

HOUSE BILL REPORT

SHB 1891

As Passed Legislature

Title: An act relating to business and occupation tax deductions for drugs dispensed pursuant to prescription.

Brief Description: Providing a business and occupation tax deduction for the sale of certain prescription drugs.

Sponsors: By House Committee on Finance (originally sponsored by Representatives Linville, Orcutt, Quall, Cody, Hinkle, Hurst and Dunn).

Brief History:

Committee Activity:

Finance: 2/16/07, 3/1/07 [DPS].

Floor Activity:

Passed House: 3/13/07, 95-0.

Senate Amended.

Passed Senate: 4/11/07, 45-0.

House Concurred.

Passed House: 4/14/07, 94-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Provides a business and occupation tax deduction for physician-administered drugs covered under a government-sponsored health program.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. 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: Jeff Mitchell (786-7139).

Background:

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.

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. The tax rate for most types of businesses that provide services is 1.5 percent.

Public hospitals, nonprofit hospitals, and nonprofit community health centers are allowed a deduction from the B&O tax on amounts received as compensation for health care services covered under the federal Medicare program, as well as from the Basic Health Plan and other medical assistance programs funded by Washington. Amounts billed for these programs by private clinics or physicians are not exempt from tax.

Medicare Part B provides coverage for certain physician, outpatient hospital, laboratory, and other services to beneficiaries who pay monthly premiums. Medicare Part B covers a limited set of injectable and infusible drugs that are not usually self-administered and that are furnished and administered as part of a physician service. This includes vaccines and anti-cancer and chemotherapy drugs.

In 2003, the federal Medicare Modernization Act (MMA) changed the drug reimbursement process. Prior to the passage of the MMA, drug reimbursement was based on average wholesale prices, as provided by drug manufacturers. Reimbursement, after the passage of the MMA, is now calculated using average sales price (ASP). The reimbursement rate for drugs is currently ASP plus 6 percent.

Summary of Substitute Bill:

A deduction from the B&O tax is provided for amounts received by physicians and clinics from sales of prescription drugs for infusion or injection. The deduction is limited to amounts covered, or required as co-payments or deductibles, under a government-sponsored health care service program. To qualify for the deduction, the drugs must not be sold for an amount that exceeds the rate at which the federal government reimburses under Medicare Part B, and any charges must be separately stated on the billing statement.

Appropriation: None.

Fiscal Note: Available. New fiscal note on substitute bill requested on March 6, 2007.

Effective Date: The bill takes effect October 1, 2007.

Staff Summary of Public Testimony:

(In support) Health care is extremely expensive. Drugs are a substantial portion of the cost. Last week's bill applied to only chemotherapy and anti-cancer drugs, however, it would be worthwhile to consider exempting all drugs, as provided in this bill. The bill should only

apply to government programs. We would request an amendment to do this. I'm here to advocate for patients with macular degeneration. We've been successful in preventing blindness from this disease the past couple years due to the availability of drugs that are administered by a physician in the office. These are expensive drugs. The current pricing mechanism barely covers cost. With the tax, it costs us money to provide this service. Physicians that have offices in Vancouver and Portland will have patients drive to Portland for these types of services to avoid the tax. In other areas, patients will go to a hospital to have the drug administered because hospitals don't pay taxes on the drugs. Driving to a Portland branch office or a hospital is a burden for patients. This tax makes it slightly more difficult to recruit top physicians to this state as well. With the number of chronic conditions that exist today, this proposal would go a long way in reducing the cost. Crohn's disease and ulcerative colitis are very serious diseases. This bill would help reduce the financial burden in treating these diseases. There is no cure for juvenile rheumatoid arthritis. There is only treatment. This bill would help improve access and affordability of medications for people with chronic diseases.

(Opposed) None.

Persons Testifying: (In support) Representative Linville, prime sponsor; Susie Tracy, Washington State Medical Association; Craig Wells, Washington Academy of Eye Physicians and Surgeons; Jeff Gombosky, Ambgen/Pharmaceutical Research and Manufactures; Steve Wright, Crohns and Colitis Fountation; and Beth A. Zeitlin, Arthritis Foundation.

Persons Signed In To Testify But Not Testifying: None.