

CERTIFICATION OF ENROLLMENT
SUBSTITUTE HOUSE BILL 2399

56th Legislature
2000 Regular Session

Passed by the House January 31, 2000
Yeas 97 Nays 0

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate March 2, 2000
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2399** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2399

Passed Legislature - 2000 Regular Session

State of Washington

56th Legislature

2000 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Constantine, Esser, Lantz, Barlean, Cairnes and Pflug; by request of Office of the Code Reviser)

Read first time 01/25/2000. Referred to Committee on .

1 AN ACT Relating to technical corrections to various natural
2 resource laws; amending RCW 76.01.060, 76.06.020, 76.09.040, 76.09.055,
3 76.09.065, 76.09.140, 76.09.150, 76.12.090, 76.12.100, 76.12.140,
4 76.13.010, 76.13.110, 76.13.120, 76.14.010, 76.15.010, 76.36.010,
5 76.42.020, 76.48.020, 76.48.085, 78.16.070, 78.44.020, 78.44.031,
6 79.08.275, 79.24.570, 79.71.090, 79.71.100, 79.92.070, 79.92.080,
7 79.94.070, 79.96.110, 79A.05.155, 79A.05.200, 79A.05.205, 79A.05.250,
8 79A.05.255, 79A.05.265, 79A.05.300, 79A.05.315, 79A.05.320, 79A.05.405,
9 79A.05.420, 79A.05.500, 79A.05.520, 79A.05.535, 79A.05.540, 79A.05.610,
10 79A.05.615, 79A.05.620, 79A.05.625, 79A.05.630, 79A.05.635, 79A.05.640,
11 79A.05.645, 79A.05.650, 79A.05.655, 79A.05.665, 79A.05.685, 79A.05.693,
12 79A.05.695, 79A.05.735, 79A.05.750, 79A.05.765, 79A.05.780, 79A.05.793,
13 79A.15.020, 79A.15.030, 79A.15.060, 79A.15.070, 79A.25.020, 79A.25.030,
14 79A.25.040, 79A.25.060, 79A.25.070, 79A.25.080, 79A.25.100, 79A.25.180,
15 79A.25.200, 79A.25.240, 79A.25.250, 79A.25.800, 79A.25.820, 79A.25.830,
16 79A.30.010, 79A.30.020, 79A.30.030, 79A.35.030, 79A.40.020, 79A.40.030,
17 79A.40.060, 79A.40.080, 79A.45.040, 79A.60.010, 79A.60.030, 79A.60.050,
18 79A.60.060, 79A.60.070, 79A.60.130, 79A.60.160, 79A.60.170, 79A.60.180,
19 79A.60.190, 79A.60.200, 79A.60.300, 79A.60.400, 79A.60.410, 79A.60.420,
20 79A.60.440, 79A.60.470, 79A.60.480, 79A.60.485, 79A.60.490, 79A.60.540,
21 79A.60.590, 79A.60.620, 79A.65.010, 79A.65.030, and 79A.65.040; and

1 repealing RCW 75.08.274, 75.25.090, 75.28.012, 76.12.200, and
2 77.32.060.

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

4 **Sec. 1.** RCW 76.01.060 and 1983 c 3 s 194 are each amended to read
5 as follows:

6 Any authorized assistants, employees, agents, appointees or
7 representatives of the department of natural resources may, in the
8 course of their inspection and enforcement duties as provided for in
9 chapters 76.04, 76.06, 76.09, 76.16, and 76.36 (~~and 76.40~~) RCW, enter
10 upon any lands, real estate, waters or premises except the dwelling
11 house or appurtenant buildings in this state whether public or private
12 and remain thereon while performing such duties. Similar entry by the
13 department of natural resources may be made for the purpose of making
14 examinations, locations, surveys and/or appraisals of all lands under
15 the management and jurisdiction of the department of natural resources;
16 or for making examinations, appraisals and, after five days' written
17 notice to the landowner, making surveys for the purpose of possible
18 acquisition of property to provide public access to public lands. In
19 no event other than an emergency such as fire fighting shall motor
20 vehicles be used to cross a field customarily cultivated, without prior
21 consent of the owner. None of the entries herein provided for shall
22 constitute trespass, but nothing contained herein shall limit or
23 diminish any liability which would otherwise exist as a result of the
24 acts or omissions of said department or its representatives.

25 EXPLANATORY NOTE
26 Chapter 76.40 RCW was repealed by 1994 c 163 s 6.

27 **Sec. 2.** RCW 76.06.020 and 1988 c 128 s 15 are each amended to read
28 as follows:

29 As used in this chapter:

30 (1) "Agent" means the recognized legal representative,
31 representatives, agent, or agents for any owner;

32 (2) "Department" means the department of natural resources;

33 (3) "Owner" means and includes individuals, partnerships,
34 corporations, and associations;

35 ~~(("Agent" means the recognized legal representative,~~
36 ~~representatives, agent or agents for any owner;))~~

1 Prior to initiating the rule making process, the proposed rules
2 shall be submitted for review and comments to the department of fish
3 and wildlife and to the counties of the state. After receipt of the
4 proposed forest practices rules, the department of fish and wildlife
5 and the counties of the state shall have thirty days in which to review
6 and submit comments to the board, and to the department of ecology with
7 respect to its proposed rules relating to water quality protection.
8 After the expiration of such thirty day period the board and the
9 department of ecology shall jointly hold one or more hearings on the
10 proposed rules pursuant to chapter 34.05 RCW. At such hearing(s) any
11 county may propose specific forest practices rules relating to problems
12 existing within such county. The board may adopt and the department of
13 ecology may approve such proposals if they find the proposals are
14 consistent with the purposes and policies of this chapter.

15 (3) The board shall establish by rule a riparian open space program
16 that includes acquisition of a fee interest in, or at the landowner's
17 option, a conservation easement on lands within unconfined avulsing
18 channel migration zones. Once acquired, these lands may be held and
19 managed by the department, transferred to another state agency,
20 transferred to an appropriate local government agency, or transferred
21 to a private nonprofit nature ((~~conservation~~—[conservancy]))
22 conservancy corporation, as defined in RCW 64.04.130, in fee or
23 transfer of management obligation. The board shall adopt rules
24 governing the acquisition by the state or donation to the state of such
25 interest in lands including the right of refusal if the lands are
26 subject to unacceptable liabilities. The rules shall include
27 definitions of qualifying lands, priorities for acquisition, and
28 provide for the opportunity to transfer such lands with limited
29 warranties and with a description of boundaries that does not require
30 full surveys where the cost of securing the surveys would be
31 unreasonable in relation to the value of the lands conveyed. The rules
32 shall provide for the management of the lands for ecological protection
33 or fisheries enhancement. Because there are few, if any, comparable
34 sales of forest land within unconfined avulsing channel migration
35 zones, separate from the other lands or assets, these lands are likely
36 to be extraordinarily difficult to appraise and the cost of a
37 conventional appraisal often would be unreasonable in relation to the
38 value of the land involved. Therefore, for the purposes of voluntary
39 sales under this section, the legislature declares that these lands are

1 presumed to have a value equal to: (a) The acreage in the sale
2 multiplied by the average value of commercial forest land in the region
3 under the land value tables used for property tax purposes under RCW
4 84.33.120; plus (b) the cruised volume of any timber located within the
5 channel migration multiplied by the appropriate quality code stumpage
6 value for timber of the same species shown on the appropriate table
7 used for timber harvest excise tax purposes under RCW 84.33.091. For
8 purposes of this section, there shall be an eastside region and a
9 westside region as defined in the forests and fish report as defined in
10 RCW 76.09.020.

11 (4) Subject to appropriations sufficient to cover the cost of such
12 an acquisition program and the related costs of administering the
13 program, the department is directed to purchase a fee interest or, at
14 the owner's option, a conservation easement in land that an owner
15 tenders for purchase; provided that such lands have been taxed as
16 forest lands and are located within an unconfined avulsing channel
17 migration zone. Lands acquired under this section shall become
18 riparian open space. These acquisitions shall not be deemed to trigger
19 the compensating tax of chapters 84.33 and 84.34 RCW.

20 (5) Instead of offering to sell interests in qualifying lands,
21 owners may elect to donate the interests to the state.

22 (6) Any acquired interest in qualifying lands by the state under
23 this section shall be managed as riparian open space.

24 EXPLANATORY NOTE

25 Corrects the reference to a nature conservancy corporation.

26 **Sec. 4.** RCW 76.09.055 and 1999 1st sp.s. c 4 s 201 are each
27 amended to read as follows:

28 (1) The legislature finds that the declines of fish stocks
29 throughout much of the state (~~(requires [require])~~) require immediate
30 action to be taken to help restore these fish runs where possible. The
31 legislature also recognizes that federal and state agencies, tribes,
32 county representatives, and private timberland owners have spent
33 considerable effort and time to develop the forests and fish report.
34 Given the agreement of the parties, the legislature believes that the
35 immediate adoption of emergency rules is appropriate in this particular
36 instance. These rules can implement many provisions of the forests and
37 fish report to protect the economic well-being of the state, and to
38 minimize the risk to the state and landowners to legal challenges.

1 This authority is not designed to set any precedents for the forest
2 practices board in future rule making or set any precedents for other
3 rule-making bodies of the state.

4 (2) The forest practices board is authorized to adopt emergency
5 rules amending the forest practices rules with respect to the
6 protection of aquatic resources, in accordance with RCW 34.05.350,
7 except: (a) That the rules adopted under this section may remain in
8 effect until permanent rules are adopted, or until June 30, 2001,
9 whichever is sooner; (b) notice of the proposed rules must be published
10 in the Washington State Register as provided in RCW 34.05.320; (c) at
11 least one public hearing must be conducted with an opportunity to
12 provide oral and written comments; and (d) a rule-making file must be
13 maintained as required by RCW 34.05.370. In adopting the emergency
14 rules, the board is not required to prepare a small business economic
15 impact statement under chapter 19.85 RCW, prepare a statement
16 indicating whether the rules constitute a significant legislative rule
17 under RCW 34.05.328, prepare a significant legislative rule analysis
18 under RCW 34.05.328, or follow the procedural requirements of the state
19 environmental policy act, chapter 43.21C RCW. The forest practices
20 board may only adopt recommendations contained in the forests and fish
21 report as emergency rules under this section.

