

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE SENATE BILL 5814**

Chapter 422, Laws of 2025

69th Legislature  
2025 Regular Session

EXCISE TAXES—VARIOUS PROVISIONS

EFFECTIVE DATE: July 27, 2025—Except for sections 101 and 201, which take effect October 1, 2025; and section 301, which takes effect January 1, 2026.

Passed by the Senate April 24, 2025  
Yeas 26 Nays 22

DENNY HECK

**President of the Senate**

Passed by the House April 23, 2025  
Yeas 50 Nays 47

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Approved May 20, 2025 3:32 PM

BOB FERGUSON

**Governor of the State of Washington**

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5814** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

**Secretary**

FILED

May 21, 2025

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 5814**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2025 Regular Session

**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Frame, Trudeau, Alvarado, Nobles, Pedersen, Valdez, and C. Wilson)

READ FIRST TIME 04/19/25.

1       AN ACT Relating to funding public schools, health care, social  
2 services, and other programs and services to benefit Washingtonians  
3 by modifying the application and administration of certain excise  
4 taxes; amending RCW 82.04.192 and 82.26.010; reenacting and amending  
5 RCW 82.04.050; creating new sections; and providing effective dates.

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

7       NEW SECTION.   **Sec. 1.**   The legislature finds that, through the  
8 state's general fund, the state funds public schools, health care,  
9 and social services that help Washingtonians to succeed and thrive.  
10 These revenues help the state meet its paramount duty to amply  
11 provide every child in the state with an education, including  
12 children who qualify for special education services, creating the  
13 opportunity for each child to succeed in school and achieve success  
14 in life. Revenues generated by this act will support health care and  
15 other programs that protect the safety and well-being of the public,  
16 including behavioral health services for those living with mental  
17 illness or substance use disorder, as well as supervision of  
18 individuals who have committed crimes. These revenues will also fund  
19 social services that provide critical, basic needs assistance for our  
20 state's most vulnerable residents, including support for those with  
21 developmental disabilities and long-term care for the elderly.

1 Furthermore, the legislature finds that the state's tax code must  
2 be periodically reviewed and updated to ensure that tax policy  
3 reflects our modern economy. The legislature recognizes that our  
4 state and nation have moved away from a predominantly goods-based  
5 economy towards a more service-based economy. As a result,  
6 Washington's tax code, which is heavily reliant on sales taxes,  
7 continues to reach a narrowing share of economic activity subject to  
8 the retail sales tax. Similar to the marketplace fairness act of  
9 2017, which extended retail sales tax to remote retailers with no  
10 physical presence in the state to ensure the tax code reflected the  
11 growing shift of retail sales toward online sales and away from  
12 brick-and-mortar stores located in the state, so too must this  
13 legislature consider extending the retail sales tax to computer-  
14 related services, as well as remove exemptions to the retail sales  
15 tax for digital automated services which have not been updated since  
16 2009, and other services to which it is more appropriate to apply  
17 retail sales tax in the state's current economy. The legislature  
18 further recognizes that taxes on tobacco products, which have largely  
19 gone unchanged over the last several decades, do not adequately  
20 capture new and emerging nicotine products. As certain new products  
21 come onto the market, they are exempt from excise tax, creating an  
22 unfair advantage in the market against their competitors.

23 Thus, to help meet the state's paramount duty of amply providing  
24 every child in the state with an education and to support the health  
25 and well-being of Washingtonians, the legislature intends to  
26 modernize the sales tax and taxes on nicotine products by extending  
27 retail sales tax to select services, repealing certain sales tax  
28 exemptions, applying taxes on tobacco to new nicotine products, and  
29 requiring certain large businesses to make a one-time prepayment of  
30 state sales tax collections.

## 31 **PART I**

### 32 **EXTENDING RETAIL SALES TAX TO SELECT SERVICES**

33 **Sec. 101.** RCW 82.04.050 and 2021 c 296 s 8 and 2021 c 143 s 2  
34 are each reenacted and amended to read as follows:

35 (1)(a) "Sale at retail" or "retail sale" means every sale of  
36 tangible personal property (including articles produced, fabricated,  
37 or imprinted) to all persons irrespective of the nature of their  
38 business and including, among others, without limiting the scope

1 hereof, persons who install, repair, clean, alter, improve,  
2 construct, or decorate real or personal property of or for consumers  
3 other than a sale to a person who:

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

8 (ii) Installs, repairs, cleans, alters, imprints, improves,  
9 constructs, or decorates real or personal property of or for  
10 consumers, if such tangible personal property becomes an ingredient  
11 or component of such real or personal property without intervening  
12 use by such person; or

13 (iii) Purchases for the purpose of consuming the property  
14 purchased in producing for sale as a new article of tangible personal  
15 property or substance, of which such property becomes an ingredient  
16 or component or is a chemical used in processing, when the primary  
17 purpose of such chemical is to create a chemical reaction directly  
18 through contact with an ingredient of a new article being produced  
19 for sale; or

20 (iv) Purchases for the purpose of consuming the property  
21 purchased in producing ferrosilicon which is subsequently used in  
22 producing magnesium for sale, if the primary purpose of such property  
23 is to create a chemical reaction directly through contact with an  
24 ingredient of ferrosilicon; or

25 (v) Purchases for the purpose of providing the property to  
26 consumers as part of competitive telephone service, as defined in RCW  
27 82.04.065; or

