

SENATE BILL REPORT

SHB 1318

AS REPORTED BY COMMITTEE ON WAYS & MEANS, APRIL 5, 1993

**Brief Description:** Changing boating safety provisions.

**SPONSORS:** House Committee on Natural Resources & Parks (originally sponsored by Representatives Pruitt, Ballard, Morton, Sheldon, Wolfe, Schoesler, R. Johnson and Jones)

**HOUSE COMMITTEE ON NATURAL RESOURCES & PARKS**

**SENATE COMMITTEE ON ECOLOGY & PARKS**

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Fraser, Chairman; Deccio, Moore, Sutherland, and Talmadge.

**Staff:** Cathy Baker (786-7708)

**Hearing Dates:** March 19, 1993; March 26, 1993

**SENATE COMMITTEE ON WAYS & MEANS**

**Majority Report:** Do pass as amended by Committee on Ecology & Parks.

Signed by Senators Rinehart, Chairman; Spanel, Vice Chairman; Anderson, Bauer, Bluechel, Cantu, Gaspard, Hargrove, Hochstatter, Jesernig, McDonald, Moyer, Niemi, Owen, Quigley, Roach, L. Smith, Snyder, Sutherland, Talmadge, West, and Wojahn.

**Staff:** Terry Wilson (786-7715)

**Hearing Dates:** April 2, 1993; April 5, 1993

**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:**

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.

**SUMMARY OF PROPOSED SENATE AMENDMENT:**

The striking amendment incorporates the following changes to the substitute House bill:

The exceptions to vessel noise standards granted for testing, tuning up, and participating in sanctioned races do not preclude local governments from adopting ordinances controlling the frequency, duration, and location of testing, tune-ups, and racing.

Vessels equipped with engines modified beyond the manufacturer's configuration shall have an exhaust system that complies with the noise standards by January 1, 1994. Until that date, owners and/or operators shall be issued warnings and be given educational materials.

Persons making claims on abandoned vessels of less than \$1000 value shall file their claims in district court; claims over \$1000 shall be heard in superior court.

Boat registration fees are increased to \$10.50 per year effective with registrations expiring June 30, 1995. The revenue generated is to be used to support local boating safety, education and enforcement programs. Local jurisdictions receiving such funds shall deposit them in an account dedicated solely for supporting the jurisdiction's boating safety program. These funds shall not supplant existing local funds used for boating safety.

The local vessel excise tax (RCW 82.49.070) is eliminated effective June 30, 1994.

A finding is made encouraging boating safety education in the primary and secondary school system for boat users and potential future boat users. A finding is also made encouraging boating safety programs to utilize volunteer and private sector efforts to enhance boating safety.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**TESTIMONY FOR (Ecology & Parks):**

Recodifying and decriminalizing certain boating laws will help increase public understanding of the laws and provide for more effective enforcement of the laws by local law enforcement officials. Funding for boating safety programs at the local level needs to be increased. Increasing the annual vessel registration fee is a good source of funding for these programs and will help enhance education and enforcement efforts. Boating safety education in the schools should be an important part of these local government programs.

**TESTIMONY AGAINST (Ecology & Parks):** None

**TESTIFIED (Ecology & Parks):** PRO: Ross Heriserholz, Tom Miner, Pierce County Sheriff's Dept.; Rose Villanova Amurao, Bob Wilder, Mark Kenny, State Parks and Recreation Commission; Dave Williams, Recreational Boating Association of WA; Jack Swanberg, National Marine Trade Association; John Woodring, Personal Watercraft Association; Ron Main, King County

**TESTIMONY FOR (Ways & Means):**

The increase in the fee is to hold King County harmless from the elimination of the local watercraft excise tax. This satisfies a huge unfunded need and is acceptable to all parties involved. The reallocation from the tax to the fee is an excellent way to allocate the money where it is needed.

**TESTIMONY AGAINST (Ways & Means):** None

**TESTIFIED (Ways & Means):** Senator Fraser (pro); Dave Williams, Recreational Boating Association (pro); John Woodring, Northwest Marine Trade Association (pro)