

create a separate, single-purpose state agency governed by a new board for this purpose. The functions should properly be located within the executive branch in an agency responsible to the Governor.

Since I believe the purposes of this measure are worthwhile, I am approving it with several exceptions. I am vetoing the following:

Section 3: establishes the terms of the Board.

Section 5: says the Governor selects one member to serve as chairperson.

Section 9: authorizes the Board to employ an Executive Director.

Section 40: as to the portion requiring the Board and Director to be appointed by October 1, 1985.

By vetoing these sections, a board will be established which may later act in an advisory capacity to the fire protection unit. The board will not, however, be able to proceed to implement the substantive provisions of this act until the legislature passes new legislation.

I intend to ask the next regular session of the legislature to perfect this measure by placing the functions of the board in an existing executive agency and making the board advisory to that agency.

For these reasons, I have vetoed Sections 3, 5, 9 and a part of Section 40 of Engrossed Substitute Senate Bill No. 3856.\*

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## CHAPTER 471

[Engrossed Substitute Senate Bill No. 4228]

**BUSINESS AND OCCUPATION TAX—MEAT PROCESSOR RATE REDUCED—  
METAL BULLION SALES RECLASSIFIED, EXEMPTION CREATED—  
NONPROFIT ARTISTIC OR CULTURAL ORGANIZATIONS INCOME EXEMPT—  
FUEL CONSUMED ON THE HIGH SEAS TAX EXEMPT—PUBLIC WORKS  
ASSISTANCE ACCOUNT CREATED—PUBLIC UTILITY TAX AND  
CONVEYANCE TAX MODIFIED**

AN ACT Relating to revenue and excise taxation; amending RCW 82.04.260, 82.04.330, 82.04.100, 82.04.4328, 82.02.030, 82.16.020, and 82.20.010; adding new sections to chapter 82.04 RCW; creating new sections; repealing RCW 43.63A.200, 43.79.450, and 43.79.452; providing an effective date; and declaring an emergency.

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

Sec. 1. Section 5, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.04.260 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of buying wheat, oats, dry peas, dry beans, lentils, triticale, corn, rye and barley, but not including any manufactured or processed products thereof, and selling the same at wholesale; the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of one one-hundredth of one percent.

(2) Upon every person engaging within this state in the business of manufacturing wheat into flour, soybeans into soybean oil, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour or oil manufactured, multiplied by the rate of one-eighth of one percent.

(3) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of one-quarter of one percent.

(4) Upon every person engaging within this state in the business of manufacturing seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of one-eighth of one percent.

(5) Upon every person engaging within this state in the business of manufacturing by canning, preserving, freezing or dehydrating fresh fruits and vegetables; as to such persons the amount of tax with respect to such business shall be equal to the value of the products canned, preserved, frozen or dehydrated multiplied by the rate of three-tenths of one percent.

(6) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of forty-four one-hundredths of one percent.

(7) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of ~~((thirty-three))~~ twenty-five one-hundredths of one percent through June 30, 1986, and one-eighth of one percent thereafter.

(8) Upon every person engaging within this state in the business of making sales, at retail or wholesale, of nuclear fuel assemblies manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the assemblies multiplied by the rate of twenty-five one-hundredths of one percent.

(9) Upon every person engaging within this state in the business of manufacturing nuclear fuel assemblies, as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of twenty-five one-hundredths of one percent.

(10) Upon every person engaging within this state in the business of acting as a travel agent; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of twenty-five one-hundredths of one percent.

(11) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of thirty-three one-hundredths of one percent.

(12) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of thirty-three one hundredths of one percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(13) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business shall be equal to the gross income of the business, excluding any fees imposed under chapter 43.21F RCW, multiplied by the rate of thirty percent.

If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state shall be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(14) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of one percent.

