



Legislation Text

File #: CB 120454, Version: 1

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to taxation of free-floating bike share and free-floating scooter share services; imposing a tax on micro-mobility companies; adding a new Chapter 5.37 to the Seattle Municipal Code; and amending Sections 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, 5.55.230, and 6.208.020 of the Seattle Municipal Code.

WHEREAS, Ordinance 125634 adopted a Free-Floating Bike Share Program Fee Schedule, administered by the Seattle Department of Transportation; and

WHEREAS, Ordinance 126162 adopted a Free-Floating Scooter Share Program Fee Schedule, administered by the Seattle Department of Transportation; and

WHEREAS, The City of Seattle intends to exercise its taxing authority, as granted by the Washington State Constitution and as authorized by the Washington State Legislature, and impose a tax on micro-mobility companies operating in Seattle; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 5.37 is added to the Seattle Municipal Code as follows:

Chapter 5.37 MICRO-MOBILITY COMPANY TAX

5.37.010 Administrative provisions

All provisions contained in Chapter 5.55 shall have full force and application with respect to taxes imposed under this Chapter 5.37 except as may be expressly stated to the contrary herein.

5.37.020 Definitions

The definitions contained in Chapter 5.30 shall be fully applicable to this Chapter 5.37 except as may be

expressly stated to the contrary herein. The following additional definitions shall apply throughout this Chapter 5.37:

“Free-floating bike-share” means a bicycle offered for rental that is stored, vended, and operated in the public right-of-way and is subject to street and sidewalk use permits administered by the Seattle Department of Transportation.

“Free-floating scooter-share” means a scooter offered for rental that is stored, vended, and operated in the public right-of-way and is subject to street and sidewalk use permits administered by the Seattle Department of Transportation.

“Micro-mobility company” means any person or entity engaged in the business of renting free-floating bike-share or free-floating scooter-share services.

5.37.030 Tax imposed - Rates

There is imposed a tax on every micro-mobility company operating in Seattle. The amount of the tax due shall be \$0.25 per trip that originates in Seattle.

5.37.045 Exemptions from the micro-mobility company tax

Trips subject to a low-income qualified reduced-fare rate are exempt from the micro-mobility company tax.

5.37.040 Micro-mobility company tax - When due

The tax imposed by this Chapter 5.37 shall be due and payable in accordance with Section 5.55.040. The micro-mobility company tax shall be due and payable in quarterly installments. The Director may use discretion to assign businesses to a monthly or annual reporting period. Forms for such filings shall be prescribed by the Director. Persons discontinuing their business activities in Seattle shall report and pay the micro-mobility company tax at the same time as they file their final business license tax return.

5.37.050 Tax revenue expenditures

A. The Director of Finance shall create a Micro-Mobility Company Tax Account, to which revenues collected under this Chapter 5.37 shall be deposited, and from which associated expenditures may be paid.

B. The Micro-Mobility Company Tax Account shall receive all revenues related to the tax imposed by this Chapter 5.37. The Director of Finance is authorized to create other accounts or subaccounts as may be needed to implement the micro-mobility company tax under this Chapter 5.37. Revenues shall be used in accordance with subsection 5.37.050.C and may not be used to supplant General Fund appropriations.

C. The funds in the Micro-Mobility Company Tax Account shall be spent on the following programs and activities:

1. Administrative costs associated with implementing the micro-mobility company tax imposed by this Chapter 5.37.
2. Projects and programs that construct or maintain protected bicycle lanes.
3. Projects and programs that construct or maintain traffic calming measures.
4. Projects and programs that construct or maintain traffic safety improvements in support of Vision Zero goals.

5.37.060 Excise tax in addition to other license fees and taxes

The tax imposed by Chapter 5.37 is a general excise tax on the privilege of conducting certain business within Seattle and 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.

5.37.080 Micro-mobility company tax - Constitutional limitation

Notwithstanding anything to the contrary in this Chapter 5.37, if imposition of the tax under this Chapter 5.37 would place an undue burden upon interstate commerce or violate constitutional requirements, a taxpayer shall be allowed a credit to the extent necessary to preserve the validity of the tax, and still apply the tax to as much of the taxpayer's activities as may be subject to the City's taxing authority.

