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SENATE BILL 5622

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State of Washington                      63rd Legislature                      2013 Regular Session

By Senators Hewitt, Hobbs, Eide, Fain, Holmquist Newbry, and Harper

Read first time 02/06/13. Referred to Committee on Transportation.

1            AN ACT Relating to the taxation of large airplanes; amending RCW  
2 47.68.250, 82.48.100, and 82.48.100; adding a new section to chapter  
3 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new  
4 section; providing effective dates; and providing an expiration date.

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

6            NEW SECTION.    **Sec. 1.**    The legislature intends to promote the  
7 economic development of our state's aerospace cluster and increase the  
8 tax revenues collected by the state through promoting a competitive  
9 marketplace for storing and modifying unfurnished, noncommercial  
10 aircraft. The legislature finds that Washington is currently losing  
11 these types of jobs to other states, resulting in the loss of high-wage  
12 jobs and new tax revenue. Further, the legislature finds that the  
13 current tax statutes are an impediment to encouraging the development  
14 of aerospace clusters in our state. Therefore, the legislature intends  
15 to modify our state's tax policy to encourage aerospace cluster  
16 development within the state and increase tax revenues.

17            **Sec. 2.**    RCW 47.68.250 and 2003 c 375 s 4 are each amended to read  
18 as follows:

1       (1) Every aircraft (~~shall~~) must be registered with the department  
2 for each calendar year in which the aircraft is operated or is based  
3 within this state. A fee of fifteen dollars (~~shall be~~) is charged  
4 for each such registration and each annual renewal thereof.

5       (2) Possession of the appropriate effective federal certificate,  
6 permit, rating, or license relating to ownership and airworthiness of  
7 the aircraft, and payment of the excise tax imposed by Title 82 RCW for  
8 the privilege of using the aircraft within this state during the year  
9 for which the registration is sought, and payment of the registration  
10 fee required by this section (~~shall be~~) are the only requisites for  
11 registration of an aircraft under this section.

12       (3) The registration fee imposed by this section (~~shall be~~) is  
13 payable to and collected by the secretary. The fee for any calendar  
14 year must be paid during the month of January, and (~~shall~~) must be  
15 collected by the secretary at the time of the collection by him or her  
16 of the (~~said~~) excise tax. If the secretary is satisfied that the  
17 requirements for registration of the aircraft have been met, he or she  
18 (~~shall thereupon~~) must issue to the owner of the aircraft a  
19 certificate of registration therefor. The secretary (~~shall~~) must pay  
20 to the state treasurer the registration fees collected under this  
21 section, which registration fees (~~shall~~) must be credited to the  
22 aeronautics account in the transportation fund.

23       (4) It (~~shall~~) is not (~~be~~) necessary for the registrant to  
24 provide the secretary with originals or copies of federal certificates,  
25 permits, ratings, or licenses. The secretary (~~shall~~) must issue  
26 certificates of registration, or such other evidences of registration  
27 or payment of fees as he or she may deem proper; and in connection  
28 therewith may prescribe requirements for the possession and exhibition  
29 of such certificates or other evidences.

30       (5) The provisions of this section (~~shall~~) do not apply to:

31       (~~(1)~~) (a) An aircraft owned by and used exclusively in the  
32 service of any government or any political subdivision thereof,  
33 including the government of the United States, any state, territory, or  
34 possession of the United States, or the District of Columbia, which is  
35 not engaged in carrying persons or property for commercial purposes;

36       (~~(2)~~) (b) An aircraft registered under the laws of a foreign  
37 country;

1       ~~((+3))~~ (c) An aircraft ~~((which))~~ that is owned by a nonresident  
2 and registered in another state(~~(:—PROVIDED, That if said aircraft~~  
3 ~~shall remain in and/or be based in this state for a period of ninety~~  
4 ~~days or longer it shall not be exempt under this section))~~ if:

5       (i) The aircraft remains in this state or is based in this state,  
6 or both, for a period less than ninety days; or

7       (ii) The aircraft is a large private airplane as defined in section  
8 3 of this act and remains in this state for a period of ninety days or  
9 longer, but only when:

10       (A) The airplane is in this state exclusively for the purpose of  
11 repairs, alterations, or reconstruction, including any flight testing  
12 related to the repairs, alterations, or reconstruction, or for the  
13 purpose of continual storage of not less than one full calendar year;

14       (B) An employee of the facility providing these services is on  
15 board the airplane during any flight testing; and

16       (C) Within ninety days of the date the airplane first arrived in  
17 this state during the calendar year, the nonresident files a written  
18 statement with the department indicating that the airplane is exempt  
19 from registration under this subsection (5)(c)(ii). The written  
20 statement must be filed in a form and manner prescribed by the  
21 department and must include such information as the department  
22 requires. The department may require additional periodic verification  
23 that the airplane remains exempt from registration under this  
24 subsection (5)(c)(ii) and that written statements conform with the  
25 provisions of RCW 9A.72.085;

