

SB 5309 - S AMD 151
By Senator Lovelett

ADOPTED 03/02/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 82.16.010 and 2015 3rd sp.s. c 6 s 702 are each
4 amended to read as follows:

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

7 (1) "Crude oil" has the same meaning as provided in RCW
8 82.23B.010.

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

13 ~~((2))~~ (3) "Gas distribution business" means the business of
14 operating a plant or system for the production or distribution for
15 hire or sale of gas, whether manufactured or natural.

16 ~~((3))~~ (4) "Gross income" means the value proceeding or accruing
17 from the performance of the particular public service or
18 transportation business involved, including operations incidental
19 thereto, but without any deduction on account of the cost of the
20 commodity furnished or sold, the cost of materials used, labor costs,
21 interest, discount, delivery costs, taxes, or any other expense
22 whatsoever paid or accrued and without any deduction on account of
23 losses.

24 ~~((4))~~ (5) "Light and power business" means the business of
25 operating a plant or system for the generation, production or
26 distribution of electrical energy for hire or sale and/or for the
27 wheeling of electricity for others.

28 ~~((5))~~ (6) "Log transportation business" means the business of
29 transporting logs by truck, except when such transportation meets the
30 definition of urban transportation business or occurs exclusively
31 upon private roads.

1 (~~(6)~~) (7) "Motor transportation business" means the business
2 (except urban transportation business) of operating any motor
3 propelled vehicle by which persons or property of others are conveyed
4 for hire, and includes, but is not limited to, the operation of any
5 motor propelled vehicle as an auto transportation company (except
6 urban transportation business), common carrier, or contract carrier
7 as defined by RCW 81.68.010 and 81.80.010. However, "motor
8 transportation business" does not mean or include: (a) A log
9 transportation business; or (b) the transportation of logs or other
10 forest products exclusively upon private roads or private highways.

11 (~~(7)~~) (8) "Packaged for sale to ultimate consumers" means
12 petroleum products that are prepared and packaged for sale at usual
13 and ordinary retail outlets. The term includes containerized motor
14 oil, lubricants, and aerosol solvents.

15 (9) "Petroleum products" has the same meaning as provided in RCW
16 82.21.020.

17 (10) (a) "Public service business" means any of the businesses
18 defined in subsections (~~(1)~~) (2), (~~(4), (6)~~) (3), (5), (7),
19 (~~(8), (9), (10)~~) (11), (12), (13), (15), and (~~(13)~~) (16) of this
20 section or any business subject to control by the state, or having
21 the powers of eminent domain and the duties incident thereto, or any
22 business hereafter declared by the legislature to be of a public
23 service nature, except telephone business and low-level radioactive
24 waste site operating companies as redefined in RCW 81.04.010. It
25 includes, among others, without limiting the scope hereof: Airplane
26 transportation, boom, dock, ferry, pipe line, toll bridge, toll
27 logging road, water transportation and wharf businesses.

28 (b) The definitions in this subsection (~~(7)~~) (10) (b) apply
29 throughout this subsection (~~(7)~~) (10).

30 (i) "Competitive telephone service" has the same meaning as in
31 RCW 82.04.065.

32 (ii) "Network telephone service" means the providing by any
33 person of access to a telephone network, telephone network switching
34 service, toll service, or coin telephone services, or the providing
35 of telephonic, video, data, or similar communication or transmission
36 for hire, via a telephone network, toll line or channel, cable,
37 microwave, or similar communication or transmission system. "Network
38 telephone service" includes the provision of transmission to and from
39 the site of an internet provider via a telephone network, toll line
40 or channel, cable, microwave, or similar communication or

1 transmission system. "Network telephone service" does not include the
2 providing of competitive telephone service, the providing of cable
3 television service, the providing of broadcast services by radio or
4 television stations, nor the provision of internet access as defined
5 in RCW 82.04.297, including the reception of dial-in connection,
6 provided at the site of the internet service provider.

7 (iii) "Telephone business" means the business of providing
8 network telephone service. It includes cooperative or farmer line
9 telephone companies or associations operating an exchange.

10 (iv) "Telephone service" means competitive telephone service or
11 network telephone service, or both, as defined in (b)(i) and (ii) of
12 this subsection.

