
SUBSTITUTE HOUSE BILL 2899

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Walsh, Grant, Shabro, Morrell, Haler, Roach and McDonald)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to boating safety and education to prevent carbon
2 monoxide poisoning; amending RCW 79A.60.630, 79A.60.010, and
3 79A.60.610; adding a new section to chapter 79A.60 RCW; adding new
4 sections to chapter 88.02 RCW; creating new sections; prescribing
5 penalties; and providing an effective date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that:

8 (1) Carbon monoxide is a potentially deadly gas that can lead to
9 brain injury and death.

10 (2) Marine engines are not subject to the same federal and state-
11 mandated emission controls as automobiles and, therefore, could emit
12 dangerously high concentrations of carbon monoxide into the atmosphere,
13 increasing the chance of exposure to potentially lethal amounts of
14 carbon monoxide.

15 (3) Federal agencies have found that carbon monoxide can gather in
16 deadly concentrations behind ski boats and cabin cruisers.

17 (4) Dangerous levels of carbon monoxide can accumulate around
18 vessel swim decks and areas where occupants frequently sit or swim at

1 the stern of the boat because the exhaust ports for both propulsion
2 engines and generators are located nearby.

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

5 (1) It is unlawful for a person to operate a motor driven boat or
6 vessel, other than a personal watercraft, or have the engine of a
7 vessel run idle, when an individual is engaged in stern deck
8 recreation.

9 (2) A violation of this subsection is an infraction punishable by
10 a fine of up to one hundred dollars.

11 **Sec. 3.** RCW 79A.60.630 and 2005 c 392 s 3 are each amended to read
12 as follows:

13 (1) The commission shall establish and implement by rule a program
14 to provide required boating safety education. The boating safety
15 education program shall include training on preventing the spread of
16 aquatic invasive species. The program shall be phased in so that all
17 boaters not exempted under RCW 79A.60.640(3) are required to obtain a
18 boater education card by January 1, 2016. To obtain a boater education
19 card, a boater shall provide a certificate of accomplishment issued by
20 a boating educator for taking and passing an accredited boating safety
21 education course, or pass an equivalency exam, or provide proof of
22 completion of a course that meets the standard adopted by the
23 commission.

24 (2) As part of the boating safety education program, the commission
25 shall:

26 (a) Establish a program to be phased over eleven years starting
27 July 1, 2005, with full implementation by January 1, 2016. The period
28 July 1, 2005, through December 31, 2007, will be program development,
29 boater notification of the new requirements for mandatory education,
30 and processing cards to be issued to individuals having taken an
31 accredited course prior to January 1, 2008. The schedule for phase-in
32 of the mandatory education requirement by age group is as follows:
33 January 1, 2008 - All boat operators twenty years old and younger;
34 January 1, 2009 - All boat operators twenty-five years old and younger;
35 January 1, 2010 - All boat operators thirty years old and younger;
36 January 1, 2011 - All boat operators thirty-five years old and younger;

1 January 1, 2012 - All boat operators forty years old and younger;
2 January 1, 2013 - All boat operators fifty years old and younger;
3 January 1, 2014 - All boat operators sixty years old and younger;
4 January 1, 2015 - All boat operators seventy years old and younger;
5 January 1, 2016 - All boat operators;

6 (b) Establish a minimum standard of boating safety education
7 accomplishment. The standard must be consistent with the applicable
8 standard established by the national association of state boating law
9 administrators;

10 (c) Adopt minimum standards for boating safety education course of
11 instruction and examination that ensures compliance with the national
12 association of state boating law administrators minimum standards;

13 (d) Approve and provide accreditation to boating safety education
14 courses operated by volunteers, or commercial or nonprofit
15 organizations, including, but not limited to, courses given by the
16 United States coast guard auxiliary and the United States power
17 squadrons;

18 (e) Include information about the dangers of carbon monoxide
19 poisoning at the stern of a vessel and how to prevent such poisoning;

20 (f) Develop an equivalency examination that may be taken as an
21 alternative to the boating safety education course;

22 ~~((f))~~ (g) Establish a fee of ten dollars for the boater education
23 card to fund all commission activities related to the boating safety
24 education program created by chapter 392, Laws of 2005, including the
25 initial costs of developing the program. Any surplus funds resulting
26 from the fees received shall be distributed by the commission as grants
27 to local marine law enforcement programs approved by the commission as
28 provided in RCW 88.02.040;

