

NEW SECTION. Sec. 24. Sections 13 through 20 of this act shall take effect on October 1, 1985, and shall apply to any then existing or future security interests.

Passed the House April 26, 1985.

Passed the Senate April 23, 1985.

Approved by the Governor May 20, 1985.

Filed in Office of Secretary of State May 20, 1985.

CHAPTER 413

[Substitute House Bill No. 1060]

FOOD FISH, SHELLFISH AND GAME FISH—ENHANCED FOOD FISH— TAXATION

AN ACT Relating to the taxation of food fish and shellfish; amending RCW 82.27.020, 82.27.030, and 82.27.040; reenacting and amending RCW 82.27.010; and repealing RCW 82.27.080.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 98, Laws of 1980 as amended by section 5, chapter 284, Laws of 1983 and by section 180, chapter 46, Laws of 1983 1st ex. sess. and RCW 82.27.010 are each reenacted and amended to read as follows:

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

(1) (~~"Food fish and shellfish" has the meaning ascribed to it by RCW 75.08.011 and includes byproducts and also parts of food fish and shellfish, whether fresh, frozen, canned, or otherwise:)~~ "Enhanced food fish" includes all species of food fish, shellfish, and anadromous game fish, including byproducts and parts thereof, originating within the territorial and adjacent waters of Washington and salmon originating from within the territorial and adjacent waters of Oregon, Washington, and British Columbia, and all troll-caught Chinook salmon originating from within the territorial and adjacent waters of southeast Alaska. As used in this subsection, "adjacent" waters of Oregon, Washington, and Alaska are those comprising the United States fish conservation zone; "adjacent" waters of British Columbia are those comprising the Canadian two hundred mile exclusive economic zone; and "southeast Alaska" means that portion of Alaska south and east of Cape Suckling to the Canadian border. For purposes of this chapter, point of origination is established by a document which identifies the product and state or province in which it originates, including, but not limited to fish tickets, bills of lading, invoices, or other documentation required to be kept by governmental agencies.

(2) "Commercial" means related to or connected with buying, selling, bartering, or processing.

(3) "Possession" means the control of enhanced food fish(~~(, shellfish, and anadromous game fish)~~) by the owner and includes both actual and constructive possession. Constructive possession occurs when the person has legal ownership but not actual possession of the enhanced food fish(~~(, shellfish, or anadromous game fish)~~).

(4) "Anadromous game fish" means steelhead trout and anadromous cutthroat trout and Dolly Varden char and includes byproducts and also parts of anadromous game fish, whether fresh, frozen, canned, or otherwise.

(5) "Landed" means the act of physically placing enhanced food fish (a) on a tender in the territorial waters of Washington; or (b) on any land within or without the state of Washington including wharves, piers, or any such extensions therefrom.

Sec. 2. Section 2, chapter 98, Laws of 1980 as last amended by section 17, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.27.020 are each amended to read as follows:

(1) In addition to all other taxes, licenses, or fees provided by law there is established an excise tax on the commercial possession of enhanced food fish(~~(, shellfish, and anadromous game fish)~~) as provided in this chapter. The tax is levied upon and shall be collected from the owner of the enhanced food fish(~~(, shellfish, or anadromous game fish)~~) whose possession constitutes the taxable event. The taxable event is the first possession in Washington by an owner (~~(after the food fish, shellfish, or anadromous game fish have been landed)~~). Processing and handling of enhanced food fish(~~(, shellfish, and anadromous game fish)~~) by a person who is not the owner is not a taxable event to the processor or handler.

(2) A person in possession of enhanced food fish(~~(, shellfish, and anadromous game fish)~~) and liable to this tax may deduct from the price paid to the person from which the enhanced food fish(~~(, shellfish)~~) (except oysters)(~~(, or anadromous game fish)~~) are purchased an amount equal to a tax at one-half the rate levied in this section upon these products.

(3) The measure of the tax is the (~~(price paid by the first person in possession)~~) value of the enhanced food fish(~~(, shellfish, or anadromous game fish)~~) at the point of landing. (~~(If the food fish, shellfish, or anadromous game fish are acquired other than by purchase or are purchased under conditions where the purchase price does not represent the value of the food fish, shellfish, or anadromous game fish or these products are transferred outside the state without sale, the measure of the tax shall be determined as nearly as possible according to the selling price of similar products of like quality and character under rules adopted by the department of revenue.)~~)

(4) The tax shall be equal to the measure of the tax multiplied by the rates for enhanced food fish(~~(, shellfish, and anadromous game fish)~~) as follows:

(a) Chinook, coho, and chum salmon and anadromous game fish: Five percent.

(b) Pink and sockeye salmon: Three percent.

(c) Other food fish and shellfish, except oysters: Two percent.

(d) Oysters: Seven one-hundredths of one percent.

(5) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (4) of this section.

Sec. 3. Section 3, chapter 98, Laws of 1980 and RCW 82.27.030 are each amended to read as follows:

The tax imposed by RCW 82.27.020 shall not apply to: (1) Enhanced food fish ((or shellfish previously landed)) originating outside the state which ((is shipped into)) enters the state as (a) frozen enhanced food fish ((or frozen shellfish)) or (b) enhanced food fish ((or shellfish)) packaged for retail sales; (2) ((fresh net caught food fish to the extent provided under an interstate agreement entered into under RCW 82.27.080, and (3))) the growing, processing, or dealing with food fish which are raised from eggs or fry and which are under the physical control of the grower at all times until being sold or harvested; and (3) food fish, shellfish, anadromous game fish, and byproducts or parts of food fish shipped from outside the state which enter the state, except as provided in RCW 82.27.010, provided the taxpayer must have documentation showing shipping origination of fish exempt under this subsection to qualify for exemption. Such documentation includes, but is not limited to fish tickets, bills of lading, invoices, or other documentation required to be kept by governmental agencies.

Sec. 4. Section 4, chapter 98, Laws of 1980 and RCW 82.27.040 are each amended to read as follows:

A credit shall be allowed against the tax imposed by RCW 82.27.020 upon enhanced food fish ((or shellfish)) with respect to any tax ((legally imposed and)) previously paid ((to another state by the taxpayer upon the same food fish or shellfish purchased in the other state)) on that same enhanced food fish to any other legally established taxing authority. To qualify for a credit, the owner of the enhanced food fish must have documentation showing a tax was paid in another jurisdiction.

NEW SECTION. Sec. 5. Section 13, chapter 98, Laws of 1980 and RCW 82.27.080 are each repealed.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 22, 1985.

Passed the Senate April 12, 1985.

Approved by the Governor May 20, 1985.

Filed in Office of Secretary of State May 20, 1985.