

HOUSE BILL REPORT

EHB 1977

As Passed House:

March 13, 2003

Title: An act relating to clarifying the intentions of Senate Bill No. 6835, chapter 367, Laws of 2002.

Brief Description: Clarifying use tax provisions.

Sponsors: By Representatives Grant, DeBolt, Orcutt and Roach.

Brief History:

Committee Activity:

Finance: 2/28/03 [DP].

Floor Activity:

Passed House: 3/13/03, 86-10.

Brief Summary of Engrossed Bill

- Exempts repair and other services from use tax when performed on property for which a sales tax exemption already exists for these services.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 9 members: Representatives Gombosky, Chair; McIntire, Vice Chair; Cairnes, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern, Conway, Morris, Roach and Santos.

Staff: Rick Peterson (786-7150).

Background:

The sales tax is paid on each retail sale of most articles of tangible personal property and certain services. Taxable services include construction, repair, telephone, lodging of less than 30 days, restaurant meals, physical fitness, and some amusement and recreation services.

The use tax is a companion tax to the sales tax. If the sales tax has not been paid then the use tax is owed. This may occur when a good is purchased out-of-state from a

business that is not required to collect tax on behalf of Washington. Business taxpayers report use tax when they file their excise tax returns. When the sale of a good is exempted from the sales tax the legislation usually provides a corresponding use tax exemption. Otherwise the use tax would apply.

Over time a number of sales tax exemptions have been adopted that exempted goods and repair and other services performed on these goods. However, before 2002 use tax applied only to goods and generally not to services. So, a use tax exemption for repair and other services was not included in the legislation that enacted these sales tax exemptions.

In the 2002 session, the Legislature enacted SB 6835, which imposed a use tax on the services of installing, repairing, cleaning, altering, imprinting, or improving tangible personal property. The sales tax already applied to these services and was collected on in-state activity. The principal intended effect of the bill was to impose use tax on those services when performed out-of-state on an item subsequently used in Washington.

SB 6835 did not include any use tax exemptions. So, for example, a use tax exemption was not included in SB 6835 for the repair of manufacturing machinery and equipment. The repair of manufacturing machinery and equipment is exempt from sales tax but SB 6835 made this repair service subject to use tax.

Summary of Engrossed Bill:

Use tax exemptions are created for installing, repairing, cleaning, altering, imprinting, or improving the following types of property:

- Interstate transportation equipment;
- Manufacturing machinery and equipment;
- Warehouse material-handling and racking equipment;
- Purchases by federal corporations providing aid and relief;
- Prosthetics, orthotics, ostomic items, and hearing aids;
- Public ferry vessels;
- Movie production services;
- Tangible personal property donated to a nonprofit organization or governmental entity;
- Air pollution control facilities at the Centralia Steam Plant;
- Agricultural field burning machinery and equipment;
- Dairy nutrient management equipment;
- Anaerobic digesters;
- Public contracts for watershed protection or flood protection; and
- Tangible personal property brought into Washington temporarily.

These exemptions are retroactive to June 1, 2002. The Department of Revenue is directed to refund any use taxes paid on these services.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: This bill merely corrects an error. The bill from last session may have inadvertently imposed tax on certain services. It was never intended to have a tax on these services.

(Concerns) There are some technical concerns with Section 18. The Department of Revenue would like some stronger language authorizing refunds in case someone has paid tax on these services.

Testimony Against: None.

Testified: (In support) Ron Bueing, Association of Washington Business.

(Concerns) Julie Sexton, Department of Revenue.