
HOUSE BILL 2358

State of Washington

65th Legislature

2018 Regular Session

By Representative Sawyer

Prefiled 01/03/18.

1 AN ACT Relating to clarifying marijuana-related definitions; and
2 amending RCW 82.04.213 and 82.08.010.

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

4 **Sec. 1.** RCW 82.04.213 and 2015 3rd sp.s. c 6 s 1102 are each
5 amended to read as follows:

6 (1) "Agricultural product" means any product of plant cultivation
7 or animal husbandry including, but not limited to: A product of
8 horticulture, grain cultivation, vermiculture, viticulture, or
9 aquaculture as defined in RCW 15.85.020; plantation Christmas trees;
10 short-rotation hardwoods as defined in RCW 84.33.035; turf; or any
11 animal including but not limited to an animal that is a private
12 sector cultured aquatic product as defined in RCW 15.85.020, or a
13 bird, or insect, or the substances obtained from such an animal
14 including honey bee products. "Agricultural product" does not include
15 (~~marijuana, useable marijuana, or marijuana-infused products, or~~)
16 animals defined as pet animals under RCW 16.70.020. For the purposes
17 of tax treatment and tax preferences, "agricultural product" does not
18 include marijuana, usable marijuana, or marijuana-infused products.

19 (2)(a) "Farmer" means any person engaged in the business of
20 growing, raising, or producing, upon the person's own lands or upon
21 the lands in which the person has a present right of possession, any

1 agricultural product to be sold, and the growing, raising, or
2 producing honey bee products for sale, or providing bee pollination
3 services, by an eligible apiarist. "Farmer" does not include a person
4 growing, raising, or producing such products for the person's own
5 consumption; a person selling any animal or substance obtained
6 therefrom in connection with the person's business of operating a
7 stockyard or a slaughter or packing house; or a person in respect to
8 the business of taking, cultivating, or raising timber.

9 (b) "Eligible apiarist" means a person who owns or keeps one or
10 more bee colonies and who grows, raises, or produces honey bee
11 products for sale at wholesale and is registered under RCW 15.60.021.

12 (c) "Honey bee products" means queen honey bees, packaged honey
13 bees, honey, pollen, bees wax, propolis, or other substances obtained
14 from honey bees. "Honey bee products" does not include manufactured
15 substances or articles.

16 (3) For the purposes of tax treatment and tax preferences, the
17 terms "agriculture," "farming," "horticulture," "horticultural," and
18 "horticultural product" may not be construed to include or relate to
19 marijuana, useable marijuana, or marijuana-infused products unless
20 the applicable term is explicitly defined to include marijuana,
21 useable marijuana, or marijuana-infused products.

22 (4) "Marijuana," "useable marijuana," and "marijuana-infused
23 products" have the same meaning as in RCW 69.50.101.

24 **Sec. 2.** RCW 82.08.010 and 2014 c 140 s 11 are each amended to
25 read as follows:

26 For the purposes of this chapter:

27 (1)(a)(i) "Selling price" includes "sales price." "Sales price"
28 means the total amount of consideration, except separately stated
29 trade-in property of like kind, including cash, credit, property, and
30 services, for which tangible personal property, extended warranties,
31 digital goods, digital codes, digital automated services, or other
32 services or anything else defined as a "retail sale" under RCW
33 82.04.050 are sold, leased, or rented, valued in money, whether
34 received in money or otherwise. No deduction from the total amount of
35 consideration is allowed for the following: (A) The seller's cost of
36 the property sold; (B) the cost of materials used, labor or service
37 cost, interest, losses, all costs of transportation to the seller,
38 all taxes imposed on the seller, and any other expense of the seller;
39 (C) charges by the seller for any services necessary to complete the

1 sale, other than delivery and installation charges; (D) delivery
2 charges; and (E) installation charges.

3 (ii) When tangible personal property is rented or leased under
4 circumstances that the consideration paid does not represent a
5 reasonable rental for the use of the articles so rented or leased,
6 the "selling price" must be determined as nearly as possible
7 according to the value of such use at the places of use of similar
8 products of like quality and character under such rules as the
9 department may prescribe;

10 (b) "Selling price" or "sales price" does not include: Discounts,
11 including cash, term, or coupons that are not reimbursed by a third
12 party that are allowed by a seller and taken by a purchaser on a
13 sale; interest, financing, and carrying charges from credit extended
14 on the sale of tangible personal property, extended warranties,
15 digital goods, digital codes, digital automated services, or other
16 services or anything else defined as a retail sale in RCW 82.04.050,
17 if the amount is separately stated on the invoice, bill of sale, or
18 similar document given to the purchaser; and any taxes legally
19 imposed directly on the consumer that are separately stated on the
20 invoice, bill of sale, or similar document given to the purchaser;

21 (c) "Selling price" or "sales price" includes consideration
22 received by the seller from a third party if:

23 (i) The seller actually receives consideration from a party other
24 than the purchaser, and the consideration is directly related to a
25 price reduction or discount on the sale;

26 (ii) The seller has an obligation to pass the price reduction or
27 discount through to the purchaser;

