

# HOUSE BILL REPORT

## SHB 1107

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### As Passed Legislature

**Title:** An act relating to expanding certain nonresident vessel permit provisions.

**Brief Description:** Expanding certain nonresident vessel permit provisions.

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Chapman, Barkis, Corry, Tharinger and Graham).

#### **Brief History:**

##### **Committee Activity:**

Transportation: 1/25/21, 2/11/21 [DPS].

##### **Floor Activity:**

Passed House: 3/1/21, 97-0.

Senate Amended.

Passed Senate: 4/6/21, 48-1.

House Concurred.

Passed House: 4/13/21, 98-0.

Passed Legislature.

#### **Brief Summary of Substitute Bill**

- Expands the authorization to obtain nonresident vessel permits:
  - increases the length of the vessel that may be permitted to nonresident entities other than a person from 164 feet to 200 feet;
  - makes foreign vessels potentially eligible for the nonresident vessel permit;
  - provides that the entities eligible for such permits include an owner or entity chartering a vessel with a captain or crew, as long as individual charters are for at least three or more consecutive days;

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- removes the restriction that limits the number of nonresident vessel permits that may be received by a nonresident entity that is not a person to two within any 36-month period;
- subjects to the use tax a vessel for which a nonresident vessel permit is obtained for a charter with a captain or crew; and
- extends the authority, originally set to terminate at the end of 2025, to the end of 2028.

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## HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Fey, Chair; Wylie, 1st Vice Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry, Chapman, Dent, Duerr, Entenman, Goehner, Griffey, Hackney, Klicker, Lovick, McCaslin, Orcutt, Paul, Ramel, Riccelli, Slatter, Sutherland, Taylor, Valdez, Walsh and Wicks.

**Staff:** Mark Matteson (786-7145).

### **Background:**

The Use Tax and Watercraft Excise Tax. The use tax applies to the value of property, digital products, and certain services when used in this state, if the retail sales tax was not collected when the user acquired the property or product. The tax is imposed at both the state and local levels. The state rate is 6.5 percent for most items of property, digital products, and services subject to tax; the local rate varies from 0.5 percent to 3.9 percent, depending on the location.

An annual excise tax of 0.5 percent of the fair market value, but not less than \$5, is imposed on watercraft for the privilege of using a vessel upon the waters of the state. Tax proceeds are deposited to the State General Fund.

Nonresident Vessel Permits. The owner of a vessel who is a nonresident individual or other entity is required to obtain a nonresident vessel permit to operate the vessel on the waters of Washington under certain conditions. If the owner wants to operate the vessel on Washington waters for more than 60 days, the owner must apply for a permit on or before the sixtieth day of the visit to remain in the state for an additional 60 days. The owner may renew the permit once for an additional 60 days. When the permit expires, the vessel owner must either register the vessel in Washington or remove the vessel from Washington waters. If the owner registers the vessel in Washington, the owner must pay use tax in

addition to the registration and titling fees, if retail sales tax has not already been paid, and watercraft excise tax may be due. A nonresident vessel permit may not be obtained for a vessel that is not registered in the United States or has not been assigned a valid number under federal law.

A nonresident vessel permit is not required for the use of the vessel in Washington for the first 60 days, if the vessel is currently registered in another state or the vessel has a current United States Coast Guard Documentation paper. In addition, no permit or registration is necessary if the vessel is in Washington exclusively for repairs, alteration, or testing.

The process to apply for a nonresident vessel permit depends on whether the owner is a person or an entity other than a person. If a person seeks a permit, that person must apply to the Department of Licensing (DOL) via the DOL, a county auditor, or a subagent. The person must show an unexpired boat registration, identification, and the date that the vessel first entered Washington waters. The person must pay a fee of \$25. If the owner is an entity other than a person, the entity must also be approved first by the Department of Revenue (DOR); the vessel for which the entity is seeking a permit must be no less than 30 feet in length and no greater than 164 feet; and the fee that must be paid to the DOL is from \$750 to \$6,150, depending on the length of the vessel.

Before an entity other than a person may apply to the DOL for a nonresident vessel permit, the entity must obtain approval from the DOR. The entity must submit to the DOR the name of the record owner of the vessel; the name, address, and telephone number of the individual that is seeking authorization on behalf of the entity; the address of the record owner; the vessel's hull identification number; the vessel year, make, and model; the vessel length; the vessel's registration information; proof of the entity's nonresident status; proof of the identity and current residency of all principals of the entity; an affidavit signed by a principal of the entity certifying that no Washington resident is a principal of the entity; and any other information the DOR may require. If the entity appears eligible, the DOR must provide written approval to the entity and provide a copy of the approval to the DOL. The DOR may not provide approval for a permit to such entities after November 30, 2025.

