CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1107**

67th Legislature

2021 Regular Session

|  |  |
| --- | --- |
| Passed by the House April 13, 2021  Yeas 98 Nays 0  **Speaker of the House of Representatives**  Passed by the Senate April 6, 2021  Yeas 48 Nays 1  **President of the Senate** | CERTIFICATE  I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1107** as passed by the House of Representatives and the Senate on the dates hereon set forth.  Chief Clerk |
| Approved |  |
| **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE HOUSE BILL 1107**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AS AMENDED BY THE SENATE

Passed Legislature - 2021 Regular Session

**State of Washington 67th Legislature 2021 Regular Session**

**By** House Transportation (originally sponsored by Representatives Chapman, Barkis, Corry, Tharinger, and Graham)

AN ACT Relating to expanding certain nonresident vessel permit provisions; amending RCW 88.02.620, 88.02.640, and 82.32.865; amending 2017 c 323 §§ 302 and 303 (uncodified); adding a new section to chapter 82.12 RCW; and providing expiration dates.

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

**Sec.**  RCW 88.02.620 and 2015 3rd sp.s. c 6 s 802 are each amended to read as follows:

(1) A vessel owner who is a nonresident person must obtain a nonresident vessel permit on or before the sixty-first day of use in Washington state if the vessel:

(a) Is currently registered or numbered under the laws of the state or county of principal operation ((~~or~~)), has been issued a valid number under federal law, or has a valid United States customs service cruising license issued under 19 C.F.R. Sec. 4.94; and

(b) Has been brought into Washington state ((~~for personal use~~)) for not more than six months in any continuous twelve-month period, and is used:

(i) For personal use; or

(ii) For the purposes of chartering a vessel with a captain or crew, as long as individual charters are for at least three or more consecutive days in duration. The permit also applies for the purposes of necessary transit to or from the start or end point of such a charter, but that transit time is not counted toward the duration of the charter.

(2) In addition to the requirements in subsection (1) of this section, a nonresident vessel owner that is not a natural person, or a nonresident vessel owner who is a natural person who intends to charter the vessel with a captain or crew as provided in subsection (1)(b)(ii) of this section, may only obtain a nonresident vessel permit if:

(a) The vessel is at least thirty feet in length, but no more than ((~~one~~)) two hundred ((~~sixty-four~~)) feet in length;

(b) No Washington state resident owns the vessel or is a principal, as defined in RCW 82.32.865, of the nonresident person which owns the vessel; and

(c) The department of revenue has provided the nonresident vessel owner written approval authorizing the permit as provided in RCW 82.32.865.

(3) A nonresident vessel permit:

(a) May be obtained from the department, county auditor or other agent, or subagent appointed by the director;

(b) Must show the date the vessel first came into Washington state; and

(c) Is valid for two months((~~; and~~

~~(d) May not be issued after December 31, 2025, to a nonresident vessel owner that is not a natural person~~)).

(4) The department, county auditor or other agent, or subagent appointed by the director must collect the fee required in RCW 88.02.640(1)(i) when issuing nonresident vessel permits.

(5) A nonresident vessel permit is not required under this section if the vessel is used in conducting temporary business activity within Washington state.

(6) For any permits issued under this section to a nonresident vessel owner that is not a natural person, or for any permits issued to a natural person who intends to charter the vessel with a captain or crew as provided in subsection (1)(b)(ii) of this section, the department must maintain a record of the following information and provide it to the department of revenue quarterly or as otherwise mutually agreed to by the department and department of revenue:

(a) The name of the record owner of the vessel;

(b) The vessel's hull identification number;

(c) The amount of the fee paid under RCW 88.02.640(5);

(d) The date the vessel first entered the waters of this state;

(e) The expiration date for the permit; and

(f) Any other information mutually agreed to by the department and department of revenue.

(7) The department must adopt rules to implement this section, including rules on issuing and displaying the nonresident vessel permit.

