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**SUBSTITUTE HOUSE BILL 2334**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Finance (originally sponsored by Representatives Ryu, Sawyer, Walkinshaw, Peterson, Santos, Pollet, Wilson, Stokesbary, and Van Werven)

1 AN ACT Relating to the excise taxation of martial arts; amending  
2 RCW 82.04.050; creating a new section; providing an effective date;  
3 and declaring an emergency.

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

5 **Sec. 1.** RCW 82.04.050 and 2015 3rd sp.s. c 6 s 1105 are each  
6 amended to read as follows:

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

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

18 (ii) Installs, repairs, cleans, alters, imprints, improves,  
19 constructs, or decorates real or personal property of or for  
20 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 to those required to report and pay  
29 taxes under chapter 82.16 RCW;

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

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

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

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

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

18 (b) Credit bureau services;

19 (c) Automobile parking and storage garage services;

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

25 (e) Service charges associated with tickets to professional  
26 sporting events;

27 (f) The following personal services: Tanning salon services,  
28 tattoo parlor services, steam bath services, turkish bath services,  
29 escort services, and dating services; and

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

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

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

39 (B) Separately stated charges for the use of a discrete portion  
40 of an athletic or fitness facility, other than a pool, where such

1 discrete portion of the facility does not by itself meet the  
2 definition of "athletic or fitness facility" in this subsection;

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

9 (D) Separately stated charges for physical therapy provided by a  
10 physical therapist, as those terms are defined in RCW 18.74.010, or  
11 occupational therapy provided by an occupational therapy  
12 practitioner, as those terms are defined in RCW 18.59.020, when  
13 performed pursuant to a referral from an authorized health care  
14 practitioner or in consultation with an authorized health care  
15 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an  
16 authorized health care practitioner means a health care practitioner  
17 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or  
18 18.71A RCW;

19 (E) Rent or association fees charged by a landlord or residential  
20 association to a tenant or residential owner with access to an  
21 athletic or fitness facility maintained by the landlord or  
22 residential association, unless the rent or fee varies depending on  
23 whether the tenant or owner has access to the facility;

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

28 (G) The provision of access to an athletic or fitness facility by  
29 an educational institution to its students and staff. However,  
30 charges made by an educational institution to its alumni or other  
31 members of the public for the use of any of the educational  
32 institution's athletic or fitness facilities are a retail sale under  
33 this subsection (3)(g). For purposes of this subsection  
34 (3)(g)(ii)(G), "educational institution" has the same meaning as in  
35 RCW 82.04.170; ~~((and))~~

36 (H) Yoga, ~~((tai chi, or))~~ chi gong, or martial arts classes,  
37 training, or events held at a community center, park, school  
38 gymnasium, college or university, hospital or other medical facility,  
39 private residence, or any other facility that is not ~~((primarily used~~  
40 ~~for physical fitness activities other than yoga, tai chi, or chi gong~~

1 classes)) operated within and as part of an athletic or fitness  
2 facility.

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

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

9 (A) "Athletic or fitness facility" means an indoor or outdoor  
10 facility or portion of a facility that is primarily used for:  
11 Exercise classes; strength and conditioning programs; personal  
12 training services; tennis, racquetball, handball, squash, or  
13 pickleball; (~~yoga; boxing, kickboxing, wrestling, martial arts, or~~  
14 ~~mixed martial arts training;~~) or other activities requiring the use  
15 of exercise or strength training equipment, such as treadmills,  
16 elliptical machines, stair climbers, stationary cycles, rowing  
17 machines, pilates equipment, balls, climbing ropes, jump ropes, and  
18 weightlifting equipment.

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

24 (C) "Physical fitness activities" means activities that involve  
25 physical exertion for the purpose of improving or maintaining the  
26 general fitness, strength, flexibility, conditioning, or health of  
27 the participant. "Physical fitness activities" includes participating  
28 in yoga, chi gong, or martial arts.

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

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

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

37 (6)(a) The term also includes the sale of prewritten computer  
38 software to a consumer, regardless of the method of delivery to the  
39 end user. For purposes of (a) and (b) of this subsection, the sale of  
40 prewritten computer software includes the sale of or charge made for

1 a key or an enabling or activation code, where the key or code is  
2 required to activate prewritten computer software and put the  
3 software into use. There is no separate sale of the key or code from  
4 the prewritten computer software, regardless of how the sale may be  
5 characterized by the vendor or by the purchaser.

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

8 (i) Custom software; or

9 (ii) The customization of prewritten computer software.

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

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

18 (B) For purposes of this subsection (6)(c)(ii), "data processing"  
19 means the systematic performance of operations on data to extract the  
20 required information in an appropriate form or to convert the data to  
21 usable information. Data processing includes check processing, image  
22 processing, form processing, survey processing, payroll processing,  
23 claim processing, and similar activities.

24 (7) The term also includes the sale of or charge made for an  
25 extended warranty to a consumer. For purposes of this subsection,  
26 "extended warranty" means an agreement for a specified duration to  
27 perform the replacement or repair of tangible personal property at no  
28 additional charge or a reduced charge for tangible personal property,  
29 labor, or both, or to provide indemnification for the replacement or  
30 repair of tangible personal property, based on the occurrence of  
31 specified events. The term "extended warranty" does not include an  
32 agreement, otherwise meeting the definition of extended warranty in  
33 this subsection, if no separate charge is made for the agreement and  
34 the value of the agreement is included in the sales price of the  
35 tangible personal property covered by the agreement. For purposes of  
36 this subsection, "sales price" has the same meaning as in RCW  
37 82.08.010.