29 ~~((g))~~ (h) Establish a fee for the replacement of the boater
30 education card that covers the cost of replacement;

31 ~~((h))~~ (i) Consider and evaluate public agency and commercial
32 opportunities to assist in program administration with the intent to
33 keep administrative costs to a minimum;

34 ~~((i))~~ (j) Approve and provide accreditation to boating safety
35 education courses offered online; and

36 ~~((j))~~ (k) Provide a report to the legislature by January 1, 2008,
37 on its progress of implementation of the mandatory education program.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 88.02 RCW
2 to read as follows:

3 (1) Any new or used motor driven boat or vessel, as that term is
4 defined in RCW 79A.60.010, other than a personal watercraft, sold
5 within this state must display a carbon monoxide warning sticker
6 developed by the department on the interior of the vessel.

7 (2) For vessels sold by a dealer, the dealer shall ensure that the
8 warning sticker has been affixed prior to completing a transaction.

9 (3) For a vessel sold by an individual, the department shall
10 include the sticker in the registration materials provided to the new
11 owner, and the department shall notify the new owner that the sticker
12 must be affixed as described in subsection (1) of this section.

13 (4) A warning sticker already developed by a vessel manufacturer
14 may satisfy the requirements of this section if it has been approved by
15 the department. The department shall approve a carbon monoxide warning
16 sticker that has been approved by the United States coast guard for
17 similar uses in other states.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 88.02 RCW
19 to read as follows:

20 The department shall include an informational brochure about the
21 dangers of carbon monoxide poisoning and vessels and the warning
22 stickers required by section 4 of this act as part of the registration
23 materials mailed by the department for two consecutive years for
24 registrations that are due or become due after the effective date of
25 this section, and thereafter upon recommendation by the director of the
26 department. The materials shall instruct the vessel owner to affix the
27 stickers as required by section 4 of this act.

28 **Sec. 6.** RCW 79A.60.010 and 2005 c 392 s 2 are each amended to read
29 as follows:

30 Unless the context clearly requires otherwise, the definitions in
31 this section apply throughout this chapter.

32 (1) "Accredited course" means a mandatory course of instruction on
33 boating safety education that has been approved by the commission.

34 (2) "Boat wastes" includes, but is not limited to, sewage, garbage,
35 marine debris, plastics, contaminated bilge water, cleaning solvents,

1 paint scrapings, or discarded petroleum products associated with the
2 use of vessels.

3 (3) "Boater" means any person on a vessel on waters of the state of
4 Washington.

5 (4) "Boater education card" means a card issued to a person who has
6 successfully completed a boating safety education test and has paid the
7 registration fee for a serial number record to be maintained in the
8 commission's data base.

9 (5) "Boating educator" means a person providing an accredited
10 course.

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

20 (7) "Certificate of accomplishment" means a form of certificate
21 approved by the commission and issued by a boating educator to a person
22 who has successfully completed an accredited course.

23 (8) "Commission" means the state parks and recreation commission.

24 (9) "Darkness" means that period between sunset and sunrise.

25 (10) "Environmentally sensitive area" means a restricted body of
26 water where discharge of untreated sewage from boats is especially
27 detrimental because of limited flushing, shallow water, commercial or
28 recreational shellfish, swimming areas, diversity of species, the
29 absence of other pollution sources, or other characteristics.

30 (11) "Guide" means any individual, including but not limited to
31 subcontractors and independent contractors, engaged for compensation or
32 other consideration by a whitewater river outfitter for the purpose of
33 operating vessels. A person licensed under RCW 77.65.480 or 77.65.440
34 and acting as a fishing guide is not considered a guide for the
35 purposes of this chapter.

36 (12) "Marina" means a facility providing boat moorage space, fuel,
37 or commercial services. Commercial services include but are not
38 limited to overnight or live-aboard boating accommodations.

1 (13) "Motor driven boats and vessels" means all boats and vessels
2 which are self propelled.

3 (14) "Motor vessel safety operating and equipment checklist" means
4 a printed list of the safety requirements for a vessel with a motor
5 installed or attached to the vessel being rented, chartered, or leased
6 and meeting minimum requirements adopted by the commission in
7 accordance with RCW 79A.60.630.

8 (15) "Muffler" or "muffler system" means a sound suppression device
9 or system, including an underwater exhaust system, designed and
10 installed to abate the sound of exhaust gases emitted from an internal
11 combustion engine and that prevents excessive or unusual noise.

