
SENATE BILL 5108

State of Washington

66th Legislature

2019 Regular Session

By Senators King and McCoy

Prefiled 01/09/19.

1 AN ACT Relating to the tax treatment of renewable natural gas;
2 amending RCW 82.16.310, 82.04.310, and 82.04.120; and creating a new
3 section.

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

5 **Sec. 1.** RCW 82.16.310 and 2014 c 216 s 301 are each amended to
6 read as follows:

7 (1) The provisions of this chapter do not apply to sales by a gas
8 distribution business of:

9 (a) Compressed natural gas or liquefied natural gas, where the
10 compressed natural gas or liquefied natural gas is to be sold or used
11 as transportation fuel; (~~(e)~~)

12 (b) Natural gas from which the buyer manufactures compressed
13 natural gas or liquefied natural gas, where the compressed natural
14 gas or liquefied natural gas is to be sold or used as transportation
15 fuel; or

16 (c) Renewable natural gas.

17 (2) The exemption is available only when the buyer provides the
18 seller with an exemption certificate in a form and manner prescribed
19 by the department. The seller must retain a copy of the certificate
20 for the seller's files.

1 (3) For the purposes of this section, "transportation fuel" means
2 fuel for the generation of power to propel a motor vehicle as defined
3 in RCW 46.04.320, a vessel as defined in RCW 88.02.310, or a
4 locomotive or railroad car.

5 (4) For the purpose of this section, "renewable natural gas" has
6 the same meaning as provided in RCW 54.04.190.

7 **Sec. 2.** RCW 82.04.310 and 2014 c 216 s 302 are each amended to
8 read as follows:

9 (1) This chapter does not apply to any person in respect to a
10 business activity with respect to which tax liability is specifically
11 imposed under the provisions of chapter 82.16 RCW including amounts
12 derived from activities for which a deduction is allowed under RCW
13 82.16.050. The exemption in this subsection does not apply to sales
14 of natural gas, including compressed natural gas and liquefied
15 natural gas used or sold to manufacture transportation fuel, and
16 renewable natural gas, by a gas distribution business, if such sales
17 are exempt from the tax imposed under chapter 82.16 RCW as provided
18 in RCW 82.16.310.

19 (2) This chapter does not apply to amounts received by any person
20 for the sale of electrical energy for resale within or outside the
21 state.

22 (3)(a) This chapter does not apply to amounts received by any
23 person for the sale of natural or manufactured gas in a calendar year
24 if that person sells within the United States a total amount of
25 natural or manufactured gas in that calendar year that is no more
26 than twenty percent of the amount of natural or manufactured gas that
27 it consumes within the United States in the same calendar year.

28 (b) For purposes of determining whether a person has sold within
29 the United States a total amount of natural or manufactured gas in a
30 calendar year that is no more than twenty percent of the amount of
31 natural or manufactured gas that it consumes within the United States
32 in the same calendar year, the following transfers of gas are not
33 considered to be the sale of natural or manufactured gas:

34 (i) The transfer of any natural or manufactured gas as a result
35 of the acquisition of another business, through merger or otherwise;
36 or

37 (ii) The transfer of any natural or manufactured gas accomplished
38 solely to comply with federal regulatory requirements imposed on the

1 pipeline transportation of such gas when it is shipped by a third-
2 party manager of a person's pipeline transportation.

3 **Sec. 3.** RCW 82.04.120 and 2014 c 216 s 303 are each amended to
4 read as follows:

5 (1) "To manufacture" embraces all activities of a commercial or
6 industrial nature wherein labor or skill is applied, by hand or
7 machinery, to materials so that as a result thereof a new, different
8 or useful substance or article of tangible personal property is
9 produced for sale or commercial or industrial use, and includes:

10 (a) The production or fabrication of special made or custom made
11 articles;

12 (b) The production or fabrication of dental appliances, devices,
13 restorations, substitutes, or other dental laboratory products by a
14 dental laboratory or dental technician;

15 (c) Cutting, delimiting, and measuring of felled, cut, or taken
16 trees;

17 (d) Crushing and/or blending of rock, sand, stone, gravel, or
18 ore; (~~and~~)

19 (e) The production of compressed natural gas or liquefied natural
20 gas for use as a transportation fuel as defined in RCW 82.16.310; and

21 (f) The production or processing of renewable natural gas.

22 (2) "To manufacture" does not include:

23 (a) Conditioning of seed for use in planting; cubing hay or
24 alfalfa;

25 (b) Activities which consist of cutting, grading, or ice glazing
26 seafood which has been cooked, frozen, or canned outside this state;

27 (c) The growing, harvesting, or producing of agricultural
28 products;

29 (d) Packing of agricultural products, including sorting, washing,
30 rinsing, grading, waxing, treating with fungicide, packaging,
31 chilling, or placing in controlled atmospheric storage;

32 (e) The production of digital goods;

33 (f) The production of computer software if the computer software
34 is delivered from the seller to the purchaser by means other than
35 tangible storage media, including the delivery by use of a tangible
36 storage media where the tangible storage media is not physically
37 transferred to the purchaser; and

38 (g) Except as provided in subsection (1)(e) of this section, any
39 activity that is integral to any public service business as defined

1 in RCW 82.16.010 and with respect to which the gross income
2 associated with such activity: (i) Is subject to tax under chapter
3 82.16 RCW; or (ii) would be subject to tax under chapter 82.16 RCW if
4 such activity were conducted in this state or if not for an exemption
5 or deduction.

6 (3) With respect to wastewater treatment facilities:

7 (a) "To manufacture" does not include the treatment of
8 wastewater, the production of reclaimed water, and the production of
9 class B biosolids; and

10 (b) "To manufacture" does include the production of class A or
11 exceptional quality biosolids, but only with respect to the
12 processing activities that occur after the biosolids have reached
13 class B standards.

14 NEW SECTION. **Sec. 4.** The provisions of RCW 82.32.805 and
15 82.32.808 do not apply to this act.

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