

Veto message. Development and facilities for the Department of Fisheries. Moreover, some of the facilities of the Department of Fisheries are not in the form of 'buildings' as specified in the title of Substitute Senate Bill No. 41.

"In order to avoid litigation over the constitutionality of this bill, which would delay the issuance of the bonds, and to avoid the risk that such litigation might result in the loss of the entire bond issue, I have vetoed the items in section 6 which would have provided funds for the construction of facilities for the Department of Commerce and Economic Development and the Department of Fisheries, and I have vetoed those portions of the title and of section 1 of the bill which refer to the Department of Fisheries. The total amount of the items vetoed is \$376,226. Since these bonds will not be issued until the 1967 Legislature is in session, these projects can be considered at that time and funds appropriated as the legislature may deem necessary.

"With the exception of the items which I have vetoed as set forth above, the remainder of the bill is approved."

DANIEL J. EVANS,
Governor.

CHAPTER 173.

[Substitute House Bill No. 608.]

REVENUE AND TAXATION.

AN ACT relating to revenue and taxation; amending section 82.04.050, chapter 15, Laws of 1961 as last amended by section 1, chapter 7, Laws of 1963, and RCW 82.04.050; amending section 82.04.100, chapter 15, Laws of 1961, and RCW 82.04.100; amending section 82.04.120, chapter 15, Laws of 1961, and RCW 82.04.120; amending section 82.04.190, chapter 15, Laws of 1961, and RCW 82.04.190; amending section 82.04.240, chapter 15, Laws of 1961, and RCW 82.04.240; amending section 82.04.260, chapter 15, Laws of 1961, and RCW 82.04.260; amending section 82.04.330, chapter 15, Laws of 1961, and RCW 82.04.330; amending section 82.04.400, chapter 15, Laws of 1961 as amended by section 1, chapter 136, Laws of 1963, and RCW 82.04.400; amending section 82.04.425, chapter 15, Laws of 1961, and RCW 82.04.425; amending section 82.04.430, chapter 15, Laws of 1961 as amended by section 5, chapter 293, Laws of 1961, and RCW 82.04.430; amending section 82.04.440, chapter 15, Laws of 1961, and RCW 82.04.440; amending section 82.08.020, chapter 15, Laws of 1961 as amended by section 6, chapter 293, Laws of 1961, and RCW 82.08.020; amending section 82.08.030, chapter 15, Laws of 1961 as last amended by section 3, chapter 28, Laws of 1963 extraordinary session, and RCW 82.08.030; amending section 82.08.050, chapter 15, Laws of 1961, and RCW 82.08.050; amending section 82.08.150, chapter 15, Laws of 1961, as last amended by section 1, chapter 42, Laws of 1965, and RCW 82.08.150; amending section 82.12.010, chapter 15, Laws of 1961 as

amended by section 15, chapter 293, Laws of 1961, and RCW 82.12.010; amending section 82.12.020, chapter 15, Laws of 1961 as amended by section 9, chapter 293, Laws of 1961, and RCW 82.12.020; amending section 82.12.030, chapter 15, Laws of 1961 and section 1, chapter 76, Laws of 1963, as last amended by section 4, chapter 28, Laws of 1963 extraordinary session, and RCW 82.12.030; amending section 82.16.010, chapter 15, Laws of 1961 as amended by section 12, chapter 293, Laws of 1961, and RCW 82.16.010; amending section 82.16.020, chapter 15, Laws of 1961, as amended by section 13, chapter 293, Laws of 1961, and RCW 82.16.020; amending section 82.16.050, chapter 15, Laws of 1961, and RCW 82.16.050; amending section 82.24.020, chapter 15, Laws of 1961 as amended by section 3, chapter 24, Laws of 1961 extraordinary session, and RCW 82.24.020; amending section 82.24.070, chapter 15, Laws of 1961 as amended by section 4, chapter 24, Laws of 1961 extraordinary session, and RCW 82.24.070; amending section 82.26.020, chapter 15, Laws of 1961, and RCW 82.26.020; amending section 82.32.060, chapter 15, Laws of 1961, as amended by section 1, chapter 22, Laws of 1963, and RCW 82.32.060; amending section 82.48.100, chapter 15, Laws of 1961, and RCW 82.48.100; amending section 82.50.030, chapter 15, Laws of 1961 as amended by section 7, chapter 199, Laws of 1963, and RCW 82.50.030; amending section 24, chapter 62, Laws of 1933 extraordinary session and RCW 66.24.290; adding new sections to chapter 15, Laws of 1961 and to chapter 82.04 RCW; adding a new section to chapter 15, Laws of 1961 and to chapter 84.36 RCW; prescribing penalties; and declaring an emergency and prescribing an effective date.

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

SECTION 1. Section 82.04.050, chapter 15, Laws of 1961, as last amended by section 1, chapter 7, Laws of 1963, and RCW 82.04.050 are each amended to read as follows:

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

RCW 82.04.050 amended.

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purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, or (b) installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person, or (c) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale. The term shall include every sale of tangible personal property which is used or consumed or to be used or consumed in the performance of any activity classified as a "sale at retail" or "retail sale" even though such property is resold or utilized as provided in (a), (b), or (c) above following such use. The term also means every sale of tangible personal property to persons engaged in any business which is taxable under RCW 82.04.280, subsection (2), and 82.04.290.

The term "sale at retail" or "retail sale" shall include the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following: (a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding services rendered in respect to live animals, birds and insects; (b) the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property

of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and shall also include the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture; (c) the sale of or charge made for labor and services rendered in respect to the cleaning, fumigating, razing or moving of existing buildings or structures, but shall not include the charge made for janitorial services; (d) the sale of or charge made for labor and services rendered in respect to automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16; (e) the sale of and charge made for the furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same; (f) the sale of or charge made for tangible personal property, labor and services to persons taxable under (a), (b), (c), (d), and (e) above when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this paragraph shall be construed to modify the first paragraph of this section and nothing contained in the first para-

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graph of this section shall be construed to modify this paragraph.

The term "sale at retail" or "retail sale" shall include the sale of or charge made for personal business or professional services, including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities: (a) amusement and recreation businesses including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows and others; (b) abstract, title insurance and escrow businesses; (c) credit bureau businesses; (d) automobile parking and storage garage businesses.

The term shall also include the renting or leasing of tangible personal property to consumers.

The term shall not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any publicly owned street, place, road, highway, bridge, or trestle which is used or to be used primarily for foot or vehicular traffic, nor shall it include sales of feed, seed, fertilizer, and spray materials to persons for the purpose of producing for sale any agricultural product whatsoever, including milk, eggs, wool, fur, meat, honey, or other substances obtained from animals, birds, or insects.

