S-0625.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5762**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Fraser, Angel, Ericksen, Sheldon, Hatfield, Hobbs, Kohl-Welles, and Benton

AN ACT Relating to the taxation and permitting of vessels in Washington; amending RCW 82.08.700 and 82.12.700; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; providing an effective date; and providing an expiration date.

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

NEW SECTION. **Sec.**  (1) Washington state has some of the most desirable cruising waters in the world for recreational boaters and Washington's recreational boating industry generates needed general fund revenue, family wage jobs, as well as dedicated funds for marine-related state accounts. According to a 2010 joint legislative audit and review committee report entitled, "activities supporting recreational boating" between 2007 and 2009 Washington collected 70.9 million dollars in boating-related revenues, forty-one million dollars of which was deposited in the state's general fund. Additionally, Washington received revenue from more boating-related sources than any other jurisdiction contributing to the study.

(2) However, between 2006 and 2011 Washington's recreational marine industry incurred heavy losses both in terms of sales revenue and drops in employment, jeopardizing its ability to continue generating revenue for the state and creating jobs for Washington residents. Between 2008 and 2010, total boat sales fell from over one hundred ten million dollars to eighty million dollars, according to a joint legislative audit and review committee report entitled "2011 tax preference performance reviews." Additionally, the joint legislative audit and review committee has found that the number of employees working in boat building jobs fell by approximately fifty percent and that the number of people employed in boat sales jobs in Washington state fell by approximately thirty-three percent between 2007 and 2010.

(3) It is the legislature's intent that this act increase employment and enhance the state's economy by encouraging boaters to call Washington their homeport. The legislature finds that the increased presence of larger recreational vessels in marine districts throughout the state will contribute significant revenue to the jurisdictions in which the vessels are moored and remove disincentives that discourage Washington resident boaters from purchasing, using, and mooring their recreational vessels in Washington state.

(4) The legislature finds that Washington's high sales tax rate, relative to its neighboring states and Canada, creates a disincentive for Washington resident pleasure boaters to moor, use, and purchase large recreational vessels in Washington state. Moreover, Washington's high use tax rate, relative to its neighboring states and Canada, creates a disincentive for nonresident pleasure boaters to choose Washington as a location to moor and use large recreational vessels. As a result of these high taxes, Washington suffered decreased revenues from sales and use taxes, excise taxes, and vessel registration fees that could have been collected from large recreational vessels that would have otherwise been located or purchased in this state.

(5) The legislature further finds that this act will remove a disincentive for Washington residents to purchase, moor, and use large pleasure vessels in Washington waters and remove a disincentive for nonresidents to moor and use large pleasure vessels in Washington state. The legislature also finds that this act will increase state revenues on sales and use tax, excise tax, and vessel registrations on large recreational vessels in Washington state, as well as save jobs, increase employment, and realize economic benefits related to maintenance, provisioning, fueling, and other ancillary spending associated with the presence of large recreational vessels in Washington waters.

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

(1) The state portion of the tax collected under RCW 82.08.020 may be no more than nineteen thousand five hundred dollars on the sale of a vessel.

(2) If a buyer claims the exemption under this section, but the watercraft is used in a manner inconsistent with the definition of vessel, the taxpayer is not eligible for the exemption and is liable for any additional tax that would be otherwise owed, but for the exemption claimed under this section. The buyer must pay the additional tax due under this subsection (2), along with any applicable penalties and interest under chapter 82.32 RCW, directly to the department. For purposes of the tax imposed under this subsection, the limitation period on assessments in RCW 82.32.050 begins to run from the date that the watercraft is first used in a manner inconsistent with the definition of vessel in this section.

(3) For the purposes of this section, "vessel" means every privately owned watercraft used or capable of being used as a means of transportation on the water, other than a seaplane, and that is used solely for personal purposes and is not required to be listed and assessed as provided in RCW 84.40.065.

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

(1) Except as otherwise provided in subsection (2) of this section, the tax levied by RCW 82.08.020 does not apply to sales to nonresident individuals of vessels thirty feet or longer if an individual purchasing a vessel purchases and displays a valid use permit.

(2) The exemption provided in this section does not apply to the portion of state tax owed under section 2 of this act.

