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**SENATE BILL 5878**

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

**By** Senators Bailey, Kohl-Welles, Parlette, Keiser, Rolfes, Rivers, Angel, Liias, and Ranker

AN ACT Relating to nonresident vessel permits and taxation; amending RCW 88.02.620, 82.08.700, and 82.12.700; providing an effective date; providing an expiration date; and declaring an emergency.

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

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

(1) Subject to the limitations provided in subsection (5) of this section, a vessel owner who is a nonresident ((~~natural~~)) person ((~~shall~~)) must apply for a nonresident vessel permit on or before the sixty-first day of use in Washington state if the vessel:

(a) Is currently registered or numbered under the laws of the state of principal operation or has been issued a valid number under federal law; and

(b) Has been brought into Washington state for personal use for not more than six months in any continuous twelve-month period.

(2) A nonresident vessel permit:

(a) May be obtained from the department, county auditor or other agent, or subagent appointed by the director;

(b) Must show the date the vessel first came into Washington state; and

(c) Is valid for two months.

(3) The department, county auditor or other agent, or subagent appointed by the director ((~~shall~~)) must collect the fee required in RCW 88.02.640(1)((~~(h)~~)) (i) when issuing nonresident vessel permits.

(4) A nonresident vessel permit is not required under this section if the vessel is used in conducting temporary business activity within Washington state.

(5) If the applicant is not a natural person, application for a nonresident vessel permit under this section must be made by mail. The department may not issue more than twenty nonresident vessel permits annually per calendar year under this section to applicants who are not natural persons. The department may only issue a nonresident vessel permit to a person who is not a natural person, if such person is otherwise eligible under this section and is among the first twenty persons who are not natural persons to submit a permit application under this section. For the purposes of determining which applications are received first, the application's postmark date is determinative and only complete and otherwise eligible applications may be considered.

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

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

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

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

(b) Acceptable proof of a nonresident ((~~individual's~~)) person's status for an individual 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)(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.

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

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

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

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

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

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

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

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

(3) 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)(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)(a) Subject to the limitations provided in (b) of this subsection, 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.

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

(5) A nonresident person 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) 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 nonresident((~~s~~)) persons as provided in this section, is personally liable for the amount of tax due.

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

(8) 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.

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

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

(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~~)) person 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)(a) Subject to the limitations provided in (b) of this subsection, 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~~)) must issue a use permit under this section if the dealer is satisfied that the ((~~individual~~)) person 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~~)) a person 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.

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

(c) 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.

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

(4)(a) Any vessel dealer that issues a use permit to ((~~an individual~~)) a person 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.

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

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

NEW SECTION. **Sec.**  This act expires July 1, 2019.

**--- END ---**