

SENATE BILL REPORT

SSB 5358

As Amended by House, April 11, 2017

Title: An act relating to improving tax and licensing laws administered by the department of revenue, but not including changes to tax laws that are estimated to affect state or local tax collections as reflected in any fiscal note prepared and approved under the process established in chapter 43.88A RCW.

Brief Description: Improving tax and licensing laws administered by the department of revenue, but not including changes to tax laws that are estimated to affect state or local tax collections as reflected in any fiscal note prepared and approved under the process established in chapter 43.88A RCW.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Schoesler and Ranker).

Brief History:

Committee Activity: Ways & Means: 2/02/17, 2/08/17 [DPS].

Floor Activity:

Passed Senate: 3/06/17, 49-0.

Passed House: 4/11/17, 96-0.

Brief Summary of First Substitute Bill

- Makes tax code improvements that do not affect state revenue collections.
- Clarifies the tax code.
- Updates and simplifies administrative provisions.
- Corrects references and expiration date.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5358 be substituted therefor, and the substitute bill do pass.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Ranker, Ranking Minority Member; Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital

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.

Budget; Bailey, Becker, Billig, Carlyle, Conway, Darneille, Fain, Hasegawa, Keiser, Miloscia, Padden, Pedersen, Rivers, Schoesler, Warnick and Zeiger.

Staff: Jeff Olsen (786-7428)

Background: When legislation is enacted, it frequently contains references to other statutes. These references may become erroneous due to changes made to the referenced statutes by other legislation enacted during the same legislative session. In addition, statutes sometimes include provisions that are limited in time. These provisions become obsolete with the passage of time.

Additionally, administrative agencies from time to time suggest statutory revisions for the purpose of increasing clarity or improving administration.

Summary of First Substitute Bill: Part 1: Providing Reasonable Tools for the Effective Administration of the Public Utilities District (PUD) Privilege Tax. Makes certain general administrative provisions of the tax code applicable to the PUD privilege tax, including:

- authority to issue assessments and refunds;
- requiring electronic filing and payment;
- penalty and interest provisions;
- provisions for internal review of assessments and other actions of the Department of Revenue (DOR);
- provisions for contesting taxes in court;
- providing for the confidentiality of PUD privilege tax information;
- closing agreement authority;
- requiring PUDs to report tax due, rather than information which DOR then uses to calculate tax due;
- PUD tax distributions by the state to counties, cities, fire protection districts, and library districts must be reduced to account for taxes previously distributed to these jurisdictions and subsequently refunded to a PUD;
- extends to PUDs a waiver of late payment penalty once every 24 months; and
- allows the Department to enter into closing agreements concerning taxes imposed outside of the excise tax code.

Part 2: Pet Adoption Fees. A clarification is made so that pet adoption fees paid to local governments, humane societies, and non-profit animal rescue organizations are not subject to sales tax and are subject to business and occupation (B&O) tax under the catch-all Service and Other Activities classification.

Part 3: Technical Corrections to 2015 Legislation. Conflicting expiration dates in 2015 legislation are fixed to allow nonresident entities to obtain nonresident vessel permits.

Changes to economic nexus made in 2015 legislation are clarified and do not affect businesses that already established nexus in 2015.

Under current law, customers must pay sales tax on all charges for attending an indoor playground. Sales tax is limited to charges for drop-in play or group events, such as birthday parties, family gatherings, or employee outings, by a business that offers at least one of the

following attractions: inflatables like bouncy houses, trampolines, laser tag, soft dart tag, or human gyroscope rides.

Part 4: Automated Sales Suppression Devices. DOR personnel are allowed to lawfully possess voluntarily surrendered sales suppression devices. Currently, the law only allows the DOR to possess those devices that were seized by DOR or law enforcement.

Part 5: Annual Surveys and Reports for Tax Preferences. The tax preference accountability annual report provisions are changed in the following ways:

- taxpayers may file an annual report later than the due date if they are claiming a tax preference on an amended return;
- recipients of tax preferences are not required to file an annual report if they are not required to be registered with DOR;
- modifies the penalty for late filing of a property tax preference report or survey from repayment of exempted taxes to ineligibility to claim the preference the following year; and
- county assessors would be required to notify DOR in writing of any taxpayer claiming a property tax preference that requires the filing of an annual report, unless the taxpayer is required to apply to DOR to claim the preference.

For property tax preferences requiring a survey, instead of requiring the actual amount of tax savings provided by the tax preference to be reported on the survey, taxpayers could include an estimate of the amount of property tax savings provided by the tax preference.

Part 6: Miscellaneous Technical Corrections. Corrections to update internal references to other statutes are made.

An obsolete B&O tax credit for new employment positions created in a rural county is repealed. No credit could be earned or taken after December 31, 2010.

A reference to master application is changed to business license application to reflect current terminology.

A redundant version of RCW 82.04.280 is eliminated. Since 2003, there have been two codified versions of this statute. Originally the two statutes had slightly different language, but subsequent amendments fixed that.

An August 20th deadline is provided for final assessment roll of utility companies' property tax, which is consistent with a Department of Revenue rule.

An August 20th deadline is provided for final assessment roll operating property owned by private car companies.

Part 7: Estate Tax Return Filing Relief. Estates do not need to file an estate tax return if the gross estate is equal to or less than the filing threshold—\$2,129,000.

Part 8: Licensing Information. Business licensing information is protected from disclosure by amending the licensing statute to clarify that DOR may not disclose licensing information to be used for commercial purposes.

Part 9: Background Investigations. The Director of DOR must establish background investigation policies applicable to current and prospective DOR employees and contractors who are or may be authorized to access federal tax information. Such policies must require a criminal history record check through the Washington State Patrol and the Federal Bureau Investigation.

Part 10: Revised Timber Harvest Estimate Deadline. The deadline for DOR to provide an estimate to each county and taxing district within the county of the amount of public forest land available for timber harvesting within the county is extended to October 1st. The current deadline is August 30th of each year, however, DOR does not always have sufficient boundary information to meet this deadline.

Part 11: Electronic Communication of Confidential Property Tax Information. Confidential property tax information is allowed to be provided electronically to any authorized person.

Part 12: Miscellaneous. Tax transparency provisions don't apply to this act.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Part 1 takes effect January 1, 2018. Section 102 takes effect April 1, 2018. Part 5 takes effect January 1, 2018.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: One other provision related to the PUD interest tax is that it increases the penalty rate if the PUD files late, but DOR has looked at the history. PUDs are not late on their taxes so there won't be any increased revenue. The intent is to treat the PUD tax the same as other excise taxes. Other parts of the bill clarify what the DOR can and cannot do, like accept zappers surrendered to the DOR. Currently, this a Class C felony. This bill allows the DOR to accept and study or destroy. Business licensing information also cannot be given out for commercial purposes. This is our current policy but this bill clarifies this. If a gross estate is under the estate filing tax threshold, it does not need to be reported.

Persons Testifying: PRO: David Duvall, Legislative Liaison with Department of Revenue.

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

EFFECT OF HOUSE AMENDMENT(S):

- Removes the definition of "retail sale" that includes indoor or outdoor playground charges for drop-in play and certain group events.
- Removes the changes made to tax preference annual reports and surveys.