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

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

38 (c) The term also means every sale of tangible personal property  
39 to persons engaged in any business that is taxable under RCW  
40 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

4       (a) The installing, repairing, cleaning, altering, imprinting, or  
5 improving of tangible personal property of or for consumers,  
6 including charges made for the mere use of facilities in respect  
7 thereto, but excluding charges made for the use of self-service  
8 laundry facilities, and also excluding sales of laundry service to  
9 nonprofit health care facilities, and excluding services rendered in  
10 respect to live animals, birds and insects;

11       (b) The constructing, repairing, decorating, or improving of new  
12 or existing buildings or other structures under, upon, or above real  
13 property of or for consumers, including the installing or attaching  
14 of any article of tangible personal property therein or thereto,  
15 whether or not such personal property becomes a part of the realty by  
16 virtue of installation, and also includes the sale of services or  
17 charges made for the clearing of land and the moving of earth  
18 excepting the mere leveling of land used in commercial farming or  
19 agriculture;

20       (c) The constructing, repairing, or improving of any structure  
21 upon, above, or under any real property owned by an owner who conveys  
22 the property by title, possession, or any other means to the person  
23 performing such construction, repair, or improvement for the purpose  
24 of performing such construction, repair, or improvement and the  
25 property is then reconveyed by title, possession, or any other means  
26 to the original owner;

27       (d) The cleaning, fumigating, razing, or moving of existing  
28 buildings or structures, but does not include the charge made for  
29 janitorial services; and for purposes of this section the term  
30 "janitorial services" means those cleaning and caretaking services  
31 ordinarily performed by commercial janitor service businesses  
32 including, but not limited to, wall and window washing, floor  
33 cleaning and waxing, and the cleaning in place of rugs, drapes and  
34 upholstery. The term "janitorial services" does not include painting,  
35 papering, repairing, furnace or septic tank cleaning, snow removal or  
36 sandblasting;

37       (e) Automobile towing and similar automotive transportation  
38 services, but not in respect to those required to report and pay  
39 taxes under chapter 82.16 RCW;

1 (f) The furnishing of lodging and all other services by a hotel,  
2 rooming house, tourist court, motel, trailer camp, and the granting  
3 of any similar license to use real property, as distinguished from  
4 the renting or leasing of real property, and it is presumed that the  
5 occupancy of real property for a continuous period of one month or  
6 more constitutes a rental or lease of real property and not a mere  
7 license to use or enjoy the same. For the purposes of this  
8 subsection, it is presumed that the sale of and charge made for the  
9 furnishing of lodging for a continuous period of one month or more to  
10 a person is a rental or lease of real property and not a mere license  
11 to enjoy the same. For the purposes of this section, it is presumed  
12 that the sale of and charge made for the furnishing of lodging  
13 offered regularly for public occupancy for periods of less than a  
14 month constitutes a license to use or enjoy the property subject to  
15 sales and use tax and not a rental or lease of property;

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

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

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

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

33 (b) Credit bureau services;

34 (c) Automobile parking and storage garage services;

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

1 (e) Service charges associated with tickets to professional  
2 sporting events;

3 (f) The following personal services: Tanning salon services,  
4 tattoo parlor services, steam bath services, turkish bath services,  
5 escort services, and dating services; (~~and~~)

6 (g) Information technology training services, technical support,  
7 and other services including, but not limited to, assisting with  
8 network operations and support, help desk services, in-person  
9 training related to hardware or software, network system support  
10 services, data entry services, and data processing services;

11 (h) Custom website development services. For the purposes of this  
12 subsection (3), "website development services" means the design,  
13 development, and support of a website provided by a website developer  
14 to a customer;

15 (i) Investigation, security services, security monitoring  
16 services, and armored car services including, but not limited to,  
17 background checks, security guard and patrol services, personal and  
18 event security, armored car transportation of cash and valuables, and  
19 security system services and monitoring. This does not include  
20 locksmith services;

21 (j) Temporary staffing services. For the purposes of this  
22 subsection (3), "temporary staffing services" means providing workers  
23 to other businesses, except for hospitals licensed under chapter  
24 70.41 or 71.12 RCW, for limited periods of time to supplement their  
25 workforce and fill employment vacancies on a contract or for fee  
26 basis;

27 (k) Advertising services. (i) For the purposes of this subsection  
28 (3), "advertising services" means all digital and nondigital services  
29 related to the creation, preparation, production, or dissemination of  
30 advertisements including, but not limited to:

31 (A) Layout, art direction, graphic design, mechanical  
32 preparation, production supervision, placement, referrals,  
33 acquisition of advertising space, and rendering advice concerning the  
34 best methods of advertising products or services; and

35 (B) Online referrals, search engine marketing, and lead  
36 generation optimization, web campaign planning, the acquisition of  
37 advertising space in the internet media, and the monitoring and  
38 evaluation of website traffic for purposes of determining the  
39 effectiveness of an advertising campaign.

