

SENATE BILL REPORT

SB 5187

As Reported by Senate Committee On:
Ways & Means, March 18, 2021

Title: An act relating to exempting clay targets from sales and use tax.

Brief Description: Exempting clay targets from sales and use tax.

Sponsors: Senators Fortunato, Wagoner and Wilson, L..

Brief History:

Committee Activity: Ways & Means: 3/11/21, 3/18/21 [DP, DNP].

Brief Summary of Bill

- Exempts from sales and use tax clay targets purchased by a nonprofit gun club providing the activity of clay target shooting for a fee.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Braun, Conway, Gildon, Mullet, Muzzall, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

Minority Report: Do not pass.

Signed by Senators Frockt, Vice Chair, Capital; Carlyle, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Lias and Pedersen.

Staff: Alia Kennedy (786-7405)

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

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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.

Tax Preferences. State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a tax preference performance statement that identifies the public policy objective of the preference, as well as specific metrics the Joint Legislative Audit and Review Committee can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided.

Tax Preference for Clay Targets. In 2013, the Legislature authorized a retail sales and use tax exemption for nonprofit gun clubs on the purchase of clay targets used in the activity of shooting for which a fee is charged. The buyer was required to provide the seller with an exemption certificate from the Department of Revenue (DOR). The exemption expired on July 1, 2017.

Summary of Bill: Retail sales and use taxes do not apply to the sale of clay targets purchased by a nonprofit gun club for use in providing the activity of clay target shooting for a fee.

The exemption is available only when the buyer provides the seller with an exemption certificate as prescribed by DOR. The seller must retain a copy of the certificate for its files. For sellers who electronically file their taxes, DOR must provide a separate tax reporting line for exemption amounts claimed under this act.

The tax preference performance requirements, including the ten year automatic expiration, do not apply to this act.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is a matter of double taxation. DOR interprets the service as one where the clay targets are consumed by the service of trap

shooting and has deemed it ineligible for tax exemption. There is no loss of revenue because the sales and use tax is gained on the entire round of the trap shooting activity, rather than paying the tax upfront when the clay targets are purchased. The activity is being treated differently than similar activities in other industries.

CON: DOR believes this bill creates significant policy concerns and opposes longstanding precedent with regard to the tax treatment of services. The clay targets themselves are not for resale, rather the item at sale is the activity of trap shooting.

Persons Testifying: PRO: Senator Phil Fortunato, Prime Sponsor.

CON: Michael Bailey, Department of Revenue.

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