

SENATE BILL REPORT

SB 6799

As Passed Senate, February 18, 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: Senators Regala, Prentice and Fraser; by request of Department of Revenue.

Brief History:

Committee Activity: Ways & Means: 1/29/08, 2/12/08 [DP, DNP, w/oRec].
Passed Senate: 2/18/08, 45-3.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

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

Minority Report: Do not pass.

Signed by Senator Tom.

Minority Report: That it be referred without recommendation.

Signed by Senator Roach.

Staff: Dean Carlson (786-7305)

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, 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

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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, with few exceptions, 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; (3) 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 (4) if none of the first four rules apply, the sales tax is sourced to the address from which the delivery is made.

The florists' telegraphic 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.

In the case of florists' telegraphic delivery 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.

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.

Summary of Bill: Florists are allowed to continue using origin-based sourcing, including FTD sales which will continue to be sourced to the location of the florist taking the order.

Florist is defined as a person whose primary business is the retail sale of fresh cut flowers, potted ornamental plans, floral arrangements and similar products not for landscaping purposes.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: From the first time I heard of streamlined sales tax I agreed with it. Florists are a declining industry. Most of our product used to be grown locally and now is grown overseas. The destination-based system will make our transactions much longer as other states have confusing tax rates. This could really be a back breaker for

the florist industry. It is really going to be a problem for florists to figure out what the applicable tax rate is. I will have to hire someone to do this. We think that the florist industry should be allowed to continue the long-standing policy of origin based sourcing. The florist industry has special considerations.

Persons Testifying: PRO: Mike Seeger, Fife Flowers; Robert Crane, Crane's Creations Inc.; Gil Brewer, Department of Revenue; Amber Carter, Association of Washington Business.