

HOUSE BILL REPORT

HB 1489

As Reported by House Committee On:
Finance

Title: An act relating to the sales and use taxation of florists.

Brief Description: Concerning the sales and use taxation of florists.

Sponsors: Representatives Tharinger and Van De Wege.

Brief History:

Committee Activity:

Finance: 2/15/13, 2/27/13 [DP].

Brief Summary of Bill

- Allows businesses with at least 25 percent of their business activity related to retail sales of floral products to source sales to the location from which delivery is made.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 12 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Fitzgibbon, Hansen, Lytton, Pollet, Reykdal, Springer and Vick.

Staff: Dominique Meyers (786-7150).

Background:

Streamlined Sales and Use Tax Agreement.

In 2007 Washington enacted legislation to conform to the national streamlined sales and use tax agreement (SSUTA). The legislation took effect on July 1, 2008. The SSUTA is a voluntary multi-state effort to simplify and modernize sales and use tax administration for member states in order to substantially reduce the burden of tax compliance. Currently, 24 states are members of the agreement. The agreement focuses on improving sales and use tax

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

administration systems for all sellers and for all types of commerce through all of the following:

- state-level administration of sales and use tax collections;
- uniformity in the state and local tax bases;
- uniformity of major tax base definitions;
- central electronic registration system for all member states;
- simplification of state and local tax rates;
- uniform sourcing rules for all taxable transactions;
- simplified administration of exemptions;
- simplified tax returns and tax remittances; and
- protection of consumer privacy.

One of the biggest changes for Washington regarding the SSUTA implementation was the change to destination sourcing. Sourcing refers to the determination of where a sale occurs for the purposes of assigning state and local sales and use taxes. Prior to July 1, 2008, the date when Washington's SSUTA's conforming legislation took effect, sales were sourced based on the location from which merchandise was shipped. Beginning on July 1, 2008, retailers delivering goods in Washington began collecting sales tax based on where the customer receives the merchandise.

Qualifying Florists.

A person whose primary business activity (more than 50 percent of gross sales) is the retailing of fresh cut flowers, floral arrangements, floral bouquets, wreaths, potted ornamental plants, and similar products that are not used for landscaping purposes, qualifies as a florist. Sales by qualifying florists are sourced to the location at or from which delivery is made to the customer. Frequently, this will be the florist's store location.

For qualifying florists who take an order from a customer and then give that order to a second florist for delivery, the place of origin continues to be the location of the florist who originally took the customer's order. This type of transaction is typically carried out using the Florists' Transworld Delivery Association (FTD) or another floral network service.

Other Businesses that Sell Floral Products.

A business does not qualify as a florist if their retail sales of cut flowers, floral arrangements, floral bouquets, wreaths, potted ornamental plants, and similar products are 50 percent or less of their total sales. A business that is not a qualifying florist must use destination sourcing to determine the applicable sales tax. They must collect sales tax and code their retail transactions to the location where the goods are delivered. This is true even if the person uses the FTD or another floral network service to receive orders from or forward orders to other network florists.

Summary of Bill:

A person with at least 25 percent of their business activity related to the retail sale of floral products qualifies as a florist for sales tax sourcing purposes. In addition, the person must

also derive a portion of their gross income from the delivery of floral products ordered by a customer through another company.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2013.

Staff Summary of Public Testimony:

(In support) When looking at Washington's tax structure, fairness is important. When the state changed the sales tax to streamlined sourcing it was a concern to many florists. When a bill passed to allow florists to stay with origin sourcing the Department of Revenue ruled that because of the word "primarily" in the bill, only florists with 51 percent of their gross income from selling floral products qualified for the origin sourcing. The sale of shrubs and other landscaping plants and items do not qualify. It is sometimes a minimal amount of sales tax to comply with sourcing, sometimes as little as \$1.20 for a location code. If a sale needs to be sourced to another location, the store does not charge the customer the sales tax for that location, the sales tax is charged based on the stores location, and then the difference is paid when the return is filed. The system has no way to include location codes for everywhere in the state. At the end of the month it takes about eight to 10 hours to figure out the location codes and correct sales tax amount to report. The difference in the amount of sales tax every month is about \$9 for the additional 8 to 10 hours of accounting.

(Opposed) None.

Persons Testifying: Representative Tharinger, prime sponsor; and Todd Holm, Gross's Nursery Florist.

Persons Signed In To Testify But Not Testifying: None.