

FILED  
Court of Appeals  
Division II  
State of Washington  
2/19/2019 4:56 PM

No. 97195-1

NO. 52664-6-II

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**COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON**

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TAYLOR BLACK, ANNE BLACK, JERRY KING, RENE KING,  
ROGER STRUTHERS, MARY LOUISE STRUTHERS, and FRANK  
MAIETTO, individually and on behalf of a class of all persons similarly  
situated,

Appellants,

v.

CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY, and  
STATE OF WASHINGTON

Respondents.

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**BRIEF OF RESPONDENT STATE OF WASHINGTON**

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## I. INTRODUCTION

Respondent State of Washington (State) joins Central Puget Sound Transit Authority's (Sound Transit) arguments that enactment of RCW 81.104.160(1)<sup>1</sup> did not violate Article II, section 37 of the Washington State Constitution.

## II. STATEMENT OF FACTS

The State of Washington Department of Licensing (Department) collects the Motor Vehicle Excise Tax (MVET) imposed on non-exempt vehicles registered within the Puget Sound Transit district. The Department collects the MVET pursuant to its contract with Sound Transit. Clerk's Papers (CP) 315-375; RCW 81.104.190. Up until March 2017, the Department collected 0.3% MVET and remitted that revenue monthly to Sound Transit. Since on or about March 1, 2017, the Department has collected an additional 0.8% MVET and remits the total 1.1% MVET revenue monthly to Sound Transit. In determining the amount of MVET to collect upon a vehicle's initial or annual renewal registration, the vehicle's value<sup>2</sup> is multiplied by the depreciation percentage which varies by the age and type of vehicle. RCW 81.104.160(1), (3); Former RCW 82.44.041, *repealed* by Laws of 2003, ch. 1, § 5. As directed by RCW 81.104.160(1),

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<sup>1</sup> Section 319(1) of ESSB 5987, Laws of 2015, 3d Spec. Sess., ch. 44, § 319(1).

<sup>2</sup> The vehicle's value is the manufacturers' retail price (MSRP), purchase price, or an equivalent value determined by the Department using "any information that may be available, including any guidebook, report, or compendium...or the selling price and year of sale of the vehicle." Former RCW 82.44.041, *repealed* by Laws of 2003, ch. 1, § 5.

the Department currently uses the depreciation schedule that existed on January 1, 1996, which is located in former RCW 82.44.041, to calculate the 1.1% MVET for all non-exempt vehicles with Sound Transit's district.

### **III. ARGUMENT**

The State adopts the three primary arguments presented by Sound Transit that RCW 81.104.160(1) does not violate Article II, section 37 of the Washington State Constitution. First, RCW 81.104.160(1) is a complete act that fully sets forth all elements necessary to determine Sound Transit's MVET authority thus satisfying the first prong of the Article II, section 37 test. Second, the use of "notwithstanding" demonstrates that the legislature was aware of RCW 81.104.160's impact on existing laws and that the second prong of the Article II, section 37 test is satisfied. And third, RCW 81.104.160(1)'s reference to the 1996 valuation schedule does not render RCW 81.104.160(1) unconstitutional under Article II, section 37.

### **IV. CONCLUSION**

RCW 81.104.160(1) as enacted explains how the MVET will be calculated using the 1996 version of 82.44 RCW until such time as Sound Transit's bond debt is paid and how it will be calculated thereafter. Consequently, all information needed to impose and implement the MVET can be determined by reading RCW 81.104.160(1). The statute is a complete act, and does not render a straightforward determination of the scope of rights or duties under current statutes erroneous.

The superior court's order granting summary judgment in favor of Sound Transit should be affirmed.

RESPECTFULLY SUBMITTED this 19<sup>th</sup> day of February, 2019.

ROBERT W. FERGUSON  
Attorney General

A handwritten signature in black ink, appearing to read "Dionne Padilla-Huddleston", written over a printed name.

DIONNE PADILLA-HUDDLESTON,  
WSBA # 38356  
Assistant Attorney General  
Attorney for State of Washington  
Department of Licensing

## PROOF OF SERVICE

I, Jennifer Bancroft, hereby state and declare as follows:

1. That I am a citizen of the United States of America, a resident of the State of Washington, over the age of eighteen (18) years, and not a party to the above-entitled action.

2. That on the 19<sup>th</sup> day of February 2019, I caused to be served a true and correct copy of **Brief of Respondent State of Washington**, as follows:

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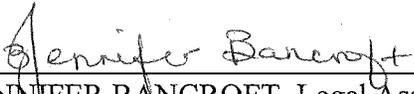
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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 19<sup>th</sup> day of February 2019, in Seattle, Washington.

  
\_\_\_\_\_  
JENNIFER BANCROFT, Legal Assistant

**AGO/LICENSING AND ADMINISTRATIVE LAW DIV**

**February 19, 2019 - 4:56 PM**

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**Filed with Court:** Court of Appeals Division II  
**Appellate Court Case Number:** 52664-6  
**Appellate Court Case Title:** Taylor Black et al, Appellants v. Central Puget Sound Regional Transit Authority, Respondent  
**Superior Court Case Number:** 18-2-08733-9

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