

CHAPTER 249.

[H. B. 353.]

TAXATION.

AN ACT relating to revenue and taxation; amending section 5, chapter 180, Laws of 1935, as last amended by section 2, chapter 156, Laws of 1943 (section 8370-5, Remington's Revised Statutes, also Pierce's Perpetual Code 965-3-17-19), section 11, chapter 180, Laws of 1935, as last amended by section 4, chapter 156, Laws of 1943 (section 8370-11, Remington's Revised Statutes), section 12, chapter 180, Laws of 1935 (section 8370-12, Remington's Revised Statutes), section 17, chapter 180, Laws of 1935, as last amended by section 6, chapter 156, Laws of 1943 (section 8370-17, Remington's Revised Statutes, also Pierce's Perpetual Code 982-5-9), section 19, chapter 180, Laws of 1935, as last amended by section 7, chapter 156, Laws of 1943 (section 8370-19, Remington's Revised Statutes), section 32, chapter 180, Laws of 1935, as last amended by section 9, chapter 156, Laws of 1943 (section 8370-32, Remington's Revised Statutes, also Pierce's Perpetual Code 967-5-7-13), section 33, chapter 180, Laws of 1935, as last amended by section 10, chapter 178, Laws of 1941 (section 8370-33, Remington's Revised Statutes), section 35, chapter 180, Laws of 1935, as last amended by section 10, chapter 156, Laws of 1943 (section 8370-35, Remington's Revised Statutes), section 96, chapter 180, Laws of 1935, as last amended by section 1, chapter 118, Laws of 1941 (section 8370-96, Remington's Revised Statutes), section 188, chapter 180, Laws of 1935, as last amended by section 27, chapter 225, Laws of 1939 (section 8370-188, Remington's Revised Statutes, also Pierce's Perpetual Code 962-7), and section 211, chapter 180, Laws of 1935, as last amended by section 12A, chapter 156, Laws of 1943 (section 8370-211, Remington's Revised Statutes, also Pierce's Perpetual Code 972-1), and declaring an emergency.

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

Amend-
ment.

SECTION 1. Section 5, chapter 180, Laws of 1935, as last amended by section 2, chapter 156, Laws of 1943 (section 8370-5, Remington's Revised Statutes, also Pierce's Perpetual Code 965-3), is amended to read as follows:

Definitions.

Section 5. For the purposes of this title, unless otherwise required by the context:

(a) The term "tax year" or "taxable year" shall mean either the calendar year, or the taxpayer's fiscal year when permission is obtained from the Tax Commission to use a fiscal year in lieu of the calendar year; Tax year.

(b) The word "person" or word "company," herein used interchangeably, means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, corporation, association, society, or any group of individuals acting as a unit, whether mutual, co-operative, fraternal, non-profit or otherwise and the United States or any instrumentality thereof; Person.
Company.

(c) The word "sale" means any transfer of the ownership of, title to, or possession of property for a valuable consideration and includes any activity classified as a "sale at retail" or "retail sale" under subsection (d) of this section. It includes conditional sale contracts, leases with option to purchase, and any other contract under which possession of the property is given to the purchaser but title is retained by the vendor as security for the payment of the purchase price. It shall also be construed to include the furnishing of food, drink, or meals for compensation whether consumed upon the premises or not; Sale.

(d) The term "sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated or imprinted) other than a sale to one who purchases for the purpose of resale as tangible personal property in the regular course of business or 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 Sale at
retail.

create a chemical reaction directly through contact with an ingredient of a new article being produced for sale. The said term also means every sale of tangible personal property to persons engaged in any business which is taxable under section 4 (f) (2) and section 4 (g) hereof.

Sale at
retail.

The term "sale at retail" or "retail sale" shall be construed to include the sale of or charge made for tangible personal property consumed and for labor and services rendered in respect to the following: (1) the installing, repairing, cleaning, altering, imprinting or improving of tangible personal property of or for consumers, excluding, however, services rendered in respect to live animals, birds and insects; (2) 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 to the extent necessary for such constructing or improving, unless the charge therefor is stated separately from other charges made in connection with the work performed, under such rules as the Tax Commission may prescribe.

Not
included.

The said term shall not include the sale of or charge made for labor and services rendered in respect to the mere cleaning, fumigating, razing, or moving of existing buildings or structures, or 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.

