicable;

23 (f) Meet all applicable local and state fire codes; and

24 (g) Certify that the permanent cosmetics shop is covered by a
25 public liability insurance policy in an amount not less than \$100,000
26 for combined bodily injury and property damage liability.

27 (2) The director may by rule determine other requirements that
28 are necessary for safety and sanitation of permanent cosmetics shops.
29 The director may consult with the state board of health and the
30 department of labor and industries in establishing minimum permanent
31 cosmetics shop safety requirements.

32 (3) Upon receipt of a written complaint that a permanent
33 cosmetics shop has violated any provisions of this chapter, chapter
34 18.235 RCW, or the rules adopted under either chapter, or at least
35 once every two years for an existing permanent cosmetics shop, the
36 director or the director's designee shall inspect each permanent
37 cosmetics shop. If the director determines that any permanent
38 cosmetics shop is not in compliance with this chapter, the director
39 shall send written notice to the permanent cosmetics shop. A

1 permanent cosmetics shop which fails to correct the conditions to the
2 satisfaction of the director within a reasonable time shall, upon due
3 notice, be subject to the penalties imposed by the director under RCW
4 18.235.110. The director may enter any permanent cosmetics shop
5 during business hours for the purpose of inspection. The director may
6 contract with health authorities of local governments to conduct the
7 inspections under this subsection.

8 (4) A permanent cosmetics shop shall obtain a certificate of
9 registration from the department of revenue.

10 (5) Permanent cosmetics shop location licenses issued by the
11 department must be stored in the permanent cosmetics shop reception
12 area.

13 (6) Permanent cosmetics licenses or enhanced permanent cosmetics
14 licenses issued by the department must be posted at the permanent
15 cosmetics artist's work station.

16 NEW SECTION. **Sec. 15.** A new section is added to chapter 18.16
17 RCW to read as follows:

18 The director shall prepare and provide to all licensed permanent
19 cosmetics shops a notice to consumers. At a minimum, the notice must
20 state that permanent cosmetics shops are required to be licensed,
21 that permanent cosmetics shops are required to maintain minimum
22 safety and sanitation standards, that customer complaints regarding
23 permanent cosmetics shops may be reported to the department, and a
24 telephone number and address where complaints may be made.

25 NEW SECTION. **Sec. 16.** A new section is added to chapter 18.16
26 RCW to read as follows:

27 The department shall immediately suspend any license under this
28 chapter if the department receives information that the license
29 holder has not complied with RCW 74.08.580(2). If the license holder
30 has remained otherwise eligible to be licensed, the department may
31 reinstate the suspended license when the holder has complied with RCW
32 74.08.580(2).

33 **Sec. 17.** RCW 18.300.010 and 2009 c 412 s 2 are each amended to
34 read as follows:

35 The definitions in this section apply throughout this chapter and
36 RCW 5.40.050 and 70.54.340 unless the context clearly requires
37 otherwise.

1 (1) "Body art" means the practice of invasive cosmetic adornment
2 including the use of branding and scarification. "Body art" also
3 includes the intentional production of scars upon the body. "Body
4 art" does not include any health-related procedures performed by
5 licensed health care practitioners under their scope of practice.

6 (2) "Body piercing" means the process of penetrating the skin or
7 mucous membrane to insert an object, including jewelry, for cosmetic
8 purposes. "Body piercing" also includes any scar tissue resulting
9 from or relating to the piercing. "Body piercing" does not include
10 the use of stud and clasp piercing systems to pierce the earlobe in
11 accordance with the manufacturer's directions and applicable United
12 States food and drug administration requirements. "Body piercing"
13 does not include any health-related procedures performed by licensed
14 health care practitioners under their scope of practice, nor does
15 anything in chapter 412, Laws of 2009 authorize a person registered
16 to engage in the business of body piercing to implant or embed
17 foreign objects into the human body or otherwise engage in the
18 practice of medicine.

19 (3) "Director" means the director of the department of licensing.

20 (4) "Individual license" means a body art, body piercing, or
21 tattoo practitioner license issued under this chapter.

22 (5) "Location license" means a license issued under this chapter
23 for a shop or business.

24 (6) "Shop or business" means a body art, body piercing, or
25 tattooing shop or business.

26 (7) "Tattoo artist" means a person who pierces or punctures the
27 human skin with a needle or other instrument for the purpose of
28 implanting an indelible mark, or pigment, into the skin for a fee.

29 (8) "Tattooing" means to pierce or puncture the human skin with a
30 needle or other instrument for the purpose of implanting an indelible
31 mark, or pigment, into the skin, but excludes the practice of
32 permanent cosmetics and the practice of enhanced permanent cosmetics
33 as defined in RCW 18.16.020.

