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SENATE BILL 6581

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State of Washington                      63rd Legislature                      2014 Regular Session

By Senators Bailey, Kohl-Welles, and Rivers

Read first time 03/04/14. 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; and providing an expiration date.

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

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

7            (1) Subject to the limitations provided in subsection (5) of this  
8 section, 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) If the applicant is not a natural person, application for a  
11 nonresident vessel permit under this section must be made by mail. The  
12 department may not issue more than twenty nonresident vessel permits  
13 annually per calendar year under this section to applicants who are not  
14 natural persons. The department may only issue a nonresident vessel  
15 permit to a person who is not a natural person, if such person is  
16 otherwise eligible under this section and is among the first twenty  
17 persons who are not natural persons to submit a permit application  
18 under this section. For the purposes of determining which applications  
19 are received first, the application's postmark date is determinative  
20 and only complete and otherwise eligible applications may be  
21 considered.

22 (6) The department (~~(shall)~~) must adopt rules to implement this  
23 section, including rules on issuing and displaying the nonresident  
24 vessel permit.

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

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

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

34 (b) Acceptable proof of a nonresident (~~(individual's)~~) person's  
35 status for an individual includes one piece of identification such as  
36 a valid driver's license from the jurisdiction in which the out-of-  
37 state residency is claimed or a valid identification card that has a

1 photograph of the holder and is issued by the out-of-state  
2 jurisdiction. Identification under this subsection (2)(b) must show  
3 the holder's residential address and have as one of its legal purposes  
4 the establishment of residency in that out-of-state jurisdiction.

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

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

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

11 (iii) A copy of the person's certificate of incorporation or the  
12 articles of incorporation;

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

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

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

20 "The entity agrees to make all records available to representatives  
21 of the Washington State Department of Revenue for verification of  
22 nonresidency status of all principals of the entity. This includes any  
23 corporate or ownership documents filed with any and all state, federal,  
24 and/or foreign agencies provided for title, documentation, or registry  
25 purposes."

26 (3) Nothing in this section requires the vessel dealer to make tax  
27 exempt retail sales to nonresidents. A dealer may choose to make sales  
28 to nonresidents, collect the sales tax, and remit the amount of sales  
29 tax collected to the state as otherwise provided by law. If the dealer  
30 chooses to make a sale to a nonresident without collecting the sales  
31 tax, the vendor must examine the proof of nonresidence, determine  
32 whether the proof is acceptable under subsection (2)(b) of this  
33 section, and maintain records for each nontaxable sale that shows the  
34 type of proof accepted, including any identification numbers where  
35 appropriate, and the expiration date, if any.

36 (4)(a) Subject to the limitations provided in (b) of this  
37 subsection, a vessel dealer (~~shall~~) must issue a use permit to a  
38 buyer if the dealer is satisfied that the buyer is a nonresident. The

1 use permit must be in a form and manner required by the department and  
2 must include an affidavit, signed by the purchaser, declaring that the  
3 vessel will be used in a manner consistent with this section. The fee  
4 for the issuance of a use permit is five hundred dollars for vessels  
5 fifty feet in length or less and eight hundred dollars for vessels  
6 greater than fifty feet in length. Funds collected under this section  
7 and RCW 82.12.700 must be reported on the dealer's excise tax return  
8 and remitted to the department in accordance with RCW 82.32.045. The  
9 department must transmit the fees to the state treasurer to be  
10 deposited in the state general fund. The use permit must be displayed  
11 on the vessel and is valid for twelve consecutive months from the date  
12 of issuance. A use permit is not renewable. A purchaser at the time  
13 of purchase must make an irrevocable election to take the exemption  
14 authorized in this section or the exemption in either RCW 82.08.0266 or  
15 82.08.02665. A vessel dealer must maintain a copy of the use permit  
16 for the dealer's records. Vessel dealers must provide copies of use  
17 permits issued by the dealer under this section and RCW 82.12.700 to  
18 the department on a quarterly basis.

19 (b) A vessel dealer may not issue a use permit to a nonresident  
20 person who is not an individual. If the nonresident person is not an  
21 individual, the person must apply to the department by mail for a use  
22 permit under this section in the form and manner required by the  
23 department. The department may not issue more than twenty nonresident  
24 use permits annually per calendar year under this section to persons  
25 who are not individuals. The department may only issue a nonresident  
26 use permit to a person who is not an individual, if such person is  
27 otherwise eligible under this section and is among the first twenty  
28 persons who are not individuals to submit a permit application under  
29 this section. For the purposes of determining which applications are  
30 received first, the application's postmark date is determinative and  
31 only complete and otherwise eligible applications may be considered.