40 (ii) "Advertising services" do not include:

1       (A) Web hosting services and domain name registration;  
2       (B) Services rendered in respect to the following:  
3       (I) "Newspapers" as defined in RCW 82.04.214;  
4       (II) Printing or publishing under RCW 82.04.280; and  
5       (III) "Radio and television broadcasting" within this state as  
6 defined in RCW 82.04 (section 1, chapter 9, Laws of 2025); and  
7       (C) Services rendered in respect to out-of-home advertising,  
8 including: Billboard advertising; street furniture advertising;  
9 transit advertising; place-based advertising, such as in-store  
10 display advertising or point-of-sale advertising; dynamic or static  
11 signage at live events; naming rights; and fixed signage advertising.  
12 Out-of-home advertising does not include direct mail;  
13       (l) Live presentations including, but not limited to, lectures,  
14 seminars, workshops, or courses where participants attend either in-  
15 person or via the internet or telecommunications equipment that  
16 allows audience members and the presenter or instructor to give,  
17 receive, and discuss information with each other in real time; and  
18       (m)(i) Operating an athletic or fitness facility, including all  
19 charges for the use of such a facility or for any associated services  
20 and amenities, except as provided in ((+g+)) (m)(ii) of this  
21 subsection.  
22       (ii) Notwithstanding anything to the contrary in ((+g+)) (m)(i)  
23 of this subsection (3), the term "sale at retail" and "retail sale"  
24 under this subsection does not include:  
25       (A) Separately stated charges for the use of an athletic or  
26 fitness facility where such use is primarily for a purpose other than  
27 engaging in or receiving instruction in a physical fitness activity;  
28       (B) Separately stated charges for the use of a discrete portion  
29 of an athletic or fitness facility, other than a pool, where such  
30 discrete portion of the facility does not by itself meet the  
31 definition of "athletic or fitness facility" in this subsection;  
32       (C) Separately stated charges for services, such as  
33 ~~((advertising,))~~ massage, nutritional consulting, and body  
34 composition testing, that do not require the customer to engage in  
35 physical fitness activities to receive the service. The exclusion in  
36 this subsection (3) ~~((+g+))~~ (m)(ii)(C) does not apply to personal  
37 training services and instruction in a physical fitness activity;  
38       (D) Separately stated charges for physical therapy provided by a  
39 physical therapist, as those terms are defined in RCW 18.74.010, or  
40 occupational therapy provided by an occupational therapy

1 practitioner, as those terms are defined in RCW 18.59.020, when  
2 performed pursuant to a referral from an authorized health care  
3 practitioner or in consultation with an authorized health care  
4 practitioner. For the purposes of this subsection (3)(~~(g)~~) (m)  
5 (ii)(D), an authorized health care practitioner means a health care  
6 practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57,  
7 18.71, or 18.71A RCW, or, until July 1, 2022, chapter 18.57A RCW;

8 (E) Rent or association fees charged by a landlord or residential  
9 association to a tenant or residential owner with access to an  
10 athletic or fitness facility maintained by the landlord or  
11 residential association, unless the rent or fee varies depending on  
12 whether the tenant or owner has access to the facility;

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

17 (G) The provision of access to an athletic or fitness facility by  
18 an educational institution to its students and staff. However,  
19 charges made by an educational institution to its alumni or other  
20 members of the public for the use of any of the educational  
21 institution's athletic or fitness facilities are a retail sale under  
22 this subsection (3)(~~(g)~~) (m). For purposes of this subsection (3)  
23 (~~(g)~~) (m)(ii)(G), "educational institution" has the same meaning as  
24 in RCW 82.04.170;

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

30 (iii) Nothing in (~~(g)~~) (m)(ii) of this subsection (3) may be  
31 construed to affect the taxation of sales made by the operator of an  
32 athletic or fitness facility, where such sales are defined as a  
33 retail sale under any provision of this section other than this  
34 subsection (3).

35 (iv) For the purposes of this subsection (3)(~~(g)~~) (m), the  
36 following definitions apply:

37 (A) "Athletic or fitness facility" means an indoor or outdoor  
38 facility or portion of a facility that is primarily used for:  
39 Exercise classes; strength and conditioning programs; personal  
40 training services; tennis, racquetball, handball, squash, or

1 pickleball; or other activities requiring the use of exercise or  
2 strength training equipment, such as treadmills, elliptical machines,  
3 stair climbers, stationary cycles, rowing machines, pilates  
4 equipment, balls, climbing ropes, jump ropes, and weightlifting  
5 equipment.

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

11 (C) "Physical fitness activities" means activities that involve  
12 physical exertion for the purpose of improving or maintaining the  
13 general fitness, strength, flexibility, conditioning, or health of  
14 the participant. "Physical fitness activities" includes participating  
15 in yoga, chi gong, or martial arts.

16 For the purposes of (g) through (i) and (k) of this subsection  
17 (3), the terms "sale at retail" and "retail sale" do not include a  
18 sale between members of an affiliated group as defined in RCW  
19 82.04.299(1)(f).

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

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

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

28 (6)(a) The term also includes the sale of prewritten computer  
29 software, custom software, and customization of prewritten computer  
30 software to a consumer, regardless of the method of delivery to the  
31 end user. For purposes of ~~((a) and (b) of)~~ this subsection (6)(a),  
32 the sale of prewritten computer software includes the sale of or  
33 charge made for a key or an enabling or activation code, where the  
34 key or code is required to activate prewritten computer software and  
35 put the software into use. There is no separate sale of the key or  
36 code from the prewritten computer software, regardless of how the  
37 sale may be characterized by the vendor or by the purchaser.

