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SENATE BILL 5241

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Harper, Ericksen, Carrell, Hargrove, Ranker, Bailey, Litzow, Rolfes, and Shin

Read first time 01/24/13. Referred to Committee on Ways & Means.

1 AN ACT Relating to nonresident vessel permits and taxation;  
2 amending RCW 88.02.620, 82.08.700, and 82.12.700; providing an  
3 effective date; providing an expiration date; and declaring an  
4 emergency.

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

6 **Sec. 1.** RCW 88.02.620 and 2011 c 171 s 133 are each amended to  
7 read as follows:

8 (1) A vessel owner who is a nonresident (~~natural~~) person  
9 (~~shall~~) must apply for a nonresident vessel permit on or before the  
10 sixty-first day of use in Washington state if the vessel:

11 (a) Is currently registered or numbered under the laws of the state  
12 of principal operation or has been issued a valid number under federal  
13 law; and

14 (b) Has been brought into Washington state for personal use for not  
15 more than six months in any continuous twelve-month period.

16 (2) A nonresident vessel permit:

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

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

3 (c) Is valid for two months.

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

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

10 (5) The department (~~shall~~) must adopt rules to implement this  
11 section, including rules on issuing and displaying the nonresident  
12 vessel permit.

13 **Sec. 2.** RCW 82.08.700 and 2010 c 106 s 219 are each amended to  
14 read as follows:

15 (1) The tax levied by RCW 82.08.020 does not apply to sales to  
16 nonresident (~~individuals~~) persons of vessels thirty feet or longer if  
17 (~~an individual~~) a person purchasing a vessel purchases and displays  
18 a valid use permit.

19 (2)(a) (~~An individual~~) A person claiming exemption from retail  
20 sales tax under this section must display proof of (~~his or her~~) the  
21 person's current nonresident status at the time of purchase.

22 (b) Acceptable proof of a nonresident (~~individual's~~) person's  
23 status for an individual includes one piece of identification such as  
24 a valid driver's license from the jurisdiction in which the out-of-  
25 state residency is claimed or a valid identification card that has a  
26 photograph of the holder and is issued by the out-of-state  
27 jurisdiction. Identification under this subsection (2)(b) must show  
28 the holder's residential address and have as one of its legal purposes  
29 the establishment of residency in that out-of-state jurisdiction.

30 (c) Acceptable proof of a nonresident person's status, for a person  
31 who is not an individual, such as a limited liability company,  
32 corporation, or limited partnership, includes:

33 (i) A current certificate of good standing for the entity from the  
34 out-of-state jurisdiction claimed by the person;

35 (ii) A current list of all principals of the person;

36 (iii) A copy of the person's certificate of incorporation or the  
37 articles of incorporation;

1       (iv) A completed affidavit of out-of-state residency;

2       (v) One piece of identification provided by the person, such as a  
3 valid driver's license verifying out-of-state residency or a valid  
4 identification card that has a photograph of the holder and is issued  
5 by an out-of-state jurisdiction; and

6       (vi) A written and notarized statement signed by a principal of the  
7 person's entity that states:

8       "The entity agrees to make all records available to representatives  
9 of the Washington State Department of Revenue for verification of  
10 nonresidency status of all principals of the entity. This includes any  
11 corporate or ownership documents filed with any and all state, federal,  
12 and/or foreign agencies provided for title, documentation, or registry  
13 purposes."

14       (3) Nothing in this section requires the vessel dealer to make tax  
15 exempt retail sales to nonresidents. A dealer may choose to make sales  
16 to nonresidents, collect the sales tax, and remit the amount of sales  
17 tax collected to the state as otherwise provided by law. If the dealer  
18 chooses to make a sale to a nonresident without collecting the sales  
19 tax, the vendor must examine the proof of nonresidence, determine  
20 whether the proof is acceptable under subsection (2)(b) of this  
21 section, and maintain records for each nontaxable sale that shows the  
22 type of proof accepted, including any identification numbers where  
23 appropriate, and the expiration date, if any.

24       (4) A vessel dealer (~~shall~~) must issue a use permit to a buyer if  
25 the dealer is satisfied that the buyer is a nonresident. The use  
26 permit must be in a form and manner required by the department and must  
27 include an affidavit, signed by the purchaser, declaring that the  
28 vessel will be used in a manner consistent with this section. The fee  
29 for the issuance of a use permit is five hundred dollars for vessels  
30 fifty feet in length or less and eight hundred dollars for vessels  
31 greater than fifty feet in length. Funds collected under this section  
32 and RCW 82.12.700 must be reported on the dealer's excise tax return  
33 and remitted to the department in accordance with RCW 82.32.045. The  
34 department must transmit the fees to the state treasurer to be  
35 deposited in the state general fund. The use permit must be displayed  
36 on the vessel and is valid for twelve consecutive months from the date  
37 of issuance. A use permit is not renewable. A purchaser at the time  
38 of purchase must make an irrevocable election to take the exemption

1 authorized in this section or the exemption in either RCW 82.08.0266 or  
2 82.08.02665. A vessel dealer must maintain a copy of the use permit  
3 for the dealer's records. Vessel dealers must provide copies of use  
4 permits issued by the dealer under this section and RCW 82.12.700 to  
5 the department on a quarterly basis.

