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HOUSE BILL 2104

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State of Washington

67th Legislature

2022 Regular Session

By Representative Kirby

1 AN ACT Relating to the auction of abandoned vehicles and payment  
2 of sales tax; amending RCW 82.04.040; amending 2019 c 357 s 3  
3 (uncodified); reenacting and amending RCW 82.04.050; and providing  
4 expiration dates.

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

6 **Sec. 1.** RCW 82.04.050 and 2021 c 296 s 8 and 2021 c 143 s 2 are  
7 each reenacted and amended to read as follows:

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

15 (i) Purchases for the purpose of resale as tangible personal  
16 property in the regular course of business without intervening use by  
17 such person, but a purchase for the purpose of resale by a regional  
18 transit authority under RCW 81.112.300 is not a sale for resale; or

19 (ii) Installs, repairs, cleans, alters, imprints, improves,  
20 constructs, or decorates real or personal property of or for  
21 consumers, if such tangible personal property becomes an ingredient

1 or component of such real or personal property without intervening  
2 use by such person; or

3 (iii) Purchases for the purpose of consuming the property  
4 purchased in producing for sale as a new article of tangible personal  
5 property or substance, of which such property becomes an ingredient  
6 or component or is a chemical used in processing, when the primary  
7 purpose of such chemical is to create a chemical reaction directly  
8 through contact with an ingredient of a new article being produced  
9 for sale; or

10 (iv) Purchases for the purpose of consuming the property  
11 purchased in producing ferrosilicon which is subsequently used in  
12 producing magnesium for sale, if the primary purpose of such property  
13 is to create a chemical reaction directly through contact with an  
14 ingredient of ferrosilicon; or

15 (v) Purchases for the purpose of providing the property to  
16 consumers as part of competitive telephone service, as defined in RCW  
17 82.04.065; or

18 (vi) Purchases for the purpose of satisfying the person's  
19 obligations under an extended warranty as defined in subsection (7)  
20 of this section, if such tangible personal property replaces or  
21 becomes an ingredient or component of property covered by the  
22 extended warranty without intervening use by such person.

23 (b) The term includes every sale of tangible personal property  
24 that is used or consumed or to be used or consumed in the performance  
25 of any activity defined as a "sale at retail" or "retail sale" even  
26 though such property is resold or used as provided in (a)(i) through  
27 (vi) of this subsection following such use.

28 (c) The term also means every sale of tangible personal property  
29 to persons engaged in any business that is taxable under RCW  
30 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

31 (2) The term "sale at retail" or "retail sale" includes the sale  
32 of or charge made for tangible personal property consumed and/or for  
33 labor and services rendered in respect to the following:

34 (a) The installing, repairing, cleaning, altering, imprinting, or  
35 improving of tangible personal property of or for consumers,  
36 including charges made for the mere use of facilities in respect  
37 thereto, but excluding charges made for the use of self-service  
38 laundry facilities, and also excluding sales of laundry service to  
39 nonprofit health care facilities, and excluding services rendered in  
40 respect to live animals, birds and insects;

1 (b) The constructing, repairing, decorating, or improving of new  
2 or existing buildings or other structures under, upon, or above real  
3 property of or for consumers, including the installing or attaching  
4 of any article of tangible personal property therein or thereto,  
5 whether or not such personal property becomes a part of the realty by  
6 virtue of installation, and also includes the sale of services or  
7 charges made for the clearing of land and the moving of earth  
8 excepting the mere leveling of land used in commercial farming or  
9 agriculture;

10 (c) The constructing, repairing, or improving of any structure  
11 upon, above, or under any real property owned by an owner who conveys  
12 the property by title, possession, or any other means to the person  
13 performing such construction, repair, or improvement for the purpose  
14 of performing such construction, repair, or improvement and the  
15 property is then reconveyed by title, possession, or any other means  
16 to the original owner;

