

CERTIFICATION OF ENROLLMENT

SENATE BILL 5763

62nd Legislature
2011 Regular Session

Passed by the Senate March 1, 2011
YEAS 46 NAYS 1

President of the Senate

Passed by the House March 9, 2011
YEAS 95 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5763** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5763

Passed Legislature - 2011 Regular Session

State of Washington

62nd Legislature

2011 Regular Session

By Senators Ranker, Ericksen, Morton, Fraser, and Shin; by request of Department of Revenue

Read first time 02/10/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to amending the existing nonresident retail sales
2 tax exemption; amending RCW 82.08.0273; providing an effective date;
3 and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.08.0273 and 2010 c 106 s 215 are each amended to
6 read as follows:

7 (1) The tax levied by RCW 82.08.020 does not apply to sales to
8 nonresidents of this state of tangible personal property, digital
9 goods, and digital codes, when ~~((such))~~:

10 (a) The property is for use outside this state~~((, and))~~;

11 (b) The purchaser ~~((+))~~ is a bona fide resident of a province or
12 territory of Canada or a state, territory, or possession ~~((or Province~~
13 ~~of Canada))~~ of the United States, other than the state of Washington;
14 and

15 (i) Such state, possession, territory, or province ~~((of Canada))~~
16 does not impose ~~((a))~~, or have imposed on its behalf, a generally
17 applicable retail sales tax ~~((or))~~, use tax, value added tax, gross
18 receipts tax on retailing activities, or similar generally applicable
19 tax, of three percent or more; or~~((,))~~

1 (ii) If imposing ((such)) a tax described in (b)(i) of this
2 subsection, ((permits)) provides an exemption for sales to Washington
3 residents ((exemption from otherwise taxable sales)) by reason of their
4 residence((~~τ~~)); and

5 ((+b)) (c) The purchaser agrees, when requested, to grant the
6 department of revenue access to such records and other forms of
7 verification at his or her place of residence to assure that such
8 purchases are not first used substantially in the state of Washington.

9 (2) Notwithstanding anything to the contrary in this chapter, if
10 parts or other tangible personal property are installed by the seller
11 during the course of repairing, cleaning, altering, or improving motor
12 vehicles, trailers, or campers and the seller makes a separate charge
13 for the tangible personal property, the tax levied by RCW 82.08.020
14 does not apply to the separately stated charge to a nonresident
15 purchaser for the tangible personal property but only if the separately
16 stated charge does not exceed either the seller's current publicly
17 stated retail price for the tangible personal property or, if no
18 publicly stated retail price is available, the seller's cost for the
19 tangible personal property. However, the exemption provided by this
20 section does not apply if tangible personal property is installed by
21 the seller during the course of repairing, cleaning, altering, or
22 improving motor vehicles, trailers, or campers and the seller makes a
23 single nonitemized charge for providing the tangible personal property
24 and service. All of the requirements in subsections (1) and (3)
25 through (6) of this section apply to this subsection.

26 (3)(a) Any person claiming exemption from retail sales tax under
27 the provisions of this section must display proof of his or her current
28 nonresident status as provided in this section.

29 (b) Acceptable proof of a nonresident person's status includes one
30 piece of identification such as a valid driver's license from the
31 jurisdiction in which the out-of-state residency is claimed or a valid
32 identification card which has a photograph of the holder and is issued
33 by the out-of-state jurisdiction. Identification under this subsection
34 (3)(b) must show the holder's residential address and have as one of
35 its legal purposes the establishment of residency in that out-of-state
36 jurisdiction.

37 (c) In lieu of furnishing proof of a person's nonresident status
38 under (b) of this subsection (3), a person claiming exemption from

1 retail sales tax under the provisions of this section may provide the
2 seller with an exemption certificate in compliance with subsection
3 (4)(b) of this section.

4 (4)(a) Nothing in this section requires the vendor to make tax
5 exempt retail sales to nonresidents. A vendor may choose to make sales
6 to nonresidents, collect the sales tax, and remit the amount of sales
7 tax collected to the state as otherwise provided by law. If the vendor
8 chooses to make a sale to a nonresident without collecting the sales
9 tax, the vendor must examine the purchaser's proof of nonresidence,
10 determine whether the proof is acceptable under subsection (3)(b) of
11 this section, and maintain records for each nontaxable sale which shall
12 show the type of proof accepted, including any identification numbers
13 where appropriate, and the expiration date, if any.

14 (b) In lieu of using the method provided in (a) of this subsection
15 to document an exempt sale to a nonresident, a seller may accept from
16 the purchaser a properly completed uniform exemption certificate
17 approved by the streamlined sales and use tax agreement governing board
18 or any other exemption certificate as may be authorized by the
19 department and properly completed by the purchaser. A nonresident
20 purchaser who uses an exemption certificate authorized in this
21 subsection (4)(b) must include the purchaser's driver's license number
22 or other state-issued identification number and the state of issuance.

23 (c) In lieu of using the methods provided in (a) and (b) of this
24 subsection to document an exempt sale to a nonresident, a seller may
25 capture the relevant data elements as allowed under the streamlined
26 sales and use tax agreement.

27 (5)(a) Any person making fraudulent statements, which includes the
28 offer of fraudulent identification or fraudulently procured
29 identification to a vendor, in order to purchase goods without paying
30 retail sales tax is guilty of perjury under chapter 9A.72 RCW.

31 (b) Any person making tax exempt purchases under this section by
32 displaying proof of identification not his or her own, or counterfeit
33 identification, with intent to violate the provisions of this section,
34 is guilty of a misdemeanor and, in addition, is liable for the tax and
35 subject to a penalty equal to the greater of one hundred dollars or the
36 tax due on such purchases.

37 (6)(a) Any vendor who makes sales without collecting the tax and

1 who fails to maintain records of sales to nonresidents as provided in
2 this section is personally liable for the amount of tax due.

3 (b) Any vendor who makes sales without collecting the retail sales
4 tax under this section and who has actual knowledge that the
5 purchaser's proof of identification establishing out-of-state residency
6 is fraudulent is guilty of a misdemeanor and, in addition, is liable
7 for the tax and subject to a penalty equal to the greater of one
8 thousand dollars or the tax due on such sales. In addition, both the
9 purchaser and the vendor are liable for any penalties and interest
10 assessable under chapter 82.32 RCW.

11 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and takes effect
14 July 1, 2011.

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