

HOUSE BILL REPORT

SHB 2235

As Passed Legislature

Title: An act relating to business and occupation taxes for periodicals and magazines.

Brief Description: Clarifying the business and occupation tax on periodicals and magazines.

Sponsors: By House Committee on Revenue (originally sponsored by Representatives Cothorn, Foreman, Thibaudeau, J. Kohl, L. Johnson, Ogden, Rust, Chappell, Van Luven, Brough, Brown and Cooke).

Brief History:

Reported by House Committee on:
Revenue, January 28, 1994, DPS;
Passed House, February 26, 1994, 87-0;
Amended by Senate;
House concurred;
Passed Legislature, March 5, 1994, 95-0.

HOUSE COMMITTEE ON REVENUE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives G. Fisher, Chair; Holm, Vice Chair; Foreman, Ranking Minority Member; Fuhrman, Assistant Ranking Minority Member; Anderson; Brown; Caver; Cothorn; Leonard; Romero; Rust; Silver; Talcott; Thibaudeau; Van Luven; and Wang.

Staff: Bob Longman (786-7139).

Background: Sales of newspapers are exempt from retail sales taxes. Before July 1993, the exemption statute did not define "newspaper." Rules of the Department of Revenue required, among other things, that newspapers be issued regularly at stated intervals of at least once every two weeks, be formed of printed paper sheets without substantial binding, and be of general interest, containing information of current events. A series of U.S. Supreme Court decisions suggested that content-based distinctions for tax purposes are probably unconstitutional.

As part of the 1993 omnibus tax legislation, the Legislature enacted a statutory definition of newspaper for tax purposes

as that which is issued regularly at stated intervals of at least once a week and printed on newsprint in tabloid or broadsheet format, folded loosely together without stapling, glue or any other binding of any kind. The definition does not refer to the content of the publication.

Washington's major business tax is the Business and Occupation (B&O) tax. This tax is imposed on the gross receipts from all activities engaged in for profit, except specific activities and types of income exempted from the tax. Deductions for the costs of doing business are not allowed. A threshold exemption exempts some small businesses. The current threshold is \$1,000 per month. Businesses with gross incomes less than the threshold are not subject to tax. Businesses with gross incomes greater than the threshold are subject to tax on their entire gross incomes.

Cities and towns have general licensing powers that include the power to impose a fee or tax for the privilege of doing business within the city or town. These fees and taxes are often called "business and occupation taxes" and are often based on gross receipts. However, cities and towns are not required to use the same structure of taxable activities, rates, or exemptions that the state uses for its B&O tax.

Before July 1993, publishers of newspapers, magazines and periodicals were eligible for a special B&O rate of 0.484 percent. As part of the change in the newspaper definition, legislation enacted in 1993 restricted this special rate to newspaper publishers. As a result, several other types of publishers were reclassified at the services rate of 2.13 percent. The rate for newspaper publishers was raised to 0.515 percent.

Summary of Bill: The Business and Occupation tax rate for publishers of periodicals or magazines is reduced from 2.13 percent to 0.515 percent. "Periodical or magazine" means a printed publication, other than a newspaper, issued regularly at stated intervals at least once every three months, including any supplement or special edition of the publication.

Juvenile newspaper carriers are exempt from state, city, and town business and occupation taxes. Persons employing juvenile newscarriers must notify each carrier that the exemptions will expire when the carrier reaches 18 years of age.

Fiscal Note: Requested on substitute bill January 28, 1994.

Effective Date: Ninety days after adjournment of session in which bill was passed. The change in B&O rate for publishers is effective retroactively to July 1, 1993.

Testimony For: The large tax rate increase on certain publishers was not intended when language was adopted last year to clarify the definition of newspapers.

Testimony Against: None.

Witnesses: Barbara Cothorn, Prime Sponsor; Len McComb, Director, Department of Revenue; Becky Bogard, State Advertising Coalition; Mimi Kirsch, Paradigm; and Richard Wolcher, Media Index Publications.