

HOUSE BILL REPORT

HB 2424

As Reported By House Committee On:
Revenue

Title: An act relating to taxation of massage services.

Brief Description: Removing "massage services" from the definition of retail sale.

Sponsors: Representatives Anderson, J. Kohl, Ballard, Dellwo, King, Dyer, Grant, Brough, Dorn, Lemmon, Quall, B. Thomas, Campbell, Sehlin, Wolfe, Morris, Roland, Wood, Carlson, Silver, Orr, Sheahan, Dunshee, Cothorn, Veloria, Mastin, Heavey, Long, Edmondson, Cooke, Schoesler, Kessler, Romero, Thibaudeau, Conway, Jones, Tate, Mielke, Springer and McMorris.

Brief History:

Reported by House Committee on:
Revenue, February 8, 1994, DPS.

HOUSE COMMITTEE ON REVENUE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives G. Fisher, Chair; Holm, Vice Chair; Foreman, Ranking Minority Member; Fuhrman, Assistant Ranking Minority Member; Anderson; Brown; Caver; Cothorn; Leonard; Romero; Rust; Talcott; Thibaudeau; Van Luven and Wang.

Staff: Bob Longman (786-7139).

Background: The state retail sales tax applies to the sale to consumers of most goods and many services. The state tax rate is 6.5 percent of the selling price. Local governments may levy additional sales taxes. The average local sales tax rate is 1.5 percent. The sales tax is paid by the purchaser and collected by the seller.

Taxable services include construction, repair, automobile parking and storage, telephone services, some recreation and amusement services, and services provided by abstract, title insurance, escrow, credit bureau businesses. In 1993, the Legislature added several categories of services to the sales tax, including coin-operated laundry facilities in apartment houses, hotels, trailer camps and tourist camps;

landscape maintenance and horticultural services other than horticultural services provided to farmers; service charges associated with tickets to professional sporting events; guided tours and guided charters; physical fitness services; tanning salon services; tattoo parlor services; massage services; steam bath services; turkish bath services; escort services; dating services; and the rental of equipment with an operator.

Massage services, along with tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services and dating services are coded in the federal industrial classification manual as miscellaneous personal services. This classification system is used to organize a wide range of economic data by federal and state agencies. The Department of Revenue uses this system to organize tax data by industry.

The 1993 legislation did not define "massage services" that are subject to sales tax. The Department of Revenue determined that massage *therapy* is a type of physical therapy and is not a retail sale if it is part of a treatment plan ordered by a doctor for physical illness, injury or accident. Thus, massage therapy is not subject to sales tax. Sellers of massage therapy continue to pay business and occupation tax at the service rate of 2.13 percent.

Many types of services remain exempt from sales tax. Major exempt categories include medical, legal, accounting, engineering, motion pictures, veterinary, cable television, and beauty and barber services.

Businesses selling services subject to sales tax pay B&O at the 0.471 percent retailing rate. Businesses selling services that are exempt from sales tax are liable for B&O tax at a rate of 1.7 percent, 2.13 percent or 2.5 percent, depending on the type of service.

Initiative 601, approved by the voters in November 1993, requires a vote of the people for all tax increases and "revenue-neutral tax shifts" before July 1, 1995. After July 1, 1995, the initiative requires a two-thirds vote of each house of the Legislature for an action that raises state revenue, plus a vote of the people if state expenditures, including the new revenue, will exceed the limits provided in the initiative.

Summary of Substitute Bill: The industrial classification code used for licensed massage practitioners is changed from "miscellaneous personal services" to "offices and clinics of health practitioners". The Department of Revenue is

directed to study the effect of recategorizing massage practitioners as health practitioners and adjusting tax categories accordingly.

Substitute Bill Compared to Original Bill: The original bill deleted massage services from the definition of retail sale. The substitute bill does not contain this provision.

Fiscal Note: Requested January 21, 1994.

Effective Date of Substitute Bill: The bill takes effect July 1, 1994.

Testimony For: Massage services are a medical service and should not be subject to retail sales tax. Licensed massage practitioners must now charge sales tax to some customers and not to others. This means they have to be reported separately on the tax return. This creates an additional administrative cost to massage practitioners. The industrial classification code used for massage practitioners is incorrect and should be changed.

Testimony Against: None.

Witnesses: Representative Jeanne Kohl, prime sponsor; Melanie Stewart, Massage Practitioners; and Lori Belinski, American Massage Therapy.