*\*Sec. 2. Section 82.04.330, chapter 15, Laws of 1961 as amended by section 7, chapter 173, Laws of 1965 ex. sess. and RCW 82.04.330 are each amended to read as follows:*

*This chapter shall not apply to any person in respect to the business of growing or producing for sale upon ~~((his))~~ the person's own lands or upon land in which ~~((he))~~ the person has a present right of possession, any agricultural or horticultural produce or crop, including the raising for sale of any animal, bird, fish, or insect, or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom, or in respect to the sale of such products at wholesale by such grower, producer, or raiser thereof. This exemption shall not apply to any person selling such products at retail or using such products as ingredients in a manufacturing process; nor to the sale of any animal or substance obtained therefrom by a person in connection with ~~((his))~~ the person's business of operating a stockyard or a slaughter or packing house; nor to any person in respect to the business of taking, cultivating, or raising Christmas trees or timber; nor to any association of persons whatever, whether mutual, cooperative or otherwise, engaging in any business activity with respect to which tax liability is imposed under the provisions of this chapter.*

*\*Sec. 2 was vetoed, see message at end of chapter.*

*\*Sec. 3. Section 82.04.100, chapter 15, Laws of 1961 as amended by section 2, chapter 173, Laws of 1965 ex. sess. and RCW 82.04.100 are each amended to read as follows:*

*"Extractor" means every person who from ~~((his))~~ the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees or other natural products, or takes~~(, cultivates, or raises)~~ fish, or takes, cultivates, or raises shellfish, or other sea or inland water foods or products. ~~((It))~~ "Extractor" does not include persons performing under contract the necessary labor or mechanical services for others or persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession.*

*\*Sec. 3 was vetoed, see message at end of chapter.*

***\*NEW SECTION. Sec. 4. Nothing in sections 2 and 3 of this act shall be construed to imply that a person, sale, or use made exempt from tax under sections 2 and 3 of this act was taxable under Title 82 RCW prior to the enactment of sections 2 and 3 of this act.***

***\*Sec. 4 was vetoed, see message at end of chapter.***

**NEW SECTION. Sec. 5. A new section is added to chapter 82.04 RCW to read as follows:**

(1) For purposes of this chapter, "wholesale sale," "sale at wholesale," "retail sale," and "sale at retail" do not include the sale of precious metal bullion or monetized bullion.

(2) In computing tax under this chapter on the business of making sales of precious metal bullion or monetized bullion, the tax shall be imposed on the amounts received as commissions upon transactions for the accounts of customers over and above the amount paid to other dealers associated in such transactions, but no deduction or offset is allowed on account of salaries or commissions paid to salesmen or other employees.

(3) For purposes of this section, "precious metal bullion" means any precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, rhodium, and palladium, and which is in such state or condition that its value depends upon its contents and not upon its form. For purposes of this section, "monetized bullion" means coins or other forms of money manufactured from gold, silver, or other metals and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation, but does not include coins or money sold to be manufactured into jewelry or works of art.

**NEW SECTION. Sec. 6. A new section is added to chapter 82.04 RCW to read as follows:**

In computing tax there may be deducted from the measure of tax those amounts received by artistic or cultural organizations which represent income derived from business activities conducted by the organization.

**Sec. 7. Section 6, chapter 140, Laws of 1981 and RCW 82.04.4328 are each amended to read as follows:**

(1) For the purposes of RCW 82.04.4322, 82.04.4324, 82.04.4326, section 6 of this 1985 act, 82.08.031, and 82.12.031, the term "artistic or cultural organization" means an organization which is organized and operated exclusively for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs, as defined in subsection (2) of this section, for viewing or attendance by the general public. The organization must be a not-for-profit corporation under chapter 24.03 RCW and managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or by a corporation sole under chapter 24.12 RCW. In addition, to qualify for

deduction or exemption from taxation under RCW 82.04.4322, 82.04.4324, 82.04.4326, section 6 of this 1985 act, 82.08.031, and 82.12.031, the corporation shall satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the exemption is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation which also would be entitled to the exemption;

(d) The corporation must be duly licensed or certified when licensing or certification is required by law or regulation;

(e) The amounts received that qualify for exemption must be used for the activities for which the exemption is granted;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The director of revenue shall have access to its books in order to determine whether the corporation is exempt from taxes.

(2) The term "artistic or cultural exhibitions, presentations, or performances or cultural or art education programs" includes and is limited to:

(a) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(b) A musical or dramatic performance or series of performances; or

(c) An educational seminar or program, or series of such programs, offered by the organization to the general public on an artistic, cultural, or historical subject.

**NEW SECTION.** Sec. 8. The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects.

Sec. 9. Section 31, chapter 35, Laws of 1982 1st ex. sess. as last amended by section 6, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.02.030 are each amended to read as follows:

(1) The rate of the additional taxes under RCW 54.28.020(2), 54.28.025(2), 66.24.210(2), 66.24.290(2), 82.04.2901, 82.16.020(2),

((82.20.010(2),)) 82.26.020(2), 82.27.020(5), 82.29A.030(2), 82.44.020(5), and 82.45.060(2) shall be seven percent;

(2) The rate of the additional taxes under RCW 82.08.150(4) shall be fourteen percent;

(3) The rate of the additional taxes under RCW 82.24.020(2) shall be fifteen percent; and

(4) The rate of the additional taxes under RCW 48.14.020(3) shall be four percent.

