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HOUSE BILL 1002

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State of Washington                      60th Legislature                      2007 Regular Session

By Representatives O'Brien, Orcutt, Kessler, Condotta, McIntire, Sommers, Kenney, McDonald, Haler, Simpson, Wallace and Warnick

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1            AN ACT Relating to the sales and use taxation of vessels; amending  
2 RCW 88.02.030; adding a new section to chapter 82.08 RCW; adding a new  
3 section to chapter 82.12 RCW; providing an effective date; and  
4 declaring an emergency.

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

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 82.08 RCW  
7 to read as follows:

8            (1) The tax levied by RCW 82.08.020 does not apply to sales to  
9 individuals who are nonresidents of this state of vessels thirty feet  
10 or longer for use outside this state, even though delivery is made  
11 within this state, when the individual purchasing the vessel: (a) Is  
12 a bona fide resident of a state or possession or province of Canada  
13 other than the state of Washington; and (b) purchases and displays a  
14 valid use permit.

15            (2)(a) An individual claiming exemption from retail sales tax under  
16 this section must display proof of his or her current nonresident  
17 status at the time of purchase.

18            (b) Acceptable proof of a nonresident individual's status shall  
19 include one piece of identification such as a valid driver's license

1 from the jurisdiction in which the out-of-state residency is claimed or  
2 a valid identification card which has a photograph of the holder and is  
3 issued by the out-of-state jurisdiction. Identification under this  
4 subsection (2)(b) must show the holder's residential address and have  
5 as one of its legal purposes the establishment of residency in that  
6 out-of-state jurisdiction.

7 (3) Nothing in this section requires the vessel dealer to make tax  
8 exempt retail sales to nonresidents. A dealer may choose to make sales  
9 to nonresidents, collect the sales tax, and remit the amount of sales  
10 tax collected to the state as otherwise provided by law. If the dealer  
11 chooses to make a sale to a nonresident without collecting the sales  
12 tax, the vendor shall, in good faith, examine the proof of  
13 nonresidence, determine whether the proof is acceptable under  
14 subsection (2)(b) of this section, and maintain records for each  
15 nontaxable sale which shall show the type of proof accepted, including  
16 any identification numbers where appropriate, and the expiration date,  
17 if any.

18 (4) A vessel dealer shall issue a use permit to a buyer if the  
19 dealer is satisfied that the buyer is a nonresident. The use permit  
20 shall be in a form and manner required by the department and shall  
21 include an affidavit, signed by the purchaser, declaring that the  
22 vessel will be used in a manner consistent with this section. The fee  
23 for the issuance of a use permit shall be five hundred dollars for  
24 vessels fifty feet in length or less and eight hundred dollars for  
25 vessels greater than fifty feet in length. Funds collected under this  
26 section and section 2 of this act shall be reported on the dealer's  
27 excise tax return and remitted to the department in accordance with RCW  
28 82.32.045. The department shall transmit the fees to the state  
29 treasurer to be deposited in the state general fund. The use permit  
30 must be displayed on the vessel and shall be valid for twelve  
31 consecutive months from the date of issuance. A use permit is not  
32 renewable. A purchaser at the time of purchase must make an  
33 irrevocable election to take the exemption authorized in this section  
34 or the exemption in either RCW 82.08.0266 or 82.08.02665. A vessel  
35 dealer must maintain a copy of the use permit for the dealer's records.  
36 Vessel dealers must provide copies of use permits issued by the dealer  
37 under this section and section 2 of this act to the department on a  
38 quarterly basis.

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

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

14 (7) Chapter 82.32 RCW applies to the administration of the fee  
15 imposed in this section and section 2 of this act.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.12 RCW  
17 to read as follows:

18 (1) The provisions of this chapter do not apply in respect to the  
19 use by individuals who are nonresidents of this state of vessels thirty  
20 feet or longer when the individual: (a) Is a bona fide resident of a  
21 state or possession or province of Canada other than the state of  
22 Washington; and (b) purchases and displays a valid use permit from a  
23 vessel dealer in this state as required in section 1 of this act within  
24 sixty days of the date that the vessel was first brought into the  
25 state.

26 (2) Any vessel dealer that chooses to make tax exempt sales under  
27 section 1 of this act shall issue use permits under this section. A  
28 vessel dealer shall issue a use permit under this section if the dealer  
29 is satisfied that the individual purchasing the permit is a  
30 nonresident. The use permit shall be valid for twelve consecutive  
31 months from the date that the vessel was first brought into this state.  
32 A use permit is not renewable, and an individual may only purchase one  
33 use permit for a particular vessel. All other requirements and  
34 conditions, not inconsistent with the provisions of this section,  
35 relating to use permits in section 1 of this act apply to use permits  
36 under this section. A person may not claim an exemption under both  
37 this section and RCW 82.12.0251(1) for the same vessel.

1 (3) A nonresident who claims an exemption under this section and  
2 who uses a vessel in this state after his or her use permit for that  
3 vessel has expired is liable for the tax imposed under RCW 82.12.020  
4 based on the value of the vessel at the time that the vessel was first  
5 brought into this state. Interest at the rate provided in RCW  
6 82.32.050 shall apply to amounts due under this subsection,  
7 retroactively to the date that the vessel was first brought into the  
8 state, and shall accrue until the full amount of tax due is paid to the  
9 department.

