DOL Agreement No.K4398
TBD Agreement No. C-12-980(TBD)

ORIGINAL

INTERLOCAL AGREEMENT
BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF LICENSING
and
MAPLE VALLEY TRANSPORTATION BENEFIT DISTRICT

Upon execution, this Agreement is entered into by and between Washington State, Department of Licensing (hereinafter called "DOL" or Department"), and Maple Valley Transportation Benefit District (hereinafter called "TBD" or "Contractor").

Maple Valley
Transportation Benefit District
22017 SE Wax Road, Suite 200
PO Box 320
Maple Valley, WA 98038

Phone: 425-413-8800
FAX: 425-413-4282
E-Mail: david.johnston@maplevalleywa.gov

PURPOSE

Engrossed Substitute House Bill 1858, Chapter 329 Laws 2007, authorizes cities to establish transportation benefit districts (TBD) for the purpose of providing and funding transportation improvements within the TBD's jurisdiction.

The purpose of this Agreement is to provide terms and conditions under which DOL shall administer and collect fees on behalf of the TBD as provided by Agreement, according to RCW 36.73.065, RCW 46.12, RCW 82.80.140, WAC 308-10, Chapter 18 USC Sec. 2721 - 2725 Driver Privacy Protection Act (DPPA), and Executive Order 97-01, and all applicable laws, and under the authorization of RCW 39.34 as currently written or hereafter amended.

THEREFORE, IT IS MUTUALLY AGREED THAT:

1. DEFINITIONS

As used throughout this Agreement the following terms shall have the meanings set forth below:

a. **Administrative and Collection Expenses** means direct and indirect costs associated with the collection of the TBD fees, including but not limited to information technology services to implement and support the collection of TBD fees; accounting for and payment of fees to the TBD; Contract administration; and management analysis as well as other incidental administrative overhead, and includes the costs associated with optional access to the Internet Vehicle Information Processing System (IVIPS) by TBD (under IVIPS Agreement).

b. **Authorized user** means TBD officers, and employees, or any other authorized agent or official of the TBD.

c. **Billing cycle** means the annual vehicle registration renewal.

d. **Confidential Information** means information that requires protection from unauthorized physical and electronic access. Confidential Information includes, but is not limited to, social security numbers, credit card information, driver license numbers, vehicle owner information, personal information, law enforcement records, agency security data, and banking profiles.

e. **Data** means information which may be confidential contained in the vehicle and/or vessel record provided to Contractor under this Agreement

f. **Data Requests** means requests made for vehicle owner data provided by a Secure Data Transfer (SDT) process, and is provided under a separate agreement, not to include use of the optional IVIPS.

g. **Direct Cost** shall include, but is not limited to, all operating, equipment and personnel costs used to furnish the information, reruns and/or additional data runs, costs materials and data integrity costs directly related to the monthly production and maintenance of these data files.

h. **District** means all the territory within the boundaries of the TBD's jurisdiction establishing the district.

i. **DOL File** means the data file received by DOL from DOR used by DOL as the primary GIS data source to assess TBD fees.

j. **DOR** means Department of Revenue.

k. **GIS** means the Department of Revenue/Geographical Information System.

l. **Indirect Cost** shall include, but is not limited to, auditing, answering complaints, correspondence, administrative overhead, building rents, related utilities, and other expenses identified as indirect costs by the Director of DOL.

m. **IVIPS** means Internet Vehicle Information Processing System.

n. **Jurisdiction location code** means the four digit number that corresponds to a TBD jurisdiction that is used by DOL when assessing the TBD fee. The four digit number is derived from DOR's sales and use tax location code information.

o. **Next billing cycle** means the billing cycle that occurs during the 12th month following the current billing cycle. For example, if a renewal is sent for a due date in the month of January 2012, the next billing cycle will be January 2013.

p. **Personal Information** means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, e-mail addresses, credit card information, law enforcement records or other identifying numbers or Protected Health Information, any financial identifiers, and other information that may be exempt from disclosure to the public or other unauthorized persons under either RCW 42.56 or other state and federal statutes.

