

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5997

Chapter 423, Laws of 2019

66th Legislature
2019 Regular Session

TAX REVENUE--NONRESIDENT SALES AND USE TAX EXEMPTION AND FAILURE TO
REGISTER VEHICLES, AIRCRAFT, AND VESSELS

EFFECTIVE DATE: July 1, 2019

Passed by the Senate April 25, 2019
Yeas 25 Nays 22

KAREN KEISER

President of the Senate

Passed by the House April 27, 2019
Yeas 55 Nays 43

FRANK CHOPP

Speaker of the House of Representatives

Approved May 21, 2019 10:54 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5997** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 21, 2019

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5997

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senate Ways & Means (originally sponsored by Senators Rolfes and Hunt)

1 AN ACT Relating to increasing revenues by revising tax
2 preferences and enforcement processes; amending RCW 82.08.0273,
3 47.68.255, and 88.02.400; reenacting and amending RCW 46.16A.030;
4 adding a new section to chapter 10.05 RCW; creating a new section;
5 prescribing penalties; providing an effective date; and declaring an
6 emergency.

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

8 **PART I**
9 **Narrowing the Nonresident Sales and Use Tax Exemption**

10 **Sec. 101.** RCW 82.08.0273 and 2014 c 140 s 17 are each amended to
11 read as follows:

12 (1) (~~The tax levied by RCW 82.08.020 does not apply to~~) Subject
13 to the conditions and limitations in this section, an exemption from
14 the tax levied by RCW 82.08.020 in the form of a remittance from the
15 department is provided for sales to nonresidents of this state of
16 tangible personal property, digital goods, and digital codes(~~7~~
17 ~~when~~). The exemption only applies if:

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

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

4 (i) Such state, possession, territory, or province does not
5 impose, or have imposed on its behalf, a generally applicable retail
6 sales tax, use tax, value added tax, gross receipts tax on retailing
7 activities, or similar generally applicable tax, of three percent or
8 more; or

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

12 (c) The purchaser agrees, when requested, to grant the department
13 of revenue access to such records and other forms of verification at
14 (~~his or her~~) the purchaser's place of residence to assure that such
15 purchases are not first used substantially in the state of
16 Washington.

17 (2) Notwithstanding anything to the contrary in this chapter, if
18 parts or other tangible personal property are installed by the seller
19 during the course of repairing, cleaning, altering, or improving
20 motor vehicles, trailers, or campers and the seller makes a separate
21 charge for the tangible personal property, the tax levied by RCW
22 82.08.020 does not apply to the separately stated charge to a
23 nonresident purchaser for the tangible personal property but only if
24 the seller certifies in writing to the purchaser that the separately
25 stated charge does not exceed either the seller's current publicly
26 stated retail price for the tangible personal property or, if no
27 publicly stated retail price is available, the seller's cost for the
28 tangible personal property. However, the exemption provided by this
29 section does not apply if tangible personal property is installed by
30 the seller during the course of repairing, cleaning, altering, or
31 improving motor vehicles, trailers, or campers and the seller makes a
32 single nonitemized charge for providing the tangible personal
33 property and service. All of the (~~requirements~~) provisions in
34 subsections (1) and (3) through (~~(6)~~) (7) of this section apply to
35 this subsection.

36 (3)(a) Any person claiming exemption from retail sales tax under
37 the provisions of this section must (~~display proof of his or her~~
38 ~~current nonresident status as provided in this section~~) pay the
39 state and local sales tax to the seller at the time of purchase and
40 then request a remittance from the department in accordance with this

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

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

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

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

35 ~~(b) In lieu of using the method provided in (a) of this~~
36 ~~subsection to document an exempt sale to a nonresident, a seller may~~
37 ~~accept from the purchaser a properly completed uniform exemption~~
38 ~~certificate approved by the streamlined sales and use tax agreement~~
39 ~~governing board or any other exemption certificate as may be~~
40 ~~authorized by the department and properly completed by the purchaser.~~

