

HOUSE BILL REPORT

HB 1119

As Reported By House Committee On:
State Government

Title: An act relating to advertising in state publications.

Brief Description: Prohibiting state agencies from accepting advertising from unregistered sellers.

Sponsors: Representatives Fuhrman, G. Fisher, King, Van Luven, Anderson, Foreman, Reams, G. Cole, Lisk, Jones, Sheldon, Wang, Sheahan, Kremen, Quall, Riley, Appelwick, Leonard, Valle, Chandler, Ballard, Schmidt, Chappell, Basich, Morton, Heavey, Rust, Silver, Carlson, Padden, Vance, Mielke, Wood, Brumsickle, Tate, Forner, Cooke, Long, Rayburn, Zellinsky, Brown, Brough, Franklin, J. Kohl, Edmondson, Springer, Holm, R. Fisher, Horn, Talcott, Shin, Romero, Karahalios, Kessler, Johanson and Miller.

Brief History:

Reported by House Committee on:
State Government, February 8, 1993, DPS.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Anderson, Chair; Veloria, Vice Chair; Reams, Ranking Minority Member; Vance, Assistant Ranking Minority Member; Conway; and King.

Staff: Bonnie Austin (786-7135).

Background: In 1992, the Supreme Court of the United States ruled in the Quill decision that states do not have the authority to require that out-of-state mail order companies collect use taxes on goods sold to state residents. The court held that only Congress can impose such a requirement. States may only compel collection of state taxes if the mail-order company has a "physical presence" in the state such as offices, warehouses, real or personal property, agents or employees.

Certain state agency publications contain advertisements from out-of-state mail order companies. Some parties believe that it is unfair for these companies to use state

agency publications to solicit sales when these companies do not have to collect state taxes on these sales.

All persons who engage in business in the state are required to obtain a certificate of registration from the Department of Revenue.

Summary of Substitute Bill: State agencies are prohibited from accepting advertisements for placement in state publications unless the advertiser: (1) has obtained a certificate of registration from the Department of Revenue; and (2) if the advertiser is not required to collect state sales or use tax, agrees to either collect and remit the use tax or provide quarterly a list of Washington customers. This prohibition only applies to advertisements that solicit orders or offer items for sale.

Substitute Bill Compared to Original Bill: Language is added clarifying the responsibilities of advertisers who are not obligated to collect and remit Washington sales or use tax. These advertisers are required to either voluntarily collect and remit the use tax, or provide a quarterly list of Washington customers to the Department of Revenue.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect July 1, 1993.

Testimony For: The Department of Wildlife uses advertisements from out-of-state mail order companies in their hunting and other pamphlets. Under the Quill decision, these out-of-state companies are not required to collect the use tax due to the state when taking orders from Washington residents. These companies have an unfair advantage over Washington retailers. The retailers strongly support this bill.

Testimony Against: None.

Witnesses: Representative Steve Fuhrman, State Representative, Sponsor (pro); LeeRoy Wisner, Wisner's Gun Shop (pro); and Jan Gee, Washington Retail Association (pro).