

SENATE BILL 536

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2004 Regular Session
4r1379
CF 4r0928

By: **Senator Astle**

Introduced and read first time: February 6, 2004

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Vessel Excise Tax - Exemption - Vessel Commissioning**

3 FOR the purpose of altering certain exemptions from the vessel excise tax;
4 authorizing the Department of Natural Resources to adopt certain regulations;
5 defining certain terms and altering certain definitions under the State vessel
6 excise tax; making a technical change; and generally relating to the vessel excise
7 tax established under the State Boat Act.

8 BY repealing and reenacting, with amendments,
9 Article - Natural Resources
10 Section 8-704(a) and 8-716
11 Annotated Code of Maryland
12 (2000 Replacement Volume and 2003 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Natural Resources**

16 8-704.

17 (a) The Department may adopt regulations necessary to carry out the
18 provisions of this subtitle, INCLUDING THE DETERMINATION OF THE STATE OF
19 PRINCIPAL USE FOR THE PURPOSE OF ASSESSING THE VESSEL EXCISE TAX.

20 8-716.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) "COMMISSIONING PROCEDURES" MEANS THE INITIAL OUTFITTING
23 OF A VESSEL IMMEDIATELY AFTER THE PURCHASE OF THE VESSEL, INCLUDING THE
24 INSTALLATION OF RIGGING, ELECTRONIC GEAR, PROPULSION MACHINERY,
25 GENERATORS, OR OTHER RELATED GEAR.

26 [(2)] (3) "Fair market value" means:

1 (i) As to the sale of any vessel by a licensed dealer or a dealer
2 licensed by another state or a foreign country, the total purchase price, as certified by
3 the dealer on a form acceptable to the Department, less the value of any vessel that is
4 traded in as part of the consideration for the sale, which trade-in value may not
5 exceed the value for the trade-in vessel as shown in a national publication of used
6 vessel values adopted by the Department;

7 (ii) As to any other vessel that is sold by any person other than a
8 licensed dealer, the greater of:

9 1. The total purchase price; or

10 2. \$100; or

11 (iii) As to any other vessel that is sold by any person other than a
12 licensed dealer, either:

13 1. The total purchase price, if verified by means of a certified
14 bill of sale approved by the Department, in which the actual price paid for the vessel
15 is stated; or

16 2. The valuation shown in a national publication of used
17 vessel values adopted by the Department if a certified bill of sale does not accompany
18 the application.

19 [(3)] (4) "Used principally in this State" means that this State is the
20 state of principal use as defined in § [8-701(o)] 8-701(P) of this subtitle, except that in
21 calculating where the vessel is used or used most, a vessel is not considered to be in
22 use for any period of time that it is held for [maintenance or repair] MAINTENANCE,
23 REPAIR, OR COMMISSIONING for 30 consecutive days or more.

24 [(4)] (5) "Sea trial" means a period of on-the-water operations, not to
25 exceed 1 day, that is conducted:

26 (i) For the purpose of testing the effectiveness of specific [repairs
27 or maintenance] MAINTENANCE, REPAIRS, OR COMMISSIONING procedures; or

28 (ii) For a vessel held for resale by a licensed dealer under this
29 section.

30 [(5)] (6) "Total purchase price" means the price of a vessel, including
31 simultaneously purchased motors, spars, sails, and accessories exclusive of trailer,
32 agreed on by the buyer and seller, with no deduction for trade-in or other
33 nonmonetary consideration.

34 [(6)] (7) (i) "Vessel" has the meaning indicated in § 8-701(r) of this
35 subtitle.

36 (ii) "Vessel" does not include a ship's lifeboat, a vessel propelled
37 only by sail, or vessel manually propelled.

1 (b) The Department shall charge a \$2 fee to issue a certificate of title, a
2 transfer of title, or a duplicate or corrected certificate of title.

3 (c) (1) Except as provided in § 8-715(d) of this subtitle and in subsections (e)
4 and (f) of this section, and in addition to the fees prescribed in subsection (b) of this
5 section, an excise tax is levied at the rate of 5% of the fair market value of the vessel
6 on:

7 (i) The issuance of every original certificate of title required for a
8 vessel under this subtitle;

9 (ii) The issuance of every subsequent certificate of title for the sale,
10 resale, or transfer of the vessel;

11 (iii) The sale within the State of every other vessel; and

12 (iv) The possession within the State of a vessel purchased outside
13 the State to be used principally in the State.

