
SECOND SUBSTITUTE SENATE BILL 5663

State of Washington

68th Legislature

2024 Regular Session

By Senate Ways & Means (originally sponsored by Senators Warnick, Dozier, Fortunato, Short, and Wagoner)

READ FIRST TIME 02/26/24.

1 AN ACT Relating to abandoned vehicles sold at auctions conducted
2 by registered tow truck operators; amending RCW 82.04.040; adding a
3 new section to chapter 82.04 RCW; adding a new section to chapter
4 82.08 RCW; creating new sections; repealing 2023 c 416 ss 5 and 6,
5 and 2019 c 357 ss 1 and 3 (uncodified); and providing an effective
6 date.

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

8 **Sec. 1.** RCW 82.04.040 and 2023 c 416 s 1 are each amended to
9 read as follows:

10 (1) Except as otherwise provided in this subsection, "sale" means
11 any transfer of the ownership of, title to, or possession of property
12 for a valuable consideration and includes any activity classified as
13 a "sale at retail" or "retail sale" under RCW 82.04.050. It includes
14 lease or rental, conditional sale contracts, and any contract under
15 which possession of the property is given to the purchaser but title
16 is retained by the vendor as security for the payment of the purchase
17 price. It also includes the furnishing of food, drink, or meals for
18 compensation whether consumed upon the premises or not. The term
19 "sale" does not include the transfer of the ownership of, title to,
20 or possession of:

1 (a) An animal by an animal rescue organization in exchange for
2 the payment of an adoption fee; or

3 ~~(b) ((An abandoned vehicle sold by a registered tow truck
4 operator to a successful bidder at public auction or, if there is no
5 successful bidder, to a licensed vehicle wrecker, hulk hauler, or
6 scrap processor, as provided in RCW 46.55.130. Nothing in this
7 subsection (1)(b) may be construed as providing an exemption from:~~

8 ~~(i) The tax imposed by chapter 82.12 RCW on the use of an
9 abandoned vehicle by any consumer; or~~

10 ~~(ii) Taxes imposed under this chapter and chapter 82.08 RCW on
11 automobile towing and automobile storage services provided by a
12 registered tow truck operator; or~~

13 ~~(e))~~ Food, drink, or meals furnished by a senior living
14 community to tenants as part of a rental or residency agreement for
15 which no separate charge is made, regardless of whether the tenant is
16 a resident for purposes of chapter 18.20 or 18.390 RCW.

17 (2) "Casual or isolated sale" means a sale made by a person who
18 is not engaged in the business of selling the type of property
19 involved.

20 (3)(a) "Lease or rental" means any transfer of possession or
21 control of tangible personal property for a fixed or indeterminate
22 term for consideration. A lease or rental may include future options
23 to purchase or extend. "Lease or rental" includes agreements covering
24 motor vehicles and trailers where the amount of consideration may be
25 increased or decreased by reference to the amount realized upon sale
26 or disposition of the property as defined in 26 U.S.C. Sec.
27 7701(h)(1), as amended or renumbered as of January 1, 2003. The
28 definition in this subsection (3) must be used for sales and use tax
29 purposes regardless if a transaction is characterized as a lease or
30 rental under generally accepted accounting principles, the United
31 States internal revenue code, Washington state's commercial code, or
32 other provisions of federal, state, or local law.

33 (b) "Lease or rental" does not include:

34 (i) A transfer of possession or control of property under a
35 security agreement or deferred payment plan that requires the
36 transfer of title upon completion of the required payments;

37 (ii) A transfer of possession or control of property under an
38 agreement that requires the transfer of title upon completion of
39 required payments, and payment of an option price does not exceed the
40 greater of \$100 or one percent of the total required payments; or

1 (iii) Providing tangible personal property along with an operator
2 for a fixed or indeterminate period of time. A condition of this
3 exclusion is that the operator is necessary for the tangible personal
4 property to perform as designed. For the purpose of this subsection
5 (3)(b)(iii), an operator must do more than maintain, inspect, or set
6 up the tangible personal property.

