

HOUSE BILL REPORT

HB 2862

As Reported By House Committee On:
Technology, Telecommunications & Energy

Title: An act relating to the taxation of aggregators as competitive telephone service providers.

Brief Description: Designating payphone service providers, or "aggregators," as competitive telephone service providers.

Sponsors: Representatives Delvin, Crouse, Reardon and Poulsen.

Brief History:

Committee Activity:

Technology, Telecommunications & Energy: 1/28/00, 2/4/00 [DPA].

Brief Summary of Amended Bill

- Adds definition of "aggregators" to the definition of competitive telephone service.
- Directs Washington Utilities and Transportation Committee to plan for a public interest pay phone program.

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Majority Report: Do pass as amended. Signed by 13 members: Representatives Crouse, Republican Co-Chair; Poulsen, Democratic Co-Chair; DeBolt, Republican Vice Chair; Ruderman, Democratic Vice Chair; Bush; Cooper; Delvin; Kastama; McDonald; Morris; Reardon; Thomas and Wolfe.

Staff: Julia Harmatz (786-7135).

Background:

Aggregators: The term "Aggregator" means the business of making telephones available to the public or to transient users of its premises (hotels, hospitals) for telephone calls. This can include operators of coin operated payphones.

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

All telephone services are subject to sales tax, except charges for residential access to a telephone network and local calls paid by coins in coin-operated phones. Thus, sales tax applies to all local and long distance services purchased by nonresidential customers, all long distance services, and all local and long distance services purchased by credit card at payphones.

The sales tax treatment of equipment *purchased* by telephone service providers depends on whether the service provider is providing *competitive* telephone service or *network* telephone service. *Competitive* telephone service is defined in statute as the provision of telephone equipment of a type that can be provided by persons not subject to state regulation as a telephone company. The definition of *network* telephone service includes services such as access to the local and long distance telephone networks. Coin telephone services are expressly included in the definition of network telephone service.

Sales of equipment to *competitive* telephone service providers are defined as wholesales and are not subject to retail sales and use tax. *Network* telephone service providers, in contrast, are considered to be the consumers of equipment purchased to provide the service. Therefore, network telephone service providers must pay sales tax on equipment purchases.

City Business Taxes: Cities and towns may impose gross receipts taxes on a businesses. Rates for utility businesses are generally much higher than rates for other businesses such as retailers. Utility rates cannot exceed 6 percent without voter approval. Rates for retailers cannot exceed 0.2 percent without voter approval. Although network telephone services are classified as retailers for state tax purposes, for city gross receipt tax purposes they are subject to the higher utility tax rate.

Summary of Amended Bill:

Telephone service aggregators are added to the definition of competitive telephone service. Coin telephone services are deleted from the definition of network telephone services.

the Washington Utilities and Transportation Commission (WUTC) shall determine whether aggregators sufficiently serve the public interest by supplying public interest payphones in areas without other access to communication services. The WUTC will report to the Legislature by December 1, 2000.

Amended Bill Compared to Original Bill: The amendment added a directive to the WUTC to determine whether aggregators sufficiently serve the public interest by supplying public interest payphones in areas without other access to communication services. The WUTC will report to the Legislature by December 1, 2000.

Appropriation: None.

Fiscal Note: Requested on January 24, 2000.

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

Testimony For: (Original bill) This changes the definition to comply with the federal definitions for consistency purposes.

(Concerns) This may pose a federal and state conflict of interpretation as to the definition.

Testimony Against: None.

Testified: (Support) Todd Mielke, Northwest Payphone Association; and Brooks Harlow, Northwest Payphone Association.

(Concerns) Ron Rosenbloom, Association of Washington Cities.