

SENATE BILL REPORT

SHB 1891

As Reported By Senate Committee On:
Ways & Means, April 2, 2007

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

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

Committee Activity: Ways & Means: 3/20/07, 4/02/07 [DPA].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Hatfield, Hobbs, Honeyford, Keiser, Kohl-Welles, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

Staff: Dianne Criswell (786-7433)

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 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

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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 the average sales price (ASP). The reimbursement rate for drugs is currently the 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.

EFFECT OF CHANGES MADE BY RECOMMENDED STRIKING AMENDMENT(S) AS PASSED COMMITTEE (Ways & Means): Provides an effective date of October 1, 2007. Expressly includes agents of physicians as persons who can administer drugs for infusion or injection.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: In 2003, changes to the Medicare system greatly impacted doctors in Washington by lowering reimbursements. Physicians are now absorbing huge costs related to increasingly advanced and expensive treatments, without sufficient reimbursements from government sponsored programs. Many oncologists and other physicians are closing their practices as a result of these changes. As a result, Washington is already losing tax revenues on these businesses. Therefore, this bill should be considered revenue neutral. Cancer treatments at outpatient clinics, rather than hospitals, are a great benefit to patients. For cancer patients, whose time spent in treatment can total hundreds of hours in a year, treatment in clinics is far less time consuming. This relieves some of the huge burden on patients and their families. Treatment in clinics also facilitates better communication and sometimes better treatment of patients, enhancing patient safety. Communication with nurses is constant and prompt, and patients experiencing complications are seen immediately. Infusion centers are state of the art, convenient, compassionate, efficient, and safe.

Patient access to treatment is key. A B&O deduction for these prescription treatments will help the citizens of Washington by allowing physicians to keep their practices open.

For chronic and incurable conditions, like arthritis, these treatments change lives.

Persons Testifying: PRO: Representative Linville, prime sponsor; Beth Zeitlin, Arthritis Foundation; Jonathan Britell, Washington State Medical Oncology Society; David Saperstein, Washington Association of Eye Physicians.