

Initiative Measure**1107**

Proposed by initiative petition:

Initiative Measure No. 1107 concerns reversing certain 2010 amendments to state tax laws.

This measure would end sales tax on candy; end temporary sales tax on some bottled water; end temporary excise taxes on carbonated beverages; and reduce tax rates for certain food processors.

Should this measure be enacted into law?

Yes

No

The Official Ballot Title and the Explanatory Statement were written by the Attorney General as required by law. The Fiscal Impact Statement was written by the Office of Financial Management as required by law. The Secretary of State is not responsible for the content of arguments or statements (WAC 434-381-180). The complete text of Initiative Measure 1107 begins on page 89.

Explanatory Statement

Written by the Office of the Attorney General

The Law as it Presently Exists

Taxes imposed by the state of Washington include a retail sales tax, a temporary excise tax on the sale of some carbonated beverages, and a business and occupation (B&O) tax on the privilege of engaging in various business activities in the state. Each of these taxes produces revenue that is deposited into the state

general fund for the general support of programs of state government.

The sales tax is imposed on retail sales in the state. Sales of some products are exempt from the sales tax, including the sale of food and food ingredients. Until 2010, food and food ingredients included candy and bottled water. Consequently, candy and bottled water were exempt from the sales tax.

In 2010, the legislature amended the law to remove candy from the sales tax exemption for food and food ingredients. Candy became subject to the sales tax effective June 1, 2010. Candy is defined as a preparation of sugar, honey, or other sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include products that contain flour or require refrigeration.

In 2010, the legislature amended the law to remove bottled water from the sales tax exemption for food and food ingredients. Bottled water became subject to the sales tax effective June 1, 2010, and ending July 1, 2013. In 2010, the legislature also enacted a statutory amendment that the sales tax would continue to apply to bottled water after July 1, 2013, if the voters approve Referendum 52 at the November 2010 general election. Bottled water is water sold in sealed containers for human consumption. Bottled water sold for medical purposes or to people who do not otherwise have a readily available source of clean water remains exempt from sales tax.

In 2010, the legislature enacted an excise tax on the sale of certain carbonated beverages sold in the state. The tax took effect July 1, 2010, and expires on July 1, 2013. The carbonated beverages subject to this tax are nonalcoholic beverages that are naturally or artificially carbonated, and contain caffeine, extracts, fruit juice, herbs, sweeteners, or syrup. The tax is calculated at the rate of two cents per twelve ounces, and is applied once, either at the wholesale or retail level. The tax does not apply to the first ten million dollars of carbonated beverages sold in the state by any bottler.

The B&O tax is imposed on various business activities in the state, such as manufacturing, selling, or providing services. The rate of the tax varies, depending upon the type of activity in

which the business engages. As a general rule, businesses engaged in manufacturing pay a tax at the rate of 0.484 percent of the value of the products they manufacture. Lower rates apply to some manufacturing activities.

In 2010, the legislature amended statutes governing the B&O tax on manufacturing meat products. For perishable meat products, the amendments apply a tax rate of 0.138 percent of the value of the manufactured product. For nonperishable meat products, the amendments apply a tax rate of 0.484 percent of the value of the manufactured product.

In 2010, the legislature amended statutes governing the B&O tax on manufacturing fruit and vegetable products by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables. Under the 2010 law, an exemption from the B&O tax for manufacturing fruit and vegetable products is limited to products that contain only fruits, vegetables, or both (and certain other substances such as water, sugar, salt, seasonings, preservatives, and similar substances). The exemption does not apply to manufacturing other products that contain fruits or vegetables as ingredients, which are consequently taxed at the rate of 0.484 percent of the value of the manufactured product. Under the 2010 law, when the exemption from B&O tax on manufacturing fruit and vegetable products expires on July 1, 2012, manufacturing fruit and vegetable products containing only fruits, vegetables, or both (and certain other substances such as water, sugar, salt, seasonings, preservatives, and similar substances) will be taxed at the rate of 0.138 percent of the value of the manufactured product. Manufacturing of other products that contain fruits or vegetables as ingredients are taxed at the rate of 0.484 percent of the value of the manufactured product.