17 (d) The cleaning, fumigating, razing, or moving of existing  
18 buildings or structures, but does not include the charge made for  
19 janitorial services; and for purposes of this section the term  
20 "janitorial services" means those cleaning and caretaking services  
21 ordinarily performed by commercial janitor service businesses  
22 including, but not limited to, wall and window washing, floor  
23 cleaning and waxing, and the cleaning in place of rugs, drapes and  
24 upholstery. The term "janitorial services" does not include painting,  
25 papering, repairing, furnace or septic tank cleaning, snow removal or  
26 sandblasting;

27 (e) Automobile towing and similar automotive transportation  
28 services, (~~but not in respect~~) except those automobile towing and  
29 similar automotive transportation and storage services paid for from  
30 the payment made by a successful buyer to a registered tow truck  
31 operator at an auction conducted pursuant to chapter 46.55 RCW and to  
32 those required to report and pay taxes under chapter 82.16 RCW;

33 (f) The furnishing of lodging and all other services by a hotel,  
34 rooming house, tourist court, motel, trailer camp, and the granting  
35 of any similar license to use real property, as distinguished from  
36 the renting or leasing of real property, and it is presumed that the  
37 occupancy of real property for a continuous period of one month or  
38 more constitutes a rental or lease of real property and not a mere  
39 license to use or enjoy the same. For the purposes of this  
40 subsection, it is presumed that the sale of and charge made for the

1 furnishing of lodging for a continuous period of one month or more to  
2 a person is a rental or lease of real property and not a mere license  
3 to enjoy the same. For the purposes of this section, it is presumed  
4 that the sale of and charge made for the furnishing of lodging  
5 offered regularly for public occupancy for periods of less than a  
6 month constitutes a license to use or enjoy the property subject to  
7 sales and use tax and not a rental or lease of property;

8 (g) The installing, repairing, altering, or improving of digital  
9 goods for consumers;

10 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)  
11 of this subsection when such sales or charges are for property, labor  
12 and services which are used or consumed in whole or in part by such  
13 persons in the performance of any activity defined as a "sale at  
14 retail" or "retail sale" even though such property, labor and  
15 services may be resold after such use or consumption. Nothing  
16 contained in this subsection may be construed to modify subsection  
17 (1) of this section and nothing contained in subsection (1) of this  
18 section may be construed to modify this subsection.

19 (3) The term "sale at retail" or "retail sale" includes the sale  
20 of or charge made for personal, business, or professional services  
21 including amounts designated as interest, rents, fees, admission, and  
22 other service emoluments however designated, received by persons  
23 engaging in the following business activities:

24 (a) Abstract, title insurance, and escrow services;

25 (b) Credit bureau services;

26 (c) Automobile parking and storage garage services;

27 (d) Landscape maintenance and horticultural services but  
28 excluding (i) horticultural services provided to farmers and (ii)  
29 pruning, trimming, repairing, removing, and clearing of trees and  
30 brush near electric transmission or distribution lines or equipment,  
31 if performed by or at the direction of an electric utility;

32 (e) Service charges associated with tickets to professional  
33 sporting events;

34 (f) The following personal services: Tanning salon services,  
35 tattoo parlor services, steam bath services, turkish bath services,  
36 escort services, and dating services; and

37 (g) (i) Operating an athletic or fitness facility, including all  
38 charges for the use of such a facility or for any associated services  
39 and amenities, except as provided in (g) (ii) of this subsection.

1 (ii) Notwithstanding anything to the contrary in (g)(i) of this  
2 subsection (3), the term "sale at retail" and "retail sale" under  
3 this subsection does not include:

4 (A) Separately stated charges for the use of an athletic or  
5 fitness facility where such use is primarily for a purpose other than  
6 engaging in or receiving instruction in a physical fitness activity;

7 (B) Separately stated charges for the use of a discrete portion  
8 of an athletic or fitness facility, other than a pool, where such  
9 discrete portion of the facility does not by itself meet the  
10 definition of "athletic or fitness facility" in this subsection;

11 (C) Separately stated charges for services, such as advertising,  
12 massage, nutritional consulting, and body composition testing, that  
13 do not require the customer to engage in physical fitness activities  
14 to receive the service. The exclusion in this subsection  
15 (3)(g)(ii)(C) does not apply to personal training services and  
16 instruction in a physical fitness activity;

