

# HOUSE BILL REPORT

## EHB 1032

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**As Passed House:**  
April 6, 2017

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

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

**Sponsors:** Representatives Ryu, Orcutt, Kirby, Vick, Santos, Nealey, Appleton, Manweller, Sawyer, Muri, Blake, Goodman, Stonier, Ortiz-Self, Springer, Hargrove, Peterson, Tarleton, Pettigrew, Stokesbary, Farrell, Clibborn, Stanford, Lytton, Pollet, Kagi, Fitzgibbon, Barkis, Van Werven, Frame, Dolan, Buys, Gregerson, Haler, Young, Dent, Kilduff, Shea and Macri.

**Brief History:**

**Committee Activity:**

Finance: 1/13/17, 3/3/17 [DP].

**Floor Activity:**

Passed House: 4/6/17, 92-3.

**Brief Summary of Engrossed Bill**

- Removes yoga, chi gong, and martial arts activities not held at an athletic or fitness facility from the definition of a retail sale, thereby removing them from the sales tax base.
- Reclassifies these activities from a retail activity to a service and other activity for business and occupation tax purposes.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** Do pass. Signed by 10 members: Representatives Lytton, Chair; Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Dolan, Pollet, Springer, Stokesbary, Wilcox and Wylie.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Frame, Vice Chair.

**Staff:** Tracey O'Brien (786-7152).

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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.*

## **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 products, or services, then use taxes apply 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 percent 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 services 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 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 stand-alone yoga studio. For B&O tax purposes, these activities are classified as services rather than retailing.

## **Summary of Engrossed 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 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

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2017.

**Staff Summary of Public Testimony:**

(In support) In 2015 the Legislature passed a bill to clarify the difference for tax purposes between physical fitness activities and services. Unfortunately, martial arts were unintentionally reclassified as a retail activity if it was outside of an athletic facility. Martial arts is a family activity, and the addition of a retail sales tax caused many families to stop participating. This negatively impacted many of the martial arts instruction businesses who had to lay off employees, and owners who were forced to stop drawing salaries. Martial arts helps build self-esteem, teaches self-discipline, and provides an important outlet for youth in our communities; however, due to the reclassification as a retail activity, martial arts has become unaffordable for many Washington families. This bill remedies this mistake, and will allow the small businesses to thrive and families to engage in martial arts again.

(Opposed) None.

**Persons Testifying:** Representative Ryu, prime sponsor; Kirstie Hurley and Scott Benson, U.S. Martial Arts Center; Jason Lee, U.S. Martial Arts Center and Washington State Martial Arts Association; Joni Sharrah, USA Karate Academy and Pacific Northwest Amateur Athletic Union Karate; and Eric Lohnes, Association of Washington Business.

**Persons Signed In To Testify But Not Testifying:** None.