q. **Subcontractor** means a person or entity not in the employ of the TBD named in this Agreement, but who is performing all or part of those services outlined in this Contract under a separate Agreement with the TBD. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ***STATEMENT OF WORK***

The parties to this Agreement shall furnish the necessary personnel, equipment, material and/or service(s) and otherwise do all things necessary for or incidental to the exchange of data as set forth in the *Statement of Work,* Attachment A, *Vehicles Subject to* ESHB 1858, Attachment B and *Vehicles Not Subject to ESHB 1858*, Attachment C that are attached and incorporated by reference.

3. **PERIOD OF PERFORMANCE**

Subject to its other provisions, this Agreement shall begin upon the **date of execution** by the parties and shall **extend through the life of the TBD** as defined in the ordinance establishing the TBD. This Agreement is subject to review by the parties every two (2) years

or sooner as necessary to review applicable laws changes that affect this agreement and the provision herein, or as is otherwise required herein.

4. **FEE COLLECTION**
Fee collection may not be sooner than six (6) months from the signed and dated Ordinance creating the TBD fee. However, before fee collection the TBD must provide all documents or information necessary as directed by the department.

5. **PAYMENT/ REIMBURSEMENT**
   - DOL shall deduct a percentage amount, as provided in RCW 82.80.140, of one percent (1%) of the twenty dollar ($20.00) fee collected for administration and collection expenses incurred.
   - DOL shall set up the Vehicle Field System (VFS) to automatically deduct one percent 1% at the time of each transaction.
   - The one percent (1%) fee also includes the TBD's optional access to the IVIPS, once an IVIPS agreement is executed.
   - DOL shall certify the release of the proceeds to the state treasurer, and the state treasurer shall distribute the proceeds to the TBD on a monthly basis depending upon their disbursement schedule.
   - The one percent (1%) fee is a maximum permitted by statute and is based in part upon the costs associated with implementing the administration and collection expenses for the collections for the TBD as one of the first such entities with the state to implement a license tab fee.

6. **RECORDS AND DOCUMENTS**
The parties to this Agreement shall each maintain books, records, documents and other evidence, which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the service(s) described herein. These records shall be subject to inspection, review or audit by authorized personnel of either party, the Office of the State Auditor, and other government officials so authorized by law for the period such records are required to be retained according to the Washington State Retention Schedule.

Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties, except as required by law.

7. ***ASSURANCES***
DOL and the Contractor agree all activity pursuant to this Agreement will be in accordance with all applicable current or future federal, state and local laws, rules, and regulations.

8. **CONFIDENTIALITY**
Each party agrees to maintain the security of and protect all confidential information, data, and records provided directly or indirectly to the TBD by DOL to ensure that such information is safeguarded, used, and disclosed by the TBD in compliance with laws governing such information, data and records. The TBD shall provide right of access to the Department or any of its officers or agents upon reasonable notice, to inspect the system by which the TBD maintains such information.

Should DOL have reason to believe that the TBD is not properly safeguarding, using, or disclosing DOL records, DOL shall take the following approach:

   - Provide notice to the TBD that details each issue DOL has determined to be problematic along with a method DOL considers to be appropriate to remedy the issue;

- Provide the TBD at least thirty (30) days to cure such issue, provided, however, that if cure requires the discipline of any employee or subcontractor, the period of cure shall be extended to include any appeal or other process required by law or collective bargaining agreement.
- If the TBD fails to cure to DOL's satisfaction, DOL has the option to terminate dissemination of DOL records and information to the TBD until the TBD provides sufficient security for DOL records. DOL must provide twenty (20) days notice to the TBD that it will terminate dissemination of DOL records;
- If DOL terminates dissemination of records to the TBD, the TBD may seek review by the Dispute Board. Judicial review may be sought in lieu of seeking review of the Dispute Board;
- If the Dispute Board fails to remedy the issue to the TBD and/or DOL's satisfaction, either party may seek judicial review.