Sec. 10. Section 82.16.020, chapter 15, Laws of 1961 as last amended by section 13, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.16.020 are each amended to read as follows:

(1) There is levied and there shall be collected from every person a tax for the act or privilege of engaging within this state in any one or more of the businesses herein mentioned. The tax shall be equal to the gross income of the business, multiplied by the rate set out after the business, as follows:

(a) Railroad, express, railroad car, ((water distribution)) sewerage collection, light and power, and telegraph businesses: Three and six-tenths percent;

(b) Gas distribution business: Three and six-tenths percent;

(c) Urban transportation business: Six-tenths of one percent;

(d) Vessels under sixty-five feet in length, except tugboats, operating upon the waters within the state: Six-tenths of one percent;

(e) Motor transportation and tugboat businesses, and all public service businesses other than ones mentioned above: One and eight-tenths of one percent;

(f) Water distribution and refuse collection businesses: Four and seven-tenths percent.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section.

(3) Twenty percent of the moneys collected under subsection (1) of this section on water distribution businesses, seventy percent of the moneys collected under subsection (1) of this section on refuse collection businesses, and sixty percent of the moneys collected under subsection (1) of this section on sewerage collection businesses shall be deposited in the public works assistance account created in section 8 of this 1985 act.

Sec. 11. Section 82.20.010, chapter 15, Laws of 1961 as last amended by section 14, chapter 3, Laws of 1983 2nd ex. sess. and RCW 82.20.010 are each amended to read as follows:

(1) There is levied and there shall be collected a tax upon conveyances as follows: On any deed, instrument, or writing (unless deposited in escrow before May 1, 1935), whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser, or any other person by his direction, when the consideration or value of the interest or property conveyed, exclusive of the value of

any lien or encumbrance remaining thereon at the time of sale, exceeds one hundred dollars and does not exceed five hundred dollars or fractional part thereof, ~~((fifty cents))~~ one dollar; and for each additional five hundred dollars or fractional part thereof, ~~((fifty cents))~~ one dollar.

(2) ~~((An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section.))~~ Forty-six and one-half percent of the moneys collected under this section shall be deposited in the public works assistance account created in section 8 of this 1985 act.

(3) This section shall not apply to any instrument or writing, given to secure a debt, nor to any conveyance to the state.

NEW SECTION. Sec. 12. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 244, Laws of 1984, section 9, chapter 6, Laws of 1985 and RCW 43.63A.200;

(2) Section 2, chapter 244, Laws of 1984, section 42, chapter 57, Laws of 1985 and RCW 43.79.450; and

(3) Section 3, chapter 244, Laws of 1984 and RCW 43.79.452.

\*NEW SECTION. Sec. 13. *It is the intent of the state of Washington in section 14 of this act to provide assistance to those economically distressed areas that do not have substantial means to attract and encourage new business into their communities and also to provide substantial financial incentives for business that will create new jobs within those distressed areas.*

\*Sec. 13 was vetoed, see message at end of chapter.

\*NEW SECTION. Sec. 14. *A new section is added to chapter 82.04 RCW to read as follows:*

(1) *"New businesses" means businesses as defined in RCW 82.04.140 which were first legally required to register with the department of revenue on or after the effective date of this section and which have not been licensed to operate within the state of Washington within the last five years.*

(2) *"Eligible businesses" means businesses engaging in manufacturing, research and development, and warehousing.*

(3) *"Distressed areas" means:*

(a) *Any county which exceeds the state-wide average annual unemployment rate and any city with a population of forty thousand or less within such a county; and*

(b) *Any city with a population of forty thousand or less that can demonstrate that it is distressed by reason of recent business closures, or notice thereof, severe layoffs for periods in excess of six months, and any other criteria established by the department of commerce and economic development to identify an area as disadvantaged.*

\*Sec. 14 was vetoed, see message at end of chapter.