38 ~~(b) ((The term "retail sale" does not include the sale of or~~  
39 ~~charge made for:~~

40 ~~(i) Custom software; or~~

1 ~~(ii) The customization of prewritten computer software.~~

2 ~~(e))~~ (i) The term also includes the charge made to consumers for  
3 the right to access and use prewritten computer software, custom  
4 software, and customization of prewritten computer software, where  
5 possession of the software is maintained by the seller or a third  
6 party, regardless of whether the charge for the service is on a per  
7 use, per user, per license, subscription, or some other basis.

8 (ii)(A) The service described in ~~((e))~~ (b)(i) of this  
9 subsection (6) includes the right to access and use prewritten  
10 computer software, custom software, and customization of prewritten  
11 computer software to perform data processing.

12 (B) For purposes of this subsection (6) ~~((e))~~ (b)(ii), "data  
13 processing" means the systematic performance of operations on data to  
14 extract the required information in an appropriate form or to convert  
15 the data to usable information. Data processing includes check  
16 processing, image processing, form processing, survey processing,  
17 payroll processing, claim processing, and similar activities.

18 (7) The term also includes the sale of or charge made for an  
19 extended warranty to a consumer. For purposes of this subsection,  
20 "extended warranty" means an agreement for a specified duration to  
21 perform the replacement or repair of tangible personal property at no  
22 additional charge or a reduced charge for tangible personal property,  
23 labor, or both, or to provide indemnification for the replacement or  
24 repair of tangible personal property, based on the occurrence of  
25 specified events. The term "extended warranty" does not include an  
26 agreement, otherwise meeting the definition of extended warranty in  
27 this subsection, if no separate charge is made for the agreement and  
28 the value of the agreement is included in the sales price of the  
29 tangible personal property covered by the agreement. For purposes of  
30 this subsection, "sales price" has the same meaning as in RCW  
31 82.08.010.

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

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

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

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

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

3 (b) A retail sale of digital goods, digital codes, or digital  
4 automated services under this subsection (8) includes any services  
5 provided by the seller exclusively in connection with the digital  
6 goods, digital codes, or digital automated services, whether or not a  
7 separate charge is made for such services.

8 (c) A retail sale of digital goods, digital codes, or digital  
9 automated services does not include the following services if the  
10 sale occurs between members of an affiliated group as defined in RCW  
11 82.04.299(1)(f):

12 (i) Any service that primarily involves the application of human  
13 effort by the seller, and the human effort originated after the  
14 customer requested the service;

15 (ii) Live presentations, such as lectures, seminars, workshops,  
16 or courses, where participants are connected to other participants  
17 via the internet or telecommunications equipment, which allows  
18 audience members and the presenter or instructor to give, receive,  
19 and discuss information with each other in real time;

20 (iii) Advertising services. For purposes of this subsection  
21 (8)(c), "advertising services" means all services directly related to  
22 the creation, preparation, production, or dissemination of  
23 advertisements. Advertising services include layout, art direction,  
24 graphic design, mechanical preparation, production supervision,  
25 placement, and rendering advice to a client concerning the best  
26 methods of advertising that client's products or services.  
27 Advertising services also include online referrals, search engine  
28 marketing and lead generation optimization, web campaign planning,  
29 the acquisition of advertising space in the internet media, and the  
30 monitoring and evaluation of website traffic for purposes of  
31 determining the effectiveness of an advertising campaign. Advertising  
32 services do not include web hosting services and domain name  
33 registration; and

34 (iv) Data processing services. For purposes of this subsection  
35 (8)(c), "data processing service" means a primarily automated service  
36 provided to a business or other organization where the primary object  
37 of the service is the systematic performance of operations by the  
38 service provider on data supplied in whole or in part by the customer  
39 to extract the required information in an appropriate form or to  
40 convert the data to usable information. Data processing services

include check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities. Data processing does not include the service described in subsection (6)(b) of this section.

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

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

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

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

1 state department of fish and wildlife to produce or improve wildlife  
2 habitat on land that the farmer owns or leases.

3 (12) The term does not include the sale of or charge made for  
4 labor and services rendered in respect to the constructing,  
5 repairing, decorating, or improving of new or existing buildings or  
6 other structures under, upon, or above real property of or for the  
7 United States, any instrumentality thereof, or a county or city  
8 housing authority created pursuant to chapter 35.82 RCW, including  
9 the installing, or attaching of any article of tangible personal  
10 property therein or thereto, whether or not such personal property  
11 becomes a part of the realty by virtue of installation. Nor does the  
12 term include the sale of services or charges made for the clearing of  
13 land and the moving of earth of or for the United States, any  
14 instrumentality thereof, or a county or city housing authority. Nor  
15 does the term include the sale of services or charges made for  
16 cleaning up for the United States, or its instrumentalities,  
17 radioactive waste and other by-products of weapons production and  
18 nuclear research and development.

19 (13) The term does not include the sale of or charge made for  
20 labor, services, or tangible personal property pursuant to agreements  
21 providing maintenance services for bus, rail, or rail fixed guideway  
22 equipment when a regional transit authority is the recipient of the  
23 labor, services, or tangible personal property, and a transit agency,  
24 as defined in RCW 81.104.015, performs the labor or services.