17 (D) Separately stated charges for physical therapy provided by a  
18 physical therapist, as those terms are defined in RCW 18.74.010, or  
19 occupational therapy provided by an occupational therapy  
20 practitioner, as those terms are defined in RCW 18.59.020, when  
21 performed pursuant to a referral from an authorized health care  
22 practitioner or in consultation with an authorized health care  
23 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an  
24 authorized health care practitioner means a health care practitioner  
25 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.71, or 18.71A  
26 RCW, or, until July 1, 2022, chapter 18.57A RCW;

27 (E) Rent or association fees charged by a landlord or residential  
28 association to a tenant or residential owner with access to an  
29 athletic or fitness facility maintained by the landlord or  
30 residential association, unless the rent or fee varies depending on  
31 whether the tenant or owner has access to the facility;

32 (F) Services provided in the regular course of employment by an  
33 employee with access to an athletic or fitness facility maintained by  
34 the employer for use without charge by its employees or their family  
35 members;

36 (G) The provision of access to an athletic or fitness facility by  
37 an educational institution to its students and staff. However,  
38 charges made by an educational institution to its alumni or other  
39 members of the public for the use of any of the educational  
40 institution's athletic or fitness facilities are a retail sale under

1 this subsection (3)(g). For purposes of this subsection  
2 (3)(g)(ii)(G), "educational institution" has the same meaning as in  
3 RCW 82.04.170;

4 (H) Yoga, chi gong, or martial arts classes, training, or events  
5 held at a community center, park, school gymnasium, college or  
6 university, hospital or other medical facility, private residence, or  
7 any other facility that is not operated within and as part of an  
8 athletic or fitness facility.

9 (iii) Nothing in (g)(ii) of this subsection (3) may be construed  
10 to affect the taxation of sales made by the operator of an athletic  
11 or fitness facility, where such sales are defined as a retail sale  
12 under any provision of this section other than this subsection (3).

13 (iv) For the purposes of this subsection (3)(g), the following  
14 definitions apply:

15 (A) "Athletic or fitness facility" means an indoor or outdoor  
16 facility or portion of a facility that is primarily used for:  
17 Exercise classes; strength and conditioning programs; personal  
18 training services; tennis, racquetball, handball, squash, or  
19 pickleball; or other activities requiring the use of exercise or  
20 strength training equipment, such as treadmills, elliptical machines,  
21 stair climbers, stationary cycles, rowing machines, pilates  
22 equipment, balls, climbing ropes, jump ropes, and weightlifting  
23 equipment.

24 (B) "Martial arts" means any of the various systems of training  
25 for physical combat or self-defense. "Martial arts" includes, but is  
26 not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing,  
27 kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido,  
28 Kendo, tai chi, and mixed martial arts.

29 (C) "Physical fitness activities" means activities that involve  
30 physical exertion for the purpose of improving or maintaining the  
31 general fitness, strength, flexibility, conditioning, or health of  
32 the participant. "Physical fitness activities" includes participating  
33 in yoga, chi gong, or martial arts.

34 (4)(a) The term also includes the renting or leasing of tangible  
35 personal property to consumers.

36 (b) The term does not include the renting or leasing of tangible  
37 personal property where the lease or rental is for the purpose of  
38 sublease or subrent.

1 (5) The term also includes the providing of "competitive  
2 telephone service," "telecommunications service," or "ancillary  
3 services," as those terms are defined in RCW 82.04.065, to consumers.

4 (6)(a) The term also includes the sale of prewritten computer  
5 software to a consumer, regardless of the method of delivery to the  
6 end user. For purposes of (a) and (b) of this subsection, the sale of  
7 prewritten computer software includes the sale of or charge made for  
8 a key or an enabling or activation code, where the key or code is  
9 required to activate prewritten computer software and put the  
10 software into use. There is no separate sale of the key or code from  
11 the prewritten computer software, regardless of how the sale may be  
12 characterized by the vendor or by the purchaser.

13 (b) The term "retail sale" does not include the sale of or charge  
14 made for:

15 (i) Custom software; or

16 (ii) The customization of prewritten computer software.

