

SENATE BILL REPORT

ESSB 5997

As Passed Senate, April 25, 2019

Title: An act relating to eliminating or narrowing certain tax preferences to increase state revenue for essential public services.

Brief Description: Eliminating or narrowing certain tax preferences to increase state revenue for essential public services.

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

Brief History:

Committee Activity: Ways & Means: 4/08/19, 4/18/19 [DPS, DNP].

Floor Activity:

Passed Senate: 4/25/19, 25-22.

Brief Summary of Engrossed First Substitute Bill

- Converts the nonresident sales tax exemption to a remittance program.
- Allows a county to set up a deferred finding program for persons who receive a citation for failing to register a vehicle, an aircraft, or a vessel.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5997 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Liias, Palumbo, Pedersen and Van De Wege.

Minority Report: Do not pass.

Signed by Senators Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Schoesler, Wagoner, Warnick and Wilson, L..

Staff: Alia Kennedy (786-7405)

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 to the value 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 depending on the location.

Sales to Nonresident from No or Low Sales Tax States. Retail sales tax does not apply to purchases of certain goods made by nonresidents for use outside of the state. Nonresidents includes persons from other states, possessions, or territories of the United States, or Canadian provinces or territories, that do not impose a sales, use, value-added, or similar tax at a rate of 3 percent or more.

The tax exemption applies to the purchases of tangible personal property, digital goods, digital codes, and certain parts or property installed by the seller while repairing, cleaning or altering motor vehicles, trailers, or campers in Washington. The tax exemption does not apply to retail services, such as lodging, cleaning or repair services, or amusement or recreational services, or items used or consumed in Washington, such as meals or beverages, goods sold to military personnel stationed in Washington, or goods sold to students attending school in the state. The nonresident buyer must provide to the seller valid picture identification or an authorized exemption certificate in order to make a tax exempt purchase.

Vehicle Registrations. New Washington residents, unless exempt, must obtain a valid Washington driver's license and register their vehicles within 30 days from the date they become residents. Exemptions include a person in the military, a nonresident driver, borrowed vehicles, or business vehicles.

Failure to register a vehicle in Washington before operating it on the highways is a traffic infraction of \$529, and no part may be suspended or deferred. The avoided taxes and fees must be deposited and distributed in the same manner as if the taxes and fees were paid in a timely fashion.

Licensing a vehicle in another state by a resident of this state to evade the payment of any tax or license fee imposed in connection with registration is a gross misdemeanor punishable as follows:

- for a first offense, up to one year in the county jail and payment of a fine of \$1,529, no part of which may be suspended or deferred; and
- for a second or subsequent offense, up to one year in the county jail and payment of a fine of \$5,529, no part of which may be suspended or deferred.

The fines levied will be deposited in the Vehicle Licensing Fraud Account to be used only for vehicle license fraud enforcement and collections by the Washington State Patrol and the Department of Revenue.

Failure to register an aircraft or failure to register a vessel are gross misdemeanors. For a second or subsequent offense, the person is subject to a fine of four times the amount of avoided taxes and fees which may not be suspended or deferred.

Summary of Engrossed First Substitute Bill: Nonresident Sales Tax Remittance Program.

The nonresident sales tax exemption is converted to a remittance program. Refunds may only be requested by nonresidents for the immediately preceding calendar year, and must be for at least \$25. In addition, a nonresident may only make one refund request per calendar year. The request must include proof of nonresident status as prescribed by the Department of Revenue. Penalties are created for making fraudulent statements or submitting fraudulent documents.

Deferred Finding Program. Any county may set up a deferred finding program for persons who receive a citation for failing to register a vehicle, an aircraft, or a vessel.

The citation must be dismissed if the person cited has paid a \$500 fine; has a valid Washington State driver's license; and registered the vehicle, aircraft, or vessel. If receipt of proof does not occur within 90 days of the citation, the county prosecutor must seek the full penalty. Fines generated pursuant to the deferred finding program must be used by the county for enforcement and prosecution of registration requirements.

A person must not have a previous citation nor participated in a program of deferred finding for failing to register a vehicle, an aircraft, or a vessel to be eligible for the deferred prosecution program.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2019.

Staff Summary of Public Testimony: PRO: This bill generates significant revenue important to this state. The revenue bills introduced this session are thoughtful tax policy and reflect people's ability to pay. This is an improvement to Washington's tax code and strengthens the adequacy of revenue to promote social services.

CON: The bill has a negative impact on Washington cities and the state as a whole. Cities along the Oregon border report that over half of their customers are from outside the state. This tax preference was reviewed and determined it was meeting its public policy objective and thus was recommended it continue. Very few people will use the remittance program. Another good example of using a tax study to inform the policy. We do not know how this legislation will impact the practices of people coming in state to shop. The bill will be devastating to the travel industry in Washington and force businesses out of state. This bill hurts small businesses that work in the travel industry.

OTHER: Keeping the classification the same for travel agents and tour operators is the best approach. The current rate may not fit the industry today, but doubling the rate is not the answer.

Persons Testifying: PRO: Donna Patrick, Developmental Disabilities Council; Nick Federici, Balance Our Tax Code.

CON: Mark Johnson, Washington Retail; Clay Hill, AWB; Patrick Connor, NFIB Washington; Ann Chamberlin, American Society of Travel Advisors, Senior Vice President; Dan Smith, Caribbean Adventures, Travel By Dan; Shawn van der Putten, American Society of Travel Advisors; Scott Hazlegrove, Washington State Auto Dealers Association; Amber Carter, Identity Clark County.

OTHER: Richard Lazaro, Expedia Group.

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