Section 2. Section 5.30.010 of the Seattle Municipal Code, last amended by Ordinance 126108, is amended as follows:

5.30.010 Definition provisions

The definitions contained in this Chapter 5.30 shall apply to the following chapters of the Seattle Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.37 (Micro-Mobility Company Tax), 5.38 (Payroll Expense Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), 5.53 (Sweetened Beverage Tax), and 5.55 (General 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 all other genders.

Section 3. Subsection 5.30.060.C of the Seattle Municipal Code, which section was last amended by Ordinance 126108, is amended as follows:

5.30.060 Definitions, T-Z

* * *

C. “Taxpayer” means any “person,” as herein defined, required by Chapter 5.55 to have a business license tax certificate, or liable for any license, tax, or fee, or for the collection of any tax or fee, under Chapters 5.32 (Revenue Code), 5.35 (Commercial Parking Tax), 5.37 (Micro-Mobility Company Tax), 5.38 (Payroll Expense Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), and 5.53 (Sweetened Beverage Tax), or who engages in any business or who performs any act for which a tax or fee is imposed under those chapters.

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Section 4. Section 5.55.010 of the Seattle Municipal Code, last amended by Ordinance 126108, 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 5.55 shall apply with respect to the licenses and taxes imposed under this Chapter 5.55 and Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.37 (Micro-Mobility Company Tax), 5.38 (Payroll Expense Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), 5.53 (Sweetened Beverage 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 5. Subsection 5.55.040.A of the Seattle Municipal Code, which section was last amended by Ordinance 126108, is amended as follows:

5.55.040 When due and payable-Reporting periods-Monthly, quarterly, and annual returns-Threshold provisions-Computing time periods-Failure to file returns

A. Other than any annual license fee or registration fee assessed under this Chapter 5.55, the taxes imposed by Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.37 (Micro-Mobility Company Tax), 5.38 (Payroll Expense Tax), 5.39 (Transportation Network Company Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), and 5.53 (Sweetened Beverage Tax) shall be due and payable in quarterly installments. The Director may use discretion to assign businesses to a monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes imposed by subsections 5.52.030.A.2 and 5.52.030.B.2 for punch boards and pull-tabs 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. Effective January 1, 2021, tax returns and payments are due on or before the time as provided in RCW 82.32.045(1), (2), and (3).

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Section 6. Subsection 5.55.060.A of the Seattle Municipal Code, which section was last amended by

Ordinance 126108, is amended as follows:

5.55.060 Records to be preserved-Examination-Inspection-Search warrants-Estoppel to question assessment

A. Every person liable for any fee or tax imposed by this Chapter 5.55 and Chapters 5.32, 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53 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. For the purposes of this Section 5.55.060, for the tax imposed by Chapter 5.53, “business premises” means wherever the person’s business records and tax documents are maintained and does not mean every site owned or operated by the person.

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Section 7. Subsection 5.55.150.E of the Seattle Municipal Code, which section was last amended by Ordinance 126108, is amended as follows:

5.55.150 Appeal to the Hearing Examiner

* * *

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, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53.

Section 8. Section 5.55.165 of the Seattle Municipal Code, last amended by Ordinance 126108, 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 the Director's duty, from time to time, to adopt, publish, and enforce rules and regulations not inconsistent with this Chapter 5.55, with Chapters 5.30, 5.32, 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53, 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 9. Subsections 5.55.220.A and 5.55.220.B of the Seattle Municipal Code, which section was last amended by Ordinance 126108, are amended as follows:

5.55.220 Unlawful actions-Violation-Penalties

A. It shall be unlawful for any person subject to the provisions of this Chapter 5.55 or Chapters 5.32, 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53:

1. To violate or fail to comply with any of the provisions of this Chapter 5.55, or Chapters 5.32, 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53, or any lawful rule or regulation adopted by the Director;
2. To make or manufacture any license required by this Chapter 5.55 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 5.55, or to otherwise interfere with the Director in the performance of duties imposed by Chapters 5.32, 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53;
6. To fail to appear or testify in response to a subpoena issued pursuant to Section 3.02.120 in any proceeding to determine compliance with this Chapter 5.55 and Chapters 5.32, 5.35, 5.37, 5.38, 5.39, 5.40,

5.45, 5.46, 5.48, 5.50, 5.52, and 5.53;

7. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this Chapter 5.55;

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 tax certificate issued under 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 5.55 or Chapters 5.32, 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, and 5.53.

