

HOUSE BILL REPORT

SHB 2158

As Passed Legislature

Title: An act relating to the sales of vehicles and associated services to nonresidents of Washington.

Brief Description: Concerning the sales of vehicles and associated services to nonresidents of Washington.

Sponsors: By House Committee on Finance (originally sponsored by Representatives Hasegawa, Fromhold, O'Brien, Orcutt, Condotta, Ormsby, Roach, Kristiansen, Ericks, Curtis, Kenney and Moeller).

Brief History:

Committee Activity:

Finance: 2/21/07, 3/2/07 [DPS].

Floor Activity:

Passed House: 3/13/07, 96-0.

Passed Senate: 4/5/07, 48-0.

Passed Legislature.

<h3>Brief Summary of Substitute Bill</h3>

- Modifies the sales and use taxation of motor vehicles, trailers, and campers.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Conway, Ericks, McIntire, Roach and Santos.

Staff: Jeff Mitchell (786-7139).

Background:

Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property (TPP) and some

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services. Use taxes apply to the value of most tangible personal property and some services when used in this state, if retail sales taxes were not collected when the property or services were acquired by the user. Use tax rates are the same as retail sales tax rates. The state tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 2.4 percent, depending on the location. The average local tax rate is 2.0, for an average combined state and local tax rate of 8.5 percent.

Washington law provides a general sales and use tax exemption for TPP purchased in the state by nonresidents for use outside the state. To qualify for the exemption, a nonresident individual must: (1) be a bona fide resident of a state or possession of the United States or a province of Canada; (2) reside in a state, possession, or province that does not impose a retail sales or use tax of 3 percent or more, or if imposing such a tax, provides an exemption for Washington residents; (3) agree, when requested, to grant the Department of Revenue (DOR) access to records or other information necessary to confirm that the property is not first used substantially in Washington; and (4) display proof of his or her current nonresident status.

In lieu of the general sales and use tax exemption described above, Washington law provides a specific exemption for the purchase of motor vehicles, trailers, and campers by nonresidents for use outside the state. To qualify for the exemption, the vehicle must be: (1) removed from the state under the authority of a trip permit issued by the Department of Licensing; or (2) registered and licensed in the state of the buyer's residence, used in this state for less than three months, and exempt from Washington licensing requirements.

A seller must retain a properly completed buyer's affidavit and seller's certificate. A buyer's affidavit documents the exempt nature of the sale unless there are facts that negate the presumption that the seller relied on the buyer's affidavit in good faith.

Summary of Substitute Bill:

The sales and use tax exemption for motor vehicles, trailers, and campers is modified by specifically listing acceptable documentation to substantiate a buyer's nonresident status. As long as a seller maintains this documentation, the seller is not liable for sales tax if the DOR finds evidence during an audit negating the presumption of nonresidency.

Monetary and criminal penalties for fraudulent statements regarding residency relating to the purchase of motor vehicles, campers, and trailers, are made consistent with the penalty provisions in the general sales and use tax exemption for tangible personal property.

The sales and use tax exemption for the purchase of tangible personal property for motor vehicles, trailers, and campers by nonresidents, as part of the servicing of a vehicle, trailer, or camper is clarified. To receive the exemption, the charge for tangible personal property must be stated separately from any labor and services and the cost of the property must not exceed either the seller's current publicly stated retail price for parts, or if no separately stated retail price is available, the seller's cost for the parts.

The buyer of a motor vehicle, trailer, or camper is authorized to use a trip permit from their state of residency in lieu of a Washington state vehicle trip permit.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support of original bill) The bill will help us win business from out-of-state buyers. In-state dealers believe that they are at a competitive disadvantage with respect to out-of-state dealerships. We believe the clear lines and assistance provided in this bill will help Washington dealerships. We are continuing our discussions with the Department of Revenue and hope to have some agreed-upon language.

(Concerns on original bill) We have been working with dealers associations and continue to refine the language. The language in the fiscal note is an unfortunate choice of words. The bill decreases our ability to locate fraudulent claims. Currently, we examine the dealer's records for evidence of an improper sale and impose tax on the dealer. Under the bill, we would have to pursue the buyer. This is the issue that we hope to address in our revised language.

(Opposed) None.

Persons Testifying: (In support of original bill) Scott Hazlegrove, Washington State Auto Dealers Association.

(Concerns on original bill) Gil Brewer, Department of Revenue.

Persons Signed In To Testify But Not Testifying: None.