12 (16) "Operate" means to steer, direct, or otherwise have physical
13 control of a vessel that is underway.

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

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

19 (19) "Owner" means a person who has a lawful right to possession of
20 a vessel by purchase, exchange, gift, lease, inheritance, or legal
21 action whether or not the vessel is subject to a security interest.

22 (20) "Person" means any individual, sole proprietorship,
23 partnership, corporation, nonprofit corporation or organization,
24 limited liability company, firm, association, or other legal entity
25 located within or outside this state.

26 (21) "Personal flotation device" means a buoyancy device, life
27 preserver, buoyant vest, ring buoy, or buoy cushion that is designed to
28 float a person in the water and that is approved by the commission.

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

34 (23) "Polluted area" means a body of water used by boaters that is
35 contaminated by boat wastes at unacceptable levels, based on applicable
36 water quality and shellfish standards.

37 (24) "Public entities" means all elected or appointed bodies,

1 including tribal governments, responsible for collecting and spending
2 public funds.

3 (25) "Reckless" or "recklessly" means acting carelessly and
4 heedlessly in a willful and wanton disregard of the rights, safety, or
5 property of another.

6 (26) "Rental motor vessel" means a motor vessel that is legally
7 owned by a person that is registered as a rental and leasing agency for
8 recreational motor vessels, and for which there is a written and signed
9 rental, charter, or lease agreement between the owner, or owner's
10 agent, of the vessel and the operator of the vessel.

11 (27) "Sewage pumpout or dump unit" means:

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

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

17 (28) "Stern deck recreation" means any aquatic recreation that
18 involves holding onto or otherwise being in direct contact with the
19 stern of a motor driven boat or vessel, other than a personal
20 watercraft, while the vessel is being operated at any speed or when the
21 vessel's engine is at idle. The term includes holding onto the swim
22 deck, swim platform, swim ladder, or any other portion of the exterior
23 or transom of the vessel and floating or swimming on one's stomach or
24 back in the wake directly behind a vessel. The term does not include
25 being dragged or pulled behind a vessel on the end of a length of rope,
26 and does not include activities required for docking, departing,
27 exiting, or entering the vessel, or for activities occurring when the
28 vessel is engaged in law enforcement or emergency rescue activities.

29 (29) "Underway" means that a vessel is not at anchor, or made fast
30 to the shore, or aground.

31 ((+29+)) (30) "Vessel" includes every description of watercraft on
32 the water, other than a seaplane, used or capable of being used as a
33 means of transportation on the water. However, it does not include
34 inner tubes, air mattresses, sailboards, and small rafts or flotation
35 devices or toys customarily used by swimmers.

36 ((+30+)) (31) "Water skiing" means the physical act of being towed
37 behind a vessel on, but not limited to, any skis, aquaplane, kneeboard,
38 tube, or any other similar device.

1 ~~((31))~~ (32) "Waters of the state" means any waters within the
2 territorial limits of Washington state.

3 ~~((32))~~ (33) "Whitewater river outfitter" means any person who is
4 advertising to carry or carries passengers for hire on any whitewater
5 river of the state, but does not include any person whose only service
6 on a given trip is providing instruction in canoeing or kayaking
7 skills.

8 ~~((33))~~ (34) "Whitewater rivers of the state" means those rivers
9 and streams, or parts thereof, within the boundaries of the state as
10 listed in RCW 79A.60.470 or as designated by the commission under RCW
11 79A.60.495.

12 **Sec. 7.** RCW 79A.60.610 and 1994 c 151 s 2 are each amended to read
13 as follows:

14 The commission shall undertake a statewide recreational boating
15 fire prevention education program concerning the safe use of marine
16 fuels and electrical systems (~~and the hazards of carbon monoxide~~).
17 The boating fire prevention education program shall provide for the
18 distribution of fire safety materials and decals warning of fire
19 hazards and for educational opportunities to educate boaters on the
20 safety practices needed to operate heaters, stoves, and other
21 appliances in Washington's unique aquatic environment. The commission
22 shall evaluate the boating public's voluntary participation in the
23 program and the program's impact on safe boating.

24 NEW SECTION. **Sec. 8.** This act may be known and cited as the Jenda
25 Jones and Denise Colbert safe boating act.

26 NEW SECTION. **Sec. 9.** Sections 4 and 5 of this act take effect
27 January 1, 2007.

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