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

16 **Sec. 3.** RCW 88.02.030 and 2002 c 286 s 12 are each amended to read  
17 as follows:

18 Vessel registration is required under this chapter except for the  
19 following:

20 (1) Military or public vessels of the United States, except  
21 recreational-type public vessels;

22 (2) Vessels owned by a state or subdivision thereof, used  
23 principally for governmental purposes and clearly identifiable as such;

24 (3) Vessels either (a) registered or numbered under the laws of a  
25 country other than the United States; or (b) having a valid United  
26 States customs service cruising license issued pursuant to 19 C.F.R.  
27 Sec. 4.94. On or before the sixty-first day of use in the state, any  
28 vessel in the state under this subsection shall obtain an  
29 identification document from the department of licensing, its agents,  
30 or subagents indicating when the vessel first came into the state. At  
31 the time of any issuance of an identification document, a thirty dollar  
32 identification document fee shall be paid by the vessel owner to the  
33 department of licensing for the cost of providing the identification  
34 document by the department of licensing. Five dollars from each such  
35 transaction must be deposited in the derelict vessel removal account  
36 created in RCW 79.100.100. Any moneys remaining from the fee after the  
37 payment of costs and the deposit to the derelict vessel removal account

1 shall be allocated to counties by the state treasurer for approved  
2 boating safety programs under RCW 88.02.045. The department of  
3 licensing shall adopt rules to implement its duties under this  
4 subsection, including issuing and displaying the identification  
5 document and collecting the thirty dollar fee;

6 (4) Vessels that have been issued a valid number under federal law  
7 or by an approved issuing authority of the state of principal  
8 operation. However, a vessel that is validly registered in another  
9 state but that is removed to this state for principal use is subject to  
10 registration under this chapter. The issuing authority for this state  
11 shall recognize the validity of the numbers previously issued for a  
12 period of sixty days after arrival in this state;

13 (5) Vessels owned by a nonresident if the vessel is located upon  
14 the waters of this state exclusively for repairs, alteration, or  
15 reconstruction, or any testing related to the repair, alteration, or  
16 reconstruction conducted in this state if an employee of the repair,  
17 alteration, or construction facility is on board the vessel during any  
18 testing. However, any vessel owned by a nonresident is located upon  
19 the waters of this state exclusively for repairs, alteration,  
20 reconstruction, or testing for a period longer than sixty days, that  
21 the nonresident shall file an affidavit with the department of revenue  
22 verifying the vessel is located upon the waters of this state for  
23 repair, alteration, reconstruction, or testing and shall continue to  
24 file such affidavit every sixty days thereafter, while the vessel is  
25 located upon the waters of this state exclusively for repairs,  
26 alteration, reconstruction, or testing;

27 (6) Vessels equipped with propulsion machinery of less than ten  
28 horsepower that:

29 (a) Are owned by the owner of a vessel for which a valid vessel  
30 number has been issued;

31 (b) Display the number of that numbered vessel followed by the  
32 suffix "1" in the manner prescribed by the department; and

33 (c) Are used as a tender for direct transportation between that  
34 vessel and the shore and for no other purpose;

35 (7) Vessels under sixteen feet in overall length which have no  
36 propulsion machinery of any type or which are not used on waters  
37 subject to the jurisdiction of the United States or on the high seas

1 beyond the territorial seas for vessels owned in the United States and  
2 are powered by propulsion machinery of ten or less horsepower;

3 (8) Vessels with no propulsion machinery of any type for which the  
4 primary mode of propulsion is human power;

5 (9) Vessels primarily engaged in commerce which have or are  
6 required to have a valid marine document as a vessel of the United  
7 States. Commercial vessels which the department of revenue determines  
8 have the external appearance of vessels which would otherwise be  
9 required to register under this chapter, must display decals issued  
10 annually by the department of revenue that indicate the vessel's exempt  
11 status;

12 (10) Vessels primarily engaged in commerce which are owned by a  
13 resident of a country other than the United States; ~~((and))~~

14 ~~((On and after January 1, 1998,))~~ Vessels owned by a  
15 nonresident individual brought into the state for his or her use or  
16 enjoyment while temporarily within the state for not more than six  
17 months in any continuous twelve-month period, unless the vessel is used  
18 in conducting a nontransitory business activity within the state.  
19 However, the vessel must have been issued a valid number under federal  
20 law or by an approved issuing authority of the state of principal  
21 operation. On or before the sixty-first day of use in the state, any  
22 vessel temporarily in the state under this subsection shall obtain an  
23 identification document from the department of licensing, its agents,  
24 or subagents indicating when the vessel first came into the state. An  
25 identification document shall be valid for a period of two months. At  
26 the time of any issuance of an identification document, a twenty-five  
27 dollar identification document fee shall be paid by the vessel owner to  
28 the department of licensing for the cost of providing the  
29 identification document by the department of licensing. Any moneys  
30 remaining from the fee after payment of costs shall be allocated to  
31 counties by the state treasurer for approved boating safety programs  
32 under RCW 88.02.045. The department of licensing shall adopt rules to  
33 implement its duties under this subsection, including issuing and  
34 displaying the identification document and collecting the twenty-five  
35 dollar fee; and

36 (12) Vessels used in this state by a nonresident individual  
37 possessing a valid use permit issued under section 1 or 2 of this act.

1        NEW SECTION.   **Sec. 4.**   This act is necessary for the immediate  
2   preservation of the public peace, health, or safety, or support of the  
3   state government and its existing public institutions, and takes effect  
4   July 1, 2007.

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