

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6342

57th Legislature
2002 Regular Session

Passed by the Senate February 16, 2002
YEAS 47 NAYS 0

President of the Senate

Passed by the House March 8, 2002
YEAS 86 NAYS 8

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6342** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

Approved

FILED

Governor of the State of Washington

Secretary of State
State of Washington

SUBSTITUTE SENATE BILL 6342

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Poulsen and Gardner; by request of Department of Revenue)

READ FIRST TIME 02/06/2002.

1 AN ACT Relating to authorizing the simplified sales and use tax
2 administration act; adding a new chapter to Title 82 RCW; providing an
3 effective date; and providing a contingent effective date.

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

5 NEW SECTION. **Sec. 1.** This chapter shall be known and cited as the
6 "simplified sales and use tax administration act."

7 NEW SECTION. **Sec. 2.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Agreement" means the streamlined sales and use tax agreement
10 as adopted.

11 (2) "Certified automated system" means software certified jointly
12 by the states that are signatories to the agreement to calculate the
13 tax imposed by each jurisdiction on a transaction, determine the amount
14 of tax to remit to the appropriate state, and maintain a record of the
15 transaction.

16 (3) "Certified service provider" means an agent certified jointly
17 by the states that are signatories to the agreement to perform all of
18 the seller's sales tax functions.

1 (4) "Person" means an individual, trust, estate, fiduciary,
2 partnership, limited liability company, limited liability partnership,
3 corporation, or any other legal entity.

4 (5) "Sales tax" means the tax levied under chapter 82.08 RCW.

5 (6) "Seller" means any person making sales, leases, or rentals of
6 personal property or services.

7 (7) "State" means any state of the United States and the District
8 of Columbia.

9 (8) "Use tax" means the tax levied under chapter 82.12 RCW.

10 NEW SECTION. **Sec. 3.** The legislature finds that a simplified
11 sales and use tax system will reduce and over time eliminate the burden
12 and cost for all vendors to collect this state's sales and use tax.
13 The legislature further finds that this state should participate in
14 multistate discussions to review or amend the terms of the agreement to
15 simplify and modernize sales and use tax administration in order to
16 substantially reduce the burden of tax compliance for all sellers and
17 for all types of commerce.

18 NEW SECTION. **Sec. 4.** (1) For the purposes of reviewing or
19 amending the agreement embodying the simplification requirements in
20 section 7 of this act, the state shall enter into multistate
21 discussions. For purposes of these discussions, the state shall be
22 represented by the department. The governor may appoint up to four
23 persons to consult with the department at these discussions. The
24 persons advising the department shall not be compensated and are not
25 entitled to payment of travel expenses by the state.

26 (2) The department shall regularly consult with an advisory group
27 composed of one member from each of the two largest caucuses of the
28 senate, appointed by the majority and minority leaders of the senate;
29 one member from each of the two largest caucuses of the house of
30 representatives, appointed by the speaker and minority leader of the
31 house of representatives; representatives of retailers, including those
32 selling via mail, telephone, and the internet; representatives of large
33 and small businesses; and representatives of counties and cities. The
34 department shall use its best efforts to consult with the advisory
35 group before any multistate discussions in which it is anticipated that
36 amendments may be proposed to the agreement embodying the
37 simplification requirements in section 7 of this act.

1 NEW SECTION. **Sec. 5.** The department shall enter into the
2 streamlined sales and use tax agreement with one or more states to
3 simplify and modernize sales and use tax administration in order to
4 substantially reduce the burden of tax compliance for all sellers and
5 for all types of commerce. In furtherance of the agreement, the
6 department may act jointly with other states that are members of the
7 agreement to establish standards for certification of a certified
8 service provider and certified automated system and establish
9 performance standards for multistate sellers. The department is
10 further authorized to take other actions reasonably required to
11 implement this chapter. Other actions authorized by this section
12 include, but are not limited to, the adoption of rules and the joint
13 procurement, with other member states, of goods and services in
14 furtherance of the cooperative agreement. The department, or the
15 department's designee, may represent this state before the other states
16 that are signatories to the agreement.

17 NEW SECTION. **Sec. 6.** No provision of the agreement authorized by
18 this chapter in whole or part invalidates or amends any provision of
19 the law of this state. Adoption of the agreement by this state does
20 not amend or modify any law of this state. Implementation of any
21 condition of the agreement in this state, whether adopted before, at,
22 or after membership of this state in the agreement, must be by the
23 action of this state.

24 NEW SECTION. **Sec. 7.** The department shall not enter into the
25 streamlined sales and use tax agreement unless the agreement requires
26 each state to abide by the requirements in this section.

27 (1) The agreement must set restrictions to limit over time the
28 number of state rates.

29 (2) The agreement must establish uniform standards for:

30 (a) The sourcing of transactions to taxing jurisdictions;

31 (b) The administration of exempt sales; and

32 (c) Sales and use tax returns and remittances.

33 (3) The agreement must provide a central, electronic registration
34 system that allows a seller to register to collect and remit sales and
35 use taxes for all signatory states.

