



Legislation Details (With Text)

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On agenda: 11/19/2018
Final Action: 11/26/2018 **Ord. No.** Ord 125720
Title: AN ORDINANCE relating to business license tax certificates and business licenses; amending Sections 5.30.030, 5.55.030, and 6.208.050 of the Seattle Municipal Code.
Sponsors: Sally Bagshaw
Indexes:
Attachments: 1. Summary and Fiscal Note, 2. Signed Ordinance 125720, 3. Affidavit of Publication

Date	Ver.	Action By	Action	Result
11/26/2018	1	City Clerk	attested by City Clerk	
11/26/2018	1	Mayor	returned	
11/26/2018	1	Mayor	Signed	
11/21/2018	1	City Clerk	submitted for Mayor's signature	
11/19/2018	1	City Council	passed	Pass
11/14/2018	1	Select Budget Committee	pass	Pass
11/13/2018	1	City Council	referred	
11/7/2018	1	Council President's Office	sent for review	
11/7/2018	1	City Clerk	sent for review	
10/16/2018	1	Mayor	Mayor's leg transmitted to Council	

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to business license tax certificates and business licenses; amending Sections 5.30.030, 5.55.030, and 6.208.050 of the Seattle Municipal Code.

WHEREAS, during the 2017 regular session, the Washington State Legislature enacted EHB 2005, now codified as chapter 35.90 RCW, to improve the business climate in the state by simplifying the administration of business licenses; and

WHEREAS, as required by RCW 35.90.080, a committee of cities has worked with the Association of Washington Cities to draft a model ordinance that: (1) establishes a uniform minimum threshold under

which a person is relieved of the requirement to obtain a city’s general business license; and (2) that establishes a uniform definition of “engaging in business within the city;” and

WHEREAS, under RCW 35.90.090, cities that impose a general business license must adopt the mandatory provisions of the model ordinance by January 1, 2019; and

WHEREAS, under Seattle Municipal Code (SMC) Section 5.55.030, the City currently requires that all persons engaged in business in the City, unless specifically exempted, obtain a business license tax certificate; and under SMC Section 6.208.010, the City also requires that all persons engaged in business in the City, unless specifically exempted, obtain a business license; and

WHEREAS, the City intends to adopt the model ordinance as required by RCW 35.90.090 to establish a minimum licensing threshold of two thousand dollars and to conform to the uniform definition of “engaging in business within the city;”; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection 5.30.030.B of the Seattle Municipal Code, which section was last amended by Ordinance 124963, is amended as follows:

5.30.030 Definitions, E-F

* * *

B. “Engaging in business”

1. The term “engaging in business ((activity))” means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

2. Subsection 5.30.030.B.3 sets forth examples of activities that constitute engaging in business in the City, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimis business activities in the City without having to register and obtain a business license tax certificate, obtain a business license, or pay City business and occupation taxes. The activities listed

in subsection 5.30.030.B.3 are illustrative only and are not intended to narrow the definition of “engaging in business” in subsection 5.30.030.B.1 above. If an activity is not listed, the issue of whether it constitutes engaging in business in the City shall be determined by considering all the facts and circumstances and applicable law.

3. Without being all inclusive, any one of the following activities conducted within the City by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license tax certificate and a business license:

a. Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the City, in connection with a business activity;

b. Owning, renting, leasing, using, or maintaining an office, place of business, or other establishment in the City in which business activities are conducted;

c. Soliciting sales;

d. Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance;

e. Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf;

f. Installing, constructing, or supervising installation or construction of real or tangible personal property;

g. Soliciting, negotiating, or approving franchise, license, or other similar agreements;

h. Collecting current or delinquent accounts;

i. Picking up and transporting tangible personal property, solid waste construction debris,

or excavated materials;

j. Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property;

k. Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, and veterinarians;

l. Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings;

m. Training or recruiting agents, representatives, independent contractors, brokers, or others domiciled or operating on a job in the City, acting on its behalf, or for customers or potential customers;

n. Investigating, resolving, or otherwise assisting in resolving customer complaints;

o. In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place; or

p. Delivering goods in vehicles owned, rented, leased, used, or maintained by the person who sold the goods or another acting on its behalf(~~(; or~~

~~q. Accepting or executing a contract with the City, irrespective of whether the goods or services are delivered within or without the City, or whether the person's office or place of business is within or without the City)) .~~

4. If a person, or its employee, agent, representative, independent contractor, broker, or another acting on the person's behalf, engages in no other activities in or with the City but the following, it need not register and obtain a business license tax certificate or a business license and pay tax:

a. Meeting with suppliers of goods and services as a customer;

- b. Meeting with government representatives in their official capacity, other than those performing contracting or purchasing functions;
- c. Attending meetings, such as board meetings, retreats, seminars, and conferences or other meetings wherein the person does not provide training in connection with tangible personal property sold by the person or on its behalf. This provision does not apply to any board of director member or attendee engaging in business such as a member of a board of directors who attends a board meeting;
- d. Renting tangible or intangible property as a customer when the property is not used in the City;
- e. Attending, but not participating in, a “trade show” or “multiple vendor events”.

Persons participating at a trade show shall review (~~(the City’s trade show ordinance,)~~) Chapter 6.20;

- f. Conducting advertising through the mail;
- g. Soliciting sales by phone from a location outside the City; or
- h. Accepting or executing a contract with the City when:
 - 1) The aggregate value of all City contracts with the person during the calendar year is \$5,000 or less and the person is engaged in no other business within the City; or
 - 2) The person's only source of revenue consists of contracts with the City for neighborhood planning purposes, sister city associations, or Arts Commission grants, and is less than the taxable threshold amount provided in subsection 5.55.040.D.

5. A seller located outside the City merely delivering goods into the City by means of common carrier is not required to register and obtain a business license tax certificate or a business license provided that it engages in no other business activities in the City. Such activities do not include those in subsection 5.30.030.B.4.

The City expressly intends that engaging in business include any activity sufficient to establish nexus for purposes of applying the tax or license fee under the law and the constitutions of the United States and the

State of Washington.

Nexus is presumed to continue as long as the taxpayer benefits from the activity that constituted the original nexus generating contact or subsequent contacts.

Section 2. Section 5.55.030 of the Seattle Municipal Code, which section was last amended by Ordinance 125083, is amended as follows:

5.55.030 License requirements - Minimum license threshold

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H. Any person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the City is equal to or less than \$2,000 and who does not maintain a place of business within the City shall be exempt from the business license tax certificate requirements in this Chapter 5.55.

Section 3. Section 6.208.050 of the Seattle Municipal Code, enacted by Ordinance 124963, is amended as follows:

6.208.050 Exemptions

Any person exempt under Section 5.45.090 or subsection 5.55.030.H from obtaining a business license tax certificate is exempt from obtaining a business license under this Chapter 6.208. This exemption does not apply to other licenses required under this Title 6 or activities that require a special permit.

Section 4. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2018, and signed by me in open session in authentication of its passage this _____ day of _____, 2018.

President _____ of the City Council

Approved by me this _____ day of _____, 2018.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2018.

Monica Martinez Simmons, City Clerk

(Seal)