

HOUSE BILL REPORT

HB 2660

As Reported By House Committee On:

Finance

Title: An act relating to exempting movie theater snack counters from the special stadium sales and use tax imposed on restaurants.

Brief Description: Exempting movie theater snack counters from the stadium tax imposed on restaurants.

Sponsors: Representatives Thompson, O'Brien and Zellinsky.

Brief History:

Committee Activity:

Finance: 2/5/98, 2/9/98 [DP].

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; Conway; Kastama; Mason; Morris; Pennington; Schoesler; Thompson and Van Luven.

Staff: Linda Brooks (786-7153).

Background: The sales tax is imposed on retail sales of most items of tangible personal property and some services. The state tax rate is 6.5 percent and is applied to the selling price of the item or service. In addition, local sales taxes apply. The total tax rate is between 7 percent and 8.6 percent, depending on location. In most areas of King County the total rate is 8.6 percent. Sales tax applies when items are purchased at retail in state. Sales tax is paid by the purchaser and collected by the seller.

Use tax is imposed on the use of an item in this state, when the acquisition of the item has not been subject to sales tax. Use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out-of-state, and items produced by the person using the item. Use tax is equal to the sales tax rate multiplied by the value of the property used. Use tax is paid directly to the Department of Revenue.

In 1995 the Legislature authorized counties with a population greater than 1 million to impose certain taxes for the purpose of financing a professional baseball stadium.

Among the taxes authorized was a special sales and use tax on food and beverages sold in restaurants, taverns, and bars, at a rate not exceeding 0.5 percent.

King County used this taxing authority to impose a 0.5 percent sales and use tax on food and beverages sold in restaurants, bars, and taverns which took effect on January 1, 1996. This 0.5 percent sales and use tax is in addition to the regular retail sales and use tax, so a total sales and use tax of 9.1 percent applies to food and beverages sold in restaurants, bars, and taverns in most areas of King County. King County must use revenues from this 0.5 percent food and beverage sales and use tax to repay baseball stadium bonds. This food and beverage tax expires when the baseball stadium bonds are retired or 20 years after the tax was first imposed, whichever comes first.

For purposes of the stadium food and beverage sales and use tax, the Department of Revenue has defined a restaurant as meaning any establishment having special space and accommodation where food and beverages are regularly sold to the public for immediate, but not necessarily on-site, consumption. The term restaurant includes lunch counters, diners, coffee shops, espresso shops or bars, concession stands or counters, delicatessens, and cafeterias, but, by statute, excludes grocery stores, mini-markets, and convenience stores. Concession stands located in movie theaters are classified as restaurants, so drinks and snacks sold in movie theaters located in King County are subject to the 0.5 percent food and beverage sales and use tax.

Summary of Bill: The term, "restaurant," does not include movie theater snack counters. As a result, a special sales and use tax up to 0.5 percent imposed by a county with a population over 1 million on food and beverages sold in restaurants, taverns, and bars for the purpose of financing a professional baseball stadium does not apply to snacks and drinks sold in movie theaters.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: When the stadium food and beverage tax was enacted, movie theater owners did not realize that this tax would apply to drinks and snacks sold in theaters. Movie theaters are in direct competition with other forms of entertainment such as professional sporting events. Movie theaters should not be subject to a special tax which is used to support a competitor in the entertainment industry. Revenues lost as a result of exempting movie theater snack counters will not jeopardize repayment of the bonds. Last year taxes generated \$21 million for payments due on the baseball stadium bonds, but the actual payment to be made was only \$20 million. Thus, last year there was a \$1 million revenue surplus.

Testimony Against: The dollar amount of this exemption is small, but the concern is the precedent. If movie theater snack counters are exempted, who might be the next group to ask for an exemption from the stadium food and beverage tax? The stadium food and beverage tax revenues are pledged to pay off the bonds issued for the baseball stadium. King County has a fiduciary responsibility to its bondholders, so preserving the revenue stream is important.

Testified: Gordon Walgren and Bruce Gardiner, Motion Picture Exhibitors of Washington (pro); Chuck Williams, King County (con); and Celia Fritz, Motion Picture Association of America (pro).