

HOUSE BILL REPORT

HB 2334

As Reported by House Committee On:
Finance

Title: An act relating to the excise taxation of martial arts.

Brief Description: Concerning the excise taxation of martial arts.

Sponsors: Representatives Ryu, Sawyer, Walkinshaw, Peterson, Santos, Pollet, Wilson, Stokesbary and Van Werven.

Brief History:

Committee Activity:

Finance: 1/15/16, 1/26/16 [DPS].

Brief Summary of Substitute Bill

- Removes yoga, chi gong, and martial arts activities not held at an athletic or fitness facility from the definition of a retail sale, thereby removing them from the sales tax base.
- Reclassifies these activities from a retail activity to a service and other activity for business and occupation tax purposes.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Lytton, Chair; Robinson, Vice Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Frame, Manweller, Pollet, Reykdal, Ryu, Springer, Stokesbary, Vick, Wilcox and Wylie.

Staff: Sarah McLaughlin Emmans (786-7288).

Background:

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 the property, digital product, or service. If retail sales taxes were not collected when the user

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acquired the property, digital products, or services, then use taxes apply to the value of property, digital product, or service when used in this state. The state, most cities, and all counties 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 3.1 percent, depending on the location.

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Revenues are deposited in the State General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted. Retailing activities are subject to a rate of 0.471 percent, and service and other activities are subject to a rate of 1.5 percent.

Physical Fitness Activities.

The definition of retail sale includes the operation of an athletic or fitness facility, which is defined as an indoor or outdoor facility, or portion of a facility, that is predominantly used for physical fitness activities. Physical fitness activities are activities that involve physical exertion for the purpose of improving or maintaining the general fitness, strength, flexibility, conditioning, or health of the participant. With certain exceptions, all charges for the use of an athletic or fitness facility are retail sales, including any charges associated with services or amenities. A specific exclusion is provided for yoga, tai chi, and chi gong classes that are held in facilities which are not primarily used for physical fitness activities, such as a community center, school, or stand-alone yoga studio. For B&O tax purposes, these activities are classified as service and other rather than retailing.

Summary of Substitute Bill:

Yoga, chi gong, and martial arts activities that do not occur at an athletic or fitness facility but instead occur at any other facility, such as a community center, school, or stand-alone yoga or martial arts studio, are removed from the definition of retail sale. These activities are not subject to the sales tax or to the retailing B&O tax rate 0.471 percent, but instead are subject to the service and other activities B&O tax rate of 1.5 percent.

"Martial arts" are defined as any of the various systems of training for physical combat or self-defense, including but not limited to karate, kung fu, tae kwon do, Krav Maga, boxing, kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido, Kendo, tai chi, and mixed martial arts.

Substitute Bill Compared to Original Bill:

In the substitute bill, the tax preference performance statement is removed. Language is added to clarify that yoga, chi gong, or martial arts activities taking place at any facility other than an "athletic or fitness facility" are not included in the definition of a retail sale. Yoga, chi gong, and martial arts activities are removed from the definition of, "athletic or fitness facility," but added to the definition of "physical fitness activities."

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect April 1, 2016.

Staff Summary of Public Testimony:

(In support) Young people who participate in martial arts learn many positive influences, including life skills, healthy diet, discipline, responsibility, self-esteem, and leadership. Martial arts instruction teaches more than just martial arts, and therefore should not be taxed. It is an art form and a part of cultural heritage and history for many cultures. Martial arts is not a tangible item, nor is it a physical fitness activity because it involves being still just as much as it involves movement. Martial arts play an important role in the community because they emphasize bully prevention and self-defense. Self-defense skills through martial arts are especially important for women and children. This bill would fix a tax change that made it hard for families to afford martial arts. Many martial arts studios give back to the community through charity work and other opportunities. Many martial arts studios are not in business to make a profit but to make a difference in people's lives. Small business owners have already struggled with dropping enrollment, forcing them to dip into retirement or take on new business ventures to support the martial arts business. Some schools have already lowered prices due to the recession or students' inability to pay.

(Opposed) None.

Persons Testifying: Representative Ryu, prime sponsor; Preston Ducati and John Laible, Z-Ultimate Self Defense Studios; Ron Merry, Lenderman Academy; Ricki Kay, Fairwood Martial Arts; Will Holloway, Heiwa Dojo - Aikido and Martial Arts for Peace; Myrlino Hufana, Bellevue Martial Arts Academy; Joni Sharrah, Margret Hardin, Tavin Peterson, Clifford Lenderman, Hana Judeh, Karen St. Clair, Randy Holeman, and Andy Wilson, Washington Martial Arts Association; Charles Sweigart, Washington Karate Association; and Aki Smith.

Persons Signed In To Testify But Not Testifying: Karie Rainer; Bruce Bookman, Tenzan Aikido, Inc.; Keith Busch, Alpha Martial Arts; Anna Parsons, U.S. Martial Arts Center, Nick Vacca, Ms. Mari's Martial Arts Club; and Robert Owens, Brazilian Jiu-Jitsu of Olympia.