The Effect of the Proposed Measure, if Approved

The measure would repeal the 2010 law applying the sales tax to candy. The measure also would repeal the 2010 law applying the sales tax to bottled water beginning June 1, 2010, and expiring July 1, 2013, and would repeal the 2010 law providing that, if the voters approve Referendum Measure 52 at the November 2010 general election, the sales tax would continue to apply to bottled water after July 1, 2013.

The measure would repeal the 2010 law enacting a temporary excise tax on carbonated beverages.

The measure would repeal the 2010 law that limits to perishable meat products a 0.138 percent B&O tax rate relating to manufacturing meat products.

The measure would repeal the 2010 law that limits the B&O tax exemption relating to manufacturing fruit and vegetable products, to manufacturing products that contain only fruits, vegetables, or both (and certain other substances such as water, sugar, salt, seasonings, preservatives, and similar substances). The measure also would repeal the 2010 law that limits a 0.138 percent B&O tax rate on manufacturing fruit and vegetable products applicable after the exemption expires in 2012, to products that contain only fruits, vegetables, or both (and certain other substances such as water, sugar, salt, seasonings, preservatives, and similar substances).

Fiscal Impact Statement

Written by the Office of Financial Management

Fiscal Impact

Over five fiscal years, the initiative reduces State General Fund revenues by an estimated \$352 million and state performance audit revenue by an estimated \$359,000. Revenue for local jurisdictions authorized to impose a sales tax is reduced by \$83 million over five fiscal years. Taxpayer noncompliance and confusion could result in additional state and local government revenue decreases up to \$8.7 million and \$1.8 million, respectively, in fiscal year 2011. Net state costs to administer the tax revisions are \$98,200 over five fiscal years.

General Assumptions

Estimates are based on information provided by state agencies during the 2010 legislative session for Second Engrossed Substitute Senate Bill 6143 (2ESSB 6143) and updated to the June 2010 Washington State Economic and Revenue Forecast.

Estimates are described using the state's fiscal year (FY) 2012 (July 1, 2011, through June 30, 2012).

Estimates exclude approximately \$273,000 in costs already incurred to implement 2ESSB 6143.

State and Local Revenues Assumptions

State revenues are estimated to decrease by \$352 million over five fiscal years as described below. State revenues deposited in the State General Fund may be used for any government purpose such as education services; social, health and environmental services; and other general government activities. State revenues deposited in the State Performance Audit Account are used by the Washington State Auditor to conduct comprehensive performance audits required under RCW 43.09.470.

Local revenue is estimated to decrease by \$83 million over five fiscal years for local jurisdictions that are authorized to impose a sales tax. An estimated 373 local jurisdictions, such as counties, cities and transit districts, are authorized to impose a sales tax. Local sales tax revenue must be spent as allowed by state law.

State and local revenue estimates are based on the following data sources and assumptions:

The initiative is effective December 2, 2010.

Price elasticity is 0.9 for candy, gum, bottled water and carbonated beverages.

Sales tax on candy – State consumption and sales data of candy and gum are from the National Confectioners Association and the U.S. Department of Commerce.

Sales tax on bottled water – State consumption and sales data are from the 2008 Beverage Digest Fact Book. Fiscal impact ends on June 30, 2013, when the tax is scheduled to expire.

Excise tax on carbonated beverages – State consumption and sales data are from the 2008 Beverage Digest Fact Book and additional information is from industry resources. Fiscal impact ends on June 30, 2013, when the tax is scheduled to expire.

Food processors business and occupation (B&O) tax – Washington State Department of Revenue excise tax return data.

Local revenues are a statewide estimate based on the assumption of a statewide average local tax rate of 2.392 percent. (See page 41, Figure 5.1.)

See page 41, Figures 5.2 and 5.3 for total State General Fund and local government revenue impacts by tax type. Revenues are adjusted to reflect the effect of price elasticity on carbonated beverages if the excise tax is eliminated.

Carbonated beverage consumption is assumed to increase, resulting in increased estimated state and local government retail sales tax, and state B&O tax collections.