6 (5) A nonresident person who claims an exemption under this section  
7 and who uses a vessel in this state after his or her use permit for  
8 that vessel has expired is liable for the tax imposed under RCW  
9 82.08.020 on the original selling price of the vessel and must pay the  
10 tax directly to the department. Interest at the rate provided in RCW  
11 82.32.050 applies to amounts due under this subsection, retroactively  
12 to the date the vessel was purchased, and accrues until the full amount  
13 of tax due is paid to the department.

14 (6) Any vessel dealer who makes sales without collecting the tax to  
15 a person who does not hold valid identification establishing  
16 out-of-state residency, and any dealer who fails to maintain records of  
17 sales to nonresident(~~s~~) persons as provided in this section, is  
18 personally liable for the amount of tax due.

19 (7) Chapter 82.32 RCW applies to the administration of the fee  
20 imposed in this section and RCW 82.12.700.

21 (8) A vessel dealer that issues use permits under this section and  
22 RCW 82.12.700 must file with the department all returns in an  
23 electronic format as provided or approved by the department. As used  
24 in this subsection, "returns" has the same meaning as "return" in RCW  
25 82.32.050.

26 (a) Any return required to be filed in an electronic format under  
27 this subsection is not filed until received by the department in an  
28 electronic format provided or approved by the department.

29 (b) The electronic filing requirement in this subsection ends when  
30 a vessel dealer no longer issues use permits, and the dealer has  
31 electronically filed all of its returns reporting the fees collected  
32 under this section and RCW 82.12.700.

33 (c) The department may waive the electronic filing requirement in  
34 this subsection for good cause shown.

35 **Sec. 3.** RCW 82.12.700 and 2007 c 22 s 2 are each amended to read  
36 as follows:

1 (1) The provisions of this chapter do not apply in respect to the  
2 use of a vessel thirty feet or longer if a nonresident (~~((individual))~~)  
3 person:

4 (a) Purchased the vessel from a vessel dealer in accordance with  
5 RCW 82.08.700;

6 (b) Purchased the vessel in the state from a person other than a  
7 vessel dealer, but the nonresident (~~((individual))~~) person purchases and  
8 displays a valid use permit from a vessel dealer under this section  
9 within fourteen days of the date that the vessel is purchased in this  
10 state; or

11 (c) Acquired the vessel outside the state, but purchases and  
12 displays a valid use permit from a vessel dealer under this section  
13 within fourteen days of the date that the vessel is first brought into  
14 this state.

15 (2) Any vessel dealer that makes tax exempt sales under RCW  
16 82.08.700 (~~((shall))~~) must issue use permits under this section. A  
17 vessel dealer (~~((shall))~~) must issue a use permit under this section if  
18 the dealer is satisfied that the (~~((individual))~~) person purchasing the  
19 permit is a nonresident. The use permit is valid for twelve  
20 consecutive months from the date of issuance. A use permit is not  
21 renewable, and (~~((an individual))~~) a person may only purchase one use  
22 permit for a particular vessel. A person who has been issued a use  
23 permit under RCW 82.08.700 for a particular vessel may not purchase a  
24 use permit under this section for the same vessel after the use permit  
25 issued under RCW 82.08.700 expires. All other requirements and  
26 conditions, not inconsistent with the provisions of this section,  
27 relating to use permits in RCW 82.08.700, apply to use permits under  
28 this section. A person may not claim an exemption under RCW  
29 82.12.0251(1) within twenty-four months after a use permit, issued  
30 under this section or RCW 82.08.700, for the same vessel, has expired.

31 (3)(a) Except as provided in (b) of this subsection, a nonresident  
32 who claims an exemption under this section and who uses a vessel in  
33 this state after his or her use permit for that vessel has expired is  
34 liable for the tax imposed under RCW 82.12.020 based on the value of  
35 the vessel at the time that the vessel was either purchased in this  
36 state under circumstances in which the exemption under RCW 82.08.700  
37 did not apply or was first brought into this state, as the case may be.  
38 Interest at the rate provided in RCW 82.32.050 applies to amounts due

1 under this subsection, retroactively to the date that the vessel was  
2 purchased in this state or first brought into the state, and accrues  
3 until the full amount of tax due is paid to the department.

4 (b) A nonresident (~~((individual))~~) person who is exempt under both  
5 this section and RCW 82.08.700 and who uses a vessel in this state  
6 after (~~((his or her))~~) the use permit for that vessel expires is liable  
7 for tax and interest as provided in RCW 82.08.700(5).

8 (4)(a) Any vessel dealer that issues a use permit to (~~an~~  
9 ~~individual~~) a person who does not hold valid identification  
10 establishing out-of-state residency, and any dealer that fails to  
11 maintain records for each use permit issued that shows the type of  
12 proof accepted, including any identification numbers where appropriate,  
13 and the expiration date, if any, is personally liable for the amount of  
14 tax due.

15 (b) Acceptable proof of a nonresident person's status, for a person  
16 who is not an individual, such as a limited liability company,  
17 corporation, or limited partnership, is the same as provided in RCW  
18 82.08.700.

19 NEW SECTION. Sec. 4. This act is necessary for the immediate  
20 preservation of the public peace, health, or safety, or support of the  
21 state government and its existing public institutions, and takes effect  
22 July 1, 2013.

23 NEW SECTION. Sec. 5. This act expires July 1, 2016.

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