

HOUSE BILL REPORT

2SHB 1811

As Amended by the Senate

Title: An act relating to the installation of automatic sprinkler systems in nightclubs.

Brief Description: Regarding automatic sprinkler systems in nightclubs.

Sponsors: By House Committee on Finance (originally sponsored by Representatives Pedersen, Simpson, Wood, Moeller and Quall).

Brief History:

Committee Activity:

Local Government: 2/9/07 [DPS];

Finance: 3/1/07, 3/2/07 [DP2S(w/o sub LG)].

Floor Activity:

Passed House: 3/10/07, 97-0.

Senate Amended.

Passed Senate: 4/11/07, 47-0.

Brief Summary of Second Substitute Bill

- Extends the deadline for installing automatic fire sprinkler systems in existing nightclubs by two years to December 1, 2009.
- Modifies the definition of "nightclub" for the purposes of the State Building Code Council.
- Provides a business and occupation tax credit for 50 percent of the cost of the sprinkler system purchase and installation.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Simpson, Chair; Eddy, Vice Chair; Curtis, Ranking Minority Member; Ross, B. Sullivan and Takko.

Staff: Jessica Nowakowski (786-7291) and Thamas Osborn (786-7129).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON FINANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Local Government. Signed by 9 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Orcutt, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Conway, Ericks, McIntire, Roach and Santos.

Staff: Rick Peterson (786-7150).

Background:

The State Building Code Council

The State Building Code Council (SBCC) is responsible for the adoption and maintenance of the building, residential, mechanical, fire, and plumbing model codes that comprise the state building code (SBC). The SBC, which includes provisions describing the powers and duties of fire code officials and building officials, must be enforced by counties and cities. Local governments, however, may amend the SBC as it applies within their jurisdiction, subject to limitations prescribed in law.

Under Washington law, the SBCC must require all owners of existing nightclubs to install automatic fire sprinkler systems in their respective establishments by December 1, 2007.

The State Fire Protection Policy Board

The State Fire Protection Policy Board (SFPPB) is an eight member board appointed by the Governor to develop a comprehensive state policy regarding fire protection services. Among other duties, the SFPPB must adopt a state fire training and education master plan and a state fire protection master plan.

Definition of "Nightclub"

Washington law defines a nightclub as an establishment, other than a theater with fixed seating, which: (1) provides live entertainment by paid performing artists or by way of recorded music conducted by a person employed or engaged to do so; (2) has as its primary source of revenue the sale of beverages of any kind for consumption on the premises, cover charges, or both; and (3) has an occupant load of 100 or more where the occupant load for any portion of the occupancy is calculated at one person per 10 square feet or less, excluding the entry foyer.

Property Taxes Exemption

Property taxes are imposed by state and local governments and apply to the assessed value of all taxable property, which includes all real and personal property located within the state, unless specifically exempted. Real property includes land, structures, and certain equipment that is affixed to the structure. Personal property includes machinery, supplies, certain utility property, and items which are generally movable. The assessed value of most real property is determined by the county assessor.

The owner of a property may request a special property tax exemption prior to the installation of an automatic fire sprinkler system. A "special property tax exemption" is defined as the determination of the assessed value of the property subtracting the increase in value attributable to the installation of an automatic sprinkler system. The exemption application must be made to the appropriate county assessor and in accordance with specified requirements. If the exemption is granted, the assessor must place a special property tax exemption on eligible property for 10 consecutive assessment years following the calendar year in which the application is made.

Business and Occupation Tax

Washington's major business tax is the business and occupation (B&O) tax. 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. The tax is imposed on the gross receipts from all business activities conducted within the state. Revenues are deposited in the State General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. Rates include 0.484 percent for manufacturers and wholesalers, in general, and 1.5 percent for most types of businesses that provide services.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. Nonetheless, there are many exemptions for specific types of business activities and certain deductions and credits permitted under the B&O tax statutes.

Summary of Second Substitute Bill:

The State Building Code Council

The State Building Code Council (SBCC) must adopt rules requiring that all nightclubs be provided with an automatic sprinkler system. In adopting the rules, the SBCC must consider applicable nationally recognized fire and building code standards and local conditions. The SBCC must transmit copies of the adopted rules to the State Fire Protection Policy Board (SFPPB). The SFPPB is required to respond with any changes or recommendations to the rules within 60 days of receipt. The requirement for the installation of automatic sprinkler systems in all nightclubs is December 1, 2009.

Definition of "Nightclub"

The definition of "nightclub" is modified to apply to an establishment meeting the International Building Code definition of an A-2 occupancy use "in which the aggregate area of concentrated use of unfixed chairs and standing space exceeds 350 square feet." The area of concentrated use must be specifically designated and primarily used for dancing or viewing performers. Theaters with fixed seating, banquet halls, and lodge halls are excluded from the definition of a nightclub.

Property Tax Exemption

Prior to the installation of an automatic sprinkler system, the owner *or* lessee of the property may apply for a special tax exemption. If the lessee of the property has paid for all expenses associated with the installation and purchase of the automatic sprinkler system, the benefit of

the exemption must inure to the lessee. A lessee remains eligible for the tax exemption to the extent that the lessee maintains a valid lease agreement with the property owner for the property in which the sprinkler system was installed. No new application for a special tax exemption may be made after December 31, 2009.

Business and Occupation Tax Credit

The owner or lessee of the property may also apply for a B&O tax credit, provided that: (1) the owner or lessee has not applied for the special property tax exemption; and (2) the owner or lessee has paid for the cost of purchasing and installing an automatic sprinkler system. The credit is limited to 50 percent of the cost of the sprinkler purchase and installation, unless an application has been made for the special property tax exemption. No credit may be earned after December 31, 2009.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment deletes all of Section 4 of the House bill and thereby eliminates the business and occupation tax credit offered to the owners or lessees of nightclubs that install fire prevention sprinkler systems.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect July 1, 2007.

Staff Summary of Public Testimony: (Local Government)

(In support) This bill eases the burden placed on club owners to install fire sprinklers. After the Rhode Island incident, nightclubs need to be safe, but the high costs associated with the installation will put many nightclubs out of business. The property tax exemption and tax credit are helpful, but they are not enough.

The definition of a nightclub is much easier to apply for inspections and clearer as to which clubs are required to install sprinklers. The extension for installing sprinklers is very helpful.

(Opposed) None.

Staff Summary of Public Testimony: (Finance)

(In support) The cost of constructing a new fire sprinkler system in a club as mandated by the state is extremely expensive, anywhere from \$30,000 to \$70,000, and therefore these clubs need some tax relief. Extending the deadline for implementing the sprinkler system is also very important. This legislation narrows the field of facilities that would be required to install these fire sprinklers, which we support, but also makes the burden placed on the facilities affected even greater.

(Opposed) None.

Persons Testifying: (Local Government) Representative Jamie Pedersen, prime sponsor; Daniel Conan, Tractor Tavern; Ronald Shmerelson, Little Red Hen; Tim Nogler, Seattle Building Code Council; Steve Mullet, State Building Code Council; Diane Hansen, City of Seattle Fire Department; Anthony Frazier, Trinity Nightclub; Ryan Hopkins, Fuel Sports Bar; and Michael Transue, Washington Restaurant Association.

Persons Testifying: (Finance) Jim Hatley, Seattle Nightlife and Music Association; Jim Simmons, Washington State Elks; and Michael Transue, Washington Restaurant Association.

Persons Signed In To Testify But Not Testifying: (Local Government) None.

Persons Signed In To Testify But Not Testifying: (Finance) None.