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

28 (15)(a) The term "sale at retail" or "retail sale" includes  
29 amounts charged, however labeled, to consumers to engage in any of  
30 the activities listed in this subsection (15)(a), including the  
31 furnishing of any associated equipment or, except as otherwise  
32 provided in this subsection, providing instruction in such  
33 activities, where such charges are not otherwise defined as a "sale  
34 at retail" or "retail sale" in this section:

35 (i)(A) Golf, including any variant in which either golf balls or  
36 golf clubs are used, such as miniature golf, hitting golf balls at a  
37 driving range, and golf simulators, and including fees charged by a  
38 golf course to a player for using his or her own cart. However,  
39 charges for golf instruction are not a retail sale, provided that if  
40 the instruction involves the use of a golfing facility that would

1 otherwise require the payment of a fee, such as green fees or driving  
2 range fees, such fees, including the applicable retail sales tax,  
3 must be separately identified and charged by the golfing facility  
4 operator to the instructor or the person receiving the instruction.

5 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except  
6 as otherwise provided in this subsection (15)(a)(i)(B), the term  
7 "sale at retail" or "retail sale" does not include amounts charged to  
8 participate in, or conduct, a golf tournament or other competitive  
9 event. However, amounts paid by event participants to the golf  
10 facility operator are retail sales under this subsection (15)(a)(i).  
11 Likewise, amounts paid by the event organizer to the golf facility  
12 are retail sales under this subsection (15)(a)(i), if such amounts  
13 vary based on the number of event participants;

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

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

18 (iv) Access to amusement park, theme park, and water park  
19 facilities, including but not limited to charges for admission and  
20 locker or cabana rentals. Discrete charges for rides or other  
21 attractions or entertainment that are in addition to the charge for  
22 admission are not a retail sale under this subsection (15)(a)(iv).  
23 For the purposes of this subsection, an amusement park or theme park  
24 is a location that provides permanently affixed amusement rides,  
25 games, and other entertainment, but does not include parks or zoos  
26 for which the primary purpose is the exhibition of wildlife, or  
27 fairs, carnivals, and festivals as defined in (b)(i) of this  
28 subsection;

29 (v) Batting cage activities;

30 (vi) Bowling, but not including competitive events, except that  
31 amounts paid by the event participants to the bowling alley operator  
32 are retail sales under this subsection (15)(a)(vi). Likewise, amounts  
33 paid by the event organizer to the operator of the bowling alley are  
34 retail sales under this subsection (15)(a)(vi), if such amounts vary  
35 based on the number of event participants;

36 (vii) Climbing on artificial climbing structures, whether indoors  
37 or outdoors;

38 (viii) Day trips for sightseeing purposes;

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

1 (x) Horseback riding offered to the public, where the seller  
2 furnishes the horse to the buyer and providing instruction is not the  
3 primary focus of the activity, including guided rides, but not  
4 including therapeutic horseback riding provided by an instructor  
5 certified by a nonprofit organization that offers national or  
6 international certification for therapeutic riding instructors;

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

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

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

22 (xiv) Go-karting, bumper cars, and other motorized activities  
23 where the seller provides the vehicle and the premises where the  
24 buyer will operate the vehicle;

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

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

39 (xvii) Paintball and airsoft activities;

1 (xviii) Skating, including ice skating, roller skating, and  
2 inline skating, but only in respect to discrete charges to members of  
3 the public to engage in skating activities, but not including skating  
4 lessons, competitive events, team activities, or fees to join or  
5 renew a membership at a skating facility, club, or other  
6 organization;

7 (xix) Nonmotorized snow sports and activities, such as downhill  
8 and cross-country skiing, snowboarding, ski jumping, sledding, snow  
9 tubing, snowshoeing, and similar snow sports and activities, whether  
10 engaged in outdoors or in an indoor facility with or without snow,  
11 but only in respect to discrete charges to the public for the use of  
12 land or facilities to engage in nonmotorized snow sports and  
13 activities, such as fees, however labeled, for the use of ski lifts  
14 and tows and daily or season passes for access to trails or other  
15 areas where nonmotorized snow sports and activities are conducted.  
16 However, fees for the following are not retail sales under this  
17 subsection (15)(a)(xix): (A) Instructional lessons; (B) permits  
18 issued by a governmental entity to park a vehicle on or access public  
19 lands; and (C) permits or leases granted by an owner of private  
20 timberland for recreational access to areas used primarily for  
21 growing and harvesting timber; and

22 (xx) Scuba diving; snorkeling; river rafting; surfing;  
23 kiteboarding; flyboarding; water slides; inflatables, such as water  
24 pillows, water trampolines, and water rollers; and similar water  
25 sports and activities.

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

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

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

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

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

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

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

(i) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation;

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

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

(iv) Landscape maintenance and horticultural services.

## **PART II**

### **ELIMINATING CERTAIN DIGITAL AUTOMATED SERVICE EXCLUSIONS**

**Sec. 201.** RCW 82.04.192 and 2020 c 139 s 4 are each amended to read as follows:

1 (1) "Digital audio works" means works that result from the  
2 fixation of a series of musical, spoken, or other sounds, including  
3 ringtones.

4 (2) "Digital audiovisual works" means a series of related images  
5 which, when shown in succession, impart an impression of motion,  
6 together with accompanying sounds, if any.

7 (3)(a) "Digital automated service," except as provided in (b) of  
8 this subsection (3), means any service transferred electronically  
9 that uses one or more software applications.