**Sec.**  RCW 88.02.640 and 2017 3rd sp.s. c 17 s 104 are each amended to read as follows:

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director must charge the following vessel fees and surcharge:

| FEE | AMOUNT | AUTHORITY | DISTRIBUTION |
| --- | --- | --- | --- |
| (a) Dealer temporary permit | $5.00 | RCW 88.02.800(2) | General fund |
| (b) Derelict vessel and invasive species removal | Subsection (3) of this section | Subsection (3) of this section | Subsection (3) of this section |
| (c) Derelict vessel removal surcharge | $1.00 | Subsection (4) of this section | Subsection (4) of this section |
| (d) Duplicate certificate of title | $1.25 | RCW 88.02.530(1)(c) | General fund |
| (e) Duplicate registration | $1.25 | RCW 88.02.590(1)(c) | General fund |
| (f) Filing | RCW 46.17.005 | RCW 88.02.560(2) | RCW 46.68.400 |
| (g) License plate technology | RCW 46.17.015 | RCW 88.02.560(2) | RCW 46.68.370 |
| (h) License service | RCW 46.17.025 | RCW 88.02.560(2) | RCW 46.68.220 |
| (i) Nonresident vessel permit | Subsection (5) of this section | RCW 88.02.620(4) | Subsection (5) of this section |
| (j) Quick title service | $50.00 | RCW 88.02.540(3) | Subsection (7) of this section |
| (k) Registration | $10.50 | RCW 88.02.560(2) | RCW 88.02.650 |
| (l) Replacement decal | $1.25 | RCW 88.02.595(1)(c) | General fund |
| (m) Service fee | RCW 46.17.040 | RCW 88.02.515 and 88.02.560(2) | RCW 46.17.040 |
| (n) Title application | $5.00 | RCW 88.02.515 | General fund |
| (o) Transfer | $1.00 | RCW 88.02.560(7) | General fund |
| (p) Vessel visitor permit | $30.00 | RCW 88.02.610(3) | Subsection (6) of this section |

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3) The derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(a) Two dollars must be deposited in the aquatic invasive species management account created in RCW 77.135.200;

(b) One dollar must be deposited into the aquatic algae control account created in RCW 43.21A.667; and

(c) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(4) In addition to other fees required in this section, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge is to address the significant backlog of derelict vessels accumulated in Washington waters that pose a threat to the health and safety of the people and to the environment and must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5)(a) The amount of the nonresident vessel permit fee is:

(i) For a vessel owned by a nonresident natural person, twenty-five dollars; and

(ii) For a nonresident vessel owner that is not a natural person, the fee is equal to:

(A) Twenty-five dollars per foot for vessels between thirty and ninety-nine feet in length;

(B) Thirty dollars per foot for vessels between one hundred and one hundred twenty feet in length; and

(C) Thirty-seven dollars and fifty cents per foot for vessels between one hundred twenty-one and ((~~one~~)) two hundred ((~~sixty-four~~)) feet in length. The fee must be multiplied by the extreme length of the vessel in feet, rounded up to the nearest whole foot.

(b) The fee must be paid by the vessel owner to the department. Any moneys remaining from the fee after the payment of costs to administer the permit must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650.

(c) ((~~A nonresident vessel owner that is not a natural person may not obtain more than two nonresident vessel permits under RCW 88.02.620 within any thirty-six month period~~)) In addition to the applicable fees under this section, vessel owners who obtain a nonresident vessel permit for the purposes of chartering their vessel with a captain or crew are subject to use tax as provided in section 6 of this act.

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

(7)(a) The fifty dollar quick title service fee must be distributed as follows:

(i) If the fee is paid to the director, the fee must be deposited to the general fund.

(ii) If the fee is paid to the participating county auditor or other agent appointed by the director, twenty-five dollars must be deposited to the general fund. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(iii) If the fee is paid to a subagent appointed by the director, twenty-five dollars must be deposited to the general fund. The remaining twenty-five dollars must be distributed as follows: Twelve dollars and fifty cents must be retained by the county treasurer in the same manner as other fees collected by the county auditor and twelve dollars and fifty cents must be retained by the subagent.

(b) For the purposes of this subsection, "quick title" has the same meaning as in RCW 88.02.540.

(8) The department, county auditor or other agent, or subagent appointed by the director shall charge the service fee under subsection (1)(m) of this section beginning January 1, 2016.