22 EXPLANATORY NOTE

23 Corrects a manifest grammatical error.

24 **Sec. 5.** RCW 76.09.065 and 1997 c 173 s 4 are each amended to read
25 as follows:

26 (1) Effective July 1, 1997, an applicant shall pay an application
27 fee and a recording fee, if applicable, at the time an application or
28 notification is submitted to the department or to the local
29 governmental entity as provided in this chapter.

30 (2) For applications and notifications submitted to the department,
31 the application fee shall be fifty dollars for class II, III, and IV
32 forest practices applications or notifications relating to the
33 commercial harvest of timber. However, the fee shall be five hundred
34 dollars for class IV forest practices applications on lands being
35 converted to other uses or on lands which are not to be reforested
36 because of the likelihood of future conversion to urban development or
37 on lands that are contained within "urban growth areas," designated

1 pursuant to chapter 36.70A RCW, except the fee shall be fifty dollars
2 on those lands where the forest landowner provides:

3 (a) A written statement of intent signed by the forest landowner
4 not to convert to a use other than commercial forest product operations
5 for ten years, accompanied by either a written forest management plan
6 acceptable to the department or documentation that the land is enrolled
7 under the provisions of chapter 84.33 RCW; or

8 (b) A conversion option harvest plan approved by the local
9 (~~government~~ ~~[governmental]~~) governmental entity and submitted to the
10 department as part of the forest practices application.

11 All money collected from fees under this subsection shall be deposited
12 in the state general fund.

13 (3) For applications submitted to the local governmental entity,
14 the fee shall be five hundred dollars for class IV forest practices on
15 lands being converted to other uses or lands that are contained within
16 "urban growth areas," designated pursuant to chapter 36.70A RCW, except
17 as otherwise provided in this section, unless a different fee is
18 otherwise provided by the local governmental entity.

19 (4) Recording fees shall be as provided in chapter 36.18 RCW.

20 (5) An application fee under subsection (2) of this section shall
21 be refunded or credited to the applicant if either the application or
22 notification is disapproved by the department or the application or
23 notification is withdrawn by the applicant due to restrictions imposed
24 by the department.

25 EXPLANATORY NOTE
26 Corrects a manifest grammatical error.

27 **Sec. 6.** RCW 76.09.140 and 1999 1st sp.s. c 4 s 801 are each
28 amended to read as follows:

29 (1) The department of natural resources may take any necessary
30 action to enforce any final order or final decision, and may disapprove
31 any forest practices application or notification submitted by any
32 person who has failed to comply with a final order or final decision or
33 has failed to pay any civil penalties as provided in RCW 76.09.170, for
34 up to one year from the issuance of a notice of intent to disapprove
35 notifications and applications under this section or until the violator
36 pays all outstanding civil penalties and complies with all validly
37 issued and outstanding notices to comply and stop work orders,
38 whichever is longer. For purposes of chapter 482, Laws of 1993, the

1 terms "final order" and "final decision" shall mean the same as set
2 forth in RCW 76.09.080, 76.09.090, and 76.09.110. The department shall
3 provide written notice of its intent to disapprove an application or
4 notification under this subsection. The department shall forward
5 copies of its notice of intent to disapprove to any affected landowner.
6 The disapproval period shall run from thirty days following the date of
7 actual notice or when all administrative and judicial appellate
8 processes, if any, have been exhausted. Any person provided the notice
9 may seek review from the appeals board by filing a request for review
10 within thirty days of the date of the notice of intent. While the
11 notice of intent to disapprove is in effect, the violator may not serve
12 as a person in charge of, be employed by, manage, or otherwise
13 participate to any degree in forest practices.

14 (2) On request of the department, the attorney general may take
15 action necessary to enforce this chapter, including, but not limited
16 to: Seeking penalties, interest, costs, and attorneys' fees; enforcing
17 final orders or decisions; and seeking civil injunctions, show cause
18 orders, or contempt orders.

19 (3) A county may bring injunctive, declaratory, or other actions
20 for enforcement for forest practice activities within its jurisdiction
21 in the superior court as provided by law against the department, the
22 forest landowner, timber owner or operator to enforce the forest
23 (~~practice[s]~~) practices rules or any final order of the department,
24 or the appeals board. No civil or criminal penalties shall be imposed
25 for past actions or omissions if such actions or omissions were
26 conducted pursuant to an approval or directive of the department.
27 Injunctions, declaratory actions, or other actions for enforcement
28 under this subsection may not be commenced unless the department fails
29 to take appropriate action after ten days written notice to the
30 department by the county of a violation of the forest practices rules
31 or final orders of the department or the appeals board.

32 (4)(a) The department may require financial assurance prior to the
33 conduct of any further forest practices from an operator or landowner
34 who within the preceding three-year period has:

35 (i) Operated without an approved forest practices application,
36 other than an unintentional operation in connection with an approved
37 application outside the approved boundary of such an application;

38 (ii) Continued to operate in breach of, or failed to comply with,
39 the terms of an effective stop work order or notice to comply; or

- 1 (iii) Failed to pay any civil or criminal penalty.
2 (b) The department may deny any application for failure to submit
3 financial assurances as required.

4 EXPLANATORY NOTE

5 Corrects the reference to forest practices.

6 **Sec. 7.** RCW 76.09.150 and 1999 1st sp.s. c 4 s 802 are each
7 amended to read as follows:

8 (1) The department shall make inspections of forest lands, before,
9 during and after the conducting of forest practices as necessary for
10 the purpose of ensuring compliance with this chapter and the forest
11 practices rules and to ensure that no material damage occurs to the
12 natural resources of this state as a result of such practices.

13 (2) Any duly authorized representative of the department shall have
14 the right to enter upon forest land at any reasonable time to enforce
15 the provisions of this chapter and the forest practices rules.

16 (3) The department or the department of ecology may apply for an
17 administrative inspection warrant to either Thurston county superior
18 court, or the superior court in the county in which the property is
19 located. An administrative inspection warrant may be issued where:

20 (a) The department has attempted an inspection of forest lands
21 under this chapter to ensure compliance with this chapter and the
22 forest (~~(practice[s])~~) practices rules or to ensure that no potential
23 or actual material damage occurs to the natural resources of this
24 state, and access to all or part of the forest lands has been actually
25 or constructively denied; or

26 (b) The department has reasonable cause to believe that a violation
27 of this chapter or of rules adopted under this chapter is occurring or
28 has occurred.

29 (4) In connection with any watershed analysis, any review of a
30 pending application by an identification team appointed by the
31 department, any compliance studies, any effectiveness monitoring, or
32 other research that has been agreed to by a landowner, the department
33 may invite representatives of other agencies, tribes, and interest
34 groups to accompany a department representative and, at the landowner's
35 election, the landowner, on any such inspections. Reasonable efforts
36 shall be made by the department to notify the landowner of the persons
37 being invited onto the property and the purposes for which they are
38 being invited.

EXPLANATORY NOTE

Corrects the reference to forest practices.

Sec. 8. RCW 76.12.090 and 1988 c 128 s 29 are each amended to read as follows:

For the purpose of acquiring and paying for lands for state forests and reforestation as herein provided the department may issue utility bonds of the state of Washington, in an amount not to exceed two hundred thousand dollars in principal, during the biennium expiring March 31, 1925, and such other amounts as may hereafter be authorized by the legislature. Said bonds shall bear interest at not to exceed the rate of two percent per annum which shall be payable annually. Said bonds shall never be sold or exchanged at less than par and accrued interest, if any, and shall mature in not less than a period equal to the time necessary to develop a merchantable forest on the lands exchanged for said bonds or purchased with money derived from the sale thereof. Said bonds shall be known as state forest utility bonds. The principal or interest of said bonds shall not be a general obligation of the state, but shall be payable only from the forest development account. The department may issue said bonds in exchange for lands selected by it in accordance with RCW 76.12.020, 76.12.030, 76.12.080, 76.12.090, 76.12.110, 76.12.120, and 76.12.140, (~~and 76.12.150,~~) or may sell said bonds in such manner as it deems advisable, and with the proceeds purchase and acquire such lands. Any of said bonds issued in exchange and payment for any particular tract of lands may be made a first and prior lien against the particular land for which they are exchanged, and upon failure to pay said bonds and interest thereon according to their terms, the lien of said bonds may be foreclosed by appropriate court action.

EXPLANATORY NOTE

RCW 76.12.150 was repealed by 1977 c 75 s 96.

Sec. 9. RCW 76.12.100 and 1988 c 128 s 30 are each amended to read as follows:

For the purpose of acquiring, seeding, reforestation and administering land for forests and of carrying out RCW 76.12.020, 76.12.030, 76.12.080, 76.12.090, 76.12.110, 76.12.120, and 76.12.140, (~~and 76.12.150,~~) the department is authorized to issue and dispose of utility bonds of the state of Washington in an amount not to exceed one

1 hundred thousand dollars in principal during the biennium expiring
2 March 31, 1951: PROVIDED, HOWEVER, That no sum in excess of one dollar
3 per acre shall ever be paid or allowed either in cash, bonds, or
4 otherwise, for any lands suitable for forest growth, but devoid of
5 such, nor shall any sum in excess of three dollars per acre be paid or
6 allowed either in cash, bonds, or otherwise, for any lands adequately
7 restocked with young growth.

8 Any utility bonds issued under the provisions of this section may
9 be retired from time to time, whenever there is sufficient money in the
10 forest development account, said bonds to be retired at the discretion
11 of the department either in the order of issuance, or by first retiring
12 bonds with the highest rate of interest.