10 (b) "Digital automated service" does not include:

11 (i) ~~((Any service that primarily involves the application of~~  
12 ~~human effort by the seller, and the human effort originated after the~~  
13 ~~customer requested the service;~~

14 ~~((ii))~~ The loaning or transferring of money or the purchase,  
15 sale, or transfer of financial instruments. For purposes of this  
16 subsection (3)(b) ~~((ii))~~ (i), "financial instruments" include cash,  
17 accounts receivable and payable, loans and notes receivable and  
18 payable, debt securities, equity securities, as well as derivative  
19 contracts such as forward contracts, swap contracts, and options;

20 ~~((iii))~~ (ii) Dispensing cash or other physical items from a  
21 machine;

22 ~~((iv))~~ (iii) Payment processing services;

23 ~~((v))~~ (iv) Parimutuel wagering and handicapping contests as  
24 authorized by chapter 67.16 RCW;

25 ~~((vi))~~ (v) Telecommunications services and ancillary services  
26 as those terms are defined in RCW 82.04.065;

27 ~~((vii))~~ (vi) The internet and internet access as those terms  
28 are defined in RCW 82.04.297;

29 ~~((viii))~~ (vii) The service described in RCW 82.04.050(6) ~~((e))~~  
30 (b);

31 ~~((ix))~~ (viii) Online educational programs provided by a:

32 (A) Public or private elementary or secondary school; or

33 (B) An institution of higher education as defined in sections  
34 1001 or 1002 of the federal higher education act of 1965 (Title 20  
35 U.S.C. Secs. 1001 and 1002), as existing on July 1, 2009. For  
36 purposes of this subsection (3)(b) ~~((ix))~~ (viii)(B), an online  
37 educational program must be encompassed within the institution's  
38 accreditation;

39 ~~((x) Live presentations, such as lectures, seminars, workshops,~~  
40 ~~or courses, where participants are connected to other participants~~

1 ~~via the internet or telecommunications equipment, which allows~~  
2 ~~audience members and the presenter or instructor to give, receive,~~  
3 ~~and discuss information with each other in real time;~~

4 ~~(xi))~~ (ix) Travel agent services, including online travel  
5 services, and automated systems used by travel agents to book  
6 reservations;

7 ~~((xii))~~ (x) (A) A service that allows the person receiving the  
8 service to make online sales of products or services, digital or  
9 otherwise, using either: (I) The service provider's website; or (II)  
10 the service recipient's website, but only when the service provider's  
11 technology is used in creating or hosting the service recipient's  
12 website or is used in processing orders from customers using the  
13 service recipient's website.

14 (B) The service described in this subsection (3)(b) ~~((xii))~~ (x)  
15 does not include the underlying sale of the products or services,  
16 digital or otherwise, by the person receiving the service;

17 ~~((xiii) Advertising services. For purposes of this subsection~~  
18 ~~(3)(b)(xiii), "advertising services" means all services directly~~  
19 ~~related to the creation, preparation, production, or the~~  
20 ~~dissemination of advertisements. Advertising services include layout,~~  
21 ~~art direction, graphic design, mechanical preparation, production~~  
22 ~~supervision, placement, and rendering advice to a client concerning~~  
23 ~~the best methods of advertising that client's products or services.~~  
24 ~~Advertising services also include online referrals, search engine~~  
25 ~~marketing and lead generation optimization, web campaign planning,~~  
26 ~~the acquisition of advertising space in the internet media, and the~~  
27 ~~monitoring and evaluation of website traffic for purposes of~~  
28 ~~determining the effectiveness of an advertising campaign. Advertising~~  
29 ~~services do not include web hosting services and domain name~~  
30 ~~registration;~~

31 ~~(xiv))~~ (xi) Telehealth as defined in RCW 18.134.010 or  
32 telemedicine as defined in RCW 48.43.735;

33 (xii) The mere storage of digital products, digital codes,  
34 computer software, or master copies of software. This exclusion from  
35 the definition of digital automated services includes providing space  
36 on a server for web hosting or the backing up of data or other  
37 information;

38 ~~((xv) Data processing services. For purposes of this subsection~~  
39 ~~(3)(b)(xv), "data processing service" means a primarily automated~~  
40 ~~service provided to a business or other organization where the~~

primary object of the service is the systematic performance of operations by the service provider on data supplied in whole or in part by the customer to extract the required information in an appropriate form or to convert the data to usable information. Data processing services include check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities. Data processing does not include the service described in RCW 82.04.050(6)(c);)) and

((~~(xvi)~~)) (xiii) Digital goods.

(4) "Digital books" means works that are generally recognized in the ordinary and usual sense as books.

(5) "Digital code" means a code that provides a purchaser with the right to obtain one or more digital products, if all of the digital products to be obtained through the use of the code have the same sales and use tax treatment. "Digital code" does not include a code that represents a stored monetary value that is deducted from a total as it is used by the purchaser. "Digital code" also does not include a code that represents a redeemable card, gift card, or gift certificate that entitles the holder to select digital products of an indicated cash value. A digital code may be obtained by any means, including email or by tangible means regardless of its designation as song code, video code, book code, or some other term.

(6)(a) "Digital goods," except as provided in (b) of this subsection (6), means sounds, images, data, facts, or information, or any combination thereof, transferred electronically, including, but not limited to, specified digital products and other products transferred electronically not included within the definition of specified digital products.

