

UNOFFICIAL COPY OF SENATE BILL 316
EMERGENCY BILL

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6lr0081

By: **Chairman, Budget and Taxation Committee (By Request -
Departmental - Natural Resources)**

Introduced and read first time: January 26, 2006

Rules suspended

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 28, 2006

CHAPTER _____

1 AN ACT concerning

2 **Department of Natural Resources - Vessel Excise Tax - Principal Use**

3 FOR the purpose of providing that the vessel excise tax is levied on a vessel used
4 principally in this State; repealing a certain requirement for imposition of the
5 vessel excise tax; providing that certain active duty military personnel are
6 exempt from the vessel excise tax for a certain period of time; making this Act
7 an emergency measure; and generally relating to the assessment of the vessel
8 excise tax.

9 BY repealing and reenacting, with amendments,
10 Article - Natural Resources
11 Section ~~8-716(e)~~ 8-716
12 Annotated Code of Maryland
13 (2000 Replacement Volume and 2005 Supplement)

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

16 **Article - Natural Resources**

17 8-716.

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

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

4 (3) "Fair market value" means:

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

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

13 1. The total purchase price; or

14 2. \$100; or

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

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

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

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

28 (5) "Sea trial" means a period of on-the-water operations, not to exceed
29 1 day, that is conducted:

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

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

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

- 1 (7) (i) "Vessel" has the meaning indicated in § 8-701(r) of this subtitle.
- 2 (ii) "Vessel" does not include a ship's lifeboat, a vessel propelled
3 only by sail, or vessel manually propelled.
- 4 (b) The Department shall charge a \$2 fee to issue a certificate of title, a
5 transfer of title, or a duplicate or corrected certificate of title.
- 6 (c) (1) Except as provided in § 8-715(d) of this subtitle and in subsections (e)
7 and (f) of this section, and in addition to the fees prescribed in subsection (b) of this
8 section, an excise tax is levied at the rate of 5% of the fair market value of the vessel
9 on:
- 10 (i) The issuance of every original certificate of title required for a
11 vessel under this subtitle;
- 12 (ii) The issuance of every subsequent certificate of title for the sale,
13 resale, or transfer of the vessel;
- 14 (iii) The sale within the State of every other vessel; and
- 15 (iv) The possession within the State of a vessel [purchased outside
16 the State] USED OR to be used principally in the State.
- 17 (2) Notwithstanding the provisions of this subsection, no tax is paid on
18 issuance of any certificate of title if the owner of the vessel for which a certificate of
19 title is sought was the owner of the vessel prior to June 1, 1965, or paid Maryland
20 sales and use tax on the vessel as required by law at the time of acquisition. The
21 Department may require the applicant for titling to submit satisfactory proof that the
22 applicant owned the vessel prior to June 1, 1965.
- 23 (d) If the tax is not collected by a licensed dealer pursuant to § 8-716.1 of this
24 subtitle, the owner, whether or not applying for the issuance of a title, shall remit the
25 tax directly to the Department within 30 days of the date of sale or, in the case of a
26 vessel purchased outside the State, within 30 days of the date upon which the
27 possession within the State became subject to the tax.
- 28 (e) A person is not required to pay the tax provided for in subsection (c) of this
29 section resulting from:
- 30 (1) A transfer between members of the immediate family as determined
31 by Department regulations;
- 32 (2) A transfer to a licensed dealer of a vessel for resale, rental, or leasing
33 purposes;
- 34 (3) The holding of a vessel that is titled or numbered in another state or
35 is federally documented, provided;

- 1 (i) The vessel is held for resale or listed for resale by a licensed
2 dealer; and
- 3 (ii) The vessel owner signs an affidavit that there will be no use of
4 the vessel on the waters of the State other than for a sea trial;
- 5 (4) Purchase of a vessel by the State or any political subdivision;
- 6 (5) Purchase of a vessel by an eleemosynary organization which the
7 Secretary has approved;
- 8 (6) The purchase within the State of a vessel if the owner paid or
9 incurred a liability for the Maryland sales and use tax on the vessel prior to July 1,
10 1986;
- 11 (7) The possession within the State of a vessel which was purchased
12 outside the State if the owner paid or incurred a liability for the Maryland use tax on
13 the vessel prior to July 1, 1986;
- 14 (8) The possession of a vessel in the State that is not used or to be used
15 principally on the waters of the State and for which the issuance of a title is not
16 sought or required under this subtitle, except that:
- 17 (i) A vessel is not deemed used on the waters of the State if the
18 vessel is used for 90 days or less of a calendar year; and
- 19 (ii) If a vessel is used for more days than 90 days in a calendar year,
20 the period of 90 days shall be counted in the determination of principal use under this
21 subtitle;
- 22 (9) The possession within the State of a vessel if the current owner,
23 before July 1, 1986:
- 24 (i) 1. Was licensed by the Department to catch, for commercial
25 purposes, finfish, eels, crabs, conch, terrapin, soft-shell clams, hard-shell clams,
26 oysters, or any other fish; and
- 27 2. Used the vessel for any of the commercial fishing purposes
28 described in item 1 of this item; or
- 29 (ii) 1. Was licensed as a commercial fishing guide under the
30 provisions of § 4-210 of this article; and
- 31 2. Used the vessel as a charter boat with a license as
32 provided in § 4-745(d)(2) of this article; [or]
- 33 (10) The possession within the State of a vessel that:
- 34 (i) Is owned by a nonprofit organization that:

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

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

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

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

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

11 (i) The vessel was formerly:

12 1. Titled or numbered in another jurisdiction; or

13 2. Federally documented and principally used in another
 14 jurisdiction;

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

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

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

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

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

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

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

35 (g) (1) A person may claim a credit against any tax imposed under
 36 subsection (c) of this section on a vessel for sales tax the person has paid to the State.

1 to another state, or to the District of Columbia on materials and equipment that are
2 incorporated into the vessel, if:

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

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

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

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

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

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

19 (i) (1) For purposes of subsection (a)(4) of this section, a vessel is deemed to
20 be held for maintenance, repair, or commissioning if:

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

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

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

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

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an
32 emergency measure, is necessary for the immediate preservation of the public health
33 or safety, has been passed by a yea and nay vote supported by three-fifths of all the
34 members elected to each of the two Houses of the General Assembly, and shall take
35 effect from the date it is enacted.

