

# HOUSE BILL REPORT

## HB 2389

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### As Reported by House Committee On: Finance

**Title:** An act relating to a tax levied and collected on the retail sale of wireless devices used to access the internet.

**Brief Description:** Concerning a tax levied and collected on the retail sale of wireless devices used to access the internet.

**Sponsors:** Representatives Sawyer, Lytton, Tarleton, Doglio and Stonier.

#### **Brief History:**

##### **Committee Activity:**

Finance: 1/12/18, 1/30/18 [DPS].

#### **Brief Summary of Substitute Bill**

- Levies a 40 cent tax on each retail sale in the state of a wireless device used to access the internet.
- Dedicates the revenue of the new tax to the Washington Internet Crimes Against Children Account.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Lytton, Chair; Frame, Vice Chair; Dolan, Pollet, Springer and Wylie.

**Minority Report:** Without recommendation. Signed by 5 members: Representatives Nealey, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Condotta, Stokesbary and Wilcox.

**Staff:** Richelle Geiger (786-7139).

#### **Background:**

State Excise Taxes Assessed on the Retail Sale of Wireless Telecommunication Devices.

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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.*

The state has the authority to assess excise taxes and fees on the retail sale of tangible personal property and some services. A retail sale is defined as a sale to the final consumer or end user of the property. Two state excise taxes apply to the retail sale of wireless telecommunication devices under current law.

The state retail sales tax is imposed on retail sales of most articles of tangible personal property and some services, including the sale of wireless telecommunication devices. The state retail sales tax rate is 6.5 percent and the revenue is deposited in the State General Fund.

The state Enhanced 911 (E911) tax is collected on each retail transaction of prepaid wireless telecommunication products and services, including prepaid wireless phone cards and cell phones bundled with prepaid service. The state rate is 25 cents on each retail transaction of prepaid wireless products and services, or 25 cents per month for monthly services. The state E911 tax funds the enhanced 911 telephone system.

Washington Internet Crimes Against Children Account.

The Washington Internet Crimes Against Children Account was established by the Legislature in 2015. The account must be used exclusively by the Washington Internet Crimes Against Children Task Force and its affiliate agencies for combating Internet-facilitated crimes against children, promoting education on Internet safety to the public and to minors, and rescuing child victims from abuse and exploitation.

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**Summary of Substitute Bill:**

A 40 cent tax is levied on each retail sale in the state of a wireless device used to access the Internet. "Wireless devices used to access the Internet" are smartphones, laptops, desktops, tablets, and gaming consoles used to access the Internet. The revenue generated by this tax must be deposited in the Washington Internet Crimes Against Children Account.

**Substitute Bill Compared to Original Bill:**

The definition of "wireless devices used to access the Internet" is limited to smartphones, laptops, desktops, tablets, and gaming consoles used to access the internet. The clarification is made that the tax is a trust fund tax, meaning the revenue collected under this chapter by sellers is property of the state and held in trust by the seller until paid to the state. The general administrative provisions in RCW 82.32 apply to the administration of the tax. The effective date in January 1, 2019.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect on January 1, 2019.

## **Staff Summary of Public Testimony:**

(In support) The Washington Internet Crimes Against Children Task Force needs a permanent and dedicated funding source. The crimes handled by the task force are some of the worst crimes committed, and the victims are the most innocent among us. Abuse is committed against children, recorded and documented, and distributed online. Most of the victims of these crimes are younger than the age of 8. Thirty-three percent of the victims are under the age of 3.

There are tens of thousands of downloads of this material in Washington, and at least half of those who download these images and videos are hands-on offenders.

With the advances in technology, there is more information than ever before about who is downloading and the specific content of this material. There are not enough resources to follow all of the leads and take action. The task force is overwhelmed by the number of cases.

The task force is making a big impact, but more resources and staff are needed to take action on more leads. Investigations of these crimes by this task force lead to arrests and prevent potential crimes—locally, nationally, and internationally.

(Opposed) The concerns with this bill are not related to the work of the task force or the underlying policy of providing the task force with more resources. The issue is that wireless consumers should not be subject to a new tax on their purchases. Washington has the highest tax burden on wireless device sales in the country. Twenty-five percent of the amount paid for a new device is government taxes, fees, and surcharges.

State and local governments generate a large amount of revenue from sales tax and have the opportunity to dedicate a portion of that revenue to the efforts of the task force.

The wireless industry already works with law enforcement and uses resources to combat the crimes investigated by the task force.

The definition of "wireless devices used to access the Internet" is broad and could result in this tax applying to purchases that are not intended to be taxed.

The collection of this tax would be a burden on small businesses. Additionally, this bill would negatively impact small technology start-ups that need hardware to be as inexpensive as possible to continue innovating.

(Other) The retail community supports the work of the task force and believes it should be a priority for our state.

This tax would place a burden on retailers, as they are the ones who have to collect and remit the tax. Businesses would experience a one-time cost to program the tax into their computer systems, and ongoing costs to remit the tax and comply with audits by the Department of Revenue.

A portion of the state sales tax should be deposited into the account. This would provide a stable and predictable funding source for the task force.

**Persons Testifying:** (In support) Representative Sawyer, prime sponsor; and Mike Edwards, Seattle Police Department Internet Crimes Against Children Task Force.

(Opposed) Gerard Keegan, CTIA; Jo Deutsch, TechNet; Tom McBride, Computing Technology Industry Association; and Clay Hill, Association of Washington Business.

(Other) Mark Johnson, Washington Retail Association.

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