



Legislation Text

File #: CB 118422, Version: 1

CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL _____

AN ORDINANCE relating to taxation for transportation purposes; imposing an employee hours tax; increasing the commercial parking tax; adding a new Chapter 5.38 to Title 5 of the Seattle Municipal Code; and amending sections in Chapters 5.30, 5.55, 5.35, and 3.02.

WHEREAS, the City of Seattle (“City”) owns and operates a transportation system that is critical to the safety, social, and economic well-being of its residents and visitors; and

WHEREAS, state-shared gas tax revenues for Seattle do not keep up with inflation due to annexations and incorporations; and

WHEREAS, addressing the deteriorating condition of Seattle’s transportation infrastructure will require substantial annual dedication of resources beyond those currently available; and

WHEREAS, it is the intent of the City to use a balanced array of revenue sources, in conjunction with the Move Seattle levy, to support the maintenance and development of its transportation infrastructure; and

WHEREAS, in 1990, the Washington State Legislature passed legislation that was adopted as Section 208 of Chapter 42, Laws of Washington, codified at RCW 82.80.030, which authorized cities to fix and impose a tax for the act or privilege of parking a motor vehicle in a facility operated by a commercial parking business within its incorporated boundaries; and

WHEREAS, there are numerous commercial parking businesses operating within the City providing parking for which a fee is paid; and

WHEREAS, the proceeds of the commercial parking tax herein imposed shall be used strictly for transportation purposes in accordance with RCW 82.80.070; and

WHEREAS, the City passed Ordinance 122192 in 2006 imposing a commercial parking tax for the act or privilege of parking a motor vehicle in a facility operated by a commercial parking business; and

WHEREAS, the City passed Ordinance 116936 in 2010 increasing the commercial parking tax to 12.5%; and

WHEREAS, the City of Seattle has that ability to implement an employee hours tax and raise the commercial parking tax, which will result in less impact on lower-income and fixed-income homeowners, and tenants; and

WHEREAS, the imposition of an employee hours tax will provide an equitable means of generating revenue to ensure that those who regularly utilize the City's transportation system, including those who live outside the City, are supporting that system; and

WHEREAS, the proceeds of the employee hours tax and commercial parking tax herein imposed shall be used to make transportation investments that benefits the City of Seattle; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 5.38, "Employee Hours Tax," is added to Title 5 of the Seattle Municipal Code as follows:

5.38.010 Administrative Provisions.

All of the provisions contained in Chapter 5.55 of the Seattle Municipal Code shall have full force and application with respect to taxes imposed under the provisions of this chapter except as may be expressly stated to the contrary herein.

5.38.020 Definitions.

The definitions contained in Chapter 5.30 of the Seattle Municipal Code shall be fully applicable to this chapter except as may be expressly stated to the contrary in this section. The following additional definitions shall apply throughout this Chapter 5.38:

- A. "Business" means any person engaging in business as defined in SMC 5.30.030.
- B. "Employee" means any person who performs work, labor, or services for a business and is on the business' payroll, and who performs any part of their duties within the City of Seattle. For purposes of this chapter, the term "employee" also includes all full-time and part-time employees or workers on the business' payroll. A business' payroll includes the payroll of any related company that acts as a paymaster for the related entities. A sole proprietor or partner shall not be considered to be an employee.
- C. "Full-time employee" means an employee who works at least one thousand nine hundred and twenty (1,920) hours in a calendar year.
- D. "Part-time employee" means an employee who works less than one thousand nine hundred and twenty (1,920) hours in a calendar year.

5.38.030 Tax Imposed-Measure of the Tax.

- A. An employee hours tax is levied upon and shall be collected from every person for the act or

privilege of engaging in business activities within the City. The tax shall be measured by the number of employee hours of work conducted with the City during the calendar year. The employee hours tax is imposed effective January 1, 2016.

