

SENATE BILL REPORT

SB 5205

As Passed Senate, April 10, 2017

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

Brief Description: Concerning the excise taxation of martial arts.

Sponsors: Senators Fain, Palumbo, Zeiger, Keiser, Angel and Hasegawa.

Brief History:

Committee Activity: Ways & Means: 4/03/17, 4/04/17 [DP, DNP, w/oRec].

Floor Activity:

Passed Senate: 4/10/17, 47-0.

Brief Summary of Bill

- Removes martial arts from the definition of retail sales.
- Martial arts are exempted from sales tax and subject to the service and other business and occupation (B&O) tax rate of 1.5 percent rather than the retailing B&O tax rate of .471 percent.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital Budget; Bailey, Becker, Conway, Fain, Hasegawa, Keiser, Miloscia, Padden, Pedersen, Rivers, Schoesler, Warnick and Zeiger.

Minority Report: Do not pass.

Signed by Senators Ranker, Ranking Minority Member; Carlyle.

Minority Report: That it be referred without recommendation.

Signed by Senators Billig and Darneille.

Staff: Carrie Graf (786-7708)

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 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 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.

HB 1550. HB 1550, effective January 1, 2016, revised the definition of retail sales in regards to physical fitness activities. While HB 1550 excluded most yoga, tai chi, and chi gong events from the definition of retail sales, martial arts was included in the definition of a taxable retail sale. This represented a change from the definition of retail sales prior to HB 1550 under which martial arts was not considered a retail sale.

HB 1550 did include in the definition of retail sales yoga, tai chi, and chi gong events held at an athletic or fitness facility. Athletic or fitness facility is defined as an indoor or outdoor facility or portion of a facility that is primarily used for physical activities including exercise classes, personal training, and tennis.

Summary of Bill: Martial arts is removed from the definition of retail sale, except for martial arts events held at an athletic or fitness facility. This means that sales tax cannot be imposed on martial arts classes—except for those held at an athletic or fitness facility, and that martial arts classes must be taxed at the 1.5 percent B&O service tax rate rather than the .471 percent retailing B&O rate.

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

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on July 1, 2017.

Staff Summary of Public Testimony: PRO: The retail sales tax has created a loss of revenue. There are a lot students of ours that have difficulty paying tuition due to the retail sales tax. Loss of revenue has affected our staffing, we're down from 19 staff to 13 staff. As a small business owner, I relish the opportunity to compete but I want to compete on a level playing field. When activities I compete against are not required to pay sales tax, the playing field is tilted against me. This tax has hurt us in a time when we're struggling to grow. I hope you will support this bill so we can grow healthy communities through teaching people the connection between mind, body, and spirit.

Persons Testifying: PRO: Alison McCaffree, Quantum Martial Arts, Seattle WA, WA Martial Arts Association; William Browning, Washington State Martial Arts Association/Member; Angie Lee, WA State Martial Arts Association & U.S. Martial Arts Center; Eric Lohnes, Association of Washington Business.

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