34 **Sec. 18.** RCW 5.40.050 and 2009 c 412 s 20 are each amended to
35 read as follows:

36 A breach of a duty imposed by statute, ordinance, or
37 administrative rule shall not be considered negligence per se, but
38 may be considered by the trier of fact as evidence of negligence;
39 however, any breach of duty as provided by statute, ordinance, or

1 administrative rule relating to: (1) Electrical fire safety, (2) the
2 use of smoke alarms, (3) sterilization of needles and instruments
3 used by persons engaged in the practice of body art, body piercing,
4 tattooing, permanent cosmetics, enhanced permanent cosmetics, or
5 electrology, or other precaution against the spread of disease, as
6 required under RCW 70.54.350, or (4) driving while under the
7 influence of intoxicating liquor or any drug, shall be considered
8 negligence per se.

9 **Sec. 19.** RCW 18.235.020 and 2017 c 281 s 37 are each amended to
10 read as follows:

11 (1) This chapter applies only to the director and the boards and
12 commissions having jurisdiction in relation to the businesses and
13 professions licensed under the chapters specified in this section.
14 This chapter does not apply to any business or profession not
15 licensed under the chapters specified in this section.

16 (2) (a) The director has authority under this chapter in relation
17 to the following businesses and professions:

18 (i) Auctioneers under chapter 18.11 RCW;

19 (ii) Bail bond agents and bail bond recovery agents under chapter
20 18.185 RCW;

21 (iii) Camping resorts' operators and salespersons under chapter
22 19.105 RCW;

23 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

24 (v) Cosmetologists, barbers, manicurists, (~~and~~) estheticians,
25 master estheticians, permanent cosmetics artists, and enhanced
26 permanent cosmetics artists under chapter 18.16 RCW;

27 (vi) Court reporters under chapter 18.145 RCW;

28 (vii) Driver training schools and instructors under chapter 46.82
29 RCW;

30 (viii) Employment agencies under chapter 19.31 RCW;

31 (ix) For hire vehicle operators under chapter 46.72 RCW;

32 (x) Limousines under chapter 46.72A RCW;

33 (xi) Notaries public under chapter 42.45 RCW;

34 (xii) Private investigators under chapter 18.165 RCW;

35 (xiii) Professional boxing, martial arts, and wrestling under
36 chapter 67.08 RCW;

37 (xiv) Real estate appraisers under chapter 18.140 RCW;

38 (xv) Real estate brokers and salespersons under chapters 18.85
39 and 18.86 RCW;

1 (xvi) Scrap metal processors, scrap metal recyclers, and scrap
2 metal suppliers under chapter 19.290 RCW;
3 (xvii) Security guards under chapter 18.170 RCW;
4 (xviii) Sellers of travel under chapter 19.138 RCW;
5 (xix) Timeshares and timeshare salespersons under chapter 64.36
6 RCW;
7 (xx) Whitewater river outfitters under chapter 79A.60 RCW;
8 (xxi) Home inspectors under chapter 18.280 RCW;
9 (xxii) Body artists, body piercers, and tattoo artists, and body
10 art, body piercing, and tattooing shops and businesses, under chapter
11 18.300 RCW; and
12 (xxiii) Appraisal management companies under chapter 18.310 RCW.
13 (b) The boards and commissions having authority under this
14 chapter are as follows:
15 (i) The state board for architects established in chapter 18.08
16 RCW;
17 (ii) The Washington state collection agency board established in
18 chapter 19.16 RCW;
19 (iii) The state board of registration for professional engineers
20 and land surveyors established in chapter 18.43 RCW governing
21 licenses issued under chapters 18.43 and 18.210 RCW;
22 (iv) The funeral and cemetery board established in chapter 18.39
23 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;
24 (v) The state board of licensure for landscape architects
25 established in chapter 18.96 RCW; and
26 (vi) The state geologist licensing board established in chapter
27 18.220 RCW.
28 (3) In addition to the authority to discipline license holders,
29 the disciplinary authority may grant or deny licenses based on the
30 conditions and criteria established in this chapter and the chapters
31 specified in subsection (2) of this section. This chapter also
32 governs any investigation, hearing, or proceeding relating to denial
33 of licensure or issuance of a license conditioned on the applicant's
34 compliance with an order entered under RCW 18.235.110 by the
35 disciplinary authority.

36 **Sec. 20.** RCW 26.28.085 and 1995 c 373 s 1 are each amended to
37 read as follows:

38 Every person who applies a tattoo to or performs the practice of
39 permanent cosmetics or the practice of enhanced permanent cosmetics

1 as prescribed in chapter 18.16 RCW on, any minor under the age of
2 eighteen is guilty of a misdemeanor. It is not a defense to a
3 violation of this section that the person applying the tattoo or
4 practicing permanent cosmetics or enhanced permanent cosmetics did
5 not know the minor's age unless the person applying the tattoo or
6 practicing permanent cosmetics or enhanced permanent cosmetics
7 establishes by a preponderance of the evidence that he or she made a
8 reasonable, bona fide attempt to ascertain the true age of the minor
9 by requiring production of a driver's license or other picture
10 identification card or paper and did not rely solely on the oral
11 allegations or apparent age of the minor.