**Sec.**  RCW 82.32.865 and 2015 3rd sp.s. c 6 s 805 are each amended to read as follows:

(1) A nonresident vessel owner that is not a natural person, or a nonresident vessel owner who intends to charter the vessel with a captain or crew as provided in RCW 88.02.620(1)(b)(ii), must apply directly to the department for written approval to obtain a nonresident vessel permit under RCW 88.02.620. The application must be made to the department in a form and manner prescribed by the department and must include:

(a) The name of the record owner of the vessel;

(b) The name, address, and telephone number of the individual that applied for the permit ((~~on behalf of the nonresident person~~));

(c) The record owner's address and telephone number;

(d) The vessel's hull identification number;

(e) The vessel year, make, and model;

(f) The vessel length;

(g) The vessel's registration or numbering under the state of principal operation or the valid number under federal law;

(h) Proof of the person's current nonresident status, including, as applicable, certified copies of the filed articles of incorporation, a certificate of formation, or similar filings;

(i) Proof of the identity and current residency of the natural person owning the charter vessel or all principals of the nonresident person owning the vessel. Such proof may include a valid driver's license verifying out-of-state residency or a valid identification card that has a photograph of the holder and is issued by an out-of-state jurisdiction;

(j) An affidavit signed by ((~~a principal~~)) the owner of the nonresident charter vessel ((~~owner~~)), or by a principal of the entity owning the nonresident vessel, certifying that the owner is not a Washington resident or that no Washington residents are principals of the nonresident vessel owner, as the case may be; and

(k) Any other information the department may require.

(2) The department must determine the nonresident vessel owner's eligibility for the permit, as provided in RCW 88.02.620((~~, and may request additional information as needed directly from the nonresident vessel owner~~)). The department may require additional proof of eligibility directly from the nonresident vessel owner.

(3)(a) If the department determines that the nonresident vessel owner ((~~appears~~)) has established by clear, cogent, and convincing evidence that it is eligible for the permit, the department must provide written approval to the nonresident vessel owner that authorizes issuance of the permit and includes the name of the nonresident vessel owner, the name of the vessel, and the hull identification number. ((~~After November 30, 2025, the department may not provide written approval for any permits under this subsection.~~)) Otherwise, the department must refuse to authorize the issuance of the permit.

(b) The department must also provide the information in the written approval to the department of licensing.

(4)(a) If, after a permit has been issued under RCW 88.02.620, the department has reason to believe that the nonresident vessel owner was not eligible for the permit approved under subsection (3) of this section, the department may request such information from the nonresident vessel owner as the department determines is necessary to conduct a review of the nonresident vessel owner's eligibility.

(b) If the department finds the nonresident person was not eligible for the permit, the department must assess against the nonresident person state and local use tax on the value of the vessel according to the "value of the article used" as defined in RCW 82.12.010. The department must also assess against the nonresident person any watercraft excise tax due under chapter 82.49 RCW. Penalties and interest as provided in this chapter and chapter 82.49 RCW apply to taxes assessed under this subsection (4).

(5) For purposes of this section, "principal" means a natural person that owns, directly or indirectly, including through any tiered ownership structure, more than a one percent interest in the nonresident person applying for a nonresident vessel permit.

(6) By January 1, 2026, the department must submit a report to the governor and the transportation and fiscal committees of the legislature. The report must include:

(a) The number of nonresident vessel permits the department authorized for approval in each calendar year since September 1, 2015, and the length of such vessels;

(b) The number of nonresident vessel permits the department authorized for approval in each calendar year since the effective date of this section for vessels chartered with a captain or crew;

(c) Information about the state or country where the vessels described in (a) and (b) of this subsection are primarily operated;

(d) The amount of use tax collected on vessels described in (b) of this subsection;

(e) A discussion of any evidence of fraud or attempted fraud related to nonresident vessel permits or permit applications; and

(f) Any other information the department determines may be relevant.

(7) The department may adopt rules to implement this section.

