

Finance

HB 1119

Brief Description: *Modifying the taxation of new and used motor vehicle sales.*

Sponsors: *Representatives Schoesler, Gombosky, Ahern and Schindler.*

Brief Summary of Bill

- *Exempts from the business and occupations tax:*
 1. *Wholesale sales of used motor vehicles;*
 2. *Sales of used vehicles at the conclusion of lease arrangements; and*
 3. *Accommodation sales of new vehicles between vehicle dealers.*
- *Declares that out-of-state vehicle dealers are taxable on sales when the vehicle is located in this state at the time of sale and received by buyer in Washington.*
- *Requires all vehicle dealers who sell vehicles into Washington to register and report taxes to the Department of Revenue unless they designate a dealer within Washington to report their taxes.*

Hearing Date: *1/25/01*

Staff: *Rick Peterson (786-7150).*

Background:

Washington's major business tax is the business and occupation (B&O) tax. Although there are several different rates, the rate on wholesaling is 0.484 percent and the rate on retailing is 0.471 percent.

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 may be subject to the B&O tax.

Washington does not assess B&O tax on sales of goods which originate in Washington if the receipt of the goods occurs outside Washington. Washington does not apply B&O tax on sales of goods which originate outside the state unless the goods are received by the purchaser in this state and the out-of-state seller has nexus.

Nexus is a term used to describe the connection between the taxpayer or potential taxpayer and the Washington market place. Activities for which Washington claims creates sufficient nexus to apply the B&O tax to an out-of-state seller include: the goods are located in Washington at the time of sale; the seller has a branch office, local outlet, or other place of business which is used in any way with the selling or distributing of the goods; the order for the goods is solicited in Washington by an agent of the out-of-state seller; the delivery is made by a local outlet or local stock of goods of the seller in Washington; the out-of-state seller either directly or by an agent performs significant services to establish or maintain sales in Washington; or the out-of-state seller installs the product in Washington as a condition of sale. Issues over what activities give rise to nexus are often subject to litigation.

In 1997, the Legislature exempted from B&O tax wholesales of vehicles owned by motor vehicle manufacturers and their financing subsidiaries when sold to dealers at auto auctions.

Summary of Bill:

Wholesales of used motor vehicles, except sales by financial institutions, retail sales of used vehicles to the lessee at the conclusion of a lease arrangement, and wholesales of new vehicles between vehicle dealers for the purpose of adjusting inventory levels are exempt from the business and occupation tax.

Out-of-state vehicle dealers that sell vehicles into Washington have nexus and are taxable on sales when the vehicle is located in this state at the time of sale and received by the buyer in Washington.

All vehicle dealers who sell vehicles into Washington are required to register and report taxes to the Department of Revenue. However, dealers that use a Washington dealer to prepare or deliver a vehicle to a customer in Washington may designate this dealer as their agent to report business and occupation and retail sales taxes.

Effective Date: *The bill contains an emergency clause and takes effect on July 1, 2001.*

Appropriation: None.

Fiscal Note: Requested on January 22, 2001.