

SENATE BILL REPORT

SB 5422

As of February 9, 2011

Title: An act relating to the taxation of amusement and recreation services involving amateur sports.

Brief Description: Concerning the taxation of amusement and recreation services involving amateur sports.

Sponsors: Senators Regala, Honeyford, Kastama, Becker, Parlette, Ericksen, Hatfield, Nelson, Harper, Tom, White, McAuliffe, Prentice and Shin.

Brief History:

Committee Activity: Ways & Means: 2/08/11.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dean Carlson (786-7305)

Background: Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the property, digital products, or services were acquired by the user, then use taxes apply to the value of most tangible personal property and digital products and some services when used in this state. The state sales and use tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 3.0 percent, depending on the location.

Amusement and recreation services are subject to sales and use tax. By rule, the Department of Revenue (Department) has interpreted amusement and recreation services to include activities such as golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, and all batting cages. Amusement and recreation services also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term does not include instructional lessons such as tennis lessons or swimming lessons.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

There is confusion as to the taxation of entry fees and league fees charged to consumers to participate in activities constituting amusement and recreation services. Examples of this are softball leagues, soccer leagues, and basketball leagues.

Summary of Bill: The term amusement and recreation services is modified to include entry fee and league fee charges (1) to participate in a team sport or join a club related to an amusement and recreation activity; (2) for the privilege of entering a tournament or other type competition or event involving an amusement and recreation activity; (3) for the privilege of allowing an individual, team, or club to join an association of teams or clubs that compete chiefly among themselves; and (4) for the use of facilities for amusement and recreation activities such as fields, courts, rinks, gymnasiums, and swimming pools.

A business and occupation tax exemption as well as a sales and use tax exemption is provided for amounts received by a nonprofit organization or governmental entity to join competitive team sport leagues or participate in competitive team sport activities. Competitive team sport is defined to mean a sport in which teams of two or more players compete against one another, where the collective effort of the teams' members determines the final score and the outcome of the competition.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on August 1, 2011.

Staff Summary of Public Testimony: PRO: This is an attempt to clarify the practicality of the taxation of recreational leagues. An audit by the Department of Revenue resulted in some cities and associations bringing this bill forward. We have 239 teams that would be impacted by the sales tax. Our biggest concern is that these people during tough economic times are trying to stay active. Many of these teams seek sponsors from small businesses who would be impacted. Washington Women's Soccer was audited by the Department, and we were assessed over \$88,000 for sales tax which we had no idea we were subject to. We were able to get the back assessment dropped, but we have to pay it going forward. We are a small organization that operates through our homes. The City of Puyallup has about 4400 players and 337 teams that pay a league fee only. It just covers the costs with no profit. The accounting process required would put an extreme burden on our department. In 35 years I have never charged a participation fee from anyone. The City of Renton has over 300 teams that compete. We support bill 5422 as most municipalities just make cost recovery. In Spokane we have paid a portion of the tax in past years. However, we have trouble figuring out what the amount owing is. We have had to even amend returns in the past because of the confusion. If we can avoid having to raise fees, we will have more participation.

CON: The Greater Seattle Hockey League is a for-profit hockey league. This puts a for-profit league at a big disadvantage. The fiscal note is flawed because in the future there will be no for-profit leagues. The exemption from the B&O tax is another big perk. This was pushed through by the cities. No input was gathered from the for-profit side. There is no

difference from the for-profit side and from the nonprofit side. It is all the same thing. I have been charging sales tax for two years and no others have. Bring this to the table as we have been shut out of the process. We can pay the sales tax and so should others. Adults don't need an exemption. We want to be part of the solution. Our marathon is completely run by volunteers. If marathons are subject to the sales tax, it adds a complexity to our process. We now have to pay for other services provided for our marathon. Adding another tax to people who choose to engage in a healthy event seems counterproductive. The Co-Ed Soccer Association registers over 1000 teams. We have been exempt from sales tax for over 28 years. We will be taxed just because we are a small business and others will not, even though they do the exact same thing because they are nonprofit. The services we provide are just as valuable as city subsidized programs. All leagues should be exempt from sales tax.

Persons Testifying: PRO: Doug Levy, Washington Parks Association, City of Puyallup; Nancy Davis, Metro Parks Tacoma; Tim Williams, City of Renton; John Bottelli, Spokane County Parks and Recreation; Michaela Gould, Washington State Women's Soccer Association.

CON: Andy Cole, Greater Seattle Hockey League; Jim Lux, Capital City Marathon Association; Derek Goldingay, Co-Rec Soccer Association.