RCW 82.04.100
amended.

SEC. 2. Section 82.04.100, chapter 15, Laws of 1961 and RCW 82.04.100 are each amended to read as follows:

"Extractor".

"Extractor" means every person who from his 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, shellfish, or other sea or inland water foods or products. It does not include persons performing under contract the necessary labor or mechanical services for others.

SEC. 3. Section 82.04.120, chapter 15, Laws of 1961 and RCW 82.04.120 are each amended to read as follows:

RCW 82.04.120 amended.

“To manufacture” embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles, and the generation or production of electrical energy for resale or consumption outside the state.

“To manufacture”.

SEC. 4. Section 82.04.190, chapter 15, Laws of 1961 and RCW 82.04.190 are each amended to read as follows:

RCW 82.04.190 amended.

“Consumer” means the following:

“Consumer”.

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of his business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose (a) of resale as tangible personal property in the regular course of business or (b) of incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers or (c) of consuming such property in producing for sale a new article of tangible personal property or a new substance, of which such

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property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale;

(2) Any person engaged in any business activity taxable under RCW 82.04.290;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any publicly owned street, place, road, highway, bridge or trestle which is used or to be used primarily for foot or vehicular traffic as defined in RCW 82.04.280, in respect, however, only to tangible personal property used or consumed in such business;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real or personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business, excluding only the United States, the state, and its political subdivisions in respect to labor and services rendered to their real property which is used or held for public road purposes. Nothing contained in this or any other subsection of this definition shall be construed to modify any other definition of "consumer".

RCW 82.04.240
amended.

SEC. 5. Section 82.04.240, chapter 15, Laws of 1961 and RCW 82.04.240 are each amended to read as follows:

Tax on manu-
facturers".

Upon every person except persons taxable under subsections (2), (3), (4), or (5) of RCW 82.04.260 engaging within this state in business as a manufacturer; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including byproducts, manufactured, multiplied by the rate of one-quarter of one percent.

The measure of the tax is the value of the products, including byproducts, so manufactured regard-

less of the place of sale or the fact that deliveries may be made to points outside the state.

SEC. 6. Section 82.04.260, chapter 15, Laws of 1961 and RCW 82.04.260 are each amended to read as follows:

RCW 82.04.260 amended.

(1) Upon every person engaging within this state in the business of buying wheat, oats, dry peas, corn, 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.

Tax on buyer and wholesale seller of grains
—Flour manufacturers—
Seafood products manufacturers
—Fruit and vegetable products manufacturers
—Aluminum products manufacturers
—Nonprofit research and development corporations.

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

(3) 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.

(4) 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.

(5) Upon every person engaging within this state in the business of manufacturing aluminum pig, ingot, billet, plate, sheet (flat or coiled), rod, bar, wire, cable or extrusions; as to such persons the

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amount of the tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of four-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.

RCW 82.04.330
amended.

SEC. 7. Section 82.04.330, chapter 15, Laws of 1961, and RCW 82.04.330 are each amended to read as follows:

Exemptions—
Agriculture.

This chapter shall not apply to any person in respect to the business of growing or producing for sale upon his own lands or upon land in which he has a present right of possession, any agricultural or horticultural produce or crop, including the raising for sale of any animal, bird, 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 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.

RCW 82.04.400
amended.

SEC. 8. Section 82.04.400, chapter 15, Laws of 1961 as amended by section 1, chapter 136, Laws of

1963, and RCW 82.04.400 are each amended to read as follows:

This chapter shall not apply to national banks, state banks, trust companies, production credit associations organized under the Farm Credit Act of 1933, mutual savings banks, building and loan and savings and loan associations with respect to their banking, trust, or savings and loan business and to credit companies and corporations with respect to loans made for the purpose of financing the growing, harvesting, processing, storing, and marketing of horticulture and agriculture products but shall apply with respect to their engaging in any other business taxable hereunder, even though such other business is conducted primarily for the purpose of liquidating the assets thereof. This chapter shall also not apply to United States federal housing administration approved mortgagees with respect to their activities of the same type as those hereunder exempted for banks and savings and loan associations.

Exemptions—
Financial
institutions.

SEC. 9. Section 82.04.425, chapter 15, Laws of 1961 and RCW 82.04.425 are each amended to read as follows:

RCW 82.04.425
amended.

This chapter shall not apply to sales for resale by persons regularly engaged in the business of making sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to his vendor in the acquisition of the article and (2) the sale is made as an accommodation to the buyer to enable him to fill a bona fide existing order of a customer or is made within fourteen days to reimburse in kind a previous accommodation sale by the buyer to the seller; nor to sales by a wholly owned subsidiary of a person making sales at retail which are exempt under RCW 82.08.030(11) when the

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Accommo-
dation
sales.

parent corporation shall have paid the tax imposed under this chapter.

New section. SEC. 10. There is added to chapter 15, Laws of 1961 and to chapter 82.04 RCW a new section to read as follows:

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This chapter shall not apply to:

(1) The cost of or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel, and rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or city and such sand, gravel, or rock is either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself; or

(2) The cost of or charges for such labor and services if any such sand, gravel, or rock is sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway.

The exemption provided for in this section shall not apply to the cost of or charges for such labor and services if the sand, gravel, or rock is used for other than public road purposes or is sold otherwise than as provided for in this section.

RCW 82.04.430 amended.

SEC. 11. Section 82.04.430, chapter 15, Laws of 1961 as amended by section 5, chapter 293, Laws of 1961 and RCW 82.04.430 are each amended to read as follows:

Deductions enumerated.

