
SUBSTITUTE SENATE BILL 6513

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Parks, Fish & Wildlife (originally sponsored by Senators Oke, Jacobsen, Swecker, Carlson, Brown, Fraser, Doumit, Johnson, Kline, Keiser, Haugen, Winsley and Spanel)

READ FIRST TIME 02/05/04.

1 AN ACT Relating to recreational boater education; amending RCW
2 79A.60.010 and 79A.25.080; adding new sections to chapter 79A.60 RCW;
3 and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 79A.60.010 and 2003 c 39 s 45 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Accredited course" means a mandatory course of instruction on
10 boating safety education that has been accredited by the commission.

11 (2) "Boat wastes" includes, but is not limited to, sewage, garbage,
12 marine debris, plastics, contaminated bilge water, cleaning solvents,
13 paint scrapings, or discarded petroleum products associated with the
14 use of vessels.

15 ((+2)) (3) "Boater" means any person on a vessel on waters of the
16 state of Washington.

17 ((+3)) (4) "Boater education card" means a card issued to a person
18 who has successfully completed a boater education test and has paid the

1 registration fee for a serial number record to be maintained in the
2 commission data base.

3 (5) "Carrying passengers for hire" means carrying passengers in a
4 vessel on waters of the state for valuable consideration, whether given
5 directly or indirectly or received by the owner, agent, operator, or
6 other person having an interest in the vessel. This shall not include
7 trips where expenses for food, transportation, or incidentals are
8 shared by participants on an even basis. Anyone receiving compensation
9 for skills or money for amortization of equipment and carrying
10 passengers shall be considered to be carrying passengers for hire on
11 waters of the state.

12 ~~((4))~~ (6) "Certificate of accomplishment" means a certificate
13 issued by a boating educator as the precursor to the boater education
14 card.

15 (7) "Commission" means the state parks and recreation commission.

16 ~~((5))~~ (8) "Darkness" means that period between sunset and
17 sunrise.

18 ~~((6))~~ (9) "Environmentally sensitive area" means a restricted
19 body of water where discharge of untreated sewage from boats is
20 especially detrimental because of limited flushing, shallow water,
21 commercial or recreational shellfish, swimming areas, diversity of
22 species, the absence of other pollution sources, or other
23 characteristics.

24 ~~((7))~~ (10) "Guide" means any individual, including but not
25 limited to subcontractors and independent contractors, engaged for
26 compensation or other consideration by a whitewater river outfitter for
27 the purpose of operating vessels. A person licensed under RCW
28 77.65.480 or 77.65.440 and acting as a fishing guide is not considered
29 a guide for the purposes of this chapter.

30 ~~((8))~~ (11) "Marina" means a facility providing boat moorage
31 space, fuel, or commercial services. Commercial services include but
32 are not limited to overnight or live-aboard boating accommodations.

33 ~~((9))~~ (12) "Motor driven boats and vessels" means all boats and
34 vessels which are self propelled.

35 ~~((10))~~ (13) "Motor vessel safety checklist" means a printed list
36 of the safety requirements for a vessel with a motor installed or
37 attached to the vessel being sold or rented and meeting minimum

1 requirements adopted by the commission in accordance with section 2 of
2 this act.

3 (14) "Muffler" or "muffler system" means a sound suppression device
4 or system, including an underwater exhaust system, designed and
5 installed to abate the sound of exhaust gases emitted from an internal
6 combustion engine and that prevents excessive or unusual noise.

7 ~~((11))~~ (15) "Operate" means to steer, direct, or otherwise have
8 physical control of a vessel that is underway.

9 ~~((12))~~ (16) "Operator" means an individual who steers, directs,
10 or otherwise has physical control of a vessel that is underway or
11 exercises actual authority to control the person at the helm.

12 ~~((13))~~ (17) "Observer" means the individual riding in a vessel
13 who is responsible for observing a water skier at all times.

14 ~~((14))~~ (18) "Owner" means a person who has a lawful right to
15 possession of a vessel by purchase, exchange, gift, lease, inheritance,
16 or legal action whether or not the vessel is subject to a security
17 interest.

18 ~~((15))~~ (19) "Person" means any individual, sole proprietorship,
19 partnership, corporation, nonprofit corporation or organization,
20 limited liability company, firm, association, or other legal entity
21 located within or outside this state.

22 ~~((16))~~ (20) "Personal flotation device" means a buoyancy device,
23 life preserver, buoyant vest, ring buoy, or buoy cushion that is
24 designed to float a person in the water and that is approved by the
25 commission.

26 ~~((17))~~ (21) "Personal watercraft" means a vessel of less than
27 sixteen feet that uses a motor powering a water jet pump, as its
28 primary source of motive power and that is designed to be operated by
29 a person sitting, standing, or kneeling on, or being towed behind the
30 vessel, rather than in the conventional manner of sitting or standing
31 inside the vessel.