Initiatives take effect 30 days after the General Election, which is December 2, 2010. Based on the state's experience with the repeal of the Motor Vehicle Excise Tax, it is noted that many taxpayers assume taxes are repealed when election results are announced. Therefore, approval of the initiative could increase non-compliance with payment of tax, which would result in further decreased revenue to the state and to local governments. One month of state and local government tax receipts, representing taxable activity from November 2, 2010, to December 2, 2010, is estimated to be \$8.7 million and \$1.8 million, respectively, assuming a 100 percent non-compliance rate.

State and Local Cost Estimate Assumptions

An estimated 207,700 businesses are affected by the tax revisions. The Washington State Department of Revenue will incur one-time costs during FY 2011 in the amount of \$204,600 to notify businesses of the repealed taxes. Thereafter, costs to implement the taxes are netted against costs avoided from repealing the taxes. This results in net savings during FYs 2013–2015, as shown on page 41, Figure 5.4.

Because the Washington State Department of Revenue administers and collects local sales tax, no costs or cost savings are assumed for local governments.

Figure 5.1 Total State and Local Revenues

| Fiscal Year | 2011 | 2012 | 2013 | 2014 | 2015 |
|---------------------------------------|----------------|-----------------|-----------------|----------------|----------------|
| Total State General Fund | (\$54,779,000) | (\$107,825,000) | (\$109,743,000) | (\$42,676,000) | (\$36,943,000) |
| Total State Performance Audit Account | (\$47,000) | (\$100,000) | (\$104,000) | (\$56,000) | (\$52,000) |
| Total Local Revenue | (\$10,662,000) | (\$23,369,000) | (\$24,136,000) | (\$12,887,000) | (\$11,946,000) |

Figure 5.2 General Fund Revenue by Tax Type – STATE

| Fiscal Year | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|----------------|-----------------|-----------------|----------------|----------------|
| Sales Tax on Candy | (\$15,191,000) | (\$31,250,000) | (\$31,686,000) | (\$32,114,000) | (\$32,530,000) |
| Sales Tax on Bottled Water | (\$16,083,000) | (\$33,768,000) | (\$35,355,000) | (\$3,086,000) | \$0 |
| Excise Tax on Carbonated Beverages | (\$23,064,000) | (\$41,449,000) | (\$41,200,000) | (\$3,413,000) | \$0 |
| Food Processors B&O Tax | (\$1,932,000) | (\$4,028,000) | (\$4,165,000) | (\$4,284,000) | (\$4,413,000) |
| Revenue Adjustment – Carbonated Beverage Price Elasticity | \$1,491,000 | \$2,670,000 | \$2,663,000 | \$221,000 | \$0 |
| Total State General Fund Revenue Impact | (\$54,779,000) | (\$107,825,000) | (\$109,743,000) | (\$42,676,000) | (\$36,943,000) |

Figure 5.3 Revenue by Tax Type – LOCAL

| Fiscal Year | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|----------------|----------------|----------------|----------------|----------------|
| Sales Tax on Candy | (\$5,579,000) | (\$11,476,000) | (\$11,636,000) | (\$11,793,000) | (\$11,946,000) |
| Sales Tax on Bottled Water | (\$5,593,000) | (\$12,810,000) | (\$13,412,000) | (\$1,170,000) | \$0 |
| Revenue Adjustment – Carbonated Beverage Price Elasticity | \$510,000 | \$917,000 | \$912,000 | \$76,000 | \$0 |
| Total Local Revenue Impact | (\$10,662,000) | (\$23,369,000) | (\$24,136,000) | (\$12,887,000) | (\$11,946,000) |

Figure 5.4

| Fiscal Year | 2011 | 2012 | 2013 | 2014 | 2015 |
|-----------------------|-----------|----------|------------|------------|------------|
| Department of Revenue | \$204,600 | \$10,300 | (\$71,900) | (\$22,100) | (\$22,100) |

Argument For Initiative Measure 1107

Yes on 1107 Ends the Costly, Arbitrary Taxes the Legislature Imposed on Food and Beverages.

In the last hours of the recent special session, the Legislature imposed new and higher taxes on thousands of food and beverage products.

