

# FINAL BILL REPORT

## SB 5501

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Synopsis as Enacted

**Brief Description:** Concerning the taxation of employee meals provided without specific charge.

**Sponsors:** Senators Murray, Kilmer, Schoesler, Conway, Honeyford, Kohl-Welles, Keiser, Shin, Holmquist Newbry and White.

**Senate Committee on Ways & Means**  
**House Committee on Ways & Means**

**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.

Food and food ingredients purchased for human consumption are exempt from sales and use tax. However, prepared meals are generally subject to the retail sales or use tax. Prepared meals are meals that are:

- sold in a heated state or heated by the seller;
- sold with eating utensils provided by the seller; and
- food in which two or more food ingredients are mixed or combined by the seller for sale as a single item.

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. 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. There are a number of different rates. The main rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.8 percent for professional and personal services, and activities not classified elsewhere.

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*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.*

Meals provided to employees free of charge are considered to be in exchange for services received from the employee and thus are subject to the sales tax and retailing classification of the B&O tax.

**Summary:** A B&O tax and a sales and use tax exemption are provided to restaurants for meals provided to employees without a specific charge to the employee.

Restaurant is defined to be any establishment having special space and accommodation where food and beverages are regularly sold to the public for immediate, but not necessarily on-site, consumption. The term restaurant excludes grocery stores, mini-markets, and convenience stores.

**Votes on Final Passage:**

Senate	49	0
House	91	1

**Effective:** July 1, 2011.