

# Department of Revenue Fiscal Note

<b>Bill Number:</b> 5663 SB	<b>Title:</b> Abandoned vehicle auctions	<b>Agency:</b> 140-Department of Revenue
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## Part I: Estimates

**No Fiscal Impact**

### Estimated Cash Receipts to:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax		(400,000)	(400,000)	(1,973,000)	(2,017,000)
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax		10,000	10,000	46,000	47,000
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax				(4,000)	(4,000)
<b>Total \$</b>		(390,000)	(390,000)	(1,931,000)	(1,974,000)

### Estimated Expenditures from:

Account	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.4	0.2		
GF-STATE-State 001-1		50,000	50,000		
<b>Total \$</b>		50,000	50,000		

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

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Request # 5663-3-1

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.*

Note: This fiscal note reflects language in SB 5663, 2024 Legislative Session.

#### CURRENT LAW:

##### 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%.

A wholesale sale means selling tangible personal property to a business that will resell it in the regular course of business. For wholesaling activities, the tax rate is 0.484%.

##### 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 apply to the value of the property, digital product, or service when used in Washington. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5%; local sales and use tax rates vary from 0.5% to 3.0%, depending on the location.

Motor vehicle sales are exempt from the public safety component of the local retail sales tax.

##### MOTOR VEHICLE SALES/LEASES TAX:

Under the motor vehicle sales/leases tax, sellers must collect an additional sales tax of 0.3% of the selling price of each motor vehicle. If a seller does not collect the sales tax, a buyer must pay an additional use tax of 0.3% when registering the vehicle with the Department of Licensing (DOL).

##### 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. It must try to make the sale via public auction. If there is no successful bidder, it must sell the vehicle to a licensed vehicle wrecker, hulk hauler, or scrap processor.

This sale has tax implications for two separate transactions:

- towing and storage charges
- sale of the vehicle

Transaction 1 - Towing and storage charges: Income received for automobile towing and storage services is subject to the retailing B&O tax and the retail sales tax. Therefore, when a lien is placed on an abandoned vehicle for towing and storage services, the proceeds from the sale of the abandoned vehicle is subject to the retailing B&O tax and the retail sales tax.

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 exceed 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.

In either case, an operator uses a portion of the sales proceeds to pay the retail sales tax instead of charging the buyer.

Transaction 2 - Sale of the vehicle: The definition of a “sale” excludes the sale of an abandoned vehicle. As a result, the transaction is not subject to the retail sales tax, B&O tax (retailing or wholesaling classifications), or the motor vehicle sales/leases tax. However, the transaction is subject to the B&O tax under the service/other classification. As an operator may deduct the full sales amount, no B&O tax is due.

If the buyer is a consumer, the purchase is still subject to the use tax and the motor vehicle sales/leases tax, which the DOL collects when the buyer registers the vehicle.

Surplus funds: 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 to the DOL.

#### PROPOSAL:

Gross proceeds from the sale of an abandoned vehicle are taxed as the sale of a vehicle instead of as 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.

Under this bill, the definition of a sale will include the sale of an abandoned vehicle. As a result, when a business purchases an abandoned vehicle at wholesale, wholesaling B&O tax applies. When a consumer purchases an abandoned vehicle at retail, retail sales tax, the motor vehicle sales/leases tax, and the retailing B&O tax will all apply.

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

The new tax preference performance provisions do not apply to this bill (see section 5 of the bill).

#### EFFECTIVE DATE:

This bill takes effect on January 1, 2024.