17 (c)(i) The term also includes the charge made to consumers for  
18 the right to access and use prewritten computer software, where  
19 possession of the software is maintained by the seller or a third  
20 party, regardless of whether the charge for the service is on a per  
21 use, per user, per license, subscription, or some other basis.

22 (ii)(A) The service described in (c)(i) of this subsection (6)  
23 includes the right to access and use prewritten computer software to  
24 perform data processing.

25 (B) For purposes of this subsection (6)(c)(ii), "data processing"  
26 means the systematic performance of operations on data to extract the  
27 required information in an appropriate form or to convert the data to  
28 usable information. Data processing includes check processing, image  
29 processing, form processing, survey processing, payroll processing,  
30 claim processing, and similar activities.

31 (7) The term also includes the sale of or charge made for an  
32 extended warranty to a consumer. For purposes of this subsection,  
33 "extended warranty" means an agreement for a specified duration to  
34 perform the replacement or repair of tangible personal property at no  
35 additional charge or a reduced charge for tangible personal property,  
36 labor, or both, or to provide indemnification for the replacement or  
37 repair of tangible personal property, based on the occurrence of  
38 specified events. The term "extended warranty" does not include an  
39 agreement, otherwise meeting the definition of extended warranty in  
40 this subsection, if no separate charge is made for the agreement and

1 the value of the agreement is included in the sales price of the  
2 tangible personal property covered by the agreement. For purposes of  
3 this subsection, "sales price" has the same meaning as in RCW  
4 82.08.010.

5 (8) (a) The term also includes the following sales to consumers of  
6 digital goods, digital codes, and digital automated services:

7 (i) Sales in which the seller has granted the purchaser the right  
8 of permanent use;

9 (ii) Sales in which the seller has granted the purchaser a right  
10 of use that is less than permanent;

11 (iii) Sales in which the purchaser is not obligated to make  
12 continued payment as a condition of the sale; and

13 (iv) Sales in which the purchaser is obligated to make continued  
14 payment as a condition of the sale.

15 (b) A retail sale of digital goods, digital codes, or digital  
16 automated services under this subsection (8) includes any services  
17 provided by the seller exclusively in connection with the digital  
18 goods, digital codes, or digital automated services, whether or not a  
19 separate charge is made for such services.

20 (c) For purposes of this subsection, "permanent" means perpetual  
21 or for an indefinite or unspecified length of time. A right of  
22 permanent use is presumed to have been granted unless the agreement  
23 between the seller and the purchaser specifies or the circumstances  
24 surrounding the transaction suggest or indicate that the right to use  
25 terminates on the occurrence of a condition subsequent.

26 (9) The term also includes the charge made for providing tangible  
27 personal property along with an operator for a fixed or indeterminate  
28 period of time. A consideration of this is that the operator is  
29 necessary for the tangible personal property to perform as designed.  
30 For the purpose of this subsection (9), an operator must do more than  
31 maintain, inspect, or set up the tangible personal property.

32 (10) The term does not include the sale of or charge made for  
33 labor and services rendered in respect to the building, repairing, or  
34 improving of any street, place, road, highway, easement, right-of-  
35 way, mass public transportation terminal or parking facility, bridge,  
36 tunnel, or trestle which is owned by a municipal corporation or  
37 political subdivision of the state or by the United States and which  
38 is used or to be used primarily for foot or vehicular traffic  
39 including mass transportation vehicles of any kind.



1           (11) The term also does not include sales of chemical sprays or  
2 washes to persons for the purpose of postharvest treatment of fruit  
3 for the prevention of scald, fungus, mold, or decay, nor does it  
4 include sales of feed, seed, seedlings, fertilizer, agents for  
5 enhanced pollination including insects such as bees, and spray  
6 materials to: (a) Persons who participate in the federal conservation  
7 reserve program, the environmental quality incentives program, the  
8 wetlands reserve program, and the wildlife habitat incentives  
9 program, or their successors administered by the United States  
10 department of agriculture; (b) farmers for the purpose of producing  
11 for sale any agricultural product; (c) farmers for the purpose of  
12 providing bee pollination services; and (d) farmers acting under  
13 cooperative habitat development or access contracts with an  
14 organization exempt from federal income tax under 26 U.S.C. Sec.  
15 501(c)(3) of the federal internal revenue code or the Washington  
16 state department of fish and wildlife to produce or improve wildlife  
17 habitat on land that the farmer owns or leases.