These taxes on bottled water, soda, candy and processed foods containing meat, fruits and vegetables will cost Washington consumers and businesses more than \$300 million over the next three years.

That hurts Washington food producers, bottlers, grocers and consumers – especially middle and lower income families and seniors, who can least afford higher grocery bills.

Furthermore, none of these taxes are dedicated to anything. They all go into the general fund for the politicians to spend however they want.

The Politicians' Tax Scheme Makes No Sense.

The Legislature imposed taxes on hundreds of candy products, and even some health food products like energy bars, but exempted hundreds of other candy products.

Moreover, the politicians increased taxes on processed food products made by local Washington food companies, but not on similar products made by their competitors in other states or countries. That puts locally-made food products at a competitive disadvantage.

Vote Yes on 1107 – Stop Taxes on Groceries!

Yes on 1107 ends the politicians' costly, unfair new tax scheme and tells them to do more to cut government spending instead of taxing food and beverage products.

Yes on 1107 is supported by a coalition of tens of thousands of Washington taxpayers, farmers, food processors and small grocery store owners.

Rebuttal of Argument Against

Arguments against 1107 are false and misleading. The legislature imposed new taxes on thousands of grocery items – including water, processed foods with meat, fruit and vegetables and even some organic foods. These taxes are not dedicated to education or anything else. They all go to the general fund. They're all ultimately paid by you, the consumer – not by out-of-state companies. Taxing food and beverages is wrong. Vote yes on 1107. Stop grocery taxes.

Argument Prepared by

Ed & Roxanne Husmann, Farmers, Ed's Apples, Sultan; **Marc Wallace**, Grocery Store Manager, Baker's Corner Store, Longview; **James Connelly**, Owner, Lodi Water Company, Chewelah; **Tim Martin**, President, Harbor Pacific Bottling, Elma; **Pierson Clair**, President, Brown & Haley, Makers of Almond Roca; **Terri Jean Racy**, Grocery Store Owner, Aeneas Valley General Store, Tonasket.

Contact: (800) 856-6851; info@StopGroceryTaxes.com; www.StopGroceryTaxes.com

Argument Against Initiative Measure 1107

Reject 1107: Harms schools and kids

1107 strips \$300 million that funds schools, kids' health and other basic services by eliminating small, mostly temporary taxes on non-essential items like gum, soda and candy. With communities across Washington still reeling from the recession, 1107 would dig the hole deeper, creating additional burdens for families and threatening Washington's economic recovery.

American Beverage Association Misleading Voters

Out-of-state soda manufacturers have written and funded 1107 to line their own pockets. The beverage lobby is spending millions misleading voters – don't be fooled. Contrary to their claims, there is no "food tax" in Washington. This initiative concerns non-essential items, not groceries.

The wrong approach in these tough times

The taxes on candy and soda were a part of a balanced solution to the economic crisis, which included \$4 in cuts for every \$1 in new revenue. Repealing them now will mean even deeper cuts. Across the country, states are taking the same, balanced approach as we did because it is the responsible thing to do.

Epidemic of childhood obesity costing taxpayers

Sugar sweetened sodas and candy have zero nutritional value and contribute to an epidemic of childhood obesity and diabetes – with taxpayers footing the bill. It makes sense that highly profitable soda companies pay a small amount to help cover some of the health costs their products create.

Don't let the American Beverage Association buy a special tax break for themselves while harming Washington families. Vote *no* on 1107.

Rebuttal of Argument For

Look behind the curtain: the national soda lobby is financing 1107. The American Beverage Association is providing 99.9 percent of the funding – more than \$10 million dollars! They don't care about Washington families, just their own profits. Don't let them buy this election with their deceptive campaign. This is about non-essentials, not groceries. A couple pennies more for a can of soda is worth it to preserve schools and health care. Vote no.

Argument Prepared by

Nyda Galbreath, First grade teacher, Board member, Washington Education Association; **Dr. Jeffrey Smith**, Medical Director, Community Health Care, Pierce County; **Laura Hitchcock**, Executive Director, Washington State Public Health Association; **Doug Shadel**, President, AARP of Washington; **Tara Lerew**, Registered Nurse; **Paola Maranan**, Executive Director, Children's Alliance.