28 (iii) The amount of the consideration attributable to the sale is
29 fixed and determinable by the seller at the time of the sale of the
30 item to the purchaser; and

31 (iv) One of the criteria in this subsection (1)(c)(iv) is met:

32 (A) The purchaser presents a coupon, certificate, or other
33 documentation to the seller to claim a price reduction or discount
34 where the coupon, certificate, or documentation is authorized,
35 distributed, or granted by a third party with the understanding that
36 the third party will reimburse any seller to whom the coupon,
37 certificate, or documentation is presented;

38 (B) The purchaser identifies himself or herself to the seller as
39 a member of a group or organization entitled to a price reduction or

1 discount, however a "preferred customer" card that is available to
2 any patron does not constitute membership in such a group; or

3 (C) The price reduction or discount is identified as a third
4 party price reduction or discount on the invoice received by the
5 purchaser or on a coupon, certificate, or other documentation
6 presented by the purchaser;

7 (2)(a) "Seller" means every person, including the state and its
8 departments and institutions, making sales at retail or retail sales
9 to a buyer, purchaser, or consumer, whether as agent, broker, or
10 principal, except "seller" does not mean:

11 (i) The state and its departments and institutions when making
12 sales to the state and its departments and institutions; or

13 (ii) A professional employer organization when a covered employee
14 coemployed with the client under the terms of a professional employer
15 agreement engages in activities that constitute a sale at retail that
16 is subject to the tax imposed by this chapter. In such cases, the
17 client, and not the professional employer organization, is deemed to
18 be the seller and is responsible for collecting and remitting the tax
19 imposed by this chapter.

20 (b) For the purposes of (a) of this subsection, the terms
21 "client," "covered employee," "professional employer agreement," and
22 "professional employer organization" have the same meanings as in RCW
23 82.04.540;

24 (3) "Buyer," "purchaser," and "consumer" include, without
25 limiting the scope hereof, every individual, receiver, assignee,
26 trustee in bankruptcy, trust, estate, firm, copartnership, joint
27 venture, club, company, joint stock company, business trust,
28 corporation, association, society, or any group of individuals acting
29 as a unit, whether mutual, cooperative, fraternal, nonprofit, or
30 otherwise, municipal corporation, quasi municipal corporation, and
31 also the state, its departments and institutions and all political
32 subdivisions thereof, irrespective of the nature of the activities
33 engaged in or functions performed, and also the United States or any
34 instrumentality thereof;

35 (4) "Delivery charges" means charges by the seller of personal
36 property or services for preparation and delivery to a location
37 designated by the purchaser of personal property or services
38 including, but not limited to, transportation, shipping, postage,
39 handling, crating, and packing;

1 (5) "Direct mail" means printed material delivered or distributed
2 by United States mail or other delivery service to a mass audience or
3 to addressees on a mailing list provided by the purchaser or at the
4 direction of the purchaser when the cost of the items are not billed
5 directly to the recipients. "Direct mail" includes tangible personal
6 property supplied directly or indirectly by the purchaser to the
7 direct mail seller for inclusion in the package containing the
8 printed material. "Direct mail" does not include multiple items of
9 printed material delivered to a single address;

10 (6) The meaning attributed in chapter 82.04 RCW to the terms "tax
11 year," "taxable year," "person," "company," "sale," "sale at
12 wholesale," "wholesale," "business," "engaging in business," "cash
13 discount," "successor," "consumer," "in this state," "within this
14 state," "marijuana," "useable marijuana," and "marijuana-infused
15 products" applies equally to the provisions of this chapter;

16 (7) For the purposes of the taxes imposed under this chapter and
17 under chapter 82.12 RCW, "tangible personal property" means personal
18 property that can be seen, weighed, measured, felt, or touched, or
19 that is in any other manner perceptible to the senses. Tangible
20 personal property includes electricity, water, gas, steam, and
21 prewritten computer software;

22 (8) "Extended warranty" has the same meaning as in RCW
23 82.04.050(7);

24 (9) The definitions in RCW 82.04.192 apply to this chapter;

25 (10) For the purposes of the taxes imposed under this chapter and
26 chapter 82.12 RCW, whenever the terms "property" or "personal
27 property" are used, those terms must be construed to include digital
28 goods and digital codes unless:

29 (a) It is clear from the context that the term "personal
30 property" is intended only to refer to tangible personal property;

31 (b) It is clear from the context that the term "property" is
32 intended only to refer to tangible personal property, real property,
33 or both; or

34 (c) To construe the term "property" or "personal property" as
35 including digital goods and digital codes would yield unlikely,
36 absurd, or strained consequences; and

37 (11) "Retail sale" or "sale at retail" means any sale, lease, or
38 rental for any purpose other than for resale, sublease, or subrent.

39 (12) For the purposes of tax treatment and tax preferences, the
40 terms "agriculture," "farming," "horticulture," "horticultural," and

1 "horticultural product" may not be construed to include or relate to
2 marijuana, useable marijuana, or marijuana-infused products unless
3 the applicable term is explicitly defined to include marijuana,
4 useable marijuana, or marijuana-infused products.

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