

# HOUSE BILL REPORT

## HB 1279

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### As Reported By House Committee On:

Finance

**Title:** An act relating to sales and distribution of magazines by subscription.

**Brief Description:** Providing a sales tax exemption for certain sales of magazines by subscription.

**Sponsors:** Representatives Pennington, Morris, Schoesler, Campbell, Boldt, Carrell, Mielke, Van Luven, Hymes, McMahan, Mulliken, Foreman, Blanton, Sherstad, Elliot, Backlund, Johnson, L. Thomas and Huff.

### Brief History:

#### Committee Activity:

Finance: 2/2/95, 2/7/95 [DPS].

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives B. Thomas, Chairman; Boldt, Vice Chairman; Carrell, Vice Chairman; Morris, Ranking Minority Member; Dickerson, Assistant Ranking Minority Member; Hymes; Mason; Mulliken; Pennington; Schoesler; Sheldon and Van Luven.

**Staff:** Rick Peterson (786-7150).

**Background:** The sales tax is paid on each retail sale of most articles of tangible personal property and certain services. Taxable services include construction, repair, telephone, lodging of less than 30 days, physical fitness, and some recreation and amusement services.

Major items exempt from tax include food for human consumption, prescription drugs, motor vehicle fuel, utility services, professional services (e.g. medical, legal), certain business services (e.g. accounting, engineering), and items that become a component part of another product for sale.

The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms, including purchases by mail order.

The United States Supreme Court has ruled that states cannot require out-of-state businesses to collect state sales or use taxes unless the business has a physical presence in the state. Therefore, tax is not generally collected on magazine subscription purchases by mail order.

Washington law does not provide a general exemption from the retail sales tax for nonprofit organizations or government agencies. Most sales tax exemptions are for specific items, such as food for home consumption and prescription drugs. Nonprofit organizations generally collect tax from purchasers when selling goods and services subject to sales tax and pay tax when buying goods and services subject to sales tax. A few exemptions exist for nonprofit organizations such as: sales of amusement and recreation services by nonprofit youth organizations, sales to the Red Cross, sales of art objects to nonprofit artistic and cultural organizations, and fund raising auction sales by public benefit nonprofit organizations.

**Summary of Substitute Bill:** The sale of magazines by subscription for fund raising purposes by (1) educational institutions, or (2) nonprofit organizations engaged in activities for the benefit of boys and girls 19 years and younger is exempt from sales tax.

**Substitute Bill Compared to Original Bill:** The substitute bill replaces the word "school" with educational institution, using an existing definition which means institutions created or accredited by the state, or accredited as a degree-granting institution by an association recognized by the U.S. Secretary of Education. The definition does not include business colleges or trade schools. The substitute bill also restricts "nonprofit organization" to those primarily involved with youth.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect on July 1, 1995.

**Testimony For:** Many schools, school bands, and youth groups raise money by selling magazines. Middle schools do not receive funds for these programs from the district. If these groups don't raise the funds by selling magazines, there will be no extra school activities. Many schools did not realize that they had to pay state sales tax on these products. Yet, the Publishers' Clearinghouse, which is not raising funds for these types of activities does not have to pay sales tax on their products. It isn't fair.

**Testimony Against:** None.

**Testified:** Representative John Pennington, prime sponsor; Rod Chandler, and Larry Eagan, QSP (a subsidiary of Readers' Digest); Chuck Booth, Tyee Middle School; and Kate Watt, Tyee Middle School Student (all pro).