26       ~~((+4))~~ (d) An aircraft engaged principally in commercial flying  
27 constituting an act of interstate or foreign commerce;

28       ~~((+5))~~ (e) An aircraft owned by the commercial manufacturer  
29 thereof while being operated for test or experimental purposes, or for  
30 the purpose of training crews for purchasers of the aircraft;

31       ~~((+6))~~ (f) An aircraft being held for sale, exchange, delivery,  
32 test, or demonstration purposes solely as stock in trade of an aircraft  
33 dealer licensed under Title 14 RCW; and

34       ~~((+7))~~ (g) An aircraft based within the state that is in an  
35 unairworthy condition, is not operated within the registration period,  
36 and has obtained a written exemption issued by the secretary.

37       (6) The secretary ~~((shall))~~ must be notified within thirty days of  
38 any change in ownership of a registered aircraft. The notification

1 ((shall)) must contain the N, NC, NR, NL, or NX number of the aircraft,  
2 the full name and address of the former owner, and the full name and  
3 address of the new owner. For failure to so notify the secretary, the  
4 registration of that aircraft may be canceled by the secretary, subject  
5 to reinstatement upon application and payment of a reinstatement fee of  
6 ten dollars by the new owner.

7 (7) A municipality or port district that owns, operates, or leases  
8 an airport, as defined in RCW 47.68.020, with the intent to operate,  
9 ((shall)) must require from an aircraft owner proof of aircraft  
10 registration as a condition of leasing or selling tiedown or hanger  
11 space for an aircraft. It is the responsibility of the lessee or  
12 purchaser to register the aircraft. The airport ((shall)) must work  
13 with the aviation division to assist in its efforts to register  
14 aircraft by providing information about based aircraft on an annual  
15 basis as requested by the division.

16 NEW SECTION. Sec. 3. A new section is added to chapter 82.08 RCW  
17 to read as follows:

18 (1)(a) The tax levied by RCW 82.08.020 does not apply to:

19 (i) Sales of large private airplanes to nonresidents of this state;  
20 and

21 (ii) Sales of or charges made for labor and services rendered in  
22 respect to repairing, cleaning, altering, or improving large private  
23 airplanes owned by nonresidents of this state.

24 (b) The exemption provided by this section applies only when the  
25 large private airplane is not required to be registered with the  
26 department of transportation, or its successor, under chapter 47.68  
27 RCW. The airplane owner or lessee claiming an exemption under this  
28 section must provide the department, upon request, a copy of the  
29 written statement required under RCW 47.68.250(5)(c)(ii) documenting  
30 the airplane's registration exemption and any additional information  
31 the department may require.

32 (2) Sellers making tax-exempt sales under this section must obtain  
33 an exemption certificate from the buyer in a form and manner prescribed  
34 by the department. The seller must retain a copy of the exemption  
35 certificate for the seller's files. In lieu of an exemption  
36 certificate, a seller may capture the relevant data elements as allowed  
37 under the streamlined sales and use tax agreement.

1 (3) Upon request, the department of transportation must provide to  
2 the department of revenue information needed by the department of  
3 revenue to verify eligibility under this section.

4 (4) For purposes of this section "large private airplane" means an  
5 airplane not used in interstate commerce, not owned or leased by a  
6 government entity, weighing more than forty-one thousand pounds, and  
7 assigned a category A, B, C, or D test flow management system aircraft  
8 weight class by the federal aviation administration's office of  
9 aviation policy and plans.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12 RCW  
11 to read as follows:

12 (1)(a) The tax levied by RCW 82.12.020 does not apply to the use  
13 of:

14 (i) Large private airplanes owned by nonresidents of this state;  
15 and

16 (ii) Labor and services rendered in respect to repairing, cleaning,  
17 altering, or improving large private airplanes owned by nonresidents of  
18 this state.

19 (b) The exemption provided by this section applies only when the  
20 large private airplane is not required to be registered with the  
21 department of transportation, or its successor, under chapter 47.68  
22 RCW. The airplane owner or lessee claiming an exemption under this  
23 section must provide the department, upon request, a copy of the  
24 written statement required under RCW 47.68.250(5)(c)(ii) documenting  
25 the airplane's registration exemption and any additional information  
26 the department may require.

27 (2) Upon request, the department of transportation must provide to  
28 the department of revenue information needed by the department of  
29 revenue to verify eligibility under this section.

30 (3) For purposes of this section, "large private airplane" has the  
31 same meaning as in section 3 of this act.