13 EXPLANATORY NOTE

14 RCW 76.12.150 was repealed by 1977 c 75 s 96.

15 **Sec. 10.** RCW 76.12.140 and 1988 c 128 s 33 are each amended to
16 read as follows:

17 Any lands acquired by the state under RCW 76.12.020, 76.12.030,
18 76.12.080, 76.12.090, 76.12.110, 76.12.120, and 76.12.140, (~~and~~
19 ~~76.12.150,~~) or any amendments thereto, shall be logged, protected and
20 cared for in such manner as to insure natural reforestation of such
21 lands, and to that end the department shall have power, and it shall be
22 its duty to make rules and regulations, and amendments thereto,
23 governing logging operations on such areas, and to embody in any
24 contract for the sale of timber on such areas, such conditions as it
25 shall deem advisable, with respect to methods of logging, disposition
26 of slashings, and debris, and protection and promotion of new forests.
27 All such rules and regulations, or amendments thereto, shall be adopted
28 by the department under chapter 34.05 RCW. Any violation of any such
29 rules shall be a gross misdemeanor unless the department has specified
30 by rule, when not inconsistent with applicable statutes, that violation
31 of a specific rule is an infraction under chapter 7.84 RCW.

32 EXPLANATORY NOTE

33 RCW 76.12.150 was repealed by 1977 c 75 s 96.

34 **Sec. 11.** RCW 76.13.010 and 1999 1st sp.s. c 4 s 502 are each
35 amended to read as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply to RCW 76.13.005, 76.13.007, 76.13.020, and
3 76.13.030.

4 (1) "Cooperating organization" means federal, state, and local
5 agencies, colleges and universities, landowner assistance
6 organizations, consultants, forest resource-related industries, and
7 environmental organizations which promote and maintain programs
8 designed to provide information and technical assistance services to
9 nonindustrial forest and woodland owners.

10 (2) "Department" means the department of natural resources.

11 ~~((+2))~~ (3) "Landowner" means an individual, partnership, private,
12 public or municipal corporation, Indian tribe, state agency, county, or
13 local government entity, educational institution, or association of
14 individuals of whatever nature that own nonindustrial forests and
15 woodlands.

16 ~~((+3))~~ (4) "Nonindustrial forests and woodlands" are those
17 suburban acreages and rural lands supporting or capable of supporting
18 trees and other flora and fauna associated with a forest ecosystem,
19 comprised of total individual land ownerships of less than five
20 thousand acres and not directly associated with wood processing or
21 handling facilities.

22 ~~((+4))~~ (5) "Stewardship" means managing by caring for, promoting,
23 protecting, renewing, or reestablishing or both, forests and associated
24 resources for the benefit of the landowner, the natural resources and
25 the citizens of Washington state, in accordance with each landowner's
26 objectives, best management practices, and legal requirements.

27 ~~((+5) "Cooperating organization" means federal, state, and local~~
28 ~~agencies, colleges and universities, landowner assistance~~
29 ~~organizations, consultants, forest resource-related industries, and~~
30 ~~environmental organizations which promote and maintain programs~~
31 ~~designed to provide information and technical assistance services to~~
32 ~~nonindustrial forest and woodland owners.))~~

33 EXPLANATORY NOTE
34 Arranges definitions in alphabetical order.

35 **Sec. 12.** RCW 76.13.110 and 1999 1st sp.s. c 4 s 503 are each
36 amended to read as follows:

37 (1) The department of natural resources shall establish and
38 maintain a small forest landowner office. The small forest landowner

1 office shall be a resource and focal point for small forest landowner
2 concerns and policies, and shall have significant expertise regarding
3 the management of small forest holdings, governmental programs
4 applicable to such holdings, and the forestry riparian easement
5 program.

6 (2) The small forest landowner office shall administer the
7 provisions of the forestry riparian easement program created under RCW
8 76.13.120. With respect to that program, the office shall have the
9 authority to contract with private consultants that the office finds
10 qualified to perform timber cruises of forestry riparian easements.

11 (3) The small forest landowner office shall assist in the
12 development of small landowner options through alternate management
13 plans or alternate harvest restrictions appropriate to small
14 landowners. The small forest landowner office shall develop criteria
15 to be adopted by the forest practices board in a manual for alternate
16 management plans or alternate harvest restrictions. These alternate
17 plans or alternate harvest restrictions shall meet riparian functions
18 while requiring less costly regulatory prescriptions. At the
19 landowner's option, alternate plans or alternate harvest restrictions
20 may be used to further meet riparian functions.

21 The small (~~{forest}~~) forest landowner office shall evaluate the
22 cumulative impact of such alternate management plans or alternate
23 harvest restrictions on essential riparian functions at the subbasin or
24 watershed level. The small forest landowner office shall adjust future
25 alternate management plans or alternate harvest restrictions in a
26 manner that will minimize the negative impacts on essential riparian
27 functions within a subbasin or watershed.

28 (4) An advisory committee is established to assist the small forest
29 landowner office in developing policy and recommending rules to the
30 forest practices board. The advisory committee shall consist of seven
31 members, including a representative from the department of ecology, the
32 department of fish and wildlife, and a tribal representative. Four
33 additional committee members shall be small forest landowners who shall
34 be appointed by the commissioner of public lands from a list of
35 candidates submitted by the board of directors of the Washington farm
36 forestry association or its successor organization. The association
37 shall submit more than one candidate for each position. Appointees
38 shall serve for a term of four years. The small forest landowner
39 office shall review draft rules or rule concepts with the committee

1 prior to recommending such rules to the forest practices board. The
2 office shall reimburse nongovernmental committee members for reasonable
3 expenses associated with attending committee meetings as provided in
4 RCW 43.03.050 and 43.03.060.

5 (5) By December 1, 2000, the small forest landowner office shall
6 provide a report to the board and the legislature containing:

7 (a) Estimates of the amounts of nonindustrial forests and woodlands
8 in holdings of twenty acres or less, twenty-one to one hundred acres,
9 one hundred to one thousand acres, and one thousand to five thousand
10 acres, in western Washington and eastern Washington, and the number of
11 persons having total nonindustrial forest and woodland holdings in
12 those size ranges;

13 (b) Estimates of the number of parcels of nonindustrial forests and
14 woodlands held in contiguous ownerships of twenty acres or less, and
15 the percentages of those parcels containing improvements used: (i) As
16 primary residences for half or more of most years; (ii) as vacation
17 homes or other temporary residences for less than half of most years;
18 and (iii) for other uses;

19 (c) The watershed administrative units in which significant
20 portions of the riparian areas or total land area are nonindustrial
21 forests and woodlands;

22 (d) Estimates of the number of forest practices applications and
23 notifications filed per year for forest road construction,
24 silvicultural activities to enhance timber growth, timber harvest not
25 associated with conversion to nonforest land uses, with estimates of
26 the number of acres of nonindustrial forests and woodlands on which
27 forest practices are conducted under those applications and
28 notifications; and

29 (e) Recommendations on ways the board and the legislature could
30 provide more effective incentives to encourage continued management of
31 nonindustrial forests and woodlands for forestry uses in ways that
32 better protect salmon, other fish and wildlife, water quality, and
33 other environmental values.

34 (6) By December 1, 2002, and every four years thereafter, the small
35 forest landowner office shall provide to the board and the legislature
36 an update of the report described in subsection (5) of this section,
37 containing more recent information and describing:

38 (a) Trends in the items estimated under subsection (5)(a) through
39 (d) of this section;

1 (b) Whether, how, and to what extent the forest practices act and
2 rules contributed to those trends; and

3 (c) Whether, how, and to what extent: (i) The board and
4 legislature implemented recommendations made in the previous report;
5 and (ii) implementation of or failure to implement those
6 recommendations affected those trends.

7 EXPLANATORY NOTE

8 Corrects the reference to the small forest landowner office.

9 **Sec. 13.** RCW 76.13.120 and 1999 1st sp.s. c 4 s 504 are each
10 amended to read as follows:

11 (1) The legislature finds that the state should acquire easements
12 along riparian and other sensitive aquatic areas from small forest
13 landowners willing to sell or donate such easements to the state
14 provided that the state will not be required to acquire such easements
15 if they are subject to unacceptable liabilities. The legislature
16 therefore establishes a forestry riparian easement program.

17 (2) The definitions in this subsection apply throughout this
18 section and RCW 76.13.100 and 76.13.110 unless the context clearly
19 requires otherwise.

20 (a) "Forestry riparian easement" means an easement covering
21 qualifying timber granted voluntarily to the state by a small forest
22 landowner.

23 (b) "Qualifying timber" means those trees covered by a forest
24 practices application that the small forest landowner is required to
25 leave unharvested under the rules adopted under RCW 76.09.055 and
26 76.09.370 or that is made uneconomic to harvest by those rules, and for
27 which the small landowner is willing to grant the state a forestry
28 riparian easement. "Qualifying timber" is timber within or bordering
29 a commercially reasonable harvest unit as determined under rules
30 adopted by the forest practices board.

31 (c) "Small forest landowner" means a landowner meeting all of the
32 following characteristics: (i) A forest landowner as defined in RCW
33 76.09.020 whose interest in the land and timber is in fee or who has
34 rights to the timber to be included in the forestry riparian easement
35 that extend at least fifty years from the date the forest practices
36 application associated with the easement is submitted; (ii) an entity
37 that has harvested from its own lands in this state during the three
38 years prior to the year of application an average timber volume that

1 would qualify the owner as a small timber harvester under RCW
2 84.33.073(1); and (iii) an entity that certifies at the time of
3 application that it does not expect to harvest from its own lands more
4 than the volume allowed by RCW 84.33.073(1) during the ten years
5 following application. If a landowner's prior three-year average
6 harvest exceeds the limit of RCW 84.33.073(1), or the landowner expects
7 to exceed this limit during the ten years following application, and
8 that landowner establishes to the department of natural resources'
9 reasonable satisfaction that the harvest limits were or will be
10 exceeded to raise funds to pay estate taxes or equally compelling and
11 unexpected obligations such as court-ordered judgments or extraordinary
12 medical expenses, the landowner shall be deemed to be a small forest
13 landowner.

14 For purposes of determining whether a person qualifies as a small
15 forest landowner, the small forest landowner office, created in RCW
16 76.13.110, shall evaluate the landowner under this definition as of the
17 date that the forest practices application is submitted with which the
18 forestry riparian easement is associated. A small forest landowner can
19 include an individual, partnership, corporate, or other nongovernmental
20 legal entity. If a landowner grants timber rights to another entity
21 for less than five years, the landowner may still qualify as a small
22 forest landowner under this section.

23 (d) "Completion of harvest" means that the trees have been
24 harvested from an area and that further entry into that area by
25 mechanized logging or slash treating equipment is not expected.

