CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2158

Chapter 135, Laws of 2007

60th Legislature
2007 Regular Session

VEHICLE SALES--NONRESIDENTS

EFFECTIVE DATE: 07/22/07

Passed by the House March 13, 2007
Yeas 96  Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 5, 2007
Yeas 48  Nays 0

BRAD OWEN
President of the Senate

Approved April 19, 2007, 1:37 p.m.

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is SUBSTITUTE HOUSE BILL 2158 as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER
Chief Clerk

FILED
April 20, 2007

CHRISTINE GREGOIRE
Governor of the State of Washington

SECRETARY OF STATE
State of Washington
AN ACT Relating to the sales of vehicles and associated services to nonresidents of Washington; amending RCW 82.08.0264 and 82.08.0273; and prescribing penalties.

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

Sec. 1. RCW 82.08.0264 and 1980 c 37 s 31 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 ((shall)) does not apply to sales of motor vehicles, trailers, or campers to nonresidents of this state for use outside of this state, even ((though)) when delivery ((be)) is made within this state, but only ((when (1))) if:

(a) The motor vehicles, trailers, or campers will be taken from the point of delivery in this state directly to a point outside this state under the authority of a ((one-transit)) vehicle trip permit issued by the ((director)) department of licensing pursuant to the provisions of RCW 46.16.160, or any agency of another state that has authority to issue similar permits; or

((2) said)) (b) The motor vehicles, trailers, or campers will be registered and licensed immediately under the laws of the state of the
((purchaser's)) buyer's residence, will not be used in this state more than three months, and will not be required to be registered and licensed under the laws of this state.

(2) For the purposes of this section, the seller of a motor vehicle, trailer, or camper is not required to collect and shall not be found liable for the tax levied by RCW 82.08.020 on the sale if the tax is not collected and the seller retains the following documents, which must be made available upon request of the department:

(a) A copy of the buyer's currently valid out-of-state driver's license or other official picture identification issued by a jurisdiction other than Washington state;

(b) A copy of any one of the following documents, on which there is an out-of-state address for the buyer:
   (i) A current residential rental agreement;
   (ii) A property tax statement from the current or previous year;
   (iii) A utility bill, dated within the previous two months;
   (iv) A state income tax return from the previous year;
   (v) A voter registration card;
   (vi) A current credit report; or
   (vii) Any other document determined by the department to be acceptable;

(c) A witnessed declaration in the form designated by the department, signed by the buyer, and stating that the buyer's purchase meets the requirements of this section; and

(d) A seller's certification, in the form designated by the department, that either a vehicle trip permit was issued or the vehicle was immediately registered and licensed in another state as required under subsection (1) of this section.

(3) If the department has information indicating the buyer is a Washington resident, or if the addresses for the buyer shown on the documentation provided under subsection (2) of this section are not the same, the department may contact the buyer to verify the buyer's eligibility for the exemption provided under this section. This subsection does not prevent the department from contacting a buyer as a result of information obtained from a source other than the seller's records.

(4)(a) Any person making fraudulent statements, which includes the offer of fraudulent identification or fraudulently procured
identification to a seller, in order to purchase a motor vehicle, trailer, or camper without paying retail sales tax is guilty of perjury under chapter 9A.72 RCW.

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

(5) (a) Any seller that makes sales without collecting the tax to a person who does not provide the documents required under subsection (2) of this section, and any seller who fails to retain the documents required under subsection (2) of this section for the period prescribed by RCW 82.32.070, is personally liable for the amount of tax due.

(b) Any seller that makes sales without collecting the retail sales tax under this section and who has actual knowledge that the buyer's documentation required by subsection (2) of this section is fraudulent is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one thousand dollars or the tax due on such sales. In addition, both the buyer and the seller are liable for any penalties and interest assessable under chapter 82.32 RCW.

(6) For purposes of this section, the term "buyer" does not include cosigners or financial guarantors, unless those parties are listed as a registered owner on the vehicle title.

Sec. 2. RCW 82.08.0273 and 2003 c 53 s 399 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales to nonresidents of this state of tangible personal property for use outside this state when the purchaser (a) is a bona fide resident of a state or possession or Province of Canada other than the state of Washington and such state, possession, or Province of Canada does not impose a retail sales tax or use tax of three percent or more or, if imposing such a tax, permits Washington residents exemption from otherwise taxable sales by reason of their residence, and (b) agrees, when requested, to grant the department of revenue access to such
records and other forms of verification at his or her place of residence to assure that such purchases are not first used substantially in the state of Washington.

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

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

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

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

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

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

(5) (6) (a) Any vendor who makes sales without collecting the tax to a person who does not hold valid identification establishing out-of-state residency, and any vendor who fails to maintain records of sales to nonresidents as provided in this section, shall be personally liable for the amount of tax due.

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

Passed by the House March 13, 2007.
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