B. The amount of the tax shall be equal to the employee hours worked within the City during the calendar year, multiplied by the rate of \$0.009375 per hour worked. The employee hours worked are the total hours compensated by the business, excluding vacation, sick leave and other paid leave hours. If an employee works within and outside the City, it will be the responsibility of the business to calculate and report the number of hours worked within the City.

C. Alternative Full Time Equivalent (FTE) Calculation Method. A business may choose to calculate its annual employee hours tax based on the number of its FTE employees as follows:

1. Calculation of FTEs. The number of FTE employees for the calendar year is (i) the number of a business' full time employees for the calendar year, plus (ii) the sum of the hours worked by part-time employees in the calendar year divided by 1,920 hours.

2. Tax. Any fractional FTE remaining after the determination of FTE employees under SMC 5.38.030 C1 shall be rounded up to the nearest whole number. Once the number of FTE employees is thus determined, that number shall be multiplied by \$18 to determine the annual employee hours tax. Once the FTE alternative method is used, it must be used for all future reporting periods, unless a change is approved by the Director.

D. Businesses with more than one place of business must use the same method of calculation for all places of business.

E. The tax applies to employee hours worked or FTEs inside the City regardless of whether the place of business is located within or outside of the City.

F. Temporary employment agencies. The business entity that directly pays a person for temporary work is responsible for paying the employee tax, regardless of who is considered the person's employer for other purposes.

5.38.040 Employee hours tax -When due.

The employee hours tax shall be reported and paid on an annual calendar year basis, at the same time as the fourth quarter or annual tax return is due in accordance with SMC 5.55.040, and on forms as prescribed by

the Director. Persons discontinuing their business activities in Seattle shall report and pay the tax at the same time as their final business tax return is due.

5.38.050 Exemptions from the employee hours tax.

A. The following are exempt from the employee hour tax:

1. Any business having annual worldwide gross income of \$100,000 or less.
2. Businesses that are preempted from taxation by cities pursuant to federal or state statutes or regulations, including, but not limited to, the following:
 - (a) Insurance businesses and their agents as defined by RCW 48.01.050 and 48.17.010, respectively, and whose total revenue is exempt from the business license tax per SMC 5.45.
 - (b) Businesses that only sell, manufacture, or distribute motor vehicle fuel as defined in RCW 82.36.010 and exempted under RCW 82.36.440.
 - (c) Businesses that only distribute or sell liquor as defined in RCW 66.04.010 and exempted in RCW 66.08.120.
 - (d) Federal, state, local government agencies and subdivisions.
3. Domestic servants or gardeners, maintenance or repair persons employed in or around a private home.
4. Volunteers and persons providing services in return for only aid or sustenance from religious or charitable organizations.

5.38.060 Tax In Addition To Other License Fees Or Taxes.

The tax imposed herein shall be in addition to any license fee or tax imposed or levied under any other law, statute or ordinance whether imposed or levied by the City, State or other governmental entity or political subdivision.

5.38.070 Use Of Revenues.

The proceeds of the tax imposed herein shall be used for transportation purposes in accordance with RCW 82.80.070. To the extent permitted by applicable law the City may issue bonds, notes, or other evidences of indebtedness payable wholly or in part from the parking tax and may pledge and may apply such tax to the payment of principal of, interest on, and premium (if any) on such bonds, notes, or other evidences of indebtedness and to the payment of costs associated with them.

5.38.080 Receipts To Transportation Fund.

All receipts from the employee hour tax shall be placed in and segregated within the Transportation Fund. These receipts may be temporarily deposited or invested in such manner as may be lawful for the investment of City money and interest and other earnings shall be deposited in the Transportation Fund.