(e) The term "sale at wholesale" or "wholesale sale" means any sale of tangible personal property and any sale of or charge made for labor and services rendered in respect to real or personal property, which is not a sale at retail; Sale at wholesale.

(f) The term "gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property and for services rendered without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses; Gross proceeds of sales.

(g) The term "gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property 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; Gross income of the business.

(h) The term "value proceeding or accruing" means the consideration, whether money, credits, rights or other property expressed in terms of money, actually received or accrued. The term shall be applied, in each case, on a cash receipts or accrual basis according to which method of accounting is regularly employed in keeping the books of the taxpayer. The Tax Commission may provide by regulation that the value proceeding or accruing from sales on the installment plan under conditional contracts of Value proceeding or accruing.

sale may be reported as of the dates when the payments become due;

Extractor.

(i) The word "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 commercial 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 or other natural products, or takes, cultivates, or raises fish, shell fish, 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;

Manu-
facturer.

(j) The word "manufacturer" means every person who, either directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use from his own materials or ingredients any articles, substances or commodities. When the owner of equipment or facilities furnishes, or sells to the customer prior to manufacture, all or a portion of the materials that become a part or whole of the manufactured article, the Tax Commission shall prescribe equitable rules for determining tax liability;

To manu-
facture.

(k) The term "to manufacture" embraces all activities of a commercial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful article of tangible personal property or substance of trade or commerce is produced and shall include the production or fabrication of special made or custom made articles;

Commercial
use.

(l) The term "commercial use" means the following uses of products by the extractor or manufacturer thereof:

(1) Manufacturing of articles, substances or commodities from extracted products;

(2) Leasing or renting of extracted or manufactured products;

(3) Consigning, shipping or transferring extracted or manufactured products to another either without consideration or in the performance of contracts;

(4) Any other use of products extracted or manufactured on a commercial scale under such rules and regulations as the Tax Commission shall prescribe;

(m) The word "business" includes all activities engaged in with the object of gain, benefit or advantage to the taxpayer or to another person or class, directly or indirectly; Business.

(n) The term "engaging in business" means commencing, conducting or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business; Engaging in business.

(o) The term "cash discount" means a deduction from the invoice price of goods or charge for services which is allowed if the bill is paid on or before a specified date; Cash discount.

(p) The term "tuition fee" shall be construed to include library, laboratory, health service and other special fees, and amounts charged for room and board by an educational institution when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institution: *Provided*, That the term "educational institution," as used herein, shall be construed to mean only those institutions created or generally accredited as such by the state and offering to students an educational program of a general academic nature or those institutions which are not operated for profit and which are privately en- Tuition fee.

dowed under a deed of trust to offer instruction in trade, industry and agriculture, but not including specialty schools, business colleges, other trade schools or similar institutions;

Successor.

(q) The word "successor" means any person who shall, through direct or mesne conveyance, purchase or succeed to the business, or portion thereof, or the whole or any part of the stock of goods, wares, merchandise or fixtures or any interest therein of a taxpayer quitting, selling out, exchanging or otherwise disposing of his business. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor;

(r) The word "consumer" means the following:

Consumer.

(1) Any person who purchases, acquires, owns, holds or uses any article of tangible personal property other than for the purpose of resale as tangible personal property in the regular course of business or for the purpose of consuming such property in producing for sale a new article of tangible personal property or a new 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;

(2) Any person engaged in the business of rendering professional or personal services to persons (as distinguished from services rendered to property of persons) and who are taxable under section 4 (g) hereof;

(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, 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 of America, the State of Washington and its political subdivisions in respect to labor and services rendered to their real property which is used or held for public road purposes; Consumer.

(s) The term "in this state" or "within this state" as used herein includes all Federal areas lying within the exterior boundaries of the State of Washington. In this state.

SEC. 2. Section 11, chapter 180, Laws of 1935, as last amended by section 4, chapter 156, Laws of 1943 (section 8370-11, Remington's Revised Statutes, also Pierce's Perpetual Code 965-17), is amended to read as follows: Amendment.