18           (12) The term does not include the sale of or charge made for  
19 labor and services rendered in respect to the constructing,  
20 repairing, decorating, or improving of new or existing buildings or  
21 other structures under, upon, or above real property of or for the  
22 United States, any instrumentality thereof, or a county or city  
23 housing authority created pursuant to chapter 35.82 RCW, including  
24 the installing, or attaching of any article of tangible personal  
25 property therein or thereto, whether or not such personal property  
26 becomes a part of the realty by virtue of installation. Nor does the  
27 term include the sale of services or charges made for the clearing of  
28 land and the moving of earth of or for the United States, any  
29 instrumentality thereof, or a county or city housing authority. Nor  
30 does the term include the sale of services or charges made for  
31 cleaning up for the United States, or its instrumentalities,  
32 radioactive waste and other by-products of weapons production and  
33 nuclear research and development.

34           (13) The term does not include the sale of or charge made for  
35 labor, services, or tangible personal property pursuant to agreements  
36 providing maintenance services for bus, rail, or rail fixed guideway  
37 equipment when a regional transit authority is the recipient of the  
38 labor, services, or tangible personal property, and a transit agency,  
39 as defined in RCW 81.104.015, performs the labor or services.

1 (14) The term does not include the sale for resale of any service  
2 described in this section if the sale would otherwise constitute a  
3 "sale at retail" and "retail sale" under this section.

4 (15)(a) The term "sale at retail" or "retail sale" includes  
5 amounts charged, however labeled, to consumers to engage in any of  
6 the activities listed in this subsection (15)(a), including the  
7 furnishing of any associated equipment or, except as otherwise  
8 provided in this subsection, providing instruction in such  
9 activities, where such charges are not otherwise defined as a "sale  
10 at retail" or "retail sale" in this section:

11 (i)(A) Golf, including any variant in which either golf balls or  
12 golf clubs are used, such as miniature golf, hitting golf balls at a  
13 driving range, and golf simulators, and including fees charged by a  
14 golf course to a player for using his or her own cart. However,  
15 charges for golf instruction are not a retail sale, provided that if  
16 the instruction involves the use of a golfing facility that would  
17 otherwise require the payment of a fee, such as green fees or driving  
18 range fees, such fees, including the applicable retail sales tax,  
19 must be separately identified and charged by the golfing facility  
20 operator to the instructor or the person receiving the instruction.

21 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except  
22 as otherwise provided in this subsection (15)(a)(i)(B), the term  
23 "sale at retail" or "retail sale" does not include amounts charged to  
24 participate in, or conduct, a golf tournament or other competitive  
25 event. However, amounts paid by event participants to the golf  
26 facility operator are retail sales under this subsection (15)(a)(i).  
27 Likewise, amounts paid by the event organizer to the golf facility  
28 are retail sales under this subsection (15)(a)(i), if such amounts  
29 vary based on the number of event participants;

30 (ii) Ballooning, hang gliding, indoor or outdoor sky diving,  
31 paragliding, parasailing, and similar activities;

32 (iii) Air hockey, billiards, pool, foosball, darts, shuffleboard,  
33 ping pong, and similar games;

34 (iv) Access to amusement park, theme park, and water park  
35 facilities, including but not limited to charges for admission and  
36 locker or cabana rentals. Discrete charges for rides or other  
37 attractions or entertainment that are in addition to the charge for  
38 admission are not a retail sale under this subsection (15)(a)(iv).  
39 For the purposes of this subsection, an amusement park or theme park  
40 is a location that provides permanently affixed amusement rides,

1 games, and other entertainment, but does not include parks or zoos  
2 for which the primary purpose is the exhibition of wildlife, or  
3 fairs, carnivals, and festivals as defined in (b)(i) of this  
4 subsection;

5 (v) Batting cage activities;

