

HOUSE BILL REPORT

HB 1318

As Reported By House Committee On:
Natural Resources & Parks

Title: An act relating to boating safety.

Brief Description: Changing boating safety provisions.

Sponsors: Representatives Pruitt, Ballard, Morton, Sheldon, Wolfe, Schoesler, R. Johnson and Jones.

Brief History:

Reported by House Committee on:
Natural Resources & Parks, February 12, 1993, DPS.

HOUSE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Pruitt, Chair; R. Johnson, Vice Chair; Morton, Ranking Minority Member; Stevens, Assistant Ranking Minority Member; Linville; Schoesler; Sheldon; Thomas; Valle; and Wolfe.

Staff: Tim Burke (786-7103).

Background: The state's boating laws are administered largely by the Washington State Parks and Recreation Commission.

In 1992, the Legislature passed a measure consolidating and recodifying the state's boating laws. Laws from seven separate chapters of the Revised Code were moved into one chapter (Chapter 88.12 RCW). Generally, in consolidating these statutes, policy changes were not made; the statutes were simply moved, often with their own sets of definitions. It is difficult for state boating safety personnel, law enforcement officers, and boaters to understand the boating laws. Over the past year, the Washington State Parks and Recreation Commission's Boating Safety Council, the United States Coast Guard, law enforcement officers, boaters, and industry representatives have developed recommendations for streamlining and modernizing the boating laws.

A violation of the boating laws is a misdemeanor, punishable by a jail term of not more than 90 days or a fine of not more than \$1,000 or by both the jail term and fine. In

recent years, there has been a trend to decriminalize minor violations of state law and reclassify them as civil infractions. Violators of laws classified as civil infractions pay a fine but are not subject to a jail term. Also, commission of an infraction does not result in the offender having a criminal record.

The boating laws require that all motor-driven vessels contain an "adequate" muffler device "so as to preclude excessive ... noise." However, the laws do not specify what constitutes excessive noise. The laws do not contain any standards governing the overloading or overpowering of vessels and generally do not require personal flotation devices for vessels other than motor-driven boats, vessels pulling water skiers, vessels carrying passengers for hire, and "personal watercraft," which generally are single person vessels with jet propulsion.

The boating laws authorize the Parks and Recreation Commission to provide funding support for sewage pumpout or sewage dump devices at marinas and boat launches.

Summary of Substitute Bill: The boating laws are substantially revised and updated.

The laws are applicable to "vessels." The word "vessels" is broadly defined to include most types of watercraft.

The following violations are decriminalized and classified as civil infractions: (1) violation of most provisions governing required vessel equipment, including, but not limited to lights and mufflers; (2) negligent operation of a vessel; and (3) failure to comply with the "observer" and "flag" provisions applicable to water skiing. However, this decriminalization will not apply where an offender has more than two violations of the same provision during the same year. The third and any subsequent violations during the same year will be punishable as a misdemeanor.

Both the operator and an owner who permits the operation of a vessel will be liable for infractions involving equipment violations. All equipment violations are classified as infractions, except where a statute provides otherwise.

New misdemeanor crimes are created for reckless operation of a vessel and for violation of new safety rules governing personal watercraft.

All motor-driven vessels must have a muffler sufficient to muffle sound within specified levels. The maximum sound level for stationary vessels is 90 decibels. However for vessels manufactured after 1994, the maximum stationary

sound level is reduced to 88 decibels. The maximum sound level for moving vessels is 75 decibels, measured from the shoreline. Local governments are not preempted from adopting more stringent regulations.

New safety rules are provided for overloading and overpowering of vessels, and, generally, it is an infraction to violate these rules. Personal flotation devices are required for all vessels. With exceptions, it is an infraction to violate the rules on personal flotation devices. The exceptions - which apply to water skiers, personal watercraft, and vessels carrying paying passengers continue misdemeanor coverage for failure to comply with the rules relating to personal flotation devices.

In providing funding support for sewage pumpouts or dump devices at marinas and boat launches, the Parks and Recreation Commission is directed to seek the most cost-efficient and accessible facilities possible for reducing the amount of boat waste entering the state's waters and to consider providing funding support for portable pumpout facilities.

Substitute Bill Compared to Original Bill: Besides making a number of technical improvements, the substitute increases the number of offenses classified as infractions; provides new rules governing mufflers, overloading, and overpowering; and limits the type of vessels that are covered by the bill.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: In order to increase boating safety, the boating laws should be revised, updated, and clarified. Treating minor violations of the boating laws as infractions will make the boating laws more enforceable, as well as more fair to violators who otherwise might be faced with having criminal records. Clarifying the laws, particularly the muffler provisions, will make the laws more enforceable and fair.

Testimony Against: None.

Witnesses: Dave Williams, Recreational Boater's Association (Pro); Ross Herberholz, Pierce Co. Sheriff's Department, Marine Services (Pro); Ken Carlson, Olympia Police, Harbor Patrol (Pro); Gaston Decock, Boating Safety Council (Pro); Nina Carter, State Parks and Recreation Commission (Pro), John Woodring, Personal Watercraft Association (Pro); and Jack Swanberg, Northwest Marine Trade Association (Pro).