#### II. B - Cash receipts Impact

*Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.*

#### ASSUMPTIONS:

- This bill will be amended to take effect on January 1, 2025.
- The average cost for towing and storage charges was \$1,481 in 2023.
- The average price for each abandoned vehicle with a sales price below the lien was \$125 in 2017.
- Licensed vehicle wreckers, hulk haulers, and scrap processors purchase at wholesale 89% of abandoned vehicles sold by tow operators.
- Annual growth in charges for towing and storage mirrors the Economic and Revenue Forecast Council forecast for the Seattle consumer price index, urban.
- We derived annual growth rates for the following from the DOL forecast for abandoned vehicles:
  - sales price for a vehicle with a sales price below the lien
  - number of abandoned vehicle sales
- Currently, tribes with compacts receive a share of state sales and use tax (RCW 43.06.523). Additionally, local governments may also receive a portion of state sales and use tax. Under this legislation, the amount of revenue shared

with tribes and local governments may decrease.

**DATA SOURCES:**

- City of Seattle, Max towing fees: Private property impounds
- Department of Licensing, Abandoned vehicle forecast, February 2024
- Department of Licensing, Tow truck affidavit of sale data
- Economic and Revenue Forecast Council, November 2023 forecast

**REVENUE ESTIMATES:**

This bill decreases state revenues by an estimated \$390,000 in the five months of impacted collections in fiscal year 2025, and by \$962,000 in fiscal year 2026, the first full year of impacted collections. This bill also decreases local revenues by an estimated \$182,000 in the five months of impacted collections in fiscal year 2025, and by \$447,000 in fiscal year 2026, the first full year of impacted collections.

**State Government (cash basis, \$000):**

FY 2024 -	\$ 0
FY 2025 -	(\$ 390)
FY 2026 -	(\$ 962)
FY 2027 -	(\$ 969)
FY 2028 -	(\$ 979)
FY 2029 -	(\$ 995)

**Local Government, if applicable (cash basis, \$000):**

FY 2024 -	\$ 0
FY 2025 -	(\$ 182)
FY 2026 -	(\$ 447)
FY 2027 -	(\$ 450)
FY 2028 -	(\$ 455)
FY 2029 -	(\$ 462)

**II. C - Expenditures**

*Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.*

**ASSUMPTIONS:**

This bill affects approximately 355 taxpayers.

**FIRST YEAR COSTS:**

The department will not incur costs in fiscal year 2024.

**SECOND YEAR COSTS:**

The department will incur total costs of \$50,000 in fiscal year 2025. These costs include:

- Labor Costs – Time and effort equate to 0.38 FTE.
  - Amend two excise tax advisories (ETA).
  - Create a Special Notice and update information on the department’s website.
  - Gathering requirements, implementation meetings, documentation, and testing of system changes.
    - Process tax return work items, assist taxpayers with reporting questions and respond to inquiries via email and web message and paper correspondence.
    - Examine accounts and make corrections as necessary.

Object Costs - \$6,800.

- Computer system changes, including contract programming.

**ONGOING COSTS:**

There are no ongoing costs.

**Part III: Expenditure Detail**

**III. A - Expenditures by Object Or Purpose**

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years		0.4	0.2		
A-Salaries and Wages		26,800	26,800		
B-Employee Benefits		8,900	8,900		
C-Professional Service Contracts		6,800	6,800		
E-Goods and Other Services		5,100	5,100		
J-Capital Outlays		2,400	2,400		
<b>Total \$</b>		\$50,000	\$50,000		

**III. B - Detail:** *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part I and Part IIIA.*

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
EMS BAND 4	131,684		0.0	0.0		
EMS BAND 5	153,836		0.0	0.0		
EXCISE TAX EX 2	58,104		0.1	0.1		
IT B A-JOURNEY	91,968		0.1	0.1		
MGMT ANALYST4	76,188		0.0	0.0		
TAX POLICY SP 2	78,120		0.1	0.0		
TAX POLICY SP 3	88,416		0.1	0.0		
TAX POLICY SP 4	95,184		0.0	0.0		
WMS BAND 2	98,456		0.0	0.0		
WMS BAND 3	111,992		0.0	0.0		
<b>Total FTEs</b>			0.4	0.2		

**III. C - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.*

NONE

**Part V: New Rule Making Required**