

# SENATE BILL REPORT

## SB 5695

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As of February 26, 1999

**Title:** An act relating to the business and occupation taxation of new and used motor vehicles.

**Brief Description:** Exempting certain sales of motor vehicles from the business and occupation tax.

**Sponsors:** Senators B. Sheldon, West, Goings, Hale, T. Sheldon, Honeyford, Bauer, Johnson and Rasmussen.

**Brief History:**

**Committee Activity:** Ways & Means: 2/25/99.

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Terry Wilson (786-7433)

**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. Out-of-state companies that bring goods into Washington and sell these goods in Washington are subject to the B&O tax. Although there are several different rates, the rate on manufacturing, wholesaling, and extracting is 0.484 percent.

A B&O tax exemption is provided for amounts received by motor vehicle manufacturers and their financing subsidiaries from the sale of motor vehicles at wholesale auctions to dealers licensed in this or another state.

**Summary of Bill:** Exemptions are provided from wholesaling B&O tax for wholesale sales of used motor vehicles and for new vehicles sold between dealers as accommodation sales for inventory purposes. An exemption from retailing B&O tax is provided for sales of used vehicles to the lessee of the vehicle at the end of a lease agreement.

A declaration is made that out-of-state dealers that sell motor vehicles to Washington customers through agents that facilitate the sale by preparing or delivering the vehicles to the customer have a taxable presence in the state even if the vehicles are delivered as a courtesy to the out-of-state dealers. For new motor vehicles sold to Washington customers by out-of-state dealers that are delivered to the customer through "courtesy dealers" in this state, the courtesy dealer may be designated as the agent for the out-of-state dealer in reporting and paying the B&O tax.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 1999.

**Testimony For:** In-state dealers pay B&O selling used cars at auction. An exemption for out-of-state dealers would put in-state dealers at a disadvantage. Exempting all dealers levels the playing field. One out of four new cars are purchased out of state. These must be delivered by in-state "courtesy" dealers. This is tax nexus for the out-of-state dealers and the courtesy dealer will collect the tax. In spite of the fiscal note showing 52 percent compliance after four years, the incentive is to collect it and would be at 100 percent quickly. Auto auctions are regional operations, and cars may be in-state only one day. The Spokane auction generates \$1.5 million per year in hotel/motel tax revenues. If out-of-state dealers stop selling, the customers will have a narrower selection of cars to choose from.

**Testimony Against:** People are going out of state to buy because of how they are treated by dealers. Dealers were number one in complaints to the Better Business Bureau in 1995. This bill protects their industry and limits consumer choice. This is like asking the mailman to collect the tax for purchases from an LL Bean catalog. The state will lose money. Courtesy dealer tax collections will not make up for the big loss in revenues from the exemption. Out-of-state dealers should not receive a special break. Cars will still be sold here because it is a good market.

**Testified:** PRO: Jim Bolt, Washington Auto Dealers; Rick Jensen, Dealers Auto Auction Group; T. K. Bentler, Washington State Independent Auto Dealers Association; CON: Ed Wilder, Auto Consultants NW.