(b) The term "digital goods" does not include:

(i) Telecommunications services and ancillary services as those terms are defined in RCW 82.04.065;

(ii) Computer software as defined in RCW 82.04.215;

(iii) The internet and internet access as those terms are defined in RCW 82.04.297;

(iv)(A) Except as provided in (b)(iv)(B) of this subsection (6), the representation of a personal or professional service in electronic form, such as an electronic copy of an engineering report prepared by an engineer, where the service primarily involves the application of human effort by the service provider, and the human effort originated after the customer requested the service.

1 (B) The exclusion in (b)(iv)(A) of this subsection (6) does not  
2 apply to photographers in respect to amounts received for the taking  
3 of photographs that are transferred electronically to the customer,  
4 but only if the customer is an end user, as defined in RCW  
5 82.04.190(11), of the photographs. Such amounts are considered to be  
6 for the sale of digital goods; and

7 (v) Services and activities excluded from the definition of  
8 digital automated services in subsection (3)(b)(i) through ~~((xv))~~  
9 (xii) of this section and not otherwise described in (b)(i) through  
10 (iv) of this subsection (6).

11 (7) "Digital products" means digital goods and digital automated  
12 services.

13 (8) "Electronically transferred" or "transferred electronically"  
14 means obtained by the purchaser by means other than tangible storage  
15 media. It is not necessary that a copy of the product be physically  
16 transferred to the purchaser. So long as the purchaser may access the  
17 product, it will be considered to have been electronically  
18 transferred to the purchaser.

19 (9) "Specified digital products" means electronically transferred  
20 digital audiovisual works, digital audio works, and digital books.

21 (10) "Subscription radio services" means the sale of audio  
22 programming by a radio broadcaster as defined in RCW 82.08.0208,  
23 except as otherwise provided in this subsection. "Subscription radio  
24 services" does not include audio programming that is sold on a pay-  
25 per-program basis or that allows the buyer to access a library of  
26 programs at any time for a specific charge for that service.

27 (11) "Subscription television services" means the sale of video  
28 programming by a television broadcaster as defined in RCW 82.08.0208,  
29 except as otherwise provided in this subsection. "Subscription  
30 television services" does not include video programming that is sold  
31 on a pay-per-program basis or that allows the buyer to access a  
32 library of programs at any time for a specific charge for that  
33 service, but only if the seller is not subject to a franchise fee in  
34 this state under the authority of Title 47 U.S.C. Sec. 542(a) on the  
35 gross revenue derived from the sale.

36 **PART III**  
37 **CONCERNING THE TAXATION OF NICOTINE PRODUCTS**

1       **Sec. 301.** RCW 82.26.010 and 2020 c 139 s 31 are each amended to  
2 read as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Actual price" means the total amount of consideration for  
6 which tobacco products are sold, valued in money, whether received in  
7 money or otherwise, including any charges by the seller necessary to  
8 complete the sale such as charges for delivery, freight,  
9 transportation, or handling.

10       (2) "Affiliated" means related in any way by virtue of any form  
11 or amount of common ownership, control, operation, or management.

12       (3) "Board" means the liquor and cannabis board.

13       (4) "Business" means any trade, occupation, activity, or  
14 enterprise engaged in for the purpose of selling or distributing  
15 tobacco products in this state.

16       (5) "Cigar" means a roll for smoking that is of any size or shape  
17 and that is made wholly or in part of tobacco, irrespective of  
18 whether the tobacco is pure or flavored, adulterated or mixed with  
19 any other ingredient, if the roll has a wrapper made wholly or in  
20 greater part of tobacco. "Cigar" does not include a cigarette.

21       (6) "Cigarette" has the same meaning as in RCW 82.24.010.

22       (7) "Department" means the department of revenue.

23       (8) "Distributor" means (a) any person engaged in the business of  
24 selling tobacco products in this state who brings, or causes to be  
25 brought, into this state from without the state any tobacco products  
26 for sale, (b) any person who makes, manufactures, fabricates, or  
27 stores tobacco products in this state for sale in this state, (c) any  
28 person engaged in the business of selling tobacco products without  
29 this state who ships or transports tobacco products to retailers in  
30 this state, to be sold by those retailers, (d) any person engaged in  
31 the business of selling tobacco products in this state who handles  
32 for sale any tobacco products that are within this state but upon  
33 which tax has not been imposed.

34       (9) "Indian country" means the same as defined in chapter 82.24  
35 RCW.

36       (10) "Little cigar" means a cigar that has a cellulose acetate  
37 integrated filter.

38       (11) "Manufacturer" means a person who manufactures and sells  
39 tobacco products.

1 (12) "Manufacturer's representative" means a person hired by a  
2 manufacturer to sell or distribute the manufacturer's tobacco  
3 products, and includes employees and independent contractors.

4 (13) "Moist snuff" means tobacco that is finely cut, ground, or  
5 powdered; is not for smoking; and is intended to be placed in the  
6 oral, but not the nasal, cavity.

7 (14) "Person" means any individual, receiver, administrator,  
8 executor, assignee, trustee in bankruptcy, trust, estate, firm,  
9 copartnership, joint venture, club, company, joint stock company,  
10 business trust, municipal corporation, the state and its departments  
11 and institutions, political subdivision of the state of Washington,  
12 corporation, limited liability company, association, society, any  
13 group of individuals acting as a unit, whether mutual, cooperative,  
14 fraternal, nonprofit, or otherwise. The term excludes any person  
15 immune from state taxation, including the United States or its  
16 instrumentalities, and federally recognized Indian tribes and  
17 enrolled tribal members, conducting business within Indian country.

