

FINAL BILL REPORT

SB 6539

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Synopsis as Enacted

Brief Description: Implementing the federal mobile telecommunications sourcing act.

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

Senate Committee on Economic Development & Telecommunications
House Committee on Finance

Background: State and local governments tax mobile telecommunication services in a variety of ways. Due to the mobility of wireless 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. However, the 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. The new federal law requires that all charges for mobile telecommunication 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: The following state and local excise taxes on mobile telecommunications are sourced to the customer's primary place of use (customer's residential or business address): state B&O tax; state and local retail sales taxes; city utility taxes; and state and county telephone access line taxes.

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. The customer may not file a lawsuit for refund of erroneous tax charges until the above procedure is followed.

The changes in tax liabilities apply to customer bills issued on or after August 1, 2002.

If the federal Mobile Telecommunications Sourcing Act is held unconstitutional, this act is rendered invalid.

Votes on Final Passage:

Senate	48 0
House	93 0

Effective: August 1, 2002