12 For the purposes of this section, "tattoo" includes any permanent
13 marking or coloring of the skin with any pigment, ink, or dye, or any
14 procedure that leaves a visible scar on the skin. Medical procedures
15 performed by a licensed physician are exempted from this section.

16 **Sec. 21.** RCW 70.54.320 and 2001 c 194 s 1 are each amended to
17 read as follows:

18 The legislature finds and declares that the practices of
19 electrology ~~((and))~~, tattooing, permanent cosmetics, and enhanced
20 permanent cosmetics involve an invasive procedure with the use of
21 needles and instruments which may be dangerous when improperly
22 sterilized presenting a risk of infecting the client with blood-borne
23 pathogens such as HIV and Hepatitis B. It is in the interests of the
24 public health, safety, and welfare to establish requirements for the
25 sterilization procedures in the commercial practices of electrology
26 ~~((and))~~, tattooing, permanent cosmetics, and enhanced permanent
27 cosmetics in this state.

28 **Sec. 22.** RCW 70.54.330 and 2001 c 194 s 2 are each amended to
29 read as follows:

30 The definitions in this section apply throughout RCW 70.54.320,
31 70.54.340, and 70.54.350 unless the context clearly requires
32 otherwise.

33 (1) "Electrologist" means a person who practices the business of
34 electrology for a fee.

35 (2) "Electrology" means the process by which hair is permanently
36 removed through the utilization of solid needle/probe electrode
37 epilation, including thermolysis, being of shortwave, high frequency
38 type, and including electrolysis, being of galvanic type, or a

1 combination of both which is accomplished by a superimposed or
2 sequential blend.

3 (3) "Practice of permanent cosmetics" and "practice of enhanced
4 permanent cosmetics" have the same meanings as in RCW 18.16.020.

5 (4) "Tattoo artist" means a person who practices the business of
6 tattooing for a fee.

7 ((4)) (5) "Tattooing" means the indelible mark, figure, or
8 decorative design introduced by insertion of nontoxic dyes or
9 pigments into or under the subcutaneous portion of the skin upon the
10 body of a live human being for cosmetic or figurative purposes.

11 **Sec. 23.** RCW 70.54.340 and 2009 c 412 s 19 are each amended to
12 read as follows:

13 The secretary of health shall adopt by rule requirements, in
14 accordance with nationally recognized professional standards, for
15 precautions against the spread of disease, including the
16 sterilization of needles and other instruments, including sharps and
17 jewelry, employed by electrologists, persons engaged in the practice
18 of body art, body piercing, permanent cosmetics, or enhanced
19 permanent cosmetics, and tattoo artists. The secretary shall consider
20 the standard precautions for infection control, as recommended by the
21 United States centers for disease control, and guidelines for
22 infection control, as recommended by national industry standards in
23 the adoption of these sterilization requirements.

24 **Sec. 24.** RCW 70.54.350 and 2001 c 194 s 4 are each amended to
25 read as follows:

26 (1) Any person who practices electrology ((~~or~~)), body art, body
27 piercing, tattooing, permanent cosmetics, and enhanced permanent
28 cosmetics shall comply with the rules adopted by the department of
29 health under RCW 70.54.340.

30 (2) A violation of this section is a misdemeanor.

31 **Sec. 25.** RCW 43.24.150 and 2017 c 281 s 40 are each amended to
32 read as follows:

33 (1) The business and professions account is created in the state
34 treasury. All receipts from business or professional licenses,
35 registrations, certifications, renewals, examinations, or civil
36 penalties assessed and collected by the department from the following
37 chapters must be deposited into the account:

- 1 (a) Chapter 18.11 RCW, auctioneers;
2 (b) Chapter 18.16 RCW, cosmetologists, barbers, ((and))
3 manicurists, hair designers, estheticians, master estheticians,
4 permanent cosmetics artists, and enhanced permanent cosmetics
5 artists;
6 (c) Chapter 18.145 RCW, court reporters;
7 (d) Chapter 18.165 RCW, private investigators;
8 (e) Chapter 18.170 RCW, security guards;
9 (f) Chapter 18.185 RCW, bail bond agents;
10 (g) Chapter 18.280 RCW, home inspectors;
11 (h) Chapter 19.16 RCW, collection agencies;
12 (i) Chapter 19.31 RCW, employment agencies;
13 (j) Chapter 19.105 RCW, camping resorts;
14 (k) Chapter 19.138 RCW, sellers of travel;
15 (l) Chapter 42.45 RCW, notaries public;
16 (m) Chapter 64.36 RCW, timeshares;
17 (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
18 (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
19 (p) Chapter 79A.60 RCW, whitewater river outfitters;
20 (q) Chapter 19.158 RCW, commercial telephone solicitation; and
21 (r) Chapter 19.290 RCW, scrap metal businesses.