**\*NEW SECTION.** Sec. 15. A new section is added to chapter 82.04 RCW to read as follows:

***Persons engaging in new eligible businesses in distressed areas shall be exempt during the first five years of business operation from the payment of fifty percent of the tax otherwise imposed under this chapter by reason of such activities.***

\*Sec. 15 was vetoed, see message at end of chapter.

**NEW SECTION.** Sec. 16. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing tax there may be deducted from the measure of tax amounts derived from sales of fuel for consumption outside the territorial waters of the United States, by vessels used primarily in foreign commerce.

(2) Nothing in this section shall be construed to imply that amounts which may be deducted under this section were taxable under Title 82 RCW prior to the enactment of this section.

**NEW SECTION.** Sec. 17. 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.

**NEW SECTION.** Sec. 18. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985.

Passed the Senate April 26, 1985.

Passed the House April 19, 1985.

Approved by the Governor May 21, 1985, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State May 21, 1985.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 2 through 4 and Sections 13 through 15, Engrossed Substitute Senate Bill 4228, entitled:

"AN ACT Relating to revenue and taxation;"

This measure contains several changes to business taxes. It includes important new revenue sources to meet the infrastructure financing needs of local government. It also includes adjustments in taxes for several industries which have clearly demonstrated that present taxes place them at a significant competitive disadvantage to similar businesses in other states. In each of these cases, Washington industries made convincing cases that continuing the current taxes would result in actual loss of existing business within the state with a resulting loss of jobs.

While approving the provisions of Sections 1, 5, 6, 7 and 16, I want to express once again my extreme distaste for piecemeal tax reform. I have approved these provisions only because I believe actual and irreparable losses of business and jobs would result before any general reform can occur. Substantial inequity continues to exist for many other industries in this state which must be addressed in a comprehensive manner in the very near future.

Sections 2 and 3 are essentially identical to Sections 1 and 2 of Engrossed House Bill 99, which I have already signed into law. They are vetoed to avoid double amendments. Section 4 is identical to Section 5 of Engrossed House Bill 99, which I have vetoed and which I am again vetoing.

Sections 13 through 15 create a fifty percent exemption from the B&O tax for new businesses which locate in distressed areas. These sections have an extremely laudable intent. I am firmly committed to bringing new jobs and industry to areas in which there is persistent unemployment resulting from long-term changes in the local economy. Given the state's limited resources, however, it is essential that such efforts are carefully targeted to reach areas with the greatest need. Unfortunately, I do not believe the exemption created in Section 13 through 15 meets this test.

These sections, taken as a whole, are likely to result in substantial loss of revenue to the state without necessarily benefitting truly distressed areas. For example, an existing business could dissolve and reincorporate under a new name or create a wholly owned subsidiary and become eligible for the exemption. Also, Section 15 does not specify how much of a qualifying business is eligible for the exemption. It is, therefore, possible that a new business would qualify for the entire exemption by locating an insignificant operation in a distressed area while the vast majority of its business was located elsewhere in the state in a non-distressed area.

In addition, the fact that a county is considered distressed at any time its unemployment rate exceeds the average, will result in benefits going to businesses in areas with temporary problems instead of being restricted to areas with persistent high joblessness.

For these reasons, I have vetoed Sections 2 through 4 and Sections 13 through 15 of Engrossed Substitute Senate Bill No. 4228.

With the exceptions of Sections 2 through 4 and Sections 13 through 15, which I have vetoed, Engrossed Substitute Senate Bill No. 4228 is approved."

## CHAPTER 472

### [Engrossed Substitute Senate Bill No. 3333] MOTORCYCLE DEALERS' FRANCHISES

AN ACT Relating to motorcycle dealers' franchises; amending RCW 46.70.101 and 46.70.180; adding a new chapter to Title 46 RCW; and prescribing penalties.

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

**NEW SECTION.** Sec. 1. This chapter shall be known as the motorcycle dealers' franchise act.

**NEW SECTION.** Sec. 2. The legislature recognizes it is in the best public interest for manufacturers and dealers of motorcycles to conduct business with each other in a fair, efficient, and competitive manner. The legislature declares the public interest is best served by dealers being assured of the ability to manage their business enterprises under a contractual obligation with manufacturers where dealers do not experience unreasonable interference, receive adequate allocations of merchandise in a timely manner at competitive prices, and transfer ownership of their business without undue constraints. It is the intent of the legislature to impose a regulatory scheme and to regulate competition in the motorcycle industry to the extent necessary to balance fairness and efficiency. These actions will assure the public that motorcycle dealers will devote their best competitive