26 (3) The department of natural resources is authorized and directed
27 to accept and hold in the name of the state of Washington forestry
28 riparian easements granted by small forest landowners covering
29 qualifying timber and to pay compensation to such landowners in
30 accordance with subsections (6) and (7) of this section. The
31 department of natural resources may not transfer the easements to any
32 entity other than another state agency.

33 (4) Forestry riparian easements shall be effective for fifty years
34 from the date the forest practices application associated with the
35 qualifying timber is submitted to the department of natural resources,
36 unless the easement is terminated earlier by the department of natural
37 resources voluntarily, based on a determination that termination is in
38 the best interest of the state, or under the terms of a termination
39 clause in the easement.

1 (5) Forestry riparian easements shall be restrictive only, and
2 shall preserve all lawful uses of the easement premises by the
3 landowner that are consistent with the terms of the easement and the
4 requirement to protect riparian functions during the term of the
5 easement, subject to the restriction that the leave trees required by
6 the rules to be left on the easement premises may not be cut during the
7 term of the easement. No right of public access to or across, or any
8 public use of the easement premises is created by this statute or by
9 the easement. Forestry riparian easements shall not be deemed to
10 trigger the compensating tax of or otherwise disqualify land from being
11 taxed under chapter 84.33 or 84.34 RCW.

12 (6) Upon application of a small forest landowner for a riparian
13 easement that is associated with a forest practices application and the
14 landowner's marking of the qualifying timber on the qualifying lands,
15 the small forest landowner office shall determine the compensation to
16 be offered to the small (~~{{forest}}~~) forest landowner as provided for
17 in this section. The legislature recognizes that there is not readily
18 available market transaction evidence of value for easements of this
19 nature, and thus establishes the following methodology to ascertain the
20 value for forestry riparian easements. Values so determined shall not
21 be considered competent evidence of value for any other purpose.

22 The small forest landowner office shall establish the volume of the
23 qualifying timber. Based on that volume and using data obtained or
24 maintained by the department of revenue under RCW 84.33.074 and
25 84.33.091, the small forest landowner office shall attempt to determine
26 the fair market value of the qualifying timber as of the date the
27 forest practices application associated with the qualifying timber was
28 submitted. If, under the forest practices rules adopted under chapter
29 4, Laws of 1999 1st sp. sess., some qualifying timber may be removed
30 prior to the expiration of the fifty-year term of the easement, the
31 small forest landowner office shall apply a reduced compensation factor
32 to ascertain the value of those trees based on the proportional
33 economic value, considering income and growth, lost to the landowner.

34 (7) Except as provided in subsection (8) of this section, the small
35 forest landowner office shall, subject to available funding, offer
36 compensation to the small forest landowner in the amount of fifty
37 percent of the value determined in subsection (6) of this section. If
38 the landowner accepts the offer, the department of natural resources
39 shall pay the compensation promptly upon (a) completion of harvest in

1 the area covered by the forestry riparian easement; (b) verification
2 that there has been compliance with the rules requiring leave trees in
3 the easement area; and (c) execution and delivery of the easement to
4 the department of natural resources. Upon donation or payment of
5 compensation, the department of natural resources may record the
6 easement.

7 (8) For approved forest (~~practice[s]~~) practices applications
8 where the regulatory impact is greater than the average percentage
9 impact for all small landowners as determined by the department of
10 natural resources analysis under the regulatory fairness act, chapter
11 19.85 RCW, the compensation offered will be increased to one hundred
12 percent for that portion of the regulatory impact that is in excess of
13 the average. Regulatory impact includes trees left in buffers, special
14 management zones, and those rendered uneconomic to harvest by these
15 rules. A separate average or high impact regulatory threshold shall be
16 established for western and eastern Washington. Criteria for these
17 measurements and payments shall be established by the small forest
18 landowner office.

19 (9) The forest practices board shall adopt rules under the
20 administrative procedure act, chapter 34.05 RCW, to implement the
21 forestry riparian easement program, including the following:

22 (a) A standard version or versions of all documents necessary or
23 advisable to create the forestry riparian easements as provided for in
24 this section;

25 (b) Standards for descriptions of the easement premises with a
26 degree of precision that is reasonable in relation to the values
27 involved;

28 (c) Methods and standards for cruises and valuation of forestry
29 riparian easements for purposes of establishing the compensation. The
30 department of natural resources shall perform the timber cruises of
31 forestry riparian easements required under this chapter and chapter
32 76.09 RCW. Any rules concerning the methods and standards for
33 valuations of forestry riparian easements shall apply only to the
34 department of natural resources, small forest landowners, and the small
35 forest landowner office;

36 (d) A method to determine that a forest (~~practice[s]~~) practices
37 application involves a commercially reasonable harvest;

38 (e) A method to address blowdown of qualified timber falling
39 outside the easement premises;

1 (f) A formula for sharing of proceeds in relation to the
2 acquisition of qualified timber covered by an easement through the
3 exercise or threats of eminent domain by a federal or state agency with
4 eminent domain authority, based on the present value of the department
5 of natural resources' and the landowner's relative interests in the
6 qualified timber;

7 (g) High impact regulatory thresholds;

8 (h) A method to determine timber that is qualifying timber because
9 it is rendered uneconomic to harvest by the rules adopted under RCW
10 76.09.055 and 76.09.370; and

11 (i) A method for internal department of natural resources review of
12 small (~~(forest)~~) forest landowner office compensation decisions under
13 subsection (7) of this section.

14 EXPLANATORY NOTE

15 Clarifies a reference to the small forest landowner.
16 Also corrects references to forest practices applications and
17 the small forest landowner office.

18 **Sec. 14.** RCW 76.14.010 and 1988 c 128 s 37 are each amended to
19 read as follows:

20 As used in this chapter:

21 (1) "Department" means the department of natural resources;

22 (2) "Forest land" means any lands considered best adapted for the
23 growing of trees; and

24 (3) The term "owner" means and includes individuals, partnerships,
25 corporations, associations, federal land managing agencies, state of
26 Washington, counties, municipalities, and other forest landowners(
27 ~~"Forest land" means any lands considered best adapted for the~~
28 ~~growing of trees~~)).

29 EXPLANATORY NOTE

30 Arranges definitions in alphabetical order.

31 **Sec. 15.** RCW 76.15.010 and 1991 c 179 s 3 are each amended to read
32 as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter.

35 (1) (~~"Department" means the department of natural resources.~~

36 (2) ~~"Person" means an individual, partnership, private or public~~
37 ~~municipal corporation, Indian tribe, state entity, county or local~~
38 ~~governmental entity, or association of individuals of whatever nature.~~

1 under a contract or permit issued by an agency of the United States
2 government.

3 ~~(6) ("Processed cedar products" means cedar shakes, shingles,~~
4 ~~fence posts, hop poles, pickets, stakes, rails, or rounds less than one~~
5 ~~foot in length.~~

6 ~~(7) "Cedar processor" means any person who purchases, takes, or~~
7 ~~retains possession of cedar products or cedar salvage for later sale in~~
8 ~~the same or modified form following removal and delivery from the land~~
9 ~~where harvested.~~

10 ~~(8) "Cascara bark" means the bark of a Cascara tree.~~

11 ~~(9) "Wild edible mushrooms" means edible mushrooms not cultivated~~
12 ~~or propagated by artificial means.~~

13 ~~(10) "Specialized forest products" means Christmas trees, native~~
14 ~~ornamental trees and shrubs, cut or picked evergreen foliage, cedar~~
15 ~~products, cedar salvage, processed cedar products, wild edible~~
16 ~~mushrooms, and Cascara bark.~~

17 ~~(11) "Person" includes the plural and all corporations, foreign or~~
18 ~~domestic, copartnerships, firms, and associations of persons.~~

19 ~~(12)) "Christmas trees" means any evergreen trees or the top~~
20 ~~thereof, commonly known as Christmas trees, with limbs and branches,~~
21 ~~with or without roots, including fir, pine, spruce, cedar, and other~~
22 ~~coniferous species.~~

23 ~~(7) "Cut or picked evergreen foliage," commonly known as brush,~~
24 ~~means evergreen boughs, huckleberry, salal, fern, Oregon grape,~~
25 ~~rhododendron, mosses, bear grass, scotch broom (Cytisus scoparius), and~~
26 ~~other cut or picked evergreen products. "Cut or picked evergreen~~
27 ~~foliage" does not mean cones or seeds.~~

28 ~~(8) "Harvest" means to separate, by cutting, prying, picking,~~
29 ~~peeling, breaking, pulling, splitting, or otherwise removing, a~~
30 ~~specialized forest product (a) from its physical connection or contact~~
31 ~~with the land or vegetation upon which it is or was growing or (b) from~~
32 ~~the position in which it is lying upon the land.~~

33 ~~((13) "Transportation" means the physical conveyance of~~
34 ~~specialized forest products outside or off of a harvest site by any~~
35 ~~means.~~

36 ~~(14) "Landowner" means, with regard to real property, the private~~
37 ~~owner, the state of Washington or any political subdivision, the~~
38 ~~federal government, or a person who by deed, contract, or lease has~~
39 ~~authority to harvest and sell forest products of the property.~~

1 ~~"Landowner" does not include the purchaser or successful high bidder at~~
2 ~~a public or private timber sale.~~

3 ~~(15) "Authorization" means a properly completed preprinted form~~
4 ~~authorizing the transportation or possession of Christmas trees which~~
5 ~~contains the information required by RCW 76.48.080, a sample of which~~
6 ~~is filed before the harvesting occurs with the sheriff of the county in~~
7 ~~which the harvesting is to occur.~~

8 ~~(16))) (9) "Harvest site" means each location where one or more~~
9 ~~persons are engaged in harvesting specialized forest products close~~
10 ~~enough to each other that communication can be conducted with an~~
11 ~~investigating law enforcement officer in a normal conversational tone.~~

12 ~~((17) "Specialized forest products permit" means a printed~~
13 ~~document in a form specified by the department of natural resources, or~~
14 ~~true copy thereof, that is signed by a landowner or his or her~~
15 ~~authorized agent or representative, referred to in this chapter as~~
16 ~~"permitters" and validated by the county sheriff and authorizes a~~
17 ~~designated person, referred to in this chapter as "permittee", who has~~
18 ~~also signed the permit, to harvest and transport a designated~~
19 ~~specialized forest product from land owned or controlled and specified~~
20 ~~by the permittor and that is located in the county where the permit is~~
21 ~~issued.~~