32 ~~((18))~~ (22) "Polluted area" means a body of water used by boaters
33 that is contaminated by boat wastes at unacceptable levels, based on
34 applicable water quality and shellfish standards.

35 ~~((19))~~ (23) "Public entities" means all elected or appointed
36 bodies, including tribal governments, responsible for collecting and
37 spending public funds.

1 ~~((+20))~~ (24) "Reckless" or "recklessly" means acting carelessly
2 and heedlessly in a willful and wanton disregard of the rights, safety,
3 or property of another.

4 ~~((+21))~~ (25) "Rental motor vessel" means a motor vessel that is
5 legally owned by a corporation that is registered as a rental and
6 leasing agency for recreational motor vessels, and has a signed
7 agreement of lease or rental between themselves and the operator of
8 their rental vessel.

9 (26) "Sewage pumpout or dump unit" means:

10 (a) A receiving chamber or tank designed to receive vessel sewage
11 from a "porta-potty" or a portable container; and

12 (b) A stationary or portable mechanical device on land, a dock,
13 pier, float, barge, vessel, or other location convenient to boaters,
14 designed to remove sewage waste from holding tanks on vessels.

15 ~~((+22))~~ (27) "Underway" means that a vessel is not at anchor, or
16 made fast to the shore, or aground.

17 ~~((+23))~~ (28) "Vessel" includes every description of watercraft on
18 the water, other than a seaplane, used or capable of being used as a
19 means of transportation on the water. However, it does not include
20 inner tubes, air mattresses, sailboards, and small rafts or flotation
21 devices or toys customarily used by swimmers.

22 ~~((+24))~~ (29) "Water skiing" means the physical act of being towed
23 behind a vessel on, but not limited to, any skis, aquaplane, kneeboard,
24 tube, or any other similar device.

25 ~~((+25))~~ (30) "Waters of the state" means any waters within the
26 territorial limits of Washington state.

27 ~~((+26))~~ (31) "Whitewater river outfitter" means any person who is
28 advertising to carry or carries passengers for hire on any whitewater
29 river of the state, but does not include any person whose only service
30 on a given trip is providing instruction in canoeing or kayaking
31 skills.

32 ~~((+27))~~ (32) "Whitewater rivers of the state" means those rivers
33 and streams, or parts thereof, within the boundaries of the state as
34 listed in RCW 79A.60.470 or as designated by the commission under RCW
35 79A.60.495.

36 NEW SECTION. **Sec. 2.** A new section is added to chapter 79A.60 RCW
37 to read as follows:

1 (1) The commission must establish and implement by rule a program
2 to provide required boating safety education. The boating education
3 program must include training on preventing the spread of aquatic
4 invasive species. The program must be phased in so that all boaters
5 not exempted under section 3(2) of this act are required to obtain a
6 boater education card by January 1, 2014. To obtain a boater education
7 card, a boater must provide a certificate of accomplishment issued by
8 a boating educator for taking and passing an accredited boating safety
9 course, or pass an equivalency exam, or provide proof of completion of
10 a course that meets the standard adopted by the commission.

11 (2) As part of the boating safety education program, the commission
12 must:

13 (a) Establish a minimum standard of boating safety education
14 accomplishment. The standard must be consistent with the applicable
15 standard established by the national association of state boating law
16 administrators;

17 (b) Adopt minimum standards for boating safety course of
18 instruction and examination that ensures compliance with the national
19 association of state boating law administrators minimum standards;

20 (c) Accredite boating safety education courses operated by
21 volunteers, commercial, or nonprofit organizations, with special
22 consideration given to courses given by the United States coast guard
23 auxiliary and the United States power squadrons;

24 (d) Develop an equivalency examination that may be taken as an
25 alternative to the boating safety education course;

26 (e) Establish a fee of ten dollars for the boater education card to
27 fund all commission activities related to the boating safety education
28 program created by this act, after the initial costs of developing the
29 program. Any surplus funds resulting from the fees received must be
30 distributed by grants to local marine law enforcement programs approved
31 by the commission as provided in RCW 88.02.040;

32 (f) Establish a fee for the replacement of the boater education
33 card that covers the cost of replacement;

34 (g) Consider and evaluate public agency and commercial
35 opportunities to assist in program administration with the intent to
36 keep administrative costs to a minimum; and

37 (h) Provide a report to the legislature by January 1, 2005, on its
38 progress of implementation of the mandatory education program.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 79A.60 RCW
2 to read as follows:

3 (1) A person may not operate motor driven boats and vessels under
4 mechanical power of ten horsepower or more unless the person:

5 (a) Is at least sixteen years of age; and

6 (b) Has in his or her possession a boater education card or a
7 certificate of accomplishment; or

8 (c) Is accompanied by and is under the direct supervision of a
9 person sixteen years of age or older who is in possession of a boater
10 education card or certificate of accomplishment, or who is exempt from
11 carrying a boater education card.

