

Regular Session, 2009

SENATE BILL NO. 239

BY SENATORS DUPRE AND MORRISH AND REPRESENTATIVES DOVE AND ST. GERMAIN

TAX EXEMPTIONS. Includes possession of a vessel license to qualify for certain exemptions from the state sales, use, lease, and services taxes, includes owners of vessels who are not operators of the vessels, and provides for certain commercial fishermen licenses. (7/1/09)

1 AN ACT

2 To amend and reenact R.S. 47:305.20(A), the introductory paragraph of (C), (1) and (2) and
3 R.S. 56:303(E)(1) and 304(A), relative to tax exemptions; to provide for certain
4 exclusions and exemptions from state sales, use, lease, and services taxes; to provide
5 for a rebate of such taxes; to include possession of a vessel license by a commercial
6 fisherman as qualifying for such tax exemptions; to provide for issuance of a vessel
7 license to certain commercial fishermen; to provide for certification of certain
8 commercial fishermen licenses; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:305.20(A), the introductory paragraph of (C), (1) and (2) and R.S.
11 56:303(E)(1) and 304(A) are hereby amended and reenacted to read as follows:

12 §305.20. Exclusions and exemptions; Louisiana commercial fishermen

13 A. A Louisiana resident, domiciled in Louisiana, who possesses such valid
14 Louisiana commercial fishing license(s) as may be necessary for commercial fishing
15 ventures, **including but not limited to a vessel license issued pursuant to R.S.**
16 **56:304**, and who is an owner=~~operator~~ of a vessel operated primarily for the conduct
17 of commercial fishing as a trade or business and which the Louisiana Department of

1 Wildlife and Fisheries determines will be predominantly and principally used for
 2 commercial fishing ventures and whose catch is for human consumption shall be
 3 exempt from state sales, use, lease, and services taxes as set forth in Subsection C
 4 of this Section. Possession of a commercial **fishing** license issued by the Department
 5 of Wildlife and Fisheries shall not be used as the sole determination that a vessel will
 6 be used predominantly and principally for commercial fishing ventures. This
 7 exemption shall also apply to facilities which process the catch from owner-operators
 8 of commercial fishing vessels for which this exemption is granted when such vessels
 9 are owned by, or leased or contracted exclusively to, the seafood processing facility.

10 * * *

11 C. An owner-operator who has obtained a certificate of exemption shall, with
 12 respect to the vessel identified in the certificate for the harvesting or production of
 13 fish and other aquatic life, including shrimp, oysters, and clams, and certain seafood
 14 processing facilities described in Subsection A, be exempt from the taxes described
 15 in Subsection A, as follows:

16 (1) Taxes applied to the materials and supplies necessary for repairs to the
 17 vessel or facility if they are purchased by the owner-operator and later become a
 18 component part of the vessel or facility.

19 (2) Taxes applied to materials and supplies purchased by the owner-operator
 20 of the vessel or facility where such materials and supplies are loaded upon the vessel
 21 or delivered to the facility for use or consumption in the maintenance and operation
 22 thereof for commercial fishing and processing ventures. For purposes of this
 23 Paragraph, it shall make no difference whether the vessel is engaged in interstate,
 24 foreign, or intrastate commerce.

25 * * *

26 Section 2. R.S. 56:303(E)(1) and 304(A) are hereby amended and reenacted to read
 27 as follows:

28 §303. Commercial fisherman's license; fees; place of purchase; information

29 * * *

1 E.(1) Beginning with commercial fishermen's licenses issued ~~for the calendar~~
 2 ~~year starting on January 1, 2004~~ **on and after July 1, 2009**, the department or the
 3 special certificate agent shall endorse a commercial fisherman's license as "certified"
 4 upon presentation to the department or the special certificate agent of ~~a certificate of~~
 5 ~~exemption issued pursuant to the provisions of R.S. 47:305.20(B)~~ or a notarized
 6 statement from the tax preparer certifying that based upon his most recent federal
 7 income tax return the individual earns at least fifty percent of his income from
 8 commercial fishing activities. The department shall maintain a list of those
 9 commercial fishermen who possess a commercial fisherman's license having a
 10 "certified" endorsement.

11 * * *

12 §304. Vessel license; fees; place of purchase

13 A. A vessel ~~must~~ **shall** be licensed whenever engaged in commercial fishing
 14 in or whenever possessing fish for sale in the saltwater areas of the state defined in
 15 R.S. 56:322. **A vessel may be licensed whenever engaged in commercial fishing**
 16 **in or whenever possessing fish for sale in the freshwater areas of the state**
 17 **defined in R.S. 56:322.**

18 * * *

19 Section 3. This Act shall become effective on July 1, 2009.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by J. W. Wiley.

DIGEST

Present law provides an exemption from certain state sales, use, lease, and service taxes for a Louisiana resident, domiciled in Louisiana, who possesses certain valid Louisiana commercial fishing licenses for commercial fishing ventures and who is an owner-operator of a vessel operated primarily for the conduct of commercial fishing as a trade or business and which the DW&F determines will be predominantly and principally used for commercial fishing ventures and whose catch is for human consumption. Further provides that the exemption will also apply to certain processing facilities which process the catch from certain owner-operators of commercial fishing vessels which are owned by, or leased or contracted exclusively to the processing facility.

Proposed law retains present law but includes the possession of a vessel license for eligibility for the exemption above but allows the exemption to a taxpayer who is the "owner" of the vessel, rather than requiring him to be the "owner-operator."

Present law provides that beginning with commercial fishermen's licenses issued for the calendar year starting on January 1, 2004, the DW&F or special certificate agent will endorse a commercial fisherman's license as "certified" upon presentation of a certificate of exemption issued pursuant to the provisions of R.S. 47:305.20(B) or a notarized statement from the tax preparer certifying that based upon his most recent federal income tax return the individual earns at least 50% of his income from commercial fishing activities. Further provides that the DW&F will maintain a list of those commercial fishermen who possess a commercial fisherman's license having a "certified" endorsement.

Proposed law deletes the requirement for presenting a certificate of exemption in order to "certify" the commercial fisherman's license.

Present law provides that a vessel must be licensed whenever engaged in commercial fishing in or whenever possessing fish for sale in the saltwater areas of the state.

Proposed law retains present law and provides that a vessel may be licensed whenever engaged in commercial fishing in or whenever possessing fish for sale in the freshwater areas of the state.

Further provides that it is unlawful for the owner of a commercial fishing vessel licensed under such present law to permit any person not holding a valid, original commercial fisherman's license to operate the licensed vessel while the vessel is engaged in commercial fishing or while the vessel is possessing fish for sale in the waters of the state.

Effective July 1, 2009.

(Amends R.S. 47:305.20(A), (C) (intro para), (1) and (2), R.S. 56:303(E)(1) and 304(A))