
HOUSE BILL 3327

State of Washington

60th Legislature

2008 Regular Session

By Representative Kessler

1 AN ACT Relating to ensuring municipal business and occupation tax
2 uniformity and fairness; amending RCW 35.102.040; and creating new
3 sections.

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

5 NEW SECTION. **Sec. 1.** On January 1, 2008, legislation became
6 effective, which provided municipal business and occupation tax
7 uniformity and fairness. This legislation had been enacted five years
8 earlier in House Bill No. 2030 (chapter 79, Laws of 2003). The primary
9 objectives of the 2003 legislation were to make the existing municipal
10 tax system less complex and more fair through uniformity. However, as
11 the law has recently become effective, certain jurisdictions have
12 enacted local legislation specifically designed for the purpose of
13 avoiding the 2003 legislative intent. For example, certain local
14 governments have adopted ordinances imposing business square footage
15 taxes. Such local ordinances hurt the business community by
16 unnecessarily increasing the local tax complexity and placing unfair
17 tax burdens on certain business activities, which directly contradicts
18 the 2003 legislation.

1 Therefore, the legislature finds that it is of the utmost
2 importance to enact new legislation, which further clarifies that local
3 governments cannot sidestep the intentions of the legislature.
4 Municipal business and occupation tax fairness and uniformity are vital
5 to a healthy business community throughout the state. For these
6 reasons, local governments should not be allowed to develop new taxing
7 systems that are the same in principal as the old taxing systems, which
8 the legislature worked so diligently to eliminate in 2003. The 2003
9 act specifically required the development of a model ordinance for
10 business and occupation taxes in order to achieve the goals of that
11 legislation. This legislature finds that the model ordinance, which is
12 required to be adopted by local governments, must prohibit the
13 imposition of business square footage taxes to ensure tax fairness and
14 uniformity are accomplished.

15 **Sec. 2.** RCW 35.102.040 and 2006 c 301 s 7 are each amended to read
16 as follows:

17 (1)(a) The cities, working through the association of Washington
18 cities, shall form a model ordinance development committee made up of
19 a representative sampling of cities that as of July 27, 2003, impose a
20 business and occupation tax. This committee shall work through the
21 association of Washington cities to adopt a model ordinance on
22 municipal gross receipts business and occupation tax. The model
23 ordinance and subsequent amendments shall be adopted using a process
24 that includes opportunity for substantial input from business
25 stakeholders and other members of the public. Input shall be solicited
26 from statewide business associations and from local chambers of
27 commerce and downtown business associations in cities that levy a
28 business and occupation tax.

29 (b) The municipal research council shall contract to post the model
30 ordinance on an internet web site and to make paper copies available
31 for inspection upon request. The department of revenue and the
32 department of licensing shall post copies of or links to the model
33 ordinance on their internet web sites. Additionally, a city that
34 imposes a business and occupation tax must make copies of its ordinance
35 available for inspection and copying as provided in chapter 42.56 RCW.

36 (c) The definitions and tax classifications in the model ordinance
37 may not be amended more frequently than once every four years, however

1 the model ordinance may be amended at any time to comply with changes
2 in state law. Any amendment to a mandatory provision of the model
3 ordinance must be adopted with the same effective date by all cities.

4 (2) A city that imposes a business and occupation tax must adopt
5 the mandatory provisions of the model ordinance. The following
6 provisions are mandatory:

7 (a) A system of credits that meets the requirements of RCW
8 35.102.060 and a form for such use;

9 (b) A uniform, minimum small business tax threshold of at least the
10 equivalent of twenty thousand dollars in gross income annually. A city
11 may elect to deviate from this requirement by creating a higher
12 threshold or exemption but it shall not deviate lower than the level
13 required in this subsection. If a city has a small business threshold
14 or exemption in excess of that provided in this subsection as of
15 January 1, 2003, and chooses to deviate below the threshold or
16 exemption level that was in place as of January 1, 2003, the city must
17 notify all businesses licensed to do business within the city at least
18 one hundred twenty days prior to the potential implementation of a
19 lower threshold or exemption amount;

20 (c) Tax reporting frequencies that meet the requirements of RCW
21 35.102.070;

22 (d) Penalty and interest provisions that meet the requirements of
23 RCW 35.102.080 and 35.102.090;

24 (e) Claim periods that meet the requirements of RCW 35.102.100;

25 (f) Refund provisions that meet the requirements of RCW 35.102.110;

26 and

27 (g) Definitions, which at a minimum, must include the definitions
28 enumerated in RCW 35.102.030 and 35.102.120. The definitions in
29 chapter 82.04 RCW shall be used as the baseline for all definitions in
30 the model ordinance, and any deviation in the model ordinance from
31 these definitions must be described by a comment in the model
32 ordinance.

33 (3) Except for the deduction required by RCW 35.102.160 and the
34 system of credits developed to address multiple taxation under
35 subsection (2)(a) of this section, a city may adopt its own provisions
36 for tax exemptions, tax credits, and tax deductions.

37 (4) A city with a population of more than five hundred thousand
38 persons may not adopt an ordinance that places a substantially

1 equivalent tax burden on the taxpayer, such as a square footage tax
2 that imposes a business and occupation tax that contradicts the
3 legislative intent of promoting uniformity and fairness among municipal
4 business and occupation taxes.

5 (5) Any city that adopts an ordinance that deviates from the
6 nonmandatory provisions of the model ordinance shall make a description
7 of such differences available to the public, in written and electronic
8 form.

9 NEW SECTION. **Sec. 3.** This act applies retroactively, as well as
10 prospectively.

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