

**ESSB 5997 - H AMD 869**

By Representative Orcutt

**NOT ADOPTED 04/27/2019**

1 Beginning on page 1, line 10, strike all of section 101 and  
2 insert the following:

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4 "Sec. 101. RCW 82.08.0273 and 2014 c 140 s 17 are each amended  
5 to read as follows:

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

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

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

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

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

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

25 (2) Notwithstanding anything to the contrary in this chapter, if  
26 parts or other tangible personal property are installed by the  
27 seller during the course of repairing, cleaning, altering, or

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

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

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

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

32 (4)(a) For purchases made in any of the four largest counties  
33 west of the Cascades that do not share a border with a state that  
34 does not impose a retail sales tax, any person claiming exemption

1 from retail sales tax under the provisions of this section must pay  
2 the state and local sales tax to the seller at the time of purchase  
3 and then request a remittance from the department in accordance with  
4 this subsection and subsection (5) of this section. A request for  
5 remittance must include proof of the person's status as a  
6 nonresident at the time of the purchase for which the remittance was  
7 requested. The request for the remittance must also include any  
8 additional information and documentation as required by the  
9 department, which may include a description of the item purchases  
10 for which a remittance is requested, the sales price of the item,  
11 the amount of sales tax paid on the item, the date of purchase, the  
12 name of the seller and the physical address where the sale took  
13 place, and copies of sales receipts showing the qualified purchase.

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

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

24 (c) The remittance request, including proof of nonresident  
25 status and any other documentation and information required by the  
26 department, must be provided in a form and manner as prescribed by  
27 the department. Only one remittance request may be made by a person  
28 per calendar year.

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

32 (e) The department will examine the applicant's proof of  
33 nonresident status and any other documentation and information as

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1 required in the application to determine whether the applicant is  
2 entitled to a remittance under this section.

3 (5)(a) For purchases in any county except the four largest  
4 counties west of the Cascades that do not share a border with a  
5 state that does not impose a retail sales tax, a person claiming the  
6 exemption from retail sales under the provisions of this section  
7 must provide proof of his or her nonresident status as provided in  
8 this section at the time of purchase.

9 (b) Nothing in this section requires the vendor to make tax  
10 exempt retail sales to nonresidents. A vendor may choose to make  
11 sales to nonresidents, collect the sales tax, and remit the amount  
12 of sales tax collected to the state as otherwise provided by law. If  
13 the vendor chooses to make a sale to a nonresident without  
14 collecting the sales tax, the vendor must examine the purchaser's  
15 proof of nonresidence, determine whether the proof is acceptable  
16 under subsection (3)(b) of this section, and maintain records for  
17 each nontaxable sale which must show the type of proof accepted,  
18 including any identification numbers where appropriate, and the  
19 expiration date, if any.

20 ~~((b))~~ (c) In lieu of using the method provided in ~~((a))~~ (b)  
21 of this subsection to document an exempt sale to a nonresident, a  
22 seller may accept from the purchaser a properly completed uniform  
23 exemption certificate approved by the streamlined sales and use tax  
24 agreement governing board or any other exemption certificate as may  
25 be authorized by the department and properly completed by the  
26 purchaser. A nonresident purchaser who uses an exemption certificate  
27 authorized in this subsection ~~((4)(b))~~ (5)(c) must include the  
28 purchaser's driver's license number or other state-issued  
29 identification number and the state of issuance.

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

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1       (~~(+5)~~) (6)(a) Any person making fraudulent statements, which  
2 includes the offer of fraudulent identification or fraudulently  
3 procured identification to a vendor, in order to purchase goods  
4 without paying retail sales tax is guilty of perjury under chapter  
5 9A.72 RCW.

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

12       (~~(+6)~~) (7)(a) Any vendor who makes sales without collecting the  
13 tax and who fails to maintain records of sales to nonresidents as  
14 provided in this section is personally liable for the amount of tax  
15 due.

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

24       (~~(+7)~~) (8) The exemption in this section does not apply to  
25 sales of marijuana, useable marijuana, or marijuana-infused products."

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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.

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