

tion 5 and all of section 21 as they are inconsistent with this concept.

The remainder of the act is approved.

CHAPTER 65  
[Engrossed Senate Bill No. 13]  
REVENUE AND TAXATION--  
EXCISE TAXES--BOARD OF TAX APPEALS

AN ACT Relating to revenue and taxation; amending section 28A.45.010, chapter 223, Laws of 1969 ex. sess. and RCW 28A.45.010; amending section 24A added to chapter 62, Laws of 1933 ex. sess. by section 3, chapter 158, Laws of 1935, as last amended by section 3, chapter 21, Laws of 1969 ex. sess. and RCW 66.24.210; adding a new section to chapter 62, Laws of 1933 ex. sess., as last amended by section 3, chapter 21, Laws of 1969 ex. sess. and to chapter 66.24 RCW; amending section 34, chapter 26, Laws of 1967 ex. sess., and RCW 82.03.050; amending section 82.04.290, chapter 15, Laws of 1961, as last amended by section 39, chapter 262, Laws of 1969 ex. sess., and RCW 82.04.290; amending section 82.04.430, chapter 15, Laws of 1961 as last amended by section 11, chapter 173, Laws of 1965 ex. sess. and RCW 82.04.430; amending section 82.08.030, chapter 15, Laws of 1961 as last amended by section 20, chapter 149, Laws of 1967 ex. sess. and RCW 82.08.030; amending section 82.08.150, chapter 15, Laws of 1961 as last amended by section 11, chapter 21, Laws of 1969 ex. sess. and RCW 82.08.150; amending section 82.12.030; chapter 15, Laws of 1961, as last amended by section 23, chapter 149, Laws of 1967 ex. sess. and RCW 82.12.030; adding a new section to chapter 15, Laws of 1961 and to chapter 82.04 RCW; and declaring an effective date.

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

Section 1. Section 28A.45.010, chapter 223, Laws of 1969 1st ex. sess. and RCW 28A.45.010 are each amended to read as follows:

As used in this chapter, the term "sale" shall have its ordi-

nary meaning and shall include any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person by his direction, which title is retained by the vendor as security for the payment of the purchase price.

The term shall not include a transfer by gift, devise, or inheritance, a transfer of any leasehold interest other than of the type mentioned above, a cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, or deed in lieu of foreclosure of a mortgage or the assumption by a grantee of the balance owing on an obligation which is secured by a mortgage or deed in lieu of forfeiture of the vendee's interest in a contract of sale where no consideration passes otherwise or the partition of property by tenants in common by agreement or as the result of a court decree, any transfer, conveyance, or assignment of property or interest in property from one spouse to the other in accordance with the terms of a decree of divorce or in fulfillment of a property settlement agreement incident thereto, the assignment or other transfer of a vendor's interest in a contract for the sale of real property, even though accompanied by a conveyance of the vendor's interest in the real property involved, transfers by appropriation or decree in condemnation proceedings brought by the United States, the state or any political subdivision thereof, or a municipal corporation, a mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment thereof, any transfer or conveyance made pursuant to an order of sale by the court in any mortgage or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure

to satisfy a mortgage, a conveyance to the federal housing administration or veterans administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veterans administration, nor a transfer in compliance with the terms of any lease or contract upon which the tax as imposed by this chapter has been paid or where the lease or contract was entered into prior to the date this tax was first imposed, nor the sale of any grave or lot in an established cemetery, nor a sale by or to the United States, this state or any political subdivision thereof, or a municipal corporation of this state.

The term sale shall not include a transfer to a corporation which is wholly owned by the transferor, his spouse or his children: PROVIDED, That if such transferee corporation or such transferor, his spouse, or his children voluntarily transfer the property or the stock, as the case may be, within five years of the exchange, excise taxes shall become due and payable on the original transfer as otherwise provided by law.