Section 11. The provisions of this title shall not apply to:

(a) Any person engaging in any business activity whose value of products, gross proceeds of sales or gross income of the business is less than six hundred (\$600.00) dollars, for a bi-monthly period: *Provided, however,* That where one person engages in more than one business activity and the combined measures of tax applicable to such businesses equal or exceed six hundred (\$600.00) dollars, no exemption or deduction from the amount of tax is allowed by this provision: *Provided, further,* That any person claiming exemption under the provisions of this sub-section may be required to file returns as provided herein even though no tax may be due; Persons and business exempt.

(b) Any person in respect to a business activity with respect to which tax liability is specifically imposed under the provisions of title V of this act;

Persons and
business
exempt.

(c) Any person in respect to insurance business upon which a tax based on gross premiums is paid to the State of Washington: *Provided, however,* That the provisions of this sub-section shall not exempt any person engaging in the business of representing any insurance company, whether as general or local agent or acting as broker for such companies: *And provided, further,* That the provisions of this sub-section shall not exempt any bonding company from tax with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor;

(d) 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 product 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; nor to the sale of any animal or substance obtained therefrom by a person in connection with his business of operating a stock yard or a slaughter or packing house; nor to any association of persons whatever, whether mutual, co-operative or otherwise, engaging in any business activity with respect to which tax liability is imposed under the provisions of this title;

(e) Any person in respect to the business of conducting boxing contests and sparring and/or wrestling matches and exhibitions for the conduct of which a license must be secured from the State Athletic Commission;

(f) Any person in respect to the business of conducting race meets for the conduct of which a license must be secured from the Horse Racing Commission;

(g) Any person in respect to his employment in the capacity of an employee or servant as distinguished from that of an independent contractor;

Persons and
business
exempt.

(h) Fraternal benefit societies, as defined in Rem. Rev. Stat., section 7259, also Pierce's Perpetual Code 659-1, fraternal fire insurance associations, as described in subdivision third of Rem. Rev. Stat., section 7131, also Pierce's Perpetual Code 668-1, and beneficiary corporations or societies organized under and existing by virtue of Rem. Rev. Stat., sections 3872 to 3883, also Pierce's Perpetual Code 457-1 to 23, inclusive: *Providing*, That such corporations or societies provide in their by-laws for the payment of death benefits, as set forth in Rem. Rev. Stat., section 3879, also Pierce's Perpetual Code 457-15;

(i) The gross sales or the gross income received by corporations which have been incorporated under any act of the Congress of the United States of America 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, floods, and other national calamities and to devise and carry on measures for preventing the same.

(j) Amounts derived from the lease, rental or sale of real estate: *Provided, however*, That nothing herein shall be construed to allow a deduction of amounts derived from engaging in any business wherein a mere license to use or enjoy real property is granted, or to allow a deduction of amounts received as commissions from the sale or rental of real estate;

(k) National banks, state banks, trust companies, mutual savings banks, building and loan and savings and loan associations with respect to their banking business, trust business or savings and loan business but not with respect to engaging in any

other business taxable hereunder, even though such other business be conducted primarily for the purpose of liquidating the assets thereof;

(l) Amounts derived by persons engaged in operating chick hatcheries, from the production and sale of chicks and hatching eggs;

(m) Any person performing any activities with respect to which a tax is specifically imposed upon the gross operating income derived therefrom under the provisions of title XIII of this act.

Amend-
ment.

SEC. 3. Section 12, chapter 180, Laws of 1935 (section 8370-12, Remington's Revised Statutes, also Pierce's Perpetual Code 965-19), is amended to read as follows:

Section 12. In computing tax there may be deducted from the measure of tax the following items:

(a) 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;

Deductible
tax items.

(b) Amounts derived from *bona fide* initiation fees, dues, contributions, donations, tuition fees and endowment funds. The provisions of 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: *Provided*, That dues which are for, or graduated upon, the amount of service rendered by the recipient thereof are not permitted as a deduction hereunder;

(c) The amount of cash discount actually taken by the purchaser. This deduction is not allowed in arriving at the taxable amount under the extractive and/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 section 7;

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

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

(f) Amounts derived from business which the State of Washington is prohibited from taxing under the constitution of this state or the constitution or laws of the United States;

(g) 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 subsection (d) of section 11, this title, either as agent or as independent contractor;

Deductible
tax items.