32 **Sec. 5.** RCW 82.48.100 and 2010 1st sp.s. c 12 s 2 are each amended  
33 to read as follows:

34 This chapter does not apply to:

35 (1) Aircraft owned by and used exclusively in the service of any  
36 government or any political subdivision thereof, including the

1 government of the United States, any state, territory, or possession of  
2 the United States, or the District of Columbia, which are not engaged  
3 in carrying persons or property for commercial purposes;

4 (2) Aircraft registered under the laws of a foreign country;

5 (3) Aircraft ~~((which))~~ that are owned by a nonresident and  
6 registered in another state~~((. However, if any such aircraft remains~~  
7 ~~in and/or is based in this state for a period of ninety days or longer~~  
8 ~~it is not exempt under this section))~~, if the aircraft remains in this  
9 state or is based in this state, or both, for a period less than ninety  
10 days;

11 (4)(a) Aircraft engaged principally in commercial flying ~~((which))~~  
12 that constitutes interstate or foreign commerce, except as provided in  
13 (b) of this subsection.

14 (b) The exemption provided by (a) of this subsection does not apply  
15 to aircraft engaged principally in commercial flying that constitutes  
16 interstate or foreign commerce when such aircraft will be in this state  
17 exclusively for the purpose of continual storage of not less than one  
18 full calendar year; ((and))

19 (5) Aircraft owned by the manufacturer thereof while being operated  
20 for test or experimental purposes, or for the purpose of training crews  
21 for purchasers of the aircraft;

22 ~~((+5))~~ (6) Aircraft being held for sale, exchange, delivery, test,  
23 or demonstration purposes solely as stock in trade of an aircraft  
24 dealer licensed under Title 14 RCW;

25 ~~((+6))~~ (7) Aircraft owned by a nonresident of this state if the  
26 aircraft is kept at an airport in this state and that airport is  
27 jointly owned or operated by a municipal corporation or other  
28 governmental entity of this state and a municipal corporation or other  
29 governmental entity of another state, and the owner or operator of the  
30 aircraft provides the department with proof that the owner or operator  
31 has paid all taxes, license fees, and registration fees required by the  
32 state in which the owner or operator resides; and

33 ~~((+7))~~ (8) Aircraft that are: (a) Owned by a nonprofit  
34 organization that is exempt from federal income taxation under 26  
35 U.S.C. Sec. 501(c)(3) of the federal internal revenue code; and (b)  
36 exclusively used to provide emergency medical transportation services.

1       **Sec. 6.** RCW 82.48.100 and 1999 c 302 s 3 are each amended to read  
2 as follows:

3       This chapter (~~shall~~) does not apply to:

4       (1) Aircraft owned by and used exclusively in the service of any  
5 government or any political subdivision thereof, including the  
6 government of the United States, any state, territory, or possession of  
7 the United States, or the District of Columbia, which are not engaged  
8 in carrying persons or property for commercial purposes;

9       (2) Aircraft registered under the laws of a foreign country;

10       (3) Aircraft (~~which~~) that are owned by a nonresident and  
11 registered in another state(~~(:—PROVIDED, That if any such aircraft~~  
12 ~~shall remain in and/or be based in this state for a period of ninety~~  
13 ~~days or longer it shall not be exempt under this section)), if the  
14 aircraft remains in this state or is based in this state, or both, for  
15 a period less than ninety days;~~

16       (4)(a) Aircraft engaged principally in commercial flying (~~which~~)  
17 that constitutes interstate or foreign commerce, except as provided in  
18 (b) of this subsection.

19       (b) The exemption provided by (a) of this subsection does not apply  
20 to aircraft engaged principally in commercial flying that constitutes  
21 interstate or foreign commerce when such aircraft will be in this state  
22 exclusively for the purpose of continual storage of not less than one  
23 full calendar year; (~~and~~)

24       (5) Aircraft owned by the manufacturer thereof while being operated  
25 for test or experimental purposes, or for the purpose of training crews  
26 for purchasers of the aircraft;

27       (6) Aircraft being held for sale, exchange, delivery, test, or  
28 demonstration purposes solely as stock in trade of an aircraft dealer  
29 licensed under Title 14 RCW; and

30       (7) Aircraft owned by a nonresident of this state if the aircraft  
31 is kept at an airport in this state and that airport is jointly owned  
32 or operated by a municipal corporation or other governmental entity of  
33 this state and a municipal corporation or other governmental entity of  
34 another state, and the owner or operator of the aircraft provides the  
35 department with proof that the owner or operator has paid all taxes,  
36 license fees, and registration fees required by the state in which the  
37 owner or operator resides.

1        NEW SECTION.    **Sec. 7.**    Except for section 6 of this act, this act  
2 takes effect January 1, 2014.

3        NEW SECTION.    **Sec. 8.**    Section 5 of this act expires January 1,  
4 2020.

5        NEW SECTION.    **Sec. 9.**    Section 6 of this act takes effect January  
6 1, 2020.

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