

BY: Budget and Taxation Committee

AMENDMENTS TO SENATE BILL NO. 316
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “tax;” insert “providing that certain active duty military personnel are exempt from the vessel excise tax for a certain period of time;”; and in line 9, strike “8-716(c)” and substitute “8-716”.

AMENDMENT NO. 2

On page 1, after line 15, insert:

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

(2) “Commissioning procedures” means the initial outfitting of a vessel immediately after the purchase of the vessel, including the installation of rigging, electronic gear, propulsion machinery, generators, or other related gear.

(3) “Fair market value” means:

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

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

1. The total purchase price; or

(Over)

2. \$100; or
(iii) As to any other vessel that is sold by any person other than a licensed dealer, either:

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

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

(4) “Used principally in this State” means that this State is the state of principal use as defined in § 8-701(p) of this subtitle, except that in calculating where the vessel is used or used most, a vessel is not considered to be in use for any period of time that it is held for maintenance, repair, or commissioning for 30 consecutive days or more.

(5) “Sea trial” means a period of on-the-water operations, not to exceed 1 day, that is conducted:

(i) For the purpose of testing the effectiveness of specific maintenance, repairs, or commissioning procedures; or

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

(6) “Total purchase price” means the price of a vessel, including simultaneously purchased motors, spars, sails, and accessories exclusive of trailer, agreed on by the buyer and seller, with no deduction for trade-in or other nonmonetary consideration.

(7) (i) “Vessel” has the meaning indicated in § 8-701(r) of this subtitle.

(ii) “Vessel” does not include a ship’s lifeboat, a vessel propelled only by sail, or vessel manually propelled.

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

On page 2, after line 8, insert:

“(d) If the tax is not collected by a licensed dealer pursuant to § 8-716.1 of this subtitle, the owner, whether or not applying for the issuance of a title, shall remit the tax directly to the

Department within 30 days of the date of sale or, in the case of a vessel purchased outside the State, within 30 days of the date upon which the possession within the State became subject to the tax.

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

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

(2) A transfer to a licensed dealer of a vessel for resale, rental, or leasing purposes;

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

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

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

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

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

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

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

(Over)

(8) The possession of a vessel in the State that is not used or to be used principally on the waters of the State and for which the issuance of a title is not sought or required under this subtitle, except that:

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

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

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

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

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

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

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

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

(i) Is owned by a nonprofit organization that:

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

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

coastal and tidal waters; and

(ii) Is used for the purposes of the organization; OR

(11) THE POSSESSION WITHIN THE STATE OF A VESSEL FOR A PERIOD OF NOT MORE THAN ONE YEAR IF THE CURRENT OWNER IS A MEMBER OF THE ARMED SERVICES AND IS SERVING ON ACTIVE DUTY IN THIS STATE.

(f) (1) This subsection applies to possession within the State of a vessel if:

(i) The vessel was formerly:

1. Titled or numbered in another jurisdiction; or

2. Federally documented and principally used in another jurisdiction;

(ii) The present owner has paid a sales or excise tax on the vessel to the other jurisdiction; and

(iii) The jurisdiction to which the tax was paid would allow an exemption or credit under its sales or excise tax for excise tax on a vessel formerly paid to the State.

(2) For a vessel described in paragraph (1) of this subsection:

(i) If the rate of the tax paid to the other jurisdiction is not less than the rate under subsection (c) of this section, the tax imposed under subsection (c) of this section does not apply to possession of the vessel within the State;

(ii) If the rate of the tax paid to the other jurisdiction is less than the rate under subsection (c) of this section, the rate of the tax imposed under subsection (c) of this section on possession of the vessel within the State is the difference between the tax rate paid to the other jurisdiction and the rate under subsection (c) of this section; and

(Over)

(iii) The Department may require the taxpayer to submit satisfactory proof of the payment of a tax to another jurisdiction and the rate of tax paid and, where applicable, evidence of principal use of a federally documented vessel in another jurisdiction.

(3) This subsection is applicable to any vessel incurring a liability for Maryland boat excise tax on or after July 1, 1986.

(g) (1) A person may claim a credit against any tax imposed under subsection (c) of this section on a vessel for sales tax the person has paid to the State, to another state, or to the District of Columbia on materials and equipment that are incorporated into the vessel, if:

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

2. The vessel is to be used for any of the commercial fishing purposes described in item 1 of this item; or

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

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

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

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

(i) (1) For purposes of subsection (a)(4) of this section, a vessel is deemed to be held

for maintenance, repair, or commissioning if:

(i) The maintenance, repair, or commissioning work is provided in exchange for compensation;

(ii) The maintenance, repair, or commissioning work is performed pursuant to a schedule preestablished with one or more marine contractors; and

(iii) The total cost of the maintenance, repair, or commissioning work is at least two times the reasonable current market cost of docking or storing the vessel.

(2) Time spent conducting sea trials shall be included when calculating the period of time a vessel is held for maintenance, repair, or commissioning under subsection (a)(4) of this section.”.