9. PUBLIC RECORDS REQUESTS

For any public records request received by the TBD for confidential information, the TBD will coordinate with DOL in an effort to mutually agree upon the information to be disseminated. If the TBD and DOL disagree, the TBD will provide DOL at least ten (10) days in order to allow DOL to seek judicial review as provided under the Public Records Act.

Indemnity

Except as specifically provided in this section, the parties have not agreed to indemnify or hold harmless each other.

Each party agrees to hold harmless and indemnify the other from any claim, loss or liability arising from or out of the employment or contractual relationship of each parties' employees and subcontractors.

DOL agrees to bear all costs associated with the resolution of fee payer disputes regarding statutory exemption from license fees and agrees to hold harmless and indemnify the TBD from such costs.

TBD agrees to bear all costs associated with the resolution of fee payer disputes relating to the formation of the TBD, the levying of any charge or fee on matters relating to the residence of the fee payer or other disputes relating to the location of the vehicle or fee payer, and agrees to hold harmless and indemnify the DOL from such costs.

The term "cost" as used herein refers to any and all administrative costs, court costs and reasonable attorneys' fees associated with resolution of any claim, loss or liability.

10. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

11. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual consent of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

12. MEMORANDUM OF UNDERSTANDING (MOU)

Any communications that either Contract Manager determines to address more than day-to-day concerns, but do not modify the terms of this Agreement, shall be documented by a written, numbered and dated MOU.

13. TERMINATION BY LEGISLATIVE ACTION

This Agreement is terminated upon formal action of the State Legislature by enacting statutory prohibition. If this Agreement is terminated, DOL is entitled to payments required under the terms of this Agreement for services rendered prior to termination.

14. REMEDIES; DISPUTE RESOLUTION

The relationship of the parties is in part defined by statute. In recognition of the parties' relationship and the lack of alternatives for the collection of fees, the parties have established these provisions regarding their respective rights and remedies.

Dispute Resolution

The parties shall attempt to resolve any dispute between the parties regarding the interpretation or performance under this agreement at a staff level. If a party believes the other to be in breach of the agreement, it shall provide written notice of breach to the party via postage paid in the U.S. mail addressed as provided in *Contract Management,* Section. The alleged party in breach shall have ten (10) business days to either cure the breach or refer any dispute to arbitration by the Dispute Board.

The Dispute Board shall attempt to resolve the dispute in the following manner prior to seeking judicial review. Due to the critical nature of the parties statutory obligations, disputes regarding public records shall not be subject to this procedure, except as provided in *Public Records Request* and *Confidentiality* Sections. Additional procedures are provided for alleged breach of confidentiality.

- Each party to this Agreement shall appoint one member to the Dispute Board.
- The members so appointed shall jointly appoint an additional member to the Dispute Board.
- The Dispute Board shall review the facts, Agreement terms, applicable statutes and rules and make a determination.

15. GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any other applicable law. The provisions of this Agreement shall be construed to conform to those laws.

Any inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, shall be resolved by giving precedence in the following order:

- Applicable state and federal statutes and rules;
- Statement of Work; and all Attachments;
- Any other provisions of the Agreement, including materials incorporated by reference.

16. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising there under, is not assignable or delegable by either party in whole or in part.

17. WAIVER

Unless the Agreement is amended in writing by an authorized representative of DOL and the TBD, waiver of a default under this Agreement, or failure by DOL or the TBD to exercise its rights shall not:

- be considered a modification or amendment to the Agreement; or
- constitute a waiver of any subsequent default.

18. LIMITATION OF STATE LIABILITY

The parties agree that in no event shall the state of Washington, the Department, the Director of the Department or any Department employees, be liable to Contractor for any damages, costs, lost production, or any other loss of any kind for failure of the Department's equipment, hardware or software to perform for any reason, or for the loss of consequential damage which is the result of acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of fire, failure of communications or computer equipment, facilities, or software, power failures, nuclear accidents or other disasters.

