

2 **SSB 6000 - H COMM AMD ADOPTED 03/02/94**

3 By Committee on Natural Resources & Parks

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** Unless the context clearly requires
8 otherwise, the definitions in this section apply throughout this
9 chapter.

10 (1) "Charges" means charges of the commission for moorage and
11 storage, and all other charges related to the vessel and owing to or
12 that become owing to the commission, including but not limited to costs
13 of securing, disposing, or removing vessels, damages to any commission
14 facility, and any costs of sale and related legal expenses for
15 implementing sections 2 and 3 of this act.

16 (2) "Commission" means the Washington state parks and recreation
17 commission.

18 (3) "Commission facility" means any property or facility owned,
19 leased, operated, managed, or otherwise controlled by the commission or
20 by a person pursuant to a contract with the commission.

21 (4) "Owner" means a person who has a lawful right to possession of
22 a vessel by purchase, exchange, gift, lease, inheritance, or legal
23 action whether or not the vessel is subject to a security interest, and
24 shall not include the holder of a bona fide security interest.

25 (5) "Person" means any natural person, firm, partnership,
26 corporation, association, organization, or any other entity.

27 (6)(a) "Registered owner" means any person that is either: (i)
28 Shown as the owner in a vessel certificate of documentation issued by
29 the secretary of the United States department of transportation under
30 46 U.S.C. Sec. 12103; or (ii) the registered owner or legal owner of a
31 vessel for which a certificate of title has been issued under chapter
32 88.02 RCW; or (iii) the owner of a vessel registered under the vessel
33 registration laws of another state under which laws the commission can
34 readily identify the ownership of vessels registered with that state.

35 (b) "Registered owner" also includes: (i) Any holder of a security
36 interest or lien recorded with the United States department of

1 transportation with respect to a vessel on which a certificate of
2 documentation has been issued; (ii) any holder of a security interest
3 identified in a certificate of title for a vessel registered under
4 chapter 88.02 RCW; or (iii) any holder of a security interest in a
5 vessel where the holder is identified in vessel registration
6 information of a state with vessel registration laws that fall within
7 (a)(iii) of this subsection and under which laws the commission can
8 readily determine the identity of the holder.

9 (c) "Registered owner" does not include any vessel owner or holder
10 of a lien or security interest in a vessel if the vessel does not have
11 visible information affixed to it (such as name and hailing port or
12 registration numbers) that will enable the commission to obtain
13 ownership information for the vessel without incurring unreasonable
14 expense.

15 (7) "Registered vessel" means a vessel having a registered owner.

16 (8) "Secured vessel" means any vessel that has been secured by the
17 commission that remains in the commission's possession and control.

18 (9) "Unauthorized vessel" means a vessel using a commission
19 facility of any type whose owner has not paid the required moorage fees
20 or has left the vessel beyond the posted time limits, or a vessel
21 otherwise present without permission of the commission.

22 (10) "Vessel" means every watercraft or part thereof constructed,
23 used, or capable of being used as a means of transportation on the
24 water. It includes any equipment or personal property on the vessel
25 that is used or capable of being used for the operation, navigation, or
26 maintenance of the vessel.

27 NEW SECTION. **Sec. 2.** (1) The commission may take reasonable
28 measures, including but not limited to the use of anchors, chains,
29 ropes, and locks, or removal from the water, to secure unauthorized
30 vessels located at or on a commission facility so that the unauthorized
31 vessels are in the possession and control of the commission. At least
32 ten days before securing any unauthorized registered vessel, the
33 commission shall send notification by registered mail to the last
34 registered owner or registered owners of the vessel at their last known
35 address or addresses.

36 (2) The commission may take reasonable measures, including but not
37 limited to the use of anchors, chains, ropes, locks, or removal from
38 the water, to secure any vessel if the vessel, in the opinion of the

1 commission, is a nuisance, is in danger of sinking or creating other
2 damage to a commission facility, or is otherwise a threat to the
3 health, safety, or welfare of the public or environment at a commission
4 facility. The costs of any such procedure shall be paid by the
5 vessel's owner.

6 (3) At the time of securing any vessel under subsection (1) or (2)
7 of this section, the commission shall attach to the vessel a readily
8 visible notice or, when practicable, shall post such notice in a
9 conspicuous location at the commission facility in the event the vessel
10 is removed from the premises. The notice shall be of a reasonable size
11 and shall contain the following information:

12 (a) The date and time the notice was attached or posted;

13 (b) A statement that the vessel has been secured by the commission
14 and that if the commission's charges, if any, are not paid and the
15 vessel is not removed by (the thirty-fifth consecutive day
16 following the date of attachment or posting of the notice), the vessel
17 will be considered abandoned and will be sold at public auction to
18 satisfy the charges;

19 (c) The address and telephone number where additional information
20 may be obtained concerning the securing of the vessel and conditions
21 for its release; and

22 (d) A description of the owner's or secured party's rights under
23 this chapter.

24 (4) With respect to registered vessels: Within five days of the
25 date that notice is attached or posted under subsection (3) of this
26 section, the commission shall send such notice, by registered mail, to
27 each registered owner.