In computing tax there may be deducted from the measure of tax the following items:

(1) Amounts derived by persons, other than those engaging in banking, loan, security, or other financial businesses, from investments or the use of money as such;

(2) Amounts derived from bona fide initiation fees, dues, contributions, donations, tuition fees,

charges made for operation of privately operated kindergartens, and endowment funds. This paragraph shall not be construed to exempt any person, association, or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others. Dues which are for, or graduated upon, the amount of service rendered by the recipient thereof are not permitted as a deduction hereunder;

(3) The amount of cash discount actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extractive or manufacturing classifications with respect to articles produced or manufactured, the reported values of which, for the purposes of this tax, have been computed according to the provisions of RCW 82.04.450;

(4) The amount of credit losses actually sustained by taxpayers whose regular books of account are kept upon an accrual basis;

(5) So much of the sale price of motor vehicle fuel as constitutes the amount of tax imposed by the state or the United States government upon the sale thereof;

(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(7) Amounts derived by any person as compensation for the receiving, washing, sorting, and packing of fresh perishable horticultural products and the material and supplies used therein when performed for the person exempted in RCW 82.04.330, either as agent or as independent contractor;

(8) Amounts derived as compensation for services rendered or to be rendered to patients by a hospital, as defined in chapter 70.41, devoted to the care of human beings with respect to the prevention or

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treatment of disease, sickness, or suffering, when such hospital is operated by the United States or any of its instrumentalities, or by the state, or any of its political subdivisions;

(9) Amounts derived as compensation for services rendered to patients by a hospital, as defined in chapter 70.41, which is operated as a nonprofit corporation, nursing homes and homes for unwed mothers operated as religious or charitable organizations, but only if no part of the net earnings received by such an institution inures directly or indirectly, to any person other than the institution entitled to deduction hereunder. In no event shall any such deduction be allowed, unless the hospital building is entitled to exemption from taxation under the property tax laws of this state.

RCW 82.04.440 amended.

SEC. 12. Section 82.04.440, chapter 15, Laws of 1961 and RCW 82.04.440 are each amended to read as follows:

Persons taxable on multiple activities.

Every person engaged in activities which are within the purview of the provisions of two or more of sections RCW 82.04.230 to 82.04.290, inclusive, shall be taxable under each paragraph applicable to the activities engaged in: *Provided*, That persons taxable under RCW 82.04.250 or 82.04.270 shall not be taxable under RCW 82.04.230, 82.04.240 or subsection (2), (3), (4), or (5) of RCW 82.04.260 with respect to extracting or manufacturing of the products so sold, and that persons taxable under RCW 82.04.240 shall not be taxable under RCW 82.04.230 with respect to extracting the ingredients of the products so manufactured.

RCW 82.08.020 amended.

SEC. 13. Section 82.08.020, chapter 15, Laws of 1961 as amended by section 6, chapter 293, Laws of 1961, and RCW 82.08.020 are each amended to read as follows:

Retail sales tax. Imposed.

There is levied and there shall be collected a tax on each retail sale in this state equal to three and

one-third percent of the selling price: *Provided*, That from June 1, 1965 the tax imposed by this section shall be equal to four and two-tenths percent of the selling price. The tax imposed under this chapter shall apply to successive retail sales of the same property and to the retail sale of intoxicating liquor by the Washington state liquor stores.

SEC. 14. Section 82.08.030, chapter 15, Laws of 1961 as last amended by section 3, chapter 28, Laws of 1963 extraordinary session and RCW 82.08.030 are each amended to read as follows: RCW 82.08.030 amended.

The tax hereby levied shall not apply to the following sales: Exemptions.

(1) Casual and isolated sales of property or service, unless made by a person who is engaged in a business activity taxable under chapters 82.04, 82.16 or 82.28: *Provided*, That the exemption provided by this paragraph shall not be construed as providing any exemption from the tax imposed by chapter 82.12;

(2) Sales made by persons in the course of business activities with respect to which tax liability is specifically imposed under chapter 82.16, when the gross proceeds from such sales must be included in the measure of the tax imposed under said chapter;

(3) The distribution and newsstand sale of newspapers;

(4) Sales which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(5) Sales of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and sales of motor vehicle fuel taxable under chapter 82.36: *Provided*, That the use of any such fuel upon which a refund of the motor vehicle fuel tax has been obtained shall be subject to the tax imposed by chapter 82.12;

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(6) Sales (including transfers of title through decree of appropriation) heretofore or hereafter made of the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, to the state or a political subdivision thereof for use in conducting any business defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) or (11) of RCW 82.16.010;

(7) Auction sales made by or through auctioneers of tangible personal property (including household goods) which have been used in conducting a farm activity, when the seller thereof is a farmer and the sale is held or conducted upon a farm and not otherwise;

(8) Sales to corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same;

(9) Sales of purebred livestock for breeding purposes where the animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(10) Sales of tangible personal property (other than the type referred to in subdivision (11) hereof) for use by the purchaser in connection with the business of operating as a private or common carrier by air, rail, or water in interstate or foreign commerce: *Provided*, That any actual use of such property in this state shall, at the time of such actual use, be subject to the tax imposed by chapter 82.12;

(11) Sales of airplanes, locomotives, railroad cars, or watercraft for use in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or for use in conducting commercial deep sea fishing operations outside the territorial waters of the state; also sales of tangible personal property which becomes a component part of such airplanes, locomotives, railroad cars, or watercraft, and of motor vehicles or trailers used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state, in the course of constructing, repairing, cleaning, altering, or improving the same; also sales of or charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving;

(12) Sales of motor vehicles and trailers to be used for the purpose of transporting therein persons or property for hire in interstate or foreign commerce: *Provided*, That the purchaser must be the holder of a carrier permit issued by the Interstate Commerce Commission and that the vehicles will first move upon the highways of this state from the point of delivery in this state to a point outside of this state under the authority of a one-transit permit issued by the director of licenses pursuant to the provisions of RCW 46.16.100;

(13) Sales of motor vehicles and trailers to non-residents of this state for use outside of this state, even though delivery be made within this state, but only when (a) the vehicles or trailers will be taken from the point of delivery in this state directly to a point outside this state under the authority of a one-transit permit issued by the director of licenses pursuant to the provisions of RCW 46.16.100, or (b) said motor vehicles and trailers will be registered and licensed immediately under the laws of the

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state of the purchaser's residence, will not be used in this state more than three months, and will not be required to be registered and licensed under the laws of this state;

(14) Sales to nonresidents of this state for use outside of this state of tangible personal property which becomes a component part of any machinery or other article of personal property belonging to such nonresident, in the course of installing, repairing, cleaning, altering, or improving the same and also sales of or charges made for labor and services rendered in respect to any installing, repairing, cleaning, altering, or improving, of personal property of or for a nonresident, but this subsection (14) shall apply only when the seller agrees to, and does, deliver the property to the purchaser at a point outside this state, or delivers the property to a common or bona fide private carrier consigned to the purchaser at a point outside this state;

(15) Sales to nonresidents of this state for use outside of this state of watercraft requiring coast guard registration or registration by the state of principal use according to the Federal Boating Act of 1958, even though delivery be made within this state, but only when (a) the watercraft will not be used within this state for more than forty-five days and (b) an appropriate exemption certificate supported by identification ascertaining residence as provided by the tax commission and signed by the purchaser or his agent establishing the fact that the purchaser is a nonresident and that the watercraft is for use outside of this state, one copy to be filed with the tax commission with the regular report and a duplicate to be retained by the dealer.