13 (~~(8)~~) (11) "Railroad business" means the business of operating
14 any railroad, by whatever power operated, for public use in the
15 conveyance of persons or property for hire. It shall not, however,
16 include any business herein defined as an urban transportation
17 business.

18 (~~(9)~~) (12) "Railroad car business" means the business of
19 operating stock cars, furniture cars, refrigerator cars, fruit cars,
20 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,
21 tourist cars, or any other kinds of cars used for transportation of
22 property or persons upon the line of any railroad operated in this
23 state when such railroad is not owned or leased by the person
24 engaging in such business.

25 (~~(10)~~) (13) "Telegraph business" means the business of
26 affording telegraphic communication for hire.

27 (~~(11)~~) (14) "Tugboat business" means the business of operating
28 tugboats, towboats, wharf boats or similar vessels in the towing or
29 pushing of vessels, barges or rafts for hire.

30 (~~(12)~~) (15) "Urban transportation business" means the business
31 of operating any vehicle for public use in the conveyance of persons
32 or property for hire, insofar as (a) operating entirely within the
33 corporate limits of any city or town, or within five miles of the
34 corporate limits thereof, or (b) operating entirely within and
35 between cities and towns whose corporate limits are not more than
36 five miles apart or within five miles of the corporate limits of
37 either thereof. Included herein, but without limiting the scope
38 hereof, is the business of operating passenger vehicles of every type
39 and also the business of operating cartage, pickup, or delivery
40 services, including in such services the collection and distribution

1 of property arriving from or destined to a point within or without
2 the state, whether or not such collection or distribution be made by
3 the person performing a local or interstate line-haul of such
4 property.

5 ~~((13))~~ (16) "Water distribution business" means the business of
6 operating a plant or system for the distribution of water for hire or
7 sale.

8 ~~((14))~~ (17) The meaning attributed, in chapter 82.04 RCW, to
9 the term "tax year," "person," "value proceeding or accruing,"
10 "business," "engaging in business," "in this state," "within this
11 state," "cash discount" and "successor" shall apply equally in the
12 provisions of this chapter.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.16
14 RCW to read as follows:

15 (1) RCW 82.16.050 does not apply to amounts derived from the
16 transportation of either petroleum products or crude oil, or both,
17 which are not packaged for sale to ultimate consumers and such
18 products, crude oil, or both are transported wholly within this
19 state, between states, or between a state and a foreign country.

20 (2) For the purposes of this section, "state" means a state of
21 the United States, the District of Columbia, the Commonwealth of
22 Puerto Rico, and any territory or possession of the United States.

23 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.16
24 RCW to read as follows:

25 (1) Persons engaging both within and without this state in the
26 business of transporting petroleum products, crude oil, or both, must
27 apportion gross income as provided in this section.

28 (2) (a) Except as otherwise provided in this section, gross income
29 must be apportioned to this state based on the ratio that revenue
30 miles of the person in this state during the tax period bear to the
31 revenue miles of the person everywhere during the tax period.

32 (b) Gross income includes only the amount for transporting either
33 petroleum products or crude oil, or both, which are not packaged for
34 sale to ultimate consumers and does not include gross income derived
35 from transporting any other property or passengers.

36 (3) For persons that transport petroleum products or crude oil by
37 pipeline, gross income must be apportioned to this state based on the
38 ratio that the total number of traffic units in this state during the

1 tax period bear to the total number of traffic units everywhere
2 during the tax period.

3 (4) For purposes of this section, the following definitions
4 apply:

5 (a) "One unit" means one barrel, as defined in RCW 82.23B.010,
6 one gallon, one net ton, or other appropriate measure of product.

7 (b) "Revenue mile" means the transportation of one unit of
8 taxable petroleum product or crude oil for the distance of one mile.

9 (c) "Traffic unit" means the movement of one unit of taxable
10 petroleum product or crude oil for a distance of one mile.

11 NEW SECTION. **Sec. 4.** This act applies to amounts received on or
12 after October 1, 2023."

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13 On page 1, line 3 of the title, after "oil;" strike the remainder
14 of the title and insert "amending RCW 82.16.010; adding new sections
15 to chapter 82.16 RCW; and creating a new section."

EFFECT: Broadens language by specifying that various public utility tax deductions do not apply to the in-state portion of the interstate transport of either petroleum products or crude oil, or both. Provides an apportionment methodology. Provides definitions and makes other technical clarifications.

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