

# SENATE BILL REPORT

## SB 5411

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As of February 18, 2025

**Title:** An act relating to the tax treatment of pilates studios and gymnastics facilities.

**Brief Description:** Concerning the tax treatment of pilates studios and gymnastics facilities.

**Sponsors:** Senators Nobles, Riccelli, Cortes, Harris, Saldaña and Shewmake.

**Brief History:**

**Committee Activity:** Ways & Means: 2/18/25.

<p><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Modifies the tax treatment for businesses that provide Pilates or gymnastics classes.</li></ul>
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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Alia Kennedy (786-7405)

**Background:** Business and Occupation Tax. Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Revenues are deposited in the state general fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted. The general B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 or 1.75 percent for services and for activities not classified elsewhere—depending on taxable income. Current law authorizes multiple exemptions, deductions, and credits to reduce the B&O tax liability for specific taxpayers and business industries.

Retail 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

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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 tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities 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 4.1 percent, depending on the location.

**Athletic and Fitness Facilities.** All charges for the use of an athletic or fitness facility are retail sales subject to retail sales tax and retailing B&O tax. This means that consumers pay retail sales tax on the charge to use an athletic or fitness facility and businesses pay retailing B&O tax on the income from such charges. An “athletic or fitness facility” is defined as an indoor or outdoor facility that is primarily used for exercise classes, strength and conditioning programs, personal training services, tennis, racquetball, handball, squash, or pickle ball, or other activities requiring the use of exercise or strength training equipment, such as treadmills, elliptical machines, stair climbers, stationary cycles, rowing machines, Pilates equipment, balls, climbing ropes, jump ropes and weightlifting equipment. Athletic and fitness facilities include gyms, fitness centers, athletic facilities, cross-fit centers, facilities that offer fitness classes, Pilates facilities, and tennis centers.

Certain facilities are excluded from the definition of athletic and fitness facility and are thus not considered a retail sale for purposes of the retail sales tax and retailing B&O tax. This includes facilities that exclusively provide yoga, tai chi, chi gong, or martial arts classes. Facilities providing these types of classes do not collect retail sales tax from its consumers but do pay B&O tax at the service and other activities rate of 1.5 or 1.75 percent, rather than the retailing rate of 0.471 percent.

**Tax Preferences.** All new tax preference legislation is required to include a tax preference performance statement. The performance statement must clearly specify the public policy objectives of the tax preference, and the specific metrics and data that will be used by the Joint Legislative Audit and Review Committee to evaluate the efficacy of the tax preference. An automatic ten-year expiration date is applied to new tax preferences if an alternate expiration date is not provided in the new tax preference legislation.

**Summary of Bill:** Retail sales and use tax does not apply to charges made for gymnastics or Pilates classes.

Businesses must pay B&O tax at the service and other activities classification rate of 1.5 or 1.75 percent on income from gymnastics or Pilates classes held at facilities not primarily used for physical fitness activities.

**Appropriation:** None.

**Fiscal Note:** Requested on January 22, 2025.

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

**Effective Date:** The bill takes effect on October 1, 2025.

**Staff Summary of Public Testimony:** PRO: This is good policy but the bill should be amended to include all fitness facilities. Exercise is healthcare. Washington spends billions of dollars each year to treat chronic conditions, such as osteoporosis, diabetes, and cardiovascular disease. The number one preventative medicine for chronic disease is exercise. Instead of taxing fitness, the state should consider taxing sectors that do not provide critical support for public health. The modality of exercise should not be a differentiator with regards to the sales tax exemption. Due to the high cost of participation, Pilates and gymnastics services benefit only the wealthiest Washingtonians.

OTHER: If the intent is to treat Pilates and gymnastics facilities like tai chi, then the Department of Revenue believes more explicit exemption language is needed to properly administer this law. The bill gives Pilates an inequitable tax treatment as compared to other activities provided at fitness facilities. More clarification is needed around the catch-all language to ensure it does not capture unintended activities.

**Persons Testifying:** PRO: Charles Regnante, The Health and Fitness Association; Chyna Willman, Grit City Wellness.

OTHER: Steve Ewing, Dept. of Revenue.

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