
SENATE BILL 5475

State of Washington

57th Legislature

2001 Regular Session

By Senators B. Sheldon, West, Sheahan and McCaslin

Read first time 01/24/2001. Referred to Committee on Ways & Means.

1 AN ACT Relating to the business and occupation taxation of sales of
2 new and used motor vehicles; adding new sections to chapter 82.04 RCW;
3 adding a new section to chapter 82.08 RCW; creating a new section;
4 prescribing penalties; providing an effective date; and declaring an
5 emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that dealers
8 located outside Washington sell motor vehicles to Washington customers
9 and use in-state dealers to facilitate the sales by preparing the
10 vehicles for delivery and delivering them to the buyers in this state.
11 The legislature further recognizes that when a selling dealer has a
12 physical presence or "nexus" in this state it requires payment of the
13 tax imposed by chapter 82.04 RCW. Selling dealers have nexus in
14 Washington when the vehicles are located in this state at the time of
15 the sale and are received by the customer or the customer's agent in
16 this state. The legislature further finds that businesses with nexus
17 are entitled to an easy, simple, and efficient method to account for
18 and pay the tax imposed by chapter 82.04 RCW on these sales.

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

3 The definitions in this section apply to sections 3 and 4 of this
4 act.

5 (1) "Used vehicle" or "used motor vehicles" has the meaning
6 ascribed in RCW 46.04.660.

7 (2) "New vehicle" or "new motor vehicle" has the meaning ascribed
8 in RCW 46.70.011(19).

9 (3) "Courtesy dealer" means any licensed motor vehicle dealer
10 authorized to prepare or deliver a new motor vehicle to a customer in
11 this state.

12 (4) "Department" means the department of revenue.

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

15 (1) This chapter does not apply to amounts derived from wholesale
16 sales of used motor vehicles.

17 (2) This chapter does not apply to the amount derived from a retail
18 sale of a used vehicle that is purchased by the lessee of the vehicle
19 at the conclusion of the lease agreement under an option to purchase
20 provision in that agreement.

21 (3) This chapter does not apply to amounts derived by a new car
22 dealer from wholesale sales of new motor vehicles of the same make to
23 other new car dealers where the sales enable the dealers to adjust
24 their inventory levels as long as the amount paid by the purchasing
25 dealer does not exceed the amount paid by the selling dealer in the
26 acquisition of the vehicle, however, the selling dealer may add
27 reasonable expenses for the preparation of the vehicle for sale or
28 transfer.

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

31 (1) In the payment of the tax imposed by this chapter on new motor
32 vehicles sold to Washington customers that are delivered to the
33 customer through courtesy dealers located in this state, the selling
34 dealer may designate the courtesy dealer as the agent for the selling
35 dealer in reporting and paying the tax imposed by this chapter. Upon
36 this designation, it is the duty of each courtesy dealer to pay the tax
37 imposed by this chapter to the department when the courtesy dealer

1 files its tax return, except where the selling dealer advises the
2 courtesy dealer in writing that it will pay the tax directly to the
3 department. Each courtesy dealer who acts as the agent for the selling
4 dealer in reporting, paying, and remitting the tax imposed by this
5 chapter must at the time of paying and remitting its own taxes imposed
6 by this chapter pay the tax due on the transaction under this section.
7 The courtesy dealer is authorized to withhold payment to the selling
8 dealer out of the proceeds of the sale an amount equal to the tax
9 imposed by this chapter. Amounts withheld by the courtesy dealer are
10 deemed to be held in trust by the courtesy dealer until paid to the
11 department, and any courtesy dealer who appropriates or converts the
12 amount withheld to the courtesy dealer's own use or to any use other
13 than the payment of the tax to the extent that the money withheld is
14 not available for payment on the due date is guilty of a gross
15 misdemeanor. Any selling dealer who fails to designate a courtesy
16 dealer as its agent for payment of the tax imposed by this chapter must
17 register with the department and report and pay tax in the same manner
18 as other registered businesses. Selling dealers who designate courtesy
19 dealers as their agents for payment of the tax imposed by this chapter
20 and whose only taxable activity in Washington is selling through
21 designated courtesy dealers are relieved of the duty to register with
22 the department.

23 (2) This section is construed as cumulative of other methods
24 prescribed in chapter 82.04 through 82.32 RCW, inclusive, for the
25 collection of the tax imposed by this chapter. The department has
26 power to adopt rules necessary to administer this section.

27 NEW SECTION. **Sec. 5.** A new section is added to chapter 82.08 RCW
28 to read as follows:

29 Every courtesy dealer, as defined in section 2 of this act, under
30 section 4 of this act is deemed the seller within the meaning of this
31 chapter and subject to all its provisions with respect to those sales
32 made by selling dealers for which the courtesy dealer reports and pays
33 the tax imposed by chapter 82.04 RCW. Every courtesy dealer must
34 collect and remit the amount of tax due under this chapter with respect
35 to those sales made by selling dealers for which the courtesy dealer
36 reports and pays the tax imposed by chapter 82.04 RCW.

1 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 July 1, 2001.

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