22 ~~(18))) (10) "Landowner" means, with regard to real property, the~~
23 ~~private owner, the state of Washington or any political subdivision,~~
24 ~~the federal government, or a person who by deed, contract, or lease has~~
25 ~~authority to harvest and sell forest products of the property.~~
26 ~~"Landowner" does not include the purchaser or successful high bidder at~~
27 ~~a public or private timber sale.~~

28 ~~(11) "Native ornamental trees and shrubs" means any trees or shrubs~~
29 ~~which are not nursery grown and which have been removed from the ground~~
30 ~~with the roots intact.~~

31 ~~(12) "Permit area" means a designated tract of land that may~~
32 ~~contain single or multiple harvest sites.~~

33 ~~(13) "Person" includes the plural and all corporations, foreign or~~
34 ~~domestic, copartnerships, firms, and associations of persons.~~

35 ~~(14) "Processed cedar products" means cedar shakes, shingles, fence~~
36 ~~posts, hop poles, pickets, stakes, rails, or rounds less than one foot~~
37 ~~in length.~~

1 faces, water bodies created by mine-related excavation, pit floors, the
2 land beneath processing plant and stock pile sites, spoil pile sites,
3 and equipment staging areas. Disturbed areas shall also include
4 aboveground waste rock sites and tailing facilities, and other surface
5 manifestations of underground mines.

6 Disturbed areas do not include:

7 (a) Surface mine access roads unless these have characteristics of
8 topography, drainage, slope stability, or ownership that, in the
9 opinion of the department, make reclamation necessary;

10 (b) Lands that have been reclaimed to all standards outlined in
11 this chapter, rules of the department, any applicable SEPA document,
12 and the approved reclamation plan; and

13 (c) Subsurface aspects of underground mines, such as portals,
14 tunnels, shafts, pillars, and stopes.

15 (6) "Miner" means any person or persons, any partnership, limited
16 partnership, or corporation, or any association of persons, including
17 every public or governmental agency engaged in surface mining.

18 (7) "Minerals" means clay, coal, gravel, industrial minerals,
19 metallic substances, peat, sand, stone, topsoil, and any other similar
20 solid material or substance to be excavated from natural deposits on or
21 in the earth for commercial, industrial, or construction use.

22 (8) "Operations" means all mine-related activities, exclusive of
23 reclamation, that include, but are not limited to activities that
24 affect noise generation, air quality, surface and ground water quality,
25 quantity, and flow, glare, pollution, traffic safety, ground
26 vibrations, and/or significant or substantial impacts commonly
27 regulated under provisions of land use or other permits of local
28 government and local ordinances, or other state laws.

29 Operations specifically include:

30 (a) The mining or extraction of rock, stone, gravel, sand, earth,
31 and other minerals;

32 (b) Blasting, equipment maintenance, sorting, crushing, and
33 loading;

34 (c) On-site mineral processing including asphalt or concrete
35 batching, concrete recycling, and other aggregate recycling;

36 (d) Transporting minerals to and from the mine, on site road
37 maintenance, road maintenance for roads used extensively for surface
38 mining activities, traffic safety, and traffic control.

1 (9) "Overburden" means the earth, rock, soil, and topsoil that lie
2 above mineral deposits.

3 (10) "Permit holder" means any person or persons, any partnership,
4 limited partnership, or corporation, or any association of persons,
5 either natural or artificial, including every public or governmental
6 agency engaged in surface mining and/or the operation of surface mines,
7 whether individually, jointly, or through subsidiaries, agents,
8 employees, operators, or contractors who holds a state reclamation
9 permit.

10 (11) "Reclamation" means rehabilitation for the appropriate future
11 use of disturbed areas resulting from surface mining including areas
12 under associated mineral processing equipment, areas under stockpiled
13 materials, and aboveground waste rock and tailing facilities, and all
14 other surface disturbances associated with underground mines. Although
15 both the need for and the practicability of reclamation will control
16 the type and degree of reclamation in any specific surface mine, the
17 basic objective shall be to reestablish on a perpetual basis the
18 vegetative cover, soil stability, and water conditions appropriate to
19 the approved subsequent use of the surface mine and to prevent or
20 mitigate future environmental degradation.

21 (12) "Reclamation setbacks" include those lands along the margins
22 of surface mines wherein minerals and overburden shall be preserved in
23 sufficient volumes to accomplish reclamation according to the approved
24 plan and the minimum reclamation standards. Maintenance of reclamation
25 setbacks may not preclude other mine-related activities within the
26 reclamation setback.

27 (13) "Recycling" means the reuse of minerals or rock products.

28 (14) "Screening" consists of vegetation, berms or other topography,
29 fencing, and/or other screens that may be required to mitigate impacts
30 of surface mining on adjacent properties and/or the environment.

31 (15) "Segment" means any portion of the surface mine that, in the
32 opinion of the department:

33 (a) Has characteristics of topography, drainage, slope stability,
34 ownership, mining development, or mineral distribution, that make
35 reclamation necessary;

36 (b) Is not in use as part of surface mining and/or related
37 activities; and

1 (c) Is larger than seven acres and has more than five hundred
2 linear feet of working face except as provided in a segmental
3 reclamation agreement approved by the department.

4 (16) "SEPA" means the state environmental policy act, chapter
5 43.21C RCW and rules adopted thereunder.

6 (17)(a) "Surface mine" means any area or areas in close proximity
7 to each other, as determined by the department, where extraction of
8 minerals results in:

9 (i) More than three acres of disturbed area;

10 (ii) Surface mined slopes greater than thirty feet high and steeper
11 than 1.0 foot horizontal to 1.0 foot vertical; or

12 (iii) More than one acre of disturbed area within an eight acre
13 area, when the disturbed area results from mineral prospecting or
14 exploration activities.

15 (b) Surface mines include areas where mineral extraction from the
16 surface or subsurface occurs by the auger method or by reworking mine
17 refuse or tailings, when the disturbed area exceeds the size or height
18 thresholds listed in (a) of this subsection.

19 (c) Surface mining occurs when operations have created or are
20 intended to create a surface mine as defined by this subsection.

21 (d) Surface mining shall exclude excavations or grading used:

22 (i) Primarily for on-site construction, on-site road maintenance,
23 or on-site landfill construction;

24 (ii) For the purpose of public safety or restoring the land
25 following a natural disaster;

26 (iii) For the purpose of removing stockpiles;

27 (iv) For forest or farm road construction or maintenance on site or
28 on contiguous lands;

29 (v) Primarily for public works projects if the mines are owned or
30 primarily operated by counties with 1993 populations of less than
31 twenty thousand persons, and if each mine has less than seven acres of
32 disturbed area; and

33 (vi) For sand authorized by RCW ((43-51-685)) 79A.05.630.

34 (18) "Topsoil" means the naturally occurring upper part of a soil
35 profile, including the soil horizon that is rich in humus and capable
36 of supporting vegetation together with other sediments within four
37 vertical feet of the ground surface.

38 EXPLANATORY NOTE

1 RCW 43.51.685 was recodified as RCW 79A.05.630 pursuant to 1999
2 c 249 s 1601.

3 **Sec. 23.** RCW 79.08.275 and 1996 c 129 s 8 are each amended to read
4 as follows:

5 Except as provided in RCW ((~~43.51.1121 and 43.51.113~~)) 79A.05.120
6 and 79A.05.125, the portion of the Milwaukee Road corridor from the
7 west end of the bridge structure over the Columbia river, which point
8 is located in section 34, township 16 north, range 23 east, W.M., to
9 the Idaho border purchased by the state shall be under the management
10 and control of the department of natural resources.

11 EXPLANATORY NOTE

12 RCW 43.51.1121 and 43.51.113 were recodified as RCW 79A.05.120
13 and 79A.05.125, respectively, pursuant to 1999 c 249 s 1601.

14 **Sec. 24.** RCW 79.24.570 and 1969 ex.s. c 273 s 11 are each amended
15 to read as follows:

16 All moneys received by the department of general administration
17 from the management of the east capitol site, excepting (1) funds
18 otherwise dedicated prior to April 28, 1967, (2) parking and rental
19 charges and fines which are required to be deposited in other accounts,
20 and (3) reimbursements of service and other utility charges made to the
21 department of general administration, shall be deposited in the capitol
22 purchase and development account of the state general fund ((~~or, in the~~
23 ~~event that revenue bonds are issued as authorized by RCW 79.24.630~~
24 ~~through 79.24.647, into the state building bond redemption fund~~
25 ~~pursuant to RCW 79.24.638~~)).

26 EXPLANATORY NOTE

27 RCW 79.24.630 through 79.24.647 were repealed by 1994 c 219 s
28 21.

29 **Sec. 25.** RCW 79.71.090 and 1991 sp.s. c 13 s 118 are each amended
30 to read as follows:

31 There is hereby created the natural resources conservation areas
32 stewardship account in the state treasury to ensure proper and
33 continuing management of land acquired or designated pursuant to this
34 chapter. Funds for the stewardship account shall be derived from
35 appropriations of state general funds, federal funds, grants,
36 donations, gifts, bond issue receipts, securities, and other monetary
37 instruments of value. Income derived from the management of natural

1 resources conservation areas shall also be deposited in this
2 stewardship account.

3 Appropriations from this account to the department shall be
4 expended for no other purpose than the following: (1) To manage the
5 areas approved by the legislature in fulfilling the purposes of this
6 chapter; (2) to manage property acquired as natural area preserves
7 under chapter 79.70 RCW; (3) to manage property transferred under the
8 authority and appropriation provided by the legislature to be managed
9 under chapter 79.70 RCW or this chapter or acquired under chapter
10 ((43.98A)) 79A.15 RCW; and (4) to pay for operating expenses for the
11 natural heritage program under chapter 79.70 RCW.

