

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2158

60th Legislature
2007 Regular Session

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

Speaker of the House of Representatives

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

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

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.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2158

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Finance (originally sponsored by Representatives Hasegawa, Fromhold, O'Brien, Orcutt, Condotta, Ormsby, Roach, Kristiansen, Ericks, Curtis, Kenney and Moeller)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to the sales of vehicles and associated services to
2 nonresidents of Washington; amending RCW 82.08.0264 and 82.08.0273; and
3 prescribing penalties.

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

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

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

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

17 (~~(2) said~~) (b) The motor vehicles, trailers, or campers will be
18 registered and licensed immediately under the laws of the state of the

1 (~~purchaser's~~) buyer's residence, will not be used in this state more
2 than three months, and will not be required to be registered and
3 licensed under the laws of this state.

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

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

12 (b) A copy of any one of the following documents, on which there is
13 an out-of-state address for the buyer:

14 (i) A current residential rental agreement;

15 (ii) A property tax statement from the current or previous year;

16 (iii) A utility bill, dated within the previous two months;

17 (iv) A state income tax return from the previous year;

18 (v) A voter registration card;

19 (vi) A current credit report; or

20 (vii) Any other document determined by the department to be
21 acceptable;

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

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

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

37 (4)(a) Any person making fraudulent statements, which includes the
38 offer of fraudulent identification or fraudulently procured

1 identification to a seller, in order to purchase a motor vehicle,
2 trailer, or camper without paying retail sales tax is guilty of perjury
3 under chapter 9A.72 RCW.

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

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

15 (b) Any seller that makes sales without collecting the retail sales
16 tax under this section and who has actual knowledge that the buyer's
17 documentation required by subsection (2) of this section is fraudulent
18 is guilty of a misdemeanor and, in addition, is liable for the tax and
19 subject to a penalty equal to the greater of one thousand dollars or
20 the tax due on such sales. In addition, both the buyer and the seller
21 are liable for any penalties and interest assessable under chapter
22 82.32 RCW.

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

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

28 (1) The tax levied by RCW 82.08.020 shall not apply to sales to
29 nonresidents of this state of tangible personal property for use
30 outside this state when the purchaser (a) is a bona fide resident of a
31 state or possession or Province of Canada other than the state of
32 Washington and such state, possession, or Province of Canada does not
33 impose a retail sales tax or use tax of three percent or more or, if
34 imposing such a tax, permits Washington residents exemption from
35 otherwise taxable sales by reason of their residence, and (b) agrees,
36 when requested, to grant the department of revenue access to such

1 records and other forms of verification at his or her place of
2 residence to assure that such purchases are not first used
3 substantially in the state of Washington.

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

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

24 (b) Acceptable proof of a nonresident person's status shall include
25 one piece of identification such as a valid driver's license from the
26 jurisdiction in which the out-of-state residency is claimed or a valid
27 identification card which has a photograph of the holder and is issued
28 by the out-of-state jurisdiction. Identification under this subsection
29 ~~((+2))~~ (3)(b) must show the holder's residential address and have as
30 one of its legal purposes the establishment of residency in that out-
31 of-state jurisdiction.

32 ~~((+3))~~ (4) Nothing in this section requires the vendor to make tax
33 exempt retail sales to nonresidents. A vendor may choose to make sales
34 to nonresidents, collect the sales tax, and remit the amount of sales
35 tax collected to the state as otherwise provided by law. If the vendor
36 chooses to make a sale to a nonresident without collecting the sales
37 tax, the vendor shall, in good faith, examine the proof of
38 nonresidence, determine whether the proof is acceptable under

1 subsection (~~(+2)~~) (3)(b) of this section, and maintain records for
2 each nontaxable sale which shall show the type of proof accepted,
3 including any identification numbers where appropriate, and the
4 expiration date, if any.

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

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

15 (~~(+5)~~) (6)(a) Any vendor who makes sales without collecting the
16 tax to a person who does not hold valid identification establishing
17 out-of-state residency, and any vendor who fails to maintain records of
18 sales to nonresidents as provided in this section, shall be personally
19 liable for the amount of tax due.

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

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