

# HOUSE BILL REPORT

## SHB 1119

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### As Passed Legislature

**Title:** An act relating to the business and occupation taxation of sales of new and used motor vehicles.

**Brief Description:** Modifying the taxation of new and used motor vehicle sales.

**Sponsors:** By House Committee on Finance (originally sponsored by Representatives Schoesler, Gombosky, Ahern and Schindler).

### Brief History:

#### Committee Activity:

Finance: 1/25/01, 3/6/01 [DPS].

#### Floor Activity:

Passed House: 3/13/01, 94-0.

Passed Senate: 4/9/01, 47-0.

Passed Legislature.

### Brief Summary of Substitute Bill

- Exempts licensed auto dealers from the business and occupations tax on wholesales of used motor vehicles at auto auctions.
- Exempts from the business and occupations tax accommodation sales of new vehicles between vehicle dealers.
- Requires business and occupation tax be paid on new cars sold by out-of-state vehicle dealers and delivered to buyers in Washington by in-state dealers.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Cairnes, Republican Co-Chair; Morris, Democratic Co-Chair; Berkey, Democratic Vice Chair; Roach, Republican Vice Chair; Carrell, Conway, Pennington, Santos, Van Luven and Veloria.

**Staff:** Rick Peterson (786-7150).

**Background:**

Washington's major business tax is the business and occupation (B&O) tax. Although there are several different rates, the rate on wholesaling is 0.484 percent and the rate on retailing is 0.471 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 that bring goods into Washington and sell these goods in Washington may be subject to the B&O tax.

Washington does not apply B&O tax on sales of goods which originate outside the state unless the goods are received by the purchaser in this state and the out-of-state seller has a connection to Washington. If the goods are located in Washington at the time of sale or the out-of-state seller either directly or by an agent performs significant services to establish or maintain sales in Washington then a sufficient connection exists for Washington tax to apply.

In 1997 the Legislature exempted from B&O tax wholesales of vehicles owned by motor vehicle manufacturers and their financing subsidiaries when sold to dealers at auto auctions.

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**Summary of Bill:**

Auto dealers, licensed in Washington or another state, are exempt from the business and occupations tax on wholesales of used motor vehicles to licensed dealers at auto auctions.

New car dealers are exempt from the business and occupations tax on sales of new vehicles to another new vehicle dealer for the purpose of adjusting inventory levels.

In-state dealers that make courtesy deliveries of new vehicles on behalf of out-of-state vehicle dealers are deemed to be agents of the out-of-state dealers. Business and occupation tax must be paid on the sales of these vehicles. The tax paid by the in-state dealer is a debt of the selling dealer. The in-state dealer may withhold the tax from the proceeds of the sale.

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**Appropriation:** None.**Fiscal Note:** Requested on substitute on March 8, 2001.**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2001.

**Testimony For:** The auto auction in Spokane has a large positive economic impact on the area. By taxing out-of-state auto dealers Washington is discouraging them from selling their vehicles at Washington auto auctions. The existing exemption for manufacturers brought manufacturers back to the state. This bill addresses a critical business issue for the auto auctions. Exempting all auto wholesales from tax will provide equal treatment of in-state and out-of-state auto dealers. In-state financial institutions, including banks and credit unions, should be added to bill because they compete with the auto manufacturers' financing companies who are currently exempt on wholesales at auto auctions. The bill provides a way to collect B&O on out-of-state dealers that sell new cars into this state. The fiscal note does not fully reflect the increase in revenue that the bill will generate.

**Testimony Against:** None.

**Testified:** (In support) Representative Schoesler, co-prime sponsor; Representative Gombosky, co-prime sponsor; Rick Jensen, Dealers Auto Auction ADESA, Seattle; Jim Boldt, Washington Auto Dealers; Gary Gardner, Boeing Employees Credit Union; Ken Johnson, Bank of America; and Todd Mielke, Spokane Regional Chamber.

(With concerns) Mark Loebner, Independent Auto Agents of Washington.