The state of Washington, the Department, the Director of the Department or any Department employee shall not be liable for any claim of any nature against Contractor by any party arising from any failure in the service furnished by the Department under this Agreement, for any errors, mistakes or acts on the part of the Department or its agents which result in the failure of the Department's equipment or software which fails to perform for any reason or for any other loss or consequential damage which is a result of acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of fire, failure of communications or computer equipment, facilities, or software, power failures, nuclear accidents or other disasters.

19. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

20. INTERLOCAL AGREEMENT

This is an interlocal agreement entered into pursuant to the authorization of Chapter 39.34 RCW. Accordingly, the following provisions are set forth in accordance with the provisions of RCW 39.34.030.

This Agreement shall be perpetual unless terminated as herein provided.

No separate legal or administrative entity is created by this Agreement.

The cooperative undertakings of the parties shall be financed as provided herein. Each party shall separately establish and maintain a budget for its own functions.

No joint property shall be acquired, held or disposed of. Any real or personal property used in the joint or cooperative undertaking shall be considered to be and remain the property of the party who purchased such real or personal property.

This Agreement shall be effective when posted on the website of either the DOL or the jurisdiction in which the TBD has been created in accordance with RCW 39.34.040.

21. *CONTRACT MANAGEMENT*

The Contract Manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

TBD Contract Manager	DOL Contract Manager
David W. Johnston Maple Valley Transportation Benefit District 22017 SE Wax Road, Suite 200 PO Box 320 Maple Valley, WA 98038 Phone: 425-413-8800 FAX: 425-413-4282 E-Mail: david.johnston@maplevalleywa.gov	Jennifer Dana Department of Licensing PO Box 2076 Olympia, WA 98507-2076 Phone:360- 902-3673 FAX: 360-570-7861 E-Mail: jedana@dol.wa.gov

22. ALL WRITINGS CONTAINED HEREIN

This Agreement consists of 12 pages including the following attachments:

A = Statement of Work
B = Vehicles Subject to the Vehicle Fee under RCW 82.80.140
C = Vehicle Not Subject to the Vehicle Fee under RCW 82.80.140

This Agreement sets forth in full all the terms and conditions agreed upon by the parties. Any other agreement, representation, or understandings, verbal or otherwise, regarding the subject matter of this Agreement shall be deemed to be null and void and of no force and effect whatsoever, with the following exceptions.

1. *Exception #1*- If TBD enters into an IVIPS agreement that is also required to obtain vehicle information. The IVIPS agreement does not null and void this Agreement with TBD, nor does this Agreement null and void the IVPS Agreement entered into by the TBD.

2. *Exception #2* - If TBD enters into a separate data sharing agreement to obtain vehicle information. The separate data sharing agreement does not null and void this Agreement or the IVIPS Agreement, nor does this Agreement null and void any separate data sharing agreement entered into by the TBD.

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IN WITNESS WHEREOF, the parties have executed this Agreement, affirm they have the authority to bind their respective parties to the terms and conditions of this Agreement.

Maple Valley
Transportation Benefit District

1/10/2013
(Signature) (Date)

CEO
(Print Name &Title)

91-180/854
(Federal Tax Identification Number or UBI)

State of Washington
Department of Licensing

1/31/13
Lynn Stullick (Date)
Administrator Facilities & Procurement

APPROVED AS TO FORM ONLY

Signature on file June 1, 2009
Diane McDaniel.AAG (Date)

APPROVED AS TO FORM:

1/15/13
Attorney for TBD (Signature) (Date)

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ATTACHMENT A
STATEMENT OF WORK

1. **FOR ADMINISTRATION AND COLLECTION OF THE VEHICLE FEE**

   The Transportation Benefit District (TBD) shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of work as set forth below:

2. **RESPONSIBILITIES OF THE TBD**
   The TBD shall:

   a. Provide DOL with a legible copy of the official signed and dated ordinance or resolution and any related documents that established the Transportation Benefit District (TBD) fee.