18 (15) "Place of business" means any place where tobacco products  
19 are sold or where tobacco products are manufactured, stored, or kept  
20 for the purpose of sale, including any vessel, vehicle, airplane,  
21 train, or vending machine.

22 (16) "Retail outlet" means each place of business from which  
23 tobacco products are sold to consumers.

24 (17) "Retailer" means any person engaged in the business of  
25 selling tobacco products to ultimate consumers.

26 (18)(a) "Sale" means any transfer, exchange, or barter, in any  
27 manner or by any means whatsoever, for a consideration, and includes  
28 and means all sales made by any person.

29 (b) The term "sale" includes a gift by a person engaged in the  
30 business of selling tobacco products, for advertising, promoting, or  
31 as a means of evading the provisions of this chapter.

32 (19)(a) "Taxable sales price" means:

33 (i) In the case of a taxpayer that is not affiliated with the  
34 manufacturer, distributor, or other person from whom the taxpayer  
35 purchased tobacco products, the actual price for which the taxpayer  
36 purchased the tobacco products;

37 (ii) In the case of a taxpayer that purchases tobacco products  
38 from an affiliated manufacturer, affiliated distributor, or other  
39 affiliated person, and that sells those tobacco products to  
40 unaffiliated distributors, unaffiliated retailers, or ultimate

1 consumers, the actual price for which that taxpayer sells those  
2 tobacco products to unaffiliated distributors, unaffiliated  
3 retailers, or ultimate consumers;

4 (iii) In the case of a taxpayer that sells tobacco products only  
5 to affiliated distributors or affiliated retailers, the price,  
6 determined as nearly as possible according to the actual price, that  
7 other distributors sell similar tobacco products of like quality and  
8 character to unaffiliated distributors, unaffiliated retailers, or  
9 ultimate consumers;

10 (iv) In the case of a taxpayer that is a manufacturer selling  
11 tobacco products directly to ultimate consumers, the actual price for  
12 which the taxpayer sells those tobacco products to ultimate  
13 consumers;

14 (v) In the case of a taxpayer that has acquired tobacco products  
15 under a sale as defined in subsection (18)(b) of this section, the  
16 price, determined as nearly as possible according to the actual  
17 price, that the taxpayer or other distributors sell the same tobacco  
18 products or similar tobacco products of like quality and character to  
19 unaffiliated distributors, unaffiliated retailers, or ultimate  
20 consumers; or

21 (vi) In any case where (a)(i) through (v) of this subsection do  
22 not apply, the price, determined as nearly as possible according to  
23 the actual price, that the taxpayer or other distributors sell the  
24 same tobacco products or similar tobacco products of like quality and  
25 character to unaffiliated distributors, unaffiliated retailers, or  
26 ultimate consumers.

27 (b) For purposes of (a)(i) and (ii) of this subsection only,  
28 "person" includes both persons as defined in subsection (14) of this  
29 section and any person immune from state taxation, including the  
30 United States or its instrumentalities, and federally recognized  
31 Indian tribes and enrolled tribal members, conducting business within  
32 Indian country.

33 (c) The department may adopt rules regarding the determination of  
34 taxable sales price under this subsection.

35 (20) "Taxpayer" means a person liable for the tax imposed by this  
36 chapter.

37 (21) "Tobacco products" means cigars, cheroots, stogies,  
38 periques, granulated, plug cut, crimp cut, ready rubbed, and other  
39 smoking tobacco, snuff, snuff flour, cavendish, plug and twist  
40 tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps,

1 clippings, cuttings and sweepings of tobacco, and other kinds and  
2 forms of tobacco, prepared in such manner as to be suitable for  
3 chewing or smoking in a pipe or otherwise, or both for chewing and  
4 smoking, and any other product, regardless of form, that contains  
5 tobacco or nicotine, whether derived from tobacco or created  
6 synthetically, and is intended for human consumption or placement in  
7 the oral or nasal cavity or absorption into the human body by any  
8 other means, but does not include cigarettes as defined in RCW  
9 82.24.010 or a drug, device, or combination product approved, as of  
10 December 31, 2024, for sale by the United States food and drug  
11 administration, as those terms are defined in the federal food, drug,  
12 and cosmetic act (21 U.S.C. Sec. 301 et seq.) as it exists on the  
13 effective date of this section.

14 (22) "Unaffiliated distributor" means a distributor that is not  
15 affiliated with the manufacturer, distributor, or other person from  
16 whom the distributor has purchased tobacco products.

17 (23) "Unaffiliated retailer" means a retailer that is not  
18 affiliated with the manufacturer, distributor, or other person from  
19 whom the retailer has purchased tobacco products.

20 **PART IV**  
21 **MISCELLANEOUS**

22 NEW SECTION. **Sec. 401.** If any provision of this act or its  
23 application to any person or circumstance is held invalid, the  
24 remainder of the act or the application of the provision to other  
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 402.** This act is necessary for the support of  
27 the state government and its existing public institutions.

28 NEW SECTION. **Sec. 403.** Sections 101 and 201 of this act take  
29 effect October 1, 2025.

30 NEW SECTION. **Sec. 404.** Section 301 of this act takes effect  
31 January 1, 2026.

Passed by the Senate April 24, 2025.  
Passed by the House April 23, 2025.  
Approved by the Governor May 20, 2025.

Filed in Office of Secretary of State May 21, 2025.

--- **END** ---