Section 2. Section 5.30.010 of the Seattle Municipal Code, which was last amended by Ordinance 123063, is amended as follows:

5.30.010 Definition provisions.

The definitions contained in this chapter shall apply to the following chapters of the Seattle Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Taxes), ~~5.37~~ 5.38 (Employee Hours Taxes), 5.40 (Admission Taxes), 5.45 (Business License Taxes), 5.46 (Square Footage Business Tax), 5.48 (Utility Taxes), 5.52 (Gambling Taxes), and 5.55 (Administrative Provisions) unless expressly provided for otherwise therein, and shall also apply to other chapters and sections of the Seattle Municipal Code in the manner and to the extent expressly indicated in each chapter or section. Words in the singular number shall include the plural and the plural shall include the singular. Words in one gender shall include both genders.

Section 3. Section 5.55.010 of the Seattle Municipal Code, which was last amended by Ordinance 123063, is amended as follows:

5.55.010 Application of chapter stated.

Unless expressly stated to the contrary in each chapter, the provisions of this chapter shall apply with respect to the licenses and taxes imposed under this chapter and SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Taxes), ~~5.37~~ 5.38 (Employee Hours Taxes), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Business Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax) and under other titles, chapters and sections in such manner and to such extent as indicated in each such title, chapter or section.

Section 4. Subsection 5.55.040 A of the Seattle Municipal Code, which section was last amended by Ordinance 123063, is amended as follows:

A. Other than any annual license fee or registration fee assessed under this chapter, the tax imposed by

SMC Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.38 (Employee Hour Taxes), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Business Tax), 5.48 (Utility Tax), and 5.52 (Gambling Tax), shall be due and payable in quarterly installments. The Director may use his or her discretion to assign businesses to a monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes imposed by SMC Section 5.52.030 A2 and B2 for punchboards and pulltabs shall be due and payable in monthly installments. Tax returns and payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

Section 5. Subsection 5.55.060 A of the Seattle Municipal Code, which section was last amended by Ordinance 123361, is amended as follows:

A. Every person liable for any fee or tax imposed by this chapter, Chapters 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, and 5.52 shall keep and preserve, for a period of five years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, ticket stubs, vendor lists, gambling games and payout information, inventories, stocks of merchandise, and other data, including federal income tax and state tax returns, and reports needed to determine the accuracy of any taxes due, shall be open for inspection or examination at any time by the Director or a duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent.

Section 6. Subsection 5.55.150 E of the Seattle Municipal Code, which section was last amended by Ordinance 123899, is amended as follows:

E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest or penalty due either by affirming, reversing or modifying an action of the Director. Reversal or modification is proper if the Director's assessment or refund denial violates the terms of this Chapter 5.55, or Chapters 5.30, 5.32, 5.35, 5.37, 5.38, 5.40, 5.45, 5.46, 5.48, or 5.52.

Section 7. Section 5.55.165 of the Seattle Municipal Code, which was last amended by Ordinance

123361, is amended as follows:

5.55.165 Director of Finance and Administrative Services to make rules.

The Director of Finance and Administrative Services shall have the power and it shall be his or her duty, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter, SMC Chapters 5.30, 5.32, 5.35, 5.38, 5.40, 5.45, 5.46, 5.48, 5.52 or with law for the purpose of carrying out the provisions of such chapters, and it shall be unlawful to violate or fail to comply with, any such rule or regulation.

Section 8. Subsections 5.55.220 A and B of the Seattle Municipal Code, which section was last amended by Ordinance 122764, are amended as follows:

A. It shall be unlawful for any person subject to the provisions of this chapter, or SMC Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.46, 5.45, 5.48 and 5.52:

1. To violate or fail to comply with any of the provisions of this chapter, SMC Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48 and 5.52, or any lawful rule or regulation adopted by the Director;
2. To make or manufacture any license required by this chapter except upon authority of the Director;
3. To make any false statement on any license, application or tax return;
4. To aid or abet any person in any attempt to evade payment of a license fee or tax;
5. To refuse admission to the Director to inspect the premises and/or records as required by this chapter, or to otherwise interfere with the Director in the performance of duties imposed by SMC Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48 and 5.52;
6. To fail to appear or testify in response to a subpoena issued pursuant to SMC Section 3.02.120 in any proceeding to determine compliance with this chapter and SMC Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48 and 5.52;
7. To testify falsely in any investigation, audit or proceeding conducted pursuant to this chapter;
8. To continue to engage in any business activity, profession, trade or occupation after the revocation of or during a period of suspension of a business license issued under SMC Section

5.55.030; or

9. In any manner, to hinder or delay the City or any of its officers in carrying out the provisions of this chapter or SMC Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48 and 5.52.