Sec. 2. Section 34, chapter 26, Laws of 1967 ex. sess. and RCW 42.03.050 are each amended to read as follows:

The board shall operate on either a part time or a full time basis, as determined by the governor. If it is determined that the board shall operate on a full time basis, each member of the board shall receive an annual salary to be determined by the governor. If it is determined that the board shall operate on a part time basis, each member of the board shall receive compensation on the basis of seventy-five dollars per diem for each day spent in performance of his duties: PROVIDED, HOWEVER, That such compensation shall not exceed ~~((seventy-five-hundred))~~ ten thousand dollars in a ~~((calendar))~~ fiscal year. Each board member shall receive reimbursement for travel and other expenses incurred in the discharge of his duties in accordance with RCW 43.03.050.

NEW SECTION. Sec. 3. There is added to chapter 15, Laws of

1961 and to chapter 82.04 RCW a new section to read as follows:

Upon every person engaging within the state as a real estate broker; as to such persons, the amount of the tax with respect to such business shall be equal to the gross income of the business, multiplied by the rate of one percent.

The measure of the tax on real estate commissions earned by the real estate broker shall be the gross commission earned by the particular real estate brokerage office including that portion of the commission paid to salesmen or associate brokers in the same office on a particular transaction: PROVIDED, HOWEVER, That where a real estate commission is divided between an originating brokerage office and a cooperating brokerage office on a particular transaction, each brokerage office shall pay the tax only upon their respective shares of said commission: AND PROVIDED FURTHER, That where the brokerage office has paid the tax as provided herein, salesmen or associate brokers within the same brokerage office shall not be required to pay a similar tax upon the same transaction.

Sec. 4. Section 82.04.290, chapter 15, Laws of 1961, as last amended by section 39, chapter 262, Laws of 1969 ex.sess., and RCW 82.04.290 are each amended to read as follows:

Upon every person engaging within this state in any business activity other than or in addition to those enumerated in RCW 82.04-.230, 82.04.240, 82.04.250, 82.04.260, 82.04.270, 82.04.275, section 3 of this 1970 amendatory act and 82.04.280; as to such persons the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of one percent: PROVIDED, That upon and after the effective date of the provisions of ~~((this-amendatory-act))~~ chapter 262, Laws of 1969 ex. sess. which impose a tax upon net income, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of twenty-two one-hundredths of one percent. This section includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such

business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his principal or supplier to be used for informational, educational and promotional purposes shall not be considered a part of the agent's remuneration or commission and shall not be subject to taxation under this section.

Sec. 5. Section 82.04.430, chapter 15, Laws of 1961 as last amended by section 11, chapter 173, Laws of 1965 ex.sess. and RCW 82.04.430 are each amended to read as follows:

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 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.

(10) Amounts derived by a political subdivision of the state of Washington from another political subdivision of the state of Washington as compensation for services which are within the purview of RCW 82.04.290.

Sec. 6. Section 82.08.030, chapter 15, Laws of 1961 as last amended by section 20, chapter 149, Laws of 1967 ex. sess. and RCW 82.08.030 are each amended to read as follows:

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

(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;

(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 pur-

poses 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 motor vehicles pursuant to the provisions of RCW 46.16.100;

(13) Sales of motor vehicles and trailers to nonresidents 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 motor vehicles 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 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 certi-

ificate supported by identification ascertaining residence as provided by the department of revenue 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 department of revenue 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 department of revenue 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 department of revenue a permit certifying (1) that he is a bona fide resident of a state or possession or Province of Canada other than the state of Washington, (2) that such state, possession, or Province of Canada does not impose a retail sales tax or use tax of three percent or more or, if imposing such a tax, permits Washington residents exemption from otherwise taxable sales by reason of their residence, and (3) that he does agree, when requested, to grant the department of revenue access to such records 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 non-taxable sale.

Permits shall be personal and nontransferable, shall be renewable annually, and shall be issued by the department of revenue upon payment of a fee of one dollar. The department may in its discretion designate independent agents for the issuance of permits, according to such standards and qualifications as the department may prescribe. Such agents shall pay over and account to the department 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.

(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.

(24) Sales of wearing apparel to persons who themselves use such wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

(25) Sales of pollen.

(26) Sales to one political subdivision by another political subdivision directly or indirectly arising out of or resulting from

the annexation or incorporation of any part of the territory of one political subdivision by another.

