

SENATE BILL REPORT

SB 5291

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

Brief Description: Changing boating safety provisions.

SPONSORS: Senators Fraser, Oke, Barr, Erwin, Moore and Winsley

SENATE COMMITTEE ON ECOLOGY & PARKS

Majority Report: That Substitute Senate Bill No. 5291 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

Staff: Cathy Baker (786-7708)

Hearing Dates: February 5, 1993; February 22, 1993

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5291 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rinehart, Chairman; Spanel, Vice Chairman; Bauer, Bluechel, Gaspard, Hargrove, Jesernig, Niemi, Owen, Pelz, Quigley, Snyder, Sutherland, Talmadge, Williams, and Wojahn.

Staff: Terry Wilson (786-7715)

Hearing Dates: March 3, 1993; March 5, 1993

BACKGROUND:

In 1992 the Legislature passed a bill consolidating and recodifying the state's recreational boating laws. Boating laws from seven separate chapters were consolidated into one chapter (RCW 88.12). This consolidation resulted in several areas of duplication.

Under current law, a violation of recreational boating safety laws is a misdemeanor, punishable by a jail term of not more than ninety days or a fine of \$1000 or both. 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; an infraction is not a criminal offense.

The current 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 also do not contain any standards governing the overloading or overpowering of vessels.

SUMMARY:

Definitions of certain boating terms are updated. All of the definitions in the chapter are consolidated into one definitions section. A number of word substitutions and deletions are made in order to clarify provisions and eliminate duplications.

The Legislature declares that decriminalizing and recodifying boating safety laws will promote more efficient administration of the laws and enhance public understanding and compliance with the laws.

A number of violations are changed from misdemeanors to infractions. Violations which remain classified as misdemeanors are those involving recklessness. "Reckless operation" is defined as operating a vessel "carelessly and heedlessly in a willful or wanton disregard of the rights, safety, or property of others." "Negligent operation" of a vessel is redefined to conform to language found in vehicle statutes.

Violations in the recreational boating laws that are changed from misdemeanors to infractions remain classified as misdemeanors until those violations are included in an infraction monetary schedule adopted by the State Supreme Court.

The commission shall seek to provide cost-efficient and accessible facilities for reducing the amount of boat waste entering the state's waters. The commission shall consider providing support for portable pumpout facilities.

EFFECT OF PROPOSED SUBSTITUTE:

Numerous technical changes are made and language dealing with reckless operation of a vessel is clarified.

Penalties for repeat violations of certain boating laws are included. It is a misdemeanor to commit three of the same violations in a one-year period. New language is added making overloading of vessels an infraction. Consistent with motor vehicle codes, both owners and operators of vessels are subject to penalties for certain equipment violations.

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.

Vessel noise standards are included based on a stationary and a shoreline test. Violations of vessel noise standards are infractions. Exceptions to vessel noise standards are granted for testing, tuning up, and participating in sanctioned races. The exception does not preclude local governments from

adopting ordinances controlling the frequency, duration, and location of vessel testing, tune-ups, and racing.

Vessels that do not comply with the noise standards may not be sold or manufactured unless the vessel is designed and manufactured for the sole purpose of competing in racing events. This exemption must be documented in a sale agreement.

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 given educational materials.

The vessel noise standards do not preempt a local government from exercising any power that it possesses to adopt more stringent regulations.

Boat registration fees are increased to \$10 per year. The revenue generated is to be used to support local boating safety, education and enforcement programs.

EFFECT OF PROPOSED SECOND SUBSTITUTE:

The registration fee increase applies to registrations expiring June 30, 1995, and thereafter.

Appropriation: none

Revenue: none

Fiscal Note: requested February 24, 1993

TESTIMONY FOR (Ecology & Parks):

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 vessel noise provisions, will make the laws more enforceable and fair.

TESTIMONY AGAINST (Ecology & Parks): None

TESTIFIED (Ecology & Parks): Bill Fosbre, Office of the Administrator for the Courts; PRO: Nina Carter, State Parks and Recreation Commission; Gus Decock, Boating Safety Council; Randy Rochow, Snohomish County Sheriff's Office; Ken Carlson, Olympia Police Department; Pat Lemagie, Pierce County Sheriff's Dept; John Woodring, Personal Watercraft Industry Assoc.; Jack Swanberg, Northwest Marine Trade Assoc.; Dave Williams, Recreational Boating Assoc.; Tom DiBartolo, Washington Boating Safety Officers Assoc.; Jim Drotning, Recreational Boaters Assoc.

TESTIMONY FOR (Ways & Means):

There are enormous problems with boating safety. Washington boating fatalities are far greater than the national average. Law enforcement needs money to enforce the rules. Enforcement has been reduced because of budget cuts. Deaths will result without more enforcement.

TESTIMONY AGAINST (Ways & Means): None

TESTIFIED (Ways & Means): Senator Karen Fraser, sponsor (pro); Rose Amurao, WA State Parks and Recreation Commission (pro); Jim Drotning, boater (pro); Lt. Frank Atchkey, King County Police (pro); Steve Collemore, WA Boating Safety Officers Assn (pro); John Woodring, PWIA (pro); Dave Williams, Recreational Boating Safety Assn of WA (pro); Jack Swanberg, Northwest Marine Trade Assn (pro)