12 EXPLANATORY NOTE

13 Chapter 43.98A RCW was recodified as chapter 79A.15 RCW
14 pursuant to 1999 c 249 s 1601.

15 **Sec. 26.** RCW 79.71.100 and 1987 c 472 s 10 are each amended to
16 read as follows:

17 The legislature hereby designates certain areas as natural
18 resources conservation areas:

19 (1) The Mt. Si conservation area (King County), RCW ((43.51.940))
20 79A.05.725, is hereby designated the Mt. Si natural resources
21 conservation area. The department is directed to continue its
22 management of this area and to develop a plan for its continued
23 conservation and use by the public. In accordance with Article XVI of
24 the Washington state Constitution, any available private lands and
25 trust lands located within the designated boundaries of the Mt. Si
26 conservation area shall be leased or acquired in fee from the
27 appropriate trust at fair market value using funds appropriated for
28 that purpose.

29 (2) Trust lands and state-owned land on Cypress Island (Skagit
30 County) are hereby designated as the Cypress Island natural resources
31 conservation area. Any available private lands necessary to achieve
32 the purposes of this section shall be acquired by the department of
33 natural resources using funds appropriated for that purpose. Trust
34 lands located within the designated boundaries of the Cypress Island
35 natural resources conservation area shall be leased or acquired in fee
36 from the appropriate trust at fair market value.

37 (3) Woodard Bay (Thurston County) is hereby designated the Woodard
38 Bay natural resources conservation area. The department is directed to

1 acquire property available in Sec. 18, T.19N, R1W using funds
2 appropriated for that purpose.

3 (4) The area adjacent to the Dishman Hills natural area (Spokane
4 County) is hereby designated the Dishman Hills natural resources
5 conservation area. The department is directed to acquire property
6 available in Sec. 19, 29 and 30, T.25N, R44E, using funds appropriated
7 for that purpose.

8 EXPLANATORY NOTE

9 RCW 43.51.940 was recodified as RCW 79A.05.725 pursuant to 1999
10 c 249 s 1601.

11 **Sec. 27.** RCW 79.92.070 and 1982 1st ex.s. c 21 s 75 are each
12 amended to read as follows:

13 If the owner of any harbor area lease upon tidal waters shall
14 desire to construct thereon any wharf, dock, or other convenience of
15 navigation or commerce, or to extend, enlarge, or substantially improve
16 any existing structure used in connection with such harbor area, and
17 shall deem the required expenditure not warranted by his or her right
18 to occupy such harbor area during the remainder of the term of his or
19 her lease, ((he)) the lease owner may make application to the
20 department of natural resources for a new lease of such harbor area for
21 a period not exceeding thirty years. Upon the filing of such
22 application accompanied by such proper plans, drawings or other data,
23 the department shall forthwith investigate the same and if it shall
24 determine that the proposed work or improvement is in the public
25 interest and reasonably adequate for the public needs, it shall by
26 order fix the terms and conditions and the rate of rental for such new
27 lease, such rate of rental shall be a fixed percentage, during the term
28 of such lease, on the true and fair value in money of such harbor area
29 determined from time to time by the department ((as provided in RCW
30 79.92.050)). The department may propose modifications of the proposed
31 wharf, dock, or other convenience or extensions, enlargements, or
32 improvements thereon. The department shall, within ninety days from
33 the filing of such application notify the applicant in writing of the
34 terms and conditions upon which such new lease will be granted, and of
35 the rental to be paid, and if the applicant shall within ninety days
36 thereafter elect to accept a new lease of such harbor area upon the
37 terms and conditions, and at the rental prescribed by the department,
38 the department shall make a new lease for such harbor area for the term

1 applied for and the existing lease shall thereupon be surrendered and
2 canceled.

3 EXPLANATORY NOTE

4 RCW 79.92.050 was repealed by 1984 c 221 s 30, effective
5 October 1, 1984.
6 Makes the section gender neutral.

7 **Sec. 28.** RCW 79.92.080 and 1982 1st ex.s. c 21 s 76 are each
8 amended to read as follows:

9 Upon the expiration of any harbor area lease upon tidal waters
10 hereafter expiring, the owner thereof may apply for a re-lease of such
11 harbor area for a period not exceeding thirty years. Such application
12 shall be accompanied with maps showing the existing improvements upon
13 such harbor area and the tidelands adjacent thereto and with proper
14 plans, drawings, and other data showing any proposed extensions or
15 improvements of existing structures. Upon the filing of such
16 application the department of natural resources shall forthwith
17 investigate the same and if it shall determine that the character of
18 the wharves, docks or other conveniences of commerce and navigation are
19 reasonably adequate for the public needs and in the public interest, it
20 shall by order fix and determine the terms and conditions upon which
21 such re-lease shall be granted and the rate of rental to be paid, which
22 rate shall be a fixed percentage during the term of such lease on the
23 true and fair value in money of such harbor area as determined from
24 time to time by the department of natural resources (~~in accordance~~
25 ~~with RCW 79.92.050~~)).

26 EXPLANATORY NOTE

27 RCW 79.92.050 was repealed by 1984 c 221 s 30, effective
28 October 1, 1984.

29 **Sec. 29.** RCW 79.94.070 and 1982 1st ex.s. c 21 s 92 are each
30 amended to read as follows:

31 Upon platting and appraisal of tidelands or shorelands of the first
32 class as in this chapter provided, if the department of natural
33 resources shall deem it for the best public interest to offer said tide
34 or shore lands of the first class for lease, the department shall cause
35 a notice to be served upon the owner of record of uplands fronting upon
36 the tide or shore lands to be offered for lease if he or she be a
37 resident of the state, or if he or she be a nonresident of the state,
38 shall mail to his or her last known post office address, as reflected

1 in the county records, a copy of the notice notifying him or her that
2 the state is offering such tide or shore lands for lease, giving a
3 description of those lands and the department's appraised fair market
4 value of such tide or shore lands for lease, and notifying such owner
5 that he or she has a preference right to apply to lease said tide or
6 shore lands at the appraised value for the lease thereof for a period
7 of sixty days from the date of service of mailing of said notice. If
8 at the expiration of sixty days from the service or mailing of the
9 notice, as above provided, there being no conflicting applications
10 filed, and the owner of the uplands fronting upon the tide or shore
11 lands offered for lease, has failed to avail himself or herself of his
12 or her preference right to apply to lease or to pay to the department
13 the appraised value for lease of the tide or shore lands described in
14 said notice, then in that event, said tide or shore lands may be
15 offered for lease to any person and may be leased in the manner
16 provided for in the case of lease of state lands.

17 If at the expiration of sixty days two or more claimants asserting
18 a preference right to lease shall have filed applications to lease any
19 tract, conflicting with each other, the conflict between the claimants
20 shall be equitably resolved by the department of natural
21 (~~resource[s]~~) resources as the best interests of the state require in
22 accord with the procedures prescribed by chapter 34.05 RCW: PROVIDED,
23 That any contract purchaser of lands or rights therein, which upland
24 qualifies the owner for a preference right under this section, shall
25 have first priority for such preference right.

26 EXPLANATORY NOTE

27 Corrects the reference to the department of natural resources.
28 Makes the section gender neutral.

29 **Sec. 30.** RCW 79.96.110 and 1994 c 264 s 72 are each amended to
30 read as follows:

31 In case the director of fish and wildlife approves the vacation of
32 the whole or any part of said reserve, the department of natural
33 resources may vacate and offer for lease such parts or all of said
34 reserve as it deems to be for the best interest of the state, and all
35 moneys received for the lease of such lands shall be paid to the
36 department of natural resources (~~(in accordance with RCW 79.94.190)~~):
37 PROVIDED, That nothing in RCW 79.96.090 through 79.96.110 shall be
38 construed as authorizing the lease of any tidelands which have

1 heretofore, or which may hereafter, be set aside as state oyster
2 reserves in Eld Inlet, Hammersley Inlet, or Totten Inlet, situated in
3 Mason or Thurston counties: PROVIDED FURTHER, That any portion of Plat
4 138, Clifton's Oyster Reserve, which has already been vacated, may be
5 leased by the department.

6 EXPLANATORY NOTE

7 RCW 79.94.190 was repealed by 1984 c 221 s 30, effective
8 October 1, 1984.

9 **Sec. 31.** RCW 79A.05.155 and 1982 c 156 s 4 are each amended to
10 read as follows:

11 If the commission determines it necessary, the applicant shall
12 execute and file with the secretary of state a bond payable to the
13 state, in such penal sum as the commission shall require, with good and
14 sufficient sureties to be approved by the commission, conditioned that
15 the grantee of the permit will make the improvement in accordance with
16 the plans and specifications contained in the permit, and, in case the
17 improvement is made upon lands withdrawn from sale under the provisions
18 of RCW ((43.51.100)) 79A.05.105, will pay into the state treasury to
19 the credit of the fund to which the proceeds of the sale of such lands
20 would belong, the appraised value of all merchantable timber and
21 material on the land, destroyed, or used in making such improvement.

22 EXPLANATORY NOTE

23 RCW 43.51.100 was recodified as RCW 79A.05.105 pursuant to 1999
24 c 249 s 1601.

25 **Sec. 32.** RCW 79A.05.200 and 1967 ex.s. c 96 s 1 are each amended
26 to read as follows:

27 The powers, functions, and duties heretofore exercised by the
28 department of ((fisheries)) fish and wildlife, or its director,
29 respecting the management, control, and operation of the following
30 enumerated tidelands, which are presently suitable for public
31 recreational use, are hereby transferred to the parks and recreation
32 commission which shall also have respecting such tidelands all the
33 powers conferred by this chapter ((43.51-RCW)), as now or hereafter
34 amended, respecting parks and parkways:

35 Parcel No. 1. (Toandos Peninsula) The tidelands of the second
36 class, owned by the state of Washington, situate in front of, adjacent
37 to, or abutting upon lots 1, 2, and 3, section 5, lots 1, 2, and 3,

1 section 4, and lot 1, section 3, all in township 25 north, range 1
2 west, W.M., with a frontage of 158.41 lineal chains, more or less.

3 Parcel No. 2. (Shine) The tidelands of the second class, owned by
4 the state of Washington, situate in front of, adjacent to, or abutting
5 upon lots 1, 2, 3 and that portion of lot 4 lying north of the south
6 8.35 chains thereof as measured along the government meander line, all
7 in section 35, township 28 north, range 1 east, W.M., with a frontage
8 of 76.70 lineal chains, more or less.