(16) Sales of poultry for use in the production for sale of poultry or poultry products.

(17) Sales to nonresidents of this state for use outside of this state of machinery and implements

for use in conducting a farming activity, when such machinery and implements will be transported immediately outside the state. As proof of exemption, an affidavit or certification in such form as the tax commission shall require shall be made for each such sale, to be retained as a business record of the seller.

(18) Sales for use in states, territories and possessions of the United States which are not contiguous to any other state, but only when, as a necessary incident to the contract of sale, the seller delivers the subject matter of the sale to the purchaser or his designated agent at the usual receiving terminal of the carrier selected to transport the goods, under such circumstances that it is reasonably certain that the goods will be transported directly to a destination in such noncontiguous states, territories and possessions.

(19) Sales to municipal corporations, the state, and all political subdivisions thereof of tangible personal property consumed and/or of labor and services rendered in respect to contracts for watershed protection and/or flood prevention. This exemption shall be limited to that portion of the selling price which is reimbursed by the United States government according to the provisions of the Watershed Protection and Flood Prevention Act, Public Laws 566, as amended;

(20) Sales of semen for use in the artificial insemination of livestock;

(21) Sales to nonresidents of this state of tangible personal property for use outside this state when the purchaser has applied for and received from the tax commission a permit certifying (1) that he is a bona fide resident of a state or possession other than the state of Washington, or of a foreign country, and (2) that he does agree, when requested, to grant the tax commission access to such records

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and other forms of verification at his place of residence to assure that such purchases are not first used substantially in the state of Washington.

Any person claiming exemption from retail sales tax under the provisions of this subsection must display a nonresident permit as herein provided, and any vendor making a sale to a nonresident without collecting the tax must examine such permit, identify the purchaser as the person to whom the nonresident permit was issued, and maintain records which shall show the permit number attributable to each nontaxable sale.

Permits shall be personal and nontransferable and shall be issued by the tax commission upon payment of a fee of one dollar. The commission may in its discretion designate independent agents for the issuance of permits, according to such standards and qualifications as the commission may prescribe. Such agents shall pay over and account to the commission for all permit fees collected, after deducting as a collection fee the sum of fifty cents for each permit issued.

Any person making fraudulent statements in order to secure a permit shall be guilty of perjury. Any person making tax exempt purchases by displaying a permit not his own, or a counterfeit permit, with intent to violate the provisions of this subsection shall be guilty of a misdemeanor and, in addition, may be subject to a penalty not to exceed the amount of the tax due on such purchases. Any vendor who makes sales without collecting the tax to a person who does not hold a valid permit, and any vendor who fails to maintain records of permit numbers as provided in this section shall be personally liable for the amount of tax due.

The exemption provided in this subsection shall be effective June 1, 1965, to July 1, 1967.

(22) Sales of form lumber to any person engaged in the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: *Provided*, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof.

(23) Sales of, cost of, or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel and rock when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself, or (2) sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway. The exemption provided for in this subsection shall not apply to sales of, cost of, or charges made for such labor and services, if the sand, gravel, or rock is used for other than public road purposes or is sold otherwise than as provided for in this subsection.

SEC. 15. Section 82.08.050, chapter 15, Laws of 1961 and RCW 82.08.050 are each amended to read as follows:

RCW 82.08.050 amended.

The tax hereby imposed shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale in accordance with the schedule of collections adopted by the tax commission pursuant to the provisions of RCW 82.08.060. The tax required by this chapter, to be collected

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by the seller, shall be deemed to be held in trust by the seller until paid to the commission, and any seller who appropriates or converts the tax collected to his own use or to any use other than the payment of the tax to the extent that the money required to be collected is not available for payment on the due date as prescribed in this chapter shall be guilty of a misdemeanor.

In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay it to the commission in the manner prescribed by this chapter, whether such failure is the result of his own acts or the result of acts or conditions beyond his control, he shall, nevertheless, be personally liable to the state for the amount of the tax.

The amount of tax, until paid by the buyer to the seller or to the commission, shall constitute a debt from the buyer to the seller and any seller who fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor. The tax required by this chapter to be collected by the seller shall be stated separately from the selling price and for purposes of determining the tax due from the buyer to the seller and from the seller to the commission it shall be presumed that the selling price quoted in any price list, sales document, contract or other agreement between the parties does not include the tax imposed by this chapter.

Where a buyer has failed to pay to the seller the tax imposed by this chapter and the seller has not paid the amount of the tax to the commission, the commission may, in its discretion, proceed directly against the buyer for collection of the tax, in which case a penalty of ten percent may be added to the

amount of the tax for failure of the buyer to pay the same to the seller, regardless of when the tax may be collected by the commission; and all of the provisions of chapter 82.32, including those relative to interest and penalties, shall apply in addition; and, for the sole purpose of applying the various provisions of chapter 82.32, the fifteenth day of the month following the tax period in which the purchase was made shall be considered as the due date of the tax.

SEC. 16. Section 82.08.150, chapter 15, Laws of 1961 as last amended by section 1, chapter 42, Laws of 1965 and RCW 82.08.150 are each amended to read as follows:

RCW 82.08.150
amended.

(1) There is levied and shall be collected from and after the first day of November, 1951, a tax upon each retail sale of spirits, wine, or strong beer in the original package at the rate of ten percent of the selling price, and the term "retail sale" as used herein shall include, in addition to the meaning ascribed thereto in chapter 82.04, any sale to a consumer or for resale by a retailer in such original package. The tax imposed in this section shall apply to all sales of spirits, wine, or strong beer by the Washington state liquor stores and agencies, including sales to licensees. The tax imposed in RCW 82.08.020 as now or hereafter amended shall not apply to sales by the Washington state liquor control board stores and agencies of products subject to the tax imposed by this section.

Tax on certain
sales of in-
toxicating
liquor.

(2) There is levied and shall be collected from and after the first day of April, 1959, an additional tax upon each retail sale of spirits, wine, or strong beer in the original package at the rate of five percent of the selling price, and the term "retail sale" as used herein shall include the meaning ascribed thereto in chapter 82.04. The additional tax imposed in this paragraph shall apply to the

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sale of spirits, wine, or strong beer by the Washington state liquor stores and agencies, excluding sales to Class H licensees. The tax imposed in RCW 82.08.020 as now or hereafter amended shall not apply to sales by the Washington state liquor control board stores and agencies of products subject to the tax imposed by this paragraph.