Once the DOL has issued a nonresident vessel permit to an entity other than a person, the DOL must maintain a record of certain vessel information, and provide the information periodically to the DOR. The information includes the name of the record owner of the vessel; the vessel's hull identification number; the amount of fees paid for the permit; the date that the vessel first entered Washington waters; the expiration date of the permit; and any other information mutually agreed to with the DOR. The DOL may not issue more than two nonresident vessel permits within any 36-month period to an entity other than a person.

If, after the DOL has issued a permit to an entity other than a person, the DOR finds the entity ineligible for the permit, the DOR must assess state and local use tax on the value of the vessel, as well as any watercraft excise tax due.

The authority for an entity other than a person to obtain a nonresident vessel permit, and for the DOL to issue such a permit, expires in 2026.

**Summary of Substitute Bill:**

The authorization to obtain nonresident vessel permits is expanded. With respect to the authority of entities other than persons to obtain permits, the length of the vessel that may be permitted is increased from 164 feet to 200 feet. In addition, the restriction that limits the number of nonresident vessel permits that may be received by an entity other than a person is removed. The authority to obtain nonresident vessel permits is further expanded to include an owner or entity chartering a vessel with a captain or crew, as long as individual charters are for at least three or more consecutive days, not including transit time to or from the charter starting or ending locations. The permitting limitations and requirements that apply to nonresident entities other than persons also apply to persons seeking a nonresident vessel permit for the purposes of chartering a vessel with a captain or crew.

The terms under which the DOR may authorize the issuance of a nonresident vessel permit are modified, such that DOR must authorize the issuance only if the agency has established by clear, cogent, and convincing evidence that the owner is eligible for the permit.

A nonresident vessel that is exempt from registration and the requirement to obtain a nonresident vessel permit during the first 60 days of entry in Washington waters that is used for the purposes of chartering with a captain or crew is subject to use tax on the reasonable bare rental value of the vessel.

The DOR must submit a report to the Governor and the Legislature by January 2026 that provides details of the use of nonresident vessel permits authorized since September 2015, including: the number of total nonresident vessel permits authorized each calendar year; the number of nonresident vessel permits authorized each calendar year after the effective date of the act with respect to vessels chartered with a captain or crew; information about the state or country where the vessels are primarily operated; the amount of use tax collected with respect to vessels chartered with a captain or crew; a discussion of any evidence of fraud or attempted fraud related to nonresident vessel permits or permit applications; and any other information the DOR determines to be relevant.

The authority for an entity other than a person to obtain a nonresident vessel permit, and for the DOL to issue such a permit, is extended to the end of 2028. The use tax that applies to nonresident vessels that are chartered with a captain or crew expires January 1, 2029.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Out-of-state folks love our waterways and love to have work done on their boats here. But after 60 days, they do not want to pay the fee—a captain of a large vessel went back to Oregon. The wealth that is involved is staggering; the owner might even have a second boat. At the same time, the owner will not pay the fee and chooses to leave the state. This is simply a fairness thing. For small communities like Port Angeles, these are real jobs, jobs that would otherwise go to Oregon. There are great tradespeople here and an effort should be made to continue to grow Washington rural communities.

This is about economic growth, generating new tax revenues, and creating high-wage jobs, with over 400 new jobs and \$1.3 million in state and local taxes. Maritime businesses are crucial pillars of the local economy. Port Angeles has redeveloped a site for these out-of-state charters and nonresident vessel businesses.

Anacortes depends on boats staying in marinas. This bill is all about maritime careers. This bill is designed to attract boats to support a number of high-paying jobs. It would help support international marine tourism here. It is about growing the sector.

Ten percent of the value of each vessel is spent on repairs. The work should stay here. Oregon and Alaska do not have a sales tax and so do not have the problem Washington does.

(Opposed) None.

**Persons Testifying:** Representative Chapman, prime sponsor; Colleen McAleer, Clallam County Economic Development Council; Amanda Kennedy, Platypus Marine Shipyard; Dan Worra, Port of Anacortes; Amy Wachmann; and Peter Schrappen, Northwest Marine Trade Association.

**Persons Signed In To Testify But Not Testifying:** None.