

SENATE BILL REPORT

SHB 1107

As Passed Senate - Amended, April 6, 2021

Title: An act relating to expanding certain nonresident vessel permit provisions.

Brief Description: Expanding certain nonresident vessel permit provisions.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Chapman, Barkis, Corry, Tharinger and Graham).

Brief History: Passed House: 3/1/21, 97-0.

Committee Activity: Transportation: 3/15/21, 3/16/21 [w/oRec-WM].
Ways & Means: 3/23/21, 3/27/21 [DPA, w/oRec].

Floor Activity: Passed Senate - Amended: 4/6/21, 48-1.

Brief Summary of Amended Bill

- Expands the authority to obtain nonresident vessel permits, primarily regarding nonresident vessels owned by an entity other than a person.
- Imposes a use tax on nonresident vessel permits for a charter with a captain or crew based on the fair rental value of the bare vessel being chartered.
- Increases the maximum length of permitted vessels.
- Allows for nonresident charter vessels.
- Removes the maximum number of individual permits allowed.
- Extends the authority to obtain permits though 2029.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That it be referred without recommendation and be referred to Committee on Ways & Means.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Hobbs, Chair; Saldaña, Vice Chair; King, Ranking Member; Cleveland, Das, Fortunato, Hawkins, Lovelett, Nguyen, Nobles, Padden, Randall, Sheldon, Wilson, C. and Wilson, J.

Staff: Kelly Simpson (786-7403)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Braun, Carlyle, Conway, Darneille, Dhingra, Gildon, Hunt, Keiser, Liias, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senator Hasegawa.

Staff: Alia Kennedy (786-7405)

Background: Nonresident Vessel Permits. The owner of a vessel who is a nonresident individual or other entity is required to obtain a nonresident vessel permit to operate the vessel in Washington under certain conditions for no more than six months in a 12-month period. If the owner wants to operate the vessel in Washington for more than 60 days, the owner must apply for a permit on or before the 61st day of the visit to remain in the state for an additional 60 days. The owner may renew the permit once for an additional 60 days. When the permit expires, the vessel owner must either register the vessel in Washington or remove the vessel from Washington waters. If the owner registers the vessel in Washington, the owner must pay use tax in addition to the registration and titling fees, if retail sales tax has not already been paid, and watercraft excise tax may be due. The process to apply for a nonresident vessel permit depends on whether the owner is a person or an entity other than a person.

Nonresident Vessel Owned by a Person. If a person seeks a permit, that person must apply to the Department of Licensing (DOL) via the DOL, a county auditor, or a subagent. The person must show an unexpired boat registration, identification, and the date the vessel first entered Washington waters. The person must pay a \$25 fee.

Nonresident Vessel Owned by an Entity. If the owner is an entity other than a person, the entity must be approved first by the Department of Revenue (DOR); the vessel for which the entity is seeking a permit must be no less than 30 feet in length and no greater than 164 feet; and the fee that must be paid to DOL is from \$750 to \$6,150, depending on the length of the vessel. If the entity appears eligible, DOR must provide written approval to the entity and provide a copy of the approval to DOL. DOL may not issue more than two permits to

an entity within any 36-month period. DOR may not provide approval for the permits after November 30, 2025. The authority to obtain the permit expires in 2026.

If DOR finds the entity ineligible for the permit after the permit has been issued, DOR must assess state and local use tax on the value of the vessel, as well as any watercraft excise tax due.

Summary of Amended Bill: Nonresident vessel permits are available to vessels from outside the country, as long as they have a valid cruising license issued by United States Customs.

Nonresident vessel permits for both persons and entities other than a person are expanded to include chartering a vessel with a captain or crew, as long as individual charters are for at least three or more consecutive days. The permit also applies for the purpose of necessary transit to or from the start or end point of the charter. Transit time is not counted toward the duration of the charter.

In addition to all applicable fees, vessel owners who obtain a nonresident vessel permit for a charter with a captain or crew are subject to a use tax based on the fair rental value of the bare vessel being chartered. The use tax expires January 1, 2029.

The maximum length of the vessel that may be permitted for an entity other than a person is increased from 164 feet to 200 feet. The restriction limiting the number of individual permits that may be received is removed. The authority to obtain the permit is extended to the end of 2029.

Nonresident entities must provide clear, cogent, and convincing evidence that they are eligible to receive a permit prior to approval from DOR.

DOR must submit a report to the Governor and fiscal committees of the Legislature by January 1, 2026, with information about vessels that have applied to DOR for authorization to be granted a permit, including:

- the number of nonresident vessel permits DOR authorized for approval in each calendar year since September 1, 2015, and the length of such vessels;
- the number of nonresident vessel permits DOR authorized for approval in each calendar year for vessels chartered with a captain or crew;
- information about the state or country where certain vessels are primarily operated;
- the amount of use tax collected on vessels;
- a discussion of any evidence of fraud or attempted fraud related to nonresident vessel permits or permit applications; and
- any other information DOR determines may be relevant.

The due date for the Joint Legislative Audit and Review Committee evaluation is changed from December 31, 2030, to December 31, 2028.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute House Bill (Transportation): PRO: This bill would help bring tax revenues and high-paying maritime jobs to economically distressed rural areas, through increased economic activity. Local marinas would benefit greatly from this bill. The bill would help the future of the maritime industry and tourism in Washington State. DOR has the authority under section 3 of the bill to adequately prevent fraud by ensuring only nonresidents obtain the permits.

CON: DOR is concerned about potential fraud and tax evasion if this bill were enacted. It could potentially allow in-state residents to establish vessel ownership through a corporate shell in other countries such as the Cayman Islands.

Persons Testifying (Transportation): PRO: Colleen McAleer, Clallam County Economic Development Council; Dan Worra, Port of Anacortes; Peter Schrappen, Northwest Marine Trade Association; James Weaver, Port of Bremerton.

CON: Michael Bailey, Department of Revenue.

Persons Signed In To Testify But Not Testifying (Transportation): No one.

Staff Summary of Public Testimony on Substitute House Bill (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This bill helps create economic growth in the maritime industry. This last year has been devastating for the tourism industry. Supporting the state's maritime industry creates jobs and helps smaller ports and towns become competitive travel destinations. The existing permitting structure means that rural maritime communities are missing out on valuable tourism. Tourists will stop elsewhere without this policy in place. Allowing vessels to vacation in this state increases revenue. Supporting the maritime industry is a big piece to recovery of our state's economy. The goal is to develop a robust maritime industry that can support marine tourism.

CON: DOR is neutral on the bill as it believes it has the potential for fraud.

Persons Testifying (Ways & Means): PRO: James Weaver, Port of Bremerton; Colleen McAleer, Clallam County Economic Development Council; Peter Schrappen, Northwest Marine Trade Association; Mauri Shuler; Dan Worra, Port of Anacortes.

OTHER: Michael Bailey, Department of Revenue.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.