

2SHB 2157 - H AMD 4765

By Representative Orcutt

1 Beginning on page 11, line 10, strike all of section 401 and
2 insert the following:

3 **"Sec. 401.** RCW 82.08.0273 and 2014 c 140 s 17 are each amended
4 to read as follows:

5 (1) The tax levied by RCW 82.08.020 does not apply to sales to
6 nonresidents of this state of tangible personal property, digital
7 goods, and digital codes (~~(, when)~~). The exemption only applies if:

8 (a) The property is for use outside this state;

9 (b) The purchaser is a bona fide resident of a province or
10 territory of Canada or a state, territory, or possession of the
11 United States, other than the state of Washington; and

12 (i) Such state, possession, territory, or province does not
13 impose, or have imposed on its behalf, a generally applicable retail
14 sales tax, use tax, value added tax, gross receipts tax on retailing
15 activities, or similar generally applicable tax, of three percent or
16 more; or

17 (ii) If imposing a tax described in (b)(i) of this subsection,
18 provides an exemption for sales to Washington residents by reason of
19 their residence; and

20 (c) The purchaser agrees, when requested, to grant the department
21 of revenue access to such records and other forms of verification at
22 his or her place of residence to assure that such purchases are not
23 first used substantially in the state of Washington.

24 (2) Notwithstanding anything to the contrary in this chapter, if
25 parts or other tangible personal property are installed by the seller
26 during the course of repairing, cleaning, altering, or improving
27 motor vehicles, trailers, or campers and the seller makes a separate
28 charge for the tangible personal property, the tax levied by RCW
29 82.08.020 does not apply to the separately stated charge to a
30 nonresident purchaser for the tangible personal property but only if
31 the separately stated charge does not exceed either the seller's
32 current publicly stated retail price for the tangible personal

1 property or, if no publicly stated retail price is available, the
2 seller's cost for the tangible personal property. However, the
3 exemption provided by this section does not apply if tangible
4 personal property is installed by the seller during the course of
5 repairing, cleaning, altering, or improving motor vehicles, trailers,
6 or campers and the seller makes a single nonitemized charge for
7 providing the tangible personal property and service. All of the
8 requirements in subsections (1) and (3) through ~~((6))~~ (7) of this
9 section apply to this subsection.

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

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

21 (c) In lieu of furnishing proof of a person's nonresident status
22 under (b) of this subsection (3), a person claiming exemption from
23 retail sales tax under the provisions of this section may provide
24 ~~((the seller with))~~ an exemption certificate in compliance with
25 subsection ~~((4) (b))~~ (5) (c) of this section.

26 (4) (a) For purchases made in any of the four largest counties
27 west of the Cascades, any person claiming exemption from retail sales
28 tax under the provisions of this section must pay the state and local
29 sales tax to the seller at the time of purchase and then request a
30 remittance from the department in accordance with this subsection and
31 subsection (5) of this section. A request for remittance must include
32 proof of the person's status as a nonresident at the time of the
33 purchase for which the remittance was requested. The request for the
34 remittance must also include any additional information and
35 documentation as required by the department, which may include a
36 description of the item purchases for which a remittance is
37 requested, the sales price of the item, the amount of sales tax paid
38 on the item, the date of purchase, the name of the seller and the
39 physical address where the sale took place, and copies of sales
40 receipts showing the qualified purchase.

1 (b) (i) Beginning January 1, 2020, through December 31, 2020, a
2 person may request a remittance from the department for state sales
3 taxes paid by the person on qualified retail purchases made in
4 Washington between July 1, 2019, and December 31, 2019.

5 (ii) Beginning January 1, 2021, a person may request a remittance
6 from the department during any calendar year for state sales taxes
7 paid by the person on qualified retail purchases made in Washington
8 during the immediately preceding calendar year only. No application
9 may be made with respect to purchases made before the immediately
10 preceding calendar year.