32 (5) A nonresident person who claims an exemption under this section  
33 and who uses a vessel in this state after his or her use permit for  
34 that vessel has expired is liable for the tax imposed under RCW  
35 82.08.020 on the original selling price of the vessel and must pay the  
36 tax directly to the department. Interest at the rate provided in RCW  
37 82.32.050 applies to amounts due under this subsection, retroactively

1 to the date the vessel was purchased, and accrues until the full amount  
2 of tax due is paid to the department.

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

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

10 (8) A vessel dealer that issues use permits under this section and  
11 RCW 82.12.700 must file with the department all returns in an  
12 electronic format as provided or approved by the department. As used  
13 in this subsection, "returns" has the same meaning as "return" in RCW  
14 82.32.050.

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

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

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

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

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

29 (a) Purchased the vessel from a vessel dealer in accordance with  
30 RCW 82.08.700;

31 (b) Purchased the vessel in the state from a person other than a  
32 vessel dealer, but the nonresident (~~(individual)~~) person purchases and  
33 displays a valid use permit from a vessel dealer under this section  
34 within fourteen days of the date that the vessel is purchased in this  
35 state; or

36 (c) Acquired the vessel outside the state, but purchases and

1 displays a valid use permit from a vessel dealer under this section  
2 within fourteen days of the date that the vessel is first brought into  
3 this state.

4 (2)(a) Subject to the limitations provided in (b) of this  
5 subsection, any vessel dealer that makes tax exempt sales under RCW  
6 82.08.700 (~~shall~~) must issue use permits under this section. A  
7 vessel dealer (~~shall~~) must issue a use permit under this section if  
8 the dealer is satisfied that the (~~individual~~) person purchasing the  
9 permit is a nonresident. The use permit is valid for twelve  
10 consecutive months from the date of issuance. A use permit is not  
11 renewable, and (~~an individual~~) a person may only purchase one use  
12 permit for a particular vessel. A person who has been issued a use  
13 permit under RCW 82.08.700 for a particular vessel may not purchase a  
14 use permit under this section for the same vessel after the use permit  
15 issued under RCW 82.08.700 expires.

16 (b) A vessel dealer may not issue a use permit to a nonresident  
17 person who is not an individual. If the nonresident person is not an  
18 individual, the person must apply to the department by mail for a use  
19 permit under this section in the form and manner required by the  
20 department. The department may not issue more than twenty nonresident  
21 use permits annually per calendar year under this section to persons  
22 who are not individuals. The department may only issue a nonresident  
23 use permit to a person who is not an individual, if such person is  
24 otherwise eligible under this section and is among the first twenty  
25 persons who are not individuals to submit a permit application under  
26 this section. For the purposes of determining which applications are  
27 received first, the application's postmark date is determinative and  
28 only complete and otherwise eligible applications may be considered.

29 (c) All other requirements and conditions, not inconsistent with  
30 the provisions of this section, relating to use permits in RCW  
31 82.08.700, apply to use permits under this section.

32 (d) A person may not claim an exemption under RCW 82.12.0251(1)  
33 within twenty-four months after a use permit, issued under this section  
34 or RCW 82.08.700, for the same vessel, has expired.

35 (3)(a) Except as provided in (b) of this subsection, a nonresident  
36 who claims an exemption under this section and who uses a vessel in  
37 this state after his or her use permit for that vessel has expired is  
38 liable for the tax imposed under RCW 82.12.020 based on the value of

1 the vessel at the time that the vessel was either purchased in this  
2 state under circumstances in which the exemption under RCW 82.08.700  
3 did not apply or was first brought into this state, as the case may be.  
4 Interest at the rate provided in RCW 82.32.050 applies to amounts due  
5 under this subsection, retroactively to the date that the vessel was  
6 purchased in this state or first brought into the state, and accrues  
7 until the full amount of tax due is paid to the department.

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

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

19 (b) Acceptable proof of a nonresident person's status, for a person  
20 who is not an individual, such as a limited liability company,  
21 corporation, or limited partnership, is the same as provided in RCW  
22 82.08.700.

23 NEW SECTION. Sec. 4. This act takes effect July 1, 2014.

24 NEW SECTION. Sec. 5. This act expires July 1, 2017.

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