

# HOUSE BILL REPORT

## SSB 5668

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### As Passed House:

April 27, 2019

**Title:** An act relating to taxation of abandoned vehicles sold at auctions conducted by registered tow truck operators.

**Brief Description:** Concerning taxation of abandoned vehicles sold at auctions conducted by registered tow truck operators.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Takko, Warnick and Fortunato).

### Brief History:

#### Committee Activity:

Finance: 4/5/19, 4/19/19 [DP].

#### Floor Activity:

Passed House: 4/27/19, 95-2.

### Brief Summary of Substitute Bill

- Exempts the sale of an abandoned vehicle by a registered tow truck driver at a public auction or to a licensed vehicle wrecker, hulk hauler, or scrap processor from retail sales and use tax.

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## HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 13 members: Representatives Tarleton, Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Chapman, Frame, Macri, Morris, Orwall, Springer, Stokesbary, Vick and Wylie.

**Staff:** Tracey O'Brien (786-7152).

### Background:

#### Retail Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of

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the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use tax applies to the value of the property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

#### Tax Preference Performance Statement.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

#### Abandoned Vehicles Sold at Public Auction.

Impounds, or the taking and holding of a vehicle in legal custody without the consent of the owner, may only be performed by registered tow truck operators (RTTOs). When a vehicle is impounded, an RTTO must send an impound notice to the legal owner, based on information received from law enforcement.

After a vehicle is held in impound for more than 120 hours it is considered abandoned, and an RTTO must file an abandoned vehicle report (AVR) with the Department of Licensing (DOL). In response to the AVR, the DOL provides information to the RTTO regarding the owner of the vehicle, and the RTTO must send by certified mail, a notice of custody and sale to the owner.

If the vehicle remains unclaimed, the RTTO must conduct a sale at public auction. Vehicles may be redeemed by their legal owners any time before the start of the auction upon payment of towing and storage charges.

The RTTOs collect towing and storage charges on abandoned vehicles via a lien against the sale of the vehicle at auction. If the vehicle sale proceeds are less than the lien, the remaining charges owed to the RTTO are sent to a collection agency for recovery of the deficient claim.

#### **Summary of Bill:**

The definition of "sale" is amended to provide a retail sales and use tax exemption for the sale of an abandoned vehicle by an RTTO at a public auction or to a licensed vehicle wrecker, hulk hauler, or scrap processor. This exemption does not apply to the use tax applied to the use of an abandoned vehicle by a consumer, or business and occupation taxes, or retail sales tax on automobile towing and storage services provided by an RTTO.

The exemption provided in this act is intended to provide tax relief to certain businesses or individuals. The Legislature's public policy objective is to allow an RTTO to recoup their expenditures associated with removing abandoned vehicles from the roads and highways of

Washington. If a JLARC review finds that the average cost of towing, storing, and disposing of an abandoned vehicle exceeds the average revenue of the sale of an abandoned vehicle by an amount greater than the value of the retail sales and use tax exemption, the Legislature intends to extend the expiration date of the preference.

The preference expires January 1, 2030.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Registered tow truck operators have been following an Excise Tax Advisory the Department of Revenue issued in 1984 regarding the payment of sales tax on the sale of abandoned vehicles at auction; however, it was recently revised. Sales of abandoned vehicles only occur when the owner does not claim the vehicle and pay the bill for towing and storage charges. Any amount realized at auction in excess of the lien held by the RTTO goes to the DOL and is not retained by the RTTO. In most cases, the amount realized as the result of the abandoned vehicle sale is less than the lien held by the RTTO. Requiring the RTTO to pay sales tax on the sale of an abandoned vehicle at auction is unfair. This bill will eliminate double taxation and be a step towards making the RTTO whole.

(Opposed) None.

**Persons Testifying:** Paul Bressi, Nisqually Towing; Matthew Porter, 24 Hour Towing; and Jackie Curry, Towing and Recovery Association.

**Persons Signed In To Testify But Not Testifying:** None.