**Sec.**  2017 c 323 s 302 (uncodified) is amended to read as follows:

(1) Sections 802 and 804, chapter 6, Laws of 2015 3rd sp. sess. expire ((~~July~~)) January 1, ((~~2026~~)) 2029;

(2) Section 803, chapter 6, Laws of 2015 3rd sp. sess. expires January 1, ((~~2026~~)) 2029; and

(3) Section 805, chapter 6, Laws of 2015 3rd sp. sess. expires January 1, 2031.

**Sec.**  2017 c 323 s 303 (uncodified) is amended to read as follows:

(1)(a) The legislature finds that a robust maritime industry is crucial for the state's economic vitality. The legislature further finds that:

(i) The joint task force for economic resilience of maritime and manufacturing established policy goals to continue efforts towards developing a robust maritime industry in the state;

(ii) The maritime industry has a direct and indirect impact on jobs in the state;

(iii) Many of the cities and towns impacted by the maritime industry are often small with limited resources to encourage economic growth, heavily relying on the maritime industry for local jobs and revenues in the community;

(iv) Keeping Washington competitive with other cruising destinations is essential to continue to build a robust maritime economy in the state; and

(v) Tax incentives are an imperative component to improve the state's overall competitiveness in this sector.

(b) Therefore, the legislature intends to:

(i) Bolster the maritime industry in the state by incentivizing larger vessel owners to use Washington waters for recreational boating to increase economic activity and jobs in coastal communities and inland water regions of the state;

(ii) Achieve this objective in a fiscally responsible manner and require analysis of specific metrics to ensure valuable state resources are being used to accomplish the intended goal; and

(iii) Provide limited, short-term tax relief to entity-owned nonresident vessel owners that currently are not afforded the same benefits as other nonresident vessel owners.

(2)(a) This subsection is the tax preference performance statement for the entity-owned nonresident vessel tax preference established in section 803 of this act. The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes this tax preference as one intended to accomplish the purposes indicated in RCW 82.32.808(2)(c) and one intended to improve the state's competitiveness with other nearby cruising destinations.

(c) It is the legislature's specific public policy objective to increase economic activity and jobs related to the maritime industry by providing a tax preference for large entity-owned nonresident vessels to increase the length of time these vessels cruise Washington waters in turn strengthening the maritime economy in the state.

(d) To measure the effectiveness of the tax preference provided in part VIII, chapter 6, Laws of 2015 3rd sp. sess. in achieving the public policy objective in (c) of this subsection, the joint legislative audit and review committee must provide the following in a published evaluation of this tax preference by December 31, ((~~2024~~)) 2028:

(i) A comparison of the gross and taxable revenue generated by businesses that sell or provide maintenance or repair of vessels, prior to and after the enactment of this tax preference;

(ii) Analysis of retail sales taxes collected from the restaurant and service industries in coastal and inlet coastal jurisdictions, for both counties and cities, for periods prior to and after the enactment of this tax preference;

(iii) Employment and wage trends for businesses described in (d)(i) and (ii) of this subsection, for periods prior to and after the enactment of this tax preference;

(iv) Descriptive statistics for the number of permits sold each year in addition to the following information:

(A) The cost for each permit by strata of vessel length;

(B) The jurisdiction of ownership for the nonresident vessel; and

(C) The amount of use tax that would have been due based on the estimated value of the vessel;

(v) A comparison of the number of registered entity-owned and individually owned vessels registered in Washington prior to and after the enactment of this tax preference; and

(vi) Data and analysis for Washington's main cruising destination competitors, specifically looking at tax preferences provided in those jurisdictions, vessel industry income data, and any additional relevant information to compare Washington's maritime climate with its competitors.

(e) The provision of RCW 82.32.808(5) does not apply to this tax preference.

NEW SECTION. **Sec.**  A new section is added to chapter 82.12 RCW to read as follows:

(1) Except as otherwise provided in this section, the provisions of this chapter do not apply to the use of a vessel exempt from registration under RCW 88.02.570(12).

(2) The use of a vessel exempt from registration under RCW 88.02.570(12) for chartering with a captain or crew is subject to the tax imposed in RCW 82.12.020 based on the reasonable bare rental value of the vessel as provided in RCW 82.12.010(7)(c).

(3) This section expires January 1, 2029.

NEW SECTION. **Sec.**  Sections 1 through 3 of this act expire January 1, 2029.

**--- END ---**