1 ~~A nonresident purchaser who uses an exemption certificate authorized~~
2 ~~in this subsection (4) (b) must include the purchaser's driver's~~
3 ~~license number or other state-issued identification number and the~~
4 ~~state of issuance.~~

5 ~~(c) In lieu of using the methods provided in (a) and (b) of this~~
6 ~~subsection to document an exempt sale to a nonresident, a seller may~~
7 ~~capture the relevant data elements as allowed under the streamlined~~
8 ~~sales and use tax agreement.~~

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

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

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

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

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

34 ~~(ii) Beginning January 1, 2021, a person may request a remittance~~
35 ~~from the department during any calendar year for state sales taxes~~
36 ~~paid by the person on qualified retail purchases made in Washington~~
37 ~~during the immediately preceding calendar year only. No application~~
38 ~~may be made with respect to purchases made before the immediately~~
39 ~~preceding calendar year.~~

1 (b) The remittance request, including proof of nonresident status
2 and any other documentation and information required by the
3 department, must be provided in a form and manner as prescribed by
4 the department. Only one remittance request may be made by a person
5 per calendar year.

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

9 (d) The department will examine the applicant's proof of
10 nonresident status and any other documentation and information as
11 required in the application to determine whether the applicant is
12 entitled to a remittance under this section.

13 (5) (a) Any person making fraudulent statements to the department,
14 which includes the offer of fraudulent or fraudulently procured
15 identification or fraudulent sales receipts, in order to receive a
16 remittance of retail sales tax is guilty of perjury under chapter
17 9A.72 RCW and is ineligible to receive any further remittances from
18 the department under this section.

19 (b) Any person obtaining a remittance of retail sales tax from
20 the department by providing proof of identification or sales receipts
21 not the person's own, or counterfeit identification or sales receipts
22 is (i) liable for repayment of the remittance, including interest as
23 provided in chapter 82.32 RCW from the date the remittance was
24 transmitted to the person until repaid in full, (ii) liable for a
25 civil penalty equal to the greater of one hundred dollars or the
26 amount of the remittance obtained in violation of this subsection
27 (5) (b), and (iii) ineligible to receive any further remittances from
28 the department under this section.

29 (c) Any person assisting another person in obtaining a remittance
30 of retail sales tax in violation of (b) of this subsection is jointly
31 and severally liable for amounts due under (b) of this subsection and
32 is also ineligible to receive any further remittances from the
33 department under this section.

34 (6) A person who receives a refund of sales tax from the seller
35 for any reason with respect to a purchase made in this state is not
36 entitled to a remittance for the tax paid on the purchase. A person
37 who receives both a remittance under this section and a refund of
38 sales tax from the seller with respect to the same purchase must
39 immediately repay the remittance to the department. Interest as
40 provided in chapter 82.32 RCW applies to amounts due under this

1 section from the date that the department made the remittance until
2 the amount due under this subsection is paid to the department. A
3 person who receives a remittance with respect to a purchase for which
4 the person had, at the time the person submitted the application for
5 a remittance, already received a refund of sales tax from the seller
6 is also liable for a civil penalty equal to the greater of one
7 hundred dollars or the amount of the remittance obtained in violation
8 of this subsection and is ineligible to receive any further
9 remittances from the department under this section.

10 (7) The exemption provided by this section is only for the state
11 portion of the sales tax. For purposes of this section, the state
12 portion of the sales tax is not reduced by any local sales tax that
13 is deducted or credited against the state sales tax as provided by
14 law.

15 (8) The exemption in this section does not apply to sales of
16 marijuana, useable marijuana, or marijuana-infused products.

