

# SENATE BILL REPORT

## ESB 5517

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As Passed Senate, March 16, 2003

**Title:** An act relating to clarifying the apportionment of business and occupation taxes on certain businesses conducted both within and outside the state.

**Brief Description:** Clarifying the apportionment of business and occupation taxes on certain businesses conducted both within and outside the state.

**Sponsors:** Senators B. Sheldon, Schmidt, Kohl-Welles, Oke, Poulsen, West and Rasmussen.

**Brief History:**

**Committee Activity:** Ways & Means: 2/10/03, 2/25/03 [DP].

Passed Senate: 3/16/03, 48-0.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Rossi, Chair; Hewitt, Vice Chair; Zarelli, Vice Chair; Brown, Doumit, Fairley, Hale, Honeyford, Johnson, Poulsen, Regala, Roach, Sheahan, B. Sheldon and Winsley.

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

**Background:** The state business and occupation (B&O) tax applies to the gross proceeds from business conducted within the state. It applies to income from manufacturing, sales, and services in this state. Income from sales is not apportioned. If the product is delivered inside the state, the income is taxable. If the product is delivered outside the state, the income is not taxable. Only services are apportioned under the B&O tax.

To determine the tax liability of a service business that maintains places of business both within and without this state which contribute to the rendition of the services, current law requires that the business apportion to this state that portion of its gross income which is derived from services rendered within this state. This apportionment is generally done by the use of separate accounting. If apportionment cannot be done accurately this way, the business must apportion to this state that proportion of its total income which the cost of doing business within the state bears to the total cost of doing business both within and without the state.

Prior to 1996, tour operators were taxed as a service under the B&O tax. Effective in 1996, tour operators were taxed under the travel agent classification, which currently is taxed at the rate of 0.275 percent.

**Summary of Bill:** Persons engaging in the business of acting as a travel agent or tour operators whose activities are conducted both within and without this state are required to

apportion their income in determining tax liability based on a three-factor apportionment formula.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill is for Holland America. It clarifies that income from out-of-state sources can be apportioned.

**Testimony Against:** None.

**Testified:** PRO: Senator Betti Sheldon, prime sponsor; Joe Daniels, David Walton, Holland America Line; Neutral: Claire Hesselholt, DOR.