
SUBSTITUTE SENATE BILL 5663

State of Washington

68th Legislature

2023 Regular Session

By Senate Ways & Means (originally sponsored by Senators Warnick, Dozier, Fortunato, Short, and Wagoner)

1 AN ACT Relating to abandoned vehicles sold at auctions conducted
2 by registered tow truck operators; amending RCW 82.04.040; adding a
3 new section to chapter 82.04 RCW; adding a new section to chapter
4 82.08 RCW; creating new sections; repealing 2019 c 357 ss 1 and 3
5 (uncodified); and providing an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 82.04.040 and 2019 c 357 s 2 are each amended to
8 read as follows:

9 (1) Except as otherwise provided in this subsection, "sale" means
10 any transfer of the ownership of, title to, or possession of property
11 for a valuable consideration and includes any activity classified as
12 a "sale at retail" or "retail sale" under RCW 82.04.050. It includes
13 lease or rental, conditional sale contracts, and any contract under
14 which possession of the property is given to the purchaser but title
15 is retained by the vendor as security for the payment of the purchase
16 price. It also includes the furnishing of food, drink, or meals for
17 compensation whether consumed upon the premises or not. The term
18 "sale" does not include the transfer of the ownership of, title to,
19 or possession of(~~;~~
20 ~~(a)An~~) an animal by an animal rescue organization in exchange
21 for the payment of an adoption fee(~~;~~~~or~~

1 ~~(b) An abandoned vehicle sold by a registered tow truck operator~~
2 ~~to a successful bidder at public auction or, if there is no~~
3 ~~successful bidder, to a licensed vehicle wrecker, hulk hauler, or~~
4 ~~scrap processor, as provided in RCW 46.55.130. Nothing in this~~
5 ~~subsection (1)(b) may be construed as providing an exemption from:~~

6 ~~(i) The tax imposed by chapter 82.12 RCW on the use of an~~
7 ~~abandoned vehicle by any consumer; or~~

8 ~~(ii) Taxes imposed under this chapter and chapter 82.08 RCW on~~
9 ~~automobile towing and automobile storage services provided by a~~
10 ~~registered tow truck operator)).~~

11 (2) "Casual or isolated sale" means a sale made by a person who
12 is not engaged in the business of selling the type of property
13 involved.

14 (3)(a) "Lease or rental" means any transfer of possession or
15 control of tangible personal property for a fixed or indeterminate
16 term for consideration. A lease or rental may include future options
17 to purchase or extend. "Lease or rental" includes agreements covering
18 motor vehicles and trailers where the amount of consideration may be
19 increased or decreased by reference to the amount realized upon sale
20 or disposition of the property as defined in 26 U.S.C. Sec.
21 7701(h)(1), as amended or renumbered as of January 1, 2003. The
22 definition in this subsection (3) must be used for sales and use tax
23 purposes regardless if a transaction is characterized as a lease or
24 rental under generally accepted accounting principles, the United
25 States internal revenue code, Washington state's commercial code, or
26 other provisions of federal, state, or local law.

27 (b) "Lease or rental" does not include:

28 (i) A transfer of possession or control of property under a
29 security agreement or deferred payment plan that requires the
30 transfer of title upon completion of the required payments;

31 (ii) A transfer of possession or control of property under an
32 agreement that requires the transfer of title upon completion of
33 required payments, and payment of an option price does not exceed the
34 greater of one hundred dollars or one percent of the total required
35 payments; or

36 (iii) Providing tangible personal property along with an operator
37 for a fixed or indeterminate period of time. A condition of this
38 exclusion is that the operator is necessary for the tangible personal
39 property to perform as designed. For the purpose of this subsection

1 (3) (b) (iii), an operator must do more than maintain, inspect, or set
2 up the tangible personal property.

3 (4) (a) "Adoption fee" means an amount charged by an animal rescue
4 organization to adopt an animal, except that "adoption fee" does not
5 include any separately itemized charge for any incidental inanimate
6 items provided to persons adopting an animal, including food,
7 identification tags, collars, and leashes.

8 (b) "Animal care and control agency" means the same as in RCW
9 16.52.011 and also includes any similar entity operating outside of
10 this state.

11 (c) "Animal rescue group" means a nonprofit organization that:

12 (i) (A) Is exempt from federal income taxation under 26 U.S.C.
13 Sec. 501(c) of the federal internal revenue code as it exists on July
14 23, 2017; or

15 (B) Is registered as a charity with the Washington secretary of
16 state under chapter 19.09 RCW, whether such registration is required
17 by law or voluntary;

18 (ii) Has as its primary purpose the prevention of abuse, neglect,
19 cruelty, exploitation, or homelessness of animals; and

20 (iii) Exclusively obtains dogs, cats, or other animals for
21 placement that are:

22 (A) Stray or abandoned;

23 (B) Surrendered or relinquished by animal owners or caretakers;

24 (C) Transferred from other animal rescue organizations; or

25 (D) Born in the care of such nonprofit organization other than
26 through intentional breeding by the nonprofit organization.

27 (d) "Animal rescue organization" means an animal care and control
28 agency or an animal rescue group.

29 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04
30 RCW to read as follows:

31 (1) The gross proceeds of sales of abandoned vehicles by a
32 registered tow truck operator under RCW 46.55.130 are not subject to
33 tax under this chapter as the sale of automobile towing and storage
34 services. Rather, such gross proceeds of sales of abandoned vehicles
35 by a registered tow truck operator are subject to tax under this
36 chapter as the sale of tangible personal property.

37 (2) A registered tow truck operator may deduct from amounts
38 taxable under subsection (1) of this section any surplus proceeds

1 required by law to be transmitted to the department of licensing as
2 required under RCW 46.55.130 and 46.55.200.

3 (3) For the purposes of this section, "abandoned vehicle" and
4 "registered tow truck operator" have the same meanings as provided in
5 RCW 46.55.010.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08
7 RCW to read as follows:

8 (1) A registered tow truck operator must collect the applicable
9 taxes under RCW 82.08.020 when making a retail sale of abandoned
10 vehicles at a public auction or to a licensed vehicle wrecker, hulk
11 hauler, or scrap processor, as provided in RCW 46.55.130, unless the
12 sale is specifically exempt from tax under this chapter. For the
13 purposes of this chapter, such sales are treated solely as the sale
14 of tangible personal property and not as the sale of automobile
15 towing and storage services.

16 (2) A person selling an abandoned vehicle at public auction as an
17 agent of a registered tow truck operator is subject to the tax
18 collection obligation described in subsection (1) of this section.

19 (3) For the purposes of this section, "abandoned vehicle" and
20 "registered tow truck operator" have the same meanings as provided in
21 RCW 46.55.010.

22 NEW SECTION. **Sec. 4.** The legislature finds that licensed auto
23 wreckers, scrap processors, and hulk haulers generally make wholesale
24 purchases of abandoned vehicles from registered tow truck operators
25 and therefore would not owe sales tax on the acquisition of abandoned
26 vehicles notwithstanding this act. The legislature does not intend to
27 modify the tax characterization of these vehicle acquisitions by auto
28 wreckers, scrap processors, and hulk haulers with the enactment of
29 this act.

30 NEW SECTION. **Sec. 5.** This act is exempt from the provisions of
31 RCW 82.32.805 and 82.32.808.

32 NEW SECTION. **Sec. 6.** The following acts or parts of acts are
33 each repealed:

- 34 (1) 2019 c 357 s 1 (uncodified); and
35 (2) 2019 c 357 s 3 (uncodified).

1 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2024.

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