

SENATE BILL REPORT

SHB 2590

As Reported By Senate Committee On:
Ways & Means, March 7, 1996

Title: An act relating to excise tax changes needed as a result of the United States supreme court in Jefferson Lines v. Oklahoma.

Brief Description: Implementing excise tax changes needed as a result of Jefferson Lines v. Oklahoma.

Sponsors: House Committee on Finance (originally sponsored by Representatives Van Luven, Dickerson and B. Thomas; by request of Department of Revenue).

Brief History:

Committee Activity: Ways & Means: 2/21/96, 3/7/96 [DPA].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Cantu, Drew, Finkbeiner, Fraser, Hargrove, Hochstatter, Johnson, Kohl, Long, McDonald, Moyer, Pelz, Quigley, Roach, Sheldon, Snyder, Spanel, Strannigan, Sutherland, West, Winsley and Wojahn.

Staff: Terry Wilson (786-7433)

Background: Sales Taxation of Guided Tours and Guided Charters. The sales tax is imposed on retail sales of most items of tangible personal property and some services. Wholesale sales of tangible personal property are exempt from sales tax. Except for telephone services, there is no similar exemption for wholesale sales of services.

In 1993, the Legislature extended the sales tax to sales of certain services, including guided tours and guided charters. Many types of services remain exempt from sales tax. Major exemptions include medical, legal, accounting, engineering, motion pictures, veterinary, cable television, and beauty and barber services.

Guided tours and guided charters often involve multi-state transactions. Part of the tour or charter may take place in Washington and part in another state. Tickets for a trip in Washington may be sold in another state. Tickets for trips in other states may be sold in Washington. The Department of Revenue drafted a proposed rule which addressed multi-state issues for guided tours and guided charters. Under this proposed rule:

- a. If the guided tour or guided charter takes place entirely in this state, the total price of the guided tour or charter is subject to Washington's retail sales tax.

- b. If the guided tour or guided charter takes place both inside and outside of Washington, the percentage of the tour that takes place in this state is subject to Washington's retail sales tax if the percentage is more than 25 percent. Percentage of tour relates to the time spent on the tour.

The treatment of guided tours and guided charters under the department's proposed rule differs from the usual treatment of sales of personal property. Sales of personal property are generally treated as occurring solely in the state where the property is delivered. Sales tax applies to the full price if the property is delivered in the state. Sales tax does not apply if the property is delivered outside the state.

In 1995, the United States Supreme Court in Oklahoma Tax Commission v. Jefferson Lines held that sales of bus tickets should be taxed, based on the full price, in the state where agreement, payment, and delivery of some of the services occurs. The Department of Revenue subsequently withdrew its proposed rule.

B&O Taxation of Travel Agents and Tour Operators. Washington's major business tax is the business and occupation (B&O) tax. This tax is imposed on gross income from business activities conducted within the state. There are several different B&O tax rates.

Travel agents are taxed under a special B&O tax rate of 0.287 percent. Tour operators are taxed under the service or other business rate of 1.829 percent.

Summary of Amended Bill: Guided tours and guided charters are removed from the definition of retail sale and replaced with day trips for sightseeing purposes.

Wholesale sales of day trips and other amusement and recreation services, such as golf, pool, billiards, skating, bowling, and ski lifts, are exempt from sales tax.

The special B&O tax rate of 0.287 percent for travel agents is applied to all sellers of travel whose principal duties include consulting with and advising persons concerning travel arrangements.

Amended Bill Compared to Substitute Bill: Technical amendments are made in the striking amendment.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on April 1, 1996.

Testimony For: Because the department has to tax the full price of tickets sold in this state, there is an incentive to move ticket sales outside the state. There is confusion over the B&O tax rate applied to travel agents and tour operators because what they do is so similar.

Testimony Against: None.

Testified: Ryan Spiller, Department of Revenue (pro).