(h) Amounts derived as compensation for services rendered or to be rendered to patients by a hospital or other institution devoted to the care of human beings with respect to the prevention or treatment of disease, sickness or suffering, when such hospital or other institution is operated by the United States of America or any of its instrumentalities, or by the State of Washington, or any of its political subdivisions;

(i) Amounts derived as compensation for services rendered to patients by a hospital or other institution which is organized as a non-profit corporation devoted to the care of human beings with respect to the prevention or treatment of disease, sickness or suffering: *Provided*, That no part of the net earnings received by such an institution shall inure, directly or indirectly, to any person other than the institution entitled to deduction hereunder: *Provided further*, That 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, and unless the superintendent or other proper officer of the institution shall, under oath, make annual reports to the State Board of Health of its receipts and disbursements during the preceding year, specifying in detail the sources from which receipts have been derived, and the object to which disbursements have been applied, and shall furnish in said report full and complete vital statistics for the use and information of the State Board of Health: *And provided further*, That the deductions allowed under this subsection (i) shall apply retroactively from May 1, 1941, and in the event any such hospital or other institution has heretofore paid to the state a tax measured by such income received subsequent to April 30, 1941, such tax shall be refunded on written request of the taxpayer made to the Tax Commission and the issuance of state warrants drawn upon and payable from such funds as the legislature may provide.

Amend-
ment.

SEC. 4. Section 17, chapter 180, Laws of 1935, as last amended by section 6, chapter 156, Laws of 1943 (section 8370-17, Remington's Revised Statutes, also Pierce's Perpetual Code 982-5), is amended to read as follows:

Section 17. For the purposes of this title, unless otherwise required by the context:

Selling
price.

(a) The term "selling price" means the consideration, whether money, credits, rights, or other property, expressed in the terms of money, paid or delivered by a buyer to a seller, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes or any other expenses whatsoever paid or accrued and without any deduction on account of losses;

Seller.

(b) The term "seller" means every person making sales at retail or retail sales to a buyer or consumer, whether as agent, broker, or principal;

(c) The word "buyer" and the word "consumer" include, without limiting the scope hereof, every individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise, municipal corporation, quasi-municipal corporation, and also the State of Washington, its departments and institutions and all political subdivisions thereof, irrespective of the nature of the activities engaged in or functions performed, and also the United States or any instrumentality thereof;

Buyer.

Consumer.

(d) The meaning attributed, in title II of this act, to the words and terms "tax year," "taxable year," "person," "company," "sale," "sale at retail," "retail sale," "sale at wholesale," "wholesale sale," "business," "engaging in business," "cash discount," "successor," "consumer," "in this state" and "within this state" shall apply equally in the provisions of this title.

Definitions restated.

SEC. 5. Section 19, chapter 180, Laws of 1935, as last amended by section 7, chapter 156, Laws of 1943 (section 8370-19, Remington's Revised Statutes, also Pierce's Perpetual Code 982-9), is amended to read as follows:

Amendment.

Section 19. The tax hereby levied shall not apply to the following sales:

Sales not taxable.

(a) Casual and isolated sales of property or service, unless made by a person who is engaged in a business activity taxable under titles II, V or XIII of this act, or unless the article sold at a casual or isolated sale was purchased by the seller at a sale which was not taxable under this title;

(b) Sales made by persons in the course of business activities with respect to which tax liability is specifically imposed under title V or title VI of this act, when the gross proceeds from such sales must

be included in the measure of the tax imposed under said title V or title VI;

(c) The distribution and newsstand sale of newspapers;

(d) Sales which the State of Washington is prohibited from taxing under the constitution of this state or the constitution or laws of the United States;

(e) Sales of motor vehicle fuel taxable under chapter 58 of the Laws of 1933, section 5, (section 8327-5 of Remington's Revised Statutes);

Sales not taxable.

(f) 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 a person for use in conducting any business defined in subdivisions (a), (b), (c), (d), (e), (f), (g), or (h) of section 37 of title V of this act;

(g) 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;

(h) Sales to corporations which have been incorporated under any act of the Congress of the United States of America 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, floods, and other national calamities and to devise and carry on measures for preventing the same;

(i) Sales of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association.

SEC. 6. Section 32, chapter 180, Laws of 1935, as last amended by section 9, chapter 156, Laws of 1943

(section 8370-32, Remington's Revised Statutes, also Pierce's Perpetual Code 967-5), is amended to read as follows: Amendment.