17 **PART II**

18 **Creating a Deferred Finding Program for Nonpayment of License Fees** 19 **and Taxes for Vehicle, Vessel, and Aircraft Registration**

20 NEW SECTION. Sec. 201. (1) The legislature finds that counties
21 that border other states and Canada experience a significant problem
22 of residents of Washington state who evade taxes and fees by failing
23 to register their vehicles, aircraft, and vessels in Washington
24 state. According to a 2007 Washington State University study, the
25 department of revenue lost eighty million dollars over the previous
26 five years to persons avoiding taxes and fees in this manner. It was
27 also estimated in the study that twenty thousand vehicles were
28 illegally registered in Oregon to residents of Clark county,
29 Washington. The problem has undoubtedly grown worse in the decade
30 since the study was completed resulting in hundreds of millions of
31 dollars in lost revenue to state and local coffers as these new
32 residents fail to pay their fair share for public services. Moreover,
33 a public safety risk is created when inaccurate information is
34 provided to law enforcement or insurance companies in the event of an
35 accident or infraction.

36 (2) Current statutes contain monetarily significant penalties
37 that are appropriate given the scope of the harm. It is the intent of
38 the legislature that law enforcement and prosecutors proceed against

1 violators to the fullest extent of the law. In order to give them
2 more tools and ensure compliance with the law, it is the intent of
3 the legislature to set up a deferred finding program consistent with
4 other programs in the state that allows defendants to obtain
5 dismissal of charges if they take certain remedial steps. It is the
6 intent of the legislature that the punishment for those who do not
7 comply with the deferred finding program remain in force and be fully
8 implemented.

9 NEW SECTION. **Sec. 202.** A new section is added to chapter 10.05
10 RCW to read as follows:

11 Any county may set up a deferred finding program for persons who
12 receive a citation for failing to register a vehicle under RCW
13 46.16A.030, an aircraft under RCW 47.68.255, or a vessel under RCW
14 88.02.400. Upon receipt of proof satisfactory to the prosecuting
15 attorney's office with jurisdiction over the offense, which shall
16 include payment of a five hundred dollar fine, that the person cited
17 has a valid Washington state driver's license, and that the person
18 cited has registered the vehicle, aircraft, or vessel that was the
19 subject of the citation in Washington state, the citation must be
20 dismissed. If receipt of proof does not occur within ninety days of
21 the citation, the prosecuting attorney must seek the full penalty
22 available for the citation. Fines generated pursuant to this program
23 shall be used by the county for the purpose of enforcement and
24 prosecution of registration requirements under RCW 46.16A.030,
25 47.68.255, or 88.02.400. This section applies to persons who have
26 never received a previous citation or participated in a program of
27 deferred finding for failing to register a vehicle under RCW
28 46.16A.030, an aircraft under RCW 47.68.255, or a vessel under RCW
29 88.02.400.

30 **Sec. 203.** RCW 46.16A.030 and 2011 c 171 s 43 and 2011 c 96 s 31
31 are each reenacted and amended to read as follows:

32 (1) Vehicles must be registered as required by this chapter and
33 must display license plates or decals assigned by the department.

34 (2) It is unlawful for a person to operate any vehicle on a
35 public highway of this state without having in full force and effect
36 a current and proper vehicle registration and displaying license
37 plates on the vehicle.

1 (3) Vehicle license plates or registration certificates, whether
2 original issues or duplicates, may not be issued or furnished by the
3 department until the applicant makes satisfactory application for a
4 certificate of title or presents satisfactory evidence that a
5 certificate of title covering the vehicle has been previously issued.

6 (4) Failure to make initial registration before operating a
7 vehicle on the public highways of this state is a traffic infraction.
8 A person committing this infraction must pay a fine of five hundred
9 twenty-nine dollars, which may not be suspended(~~(, deferred,)~~) or
10 reduced. This fine is in addition to any delinquent taxes and fees
11 that must be deposited and distributed in the same manner as if the
12 taxes and fees were properly paid in a timely fashion. The five
13 hundred twenty-nine dollar fine must be deposited into the vehicle
14 licensing fraud account created in the state treasury in RCW
15 46.68.250.

16 (5) Failure to renew an expired registration before operating a
17 vehicle on the public highways of this state is a traffic infraction.

