

SENATE BILL REPORT

SHB 1119

AS REPORTED BY COMMITTEE ON GOVERNMENT OPERATIONS, MARCH 23, 1993

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

SPONSORS: House Committee on State Government (originally sponsored by 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)

HOUSE COMMITTEE ON STATE GOVERNMENT

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: Do pass.

Signed by Senators Haugen, Chairman; Drew, Vice Chairman; Loveland, Oke, Owen, and Winsley.

Staff: Barbara Howard (786-7410)

Hearing Dates: March 19, 1993; March 23, 1993

BACKGROUND:

In 1992, the Supreme Court of the United States ruled in the Quill decision that states do not have the authority to require out-of-state mail order companies to 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.

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

Certain state agency publications contain advertisements from out-of-state mail order companies. Competing in-state firms are not exempted from the sales tax.

SUMMARY:

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) agrees to either collect and

remit the use tax or provide quarterly a list of Washington customers if the advertiser is not required to collect state sales or use tax. This prohibition only applies to advertisements that solicit orders or offer items for sale.

Appropriation: none

Revenue: none

Fiscal Note: available

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

TESTIMONY FOR:

The issue here is fairness. These are publications which all fishermen and hunters must accept because they contain the regulations concerning seasons, fishing and hunting areas, and similar requirements. The out-of-state retailer gains an unfair advantage; in-state catalog sales companies simply see no advantage to be gained by advertising in the bulletins.

The amendments requiring that the seller furnish a list of customers was added at the request of Revenue to try to avoid the federal supremacy problem.

TESTIMONY AGAINST: None

TESTIFIED: Representative Fuhrman, prime sponsor (pro); Jeff Cox, Washington Retail Association (pro); Eric Weigand, Department of Wildlife