Sec. 7. Section 82.12.030, chapter 15, Laws of 1961 as last amended by section 23, chapter 149, Laws of 1967 ex. sess. and RCW 82.12.030 are each amended to read as follows:

The provisions of this chapter shall not apply:

(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 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 motor vehicles 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 motor vehicles shall 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 department of revenue;

(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, the state colleges and the state community 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 in accordance with the Community College Act of 1967 (chapter 8, Laws of 1967 first extraordinary session);

(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, 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;

(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.

(19) In respect to the use of wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

(20) In respect to the use of pollen.

(21) In respect to the use of the personal property of one political subdivision by another political subdivision directly or indirectly arising out of or resulting from the annexation or incorporation of any part of the territory of one political subdivision by another.

Sec. 8. Section 24A added to chapter 62, Laws of 1933 ex. sess. by section 3, chapter 158, Laws of 1935, as last amended by section 3, chapter 21, Laws of 1969 ex. sess. and RCW 66.24.210 are each amended to read as follows:

There is hereby imposed upon all wines sold (~~to retail licensees~~) within the state a tax of (~~ten~~) ninety cents per wine gallon:

PROVIDED, HOWEVER, That wine sold or shipped in bulk from one ((deme-  
tie)) winery to another ((deme-  
tie)) winery shall not be subject to  
such gallonage tax. The tax herein provided for may, if so prescribed  
by the board, be collected by means of stamps to be furnished by the  
board, or by direct payments based on gallonage sales. Every person  
selling wine under the provisions of this section shall report all  
sales to the board in such manner, at such times and upon such forms  
as may be prescribed by the board in accordance with RCW 66.24.230, and  
with such report shall pay the tax due from the sales covered by such  
report unless the same has previously been paid. If this tax be col-  
lected by means of stamps, every such person shall procure from the  
board revenue stamps representing the tax in such form as the board  
shall prescribe and shall affix the same to the package or container  
in such manner and in such denomination as required by the board and  
shall cancel the same prior to the delivery of the package or container  
V- containing the wine to the purchaser. If the tax is not collected by  
means of stamps, the board may require that every such person shall  
execute to and file with the board a bond to be approved by the board,  
in such amount as the board may fix, securing the payment of the tax.  
If any such person fails to pay the tax when due, the board may forth-  
with suspend or cancel his license until all taxes are paid.

NEW SECTION. Sec. 9. There is hereby added to chapter 62, Laws  
of 1933 ex. sess., as last amended by section 3, chapter 21, Laws of  
1969 ex. sess., and to chapter 66.24 RCW, a new section to read as  
follows:

There is hereby imposed upon every licensed wine wholesaler who  
possesses wine for resale upon which the tax has not been paid under  
section 8 of this 1970 amendatory act, a floor stocks tax of eighty  
cents per wine gallon on wine in his possession or under his control  
on July 1, 1970. Each such wholesaler shall within twenty days after  
July 1, 1970, file a report with the Washington state liquor control  
board in such form as the board may prescribe, showing the wine pro-  
ducts on hand July 1, 1970, converted to gallons thereof and the amount

of tax due thereon. The tax imposed by this section shall be due and payable within twenty days after July 1, 1970, and thereafter bear interest at the rate of one percent per month.

Sec. 10. Section 82.08.150, chapter 15, Laws of 1961 as last amended by section 11, chapter 21, Laws of 1969 ex. sess. and RCW 82.08.150 are each amended to read as follows:

(1) There is levied and shall be collected 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 for resale to the holder of a class C, class F, class H or combined class C and class F license issued by the Washington state liquor control board (~~(---PROVIDED---That-from-and-after-July-1-1969-the-tax-upon-each-retail-sale-of-wine-under-this-subsection-(i)-shall-be-at-the-rate-of-twenty-six-percent-of-the-selling-price)~~). 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 (~~(---but-shall-not-apply-to-sales-of-wine-in-the-unopened-bottle-by-licensees-who-have-paid-the-tax-imposed-by-this-subsection-(i)-to-their-vendors-on-the-acquisition-of-such-wine)~~). 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.

(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, 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 sale of spirits, 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. 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 department of revenue, 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 66.08 relating to deposits, apportionment and distribution, shall have no application to the collections under this paragraph.