18 (6) It is a gross misdemeanor for a resident, as identified in
19 RCW 46.16A.140, to register a vehicle in another state, evading the
20 payment of any tax or vehicle license fee imposed in connection with
21 registration. It is punishable, in lieu of the fine in subsection (4)
22 of this section, as follows:

23 (a) For a first offense:

24 (i) Up to three hundred sixty-four days in the county jail;

25 (ii) Payment of a fine of five hundred twenty-nine dollars plus
26 any applicable assessments, which may not be suspended(~~(, deferred,)~~)
27 or reduced. The fine of five hundred twenty-nine dollars must be
28 deposited into the vehicle licensing fraud account created in the
29 state treasury in RCW 46.68.250;

30 (iii) A fine of one thousand dollars to be deposited into the
31 vehicle licensing fraud account created in the state treasury in RCW
32 46.68.250, which may not be suspended(~~(, deferred,)~~) or reduced; and

33 (iv) The delinquent taxes and fees, which must be deposited and
34 distributed in the same manner as if the taxes and fees were properly
35 paid in a timely fashion, and which may not be suspended(~~(, deferred,)~~)
36 or reduced;

37 (b) For a second or subsequent offense:

38 (i) Up to three hundred sixty-four days in the county jail;

39 (ii) Payment of a fine of five hundred twenty-nine dollars plus
40 any applicable assessments, which may not be suspended(~~(, deferred,)~~)

1 or reduced. The fine of five hundred twenty-nine dollars must be
2 deposited into the vehicle licensing fraud account created in the
3 state treasury in RCW 46.68.250;

4 (iii) A fine of five thousand dollars to be deposited into the
5 vehicle licensing fraud account created in the state treasury in RCW
6 46.68.250, which may not be suspended(~~(, deferred,)~~) or reduced; and

7 (iv) The amount of delinquent taxes and fees, which must be
8 deposited and distributed in the same manner as if the taxes and fees
9 were properly paid in a timely fashion, and which may not be
10 suspended(~~(, deferred,)~~) or reduced.

11 (7) A vehicle with an expired registration of more than
12 forty-five days parked on a public street may be impounded by a
13 police officer under RCW 46.55.113(2).

14 **Sec. 204.** RCW 47.68.255 and 2010 c 161 s 1147 are each amended
15 to read as follows:

16 A person who is required to register an aircraft under this
17 chapter and who registers an aircraft in another state or foreign
18 country evading the Washington aircraft excise tax is guilty of a
19 gross misdemeanor. For a second or subsequent offense, the person
20 convicted is also subject to a fine equal to four times the amount of
21 avoided taxes and fees, no part of which may be suspended (~~(or~~
22 ~~deferred)~~). Excise taxes owed and fines assessed (~~(will)~~) must be
23 deposited in the manner provided under RCW 46.16A.030(6).

24 **Sec. 205.** RCW 88.02.400 and 2010 c 161 s 1007 are each amended
25 to read as follows:

26 (1) It is a gross misdemeanor punishable as provided under
27 chapter 9A.20 RCW for any person owning a vessel subject to taxation
28 under chapter 82.49 RCW to:

29 (a) Register a vessel in another state to avoid Washington state
30 vessel excise tax required under chapter 82.49 RCW; or

31 (b) Obtain a vessel dealer's license for the purpose of evading
32 excise tax on vessels under chapter 82.49 RCW.

33 (2) For a second or subsequent offense, the person convicted is
34 also subject to a fine equal to four times the amount of avoided
35 taxes and fees, which may not be suspended (~~(or deferred)~~).

36 (3) Excise taxes owed and fines assessed must be deposited in the
37 manner provided under RCW 46.16A.030(6).

1 **PART III**

2 **Miscellaneous Provisions**

3 NEW SECTION. **Sec. 301.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of
5 the state government and its existing public institutions, and takes
6 effect July 1, 2019.

Passed by the Senate April 25, 2019.

Passed by the House April 27, 2019.

Approved by the Governor May 21, 2019.

Filed in Office of Secretary of State May 21, 2019.

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