Contact: info@VoteNo1107.com

Complete Text

Initiative Measure 1107

AN ACT Relating to repealing tax increases on certain processed foods, bottled water, candy, and carbonated beverages enacted by the 2010 legislature; amending RCW 82.04.4266, 82.04.260, 82.04.298, 82.04.440, 82.08.0293, 82.08.0293, 82.12.0293, and 82.12.0293; creating new sections; repealing RCW 82.04.---, 82.08.---, 82.12.---, 82.08.---, 82.12.---, 82.04.---, and 82.--- through 82.---; and providing a contingent effective date.

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

PART I INTENT

NEW SECTION. Sec. 101. The people of the state of Washington in enacting this initiative measure find:

(1) The 2010 legislature adopted legislation that imposed new or higher taxes on many common food and beverage products, increasing the tax burden on Washington consumers and businesses by hundreds of millions of dollars;

(2) Taxes on food and beverages hurt all Washington consumers, and especially hurt lower and middle income taxpayers who can least afford it;

(3) The legislature's tax increases on food and beverages come at a time when Washington residents and businesses already face an economic crisis;

(4) The process the legislature used to increase taxes on food and beverages did not provide adequate public input on or scrutiny of the proposed tax increases;

(5) Washington residents already pay among the highest sales taxes in the country;

(6) The legislature's tax increases on food and beverages hurt Washington food and beverage producers and retail businesses by making their products more costly and less competitive;

(7) The legislature's tax increases on food and beverages will hurt Washington's economy and cause the loss of many local jobs; and

(8) The legislature's tax increases on food and beverages arbitrarily and unfairly impose higher taxes on some food and beverage products but not on others that are similar or essentially the same.

For these reasons, the people repeal the food and beverage taxes imposed by the 2010 legislature.

PART II REPEAL OF TAX INCREASES ON FOODS MADE FROM CERTAIN AGRICULTURAL PRODUCTS

NEW SECTION. Sec. 201. RCW 82.04.--- and 2010 1st sp.s. c 23 s 502 are each repealed.

Sec. 202. RCW 82.04.4266 and 2010 1st sp.s. c 23 s 504 are each amended to read as follows:

(1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing fruits or vegetables (~~products~~) by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables; or

(b) Selling at wholesale fruits or vegetables (~~products~~) manufactured by the seller by canning, preserving, freezing,

processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2)((a) "Fruit or vegetable products" means:

—(i) Products comprised exclusively of fruits, vegetables, or both; and

—(ii) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

—(b) "Fruit or vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed.

—(3)) A person claiming the exemption provided in this section must file a complete annual survey with the department under RCW 82.32.--- (section 102, chapter 114 (SHB 3066), Laws of 2010).

((4)) (3) This section expires July 1, 2012.

Sec. 203. RCW 82.04.260 and 2010 1st sp.s. c 23 s 506 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2012, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c) Beginning July 1, 2012, dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(d)((f)) Beginning July 1, 2012, fruits or vegetables

~~((products))~~ by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables ~~((products))~~ manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

~~((iii))~~ For purposes of this subsection, "fruit or vegetable products" means:

~~—(A) Products comprised exclusively of fruits, vegetables, or both; or~~

~~—(B) Products comprised of fruits, vegetables, or both, and which may also contain water, sugar, salt, seasonings, preservatives, binders, stabilizers, flavorings, yeast, and similar substances. However, the amount of all ingredients contained in the product, other than fruits, vegetables, and water, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume;~~

~~—(iii) "Fruit and vegetable products" includes only products that are intended for human consumption as food or animal consumption as feed;))~~

(e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

(f) Wood biomass fuel as defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business is equal to the value of wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) 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 is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((5))~~ (6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel

and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

~~((6))~~ (7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

~~((7a))~~ (8) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business is equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

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

~~((8))~~ (9) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is equal to the gross income of such business multiplied by the rate of 0.484 percent.

~~((9))~~ (10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

~~((10))~~ (11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007; and

(ii) 0.2904 percent beginning July 1, 2007.

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection ~~((10))~~ (11) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of 0.2904 percent.