14 (2) Notwithstanding the provisions of this subsection, no tax is paid on
15 issuance of any certificate of title if the owner of the vessel for which a certificate of
16 title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland
17 sales and use tax on the vessel as required by law at the time of acquisition. The
18 Department may require the applicant for titling to submit satisfactory proof that the
19 applicant owned the vessel prior to June 1, 1965.

20 (d) If the tax is not collected by a licensed dealer pursuant to § 8-716.1 of this
21 subtitle, the owner, whether or not applying for the issuance of a title, shall remit the
22 tax directly to the Department within 30 days of the date of sale or, in the case of a
23 vessel purchased outside the State, within 30 days of the date upon which the
24 possession within the State became subject to the tax.

25 (e) A person is not required to pay the tax provided for in subsection (c) of this
26 section resulting from:

27 (1) A transfer between members of the immediate family as determined
28 by Department regulations;

29 (2) A transfer to a licensed dealer of a vessel for resale, RENTAL, OR
30 LEASING purposes;

31 (3) The holding of a vessel that is titled or numbered in another state or
32 is federally documented, provided:

33 (i) The vessel is held for resale or listed for resale by a licensed
34 dealer; and

35 (ii) The vessel owner signs an affidavit that there will be no use of
36 the vessel on the waters of the State other than for a sea trial;

1 (4) Purchase of a vessel by the State or any political subdivision;

2 (5) Purchase of a vessel by an eleemosynary organization which the
3 Secretary has approved;

4 (6) The purchase within the State of a vessel if the owner paid or
5 incurred a liability for the Maryland sales and use tax on the vessel prior to July 1,
6 1986;

7 (7) The possession within the State of a vessel which was purchased
8 outside the State if the owner paid or incurred a liability for the Maryland use tax on
9 the vessel prior to July 1, 1986;

10 (8) The possession of a vessel [that was purchased or acquired prior to
11 coming into the State by a nonresident of] IN the State [and] THAT is not used OR TO
12 BE USED principally on the waters of the State and [if] FOR WHICH the issuance of a
13 title is not sought OR REQUIRED UNDER THIS SUBTITLE, except that:

14 (i) A vessel is not deemed used on the waters of the State if the
15 vessel is used for 90 days or less of a calendar year; and

16 (ii) If a vessel is used for more days than 90 days in a calendar year,
17 the period of 90 days shall be counted in the determination of principal use under this
18 subtitle;

19 (9) The possession within the State of a vessel if the current owner,
20 before July 1, 1986:

21 (i) 1. Was licensed by the Department to catch, for commercial
22 purposes, finfish, eels, crabs, conch, terrapin, soft-shell clams, hard-shell clams,
23 oysters, or any other fish; and

24 2. Used the vessel for any of the commercial fishing purposes
25 described in item 1 of this item; or

26 (ii) 1. Was licensed as a commercial fishing guide under the
27 provisions of § 4-210 of this article; and

28 2. Used the vessel as a charter boat with a license as
29 provided in § 4-745(d)(2) of this article; or

30 (10) The possession within the State of a vessel that:

31 (i) Is owned by a nonprofit organization that:

32 1. Is qualified as tax exempt under § 501(c)(4) of the Internal
33 Revenue Code; and

34 2. Is engaged in providing a program to render its best
35 efforts to contain, clean up, and otherwise mitigate spills of oil or other substances
36 occurring in United States coastal and tidal waters; and

