

## CHAPTER 96

[Substitute House Bill No. 1680]

NONRESIDENTS—SALES TAX EXEMPTION—REVISIONS REGARDING PROOF  
OF NONRESIDENT STATUS—PENALTIES

AN ACT Relating to the taxation of sales to nonresidents; amending RCW 82.08.0273; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 39, chapter 37, Laws of 1980 as amended by section 1, chapter 5, Laws of 1982 1st ex. sess. and RCW 82.08.0273 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales to nonresidents of this state of tangible personal property for use outside this state when the purchaser (~~has applied for and received from the department of revenue a permit certifying (1) that he~~) (a) is a bona fide resident of a state or possession or Province of Canada other than the state of Washington(~~(, (2) that)~~) and such state, possession, or Province of Canada does not impose a retail sales tax or use tax of three percent or more or, if imposing such a tax, permits Washington residents exemption from otherwise taxable sales by reason of their residence, and (~~((3) that he does)~~) (b) agrees, when requested, to grant the department of revenue access to such records and other forms of verification at his or her place of residence to assure that such purchases are not first used substantially in the state of Washington.

(2)(a) Any person claiming exemption from retail sales tax under the provisions of this section must display (~~(a nonresident permit)~~) proof of his or her current nonresident status as herein provided(~~(, and any vendor making a sale to a nonresident without collecting the tax must examine such permit, identify the purchaser as the person to whom the nonresident permit was issued, and maintain records which shall show the permit number attributable to each nontaxable sale:~~

Permits shall be personal and nontransferable, shall be renewable annually, and shall be issued by the department of revenue upon payment of a fee of five dollars. The department may in its discretion designate independent agents for the issuance of permits, according to such standards and qualifications as the department may prescribe. Such agents shall pay over and account to the department for all permit fees collected, after deducting as a collection fee the sum of one dollar for each permit issued).

(b) Acceptable proof of a nonresident person's status shall include two pieces of identification: (i) A valid driver's license from the jurisdiction in which the out-of-state residency is claimed or a valid identification card which has a photograph of the holder and is issued by the out-of-state jurisdiction and (ii) a credit card, checks, or other reliable identification.

Identification under (i) of 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.

(3) Nothing in this section requires the vendor to make tax exempt retail sales to nonresidents. A vendor 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 vendor chooses to make a sale to a nonresident without collecting the sales tax, the vendor shall, in good faith, 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 which shall show the type of proof accepted, including any identification numbers where appropriate, and the expiration date, if any.

(4)(a) Any person making fraudulent statements, which includes the offer of fraudulent identification or fraudulently procured identification to a vendor, in order to ~~((secure a permit))~~ purchase goods without paying retail sales tax shall be guilty of perjury. Any person making tax exempt purchases under this section by displaying ~~((a permit))~~ proof of identification not his or her own, or ~~((a))~~ counterfeit ~~((permit))~~ identification, with intent to violate the provisions of this section, shall be guilty of a misdemeanor and, in addition, ~~((may be subject to a penalty not to exceed the amount of))~~ shall be liable for the tax and subject to a penalty equal to the greater of one hundred dollars or the tax due on such purchases.

(b) Any vendor who makes sales without collecting the tax to a person who does not hold ~~((a))~~ valid ~~((permit))~~ identification establishing out-of-state residency, and any vendor who fails to maintain records of ~~((permit numbers))~~ sales to nonresidents as provided in this section, shall be personally liable for the amount of tax due. Any vendor who makes sales without collecting the retail sales tax under this section and who has actual knowledge that the purchaser's proof of identification establishing out-of-state residency is fraudulent shall be guilty of a misdemeanor and, in addition, shall be liable for the tax and subject to a penalty equal to the greater of one thousand dollars or the tax due on such sales. In addition, both the purchaser and the vendor shall be liable for any penalties and interest assessable under chapter 82.32 RCW.

NEW SECTION. Sec. 2. This act shall take effect July 1, 1989.

Passed the House February 15, 1988.

Passed the Senate March 5, 1988.

Approved by the Governor March 16, 1988.

Filed in Office of Secretary of State March 16, 1988.