22 Moneys in the account may be spent only after appropriation.
23 Expenditures from the account may be used only for expenses incurred
24 in carrying out these business and professions licensing activities
25 of the department. Any residue in the account must be accumulated and
26 may not revert to the general fund at the end of the biennium.
27 However, during the 2013-2015 fiscal biennium the legislature may
28 transfer to the state general fund such amounts as reflect the excess
29 fund balance in the account.

30 (2) The director must biennially prepare a budget request based
31 on the anticipated costs of administering the business and
32 professions licensing activities listed in subsection (1) of this
33 section, which must include the estimated income from these business
34 and professions fees.

35 **Sec. 26.** RCW 74.08.580 and 2020 c 64 s 1 are each amended to
36 read as follows:

37 (1) Any person receiving public assistance is prohibited from
38 using electronic benefit cards or cash obtained with electronic
39 benefit cards:

1 (a) For the purpose of participating in any of the activities
2 authorized under chapter 9.46 RCW;

3 (b) For the purpose of parimutuel wagering authorized under
4 chapter 67.16 RCW;

5 (c) To purchase lottery tickets or shares authorized under
6 chapter 67.70 RCW;

7 (d) For the purpose of participating in or purchasing any
8 activities located in a tattoo, body piercing, or body art shop
9 licensed under chapter 18.300 RCW;

10 (e) To purchase cigarettes as defined in RCW 82.24.010 or tobacco
11 products as defined in RCW 82.26.010;

12 (f) To purchase any items regulated under Title 66 RCW; or

13 (g) For the purpose of purchasing or participating in any
14 activities in any location listed in subsection (2) of this section.

15 (2) The following businesses must disable the ability of ATM and
16 point-of-sale machines located on their business premises to accept
17 the electronic benefit card:

18 (a) Taverns licensed under RCW 66.24.330;

19 (b) Beer/wine specialty stores licensed under RCW 66.24.371
20 except if the licensee is an authorized supplemental nutrition
21 assistance program or women, infants, and children retailer;

22 (c) Nightclubs licensed under RCW 66.24.600;

23 (d) Bail bond agencies regulated under chapter 18.185 RCW;

24 (e) Gambling establishments licensed under chapter 9.46 RCW;

25 (f) Tattoo, body piercing, or body art shops regulated under
26 chapter 18.300 RCW and permanent cosmetics shops regulated under
27 chapter 18.16 RCW;

28 (g) Adult entertainment venues with performances that contain
29 erotic material where minors under the age of eighteen are prohibited
30 under RCW 9.68A.150; and

31 (h) Any establishments where persons under the age of eighteen
32 are not permitted.

33 (3) The department must notify the licensing authority of any
34 business listed in subsection (2) of this section that such business
35 has continued to allow the use of the electronic benefit card in
36 violation of subsection (2) of this section.

37 (4) Only the recipient, an eligible member of the household, or
38 the recipient's authorized representative may use an electronic
39 benefit card or the benefit and such use shall only be for the
40 respective benefit program purposes. Unless a recipient's family

1 member is an eligible member of the household, the recipient's
2 authorized representative, an alternative cardholder, or has been
3 assigned as a protective payee, no family member may use the benefit
4 card. The recipient shall not sell, or attempt to sell, exchange, or
5 donate an electronic benefit card or any benefits to any other person
6 or entity.

7 (5) The first violation of subsection (1) of this section by a
8 recipient constitutes a class 4 civil infraction under RCW 7.80.120.
9 Second and subsequent violations of subsection (1) of this section
10 constitute a class 3 civil infraction under RCW 7.80.120.

11 (a) The department shall notify, in writing, all recipients of
12 electronic benefit cards that any violation of subsection (1) of this
13 section could result in legal proceedings and forfeiture of all cash
14 public assistance.

15 (b) Whenever the department receives notice that a person has
16 violated subsection (1) of this section, the department shall notify
17 the person in writing that the violation could result in legal
18 proceedings and forfeiture of all cash public assistance.

19 (c) The department shall assign a protective payee to the person
20 receiving public assistance who violates subsection (1) of this
21 section two or more times.