28 (5) If a vessel is secured under subsection (1) or (2) of this
29 section, the owner, or any person with a legal right to possess the
30 vessel, may claim the vessel by:

31 (a) Making arrangements satisfactory to the commission for the
32 immediate removal of the vessel from the commission's control or for
33 authorized storage or moorage; and

34 (b) Making payment to the commission of all reasonable charges
35 incurred by the commission in securing the vessel under subsections (1)
36 and (2) of this section and of all moorage fees owed to the commission.

37 (6) A vessel is considered abandoned if, within the thirty-five day
38 period following the date of attachment or posting of notice in

1 subsection (3) of this section, the vessel has not been claimed under
2 subsection (5) of this section.

3 NEW SECTION. **Sec. 3.** (1) The commission may provide for the
4 public sale of vessels considered abandoned under section 2 of this
5 act. At such sales, the vessels shall be sold for cash to the highest
6 and best bidder.

7 (2) Before a vessel is sold, the commission shall make a reasonable
8 effort to provide notice of sale, at least twenty days before the day
9 of the sale, to each registered owner of a registered vessel and each
10 owner of an unregistered vessel. The notice shall contain the time and
11 place of the sale, a reasonable description of the vessel to be sold,
12 and the amount of charges then owing with respect to the vessel, and a
13 summary of the rights and procedures under this chapter. A notice of
14 sale shall be published at least once, more than ten but not more than
15 twenty days before the sale, in a newspaper of general circulation in
16 the county in which the commission facility is located. This notice
17 shall include: (a) If known, the name of the vessel and the last owner
18 and the owner's address; and (b) a reasonable description of the
19 vessel. The commission may bid all or part of its charges at the sale
20 and may become a purchaser at the sale.

21 (3) Before a vessel is sold, any person seeking to redeem a secured
22 vessel may commence a lawsuit in the superior court for the county in
23 which the vessel was secured to contest the commission's decision to
24 secure the vessel or the amount of charges owing. This lawsuit shall
25 be commenced within fifteen days of the date the notification was
26 posted under section 2(3) of this act, or the right to a hearing is
27 deemed waived and the owner is liable for any charges owing the
28 commission. In the event of litigation, the prevailing party is
29 entitled to reasonable attorneys' fees and costs.

30 (4) The proceeds of a sale under this section shall be applied
31 first to the payment of the amount of the reasonable charges incurred
32 by the commission and moorage fees owed to the commission, then to the
33 owner or to satisfy any liens of record or security interests of record
34 on the vessel in the order of their priority. If an owner cannot in
35 the exercise of due diligence be located by the commission within one
36 year of the date of the sale, any excess funds from the sale, following
37 the satisfaction of any bona fide security interest, shall revert to
38 the department of revenue under chapter 63.29 RCW. If the sale is for

1 a sum less than the applicable charges, the commission is entitled to
2 assert a claim for the deficiency against the vessel owner. Nothing in
3 this section prevents any lien holder or secured party from asserting
4 a claim for any deficiency owed the lien holder or secured party.

5 (5) If no one purchases the vessel at a sale, the commission may
6 proceed to properly dispose of the vessel in any way the commission
7 considers appropriate, including, but not limited to, destruction of
8 the vessel or by negotiated sale. The commission may assert a claim
9 against the owner for any charges incurred thereby. If the vessel, or
10 any part of the vessel, or any rights to the vessel, are sold under
11 this subsection, any proceeds from the sale shall be distributed in the
12 manner provided in subsection (4) of this section.

13 NEW SECTION. **Sec. 4.** If the full amount of all charges due the
14 commission on an unauthorized vessel is not paid to the commission
15 within thirty days after the date on which notice is affixed or posted
16 under section 2(3) of this act, the commission may bring an action in
17 any court of competent jurisdiction to recover the charges, plus
18 reasonable attorneys' fees and costs incurred by the commission.

19 NEW SECTION. **Sec. 5.** The rights granted to the commission under
20 sections 1 through 5 of this act are in addition to any other legal
21 rights the commission may have to secure, hold, and sell a vessel and
22 in no manner does this section alter those rights, or affect the
23 priority of other liens on a vessel.

24 **Sec. 6.** RCW 63.21.080 and 1985 c 7 s 125 are each amended to read
25 as follows:

26 This chapter shall not apply to:

27 (1) Motor vehicles under chapter 46.52 RCW;

28 (2) Unclaimed property in the hands of a bailee under chapter 63.24
29 RCW; (~~and~~)

30 (3) Uniform disposition of unclaimed property under chapter 63.29
31 RCW; and

32 (4) Secured vessels under chapter 88.-- RCW (sections 1 through 5
33 of this act).

34 NEW SECTION. **Sec. 7.** RCW 88.12.370 and 1989 c 393 s 2 are each
35 repealed.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 88.12 RCW
2 to read as follows:

3 The provisions of RCW 88.12.185 through 88.12.225 do not apply to
4 vessels secured pursuant to chapter 88.-- RCW (sections 1 through 5 of
5 this act).

6 NEW SECTION. **Sec. 9.** Sections 1 through 5 of this act shall
7 constitute a new chapter in Title 88 RCW.

8 NEW SECTION. **Sec. 10.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected."

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13 By Committee on Natural Resources & Parks

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15 On page 1, line 1 of the title, after "vessels;" strike the
16 remainder of the title and insert "amending RCW 63.21.080; adding a new
17 section to chapter 88.12 RCW; adding a new chapter to Title 88 RCW; and
18 repealing RCW 88.12.370."

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