   b. Provide DOL with the jurisdiction taxing code.

   c. Submit to DOL the TBD customer phone number to be used for various media publications.

   d. Be the primary point of contact to respond to inquiries or disputes from citizens who have questions about the fee.

   e. Handle all contacts and/or disputes regarding boundaries and/or questions regarding the TBD or its collection of fees.

   f. Agree that any omitted or incorrect addresses that result in the fee not being charged for the current billing cycle will not be collected by DOL during the current cycle, and that DOL will charge the fee during the next billing cycle if Department of Revenue's (DOR) data is updated, DOL has a reasonable amount of time to accomplish necessary computer changes, and the address is within the TBD boundary.

   g. Process and issue any refunds or shortages that may be due. It is anticipated that TBD refunds will be largely due to boundary disputes.

   h. Verify boundary and sub boundary information of the TBD against the information provided in the DOR GIS system to ensure an address taxing location code is appropriately identified for fee collection. Notify DOR of any changes to initiate computer-programming updates for proper fee collection.

   i. If access in IVIPS is desired submit request to enter into a separate standard IVIPS agreement to gain access to IVIPS and/or may enter into a separate datashare agreement. TBD will be required to provide DOL with a completed Vehicle/Vessel Disclosure Agreement Application for either Agreement. Separate costs apply and are not included in the one percent (1%) retained in this Agreement.

3. **RESPONSIBILITIES OF DOL**
   DOL shall:

   a. Not impose the fee for vehicles as defined by law as "Not Subject "to the fee by statute and are listed in *Vehicles Not Subject to the Vehicle Fee under RCW 82.80.140 Table*, Attachment C.

   b. Use data from the DOL file as the primary source for identification when assessing the fee for a vehicle registered within a TBD area. If the jurisdiction location code is one of the TBD areas, then DOL will apply the charge to the vehicle record. If a match cannot be found within the data from the DOL file, then the customer will not be billed the TBD fee. DOL will not use any other data source to determine TBD fee liability.

c. Administer and collect the appropriate annual vehicle fees of up to $20.00 per vehicle, at the time of registration renewal, pursuant to RCW 82.80.140.

d. Retain one percent (1%) of all fees collected in payment for the incurred expenses for the administration and collection of TBD fees and for fees associated with the optional IVIPS agreement deposit and individual inquiries (i.e. each look-up).

e. Not be responsible for the issuance of any refunds or shortages of the fee collected on behalf of TBD for boundary disputes when a customer claims they do not live in a TBD's jurisdiction.

f. Not be responsible or liable for any incorrect or omitted notices sent because TBD provided information to DOR in error.

g. Not make corrections or issue replacement paper or electronic renewal notices. (The annual vehicle TBD fee will be inserted onto paper or e-renewal notices for the next billing cycle of that vehicle if provided).

h. Not be obligated to recover actual or perceived revenue loss of the fee due to errors from data provided to DOL from DOR for boundary discrepancies.

i. Not be responsible for inquiries and/or disputes of customers regarding the fees imposed by the TBD, except to direct the customer to the contact information provided to DOL by the TBD.

j. Provide customers with information on the DOL webpage, which includes contact information for TBD.

k. Provide vehicle licensing Agents, Subagents and DOL staff with information to explain the TBD fee, which includes a list of TBD contact information.

l. Not be responsible for the timeliness of the state treasurer's monthly distribution of funds.

m. Not be responsible to provide TBD with data requests, except through the optional IVIPS, unless the TBD enters into a separate data sharing agreement pursuant to RCW 46.12. Costs associated with data requests will be handles separately and are not included in the one percent (1%) retained for administration and collection expenses pursuant to RCW 82.80.140.

n. If requested provide the TBD with access to IVIPS provided TBD enters in to the standard IVIPS agreement, in order for the TBD to access information sufficient to process refunds and assist in responding to TBD customer inquiries.