(3) There is levied and shall be collected from and after the first day of June, 1965, an additional tax upon each retail sale of spirits in the original package at the rate of two cents per fluid ounce or fraction thereof contained in such original package, and the term "retail sale" as used herein shall include the meaning ascribed thereto in chapter 82.04: *PROVIDED, That this nine-tenths of a cent increase as provided for in this 1965 amendatory act shall not apply to manufacturers as defined under RCW 66.24.150.* The additional tax imposed in this paragraph shall apply to the sale of spirits by the Washington state liquor stores and agencies, including sales to Class H licensees. The tax imposed in RCW 82.08.020 as now or hereafter amended shall not apply to sales subject to the tax imposed by this paragraph. On or before the twenty-fifth day of each month beginning with the month of July, 1961, the Washington state liquor control board shall remit to the state tax commission, to be deposited with the state treasurer, all moneys collected by it under this paragraph during the preceding month on sales made and subject to this paragraph. Upon receipt of such moneys the state treasurer shall deposit them in the state general fund and the provisions of RCW 82.08.160 and 82.08.170, and the provisions of chapter 43.66 relating to deposits, apportionment and distribution, shall have no application to the collections under this paragraph.

(4) The additional five percent tax enacted in subdivision (2) of this section shall not be levied

upon or applied to sales of wine which have been subjected to the tax imposed by RCW 66.24.220.

(5) As used in this section, the terms, "spirits," "wine," "strong beer," and "package" shall have the meaning ascribed to them in chapter 66.04.

SEC. 17. Section 82.12.010, chapter 15, Laws of 1961 as amended by section 15, chapter 293, Laws of 1961, and RCW 82.12.010 are each amended to read as follows:

RCW 82.12.010
amended.

For the purposes of this chapter:

Use tax.
Definitions.

(1) "Value of the article used" shall mean the consideration, whether money, credit, rights, or other property, expressed in terms of money, paid or given or contracted to be paid or given by the purchaser to the seller for the article of tangible personal property, the use of which is taxable under this chapter. The term includes, in addition to the consideration paid or given or contracted to be paid or given, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used shall be determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules and regulations as the tax commission may prescribe.

In case the articles used are acquired by bailment, the value of the use of the articles so used shall be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules and regulations as the tax commission may prescribe;

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Definitions.

In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used shall be determined according to the value of the ingredients of such articles.

(2) "Use," "used," "using," or "put to use" shall have their ordinary meaning, and shall mean the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, or any other act preparatory to subsequent actual use or consumption within this state;

(3) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08;

(4) "Retailer" means every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter;

(5) The meaning ascribed to words and phrases in chapters 82.04 and 82.08, insofar as applicable, shall have full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 insofar as applicable, shall also mean any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services.

RCW 82.12.020
amended.

SEC. 18. Section 82.12.020, chapter 15, Laws of 1961 as amended by section 9, chapter 293, Laws of 1961 and RCW 82.12.020 are each amended to read as follows:

There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any article of tangible personal property purchased at retail, or acquired by lease, gift, or bailment, or extracted or produced or manufactured by the person so using the same. This tax will not apply with respect to the use of any article of tangible personal property purchased, extracted, produced or manufactured outside this state until the transportation of such article has finally ended or until such article has become commingled with the general mass of property in this state. This tax shall apply to the use of every article of tangible personal property, including property acquired at a casual or isolated sale, and including byproducts used by the manufacturer thereof, except as hereinafter provided, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state. Except as provided in subdivision (2) of RCW 82.12.030, payment by one purchaser or user of tangible personal property of the tax imposed by chapter 82.08 or 82.12 shall not have the effect of exempting any other purchaser or user of the same property from the taxes imposed by such chapters. The tax shall be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate of four and two-tenths percent.

Use tax
imposed.

SEC. 19. Section 82.12.030, chapter 15, Laws of 1961 and section 1, chapter 76, Laws of 1963, as last amended by section 4, chapter 28, Laws of 1963 extraordinary session, and RCW 82.12.030 are each amended to read as follows:

RCW 82.12.030
amended.

The provisions of this chapter shall not apply:

Exemptions.

(1) In respect to the use of any article of tangible personal property brought into the state by a nonresident thereof for his use or enjoyment while

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temporarily within the state unless such property is used in conducting a nontransitory business activity within the state; or in respect to the use by a nonresident of this state of a motor vehicle which is registered or licensed under the laws of the state of his residence and is not used in this state more than three months, and which is not required to be registered or licensed under the laws of this state; or in respect to the use of household goods, personal effects and private automobiles by a bona fide resident of this state, if such articles were acquired and used by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than thirty days prior to the time he entered this state;

(2) In respect to the use of any article of tangible personal property purchased at retail or acquired by lease, gift or bailment if the sale thereof to, or the use thereof by, the present user or his bailor or donor has already been subjected to the tax under chapter 82.08 or 82.12 and such tax has been paid by the present user or by his bailor or donor; or in respect to the use of property acquired by bailment and such tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 or 82.12 as of the time of first use; or in respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and such original bailment was prior to June 9, 1961;

(3) In respect to the use of any article of tangible personal property the sale of which is specifically taxable under chapter 82.16;

(4) In respect to the use of any airplane, locomotive, railroad car, or watercraft used primarily

in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state, and in respect to use of tangible personal property which becomes a component part of any such airplane, locomotive, railroad car, or watercraft, and in respect to the use by the holder of a carrier permit issued by the Interstate Commerce Commission of any motor vehicle or trailer used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of this state if the first use of which within this state is actual use in conducting interstate or foreign commerce; and in respect to the use of any motor vehicle or trailer while being operated under the authority of a one-transit permit issued by the director of licenses pursuant to RCW 46.16.100 and moving upon the highways from the point of delivery in this state to a point outside this state; and in respect to the use of tangible personal property which becomes a component part of any motor vehicle or trailer used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state;

(5) In respect to the use of any article of tangible personal property which the state is prohibited from taxing under the Constitution of the state or under the Constitution or laws of the United States;

(6) In respect to the use of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and testing purposes and motor vehicle fuel taxable under chapter 82.36: *Provided*, That the use of such fuel upon which a refund of the motor vehicle fuel tax is obtained shall not be exempt, and the director of licenses shall

Revenue and taxation. Use tax. Exemptions.

deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the tax commission;

(7) In respect to the use of any article of tangible personal property included within the transfer of the title to the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, by the state or a political subdivision thereof in conducting any business defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) of RCW 82-16.010;

(8) In respect to the use of tangible personal property (including household goods) which have been used in conducting a farm activity, if such property was purchased from a farmer at an auction sale held or conducted by an auctioneer upon a farm and not otherwise;