36 (4) The agreement must provide that registration with the central
37 registration system and the collection of sales and use taxes in the

1 signatory states will not be used as a factor in determining whether
2 the seller has nexus with a state for any tax.

3 (5) The agreement must provide for reduction of the burdens of
4 complying with local sales and use taxes by:

5 (a) Restricting variances between the state and local tax bases;

6 (b) Requiring states to administer any sales and use taxes levied
7 by local jurisdictions within the state so that sellers collecting and
8 remitting these taxes will not have to register or file returns with,
9 remit funds to, or be subject to independent audits from local taxing
10 jurisdictions;

11 (c) Restricting the frequency of changes in the local sales and use
12 tax rates and setting effective dates for the application of local
13 jurisdictional boundary changes to local sales and use taxes; and

14 (d) Providing notice of changes in local sales and use tax rates
15 and of changes in the boundaries of local taxing jurisdictions.

16 (6) The agreement must outline any monetary allowances that are to
17 be provided by the states to sellers or certified service providers.
18 The agreement must allow for a joint public and private sector study of
19 the compliance cost on sellers and certified service providers to
20 collect sales and use taxes for state and local governments under
21 various levels of complexity to be completed by July 1, 2002.

22 (7) The agreement must require each state to certify compliance
23 with the terms of the agreement before joining and to maintain
24 compliance, under the laws of the member state, with all provisions of
25 the agreement while a member.

26 (8) The agreement must require each state to adopt a uniform policy
27 for certified service providers that protects the privacy of consumers
28 and maintains the confidentiality of tax information.

29 (9) The agreement must provide for the appointment of an advisory
30 council of private sector representatives and an advisory council of
31 nonmember state representatives to consult with in the administration
32 of the agreement.

33 NEW SECTION. **Sec. 8.** The agreement authorized by this chapter is
34 an accord among individual cooperating sovereigns in furtherance of
35 their governmental functions. The agreement provides a mechanism among
36 the member states to establish and maintain a cooperative, simplified
37 system for the application and administration of sales and use taxes
38 under the duly adopted law of each member state.

1 NEW SECTION. **Sec. 9.** (1) The agreement authorized by this chapter
2 binds and inures only to the benefit of this state and the other member
3 states. No person, other than a member state, is an intended
4 beneficiary of the agreement. Any benefit to a person other than a
5 state is established by the law of this state and the other member
6 states and not by the terms of the agreement.

7 (2) Consistent with subsection (1) of this section, no person has
8 any cause of action or defense under the agreement or by virtue of this
9 state's approval of the agreement. No person may challenge, in any
10 action brought under any provision of law, any action or inaction by
11 any department, agency, other instrumentality of this state, or any
12 political subdivision of this state on the ground that the action or
13 inaction is inconsistent with the agreement.

14 (3) No law of this state, or the application thereof, may be
15 declared invalid as to any person or circumstance on the ground that
16 the provision or application is inconsistent with the agreement.

17 NEW SECTION. **Sec. 10.** (1) A certified service provider is the
18 agent of a seller, with whom the certified service provider has
19 contracted, for the collection and remittance of sales and use taxes.
20 As the seller's agent, the certified service provider is liable for
21 sales and use tax due each member state on all sales transactions it
22 processes for the seller except as set out in this section. A seller
23 that contracts with a certified service provider is not liable to the
24 state for sales or use tax due on transactions processed by the
25 certified service provider unless the seller misrepresented the type of
26 items it sells or committed fraud. In the absence of probable cause to
27 believe that the seller has committed fraud or made a material
28 misrepresentation, the seller is not subject to audit on the
29 transactions processed by the certified service provider. A seller is
30 subject to audit for transactions not processed by the certified
31 service provider. The member states acting jointly may perform a
32 system check of the seller and review the seller's procedures to
33 determine if the certified service provider's system is functioning
34 properly and the extent to which the seller's transactions are being
35 processed by the certified service provider.

36 (2) A person that provides a certified automated system is
37 responsible for the proper functioning of that system and is liable to
38 the state for underpayments of tax attributable to errors in the

1 functioning of the certified automated system. A seller that uses a
2 certified automated system remains responsible and is liable to the
3 state for reporting and remitting tax.

4 (3) A seller that has a proprietary system for determining the
5 amount of tax due on transactions and has signed an agreement
6 establishing a performance standard for that system is liable for the
7 failure of the system to meet the performance standard.

8 NEW SECTION. **Sec. 11.** Upon becoming a member of the streamlined
9 sales and use tax agreement, the department shall prepare legislation
10 conforming state law as necessary and shall provide such legislation to
11 the fiscal committees of the legislature.

12 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act take
13 effect July 1, 2002.

14 NEW SECTION. **Sec. 13.** Sections 10 and 11 of this act become
15 effective when the state becomes a member of the streamlined sales and
16 use tax agreement.

17 NEW SECTION. **Sec. 14.** Sections 1 through 12 of this act
18 constitute a new chapter in Title 82 RCW.

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