(c) For the purposes of this subsection ~~((10))~~ (11), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection ~~((10))~~ (11) must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter 114 (SHB 3066), Laws of 2010).

(e) This subsection ~~((10))~~ (11) does not apply on and after July 1, 2024.

~~((11))~~ (12)(a) Until July 1, 2024, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(b) Until July 1, 2024, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products or wood products; or (ii) timber products into other timber products or wood products; as to such persons the amount of the tax with respect to the business is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(c) Until July 1, 2024, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; or (iii) wood products manufactured by that person from timber or

timber products; as to such persons the amount of the tax with respect to the business is equal to the gross proceeds of sales of the timber, timber products, or wood products multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2024.

(d) Until July 1, 2024, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection ~~((11))~~ (12)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection ~~((11))~~ (12)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection ~~((11))~~ (12) must file a complete annual survey with the

department under RCW 82.32.--- (section 102, chapter 114 (SHB 3066), Laws of 2010).

~~((12))~~ (13) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

~~((13))~~ (14)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.2904 percent.

(b) A person reporting under the tax rate provided in this subsection ~~((13))~~ (14) must file a complete annual report with the department under RCW 82.32.--- (section 103, chapter 114 (SHB 3066), Laws of 2010).

Sec. 204. RCW 82.04.298 and 2010 1st sp.s. c 23 s 511 are each amended to read as follows:

(1) The amount of tax with respect to a qualified grocery distribution cooperative's sales of groceries or related goods for resale, excluding items subject to tax under RCW ~~((82.04.---(section 502 of this act)))~~ 82.04.260(4), to customer-owners of the grocery distribution cooperative is equal to the gross proceeds of sales of the grocery distribution cooperative multiplied by the rate of one and one-half percent.

(2) A qualified grocery distribution cooperative is allowed a deduction from the gross proceeds of sales of groceries or related goods for resale, excluding items subject to tax under RCW ~~((82.04.---(section 502 of this act)))~~ 82.04.260(4), to customer-owners of the grocery distribution cooperative that is equal to the portion of the gross proceeds of sales for resale that represents the actual cost of the merchandise sold by the grocery distribution cooperative to customer-owners.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Grocery distribution cooperative" means an entity that sells groceries and related items to customer-owners of the grocery distribution cooperative and has customer-owners, in the aggregate, who own a majority of the outstanding ownership interests of the grocery distribution cooperative or of the entity controlling the grocery distribution cooperative. "Grocery distribution cooperative" includes an entity that controls a grocery distribution cooperative.

(b) "Qualified grocery distribution cooperative" means:

(i) A grocery distribution cooperative that has been determined by a court of record of the state of Washington to be not engaged in wholesaling or making sales at wholesale, within the meaning of RCW 82.04.270 or any similar provision of a municipal ordinance that imposes a tax on gross receipts, gross proceeds of sales, or gross income, with respect to purchases made by customer-owners, and subsequently changes its form of doing business to make sales at wholesale of groceries or related items to its customer-owners; or

(ii) A grocery distribution cooperative that has acquired substantially all of the assets of a grocery distribution cooperative described in (b)(i) of this subsection.

(c) "Customer-owner" means a person who has an ownership interest in a grocery distribution cooperative and purchases groceries and related items at wholesale from that grocery distribution cooperative.

(d) "Controlling" means holding fifty percent or more of the voting interests of an entity and having at least equal power to

direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract, or otherwise.

Sec. 205. RCW 82.04.440 and 2010 1st sp.s. c 23 s 513 are each amended to read as follows:

(1) Every person engaged in activities that are subject to tax under two or more provisions of RCW 82.04.230 through 82.04.298, inclusive, is taxable under each provision applicable to those activities.

(2) Persons taxable under RCW 82.04.2909(2), 82.04.250, 82.04.270, 82.04.294(2), or 82.04.260 (1)(b), (c), or (d), ~~((10), or)~~ (4), (11), or ~~((section 502(2) of this act))~~ (12) with respect to selling products in this state, including those persons who are also taxable under RCW 82.04.261, are allowed a credit against those taxes for any (a) manufacturing taxes paid with respect to the manufacturing of products so sold in this state, and/ or (b) extracting taxes paid with respect to the extracting of products so sold in this state or ingredients of products so sold in this state. Extracting taxes taken as credit under subsection (3) of this section may also be taken under this subsection, if otherwise allowable under this subsection. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the sale of those products.