22 (6) In assigning a personal identification number to an
23 electronic benefit card, the department shall not routinely use any
24 sequence of numbers that appear on the card except in circumstances
25 resulting from in-state or national disasters. Personal
26 identification numbers assigned to electronic benefit cards issued to
27 support the distribution of benefits when there is a disaster may
28 include a sequence of numbers that appears on the card.

29 **Sec. 27.** RCW 82.04.050 and 2021 c 296 s 8, 2021 c 143 s 2, and
30 2021 c 4 s 3 are each reenacted and amended to read as follows:

31 (1)(a) "Sale at retail" or "retail sale" means every sale of
32 tangible personal property (including articles produced, fabricated,
33 or imprinted) to all persons irrespective of the nature of their
34 business and including, among others, without limiting the scope
35 hereof, persons who install, repair, clean, alter, improve,
36 construct, or decorate real or personal property of or for consumers
37 other than a sale to a person who:

38 (i) Purchases for the purpose of resale as tangible personal
39 property in the regular course of business without intervening use by

1 such person, but a purchase for the purpose of resale by a regional
2 transit authority under RCW 81.112.300 is not a sale for resale; or

3 (ii) Installs, repairs, cleans, alters, imprints, improves,
4 constructs, or decorates real or personal property of or for
5 consumers, if such tangible personal property becomes an ingredient
6 or component of such real or personal property without intervening
7 use by such person; or

8 (iii) Purchases for the purpose of consuming the property
9 purchased in producing for sale as a new article of tangible personal
10 property or substance, of which such property becomes an ingredient
11 or component or is a chemical used in processing, when the primary
12 purpose of such chemical is to create a chemical reaction directly
13 through contact with an ingredient of a new article being produced
14 for sale; or

15 (iv) Purchases for the purpose of consuming the property
16 purchased in producing ferrosilicon which is subsequently used in
17 producing magnesium for sale, if the primary purpose of such property
18 is to create a chemical reaction directly through contact with an
19 ingredient of ferrosilicon; or

20 (v) Purchases for the purpose of providing the property to
21 consumers as part of competitive telephone service, as defined in RCW
22 82.04.065; or

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

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

33 (c) The term also means every sale of tangible personal property
34 to persons engaged in any business that is taxable under RCW
35 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

39 (a) The installing, repairing, cleaning, altering, imprinting, or
40 improving of tangible personal property of or for consumers,

1 including charges made for the mere use of facilities in respect
2 thereto, but excluding charges made for the use of self-service
3 laundry facilities, and also excluding sales of laundry service to
4 nonprofit health care facilities, and excluding services rendered in
5 respect to live animals, birds and insects;

6 (b) The constructing, repairing, decorating, or improving of new
7 or existing buildings or other structures under, upon, or above real
8 property of or for consumers, including the installing or attaching
9 of any article of tangible personal property therein or thereto,
10 whether or not such personal property becomes a part of the realty by
11 virtue of installation, and also includes the sale of services or
12 charges made for the clearing of land and the moving of earth
13 excepting the mere leveling of land used in commercial farming or
14 agriculture;

15 (c) The constructing, repairing, or improving of any structure
16 upon, above, or under any real property owned by an owner who conveys
17 the property by title, possession, or any other means to the person
18 performing such construction, repair, or improvement for the purpose
19 of performing such construction, repair, or improvement and the
20 property is then reconveyed by title, possession, or any other means
21 to the original owner;

22 (d) The cleaning, fumigating, razing, or moving of existing
23 buildings or structures, but does not include the charge made for
24 janitorial services; and for purposes of this section the term
25 "janitorial services" means those cleaning and caretaking services
26 ordinarily performed by commercial janitor service businesses
27 including, but not limited to, wall and window washing, floor
28 cleaning and waxing, and the cleaning in place of rugs, drapes and
29 upholstery. The term "janitorial services" does not include painting,
30 papering, repairing, furnace or septic tank cleaning, snow removal or
31 sandblasting;

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

35 (f) The furnishing of lodging and all other services by a hotel,
36 rooming house, tourist court, motel, trailer camp, and the granting
37 of any similar license to use real property, as distinguished from
38 the renting or leasing of real property, and it is presumed that the
39 occupancy of real property for a continuous period of one month or
40 more constitutes a rental or lease of real property and not a mere

1 license to use or enjoy the same. For the purposes of this
2 subsection, it is presumed that the sale of and charge made for the
3 furnishing of lodging for a continuous period of one month or more to
4 a person is a rental or lease of real property and not a mere license
5 to enjoy the same. For the purposes of this section, it is presumed
6 that the sale of and charge made for the furnishing of lodging
7 offered regularly for public occupancy for periods of less than a
8 month constitutes a license to use or enjoy the property subject to
9 sales and use tax and not a rental or lease of property;

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

12 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)
13 of this subsection when such sales or charges are for property, labor
14 and services which are used or consumed in whole or in part by such
15 persons in the performance of any activity defined as a "sale at
16 retail" or "retail sale" even though such property, labor and
17 services may be resold after such use or consumption. Nothing
18 contained in this subsection may be construed to modify subsection
19 (1) of this section and nothing contained in subsection (1) of this
20 section may be construed to modify this subsection.