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

NEW SECTION. Sec. 11. 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. 12. This 1970 amendatory act shall take

effect July 1, 1970.

Passed the Senate February 12, 1970

Passed the House February 12, 1970

Approved by the Governor February 23, 1970, with the exception of sections 8, 9, and 10, which are vetoed.

Filed in Office of Secretary of State February 24, 1970

NOTE: Governor's explanation of partial veto is as follows:  
"...This bill contains various provisions pertaining to the revenue and tax laws. Sections 8, 9 and 10 make significant changes in the machinery for the collection of taxes upon wines sold within this state. The principal effects of these three sections are to repeal the existing 26% retail sales tax on wine and to replace it with a flat tax of 90 cents a gallon on wine and to impose the 4.5% retail sales tax on all wine sold at retail by the State Liquor Control Board.

With the passage of 1969 of House Bill No. 100 (Chapter 21 of the First Extraordinary Session) major changes in the system for the taxation of wine and the methods of merchandising of wine occurred. That legislation has now been in effect for only a short period of time and it was to be expected that some economic and marketing problems could develop which might require modification of the provisions of House Bill 100. However, I am not satisfied that sections 8, 9 and 10 of Senate Bill No. 13 have received the careful consideration required in order to justify making significant changes in the tax structure on wine created by the 1969 legislative session. Accordingly, I have determined to veto those sections.

The change in tax policy contemplated under Senate Bill No. 13 by the imposing of a flat 90 cents tax on each gallon of wine rather than the 26% tax on the purchase price of wine would lead the state away from the concept of levying taxes on the basis of the ability of the consumer to pay. The effect of these sections of Senate Bill No. 13 would be to increase the purchase price on inexpensive wines which persons of less affluence tend to buy and to reduce the price on expensive wines which persons of greater affluence demand. I am advised that 61% of the entire volume of wines sold by the Liquor Control Board which comprise the less expensive wines will increase in price, 16% will have no change in price and 23% which comprise the more expensive wines will decrease in price. At the very time that the voters of this state are being asked to approve a more equitable tax structure it does not appear appropriate to impose upon consumers the regressive tax structure included in Senate Bill No. 13.

Because House Bill No. 100 has only been in effect for a short period of time, it is not yet possible with any degree of accuracy to measure

the overall fiscal impact which will occur from the major changes in taxation which that bill caused. As a result, the estimates of revenues to be generated by the further changes made by Senate Bill No. 13 cannot be relied upon with any certainty. When the legislature meets again in January of 1971 there should then be available sufficient statistical data to measure adequately the fiscal impact of the current law and the legislature should better be able to determine what changes, if any, are desirable and the fiscal impact of those changes.

The consideration given by the legislature at the short special session just completed to the various ramifications of Senate Bill No. 13 does not appear to have been adequate. For example, the shift from the 26% retail sales tax to a 90 cents gallonage tax would change the applicable formula for the distribution of funds among the units of government entitled to receive wine tax proceeds. This appears to have been an incidental but significant side effect of the passage of Senate Bill No.13. In addition, while the wine tax provisions of Senate Bill No. 13 were intended to cause a tax shift from the more expensive to the less expensive wines, in their final form these provisions will probably also result, in the aggregate, in an increase in the total taxes paid on wines by consumers. Such consequences as these would appear to have been little understood and inadequately considered during the legislative discussions.

A principal motivation for the consideration by the legislature of the wine tax provisions of Senate Bill No. 13 apparently was the claimed financial difficulties which wine distributors are facing in this state. I am asking the Liquor Control Board to consider what steps might be taken through changes in its rules and regulations to provide relief, where appropriate, for the wine distributors. In addition, it is reasonable to expect that if the distributors are, in fact, having serious difficulties that the wineries will provide some means of additional assistance to minimize their problems.

I am confident that with the additional information the legislature will have available in January, 1971, it will be able to address the issues which sections 8, 9 and 10 of Senate Bill No. 13 sought to address and will be able to provide a solution which will more adequately meet the various problems this significant change in taxation would create.

With the exception of sections 8, 9 and 10, the remainder of Engrossed Senate Bill No. 13 is approved.