Section 32. The provisions of this title shall not apply:

(a) In respect to the use of any article of tangible personal property brought into the State of Washington by a non-resident thereof for his use or enjoyment while temporarily within the state unless such property is used in conducting a non-transitory business activity within the 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 by such person in another state while a *bona fide* resident thereof and primarily for use outside this state: *Provided*, Such use was actual and substantial and such articles were acquired at least three months prior to the time he became a resident of this state; Property not taxable.

(b) In respect to the use of any article of tangible personal property purchased at retail or acquired by gift if the sale thereof to the user or to the donor has already been subjected to tax under title III of this act and such tax has been paid by the purchaser or donor;

(c) In respect to the use of any article of tangible personal property the sale of which is specifically taxable under title V of this act;

(d) In respect to the use of rolling stock or aircraft or floating equipment of a common carrier, the first use of which within the state is actual use in conducting interstate or foreign commerce;

(e) 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;

(f) In respect to the use of motor vehicle fuel taxable under chapter 58 of the Laws of 1933, sec-

tion 5 (section 8327-5, Remington's Revised Statutes);

(g) 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 a person in conducting any business defined in subdivisions (a), (b), (c), (d), (e), (f), (g), or (h) of section 37 of title V of this act;

Property not taxable.

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

(i) 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 of America 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, floods, and other national calamities and to devise and carry on measures for preventing the same.

Nothing herein contained shall be construed to exempt from the tax imposed by this title, the use of any article of tangible personal property whether acquired through a casual sale or otherwise, except as is specifically provided in this section 32;

(j) In respect to use of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association;

vetoed. { (k) In respect to the use of tangible personal property sold or purchased at a casual or isolated sale.

SEC. 7. Section 33, chapter 180, Laws of 1935, as last amended by section 10, chapter 178, Laws of 1941 (section 8370-33, Remington's Revised Statutes, also Pierce's Perpetual Code 967-7), is amended to read as follows: Amendment.

Section 33. Every person who maintains in this state a place of business or a resident agent or a stock of goods shall obtain from the Tax Commission a certificate of registration, and shall, at the time of making sales of tangible personal property for use in this state, collect from the purchasers the tax imposed under this title. Certificate of registration.

Every person who engages in this state in the business of acting as an independent selling agent for persons that do not hold a valid certificate of registration, and who receives compensation by reason of sales of tangible personal property of his principals made for use in this state, shall, at the time such sales are made, collect from the purchasers the tax imposed under this title, and for that purpose shall be deemed a retailer as defined in section 35 hereof. Seller without certificate a retailer.

The tax required to be collected by this title shall be deemed to be held in trust by the retailer until paid to the Tax Commission and any retailer who appropriates or converts the tax collected to his own use or to any use other than the payment of the tax provided herein to the extent that the money required to be collected is not available for payment on the due date as prescribed in this act shall be guilty of misdemeanor and punished in the manner prescribed by law. In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay the same to the Tax Commission in the manner prescribed by this act, whether such failure be 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 such tax. Tax held in trust.

Penalty. Any retailer who refunds, remits or rebates to a purchaser, either directly or indirectly, and by whatsoever means, all or any part of the tax levied by this title, or makes in any form of advertising, verbal or otherwise, any statements which might infer that he is absorbing the tax or paying the tax for the purchaser by an adjustment of prices, or at a price including the tax, or in any other manner whatsoever shall be guilty of a misdemeanor.

Amendment. SEC. 8. Section 35, chapter 180, Laws of 1935, as last amended by section 10, chapter 156, Laws of 1943 (section 8370-35, Remington's Revised Statutes, also Pierce's Perpetual Code 967-13), is amended to read as follows:

Section 35. For the purposes of this title:

Value of the article used.

(a) The term "value of the article used" shall mean the consideration 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 title. The term shall include, 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 and the cost of transportation by a common carrier. In case the article used is acquired by gift or is produced or manufactured by the person using the same or is sold under conditions wherein the purchase price, including the cost of transportation, 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;

Used.

Put to use.

