

HOUSE BILL REPORT

SSB 5072

As Reported by House Committee On:
Community Development, Housing & Tribal Affairs
Finance

Title: An act relating to a sales and use tax exemption for disabled veterans and members of the armed forces for certain equipment and services that assist physically challenged persons to safely operate a motor vehicle.

Brief Description: Concerning a sales and use tax exemption for disabled veterans and members of the armed forces for certain equipment and services that assist physically challenged persons to safely operate a motor vehicle.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Delvin, Hobbs, Baumgartner, Becker, Carrell, Roach, Schoesler, Holmquist Newbry, Hatfield, Hewitt, Shin, Keiser and Rolfes).

Brief History:

Committee Activity:

Community Development, Housing & Tribal Affairs: 3/19/13 [DPA];

Finance: 4/4/13, 4/8/13 [DPA(FIN w/o CDHT)].

**Brief Summary of Substitute Bill
(As Amended by Committee)**

- Provides an exemption from the sales and use tax for the purchase of certain automotive adaptive equipment by a disabled veteran
- Provides legislative intent language for the exemption
- Provides an expiration date.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS

Majority Report: Do pass as amended. Signed by 9 members: Representatives McCoy, Chair; Appleton, Vice Chair; Angel, Ranking Minority Member; Johnson, Assistant Ranking Minority Member; Haler, Pike, Ryu, Santos and Sawyer.

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.

Staff: Sean Flynn (786-7124).

Background:

The state levies a tax on the retail sale of tangible personal property, digital goods, and certain services within the state. A taxable retail sale also includes the installation, repair, alteration, or improvement made to a consumer's personal property. If a retail sales tax is not collected on the property or services at the time of sale to the consumer, then a separate tax is imposed on the value of the property or services used within the state. The state sales and use tax rate is 6.5 percent. Counties and cities are authorized to impose an additional sales and use tax at a lesser rate than the state rate.

The sales and use tax is subject to various exemptions, including the sale of certain medical items. Durable medical equipment and mobility enhancing equipment specifically are not included as medical items that are exempted from the tax. Durable medical equipment is equipment serving a medical purpose that is not worn on the body, such as a prosthetic limb, and used more than once for a person with an injury or illness. Medical mobility equipment is equipment used to provide increased movement in the home or motor vehicle, but does not include equipment normally provided by the motor vehicle manufacturer.

The United States Department of Veterans Affairs' (DVA) Automobile Adaptive Equipment program provides equipment and training for physically challenged veterans to enter, exit, and safely operate motor vehicles. The DVA reimburses qualifying veterans who purchase special equipment installed in the veteran's own motor vehicle, including wheelchair lifts, under vehicle lifts, power door openers, lowered floors and raised roofs, raised doors, hand controls, left foot gas pedals, reduced effort and zero effort steering and braking, and digital driving systems, as well as standard power equipment.

Summary of Amended Bill:

The sale of certain add-on automotive adaptive equipment that assists in the entry, exit, or safe operation of a motor vehicle is exempt from the sales and use tax. The exemption includes the service charges for installing and repairing the equipment. The exemption does not apply to equipment installed by the manufacturer of the motor vehicle. The equipment must be prescribed by a physician.

The exemption only applies if:

- the purchaser is a disabled veteran or disabled active member of the armed forces;
- the purchase is reimbursed in whole or in part by the federal government; and
- the reimbursement must be paid directly by the DVA or other federal agency to the seller.

The seller making a tax-exempt sale either must obtain from the purchaser an exemption certificate issued by a federal department, or must capture the relevant data allowed under the streamlined sales and use tax agreement.

Amended Bill Compared to Substitute Bill:

The amended bill includes a general reference to "the federal government" and undefined references to "the department" and "that agency." The amendment provides specific references to the DVA or other federal agencies that reimburse veterans for the purchase of adaptive equipment.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect on August 1, 2013.

Staff Summary of Public Testimony:

(In support) The state began to collect the use tax on adaptive automotive equipment sold to veterans. Only three other states collect this tax. The average tax is about \$600 although it can be higher. Some required equipment includes a lowering ramp and electronic control to accelerate and brake with an arm. It would not be possible for some veterans to afford equipment with the tax. There are about 10-12 new injuries from Iraq and Afghanistan each year.

While everyone should pay their fair share of taxes, there is a need to take care of veterans who cannot afford to pay the taxes applied to this equipment. Adaptive equipment is used to enable veterans to participate in everyday life. Veterans need this equipment to be made whole when they return home and they should not be penalized for using this equipment. It gives veterans quality of life.

Veterans need transportation to get to the DVA hospitals for treatment. Without vehicle access, it would cost more to provide transportation for veterans to and from the hospital than to install and service the adaptive equipment.

The imposition of the tax will cause the state to lose in-state vendors who install and service this equipment. Veterans will start to go to Oregon to purchase this equipment and come back to Washington expecting to find vendors to service their vehicles. Some vendors are paying the tax for the veterans. In-state servicers of adaptive automotive equipment can do 80 percent of their work for veterans. Vendors have to collect this tax from veterans. Many veterans cannot afford the tax. People are going to Oregon to purchase this expensive equipment. Many out-of-state companies are doing business with the DVA in Washington and not paying taxes, which puts Washington businesses at a disadvantage. This has not been an issue in the past because Washington did not impose taxes on these purchases.

(Opposed) None.

Persons Testifying: Senator Hobbs; Tony Woods, Veterans Legislative Coalition; Skip Derps, Ernie Butler, James Luco, and Robert Brush, Northwest Paralyzed Veterans

Association; Mike Partridge, Northwest Paralyzed Veterans Association and Veterans Legislative Coalition; and Amanda Riviera, Absolute Mobility.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended by Committee on Finance and without amendment by Committee on Community Development, Housing & Tribal Affairs. Signed by 13 members: Representatives Carlyle, Chair; Tharinger, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Fitzgibbon, Hansen, Lytton, Pollet, Reykdal, Springer, Vick and Wilcox.

Staff: Dominique Meyers (786-7150).

Summary of Recommendation of Committee On Finance Compared to Recommendation of Committee On Community Development, Housing & Tribal Affairs:

The legislative intent for providing the sales and use tax exemption is included along with an expiration date of July 1, 2018. Sellers of mobility equipment are required to file their taxes electronically and deduct the exempt sales from their reported gross income. A technical correction was made to clarify that the Department of Revenue is the agency that provides exemption certificates.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect on August 1, 2013.

Staff Summary of Public Testimony:

(In support) This bill was introduced when the Department of Revenue made it known that they were going to assess use tax on mobility equipment purchased by veterans. The federal government only reimburses for the equipment, not the tax. Mobility equipment can be very expensive and some veterans cannot afford to pay the tax liability. It sometimes takes up to a year for the federal government to approve the equipment veterans need. If they cannot afford to pay the sales tax, they do not get the necessary mobility equipment. It would be impossible for affected veterans to live a normal life without the use of adaptive mobility equipment. The disabled veterans who use this equipment are not using it by choice, but as a consequence of injuries they sustained while serving our country. Washington businesses that provide this equipment are losing sales because some veterans are going to Oregon to buy their mobility equipment tax-free. This exemption can easily be justified over time and having a sunset clause would not be an issue.

(Opposed) None.

Persons Testifying: Jerome Delvin, Benton County Commissioner; Skip Dreps, Veteran's Administration; Amanda Rivera, Absolute Mobility; and Ernie Butler, Northwest Paralyzed Veteran's Association.

Persons Signed In To Testify But Not Testifying: None.