

# HOUSE BILL REPORT

## EHB 1042

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### As Passed House:

March 3, 1998

**Title:** An act relating to taxation of dental appliances, devices, restorations, and substitutes.

**Brief Description:** Changing the taxation of dental appliances, devices, restorations, and substitutes.

**Sponsors:** Representatives Dyer, B. Thomas, Dunshee, Robertson, Grant, Thompson, Smith and Mielke.

### Brief History:

#### Committee Activity:

Finance: 3/7/97 [DP].

#### Floor Activity:

Passed House: 3/3/98, 88-0.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 14 members: Representatives B. Thomas, Chairman; Carrell, Vice Chairman; Mulliken, Vice Chairman; Dunshee, Ranking Minority Member; Dickerson, Assistant Ranking Minority Member; Boldt; Butler; Conway; Kastama; Mason; Morris; Pennington; Schoesler and Van Luven.

**Staff:** Linda Brooks (786-7153).

**Background:** Washington's major business tax is the business and occupation tax. In 1997 the Legislature eliminated the distinction between financial services, selected business services, and other services and consolidated these activities into a single tax rate. These changes will take place July 1, 1998. After July the principal B&O tax rates will be:

Manufacturing, wholesaling, & extracting	0.484	percent
Retailing	0.471	percent
Services	1.5	percent

The B&O tax is imposed on the gross receipts of business activities conducted within the state without any deduction for the costs of doing business. Out-of-state

companies who bring goods into Washington and sell these goods in Washington must pay B&O tax.

For B&O tax purposes, dental laboratories are viewed as providing professional services. The product which results from those services is merely the evidence of those services. Therefore, dental laboratories are taxable under the other services classification at the 1.5 percent rate.

The sales tax applies to most retail sales of tangible personal property and to most retail sales of repair services. Most non-repair services are exempt from sales tax. Use tax is imposed on the use of an item in this state, when the acquisition of the item or service has not been subject to sales tax. Repair services are not subject to use tax.

Property that would otherwise be subject to sales and use taxes is exempt if it is furnished in connection with an activity that is taxed as a service under the B&O tax. Thus, sales and use taxes do not apply to dental appliances, devices, restorations, substitutes, or other dental laboratory products because they are considered part of services rendered by a dental lab. Nor does sales tax apply to repair of these items.

Prosthetic devices, orthotic devices, hearing instruments, ostomic items, and medical oxygen systems are exempt from sales and use taxes. Repair of these is generally subject to sales tax, but the repair of hearing instruments is exempt from sales tax.

**Summary of Bill:** Dental laboratory activities are defined as manufacturing for B&O tax purposes, rather than as services. If the manufactured products of a dental lab are sold at retail, the 0.471 percent B&O tax rate applies. If the products are sold at wholesale, the 0.484 percent B&O tax rate applies.

Dental appliances, devices, restorations, and substitutes are exempt from retail sales and use tax. Repairs of dental appliances, prosthetic devices, orthotic devices, ostomic items, and medical oxygen system are also exempt from sales tax.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect October 1, 1998.

**Testimony For:** The Department of Labor and Industries classifies dental labs under a miscellaneous manufacturing code. A manufacturing classification is the correct classification, because dental labs make dental prostheses. Dental labs should be taxed under the B&O tax rate for manufacturers.

**Testimony Against:** None

**Testified:** (Pro) Representative Dyer; Robert Bragg, Washington State Dental Laboratories Association.