- 1 (ii) Is used for the purposes of the organization.
- 2 (f) (1) This subsection applies to possession within the State of a vessel if:
- 3 (i) The vessel was formerly:
- 4 1. Titled or numbered in another jurisdiction; or
- 5 2. Federally documented and principally used in another
- 6 jurisdiction;
- 7 (ii) The present owner has paid a sales or excise tax on the vessel to
- 8 the other jurisdiction; and
- 9 (iii) The jurisdiction to which the tax was paid would allow an
- 10 exemption or credit under its sales or excise tax for excise tax on a vessel formerly
- 11 paid to the State.
- 12 (2) For a vessel described in paragraph (1) of this subsection:
- 13 (i) If the rate of the tax paid to the other jurisdiction is not less
- 14 than the rate under subsection (c) of this section, the tax imposed under subsection (c)
- 15 of this section does not apply to possession of the vessel within the State;
- 16 (ii) If the rate of the tax paid to the other jurisdiction is less than
- 17 the rate under subsection (c) of this section, the rate of the tax imposed under
- 18 subsection (c) of this section on possession of the vessel within the State is the
- 19 difference between the tax rate paid to the other jurisdiction and the rate under
- 20 subsection (c) of this section; and
- 21 (iii) The Department may require the taxpayer to submit
- 22 satisfactory proof of the payment of a tax to another jurisdiction and the rate of tax
- 23 paid and, where applicable, evidence of principal use of a federally documented vessel
- 24 in another jurisdiction.
- 25 (3) This subsection is applicable to any vessel incurring a liability for
- 26 Maryland boat excise tax on or after July 1, 1986.
- 27 (g) (1) A person may claim a credit against any tax imposed under
- 28 subsection (c) of this section on a vessel for sales tax the person has paid to the State,
- 29 to another state, or to the District of Columbia on materials and equipment that are
- 30 incorporated into the vessel, if:
- 31 (i) 1. The person is licensed by the Department to catch, for
- 32 commercial purposes, finfish, eels, crabs, conch, terrapin, soft-shell clams, hard-shell
- 33 clams, oysters, or any other fish; and
- 34 2. The vessel is to be used for any of the commercial fishing
- 35 purposes described in item 1 of this item; or

1 (ii) 1. Was licensed as a commercial fishing guide under the
2 provisions of § 4-210 of this article; and

3 2. Used the vessel as a charter boat with a license as
4 provided in § 4-745(d)(2) of this article.

5 (2) The Department may require a person claiming the credit allowed
6 under this subsection to submit satisfactory proof of payment of the sales tax and that
7 the materials or equipment have been incorporated into the vessel.

8 (h) Notwithstanding the provisions of § 8-723 of this subtitle, the Department
9 shall deposit \$225,000 of funds from the excise tax levied under this section with the
10 Comptroller of the Treasury in the General Fund, and the balance in excess of
11 \$225,000 with the Comptroller of the Treasury in the Waterway Improvement Fund
12 to be expended only for the purposes specified.

13 (i) If the Department determines there has been an overpayment of the tax on
14 a vessel, or an overpayment has resulted for any other reason, the Department may
15 submit the overpayment and supporting data whether accompanied by a written
16 claim or not to the State Comptroller for refund to the appropriate person.

17 (j) Notwithstanding any other provision of this section, the Department shall
18 deposit, in accordance with the provisions of § 8-723 of this subtitle, up to \$350,000 of
19 funds from the excise tax levied under this section and as appropriated in the State
20 budget, to be used for enforcement of the State Boat Act, including collection of the
21 excise tax levied under this section.

22 (k) (1) For purposes of subsection (a)(3) of this section, a vessel is deemed to
23 be held for [maintenance or repair] MAINTENANCE, REPAIR, OR COMMISSIONING if:

24 (i) The [maintenance or repair] MAINTENANCE, REPAIR, OR
25 COMMISSIONING work is provided in exchange for compensation;

26 (ii) The [maintenance or repair] MAINTENANCE, REPAIR, OR
27 COMMISSIONING work is performed pursuant to a schedule preestablished with one
28 or more marine contractors; and

29 (iii) The total cost of the [maintenance or repair] MAINTENANCE,
30 REPAIR, OR COMMISSIONING work is at least two times the reasonable current
31 market cost of docking or storing the vessel.

32 (2) Time spent conducting sea trials shall be included when calculating
33 the period of time a vessel is held for [maintenance or repair] MAINTENANCE,
34 REPAIR, OR COMMISSIONING under subsection (a)(3) of this section.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 July 1, 2004.