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

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

27 (b) Credit bureau services;

28 (c) Automobile parking and storage garage services;

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

34 (e) Service charges associated with tickets to professional
35 sporting events;

36 (f) The following personal services: Tanning salon services,
37 tattoo parlor services, steam bath services, turkish bath services,
38 escort services, permanent cosmetics and enhanced permanent cosmetics
39 services, and dating services; and

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

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

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

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

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

20 (D) Separately stated charges for physical therapy provided by a
21 physical therapist, as those terms are defined in RCW 18.74.010, or
22 occupational therapy provided by an occupational therapy
23 practitioner, as those terms are defined in RCW 18.59.020, when
24 performed pursuant to a referral from an authorized health care
25 practitioner or in consultation with an authorized health care
26 practitioner. For the purposes of this subsection (3) (g) (ii) (D), an
27 authorized health care practitioner means a health care practitioner
28 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.71, or 18.71A
29 RCW, or, until July 1, 2022, chapter 18.57A RCW;

30 (E) Rent or association fees charged by a landlord or residential
31 association to a tenant or residential owner with access to an
32 athletic or fitness facility maintained by the landlord or
33 residential association, unless the rent or fee varies depending on
34 whether the tenant or owner has access to the facility;

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

39 (G) The provision of access to an athletic or fitness facility by
40 an educational institution to its students and staff. However,

1 charges made by an educational institution to its alumni or other
2 members of the public for the use of any of the educational
3 institution's athletic or fitness facilities are a retail sale under
4 this subsection (3)(g). For purposes of this subsection
5 (3)(g)(ii)(G), "educational institution" has the same meaning as in
6 RCW 82.04.170;

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

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

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

18 (A) "Athletic or fitness facility" means an indoor or outdoor
19 facility or portion of a facility that is primarily used for:
20 Exercise classes; strength and conditioning programs; personal
21 training services; tennis, racquetball, handball, squash, or
22 pickleball; or other activities requiring the use of exercise or
23 strength training equipment, such as treadmills, elliptical machines,
24 stair climbers, stationary cycles, rowing machines, pilates
25 equipment, balls, climbing ropes, jump ropes, and weightlifting
26 equipment.

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

32 (C) "Physical fitness activities" means activities that involve
33 physical exertion for the purpose of improving or maintaining the
34 general fitness, strength, flexibility, conditioning, or health of
35 the participant. "Physical fitness activities" includes participating
36 in yoga, chi gong, or martial arts.

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

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

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

7 (6)(a) The term also includes the sale of prewritten computer
8 software to a consumer, regardless of the method of delivery to the
9 end user. For purposes of (a) and (b) of this subsection, the sale of
10 prewritten computer software includes the sale of or charge made for
11 a key or an enabling or activation code, where the key or code is
12 required to activate prewritten computer software and put the
13 software into use. There is no separate sale of the key or code from
14 the prewritten computer software, regardless of how the sale may be
15 characterized by the vendor or by the purchaser.

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

18 (i) Custom software; or

19 (ii) The customization of prewritten computer software.

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

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

28 (B) For purposes of this subsection (6)(c)(ii), "data processing"
29 means the systematic performance of operations on data to extract the
30 required information in an appropriate form or to convert the data to
31 usable information. Data processing includes check processing, image
32 processing, form processing, survey processing, payroll processing,
33 claim processing, and similar activities.

34 (7) The term also includes the sale of or charge made for an
35 extended warranty to a consumer. For purposes of this subsection,
36 "extended warranty" means an agreement for a specified duration to
37 perform the replacement or repair of tangible personal property at no
38 additional charge or a reduced charge for tangible personal property,
39 labor, or both, or to provide indemnification for the replacement or
40 repair of tangible personal property, based on the occurrence of

1 specified events. The term "extended warranty" does not include an
2 agreement, otherwise meeting the definition of extended warranty in
3 this subsection, if no separate charge is made for the agreement and
4 the value of the agreement is included in the sales price of the
5 tangible personal property covered by the agreement. For purposes of
6 this subsection, "sales price" has the same meaning as in RCW
7 82.08.010.

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

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

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

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

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

18 (b) A retail sale of digital goods, digital codes, or digital
19 automated services under this subsection (8) includes any services
20 provided by the seller exclusively in connection with the digital
21 goods, digital codes, or digital automated services, whether or not a
22 separate charge is made for such services.