(9) In respect to the use of tangible personal property by corporations which have been incorporated under any act of the congress of the United States and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, flood, and other national calamities and to devise and carry on measures for preventing the same;

(10) In respect to the use of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association; sales of cattle and milk cows used on the farm;

(11) In respect to the use of poultry in the production for sale of poultry or poultry products;

(12) In respect to the use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or

manufacturing plant which produced or manufactured the same;

(13) In respect to the use of motor vehicles, equipped with dual controls, which are loaned to and used exclusively by a school in connection with its driver training program: *Provided*, That this exemption and the term "school" shall apply only to (a) the University of Washington, Washington State University and the state colleges or (b) any public, private or parochial school accredited by either the state board of education or by the University of Washington (the state accrediting station) or (c) any public vocational school meeting the standards, courses and requirements established and prescribed or approved by the state board for vocational education;

(14) In respect to the use by a bailee of any article of tangible personal property which is entirely consumed in the course of research, development, experimental and testing activities conducted by the user, provided the acquisition or use of such articles by the bailor was not subject to the taxes imposed by chapter 82.08 or chapter 82.12.

(15) In respect to the use by residents of this state of motor vehicles and trailers acquired and used while such persons are members of the armed services and are stationed outside this state pursuant to military orders, but this exemption shall not apply to members of the armed services called to active duty for training purposes for periods of less than six months and shall not apply to the use of motor vehicles or trailers acquired less than thirty days prior to the discharge or release from active duty of any person from the armed services.

(16) In respect to the use of semen in the artificial insemination of livestock;

(17) In respect to the use of form lumber by any person engaged in the constructing, repairing, deco-

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rating or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: *Provided*, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof.

(18) In respect to the use of any sand, gravel, or rock to the extent of the cost of or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling such sand, gravel, or rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself, or (2) sold by the county or city to a county, or a city at actual cost for placement on a publicly owned street, road, place, or highway. The exemption provided for in this subsection shall not apply to the use of such material to the extent of the cost of or charge made for such labor and services, if the material is used for other than public road purposes or is sold otherwise than as provided for in this subsection.

RCW 82.16.010
amended.

SEC. 20. Section 82.16.010, chapter 15, Laws of 1961, as amended by section 12, chapter 293, Laws of 1961, and RCW 82.16.010 are each amended to read as follows:

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tax. Definitions.

For the purposes of this chapter, unless otherwise required by the context:

(1) "Railroad business" means the business of operating any railroad, by whatever power operated, for public use in the conveyance of persons or property for hire. It shall not, however, include any busi-

ness herein defined as an urban transportation business;

(2) "Express business" means the business of carrying property for public hire on the line of any common carrier operated in this state, when such common carrier is not owned or leased by the person engaging in such business;

(3) "Railroad car business" means the business of renting, leasing or operating stock cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any other kinds of cars used for transportation of property or persons upon the line of any railroad operated in this state when such railroad is not owned or leased by the person engaging in such business.

(4) "Water distribution business" means the business of operating a plant or system for the distribution of water for hire or sale;

(5) "Light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale;

(6) "Telephone business" means the business of operating or managing any telephone line or part of a telephone line and exchange or exchanges used in the conduct of the business of affording telephonic communication for hire. It includes cooperative or farmer line telephone companies or associations operating an exchange;

(7) "Telegraph business" means the business of affording telegraphic communication for hire;

(8) "Gas distribution business" means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural;

(9) "Motor transportation business" means the business (except urban transportation business) of

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tions.

operating any motor propelled vehicle by which persons or property of others are conveyed for hire, and includes, but is not limited to, the operation of any motor propelled vehicle as an auto transportation company (except urban transportation business), common carrier or contract carrier as defined by RCW 81.68.010 and 81.80.010: *Provided*, That "motor transportation business" shall not mean or include the transportation of logs or other forest products exclusively upon private roads or private highways.

(10) "Urban transportation business" means the business of operating any vehicle for public use in the conveyance of persons or property for hire, insofar as (a) operating entirely within the corporate limits of any city or town, or within five miles of the corporate limits thereof, or (b) operating entirely within and between cities and towns whose corporate limits are not more than five miles apart or within five miles of the corporate limits of either thereof. Included herein, but without limiting the scope hereof, is the business of operating passenger vehicles of every type and also the business of operating cartage, pickup, or delivery services, including in such services the collection and distribution of property arriving from or destined to a point within or without the state, whether or not such collection or distribution be made by the person performing a local or interstate line-haul of such property;

(11) "Public service business" means any of the businesses defined in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), (9), and (10) or any business subject to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business hereafter declared by the legislature to be of a public service nature. It includes, among others, without limiting the scope hereof:

Airplane transportation, boom, dock, ferry, log patrol, pipe line, warehouse, toll bridge, toll logging road, water transportation and wharf businesses;

(12) "Tugboat business" means the business of operating tugboats, towboats, wharf boats or similar vessels in the towing or pushing of vessels, barges or rafts for hire;

(13) "Gross income" means the value proceeding or accruing from the performance of the particular public service or transportation business involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses;

(14) The meaning attributed, in chapter 82.04, to the term "tax year," "person," "value proceeding or accruing," "business," "engaging in business," "in this state," "within this state," "cash discount" and "successor" shall apply equally in the provisions of this chapter.

SEC. 21. Section 82.16.020, chapter 15, Laws of 1961, as amended by section 13, chapter 293, Laws of 1961, and RCW 82.16.020 are each amended to read as follows:

RCW 82.16.020
amended.

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:

Public utility
tax imposed.

(1) Railroad, express, railroad car, water distribution, light and power, telephone and telegraph businesses: Three percent: *Provided*, That a common carrier railroad operating as a plant facility to the extent of eighty percent or more of its busi-

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tax. Imposed.

ness shall pay a tax of one-fourth of one percent on such eighty percent or more of its business and three percent on all other business;

(2) Gas distribution business: Two percent;

(3) Urban transportation business: One-half of one percent;

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

(5) Motor transportation and tugboat businesses and all public service businesses other than ones mentioned above: One and one-half percent.

RCW 82.16.050
amended.

SEC. 22. Section 82.16.050, chapter 15, Laws of 1961, and RCW 82.16.050 are each amended to read as follows:

Deductions in
computing tax.

