

HOUSE BILL REPORT

SB 6539

As Reported by House Committee On:

Finance

Title: An act relating to implementing the federal mobile telecommunications sourcing act.

Brief Description: Implementing the federal mobile telecommunications sourcing act.

Sponsors: Senators T. Sheldon, Poulsen and Rossi; by request of Department of Revenue.

Brief History:

Committee Activity:

Finance: 2/26/02, 3/4/02 [DP].

Brief Summary of Bill

- State and local excise taxes on mobile telecommunications are sourced to the customer's primary place of use, in a manner consistent with federal law.
- A procedure is created for customer complaints about incorrect tax amounts on mobile telecommunications billings.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 11 members: Representatives Gombosky, Chair; Berkey, Vice Chair; Cairnes, Ranking Minority Member; Conway, Morris, Nixon, Orcutt, Roach, Santos, Van Luven and Veloria.

Staff: Bob Longman (786-7139).

Background:

Telephone services are taxed as retail sales. Thus, telephone service providers pay state Business and Occupation (B&O) tax on gross receipts from sales of telephone service, and collect retail sales taxes from buyers of telephone services. Many cities also impose utility taxes on telephone services. State and county taxes are also imposed on telephone access lines to support emergency services communications systems (911).

Due to the mobility of wireless telephone equipment, determining which state and local taxes apply to a wireless call is complicated. The process of determining where a

transaction is taxable is commonly referred to as "sourcing." There are several methods for sourcing wireless calls, including using the location of the originating cell site, the billing address, or the switch that processes the call. These different sourcing methods can give rise to multiple claims on the same tax revenue.

In order to create a more uniform system for taxing wireless telecommunications, Congress enacted the federal Mobile Telecommunications Sourcing Act in 2000. The new federal law requires that all charges for mobile telecommunications services must be sourced to the customer's "primary place of use." The federal law defines "primary place of use" as either the residential or primary business street address of the customer within the licensed service area of the provider.

Under the federal law, states have the option of supplying wireless providers with an electronic database that matches each street address with its appropriate taxing jurisdiction. If the state fails to supply the provider with a database, the wireless provider can use nine-digit zip codes to assign addresses to appropriate taxing jurisdictions.

Summary of Bill:

State and local excise taxes on mobile telecommunications are sourced to the customer's primary place of use, in a manner consistent with the federal Mobile Telecommunications Sourcing Act. However, for state B&O taxes, a mobile telecommunications service provider may elect to pay tax on all services that originate from or are received on telecommunications equipment or apparatus in this state and are billed to a person in this state, regardless of the customer's place of primary use. If the service provider chooses to make this election, the service provider must provide written notice to the Department of Revenue (DOR).

The DOR or a designated database provider is authorized, but not required, to develop and provide an electronic database which complies with the federal uniform format. If no database is provided, carriers may use their own databases, so long as they also comply with the federal uniform format.

If a customer believes that the amount of tax on a mobile telecommunications bill is erroneous, the customer may notify the service provider in writing. The service provider must respond within 60 days by correcting the error or providing a written explanation of why the service provider believes the tax is correct. If the customer is dissatisfied with this response, the customer may seek a refund from the city imposing the tax. The customer may not file a lawsuit for refund of erroneous tax charges until these procedures are followed. These provisions relating to billing errors are not required by federal law.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on August 1, 2002.

Testimony For: This is the same as HB 2639, which was reported out of this committee and passed the House. These changes are required by federal law and we must conform by August of this year. This will greatly simplify tax compliance for both taxpayers, the DOR, and cities. Industry worked closely with the DOR and cities on this legislation. It is a win for all parties concerned. The same mobile sourcing rules will apply throughout the United States.

Testimony Against: None.

Testified: (In support) Julie Sexton, Department of Revenue; and Dan Youmans, AT & T Wireless.