7 (4)(a) "Adoption fee" means an amount charged by an animal rescue
8 organization to adopt an animal, except that "adoption fee" does not
9 include any separately itemized charge for any incidental inanimate
10 items provided to persons adopting an animal, including food,
11 identification tags, collars, and leashes.

12 (b) "Animal care and control agency" means the same as in RCW
13 16.52.011 and also includes any similar entity operating outside of
14 this state.

15 (c) "Animal rescue group" means a nonprofit organization that:

16 (i)(A) Is exempt from federal income taxation under 26 U.S.C.
17 Sec. 501(c) of the federal internal revenue code as it exists on July
18 23, 2017; or

19 (B) Is registered as a charity with the Washington secretary of
20 state under chapter 19.09 RCW, whether such registration is required
21 by law or voluntary;

22 (ii) Has as its primary purpose the prevention of abuse, neglect,
23 cruelty, exploitation, or homelessness of animals; and

24 (iii) Exclusively obtains dogs, cats, or other animals for
25 placement that are:

26 (A) Stray or abandoned;

27 (B) Surrendered or relinquished by animal owners or caretakers;

28 (C) Transferred from other animal rescue organizations; or

29 (D) Born in the care of such nonprofit organization other than
30 through intentional breeding by the nonprofit organization.

31 (d) "Animal rescue organization" means an animal care and control
32 agency or an animal rescue group.

33 (e) "Senior living community" means any facility or campus
34 operated by a person licensed or registered under chapter 18.20 or
35 18.390 RCW.

36 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04
37 RCW to read as follows:

38 (1) The gross proceeds of sales of abandoned vehicles by a
39 registered tow truck operator under RCW 46.55.130 are not subject to

1 tax under this chapter as the sale of automobile towing and storage
2 services. Rather, such gross proceeds of sales of abandoned vehicles
3 by a registered tow truck operator are subject to tax under this
4 chapter as the sale of tangible personal property.

5 (2) A registered tow truck operator may deduct from amounts
6 taxable under subsection (1) of this section any surplus proceeds
7 required by law to be transmitted to the department of licensing as
8 required under RCW 46.55.130 and 46.55.200.

9 (3) For the purposes of this section, "abandoned vehicle" and
10 "registered tow truck operator" have the same meanings as provided in
11 RCW 46.55.010.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08
13 RCW to read as follows:

14 (1) A registered tow truck operator must collect the applicable
15 taxes under RCW 82.08.020 when making a retail sale of abandoned
16 vehicles at a public auction or to a licensed vehicle wrecker, hulk
17 hauler, or scrap processor, as provided in RCW 46.55.130, unless the
18 sale is specifically exempt from tax under this chapter. For the
19 purposes of this chapter, such sales are treated solely as the sale
20 of tangible personal property and not as the sale of automobile
21 towing and storage services.

22 (2) A person selling an abandoned vehicle at public auction as an
23 agent of a registered tow truck operator is subject to the tax
24 collection obligation described in subsection (1) of this section.

25 (3) For the purposes of this section, "abandoned vehicle" and
26 "registered tow truck operator" have the same meanings as provided in
27 RCW 46.55.010.

28 NEW SECTION. **Sec. 4.** The legislature finds that licensed auto
29 wreckers, scrap processors, and hulk haulers generally make wholesale
30 purchases of abandoned vehicles from registered tow truck operators
31 and therefore would not owe sales tax on the acquisition of abandoned
32 vehicles notwithstanding this act. The legislature does not intend to
33 modify the tax characterization of these vehicle acquisitions by auto
34 wreckers, scrap processors, and hulk haulers with the enactment of
35 this act.

36 NEW SECTION. **Sec. 5.** RCW 82.32.805 and 82.32.808 do not apply
37 to this act.

1 NEW SECTION. **Sec. 6.** The following acts or parts of acts are
2 each repealed:

- 3 (1) 2023 c 416 s 5 (uncodified);
- 4 (2) 2023 c 416 s 6 (uncodified);
- 5 (3) 2019 c 357 s 1 (uncodified); and
- 6 (4) 2019 c 357 s 3 (uncodified).

7 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2025.

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