

HOUSE BILL REPORT

HB 2187

*As Reported By House Committee on:
Revenue*

Title: An act relating to auctions conducted by nonprofit organizations.

Brief Description: Exempting nonprofit organization auctions from excise tax.

Sponsor(s): Representatives O'Brien, Dellwo, Brough, Anderson, May, Kremen, Beck, Zellinsky, Miller, Day, Basich, Riley, R. King, Rasmussen, Prentice, Ferguson, Padden, Broback, Ballard, Edmondson, Brumsickle, P. Johnson, Bowman, Wynne, Mielke, Casada, Nealey, Van Luven, Fuhrman, Holland, Wilson, Schmidt, Neher, Lisk, Rayburn, Scott, Roland, Ogden, Orr, Haugen, Jacobsen, Cole, Pruitt, McLean, Tate, Morton, Valle, Dorn, Heavey, Franklin, Cantwell and Leonard.

Brief History:

Reported by House Committee on:
Revenue, April 12, 1991, DPS.

**HOUSE COMMITTEE ON
REVENUE**

Majority Report: *That Substitute House Bill No. 2187 be substituted therefor, and the substitute bill do pass.*
Signed by 14 members: Representatives Wang, Chair; Fraser, Vice Chair; Holland, Ranking Minority Member; Wynne, Assistant Ranking Minority Member; Appelwick; Brumsickle; Day; Leonard; Morris; Morton; Phillips; Rust; Silver; and Van Luven.

Staff: Robin Appleford (786-7093).

Background: Nonprofit organizations pay business and occupation (B&O) tax and collect sales taxes on their sales unless specifically exempted by statute. Exemption from federal income tax does not automatically provide exemption from state taxes. Most nonprofits pay B&O tax at the services rate of 1.5 percent.

Income from bazaars and rummage sales conducted by nonprofit organizations is exempt from B&O tax if the gross income from each sale does not exceed \$1,000, the sales are conducted no more than twice a year, and each sale does not

last more than two days. Sales tax does not apply to sales that are infrequent enough to be considered "casual and isolated" sales. The Department of Revenue (DOR) has interpreted sales at nonprofit bazaars and rummage sales to be exempt as "casual and isolated" sales as long as the same criteria are met as for the B&O exemption.

Summary of Substitute Bill: Any public benefit nonprofit organization is exempt from paying B&O tax and from collecting sales taxes on amounts received from fundraising auctions if the organization does not conduct more than one auction per year and the auction does not last more than two days. A public benefit nonprofit organization is defined as an organization exempt from tax under section 501(c)(3) of the federal internal revenue code.

Substitute Bill Compared to Original Bill: The definition of a nonprofit eligible for exemption from tax is changed from a definition used for state tax purposes to a definition used for federal tax purposes. The use tax exemption is eliminated.

Fiscal Note: Not available.

Effective Date of Substitute Bill: The bill contains an emergency clause and is effective immediately.

Testimony For: This issue came up as a result of an excise tax bulletin issued by DOR informing nonprofits of their tax liability. The majority of nonprofits are unaware of their tax liability and have not been paying. Annual auctions are big fundraisers for many nonprofits; and the ability of charitable organizations to raise money will be adversely affected if this bill is not passed. Many nonprofits will get out of the charitable work they do and the beneficiaries of the services will be hurt if nonprofits have to collect and pay taxes. DOR's rules for collecting the tax are too complicated to administer. There is wide bipartisan support for this bill, which will keep a strong volunteer/donor base for charitable activities.

Testimony Against: None.

Witnesses: Todd Summerfelt, Cystic Fibrosis Foundation; Cary Bozeman and Penny Yantis, Boys and Girls Club of Bellevue; Marilee McCorriston, Hutchinson Cancer Center; Debbie Mallory, Issaquah and Kirkland Rotary Clubs and Kappa Alpha Theta Sorority; Shirley Newton, Campfire; Mary Willy, St. Edward's School; George Akers, Poncho; and Andrea Demitio, Special Olympics and Sudden Infant Death Syndrome, Janice Nielson, Western Association of Concerned Adoptive Parents; Dean Palmer, Seattle Children's Home; Mark Dosogne,

Bellevue Boy's and Girls Club; David Newton, Seattle Ski Alliance; Marquerite Smith, Council for the Provision of Child Abuse; Ed Williams, Archdiocese of Seattle; Joseph Beaulieu, Olympia/Thurston County Chamber of Commerce; and Don Hall, Boys and Girls Clubs of Tacoma.