12 (2) The following persons are exempt from the requirement to carry
13 a boater education card:

14 (a) A person at least sixteen years old who rents or charters a
15 motor driven boat or vessel with an engine ten horsepower or greater
16 who completes a commission-approved dockside motor vessel safety
17 checklist before operating the motor driven boat or vessel;

18 (b) The operator of a vessel engaged in a lawful commercial fishery
19 operation as licensed by the department of fish and wildlife under
20 Title 77 RCW;

21 (c) A person who possesses a valid marine operator license issued
22 by the United States coast guard;

23 (d) A person who is legally engaged in the operation of a vessel
24 that is exempt from vessel registration requirements under chapter
25 88.02 RCW and applicable rules and is used for purposes of law
26 enforcement or official government work;

27 (e) A person who is not a resident of Washington state and who does
28 not operate a motor driven boat or vessel greater than ten horsepower
29 in waters of the state for more than sixty consecutive days;

30 (f) A person who is not a resident of Washington state and who
31 holds a current out-of-state or out-of-country certificate or card that
32 is equivalent to the rules adopted by the commission;

33 (g) A person who has purchased the boat or vessel within the last
34 sixty days, and has a bill of sale in his or her possession to document
35 the date of purchase;

36 (h) A person who is involved in practicing for, or engaging in, a
37 local, state, or federal government agency permitted racing event where

1 a valid document has been issued by the appropriate agency for the
2 event, and is available for inspection on-site during the racing event;
3 and

4 (i) A person who is not yet required to have a boater education
5 card or certificate of accomplishment under the phased schedule
6 developed by the commission under section 2 of this act.

7 (3) Unless exempt from so doing, a boater must carry a boater
8 education card or a temporary certificate of accomplishment while
9 operating a vessel or boat and is required to present the boater
10 education card or temporary certificate of accomplishment to a law
11 enforcement officer upon request.

12 (4) Failure to possess a boater education card or certificate of
13 accomplishment if required by this section is an infraction under
14 chapter 7.84 RCW. The penalty may be reduced if the boater provides
15 proof to the court within sixty days that he or she has received a
16 certificate of accomplishment or boater education card.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 79A.60 RCW
18 to read as follows:

19 The boating safety education certification account is created in
20 the custody of the state treasurer. All receipts from fees collected
21 for the issuance of a boater safety education card must be deposited
22 into the account. Expenditures from the account may be used only for
23 the purposes of sections 2 and 3 of this act. Only the commission or
24 the commission's designee may authorize expenditures from the account.
25 The account is subject to allotment procedures under chapter 43.88 RCW,
26 but an appropriation is not required for expenditures.

27 **Sec. 5.** RCW 79A.25.080 and 2000 c 11 s 74 are each amended to read
28 as follows:

29 Moneys transferred to the recreation resource account from the
30 marine fuel tax refund account may be used when appropriated by the
31 legislature, as well as any federal or other funds now or hereafter
32 available, to pay the necessary administrative and coordinative costs
33 of the interagency committee for outdoor recreation established by RCW
34 79A.25.110. During the biennium ending June 30, 2005, the interagency
35 committee for outdoor recreation shall provide a grant of up to three
36 hundred fifty thousand dollars to the commission to develop the boating

1 safety education program described in this act. All moneys so
2 transferred, except those appropriated as aforesaid, shall be divided
3 into two equal shares and shall be used to benefit watercraft
4 recreation in this state as follows:

5 (1) One share as grants to state agencies for (a) acquisition of
6 title to, or any interests or rights in, marine recreation land, (b)
7 capital improvement and renovation of marine recreation land, including
8 periodic dredging in accordance with subsection (3) of this section, if
9 needed, to maintain or make the facility more useful, or (c) matching
10 funds in any case where federal or other funds are made available on a
11 matching basis for purposes described in (a) or (b) of this subsection;

12 (2) One share as grants to public bodies to help finance (a)
13 acquisition of title to, or any interests or rights in, marine
14 recreation land, or (b) capital improvement and renovation of marine
15 recreation land, including periodic dredging in accordance with
16 subsection (3) of this section, if needed, to maintain or make the
17 facility more useful. A public body is authorized to use a grant,
18 together with its own contribution, as matching funds in any case where
19 federal or other funds are made available for purposes described in (a)
20 or (b) of this subsection. The committee may prescribe further terms
21 and conditions for the making of grants in order to carry out the
22 purposes of this chapter.

23 (3) For the purposes of this section "periodic dredging" is limited
24 to dredging of materials that have been deposited in a channel due to
25 unforeseen events. This dredging should extend the expected usefulness
26 of the facility for at least five years.

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