

SENATE BILL REPORT

SB 5912

As of March 7, 1997

Title: An act relating to exempting printed sales messages and related services from sales and use taxation.

Brief Description: Exempting printed sales messages and related services from sales and use taxation.

Sponsors: Senators Strannigan and Goings.

Brief History:

Committee Activity: Ways & Means: 3/7/97.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Terry Wilson (786-7433)

Background: The sales tax is paid on each retail sale of most articles of tangible personal property and certain services. The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms.

In 1981, the Thurston County Superior Court ruled that catalogs shipped directly from an out-of-state printer to customers in this state had not been "used" by the in-state retailer who had contracted for the printing and shipment. The retailer, therefore, was not subject to use tax. This was in spite of the fact that the statutes had been amended to include any person who causes property to be distributed to promote the sale of products or services. The court may have been influenced by the fact that the use tax did not apply to personal property purchased or manufactured outside the state "until the transportation of the article finally ended in this state." This latter provision was an acknowledgment that the federal commerce clause prevented the state from taxing the activity. However, in 1988, the United States Supreme Court upheld the imposition of Louisiana's use tax on catalogs shipped directly to Louisiana residents by an out-of-state printer with whom an in-state retailer had contracted, and the Washington Legislature removed the interstate transportation language in 1994 (C 93 L 94). Therefore, there currently are no constraints on the taxation of this activity.

Summary of Bill: A sales and use tax exemption is provided for the sale or use of printed sales messages that are printed to the special order of the purchaser; mailed or delivered by the seller, the seller's agent, or a mailing house acting as the agent for the purchaser by common carrier; and received at no cost to the person who becomes the owner of the printed material.

Also exempt are charges made for mailing house and mailing list services used in conjunction with common carrier delivery of printed sales messages.

To receive a tax exemption, the purchaser of the printed sales message must provide the seller with an exemption certificate in a form and manner prescribed by the department by rule and provide the department with a duplicate of the certificate or summary.

The seller must retain a copy of the certificate for the seller's files.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 1997.