B. Each violation of or failure to comply with the provisions of this chapter, or SMC Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48 or 5.52 shall constitute a separate offense. Except as provided in subsection C, any person who commits an act defined in subsection A of this section is guilty of a gross misdemeanor, punishable in accordance with SMC Section 12A.02.070. The provisions of Chapters 12A.02 and 12A.04 of the Seattle Municipal Code apply to the offenses defined in subsection A of this section, except that liability is absolute and none of the mental states described in SMC Section 12A.04.030 need be proved.

Section 9. Subsection 5.55.230 A of the Seattle Municipal Code, which section was last amended by Ordinance 123899, is amended as follows:

A. The Director, or his or her designee, has the power and authority to refuse to issue, revoke or refuse to renew any business license or amusement device license issued under the provisions of this chapter. The Director, or his or her designee, shall notify such applicant or licensee in writing by certified mail of the refusal to issue, revocation of, or refusal to renew, his or her license and on what grounds such a decision was based. The Director may refuse to issue, revoke or refuse to renew any license issued under this chapter on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.
2. The licensee has failed to comply with any provisions of this chapter.
3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, ~~5.37~~ 5.38, 5.40, 5.45, 5.46, 5.48, or 5.52.
4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.
5. The property at which the business is located has been determined by a court to be a chronic nuisance property as provided in Chapter 10.09.
6. The applicant or licensee has been convicted of theft under Section 12A.08.060.A.4 within the last ten years.
7. The applicant or licensee is a person subject within the last ten years to a court order entering

final judgment for violations of RCW 49.46, 49.48, or 49.52, and the judgment was not satisfied within 30 days of the later of either:

- a. the expiration of the time for filing an appeal from the final judgment order under the court rules in effect at the time of the final judgment order; or
 - b. if a timely appeal is made, the date of the final resolution of that appeal and any subsequent appeals resulting in final judicial affirmation of the findings of violations of RCW 49.46, 49.48, or 49.52.
8. The applicant or licensee is a person subject within the last ten years to a final and binding citation and notice of assessment from the Washington State Department of Labor and Industries for violations of RCW 49.46, 49.48 or 49.52, and the citation amount and penalties assessed therewith were not satisfied within 30 days of the date the citation became final and binding.

The period of non-issuance, revocation or non-renewal shall be at least one year, and the licensee or any person (as defined in Section 5.30.040.F) in which the licensee is a principal shall not again be licensed during such period.

Section 10. Subsection 5.35.030 B of the Seattle Municipal Code, which section was last amended by Ordinance 123396, is amended as follows:

B. The amount of the parking tax shall be equal to the parking fee multiplied by the parking tax rate. Effective July 1, 2009, the parking tax rate is imposed at ten percent (0.10). Effective January 1, 2011, the parking tax rate is imposed at 12.5 percent. Effective January 1, 2016, the parking tax rate is imposed at 17.5 percent.

Section 11. Severability. If any part, provision or section of this ordinance is held to be void or unconstitutional, all other parts, provisions, and sections of this ordinance not expressly so held to be void or unconstitutional shall continue in full force and effect.

Section 12. 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 _____, 2015, and signed by me in open session in authentication of its passage this ____ day of _____, 2015.

President _____ of the City Council

Approved by me this ____ day of _____, 2015.

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2015.

Monica Martinez Simmons, City Clerk

(Seal)