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

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

35 (10) The term does not include the sale of or charge made for
36 labor and services rendered in respect to the building, repairing, or
37 improving of any street, place, road, highway, easement, right-of-
38 way, mass public transportation terminal or parking facility, bridge,
39 tunnel, or trestle which is owned by a municipal corporation or
40 political subdivision of the state or by the United States and which

1 is used or to be used primarily for foot or vehicular traffic
2 including mass transportation vehicles of any kind.

3 (11) The term also does not include sales of chemical sprays or
4 washes to persons for the purpose of postharvest treatment of fruit
5 for the prevention of scald, fungus, mold, or decay, nor does it
6 include sales of feed, seed, seedlings, fertilizer, agents for
7 enhanced pollination including insects such as bees, and spray
8 materials to: (a) Persons who participate in the federal conservation
9 reserve program, the environmental quality incentives program, the
10 wetlands reserve program, and the wildlife habitat incentives
11 program, or their successors administered by the United States
12 department of agriculture; (b) farmers for the purpose of producing
13 for sale any agricultural product; (c) farmers for the purpose of
14 providing bee pollination services; and (d) farmers acting under
15 cooperative habitat development or access contracts with an
16 organization exempt from federal income tax under 26 U.S.C. Sec.
17 501(c)(3) of the federal internal revenue code or the Washington
18 state department of fish and wildlife to produce or improve wildlife
19 habitat on land that the farmer owns or leases.

20 (12) The term does not include the sale of or charge made for
21 labor and services rendered in respect to the constructing,
22 repairing, decorating, or improving of new or existing buildings or
23 other structures under, upon, or above real property of or for the
24 United States, any instrumentality thereof, or a county or city
25 housing authority created pursuant to chapter 35.82 RCW, including
26 the installing, or attaching of any article of tangible personal
27 property therein or thereto, whether or not such personal property
28 becomes a part of the realty by virtue of installation. Nor does the
29 term include the sale of services or charges made for the clearing of
30 land and the moving of earth of or for the United States, any
31 instrumentality thereof, or a county or city housing authority. Nor
32 does the term include the sale of services or charges made for
33 cleaning up for the United States, or its instrumentalities,
34 radioactive waste and other by-products of weapons production and
35 nuclear research and development.

36 (13) The term does not include the sale of or charge made for
37 labor, services, or tangible personal property pursuant to agreements
38 providing maintenance services for bus, rail, or rail fixed guideway
39 equipment when a regional transit authority is the recipient of the

1 labor, services, or tangible personal property, and a transit agency,
2 as defined in RCW 81.104.015, performs the labor or services.

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

6 (15)(a) The term "sale at retail" or "retail sale" includes
7 amounts charged, however labeled, to consumers to engage in any of
8 the activities listed in this subsection (15)(a), including the
9 furnishing of any associated equipment or, except as otherwise
10 provided in this subsection, providing instruction in such
11 activities, where such charges are not otherwise defined as a "sale
12 at retail" or "retail sale" in this section:

13 (i)(A) Golf, including any variant in which either golf balls or
14 golf clubs are used, such as miniature golf, hitting golf balls at a
15 driving range, and golf simulators, and including fees charged by a
16 golf course to a player for using his or her own cart. However,
17 charges for golf instruction are not a retail sale, provided that if
18 the instruction involves the use of a golfing facility that would
19 otherwise require the payment of a fee, such as green fees or driving
20 range fees, such fees, including the applicable retail sales tax,
21 must be separately identified and charged by the golfing facility
22 operator to the instructor or the person receiving the instruction.

23 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except
24 as otherwise provided in this subsection (15)(a)(i)(B), the term
25 "sale at retail" or "retail sale" does not include amounts charged to
26 participate in, or conduct, a golf tournament or other competitive
27 event. However, amounts paid by event participants to the golf
28 facility operator are retail sales under this subsection (15)(a)(i).
29 Likewise, amounts paid by the event organizer to the golf facility
30 are retail sales under this subsection (15)(a)(i), if such amounts
31 vary based on the number of event participants;

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

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

36 (iv) Access to amusement park, theme park, and water park
37 facilities, including but not limited to charges for admission and
38 locker or cabana rentals. Discrete charges for rides or other
39 attractions or entertainment that are in addition to the charge for
40 admission are not a retail sale under this subsection (15)(a)(iv).