B. Each violation of or failure to comply with the provisions of this Chapter 5.55, or Chapters 5.32, 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53 shall constitute a separate offense. Except as provided in subsection 5.55.220.C, any person who commits an act defined in subsection 5.55.220.A is guilty of a gross misdemeanor, punishable in accordance with Section 12A.02.070. The provisions of Chapters 12A.02 and 12A.04 apply to the offenses defined in subsection 5.55.220.A, except that liability is absolute and none of the mental states described in Section 12A.04.030 need be proved.

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Section 10. Subsection 5.55.230.A of the Seattle Municipal Code, which section was last amended by Ordinance 126108, is amended as follows:

5.55.230 Denial, revocation of, or refusal to renew business license tax certificate

A. The Director, or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any business license tax certificate or amusement device license issued under the provisions of this Chapter 5.55. The Director, or the Director's designee, shall notify such applicant or licensee in writing by mail in accordance with Section 5.55.180 of the denial of, revocation of, or refusal to renew the license and on what grounds such a decision was based. The Director may deny, revoke, or refuse to renew any business license tax certificate or other license issued under this Chapter 5.55 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 5.55.
3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, or 5.53.
4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

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Section 11. Subsection 6.208.020.A of the Seattle Municipal Code, which section was last amended by Ordinance 126595, is amended as follows:

6.208.020 Denial, revocation of, or refusal to renew business license

A. In addition to any other powers and authority provided under this Title 6, the Director, or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any business license issued under the provisions of this Chapter 6.208. The Director, or the Director's designee, shall notify such applicant or licensee in writing by mail of the denial, revocation of, or refusal to renew the license and on what grounds such a decision was based. The Director may deny, revoke, or refuse to renew any license issued under this Chapter 6.208 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 6.208.
3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, 5.37, 5.38, 5.39, 5.40, 5.45, 5.46, 5.48, 5.50, 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 subsection 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 chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207, 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 chapters 49.46, 49.48, or 49.52 RCW, or 29 U.S.C. 206 or 29 U.S.C. 207.

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 Department of Labor and Industries for violations of chapters 49.46, 49.48, or 49.52 RCW, and the citation amount and penalties assessed therewith were not satisfied within 30 days of the date the citation became final and binding.

9. Pursuant to relevant provisions in Title 8, subsections 14.16.100.A.4, 14.17.075.A, 14.19.100.A.4, 14.20.080.A.4, 14.22.115.A.4, 14.23.115.A.4, 14.26.210.A.4, 14.27.210.A.4, 14.28.210.A.4, 14.30.180.A.4, and 14.33.210.A.4, subsection 100.240.A.4 of Ordinance 126091, subsection 100.240.A.4 of Ordinance 126094, and subsection 100.240.A.4 of Ordinance 126274, the applicant or licensee has failed to comply, within 30 days of service of any settlement agreement, with any final order issued by the Director of the Office of Labor Standards, or any final order issued by the Hearing Examiner under Title 8, Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29, 14.30, and 14.33, for which all appeal rights have been exhausted, and the Director of the Office of Labor Standards has requested that the Director deny, refuse to renew, or revoke any business license held or requested by the applicant or licensee. The denial, refusal to renew, or revocation shall remain in effect until such time as the violation(s) under Title 8, Chapters 14.16, 14.17, 14.19, 14.20, 14.22, 14.23, 14.26, 14.27, 14.28, 14.29, 14.30, and 14.33, Ordinance 126091, Ordinance 126094, and Ordinance 126274 are remedied.

10. The business is one that requires an additional license under this Title 6 and the business does not hold that license.

11. The business has been determined under a separate enforcement process to be operating in violation of law.

* * *

Section 12. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, does not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 13. It is the intent of the Mayor and the Council that micro-mobility company tax revenues appropriated to the Seattle Department of Transportation are not counted as part of the Minimal Annual GSF Appropriation to the Seattle Department of Transportation budget as required in Section 5 of Ordinance 124796, for the Move Seattle Levy.

Section 14. Sections 1 through 11 of this ordinance shall take effect on January 1, 2023.

Section 15. 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 _____, 2022, and signed by me in open session in authentication of its passage this _____ day of _____, 2022.

President _____ of the City Council

Approved / returned unsigned / vetoed this ____ day of _____, 2022.

Bruce A. Harrell, Mayor

Filed by me this ____ day of _____, 2022.

Elizabeth M. Adkisson, Interim City Clerk

(Seal)