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**SUBSTITUTE SENATE BILL 5668**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Takko, Warnick, and Fortunato)

1 AN ACT Relating to taxation of abandoned vehicles sold at  
2 auctions conducted by registered tow truck operators; amending RCW  
3 82.04.040; creating a new section; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** (1) This section is the tax preference  
6 performance statement for the tax preference contained in section 2,  
7 chapter . . ., Laws of 2019 (section 2 of this act). This performance  
8 statement is only intended to be used for subsequent evaluation of  
9 the tax preference. It is not intended to create a private right of  
10 action by any party or to be used to determine eligibility for  
11 preferential tax treatment.

12 (2) The legislature categorizes this tax preference as one  
13 intended to provide tax relief to certain businesses or individuals  
14 as indicated in RCW 82.32.808(2)(e).

15 (3) It is the legislature's specific public policy objective to  
16 allow registered tow truck operators to recoup their expenditures  
17 associated with removing abandoned vehicles from the roads and  
18 highways of Washington.

19 (4) If a review finds that the average cost of towing, storing,  
20 and disposing of an abandoned vehicle exceeds the average revenue of  
21 the sale of an abandoned vehicle by an amount greater than the value

1 of the retail sales and use tax authorized in section 2 of this act,  
2 then the legislature intends to extend the expiration date of this  
3 tax preference.

4 (5) In order to obtain the data necessary to perform the review  
5 in subsection (4) of this section, the joint legislative audit and  
6 review committee may refer to any data collected by the state.

7 **Sec. 2.** RCW 82.04.040 and 2017 c 323 s 201 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 animal by an animal rescue organization in exchange for  
21 the payment of an adoption fee; or

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

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

29 (ii) Taxes imposed under this chapter and chapter 82.08 RCW on  
30 automobile towing and automobile storage services provided by a  
31 registered tow truck operator.

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

35 (3)(a) "Lease or rental" means any transfer of possession or  
36 control of tangible personal property for a fixed or indeterminate  
37 term for consideration. A lease or rental may include future options  
38 to purchase or extend. "Lease or rental" includes agreements covering  
39 motor vehicles and trailers where the amount of consideration may be

1 increased or decreased by reference to the amount realized upon sale  
2 or disposition of the property as defined in 26 U.S.C. Sec.  
3 7701(h)(1), as amended or renumbered as of January 1, 2003. The  
4 definition in this subsection (3) must be used for sales and use tax  
5 purposes regardless if a transaction is characterized as a lease or  
6 rental under generally accepted accounting principles, the United  
7 States internal revenue code, Washington state's commercial code, or  
8 other provisions of federal, state, or local law.

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

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

13 (ii) A transfer of possession or control of property under an  
14 agreement that requires the transfer of title upon completion of  
15 required payments, and payment of an option price does not exceed the  
16 greater of one hundred dollars or one percent of the total required  
17 payments; or

18 (iii) Providing tangible personal property along with an operator  
19 for a fixed or indeterminate period of time. A condition of this  
20 exclusion is that the operator is necessary for the tangible personal  
21 property to perform as designed. For the purpose of this subsection  
22 (3)(b)(iii), an operator must do more than maintain, inspect, or set  
23 up the tangible personal property.

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

29 (b) "Animal care and control agency" means the same as in RCW  
30 16.52.011 and also includes any similar entity operating outside of  
31 this state.

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

33 (i)(A) Is exempt from federal income taxation under 26 U.S.C.  
34 Sec. 501(c) of the federal internal revenue code as it exists on July  
35 23, 2017; or

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

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

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

3 (A) Stray or abandoned;

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

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

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

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

10 NEW SECTION. **Sec. 3.** This act expires January 1, 2030.

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