In computing tax there may be deducted from the gross income the following items:

(1) Amounts derived by municipally owned or operated public service businesses, directly from taxes levied for the support or maintenance thereof: *Provided*, That this section shall not be construed to exempt service charges which are spread on the property tax rolls and collected as taxes;

(2) Amounts derived from the sale of commodities to persons in the same public service business as the seller, for resale as such within this state. This deduction is allowed only with respect to water distribution, light and power, gas distribution or other public service businesses which furnish water, electrical energy, gas or any other commodity in the performance of public service businesses;

(3) Amounts actually paid by a taxpayer to another person taxable under this chapter as the latter's portion of the consideration due for services furnished jointly by both, if the total amount has been credited to and appears in the gross income reported for tax by the former;

(4) The amount of cash discount actually taken by the purchaser or customer;

(5) The amount of credit losses actually sustained by taxpayers whose regular books of accounts are kept upon an accrual basis;

(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(7) Amounts derived from the distribution of water through an irrigation system, for irrigation purposes;

(8) Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this state, or from points of origin outside this state to final destination in this state, with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination; and amounts derived from the transportation of commodities to an export elevator, wharf, dock or ship side on tidewater or navigable tributaries thereto, from points of origin in the state, and thereafter forwarded by water carrier, in their original form, to interstate or foreign destinations: *Provided*, That no deduction will be allowed when the point of origin and the point of delivery to such an export elevator, wharf, dock, or ship side are located within the corporate limits of the same city or town;

(9) Amounts derived from the production, sale, or transfer of electrical energy for resale or consumption outside the state if the production or generation of such energy is subject to tax under the

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tax. Deductions in computing tax.

manufacturing classification of chapter 82.04 RCW: *Provided*, That the exemption set forth in RCW 82-.04.310 shall not be applicable to the generation or production of the electrical energy so produced, sold, or transferred: *And provided further*, That no credit has been claimed as an offset to taxes imposed under RCW 82.04.240.

RCW 82.24.020
amended.

SEC. 23. Section 82.24.020, chapter 15, Laws of 1961 as amended by section 3, chapter 24, Laws of 1961 extraordinary session and RCW 82.24.020 are each amended to read as follows:

Cigarette tax.
Imposed—
Rate.

There is levied and there shall be collected as hereinafter provided, a tax upon the sale, use, consumption, handling or distribution of all cigarettes, in an amount equal to the rate of four mills per cigarette.

RCW 82.24.070
amended.

SEC. 24. Section 82.24.070, chapter 15, Laws of 1961 as amended by section 4, chapter 24, Laws of 1961 extraordinary session, and RCW 82.24.070 are each amended to read as follows:

Compensation
of dealers.

Wholesalers and retailers subject to the provisions of this chapter shall be allowed compensation for their services in affixing the stamps herein required a sum equal to two percent of the value of the stamps purchased or affixed by them.

RCW 82.26.020
amended.

SEC. 25. Section 82.26.020, chapter 15, Laws of 1961 and RCW 82.26.020 are each amended to read as follows:

Tobacco
products tax.
Imposed—
Rate.

(1) From and after June 1, 1965, there is levied and there shall be collected a tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of thirty percent of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, or fabricates tobacco products

in this state for sale in this state, or (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

(2) A floor stocks tax is hereby imposed upon every distributor of tobacco products at the rate of twenty-five percent of the wholesale sales price of each tobacco product in his possession or under his control on July 1, 1959.

Each distributor, within twenty days after July 1, 1959 shall file a report with the commission, in such form as the commission may prescribe, showing the tobacco products on hand on July 1, 1959 and the amount of tax due thereon.

The tax imposed by this subdivision shall be due and payable within twenty days after July 1, 1959 and thereafter shall bear interest at the rate of one percent per month.

SEC. 26. There is added to chapter 15, Laws of 1961 and to chapter 82.04 RCW a new section to read as follows: New section.

In computing tax under this chapter there may be credited against the amount of the tax the following items: B & O tax.
Credits
allowable
manufacturers
against tax.

As to persons engaging in activities defined in RCW 82.04.120 (the definition of the term "to manufacture"), an amount not to exceed the tax actually paid under chapter 82.08 RCW (Retail Sales Tax) or chapter 82.12 RCW (Use Tax) by such persons or their lessors or their contract vendors, on materials, labor and services in the construction or major improvement of buildings, structures or other improvements to real property that is, to the extent of eighty-five percent or more of the value of the improvements, used or to be used in or related to the business of manufacture for sale or commercial or industrial use of any articles, substances or commodities: *Provided*, That this credit shall be allowable only against tax payable by the manufacturer

Revenue and taxation. B & O tax. Credits allowable manufacturers against tax.

and measured by the value of products or gross proceeds of sales of articles, substances or commodities manufactured in this state: *Provided further*, That this credit shall be allowable only against any tax payable which is attributable to manufacturing which involves the use of such construction or improvements: *And provided further*, That this credit shall not be allowable for tax paid on purchases of material, labor or services on which the supplier thereof became entitled to compensation prior to July 1, 1964.

RCW 82.32.060 amended.

SEC. 27. Section 82.32.060, chapter 15, Laws of 1961, as amended by section 1, chapter 22, Laws of 1963 and RCW 82.32.060 are each amended to read as follows:

Administrative provisions. Excess payment—Credit or refund—Payment of judgment for refund.

If, upon application by a taxpayer for a refund or for an audit of his records, or upon an examination of the returns or records of any taxpayer, it is determined by the tax commission that within the two years immediately preceding the receipt of the commission of the application by the taxpayer for a refund or for an audit, or, in the absence of such an application, within the two years immediately preceding the commencement by the commission of such examination, a tax has been paid in excess of that properly due, the excess amount paid within such period of two years shall be credited to the taxpayer's account or shall be refunded to the taxpayer, at his option. Except as to the credits in computing tax authorized by section 26 of this 1965 amendatory act, no refund or credit shall be allowed with respect to any payments made to the commission more than two years before the date of such application or examination. Where a refund or credit may not be made because of the lapse of said two year period, the amount of the refund or credit which would otherwise be allowable for the portion of the statutory assessment period preceding the two year pe-

riod may be offset against the amount of any tax deficiency which may be determined by the commission for such statutory assessment period. Notwithstanding the foregoing, no refund or credit shall be granted with respect to taxes paid prior to May 1, 1950, but where a refund or credit may not be made because the tax was paid prior to May 1, 1950, the amount of the refund or credit which would otherwise be allowable for the portion of the statutory assessment period preceding May 1, 1950, may be offset against the amount of any tax deficiency which may be determined by the commission for such preceding period.

