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SENATE BILL 5695

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State of Washington

56th Legislature

1999 Regular Session

By Senators B. Sheldon, West, Goings, Hale, T. Sheldon, Honeyford, Bauer, Johnson and Rasmussen

Read first time 02/03/1999. Referred to Committee on Ways & Means.

1 AN ACT Relating to the business and occupation taxation of new and  
2 used motor vehicles; adding new sections to chapter 82.04 RCW;  
3 providing an effective date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW  
6 to read as follows:

7 (1) This chapter does not apply to amounts derived from wholesale  
8 sales of used motor vehicles. For purposes of this subsection, "used  
9 motor vehicles" has the same meaning as ascribed to "used vehicle" in  
10 RCW 46.04.660.

11 (2) This chapter does not apply to the amount derived from a retail  
12 sale of a used vehicle as defined in RCW 46.04.660, that is purchased  
13 by the lessee of the vehicle at the conclusion of a lease agreement  
14 under an option to purchase provision in that agreement.

15 (3) This chapter does not apply to the amount derived by a new car  
16 dealer from wholesale sales to other new car dealers of new motor  
17 vehicles of the same make where the sales enable the dealers to adjust  
18 their inventory levels as long as the amount paid by the purchasing  
19 dealer does not exceed the amount paid by the selling dealer in the

1 acquisition of the vehicle. However, the selling dealer may add  
2 reasonable expenses for the preparation of the vehicle for sale.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW  
4 to read as follows:

5 (1) The legislature hereby acknowledges that out-of-state  
6 businesses doing business or transacting business in Washington are  
7 required to comply with this state's tax registration, reporting, and  
8 payment requirements, but recognizes that it may be administratively  
9 burdensome or difficult for out-of-state businesses to comply with  
10 these tax reporting and payment requirements. Especially where out-of-  
11 state businesses only make occasional sales in the state of Washington  
12 but are nevertheless subject to this state's taxing jurisdiction.

13 The legislature further acknowledges that out-of-state businesses  
14 that sell motor vehicles to Washington customers using agents, brokers,  
15 instate dealers, or other representatives to facilitate the sale by  
16 preparing the vehicles for delivery and/or delivering the vehicles to  
17 the buyers in this state have a physical presence or "nexus" in this  
18 state that requires the payment of the tax imposed by this chapter even  
19 where vehicles are delivered to the customers as a courtesy to out-of-  
20 state selling dealers.

21 The legislature therefore finds that out-of-state dealers are  
22 required to pay the tax imposed by this chapter because they have nexus  
23 in Washington and are doing business or transacting business in this  
24 state as described above. The legislature further finds that out-of-  
25 state businesses are also entitled to an easy, simple, and efficient  
26 method to account for and pay the tax imposed by this chapter on these  
27 sales, especially in situations where the out-of-state dealer makes  
28 only occasional sales to customers in the state of Washington. It is  
29 therefore the purpose and intent of the legislature to assist these  
30 out-of-state businesses in complying with Washington's tax  
31 registration, reporting, and payment requirements, by establishing an  
32 easy, simple, and efficient method of paying the tax imposed by this  
33 chapter.

34 (2) In the payment of the tax imposed by this chapter on new motor  
35 vehicles sold to Washington customers by out-of-state dealers that are  
36 delivered to the customer through "courtesy dealers" located in this  
37 state, the courtesy dealer may be designated as the agent for the out-  
38 of-state dealer in reporting and paying the tax imposed by this

1 chapter. Upon such designation, it is the duty of each courtesy dealer  
2 to pay the tax imposed by this chapter to the department when the  
3 courtesy dealer files its tax return, except where the out-of-state  
4 dealer advises the courtesy dealer in writing that it will pay the tax  
5 directly to the department. Each courtesy dealer who acts as the agent  
6 for the out-of-state dealer in reporting, paying, and remitting the tax  
7 imposed by this chapter shall at the time of paying and remitting its  
8 own taxes imposed by this chapter pay the business and occupation tax  
9 due on the transaction under this section. The courtesy dealer is  
10 authorized to withhold payment to the out-of-state seller out of the  
11 proceeds of the sale, an amount equal to the tax imposed by this  
12 chapter.

13 (3) As used in this section, "motor vehicle" means all motor  
14 vehicles, trailers, and semitrailers used, or of a type designed  
15 primarily to be used, upon the public streets and highways, or the  
16 convenience or pleasure of the owner, or for the conveyance, for hire  
17 or otherwise, of persons or property, including fixed loads, facilities  
18 for human habitation, and vehicles carrying exempt licenses.

19 (4) As used in this section, "courtesy dealer" means a licensed  
20 in-state automobile and/or motor vehicle dealer, licensed auction,  
21 buyer's agent, broker, or any other person authorized to prepare and  
22 deliver the motor vehicle to the customer in this state.

23 (5) Out-of-state dealers liable for the tax imposed under this  
24 section shall pay the tax on all sales made to Washington customers,  
25 provided a credit against the tax due under this section may be claimed  
26 in accordance with RCW 82.04.4451.

27 (6) This section shall be construed as cumulative of other methods  
28 prescribed in chapters 82.04 through 82.32 RCW, inclusive, for the  
29 collection of the tax imposed by this chapter. The department shall  
30 have power to adopt rules as may be necessary to administer this  
31 section.

32 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
33 preservation of the public peace, health, or safety, or support of the  
34 state government and its existing public institutions, and takes effect  
35 July 1, 1999.

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