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HOUSE BILL 1806

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State of Washington

66th Legislature

2019 Regular Session

By Representative Orcutt

1 AN ACT Relating to the valuation of vehicles in private sales for  
2 purposes of use taxation; and amending RCW 46.04.670 and 82.12.020.

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

4 **Sec. 1.** RCW 46.04.670 and 2011 c 171 s 19 are each amended to  
5 read as follows:

6 "Vehicle" includes every device capable of being moved upon a  
7 public highway and in, upon, or by which any persons or property is  
8 or may be transported or drawn upon a public highway, including  
9 bicycles. "Vehicle" does not include power wheelchairs or devices  
10 other than bicycles moved by human or animal power or used  
11 exclusively upon stationary rails or tracks. Mopeds are not  
12 considered vehicles or motor vehicles for the purposes of chapter  
13 46.70 RCW. Bicycles are not considered vehicles for the purposes of  
14 chapter 46.12, 46.16A, or 46.70 RCW or RCW 82.12.045 or 82.12.020.  
15 Electric personal assistive mobility devices are not considered  
16 vehicles or motor vehicles for the purposes of chapter 46.12, 46.16A,  
17 46.29, 46.37, or 46.70 RCW. A golf cart is not considered a vehicle,  
18 except for the purposes of chapter 46.61 RCW.

19 **Sec. 2.** RCW 82.12.020 and 2017 c 323 s 520 are each amended to  
20 read as follows:

1 (1) There is levied and collected from every person in this state  
2 a tax or excise for the privilege of using within this state as a  
3 consumer any:

4 (a) Article of tangible personal property acquired by the user in  
5 any manner, including tangible personal property acquired at a casual  
6 or isolated sale, and including by-products used by the manufacturer  
7 thereof, except as otherwise provided in this chapter, irrespective  
8 of whether the article or similar articles are manufactured or are  
9 available for purchase within this state;

10 (b) Prewritten computer software, regardless of the method of  
11 delivery, but excluding prewritten computer software that is either  
12 provided free of charge or is provided for temporary use in viewing  
13 information, or both;

14 (c) Services defined as a retail sale in RCW 82.04.050 (2) (a) or  
15 (g) or (6)(c), excluding services defined as a retail sale in RCW  
16 82.04.050(6)(c) that are provided free of charge;

17 (d) Extended warranty; or

18 (e)(i) Digital good, digital code, or digital automated service,  
19 including the use of any services provided by a seller exclusively in  
20 connection with digital goods, digital codes, or digital automated  
21 services, whether or not a separate charge is made for such services.

22 (ii) With respect to the use of digital goods, digital automated  
23 services, and digital codes acquired by purchase, the tax imposed in  
24 this subsection (1)(e) applies in respect to:

25 (A) Sales in which the seller has granted the purchaser the right  
26 of permanent use;

27 (B) Sales in which the seller has granted the purchaser a right  
28 of use that is less than permanent;

29 (C) Sales in which the purchaser is not obligated to make  
30 continued payment as a condition of the sale; and

31 (D) Sales in which the purchaser is obligated to make continued  
32 payment as a condition of the sale.

33 (iii) With respect to digital goods, digital automated services,  
34 and digital codes acquired other than by purchase, the tax imposed in  
35 this subsection (1)(e) applies regardless of whether or not the  
36 consumer has a right of permanent use or is obligated to make  
37 continued payment as a condition of use.

38 (2) The provisions of this chapter do not apply in respect to the  
39 use of any article of tangible personal property, extended warranty,  
40 digital good, digital code, digital automated service, or service

1 taxable under RCW 82.04.050 (2) (a) or (g) or (6)(c), if the sale to,  
2 or the use by, the present user or the present user's bailor or donor  
3 has already been subjected to the tax under chapter 82.08 RCW or this  
4 chapter and the tax has been paid by the present user or by the  
5 present user's bailor or donor.

6 (3)(a) Except as provided in this section, payment of the tax  
7 imposed by this chapter or chapter 82.08 RCW by one purchaser or user  
8 of tangible personal property, extended warranty, digital good,  
9 digital code, digital automated service, or other service does not  
10 have the effect of exempting any other purchaser or user of the same  
11 property, extended warranty, digital good, digital code, digital  
12 automated service, or other service from the taxes imposed by such  
13 chapters.

14 (b) The tax imposed by this chapter does not apply:

15 (i) If the sale to, or the use by, the present user or his or her  
16 bailor or donor has already been subjected to the tax under chapter  
17 82.08 RCW or this chapter and the tax has been paid by the present  
18 user or by his or her bailor or donor;

19 (ii) In respect to the use of any article of tangible personal  
20 property acquired by bailment and the tax has once been paid based on  
21 reasonable rental as determined by RCW 82.12.060 measured by the  
22 value of the article at time of first use multiplied by the tax rate  
23 imposed by chapter 82.08 RCW or this chapter as of the time of first  
24 use;

25 (iii) In respect to the use of any article of tangible personal  
26 property acquired by bailment, if the property was acquired by a  
27 previous bailee from the same bailor for use in the same general  
28 activity and the original bailment was prior to June 9, 1961; or

29 (iv) To the use of digital goods or digital automated services,  
30 which were obtained through the use of a digital code, if the sale of  
31 the digital code to, or the use of the digital code by, the present  
32 user or the present user's bailor or donor has already been subjected  
33 to the tax under chapter 82.08 RCW or this chapter and the tax has  
34 been paid by the present user or by the present user's bailor or  
35 donor.

36 (4)(a) Except as provided in (b) and (c) of this subsection (4),  
37 the tax is levied and must be collected in an amount equal to the  
38 value of the article used, value of the digital good or digital code  
39 used, value of the extended warranty used, or value of the service

1 used by the taxpayer, multiplied by the applicable rates in effect  
2 for the retail sales tax under RCW 82.08.020.

3 (b) In the case of a seller required to collect use tax from the  
4 purchaser, the tax must be collected in an amount equal to the  
5 purchase price multiplied by the applicable rate in effect for the  
6 retail sales tax under RCW 82.08.020.

7 (c) In the case of a sale of a vehicle between two private  
8 individuals, the tax must be collected in an amount equal to the  
9 purchase price multiplied by the applicable rate for the retail sales  
10 tax under RCW 82.08.020. For the purposes of this subsection (4)(c),  
11 "vehicle" has the same meaning as provided in RCW 46.04.670.

12 (5) For purposes of the tax imposed in this section, "person"  
13 includes anyone within the definition of "buyer," "purchaser," and  
14 "consumer" in RCW 82.08.010.

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