11 (c) The remittance request, including proof of nonresident status
12 and any other documentation and information required by the
13 department, must be provided in a form and manner as prescribed by
14 the department. Only one remittance request may be made by a person
15 per calendar year.

16 (d) The total amount of a remittance request must be at least
17 twenty-five dollars. The department must deny any request for a
18 remittance that is less than twenty-five dollars.

19 (e) The department will examine the applicant's proof of
20 nonresident status and any other documentation and information as
21 required in the application to determine whether the applicant is
22 entitled to a remittance under this section.

23 (5) (a) For purchases in any county except the four largest
24 counties west of the Cascades, a person claiming the exemption from
25 retail sales under the provisions of this section must provide proof
26 of his or her nonresident status as provided in this section at the
27 time of purchase.

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

39 ((~~(b)~~)) (c) In lieu of using the method provided in ((~~(a)~~)) (b)
40 of this subsection to document an exempt sale to a nonresident, a

1 seller may accept from the purchaser a properly completed uniform
2 exemption certificate approved by the streamlined sales and use tax
3 agreement governing board or any other exemption certificate as may
4 be authorized by the department and properly completed by the
5 purchaser. A nonresident purchaser who uses an exemption certificate
6 authorized in this subsection (~~((4)(b))~~) (5)(c) must include the
7 purchaser's driver's license number or other state-issued
8 identification number and the state of issuance.

9 (~~((e))~~) (d) In lieu of using the methods provided in (~~((a) and)~~)
10 (b) and (c) of this subsection to document an exempt sale to a
11 nonresident, a seller may capture the relevant data elements as
12 allowed under the streamlined sales and use tax agreement.

13 (~~((5))~~) (6)(a) Any person making fraudulent statements, which
14 includes the offer of fraudulent identification or fraudulently
15 procured identification to a vendor, in order to purchase goods
16 without paying retail sales tax is guilty of perjury under chapter
17 9A.72 RCW.

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

24 (~~((6))~~) (7)(a) Any vendor who makes sales without collecting the
25 tax and who fails to maintain records of sales to nonresidents as
26 provided in this section is personally liable for the amount of tax
27 due.

28 (b) Any vendor who makes sales without collecting the retail
29 sales tax under this section and who has actual knowledge that the
30 purchaser's proof of identification establishing out-of-state
31 residency is fraudulent is guilty of a misdemeanor and, in addition,
32 is liable for the tax and subject to a penalty equal to the greater
33 of one thousand dollars or the tax due on such sales. In addition,
34 both the purchaser and the vendor are liable for any penalties and
35 interest assessable under chapter 82.32 RCW.

36 (~~((7))~~) (8)(a)(i) Beginning January 1, 2020, through December 31,
37 2020, a person may request a remittance from the department for state
38 sales taxes paid by the person on qualified retail purchases made in
39 Washington between July 1, 2019, and December 31, 2019.

1 (ii) Beginning January 1, 2021, a person may request a remittance
2 from the department during any calendar year for state sales taxes
3 paid by the person on qualified retail purchases made in Washington
4 during the immediately preceding calendar year only. No application
5 may be made with respect to purchases made before the immediately
6 preceding calendar year.

7 (b) The remittance request, including proof of nonresident status
8 and any other documentation and information required by the
9 department, must be provided in a form and manner as prescribed by
10 the department. Only one remittance request may be made by a person
11 per calendar year.

12 (c) The total amount of a remittance request must be at least
13 twenty-five dollars. The department must deny any request for a
14 remittance that is less than twenty-five dollars.

15 (d) The department must examine the applicant's proof of
16 nonresident status and any other documentation and information as
17 required in the application to determine whether the applicant is
18 entitled to a remittance under this section.

19 (9) The exemption in this section does not apply to sales of
20 marijuana, useable marijuana, or marijuana-infused products."

EFFECT: Limits the nonresident sales tax remittance program to Snohomish, King, Pierce and Thurston counties. Maintains current nonresident sales tax program for remainder of counties.

--- END ---