Notwithstanding the foregoing limitations there shall be refunded or credited to taxpayers engaged in the performance of United States government contracts or subcontracts the amount of any tax paid, measured by that portion of the amounts received from the United States, which taxpayer is required by contract or applicable federal statute to refund or credit to the United States, if claim for such refund is filed by the taxpayer with the tax commission within one year of the date that the amount of the refund or credit due to the United States is finally determined and filed within four years of the date on which the tax was paid: *Provided*, That no interest shall be allowed on such refund.

Any such refunds shall be made by means of vouchers approved by the tax commission and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide.

Any judgment for which a recovery is granted by any court of competent jurisdiction, not appealed from, for tax, penalties, and interest which were paid by the taxpayer, and costs, in a suit by any taxpayer shall be paid in like manner, upon the filing with the tax commission of a certified copy of the order or judgment of the court. Except as to the

credits in computing tax authorized by section 26 of this 1965 amendatory act, interest at the rate of three percent per annum shall be allowed by the tax commission and by any court on the amount of any refund or recovery allowed to a taxpayer for taxes, penalties, or interest paid by him after May 1, 1949, and interest at the same rate shall be allowed on any judgment recovered by a taxpayer for taxes, penalties, or interest paid after such date.

RCW 82.48.100
amended.

SEC. 28. Section 82.48.100, chapter 15, Laws of 1961 and RCW 82.48.100 are each amended to read as follows:

Revenue and
taxation. Air-
craft excise.
Exempt
aircraft.

This chapter shall not apply to:

Aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which are not engaged in carrying persons or property for commercial purposes;

Aircraft registered under the laws of a foreign country;

Aircraft which are owned by a nonresident and registered in another state: *Provided*, That if any such aircraft shall remain in and/or be based in this state for a period of ninety days or longer it shall not be exempt under this section;

Aircraft engaged principally in commercial flying which constitutes interstate or foreign commerce; and aircraft owned by the manufacturer thereof while being operated for test or experimental purposes, or for the purpose of training crews for purchasers of the aircraft;

Aircraft being held for sale, exchange, delivery, test, or demonstration purposes solely as stock in trade of an aircraft dealer licensed under RCW Title 14.

SEC. 29. Section 82.50.030, chapter 15, Laws of 1961 as amended by section 7, chapter 199, Laws of 1963 and RCW 82.50.030 are each amended to read as follows:

RCW 82.50.030
amended.

The rate and measure of tax imposed by this chapter for each calendar year shall be one and one-half percent of the fair market value of the house trailer, as determined in the manner provided in this chapter: *Provided*, That the calendar year shall be divided into twelve parts corresponding to the months of the calendar year and the excise tax upon a house trailer used for the first time in this state after the last day of any month shall only be levied for the remaining months of the calendar year including the month in which the house trailer is first used: *Provided further*, That the minimum amount of tax payable shall be two dollars.

House trailer
excise. Rate—
Minimum
payable—
Fractional
amounts.

A house trailer shall be deemed used for the first time in this state when such vehicle was not previously licensed by this state for the year immediately preceding the year in which application for license is made.

SEC. 30. Section 24, chapter 62, Laws of 1933 extraordinary session, and RCW 66.24.290 are each amended to read as follows:

RCW 66.24.290
amended.

Any brewer or beer wholesaler licensed under this title may sell and deliver beer to holders of authorized licenses direct, but to no other person, other than the board; and every such brewer or beer wholesaler shall report all sales to the board monthly, pursuant to the regulations, and shall pay to the board as an added tax for the privilege of manufacturing and selling the beer within the state a tax of one dollar per barrel of thirty-one gallons on sales to licensees within the state and on sales to licensees within the state of bottled and canned beer shall pay a tax computed in gallons at the rate of one dollar and fifty cents per barrel of thirty-one

Alcoholic
beverages.
Authorized,
prohibited
sales by
brewer or
wholesaler—
Monthly re-
port of sales—
Additional tax
on gallonage
—Revenue
stamps.

Revenue and taxation. Alcoholic beverages. Additional tax on gallonage—Revenue stamps.

gallons. Each such brewer or wholesaler shall procure from the board revenue stamps representing such tax in form prescribed by the board and shall affix the same to the barrel or package in such manner and in such denominations as required by the board, and shall cancel the same prior to commencing delivery from his place of business or warehouse of such barrels or packages. Beer shall be sold by brewers and wholesalers in sealed barrels or packages. The revenue stamps herein provided for need not be affixed and canceled in the making of resales of barrels or packages already taxed by the affixation and cancellation of stamps as provided in this section.

The above tax shall not apply to "strong beer" as defined in this title.

New section.

SEC. 31. There is added to chapter 15, Laws of 1961 and to chapter 84.36 RCW a new section to read as follows:

Property taxes—Exemptions. Non-profit corporation property used in distribution of water.

The following property shall be exempt from taxation:

All property, whether real or personal belonging to any nonprofit corporation or cooperative association and used exclusively for the distribution of water to its shareholders or members.

Severability.

SEC. 32. If any phrase, clause, subsection or section of this act shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the legislature would have enacted this act without the phrase, clause, subsection or section so held unconstitutional or invalid and the remainder of the act shall not be affected as a result of said part being held unconstitutional or invalid.

Emergency.

SEC. 33. 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 June 1, 1965.

Passed the House May 6, 1965.

Passed the Senate May 5, 1965.

Approved by the Governor May 15, 1965, with the exception of a certain item in section 16 which was vetoed.

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

Veto message.

"This bill includes a hodge-podge of increased taxes designed to balance the state budget during the next biennium. In many instances these taxes will be very onerous on many segments of our state's economy. However, this is the method selected by the Legislature to provide needed revenues; thus I am reluctant to veto any of the taxes imposed by this bill. Moreover, the revenues estimated by the Tax Commission to be derived from these increased taxes are barely sufficient to meet anticipated expenditures.

"However, I have examined carefully the tax exemptions included in Substitute House Bill No. 608. One of these is an exemption from the increased tax on liquor, which has been granted to local rectifiers and bottlers. I do not believe there is any justification for this exemption. Only one taxpayer in the state would benefit from the exemption at this time and if others qualified under the law in the future, the state could well lose a substantial portion of the \$10,000,000 which this new liquor tax should produce over the next two years. I am satisfied that an increase in the number of exempt liquor enterprises would not stimulate the state's economy sufficiently to offset this loss of revenue.

"For the foregoing reasons, I have vetoed the proviso in section 16 of the bill which states:

"*Provided*, That this nine-tenths of a cent increase as provided for in this 1965 amendatory act shall not apply to manufacturers as defined under RCW 66.24.150."

"The remainder of the bill is approved."

DANIEL J. EVANS,
Governor.