(3) Persons taxable as manufacturers under RCW 82.04.240 or 82.04.260 (1)(b) or ~~((11))~~ (12), including those persons who are also taxable under RCW 82.04.261, are allowed a credit against those taxes for any extracting taxes paid with respect to extracting the ingredients of the products so manufactured in this state. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the manufacturing of those products.

(4) Persons taxable under RCW 82.04.230, 82.04.240, 82.04.2909(1), 82.04.294(1), 82.04.2404, or 82.04.260 (1), (2), ~~((10), or)~~ (4), (11), or ~~((section 502(1) of this act))~~ (12), including those persons who are also taxable under RCW 82.04.261, with respect to extracting or manufacturing products in this state are allowed a credit against those taxes for any (i) gross receipts taxes paid to another state with respect to the sales of the products so extracted or manufactured in this state, (ii) manufacturing taxes paid with respect to the manufacturing of products using ingredients so extracted in this state, or (iii) manufacturing taxes paid with respect to manufacturing activities completed in another state for products so manufactured in this state. The amount of the credit may not exceed the tax liability arising under this chapter with respect to the extraction or manufacturing of those products.

(5) For the purpose of this section:

(a) "Gross receipts tax" means a tax:

(i) Which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which the deductions allowed would not constitute the tax an income tax or value added tax; and

(ii) Which is also not, pursuant to law or custom, separately stated from the sales price.

(b) "State" means (i) the state of Washington, (ii) a state of the United States other than Washington, or any political subdivision of such other state, (iii) the District of Columbia, and (iv) any foreign country or political subdivision thereof.

(c) "Manufacturing tax" means a gross receipts tax imposed on the act or privilege of engaging in business as a manufacturer, and includes (i) the taxes imposed in RCW 82.04.240, 82.04.2404, 82.04.2909(1), 82.04.260(1), (2), ~~((10),~~

and)) (4), (11), ((section 502(1) of this act)) and (12), and 82.04.294(1); (ii) the tax imposed under RCW 82.04.261 on persons who are engaged in business as a manufacturer; and (iii) similar gross receipts taxes paid to other states.

(d) "Extracting tax" means a gross receipts tax imposed on the act or privilege of engaging in business as an extractor, and includes (i) the tax imposed on extractors in RCW 82.04.230 and 82.04.260(((41))) (12); (ii) the tax imposed under RCW 82.04.261 on persons who are engaged in business as an extractor; and (iii) similar gross receipts taxes paid to other states.

(e) "Business," "manufacturer," "extractor," and other terms used in this section have the meanings given in RCW 82.04.020 through 82.04.212, notwithstanding the use of those terms in the context of describing taxes imposed by other states.

PART III REPEAL OF TAX INCREASES ON BOTTLED WATER AND CANDY

Sec. 301. RCW 82.08.0293 and 2010 1st sp.s. c 23 s 902 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(2) ~~((Until July 1, 2013,))~~ The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, ~~((bottled water, candy,))~~ or dietary supplements. ~~((Beginning July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, candy, or dietary supplements.))~~ For purposes of this subsection, the following definitions apply:

(a) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(b)(i) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Food sold with eating utensils provided by the seller,

including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(I) Food that is only cut, repackaged, or pasteurized by the seller; or

(II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(ii) "Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system--United States, 2002";

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

~~((d) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation containing flour and does not require refrigeration.))~~

~~((e) "Bottled water" means water that is placed in a sealed container or package for human consumption. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) antimicrobial agents; (ii) fluoride; (iii) carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.))~~

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the

spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under 42 U.S.C. Sec. 1485; and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

(b) For soft drinks and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.

