

HOUSE BILL REPORT

SB 6799

As Passed House:

March 5, 2008

Title: An act relating to the sourcing, for sales and use tax purposes, of sales of tangible personal property by florists.

Brief Description: Concerning the sourcing, for sales and use tax purposes, of sales of tangible personal property by florists.

Sponsors: By Senators Regala, Prentice and Fraser; by request of Department of Revenue.

Brief History:

Committee Activity:

Finance: 2/20/08, 2/27/08 [DP].

Floor Activity:

Passed House: 3/5/08, 96-0.

Brief Summary of Bill

- Authorizes a continuation of origin-based sourcing for florists.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 8 members: Representatives Hunter, Chair; Hasegawa, Vice Chair; Condotta, Assistant Ranking Minority Member; Conway, Ericks, McIntire, Roach and Santos.

Minority Report: Without recommendation. Signed by 1 member: Representative Orcutt, Ranking Minority Member.

Staff: Jeff Mitchell (786-7139).

Background:

In 2007 the Legislature enacted SSB 5089, which fully conformed Washington law with the streamlined sales and use tax agreement (SSUTA). The major provisions of the legislation take effect July 1, 2008. A major component of the legislation is the change from origin-based sourcing to destination-based sourcing. Sourcing determines where a sale occurs and,

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therefore, what local jurisdiction is entitled to the sales tax generated from a particular transaction.

Until July 1, 2008, local sales and use taxes are sourced on an origin-based system according to the following rules: (1) sales tax from the sale of goods is sourced to the retail outlet at or from which delivery is made; (2) sales tax from the sale of a service, with or without a sale of goods, is sourced to the place where the service is primarily performed; and (3) sales tax from the lease or rental of goods is sourced to the place of first use. In the case of short term rentals, this is the place of business of the lessor. In the case of rentals or leases involving periodic payments, this is the primary place of use by the renter or lessee for each payment period.

Beginning July 1, 2008, local sales and use taxes are sourced on a destination-based system according to the following rules: (1) if a good or service is received by the purchaser at the business location of the seller, the sales tax is sourced to that business location; (2) if the good is not received by the purchaser at the business location of the seller, the sales tax is sourced to the location where receipt occurs, if known by the seller; (3) if neither of the first two rules apply, the sales tax is sourced to the address indicated for the purchaser in records normally maintained by the seller, if the use of this address by the seller does not constitute bad faith; (4) if none of the first three rules apply, the sales tax is sourced to the address for the purchaser obtained during the consummation of the sale, including the address of the purchaser's payment instrument, if the use of this address by the seller does not constitute bad faith; and (5) if none of the first four rules apply, the sales tax is sourced to the address from which the delivery is made.

The general destination-based sourcing rules under the SSUTA do not apply to purchases of motor vehicles, aircrafts, watercrafts, modular homes, manufactured homes, and mobile homes. For these purchases, the tax will continue to be sourced to the location from which delivery was made.

The Florists' Transworld Delivery (FTD) association is a network that provides a way for florists to serve each others' out-of-town customers by exchanging orders. Generally, a receiving florist takes an order from a customer and then communicates the order to a second florist who delivers the items to the place designated by the receiving florist.

The SSUTA was recently amended to extend an exclusion of sales by florists from the destination-based sourcing provisions. The amendment allows member states to source sales by florists according to their own rules through December 31, 2009. In the case of FTD sales, the location of the florist taking the order currently determines the local tax. The florist making delivery to the customer on behalf of the florist taking the order is considered to be making a wholesale sale.

Summary of Bill:

Florists are allowed to continue using origin-based sourcing. This continuation of origin-based sourcing includes FTD sales, which will continue to be sourced to the location of the florist taking the order.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect July 1, 2008.

Staff Summary of Public Testimony:

(In support) This is a very good bill for florists. The florists have been very proactive - over 70 years ago they figured out a way to source sales taxes. The streamlined agreement changed how florists have been sourcing sales taxes for all of these years. This bill helps ensure that florists stay in business. This movement to retain origin-based sourcing for florists is being looked at the national level. This is a tool to help the Department of Revenue focus compliance efforts while the streamlined governing board and florists resolve this issue. Maintaining origin-based sourcing is the most sensible thing to do. This is a good solution while the streamlined governing board addresses the sourcing issue for florists.

(Opposed) None.

Persons Testifying: Senator Regala, prime sponsor; Mark Johnson, Washington Retail Association; Amber Carter, Association for Washington Business; and Drew Shirk, Department of Revenue.

Persons Signed In To Testify But Not Testifying: None.