1 For the purposes of this subsection, an amusement park or theme park
2 is a location that provides permanently affixed amusement rides,
3 games, and other entertainment, but does not include parks or zoos
4 for which the primary purpose is the exhibition of wildlife, or
5 fairs, carnivals, and festivals as defined in (b)(i) of this
6 subsection;

7 (v) Batting cage activities;

8 (vi) Bowling, but not including competitive events, except that
9 amounts paid by the event participants to the bowling alley operator
10 are retail sales under this subsection (15)(a)(vi). Likewise, amounts
11 paid by the event organizer to the operator of the bowling alley are
12 retail sales under this subsection (15)(a)(vi), if such amounts vary
13 based on the number of event participants;

14 (vii) Climbing on artificial climbing structures, whether indoors
15 or outdoors;

16 (viii) Day trips for sightseeing purposes;

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

19 (x) Horseback riding offered to the public, where the seller
20 furnishes the horse to the buyer and providing instruction is not the
21 primary focus of the activity, including guided rides, but not
22 including therapeutic horseback riding provided by an instructor
23 certified by a nonprofit organization that offers national or
24 international certification for therapeutic riding instructors;

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

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

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

1 (xiv) Go-karting, bumper cars, and other motorized activities
2 where the seller provides the vehicle and the premises where the
3 buyer will operate the vehicle;

4 (xv) Indoor or outdoor playground activities, such as inflatable
5 bounce structures and other inflatables; mazes; trampolines; slides;
6 ball pits; games of tag, including laser tag and soft-dart tag; and
7 human gyroscope rides, regardless of whether such activities occur at
8 the seller's place of business, but not including playground
9 activities provided for children by a licensed child day care center
10 or licensed family day care provider as those terms are defined in
11 RCW 43.216.010;

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

18 (xvii) Paintball and airsoft activities;

19 (xviii) Skating, including ice skating, roller skating, and
20 inline skating, but only in respect to discrete charges to members of
21 the public to engage in skating activities, but not including skating
22 lessons, competitive events, team activities, or fees to join or
23 renew a membership at a skating facility, club, or other
24 organization;

25 (xix) Nonmotorized snow sports and activities, such as downhill
26 and cross-country skiing, snowboarding, ski jumping, sledding, snow
27 tubing, snowshoeing, and similar snow sports and activities, whether
28 engaged in outdoors or in an indoor facility with or without snow,
29 but only in respect to discrete charges to the public for the use of
30 land or facilities to engage in nonmotorized snow sports and
31 activities, such as fees, however labeled, for the use of ski lifts
32 and tows and daily or season passes for access to trails or other
33 areas where nonmotorized snow sports and activities are conducted.
34 However, fees for the following are not retail sales under this
35 subsection (15)(a)(xix): (A) Instructional lessons; (B) permits
36 issued by a governmental entity to park a vehicle on or access public
37 lands; and (C) permits or leases granted by an owner of private
38 timberland for recreational access to areas used primarily for
39 growing and harvesting timber; and

1 (xx) Scuba diving; snorkeling; river rafting; surfing;
2 kiteboarding; flyboarding; water slides; inflatables, such as water
3 pillows, water trampolines, and water rollers; and similar water
4 sports and activities.

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

8 (i) Made for admission to, and rides or attractions at, fairs,
9 carnivals, and festivals. For the purposes of this subsection, fairs,
10 carnivals, and festivals are events that do not exceed 21 days and a
11 majority of the amusement rides, if any, are not affixed to real
12 property;

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

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

23 (iv) Made for day camps offered by a nonprofit organization or
24 state or local governmental entity that provide youth not older than
25 age 18, or that are focused on providing individuals with
26 disabilities or mental illness, the opportunity to participate in a
27 variety of supervised activities.

28 (16)(a) The term "sale at retail" or "retail sale" includes the
29 purchase or acquisition of tangible personal property and specified
30 services by a person who receives either a qualifying grant exempt
31 from tax under RCW 82.04.767 or 82.16.320 or a grant deductible under
32 RCW 82.04.4339, except for transactions excluded from the definition
33 of "sale at retail" or "retail sale" by any other provision of this
34 section. Nothing in this subsection (16) may be construed to limit
35 the application of any other provision of this section to purchases
36 by a recipient of either a qualifying grant exempt from tax under RCW
37 82.04.767 or a grant deductible under RCW 82.04.4339, or by any other
38 person.

39 (b) For purposes of this subsection (16), "specified services"
40 means:

- 1 (i) The constructing, repairing, decorating, or improving of new
2 or existing buildings or other structures under, upon, or above real
3 property, including the installing or attaching of any article of
4 tangible personal property therein or thereto, whether or not such
5 personal property becomes a part of the realty by virtue of
6 installation;
- 7 (ii) The clearing of land or the moving of earth, whether or not
8 associated with activities described in (b)(i) of this subsection
9 (16);
- 10 (iii) The razing or moving of existing buildings or structures;
11 and
- 12 (iv) Landscape maintenance and horticultural services.

13 NEW SECTION. **Sec. 28.** This act takes effect January 1, 2026.

Passed by the House February 2, 2024.
Passed by the Senate February 2, 2024.
Approved by the Governor February 29, 2024.
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