6 (vi) Bowling, but not including competitive events, except that  
7 amounts paid by the event participants to the bowling alley operator  
8 are retail sales under this subsection (15)(a)(vi). Likewise, amounts  
9 paid by the event organizer to the operator of the bowling alley are  
10 retail sales under this subsection (15)(a)(vi), if such amounts vary  
11 based on the number of event participants;

12 (vii) Climbing on artificial climbing structures, whether indoors  
13 or outdoors;

14 (viii) Day trips for sightseeing purposes;

15 (ix) Bungee jumping, zip lining, and riding inside a ball,  
16 whether inflatable or otherwise;

17 (x) Horseback riding offered to the public, where the seller  
18 furnishes the horse to the buyer and providing instruction is not the  
19 primary focus of the activity, including guided rides, but not  
20 including therapeutic horseback riding provided by an instructor  
21 certified by a nonprofit organization that offers national or  
22 international certification for therapeutic riding instructors;

23 (xi) Fishing, including providing access to private fishing areas  
24 and charter or guided fishing, except that fishing contests and  
25 license fees imposed by a government entity are not a retail sale  
26 under this subsection;

27 (xii) Guided hunting and hunting at game farms and shooting  
28 preserves, except that hunting contests and license fees imposed by a  
29 government entity are not a retail sale under this subsection;

30 (xiii) Swimming, but only in respect to (A) recreational or  
31 fitness swimming that is open to the public, such as open swim, lap  
32 swimming, and special events like kids night out and pool parties  
33 during open swim time, and (B) pool parties for private events, such  
34 as birthdays, family gatherings, and employee outings. Fees for  
35 swimming lessons, to participate in swim meets and other  
36 competitions, or to join a swim team, club, or aquatic facility are  
37 not retail sales under this subsection (15)(a)(xiii);

38 (xiv) Go-karting, bumper cars, and other motorized activities  
39 where the seller provides the vehicle and the premises where the  
40 buyer will operate the vehicle;

1 (xv) Indoor or outdoor playground activities, such as inflatable  
2 bounce structures and other inflatables; mazes; trampolines; slides;  
3 ball pits; games of tag, including laser tag and soft-dart tag; and  
4 human gyroscope rides, regardless of whether such activities occur at  
5 the seller's place of business, but not including playground  
6 activities provided for children by a licensed child day care center  
7 or licensed family day care provider as those terms are defined in  
8 RCW 43.216.010;

9 (xvi) Shooting sports and activities, such as target shooting,  
10 skeet, trap, sporting clays, "5" stand, and archery, but only in  
11 respect to discrete charges to members of the public to engage in  
12 these activities, but not including fees to enter a competitive  
13 event, instruction that is entirely or predominately classroom based,  
14 or to join or renew a membership at a club, range, or other facility;

15 (xvii) Paintball and airsoft activities;

16 (xviii) Skating, including ice skating, roller skating, and  
17 inline skating, but only in respect to discrete charges to members of  
18 the public to engage in skating activities, but not including skating  
19 lessons, competitive events, team activities, or fees to join or  
20 renew a membership at a skating facility, club, or other  
21 organization;

22 (xix) Nonmotorized snow sports and activities, such as downhill  
23 and cross-country skiing, snowboarding, ski jumping, sledding, snow  
24 tubing, snowshoeing, and similar snow sports and activities, whether  
25 engaged in outdoors or in an indoor facility with or without snow,  
26 but only in respect to discrete charges to the public for the use of  
27 land or facilities to engage in nonmotorized snow sports and  
28 activities, such as fees, however labeled, for the use of ski lifts  
29 and tows and daily or season passes for access to trails or other  
30 areas where nonmotorized snow sports and activities are conducted.  
31 However, fees for the following are not retail sales under this  
32 subsection (15)(a)(xix): (A) Instructional lessons; (B) permits  
33 issued by a governmental entity to park a vehicle on or access public  
34 lands; and (C) permits or leases granted by an owner of private  
35 timberland for recreational access to areas used primarily for  
36 growing and harvesting timber; and

37 (xx) Scuba diving; snorkeling; river rafting; surfing;  
38 kiteboarding; flyboarding; water slides; inflatables, such as water  
39 pillows, water trampolines, and water rollers; and similar water  
40 sports and activities.

