

HOUSE BILL REPORT

SB 6704

As Reported by House Committee On: Finance

Title: An act relating to the excise taxation of the manufacturing, selling, and processing of certain food products.

Brief Description: Modifying the excise taxation of the manufacturing, selling, and processing of certain food products.

Sponsors: Senators Rasmussen, Prentice, Doumit, Schoesler, Honeyford, Brandland, Sheldon, Morton and Mulliken.

Brief History:

Committee Activity:

Finance: 2/22/06, 2/28/06 [DPA].

Brief Summary of Bill (As Amended by House Committee)

- Extends the Business and Occupation (B&O) tax exemption, sales and use tax deferral on manufacturing facilities, and warehouse tax remittance adopted for fruit and vegetable products in 2005 to seafood and dairy products and ends the tax exemptions on July 1, 2012.
- Reduces B&O tax to 0.484 percent for inspecting, testing, and labeling canned salmon owned by another person and provides a retail sales and use exemption on materials used in the labeling or packaging of canned salmon.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended. Signed by 10 members: Representatives McIntire, Chair; Hunter, Vice Chair; Orcutt, Ranking Minority Member; Roach, Assistant Ranking Minority Member; Ahern, Condotta, Conway, Ericks, Santos and Shabro.

Minority Report: Without recommendation. Signed by 1 member: Representative Hasegawa.

Staff: Rick Peterson (786-7150).

Background:

Washington's major business tax is the Business and Occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The B&O tax rate depends on the activities conducted. The most common rates are 0.471 percent for retailing activities, 0.484 percent for wholesaling and manufacturing, and 1.5 percent for services. There is a lower rate of 0.138 percent for dairy product manufacturing and seafood product manufacturing where the seafood products remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing process.

In the 2005 session, the Legislature adopted tax incentives for the fruit and vegetable manufacturing industry. A B&O tax exemption was provided for canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables, and for selling at wholesale fresh fruits and vegetables canned, preserved, frozen, processed, or dehydrated by the seller and sold to purchasers who transport the goods out of this state in the ordinary course of business.

A new sales and use tax deferral program was created for fruit and vegetable product cold storage warehousing, and related research and development businesses. This program starts July 1, 2007, and expires July 1, 2012.

Firms using the B&O exemption and the sales tax deferral are required to complete an annual survey and provide information on the amount of B&O tax exempt, sales and use tax deferred, number of jobs and the percent of full-time, part-time and temporary jobs; wages by salary band; and number of jobs with employer provided health and retirement benefits. The survey is due each year by March 31.

In addition, starting July 1, 2007, fresh and/or frozen perishable fruit or vegetable cold storage warehouses of at least 25,000 square feet are added to the warehouse tax remittance program. The remittance is 100 percent of the state sales tax on construction of the warehouse and purchases of material-handling and racking equipment. The taxpayer must initially pay all applicable taxes and then apply for reimbursement to the Department of Revenue (Department).

Several firms are located in Washington that store, inspect, test, and label canned salmon that was canned outside of Washington. These firms store in warehouses the canned salmon owned by the out-of-state salmon-canning companies. When receiving appropriate instructions from the owner, the labeler will select a particular batch and inspect, weigh, and vacuum test the cans. The labeler will then label all cans that have passed inspection and package the cans in boxes to be shipped to customers of the salmon-canning companies.

In September 2005, the Department issued an Excise Tax Advisory (ETA) concerning firms that store, inspect, test, and label canned salmon owned by others. The ETA provides that the activity of inspecting, testing, and labeling of canned salmon falls under the general service classification of the B&O tax and so is subject to a 1.5 percent rate; the storage of the cans is subject to the warehousing rate of 0.484 percent. Before the issuance of the ETA, at least two taxpayers had been reporting the activities other than warehousing under the processing for

hire classification at a 0.484 percent rate. The ETA also clarified that the firms conducting the testing activities were eligible for the machinery and equipment exemption from sales and use taxes on machinery and equipment used directly to inspect and test the cans. Finally, the ETA provided that retail sales and use taxes were due on sales of labels and packaging materials to the labelers.

Summary of Amended Bill:

Tax exemptions adopted for fruit and vegetable product manufacturing and cold storage warehousing in 2005, are extended to seafood and dairy manufacturing and cold storage warehousing of seafood and dairy products.

The B&O tax exemption is extended to seafood product and dairy product manufacturing. The exemption applies only to seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing process. This exemption also applies to the selling of product to purchasers who transport the goods out of this state. These new exemptions, plus the fresh fruits and vegetables exemption, are ended July 1, 2012, and a tax rate of 0.138 percent is established for these activities.

The sales and use tax deferral program for fruit and vegetable processing, cold storage warehousing, and related research and development businesses is expanded to include seafood and dairy product manufacturing.

Firms using the B&O exemption and the sales tax deferral are required to complete an annual survey and provide information on the amount of B&O tax exempt, sales and use tax deferred, number of jobs and the percent of full-time, part-time and temporary jobs; wages by salary band; and number of jobs with employer provided health and retirement benefits. The survey is due each year by March 31.

The Department may extend the March 31 filing deadline for surveys by firms using the B&O exemption and the sales tax deferral if the failure to file is the result of circumstances beyond the control of the taxpayer. These firms must electronically file their forms with the Department.

Cold storage warehouses of at least 25,000 square feet that are used to store dairy and seafood products are added to the warehouse tax remittance program. The remittance is 100 percent of the state sales tax on construction of the warehouse and purchases of material-handling and racking equipment. The warehouse sales tax remittance program for cold storage warehouses used to store fruit or vegetables, dairy products, and seafood products is ended on July 1, 2012.

Firms who inspect, test, label, and store canned salmon owned by others are subject to B&O tax at a 0.484 percent rate. These firms are also exempt from paying retail sales and use taxes on materials used to label canned salmon and on materials used to package canned salmon.

Amended Bill Compared to Original Bill:

The amendment added exemptions for seafood processing and inspecting, testing, labeling and storing canned salmon. The amendment also made technical corrections.

Appropriation: None.

Fiscal Note: Requested on amended bill March 1, 2006.

Effective Date of Amended Bill: The bill takes effect on July 1, 2006, except for sections 6 through 9 and 11, relating to the sales and use tax deferral program, and the warehouse sales tax remittance, which take effect July 1, 2007; and sections 12 and 13, which reinstates prior law relating to the warehouse sales tax remittance program after a scheduled expiration, which take effect July 1, 2012.

Testimony For: Dairy is the number two agriculture crop in Washington. Most is exported. The bill will keep Washington competitive. Washington dairy producers are trying to expand exports overseas. This bill is economic development. It maintains family wage union jobs.

Testimony Against: None.

Persons Testifying: Sharon Appelt and Dan Coyne, Northwest Dairy Association; and West Farm Foods.

Persons Signed In To Testify But Not Testifying: None.