(b) The terms "use," "used," "using" or "put to use" mean any act by which the taxpayer takes or assumes dominion or control over the article of tangible personal property after delivery thereof is

completed within this state, and shall include installation, storage, withdrawal from storage or any other act preparatory to subsequent actual use or consumption within this state: *Provided*, That tax liability under this title shall arise only as to that use as defined hereunder which first occurs within this state and no further tax shall be imposed under this title upon the same person with respect to any other subsequent use of the same article;

(c) The word "taxpayer" and the word "purchaser" as used in this title, shall include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in titles II and III of this act;

Taxpayer.
Purchaser.

(d) The word "retailer," as used in this title, shall mean 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 title;

Retailer.

(e) The meaning ascribed to words and phrases in titles I, II and III and all the provisions of titles XVIII, XIX and XX of this act, in so far as applicable, shall have full force and effect with respect to taxes imposed under the provisions of this title.

Definitions restated.

SEC. 9. Section 188, chapter 180, Laws of 1935 as last amended by section 27, chapter 225, Laws of 1939 (section 8370-188, Remington's Revised Statutes, also Pierce's Perpetual Code 962-7), is amended to read as follows:

Amendment.

Section 188. If, upon examination of any returns or from other information obtained by the Tax Commission it appears that a tax or penalty has been paid less than that properly due, the Tax Commission shall assess against the taxpayer such additional amount found to be due and shall add thereto interest at the rate of not more than six per cent (6%) per annum from the respective due dates of such additional amount until date of such assessment.

Assessments of additional tax due.

Notice of
additional
tax due.

The Tax Commission shall notify the taxpayer by mail of such additional amount and the same shall become due and shall be paid within ten days from the date of such notice, or within such further time as the Tax Commission may provide. If payment is not received by the Tax Commission by the due date of such notice, the Tax Commission may add a penalty of ten per cent of the amount of the additional tax found due. If the Tax Commission finds that all or any part of the deficiency resulted from an intent to evade the tax payable hereunder, a further penalty of fifty per cent (50%) of the additional tax found to be due may be added.

Penalty.

Tax paid
in excess
of amount
due.

If, upon examination of any returns or from other information obtained by the Tax Commission it appears that a tax has been paid in excess of that properly due, the Tax Commission shall notify the taxpayer by mail and the amount of such excess shall be credited against any tax or installment thereof then due or to become due from the taxpayer under any other subsequent return for the same year, and any balance of such excess at the end of such tax year, or upon the filing of a final return upon ceasing business, shall be refunded on request of the taxpayer 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.

Credit.

Amend-
ment.

SEC. 10. Section 211, chapter 180, Laws of 1935, as last amended by section 12A, chapter 156, Laws of 1943 (section 8370-211, Remington's Revised Statutes, also Pierce's Perpetual Code 972-1), is amended to read as follows:

Tax
deposited
in General
Fund.

Section 211. The State Treasurer, upon receipt of any payments of tax, penalty, interest or fees collected under the provisions of this act and of the several titles hereof shall deposit the same to the credit of the state General Fund.

SEC. 11. This act is necessary for the support of the state government and its existing institutions, and shall take effect on May 1, 1945. Effective
May 1, 1945.

Passed the House March 8, 1945.

Passed the Senate March 7, 1945.

Approved by the Governor March 16, 1945, with the exception of subsection (k) of Section 6, which is vetoed.

CHAPTER 250.

[S. B. 118.]

HIGHWAYS.

AN ACT relating to State highways through incorporated cities and towns; and amending section 61, chapter 187, Laws of 1937 (section 6450-61, Remington's Revised Statutes, also Pierce's Perpetual Code 604-3), to provide for expenditures of State funds on such highways; authorizing the construction of a bridge across Port Washington Narrows between Bremerton and the Manette Peninsula; making an appropriation; and declaring an emergency.

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

SECTION 1. That section 61, chapter 187, Laws of 1937 (section 6450-61, Remington's Revised Statutes, also Pierce's Perpetual Code 604-3), is amended to read as follows: Amend-
ment.

Section 61. The Director of Highways shall determine what city streets, if any, in any such incorporated cities and towns shall form a part of the route of any primary or secondary state highway through such incorporated cities and towns, and, between the first and fifteenth days of April of each year, shall certify by brief description, in duplicate, one copy to the State Auditor and one copy to the clerk of each incorporated city and town, which streets, if any, in such city or town are designated as forming a part of the route of a primary or Mainte-
nance of
highways
through
cities or
towns.