1 (b) Notwithstanding anything to the contrary in this subsection  
2 (15), the term "sale at retail" or "retail sale" does not include  
3 charges:

4 (i) Made for admission to, and rides or attractions at, fairs,  
5 carnivals, and festivals. For the purposes of this subsection, fairs,  
6 carnivals, and festivals are events that do not exceed 21 days and a  
7 majority of the amusement rides, if any, are not affixed to real  
8 property;

9 (ii) Made by an educational institution to its students and staff  
10 for activities defined as retail sales by (a)(i) through (xx) of this  
11 subsection. However, charges made by an educational institution to  
12 its alumni or other members of the general public for these  
13 activities are a retail sale under this subsection (15). For purposes  
14 of this subsection (15)(b)(ii), "educational institution" has the  
15 same meaning as in RCW 82.04.170;

16 (iii) Made by a vocational school for commercial diver training  
17 that is licensed by the workforce training and education coordinating  
18 board under chapter 28C.10 RCW; or

19 (iv) Made for day camps offered by a nonprofit organization or  
20 state or local governmental entity that provide youth not older than  
21 age 18, or that are focused on providing individuals with  
22 disabilities or mental illness, the opportunity to participate in a  
23 variety of supervised activities.

24 (16)(a) The term "sale at retail" or "retail sale" includes the  
25 purchase or acquisition of tangible personal property and specified  
26 services by a person who receives either a qualifying grant exempt  
27 from tax under RCW 82.04.767 or 82.16.320 or a grant deductible under  
28 RCW 82.04.4339, except for transactions excluded from the definition  
29 of "sale at retail" or "retail sale" by any other provision of this  
30 section. Nothing in this subsection (16) may be construed to limit  
31 the application of any other provision of this section to purchases  
32 by a recipient of either a qualifying grant exempt from tax under RCW  
33 82.04.767 or a grant deductible under RCW 82.04.4339, or by any other  
34 person.

35 (b) For purposes of this subsection (16), "specified services"  
36 means:

37 (i) The constructing, repairing, decorating, or improving of new  
38 or existing buildings or other structures under, upon, or above real  
39 property, including the installing or attaching of any article of  
40 tangible personal property therein or thereto, whether or not such

1 personal property becomes a part of the realty by virtue of  
2 installation;

3 (ii) The clearing of land or the moving of earth, whether or not  
4 associated with activities described in (b)(i) of this subsection  
5 (16);

6 (iii) The razing or moving of existing buildings or structures;  
7 and

8 (iv) Landscape maintenance and horticultural services.

9 **Sec. 2.** RCW 82.04.040 and 2019 c 357 s 2 are each amended to  
10 read as follows:

11 (1) Except as otherwise provided in this subsection, "sale" means  
12 any transfer of the ownership of, title to, or possession of property  
13 for a valuable consideration and includes any activity classified as  
14 a "sale at retail" or "retail sale" under RCW 82.04.050. It includes  
15 lease or rental, conditional sale contracts, and any contract under  
16 which possession of the property is given to the purchaser but title  
17 is retained by the vendor as security for the payment of the purchase  
18 price. It also includes the furnishing of food, drink, or meals for  
19 compensation whether consumed upon the premises or not. The term  
20 "sale" does not include the transfer of the ownership of, title to,  
21 or possession of:

22 (a) An animal by an animal rescue organization in exchange for  
23 the payment of an adoption fee; or

24 (b) An abandoned vehicle sold by a registered tow truck operator  
25 to a successful bidder at public auction or, if there is no  
26 successful bidder, to a licensed vehicle wrecker, hulk hauler, or  
27 scrap processor, as provided in RCW 46.55.130. (~~Nothing in this~~  
28 ~~subsection (1)(b) may be construed as providing an exemption from:~~

29 ~~(i) The tax imposed by chapter 82.12 RCW on the use of an~~  
30 ~~abandoned vehicle by any consumer; or~~