(c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

Sec. 302. RCW 82.08.0293 and 2010 1st sp.s. c 35 s 305 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:

(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, (~~bottled water, candy,~~) or dietary supplements. For purposes of this subsection, the following definitions apply:

(a) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement,

identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(b)(i) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

(C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

(I) Food that is only cut, repackaged, or pasteurized by the seller; or

(II) Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

(ii) "Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

(A) Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system--United States, 2002";

(B) Food sold in an unheated state by weight or volume as a single item; or

(C) Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

~~((d) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. "Candy" does not include any preparation containing flour and does not require refrigeration.~~

~~(e) "Bottled water" means water that is placed in a sealed container or package for human consumption. Bottled water is calorie free and does not contain sweeteners or other additives except that it may contain: (i) Antimicrobial agents; (ii) fluoride; (iii) carbonate; (iv) vitamins, minerals, and electrolytes; (v) oxygen; (vi) preservatives; and (vii) only those flavors, extracts, or essences derived from a spice or fruit. "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.)~~

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age

or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

- (i) That meets the definition of a qualified low-income housing project under 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;
 - (ii) That has been partially funded under 42 U.S.C. Sec. 1485; and
 - (iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42 of the federal internal revenue code.
- (4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine. Except as provided in (b) of this subsection, the selling price of food and food ingredients sold through a vending machine for purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.
- (b) For soft drinks and hot prepared food and food ingredients, other than food and food ingredients which are heated after they have been dispensed from the vending machine, the selling price is the total gross receipts of such sales divided by the sum of one plus the sales tax rate expressed as a decimal.
- (c) For tax collected under this subsection (4), the requirements that the tax be collected from the buyer and that the amount of tax be stated as a separate item are waived.

Sec. 303. RCW 82.12.0293 and 2010 1st sp.s. c 23 s 903 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of food and food ingredients for human consumption. "Food and food ingredients" has the same meaning as in RCW 82.08.0293.

(2) ~~((Until July 1, 2013,))~~ The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, ~~((bottled water, candy,))~~ or dietary supplements. ~~((Beginning July 1, 2013, the exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, candy, or dietary supplements.))~~ "Prepared food," "soft drinks," and "dietary supplements(-)" ~~((="candy," and "bottled water"'))~~ have the same meanings as in RCW 82.08.0293.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section ~~((apply))~~ applies to food and food ingredients which are furnished, prepared, or served as meals:

- (a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);
- (b) Which are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or
- (c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age

requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" has the same meaning as in RCW 82.08.0293.

Sec. 304. RCW 82.12.0293 and 2010 1st sp.s. c 35 s 306 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of food and food ingredients for human consumption. "Food and food ingredients" has the same meaning as in RCW 82.08.0293.

(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section does not apply to prepared food, soft drinks, ~~((bottled water, candy,))~~ or dietary supplements. "Prepared food," "soft drinks," and "dietary supplements(-)" ~~((="candy," and "bottled water"'))~~ have the same meanings as in RCW 82.08.0293.

(3) Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients which are furnished, prepared, or served as meals:

- (a) Under a state administered nutrition program for the aged as provided for in the older Americans act (P.L. 95-478 Title III) and RCW 74.38.040(6);
- (b) Which are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or
- (c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" has the same meaning as in RCW 82.08.0293.

NEW SECTION. Sec. 305. The following acts or parts of acts are each repealed:

- (1) RCW 82.08.--- and 2010 1st sp.s c 23 s 904;
- (2) RCW 82.12.--- and 2010 1st sp.s c 23 s 905;
- (3) RCW 82.08.--- and 2010 1st sp.s c 23 s 906;
- (4) RCW 82.12.--- and 2010 1st sp.s c 23 s 907; and
- (5) RCW 82.04.--- and 2010 1st sp.s c 23 s 908.

PART IV REPEAL OF TAX INCREASE ON CARBONATED BEVERAGES

NEW SECTION. Sec. 401. RCW 82.--- through 82.--- and 2010 1st sp.s c 23 ss 1401 through 1406 are each repealed.

PART V MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 501. The provisions of this act are to be construed liberally so as to effectuate its intent.

NEW SECTION. Sec. 502. 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. 503. Sections 302 and 304 of this act take effect on the date that chapter 35, sections 305 and 306, Laws of 2010 (Engrossed House Bill No. 2561) take effect.

-- END --