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

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

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

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

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

9 (b) A retail sale of digital goods, digital codes, or digital  
10 automated services under this subsection (8) includes any services  
11 provided by the seller exclusively in connection with the digital  
12 goods, digital codes, or digital automated services, whether or not a  
13 separate charge is made for such services.

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

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

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

34 (11) The term also does not include sales of chemical sprays or  
35 washes to persons for the purpose of postharvest treatment of fruit  
36 for the prevention of scald, fungus, mold, or decay, nor does it  
37 include sales of feed, seed, seedlings, fertilizer, agents for  
38 enhanced pollination including insects such as bees, and spray  
39 materials to: (a) Persons who participate in the federal conservation  
40 reserve program, the environmental quality incentives program, the

1 wetlands reserve program, and the wildlife habitat incentives  
2 program, or their successors administered by the United States  
3 department of agriculture; (b) farmers for the purpose of producing  
4 for sale any agricultural product; (c) farmers for the purpose of  
5 providing bee pollination services; and (d) farmers acting under  
6 cooperative habitat development or access contracts with an  
7 organization exempt from federal income tax under 26 U.S.C. Sec.  
8 501(c)(3) of the federal internal revenue code or the Washington  
9 state department of fish and wildlife to produce or improve wildlife  
10 habitat on land that the farmer owns or leases.

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

27 (13) The term does not include the sale of or charge made for  
28 labor, services, or tangible personal property pursuant to agreements  
29 providing maintenance services for bus, rail, or rail fixed guideway  
30 equipment when a regional transit authority is the recipient of the  
31 labor, services, or tangible personal property, and a transit agency,  
32 as defined in RCW 81.104.015, performs the labor or services.

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

36 (15)(a) The term "sale at retail" or "retail sale" includes  
37 amounts charged, however labeled, to consumers to engage in any of  
38 the activities listed in this subsection (15)(a), including the  
39 furnishing of any associated equipment or, except as otherwise  
40 provided in this subsection, providing instruction in such

1 activities, where such charges are not otherwise defined as a "sale  
2 at retail" or "retail sale" in this section:

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

13 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except  
14 as otherwise provided in this subsection (15)(a)(i)(B), the term  
15 "sale at retail" or "retail sale" does not include amounts charged to  
16 participate in, or conduct, a golf tournament or other competitive  
17 event. However, amounts paid by event participants to the golf  
18 facility operator are retail sales under this subsection (15)(a)(i).  
19 Likewise, amounts paid by the event organizer to the golf facility  
20 are retail sales under this subsection (15)(a)(i), if such amounts  
21 vary based on the number of event participants;

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

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

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

37 (v) Batting cage activities;

38 (vi) Bowling, but not including competitive events, except that  
39 amounts paid by the event participants to the bowling alley operator  
40 are retail sales under this subsection (15)(a)(vi). Likewise, amounts

1 paid by the event organizer to the operator of the bowling alley are  
2 retail sales under this subsection (15)(a)(vi), if such amounts vary  
3 based on the number of event participants;

4 (vii) Climbing on artificial climbing structures, whether indoors  
5 or outdoors;

6 (viii) Day trips for sightseeing purposes;

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

9 (x) Horseback riding offered to the public, where the seller  
10 furnishes the horse to the buyer and providing instruction is not the  
11 primary focus of the activity, including guided rides, but not  
12 including therapeutic horseback riding provided by an instructor  
13 certified by a nonprofit organization that offers national or  
14 international certification for therapeutic riding instructors;

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

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

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

30 (xiv) Go-karting, bumper cars, and other motorized activities  
31 where the seller provides the vehicle and the premises where the  
32 buyer will operate the vehicle;

33 (xv) Indoor or outdoor playground activities, such as inflatable  
34 bounce structures and other inflatables; mazes; trampolines; slides;  
35 ball pits; games of tag, including laser tag and soft-dart tag; and  
36 human gyroscope rides, regardless of whether such activities occur at  
37 the seller's place of business, but not including playground  
38 activities provided for children by a licensed child day care center  
39 or licensed family day care provider as those terms are defined in  
40 RCW 43.215.010;

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

7 (xvii) Paintball and airsoft activities;

8 (xviii) Skating, including ice skating, roller skating, and  
9 inline skating, but only in respect to discrete charges to members of  
10 the public to engage in skating activities, but not including skating  
11 lessons, competitive events, team activities, or fees to join or  
12 renew a membership at a skating facility, club, or other  
13 organization;

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

29 (xx) Scuba diving; snorkeling; river rafting; surfing;  
30 kiteboarding; flyboarding; water slides; inflatables, such as water  
31 pillows, water trampolines, and water rollers; and similar water  
32 sports and activities.

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

36 (i) Made for admission to, and rides or attractions at, fairs,  
37 carnivals, and festivals. For the purposes of this subsection, fairs,  
38 carnivals, and festivals are events that do not exceed twenty-one  
39 days and a majority of the amusement rides, if any, are not affixed  
40 to real property;

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

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

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

16 NEW SECTION. **Sec. 2.** RCW 82.32.805 and 82.32.808 do not apply  
17 to this act.

18 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of  
20 the state government and its existing public institutions, and takes  
21 effect April 1, 2016.

--- END ---