

# SENATE BILL REPORT

## SHB 2334

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As of February 29, 2016

**Title:** An act relating to the excise taxation of martial arts.

**Brief Description:** Concerning the excise taxation of martial arts.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Ryu, Sawyer, Walkinshaw, Peterson, Santos, Pollet, Wilson, Stokesbary and Van Werven).

**Brief History:** Passed House: 2/11/16, 96-0.

**Committee Activity:** Ways & Means: 2/29/16.

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Juliana Roe (786-7438)

**Background:** Sales and Use Tax. 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 user acquired the property, digital product, or service, then use taxes apply to the value of property, digital product, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 to 3.1 percent, depending on the location.

Business and Occupation Tax. 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. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted. Retailing activities are subject to a rate of 0.471 percent, and service and other activities are subject to a rate of 1.5 percent.

Physical Fitness Activities. The definition of retail sale includes the operation of an athletic or fitness facility, which is defined as an indoor or outdoor facility, or portion of a facility, that is predominantly used for physical fitness activities. Physical fitness activities are activities that involve physical exertion for the purpose of improving or maintaining the

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general fitness, strength, flexibility, conditioning, or health of the participant. With certain exceptions, all charges for the use of an athletic or fitness facility are retail sales, including any charges associated with services or amenities. A specific exclusion is provided for yoga, tai chi, and chi gong classes that are held in facilities which are not primarily used for physical fitness activities, such as a community center, school, or standalone yoga studio. For B&O tax purposes, these activities are classified as service and other rather than retailing.

**Summary of Bill:** Yoga, chi gong, and martial arts activities that do not occur at an athletic or fitness facility but instead occur at any other facility, such as a community center, school, or stand-alone yoga or martial arts studio, are removed from the definition of retail sale. These activities are not subject to the sales tax or to the retailing B&O tax rate of 0.471 percent, but instead are subject to the service and other activities B&O tax rate of 1.5 percent.

"Martial arts" are defined as any of the various systems of training for physical combat or self-defense, including but not limited to karate, kung fu, tae kwon do, Krav Maga, boxing, kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido, Kendo, tai chi, and mixed martial arts.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect April 1, 2016.

**Staff Summary of Public Testimony:** PRO: Last year the Legislature tried to simplify amusement and recreation. Martial arts was moved into the retail sales tax category. This bill will correct that mistake.

When we heard that the law had been changed and that martial arts would be treated differently, we felt like Boeing would feel if the state secretly redefined them as go-kart manufacturers rather than airline manufactures. The mistake made last year is damaging our businesses and families right now. We are losing students and employees because of the changed tax structure. Because of this the state will not get the expected revenue from last year's legislation. This bill is a victory for small business.

Our martial arts schools have been leaders in the community. We want to help people become better versions of themselves. Last year's bill hurt our businesses forcing us to lay off employees. This bill rectifies this issue.

**Persons Testifying:** PRO: Rep. Ryu, Prime Sponsor; Korbett Miller, Andy Wilson, WA martial arts association.

**Persons Signed In To Testify But Not Testifying:** No one.