31 ~~(ii) Taxes imposed under this chapter and chapter 82.08 RCW on~~  
32 ~~automobile towing and automobile storage services provided by a~~  
33 ~~registered tow truck operator.)) The successful bidder for an~~

34 abandoned vehicle sold by the registered tow truck operator at the  
35 time of public auction conducted pursuant to RCW 46.55.130 shall pay  
36 the tax imposed by chapter 82.12 RCW on the use of an abandoned  
37 vehicle by any consumer to the registered tow truck operator. The  
38 registered tow truck operator is responsible for transmitting the tax  
39 to the department. The amount of the use tax is equal to the amount

1 of the successful bid at auction multiplied by the amount of the  
2 sales tax for the jurisdiction in which the auction sale is  
3 conducted. No other sales tax or use tax is owed by the registered  
4 tow truck operator for the vehicle sold to a successful bidder at a  
5 public auction under RCW 46.55.130.

6 (2) "Casual or isolated sale" means a sale made by a person who  
7 is not engaged in the business of selling the type of property  
8 involved.

9 (3)(a) "Lease or rental" means any transfer of possession or  
10 control of tangible personal property for a fixed or indeterminate  
11 term for consideration. A lease or rental may include future options  
12 to purchase or extend. "Lease or rental" includes agreements covering  
13 motor vehicles and trailers where the amount of consideration may be  
14 increased or decreased by reference to the amount realized upon sale  
15 or disposition of the property as defined in 26 U.S.C. Sec.  
16 7701(h)(1), as amended or renumbered as of January 1, 2003. The  
17 definition in this subsection (3) must be used for sales and use tax  
18 purposes regardless if a transaction is characterized as a lease or  
19 rental under generally accepted accounting principles, the United  
20 States internal revenue code, Washington state's commercial code, or  
21 other provisions of federal, state, or local law.

22 (b) "Lease or rental" does not include:

23 (i) A transfer of possession or control of property under a  
24 security agreement or deferred payment plan that requires the  
25 transfer of title upon completion of the required payments;

26 (ii) A transfer of possession or control of property under an  
27 agreement that requires the transfer of title upon completion of  
28 required payments, and payment of an option price does not exceed the  
29 greater of one hundred dollars or one percent of the total required  
30 payments; or

31 (iii) Providing tangible personal property along with an operator  
32 for a fixed or indeterminate period of time. A condition of this  
33 exclusion is that the operator is necessary for the tangible personal  
34 property to perform as designed. For the purpose of this subsection  
35 (3)(b)(iii), an operator must do more than maintain, inspect, or set  
36 up the tangible personal property.

37 (4)(a) "Adoption fee" means an amount charged by an animal rescue  
38 organization to adopt an animal, except that "adoption fee" does not  
39 include any separately itemized charge for any incidental inanimate

1 items provided to persons adopting an animal, including food,  
2 identification tags, collars, and leashes.

3 (b) "Animal care and control agency" means the same as in RCW  
4 16.52.011 and also includes any similar entity operating outside of  
5 this state.

6 (c) "Animal rescue group" means a nonprofit organization that:

7 (i)(A) Is exempt from federal income taxation under 26 U.S.C.  
8 Sec. 501(c) of the federal internal revenue code as it exists on July  
9 23, 2017; or

10 (B) Is registered as a charity with the Washington secretary of  
11 state under chapter 19.09 RCW, whether such registration is required  
12 by law or voluntary;

13 (ii) Has as its primary purpose the prevention of abuse, neglect,  
14 cruelty, exploitation, or homelessness of animals; and

15 (iii) Exclusively obtains dogs, cats, or other animals for  
16 placement that are:

17 (A) Stray or abandoned;

18 (B) Surrendered or relinquished by animal owners or caretakers;

19 (C) Transferred from other animal rescue organizations; or

20 (D) Born in the care of such nonprofit organization other than  
21 through intentional breeding by the nonprofit organization.

22 (d) "Animal rescue organization" means an animal care and control  
23 agency or an animal rescue group.

24 **Sec. 3.** 2019 c 357 s 3 (uncodified) is amended to read as  
25 follows:

26 This act expires January 1, (~~2030~~) 2032.

27 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act expire  
28 June 30, 2032.

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