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ATTACHMENT B
VEHICLES SUBJECT TO THE VEHICLE FEE UNDER RCW 82.80.140

The annual vehicle fee is due for each vehicle subject to license tab fees under RCW 46.16.0621 and for each vehicle subject to gross weight fees under RCW 46.16.070 with an unladen (scale) weight of 6,000 pounds or less.

Vehicles registered with Disabled American Veteran Exemption would be exempt from the tax.

The annual vehicle licensing fee applies only when renewing a vehicle registration, and is effective upon the registration renewal date as provided by the Department of Licensing.

The following vehicles are subject to the vehicle licensing fee:

Use Class	Description	What makes it Subject...
CAB	Taxicab	46.17.350
CMB (powered)	Combination	46.17.355, if scale weight is 6000 pounds or less
COM (powered)	Commercial vehicle	46.17.350, if scale weight is 6000 pounds or less
CYC	Motorcycle	46.17.350
FIX	Fixed Load vehicle	46.17.355, if scale weight is 6000 pounds or less
F/H, 6 seats or less	For Hire	46.17.350
F/H, 7 seats or more	For Hire	46.17.355, if scale weight is 6000 pounds or less
H/D	House Moving Dolly	46.17.350
LOG(powered)	Used Exclusively for hauling logs	46.17.355, if scale weight is 6000 pounds or less
MH	Motor home	46.17.350
MOB	Mobile Home	46.17.350 (if actually licensed)
PAS	Passenger vehicle	46.17.350
STA, 6 seats or less	Stage	46.17.350
STA, 7 seats or more	Stage	46.17.355, if scale weight is 6000 pounds or less
TLR	Private –use trailer (if over 2000 pounds scale weight)	46.17.350
TOW	Tow truck	46.17.350
TRK	Truck	46.17.355, if scale weight is 6000 pounds or less
TVL	Travel trailer	46.17.350
NEP	Neighborhood electric passenger vehicle	46.17.350
NET	Neighborhood electric truck	46.17.355, if scale weight is 6000 pounds or less
MEP	Medium-speed electric passenger vehicle	46.17.350
MET	Medium-speed electric truck	46.17.355, if scale weight is 6000 pounds or less

ATTACHMENT C
VEHICLES NOT SUBJECT TO THE VEHICLE FEE UNDER RCW 82.80.140

The following vehicles are specifically exempted from the vehicle licensing fee:

a. Campers, as defined in RCW 46.04.085;

b. Farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181;

c. Mopeds, as defined in RCW 46.04.304;

d. Off-road and non highway vehicles as defined in RCW 46.04.365;

e. Private use single-axle trailer, as defined in RCW 46.04.365;

f. Snowmobiles as defined in RCW 46.04.546; and

g. Vehicles registered under chapter 46.87 RCW and the international registration plan.

The following vehicles are not subject to the vehicle fee:

Use Class	Description	What makes it Subject...
C/G	Converter Gear	Not subject to license fees
CMB non powered	Trailers	Not subject to license fees
CMP	Campers	Exempt under 82.80.140
COM non powered	Commercial	Exempt under 82.80.140
EX	State, County, City, Indian	Not subject to license fees
FAR	Farm	Exempt under 82.80.140
FCB	Farm Combination	Exempt under 82.80.140
FED	Federally Owned	Not subject to license fees
FEX	Farm Exempt	Not subject to license fees
H/C (i.e., Antique vehicle)	Horseless Carriage(see specific use class for vehicle type)	Not subject to license fees
LOG (non powered)	Used exclusively for hauling logs	Exempt under 82.80.140
ORV	Off Road Vehicles	Exempt under 82.80.140
PED	Moped	Exempt under 82.80.140
RES	Restored and Collector Vehicles	Not subject to license fees
SCH	Private School	Not subject to license fees
SNO	Snowmobiles	Exempt under 82.80.140
SNX	State, County, City owned snowmobiles	Exempt under 82.80.140
TLR	Personal use trailers, single axle (less than 2,000 pounds scale weight)	Exempt under 82.80.140