

SENATE BILL REPORT

SB 5663

As of March 9, 2023

Title: An act relating to abandoned vehicles sold at auctions conducted by registered tow truck operators.

Brief Description: Concerning abandoned vehicles sold at auctions conducted by registered tow truck operators.

Sponsors: Senators Warnick, Dozier, Fortunato, Short and Wagoner.

Brief History:

Committee Activity: Ways & Means: 3/09/23.

Brief Summary of Bill

- Modifies the excise taxation of abandoned vehicles sold at auction by a tow truck operator.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jeffrey Mitchell (786-7438)

Background: Business and Occupation Tax. Washington levies the business and occupation (B&O) tax on gross income from Washington-based business activity. The tax rate varies by classification. For retailing activities, the tax rate is 0.471 percent.

Retail Sales and Use Taxes. 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 applies 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 percent to 3.0 percent,

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depending on the location.

Towing and storage services are subject to retail sales tax and retailing B&O tax.

Sellers must collect an additional sales tax of 0.3 percent of the selling price of each motor vehicle. If a seller does not collect the sales tax, then a buyer must pay an additional use tax of 0.3 percent when registering the vehicle with the Department of Licensing. Revenue from the additional 0.3 percent tax is deposited in the multimodal transportation account.

Tow Truck Operators. A tow truck operator (operator) may apply a lien against the sale of an abandoned vehicle in the amount of charges for towing and storage plus the associated retail sales tax. The operator must try to make the sale via public auction. If there is no successful bidder, the operator must sell the vehicle to a licensed vehicle wrecker, hulk hauler or scrap processor.

When sale proceeds are less than the lien, an operator may back out the retail sales tax from the proceeds to arrive at the taxable measure of the towing and storage services subject to the retailing B&O and retail sales tax. When the sale proceeds are greater than the lien, an operator may not back out the retail sales tax from the proceeds to arrive at the taxable measure of the towing and storage services subject to the retailing B&O and retail sales tax. However, in either case, an operator uses a portion of the sales proceeds to pay the retail sales tax, instead of charging the buyer .

When the proceeds of an auction sale exceed the amount necessary to satisfy the towing and storage lien this results in surplus funds. An operator must remit these amounts to the DOL.

If a vehicle buyer registers the vehicle with the Department of Licensing, use tax will be owed on the full purchase price.

Tax Preference Review Requirements. State law provides 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. 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 (JLARC) can use to review the effectiveness of the preference in achieving its stated public policy objectives. Tax preferences must be reviewed by JLARC at least once every ten years, unless state statute requires otherwise. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided or the tax preference is exempt from expiration. To assist the Legislature in its evaluation of economic development-related tax preferences, taxpayer beneficiaries are required to file annual tax preference performance reports detailing wages and employment of the taxpayer as well as tax savings from the tax preference.

Summary of Bill: Gross proceeds from the sale of an abandoned vehicle are taxed as a sale of a vehicle instead of the sale of towing and storage services. The transaction is subject to the retail sales tax, the additional 0.3 percent sales and use tax on vehicles, and retailing B&O tax. Sales tax would be collected by the operator from the buyer and remitted to the Department of Revenue. Therefore, an operator would no longer use a portion of the sales proceeds to pay the retail sales tax.

For the retailing B&O tax, an operator may deduct from the taxable amount any surplus funds.

The new tax preference performance provisions do not apply to this bill.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill takes effect on January 1, 2024.

Staff Summary of Public Testimony: PRO: This bill will provide clarity and fairness to vehicle auction sales. Towers are currently unsure whether to follow the rules of DOR or DOL.

CON: This bill creates a problem for records. There are many issues that need to be solved before this bill can be moved forward.

Persons Testifying: PRO: Kris Zachary, Burns Towing; Paul Bressi, Nisqually Towing; Emily Wade, Towing Recovery Association of Washington (TRAW).

CON: James King, Independent Business Association.

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