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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 419  
133<sup>rd</sup> General Assembly

## Bill Analysis

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**Version:** As Reported by House Ways & Means

**Primary Sponsor:** Rep. Swearingen

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### SUMMARY

- Exempts from state and local use tax the following watercraft that are seasonally stored or repaired in Ohio:
  - Watercraft purchased outside the state;
  - Watercraft purchased in Ohio but titled, registered, or used outside the state, even if the jurisdiction of titling or registration does not tax the sale, use, or ownership of the watercraft;
  - Watercraft purchased by a nonresident who paid a portion of Ohio sales tax at the time of purchase.
- Specifies that the exemption does not apply to watercraft storage, repair, or installation services.

### DETAILED ANALYSIS

#### Watercraft use tax exemption

The bill exempts certain watercraft from state and local use taxes. In general, use tax is imposed on items purchased outside Ohio and used or stored in the state if no Ohio sales tax was paid. The use tax is assessed at the same state and local (i.e., county and transit authority) rates as the corresponding sales tax and applies to most purchases of tangible personal property, including watercraft.

Under the bill, a watercraft purchased outside the state or, in some cases, in the state is specifically exempted from use tax if all of the following apply:

- The watercraft is in Ohio only for storage or maintenance (e.g., cleaning, repairing, or installing equipment, fixtures, or technology);
- The watercraft is not used or stored in Ohio from May through September of any year;

- The watercraft does not have to be registered in Ohio (e.g., the watercraft is registered in another state and used in Ohio for fewer than 60 days);
- The owner paid one of the following:
  - Sales or use taxes in another jurisdiction (i.e., another state, a political subdivision of another state, or the District of Columbia) on the watercraft, or would have paid that tax if that jurisdiction taxed the sale, use, or ownership of the watercraft;
  - Any Ohio sales taxes imposed on the watercraft at the time of purchase, as authorized under and subject to the conditions of continuing law and calculated on the basis of a sales or use tax credit offered by another state.<sup>1</sup> Continuing law permits a nonresident who purchases a watercraft in Ohio and who satisfies certain criteria, including registering or titling the watercraft in another jurisdiction that levies tax on the sale, use, or ownership of the watercraft at a lower rate, to pay sales tax in Ohio at that lower rate, provided that other state offers a credit for sales taxes charged by Ohio. Under current law, if that owner brings the watercraft back to this state for storage or maintenance, then the watercraft becomes subject to full Ohio's use tax rate above that already-remitted lower rate.<sup>2</sup>

Under continuing law, a watercraft on which sales or use tax has been paid to another jurisdiction is taxable in Ohio only to the extent that Ohio's use tax rate exceeds the rate paid to the other jurisdiction or, if the watercraft was purchased by a nonresident who paid Ohio sales tax at the lower rate levied in the jurisdiction of titling or registration, the lower rate paid to Ohio, as described above.<sup>3</sup> Tangible personal property "halted temporarily" in Ohio is subject to use tax, unless the use is specifically exempted by law.<sup>4</sup> There is a limited exemption for a nonresident's transient use of property in the state.<sup>5</sup>

The bill specifies that the use tax exemption does not apply to watercraft storage, repair, or installation services themselves, which are subject to sales and use tax under continuing law.<sup>6</sup>

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<sup>1</sup> R.C. 5741.02(C)(11).

<sup>2</sup> R.C. 1547.53(B), 1547.531(B), and 5739.027, not in the bill.

<sup>3</sup> R.C. 5741.02(C)(5).

<sup>4</sup> *Beatrice Foods Co. v. Lindley*, 70 Ohio St.2d 29, 33 (1982) (stating that use tax levied on tangible personal property brought permanently to or halted temporarily in the state does not violate the Commerce Clause of Article I, Section 8 of the U.S. Constitution).

<sup>5</sup> R.C. 5741.02(C)(4).

<sup>6</sup> R.C. 5741.02(C)(11)(c); R.C. 5739.01(B)(3)(a) and (b), (B)(7), and (B)(9), not in the bill.

## Application

The use tax exemption applies to all such watercraft beginning on the first day of the first month that begins on or after the bill's effective date.<sup>7</sup>

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## HISTORY

Action	Date
Introduced	11-19-19
Reported, H. Ways & Means	11-19-20

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<sup>7</sup> Section 3.