

FINAL BILL REPORT

SB 5434

C 477 L 07
Synopsis as Enacted

Brief Description: Regarding excise taxation of sales of tangible personal property originating from or destined to foreign countries.

Sponsors: Senators Poulsen, Schoesler, Kastama, Zarelli, Prentice, Regala, Benton and Rasmussen; by request of Department of Revenue.

Senate Committee on Economic Development, Trade & Management
Senate Committee on Ways & Means
House Committee on Finance

Background: The Import-Export Clause of the United States Constitution prohibits any imposts or duties from being levied on imports or exports. The Supreme Court has narrowed the scope of the Import-Export Clause in recent decades and Washington State Supreme Court decisions have cast doubt on the Department of Revenue's (DOR) ability to implement any rule that expands tax immunity beyond that found in statute.

There is currently no statutory provision regarding taxation of import and export sales of tangible personal property. Under DOR rules, goods in the process of being imported or exported from this state are exempt from the business and occupation (B&O) and retail sales taxes.

Summary: A statutory exemption from B&O and retail sales taxation is created for the sale of tangible personal property in import or export commerce.

Property is in import commerce when it is in the process of import transportation or when it is flowing through Washington on its way to another destination. The property is no longer in the process of import transportation if the property is: put to actual use; resold after the property has arrived in this state or any other state; or processed in any way not related to shipping.

Property is in export commerce when the seller delivers the property to: the buyer at a destination in a foreign country; a carrier for transportation to a foreign country; the buyer at shipside or aboard the buyer's vessel, or any other vehicle of transportation where it is clear that the process of exportation of the property has begun; or the buyer in this state if the property is capable of being transported to a foreign destination under its own power, the seller files a shipper's export declaration, and the property is directly transported to a destination in a foreign country.

Votes on Final Passage:

Senate	45	0
House	97	1

Effective: July 22, 2007