

# FINAL BILL REPORT

## SHB 1891

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C 447 L 07

Synopsis as Enacted

**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).

**House Committee on Finance**

**Senate Committee on Ways & Means**

### **Background:**

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 the Basic Health Plan and other medical assistance programs funded by the state of Washington. Amounts billed to 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 ASP plus 6 percent.

### **Summary:**

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 by the physician or other medical staff. 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.

**Votes on Final Passage:**

House	95	0	
Senate	45	0	(Senate amended)
House	94	0	(House concurred)

**Effective:** October 1, 2007