

HOUSE BILL REPORT

HB 1276

As Reported By House Committee On:

Finance

Title: An act relating to the taxation of physical fitness services.

Brief Description: Removing the sales tax on and adjusting the business and occupation taxation of physical fitness services.

Sponsors: Representatives Carrell, Sheldon, Morris, Quall, Koster, Smith, Mulliken, Sherstad, Crouse, D. Sommers and Backlund.

Brief History:

Committee Activity:

Finance: 1/15/98, 2/4/98 [DPS].

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; Carrell, Vice Chairman; Mulliken, Vice Chairman; Dunshee, Ranking Minority Member; Boldt; Butler; Kastama; Morris; Pennington; Schoesler; Thompson and Van Luven.

Minority Report: Do not pass. Signed by 3 members: Representatives Dickerson, Assistant Ranking Minority Member; Conway and Mason.

Staff: Linda Brooks (786-7153).

Background: The sales tax is imposed on retail sales of most items of tangible personal property and some services. 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. The combined state and local sales and use tax rate is between 7.0 and 8.6 percent, depending on location.

In 1993, the Legislature extended state and local retail sales taxes to apply to sales of certain services. The table shows these services.

Services That Became Subject to Sales and Use Tax in 1993
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Landscape maintenance and horticultural services other than horticultural services provided to farmers.
Coin-operated laundry facilities in apartments, hotels, trailer and tourist
Service charges associated with tickets to professional sporting events.
Guided tours and charters.
Massage services.
Physical fitness services.
Tanning salon services.
Tattoo parlor services.
Steam and Turkish bath services.
Escort and dating services.

These services were added to the list of services that were already subject to sales tax, which were construction, repair, automobile parking and storage, telephone services, some recreation and amusement services, and services provided by abstract, title insurance, escrow, and credit bureau businesses.

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

In 1995, legislation was enacted that repealed the sales taxation of massage services.

In 1996, the Legislature removed guided tours and guided charters from the definition of retail sale in response to a ruling by the U.S. Supreme Court on an Oklahoma case involving the taxation of guided tours. Guided tours and guided charters are not subject to sales and use tax, but day trips for sightseeing purposes are subject to sales and use tax.

The retail sales tax and the business and occupation (B&O) tax use the same definition of retail sale. The B&O tax is Washington's major business tax. This tax is imposed on the gross receipts of business activities conducted within the state. There are several different rates under the B&O tax. The B&O rate for retailing is 0.471 percent. The applicable rate for services which are not subject to the retail sales tax is 1.75 percent, and this tax will lower to 1.50 percent on July 1, 1998.

Initiative 601, approved by the voters in November 1993, 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 limit provided in the initiative. If a service is removed from the definition of retail sale, the resulting increase in the B&O tax rate might be considered an action that raises state revenue under the initiative.

Summary of Substitute Bill: The 1993 extension of sales taxes to physical fitness services is repealed. As a result of repealing the sales tax, the B&O tax rate for providers of these services is increased from 0.471 percent (retailing rate) to 1.50 percent (service rate). These tax changes are made exempt from the provisions of Initiative 601.

Substitute Bill Compared to Original Bill: Language is updated in the underlying RCW section to reflect a change enacted in 1997. An effective date of July 1, 1998 is also added.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on July 1, 1998.

Testimony For: When the retail sales tax was imposed on fitness services, fitness clubs lost members. Physical fitness should be viewed as an investment in public health. There is also a fair competition issue. Fitness services offered by the YMCA are exempt from sales tax, but fitness services that compete with the YMCA are subject to tax.

Testimony Against: None.

Testified: George Eusterman, Washington Health Fitness Club Association (pro); Mieke Hart, Hart's Athletic Clubs Inc. (pro); and Craig Berman, Bally Total Fitness (pro).