9 Subject to an easement for right of way for county road granted to
10 Jefferson county December 8, 1941 under application No. 1731, records
11 of department of public lands.

12 Parcel No. 3. (Mud Bay - Lopez Island) The tidelands of the second
13 class, owned by the state of Washington situate in front of, adjacent
14 to, or abutting upon lots 5, 6 and 7, section 18, lot 5, section 7 and
15 lots 3, 4, and 5, section 8, all in township 34 north, range 1 west,
16 W.M., with a frontage of 172.11 lineal chains, more or less.

17 Excepting, however, any tideland of the second class in front of
18 said lot 3, section 8 conveyed through deeds issued April 14, 1909
19 pursuant to the provisions of chapter 24, Laws of 1895 under
20 application No. 4985, records of department of public lands.

21 Parcel No. 4. (Spencer Spit) The tidelands of the second class,
22 owned by the state of Washington, situate in front of, adjacent to, or
23 abutting upon lots 1, 3, and 4, section 7, and lot 5, section 18 all in
24 township 35 north, range 1 west, W.M., with a frontage of 118.80 lineal
25 chains, more or less.

26 Parcel No. 5. (Lilliwaup) The tidelands of the second class, owned
27 by the state of Washington, lying easterly of the east line of vacated
28 state oyster reserve plat No. 133 produced southerly and situate in
29 front of, adjacent to or abutting upon lot 9, section 30, lot 8,
30 section 19 and lot 5 and the south 20 acres of lot 4, section 20, all
31 in township 23 north, range 3 west, W.M., with a frontage of 62.46
32 lineal chains, more or less.

33 EXPLANATORY NOTE

34 (1) Powers, duties, and functions of the department of
35 fisheries and the department of wildlife were transferred to
36 the department of fish and wildlife by 1993 sp.s. c 2,
37 effective July 1, 1994.

38 (2) Chapter 43.51 RCW was repealed and/or recodified in its
39 entirety pursuant to 1999 c 249. The remaining sections were
40 recodified in chapter 79A.05 RCW.

1 appointed, except in the case of appointments to fill vacancies for the
2 remainder of the unexpired term: PROVIDED, That the first of these
3 members shall be appointed for terms as follows: Three members shall
4 be appointed for one year, three members shall be appointed for two
5 years, and three members shall be appointed for three years.

6 (4) Members of the committee shall be reimbursed from the winter
7 recreational program account created by RCW (~~43.51.310~~) 79A.05.235
8 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

9 (5) The committee shall meet at times and places it determines not
10 less than twice each year and additionally as required by the committee
11 chairman or by majority vote of the committee. The chairman of the
12 committee shall be chosen under procedures adopted by the committee.
13 The committee shall adopt any other procedures necessary to govern its
14 proceedings.

15 (6) The director of parks and recreation or the director's designee
16 shall serve as secretary to the committee and shall be a nonvoting
17 member.

18 (7) The winter recreation advisory committee and its powers and
19 duties shall terminate on June 30, 2001.

20 EXPLANATORY NOTE

21 RCW 43.51.310 was recodified as RCW 79A.05.235 pursuant to 1999
22 c 249 s 1601.

23 **Sec. 36.** RCW 79A.05.265 and 1977 ex.s. c 281 s 1 are each amended
24 to read as follows:

25 The legislature finds that there is a need for hostels in the state
26 for the safety and welfare of transient persons with limited resources.
27 It is the intent of RCW (~~43.51.360 through 43.51.370~~) 79A.05.265
28 through 79A.05.275 that such facilities be established using locally
29 donated structures. It is the further intent of RCW (~~43.51.360~~
30 ~~through 43.51.370~~) 79A.05.265 through 79A.05.275 that the state
31 dispense any available federal or other moneys for such related
32 projects and provide assistance where possible.

33 EXPLANATORY NOTE

34 RCW 43.51.360 through 43.51.370 were recodified as RCW
35 79A.05.265 through 79A.05.275 pursuant to 1999 c 249 s 1601.

36 **Sec. 37.** RCW 79A.05.300 and 1980 c 89 s 4 are each amended to read
37 as follows:

1 For the reasons specified in RCW ((~~43.51.380~~)) 79A.25.250, the
2 state parks and recreation commission shall place a high priority on
3 the establishment of urban area state parks and shall revise its plan
4 for future state parks to achieve this priority. This section shall be
5 implemented by January 1, 1981.

6 EXPLANATORY NOTE

7 RCW 43.51.380 was recodified as RCW 79A.25.250 pursuant to 1999
8 c 249 s 1601.

9 **Sec. 38.** RCW 79A.05.315 and 1996 c 129 s 7 are each amended to
10 read as follows:

11 Except as provided in RCW ((~~43.51.1121 and 43.51.113~~)) 79A.05.120
12 and 79A.05.125, management control of the portion of the Milwaukee Road
13 corridor, beginning at the western terminus near Easton and concluding
14 at the west end of the bridge structure over the Columbia river, which
15 point is located in section 34, township 16 north, range 23 east, W.M.,
16 inclusive of the northerly spur line therefrom, shall be transferred by
17 the department of natural resources to the state parks and recreation
18 commission at no cost to the commission.

19 EXPLANATORY NOTE

20 RCW 43.51.1121 and 43.51.113 were recodified as RCW 79A.05.120
21 and 79A.05.125 pursuant to 1999 c 249 s 1601.

22 **Sec. 39.** RCW 79A.05.320 and 1987 c 438 s 39 are each amended to
23 read as follows:

24 The state parks and recreation commission shall do the following
25 with respect to the portion of the Milwaukee Road corridor under its
26 control:

27 (1) Manage the corridor as a recreational trail except when closed
28 under RCW ((~~43.51.409~~)) 79A.05.325;

29 (2) Close the corridor to hunting;

30 (3) Close the corridor to all motorized vehicles except: (a)
31 Emergency or law enforcement vehicles; (b) vehicles necessary for
32 access to utility lines; and (c) vehicles necessary for maintenance of
33 the corridor, or construction of the trail;

34 (4) Comply with legally enforceable conditions contained in the
35 deeds for the corridor;

36 (5) Control weeds under the applicable provisions of chapters
37 17.04, 17.06, and 17.10 RCW; and

38 (6) Clean and maintain culverts.

EXPLANATORY NOTE

RCW 43.51.409 was recodified as RCW 79A.05.325 pursuant to 1999 c 249 s 1601.

Sec. 40. RCW 79A.05.405 and 1993 c 182 s 6 are each amended to read as follows:

The water trail program account is created in the state treasury. All receipts from sales of materials pursuant to RCW ((43.51.442)) 79A.05.385, from state-wide water trail permit fees collected pursuant to RCW ((43.51.448)) 79A.05.400, and all monetary civil penalties collected pursuant to RCW ((43.51.454)) 79A.05.415 shall be deposited in the water trail program account. Any gifts, grants, donations, or moneys from any source received by the commission for the water trail program shall also be deposited in the water trail program account. Moneys in the account may be spent only after appropriation to the commission, and may be used solely for water trail program purposes, including: (1) Administration, acquisition, development, operation, planning, and maintenance of water trail lands and facilities, and grants or contracts therefor; and (2) the development and implementation of water trail informational, safety, enforcement, and education programs, and grants or contracts therefor.

EXPLANATORY NOTE

RCW 43.51.442, 43.52 448, and 43.51.454 were recodified as RCW 79A.05.385, 79A.05.400, and 79A.05.415, respectively, pursuant to 1999 c 249 s 1601.

Sec. 41. RCW 79A.05.420 and 1994 c 264 s 21 are each amended to read as follows:

(1) There is created a water trail advisory committee to advise the parks and recreation commission in the administration of RCW ((43.51.440 through 43.51.454)) 79A.05.380 through 79A.05.415 and to assist and advise the commission in the development of water trail facilities and programs.

(2) The advisory committee shall consist of twelve members, who shall be appointed as follows:

(a) Five public members representing recreational water trail users, to be appointed by the commission;

(b) Two public members representing commercial sectors with an interest in the water trail system, to be appointed by the commission;

1 (c) One representative each from the department of natural
2 resources, the department of fish and wildlife, the Washington state
3 association of counties, and the association of Washington cities, to
4 be appointed by the director of the agency or association. The
5 director of the Washington state parks and recreation commission or the
6 director's designee shall serve as secretary to the committee and shall
7 be a nonvoting member.

8 (3) Except as provided in this section, the terms of the public
9 members appointed by the commission shall begin on January 1st of the
10 year of appointment and shall be for three years or until a successor
11 is appointed, except in the case of appointments to fill vacancies for
12 the remainder of an unexpired term. In making the initial appointments
13 to the advisory committee, the commission shall appoint two public
14 members to serve one year, two public members to serve for two years,
15 and three public members to serve for three years. Public members of
16 the advisory committee may be reimbursed from the water trail program
17 account for travel expenses as provided in RCW 43.03.050 and 43.03.060.

18 (4) The committee shall select a chair and adopt rules necessary to
19 govern its proceedings. The committee shall meet at the times and
20 places it determines, not less than twice a year, and additionally as
21 required by the committee chair or by majority vote of the committee.

22 EXPLANATORY NOTE

23 RCW 43.51.440 through 43.51.454 were recodified as RCW
24 79A.05.380 through 79A.05.415 pursuant to 1999 c 249 s 1601.

25 **Sec. 42.** RCW 79A.05.500 and 1969 ex.s. c 96 s 1 are each amended
26 to read as follows:

27 The purpose of RCW (~~((43.51.500 through 43.51.570))~~) 79A.05.500
28 through 79A.05.530 is to provide: (1) The opportunity for healthful
29 employment of youths in programs of conservation, developing,
30 improving, and maintaining natural and artificial recreational areas
31 for the welfare of the general public; (2) the opportunity for our
32 youths to learn vocational and work skills, develop good work habits
33 and a sense of responsibility and contribution to society, improvement
34 in personal physical and moral well being, and an understanding and
35 appreciation of nature.