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

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

((~~(3)~~)) (4) Nothing in this section requires the vessel dealer to make tax exempt retail sales to nonresidents. A dealer may choose to make sales to nonresidents, collect the sales tax, and remit the amount of sales tax collected to the state as otherwise provided by law. If the dealer chooses to make a sale to a nonresident without collecting the sales tax, the vendor must examine the proof of nonresidence, determine whether the proof is acceptable under subsection ((~~(2)~~)) (3)(b) of this section, and maintain records for each nontaxable sale that shows the type of proof accepted, including any identification numbers where appropriate, and the expiration date, if any.

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

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

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

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

((~~(8)~~)) (9) A vessel dealer that issues use permits under this section and RCW 82.12.700 must file with the department all returns in an electronic format as provided or approved by the department. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

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

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

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

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

(1) The state portion of the tax collected under RCW 82.12.020 may be no more than nineteen thousand five hundred dollars on the sale of a vessel.

(2) If a buyer claims the exemption under this section, but the watercraft is used in a manner inconsistent with the definition of vessel, the taxpayer is not eligible for the exemption and is liable for any additional tax that would be otherwise owed, but for the exemption claimed under this section. The buyer must pay the additional tax due under this subsection (2), along with any applicable penalties and interest under chapter 82.32 RCW, directly to the department. This subsection does not apply to a taxpayer with respect to the use of a watercraft, if the taxpayer is subject to the additional tax due in section 2(2) of this act with respect to the watercraft. For purposes of the tax imposed under this subsection, the limitation period on assessments in RCW 82.32.050 begins to run from the date that the watercraft is first used in a manner inconsistent with the definition of vessel in this section.

(3) For the purposes of this section, "vessel" has the same meaning as in section 2 of this act.

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

(1) Except as otherwise provided in subsection (2) of this section, the provisions of this chapter do not apply in respect to the use of a vessel thirty feet or longer if a nonresident individual:

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

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

(c) Acquired the vessel outside the state, but purchases and displays a valid use permit from a vessel dealer under this section within fourteen days of the date that the vessel is first brought into this state.

(2) The exemption provided in subsection (1) of this section does not apply to the use of a vessel, as defined in section 2 of this act, in respect to the first nineteen thousand five hundred dollars of tax owed under RCW 82.12.020 on the value of a vessel.

(3) Any vessel dealer that makes tax exempt sales under RCW 82.08.700 ((~~shall~~)) must issue use permits under this section. A vessel dealer shall issue a use permit under this section if the dealer is satisfied that the individual purchasing the permit is a nonresident. The use permit is valid for twelve consecutive months from the date of issuance. A use permit is not renewable, and an individual may only purchase one use permit for a particular vessel. A person who has been issued a use permit under RCW 82.08.700 for a particular vessel may not purchase a use permit under this section for the same vessel after the use permit issued under RCW 82.08.700 expires. All other requirements and conditions, not inconsistent with the provisions of this section, relating to use permits in RCW 82.08.700, apply to use permits under this section. A person may not claim an exemption under RCW 82.12.0251(1) within twenty-four months after a use permit, issued under this section or RCW 82.08.700, for the same vessel, has expired.

((~~(3)~~)) (4)(a) Except as provided in (b) of this subsection, a nonresident who claims an exemption under this section and who uses a vessel in this state after his or her use permit for that vessel has expired is liable for the tax imposed under RCW 82.12.020 based on the value of the vessel at the time that the vessel was either purchased in this state under circumstances in which the exemption under RCW 82.08.700 did not apply or was first brought into this state, as the case may be. Interest at the rate provided in RCW 82.32.050 applies to amounts due under this subsection, retroactively to the date that the vessel was purchased in this state or first brought into the state, and accrues until the full amount of tax due is paid to the department.

(b) A nonresident individual who is exempt under both this section and RCW 82.08.700 and who uses a vessel in this state after his or her use permit for that vessel expires is liable for tax and interest as provided in RCW 82.08.700((~~(5)~~)) (6).

((~~(4)~~)) (5) Any vessel dealer that issues a use permit to an individual who does not hold valid identification establishing out-of-state residency, and any dealer that fails to maintain records for each use permit issued that shows the type of proof accepted, including any identification numbers where appropriate, and the expiration date, if any, is personally liable for the amount of tax due.

NEW SECTION. **Sec.**  This act expires August 1, 2020.

NEW SECTION. **Sec.**  This act takes effect August 1, 2015.

**--- END ---**