36 EXPLANATORY NOTE

37 RCW 43.51.500 through 43.51.570 were recodified as RCW
38 79A.05.500 through 79A.05.530 pursuant to 1999 c 249 s 1601,

1 cooperation and assistance of federal agencies, other state agencies,
2 and local political subdivisions. All state agencies, and the
3 governing officials of each local subdivision shall cooperate with the
4 commission in carrying out its duties. Except as otherwise provided in
5 RCW (~~((43.51.650 through 43.51.685))~~) 79A.05.600 through 79A.05.630, and
6 notwithstanding any other provision of law, other state agencies and
7 local subdivisions shall perform duties in the Washington State
8 Seashore Conservation Area which are within their normal jurisdiction,
9 except when such performance clearly conflicts with the purposes of RCW
10 (~~((43.51.650 through 43.51.685))~~) 79A.05.600 through 79A.05.630.

11 EXPLANATORY NOTE

12 RCW 43.51.650 through 43.51.685 were recodified as RCW
13 79A.05.600 through 79A.05.630 pursuant to 1999 c 249 s 1601.

14 **Sec. 49.** RCW 79A.05.625 and 1994 c 264 s 22 are each amended to
15 read as follows:

16 Nothing in RCW (~~((43.51.650 through 43.51.685))~~) 79A.05.600 through
17 79A.05.630 and (~~((43.51.695 through 43.51.765))~~) 79A.05.635 through
18 79A.05.695 shall be construed to interfere with the powers, duties and
19 authority of the department of fish and wildlife to regulate the
20 conservation or taking of food fish and shellfish. Nor shall anything
21 in RCW (~~((43.51.650 through 43.51.685))~~) 79A.05.600 through 79A.05.630
22 and (~~((43.51.695 through 43.51.765))~~) 79A.05.635 through 79A.05.695 be
23 construed to interfere with the powers, duties and authority of the
24 department of fish and wildlife to regulate, manage, conserve, and
25 provide for the harvest of wildlife within such area: PROVIDED,
26 HOWEVER, That no hunting shall be permitted in any state park.

27 EXPLANATORY NOTE

28 RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765
29 were recodified as RCW 79A.05.600 through 79A.05.630 and
30 79A.05.635 through 79A.05.695 pursuant to 1999 c 249 s 1601.

31 **Sec. 50.** RCW 79A.05.630 and 1997 c 137 s 4 are each amended to
32 read as follows:

33 Lands within the Seashore Conservation Area shall not be sold,
34 leased, or otherwise disposed of, except as herein provided. The
35 commission may, under authority granted in RCW (~~((43.51.210 and~~
36 ~~43.51.215))~~) 79A.05.175 and 79A.05.180, exchange state park lands in the
37 Seashore Conservation Area for lands of equal value to be managed by
38 the commission consistent with this chapter. Only state park lands

1 lying east of the Seashore Conservation Line, as it is located at the
2 time of exchange, may be so exchanged. The department of natural
3 resources may lease the lands within the Washington State Seashore
4 Conservation Area as well as the accreted lands along the ocean in
5 state ownership for the exploration and production of oil and gas:
6 PROVIDED, That oil drilling rigs and equipment will not be placed on
7 the Seashore Conservation Area or state-owned accreted lands.

8 Sale of sand from accretions shall be made to supply the needs of
9 cranberry growers for cranberry bogs in the vicinity and shall not be
10 prohibited if found by the commission to be reasonable, and not
11 generally harmful or destructive to the character of the land:
12 PROVIDED, That the commission may grant leases and permits for the
13 removal of sands for construction purposes from any lands within the
14 Seashore Conservation Area if found by the commission to be reasonable
15 and not generally harmful or destructive to the character of the land:
16 PROVIDED FURTHER, That net income from such leases shall be deposited
17 in the state parks renewal and stewardship account.

18 EXPLANATORY NOTE

19 RCW 43.51.210 and 43.51.215 were recodified as RCW 79A.05.175
20 and 79A.05.180 pursuant to 1999 c 249 s 1601.

21 **Sec. 51.** RCW 79A.05.635 and 1988 c 75 s 1 are each amended to read
22 as follows:

23 A cooperative program to provide recreation management plans for
24 the ocean beaches that comprise the Seashore Conservation Area
25 established by RCW (~~43.51.655~~) 79A.05.605 is created.

26 EXPLANATORY NOTE

27 RCW 43.51.655 was recodified as RCW 79A.05.605 pursuant to 1999
28 c 249 s 1601.

29 **Sec. 52.** RCW 79A.05.640 and 1988 c 75 s 2 are each amended to read
30 as follows:

31 Unless the context clearly requires otherwise, the definitions in
32 this section apply to RCW (~~43.51.650 through 43.51.685 and 43.51.695~~
33 ~~through 43.51.765~~) 79A.05.600 through 79A.05.695.

- 34 (1) "Local government" means a county, city, or town.
35 (2) "Ocean beaches" include the three ocean beaches described in
36 RCW (~~43.51.655~~) 79A.05.605.
37 (3) "Pedestrian use" means any use that does not involve a
38 motorized vehicle.

EXPLANATORY NOTE

(1) RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765 were recodified as RCW 79A.05.600 through 79A.05.630 and 79A.05.635 through 79A.05.695 pursuant to 1999 c 249 s 1601. These citations have been combined to accurately reflect those sections that relate to the Washington State Seashore Conservation Area, RCW 79A.05.600 through 79A.05.695.

(2) RCW 43.51.655 was recodified as RCW 79A.05.605 pursuant to 1999 c 249 s 1601.

Sec. 53. RCW 79A.05.645 and 1988 c 75 s 3 are each amended to read as follows:

Local governments having a portion of the Seashore Conservation Area within their boundaries may, individually or through an agreement with other local governments located on the same ocean beach, adopt a recreation management plan which meets the requirements of RCW (~~43.51.650 through 43.51.685 and 43.51.695 through 43.51.765~~) 79A.05.600 through 79A.05.695 for that portion of the ocean beach. The legislature hereby encourages adoption of a single plan for each beach.

EXPLANATORY NOTE

RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765 were recodified as RCW 79A.05.600 through 79A.05.630 and 79A.05.635 through 79A.05.695 pursuant to 1999 c 249 s 1601. These citations have been combined to accurately reflect those sections that relate to the Washington State Seashore Conservation Area, RCW 79A.05.600 through 79A.05.695.

Sec. 54. RCW 79A.05.650 and 1988 c 75 s 4 are each amended to read as follows:

(1) Except as provided in RCW (~~43.51.715 and 43.51.720~~) 79A.05.655 and 79A.05.660, a total of forty percent of the length of the beach subject to the recreation management plan shall be reserved for pedestrian use under this section and RCW (~~43.51.725~~) 79A.05.665. Restrictions on motorized traffic under this section shall be from April 15th to the day following Labor day of each year. Local jurisdictions may adopt provisions within recreation management plans that exceed the requirements of this section. The commission shall not require that a plan designate for pedestrian use more than forty percent of the land subject to the plan.

(2) In designating areas to be reserved for pedestrian use, the plan shall consider the following:

(a) Public safety;

(b) State-wide interest in recreational use of the ocean beaches;

- 1 (c) Protection of shorebird and marine mammal habitats;
- 2 (d) Preservation of native beach vegetation;
- 3 (e) Protection of sand dune topography;
- 4 (f) Prudent management of clam beds;
- 5 (g) Economic impacts to the local community; and
- 6 (h) Public access and parking availability.

7 EXPLANATORY NOTE

8 RCW 43.51.715, 43.51.720, and 43.51.725 were recodified as RCW
9 79A.05.655, 79A.05.660, and 79A.05.665 pursuant to 1999 c 249
10 s 1601.
11 Also puts the date reference in standard drafting style.

12 **Sec. 55.** RCW 79A.05.655 and 1988 c 75 s 5 are each amended to read
13 as follows:

14 Notwithstanding RCW (~~43.51.710(1)~~) 79A.05.650(1), recreation
15 management plans may make provision for vehicular traffic on areas
16 otherwise reserved for pedestrian use in order to:

- 17 (1) Facilitate clam digging;
- 18 (2) Accommodate organized recreational events of not more than
19 seven consecutive days duration;
- 20 (3) Provide for removal of wood debris under RCW 4.24.210 and
21 (~~43.51.045(5)~~) 79A.05.035(5); and
- 22 (4) Accommodate removal of sand located upland from the Seashore
23 Conservation Area or removal of sand within the Seashore Conservation
24 Area under the terms of a covenant, easement, or deed.

25 EXPLANATORY NOTE

26 RCW 43.51.710 and 43.51.045 were recodified as RCW 79A.05.650
27 and 79A.05.035 pursuant to 1999 c 249 s 1601.

28 **Sec. 56.** RCW 79A.05.665 and 1988 c 75 s 7 are each amended to read
29 as follows:

30 Recreation management plans shall, upon request of the commission,
31 reserve on a permanent, seasonal, or temporary basis, land adjoining
32 national wildlife refuges and state parks for pedestrian use. After a
33 plan is approved, the commission may require local jurisdictions to
34 adopt amendments to the plan governing driving on land adjoining
35 wildlife refuges and state parks. Land reserved for pedestrian use
36 under this section for at least the period from April 15th through the
37 day following Labor Day of each year shall be included when determining
38 compliance with the requirements of RCW (~~43.51.710~~) 79A.05.650.

EXPLANATORY NOTE

RCW 43.51.710 was recodified as RCW 79A.05.650 pursuant to 1999 c 249 s 1601.

Sec. 57. RCW 79A.05.685 and 1988 c 75 s 11 are each amended to read as follows:

Recreation management plans shall be adopted by each participating jurisdiction and submitted to the commission by September 1, 1989. The commission shall approve the proposed plan if, in the commission's judgment, the plan adequately fulfills the requirements of RCW ((43.51.650 through 43.51.685 and 43.51.695 through 43.51.765)) 79A.05.600 through 79A.05.695.

If the proposed plan is not approved, the commission shall suggest modifications to the participating local governments. Local governments shall have ninety days after receiving the suggested modifications to resubmit a recreation management plan. Thereafter, if the commission finds that a plan does not adequately fulfill the requirements of RCW ((43.51.650 through 43.51.685 and 43.51.695 through 43.51.765)) 79A.05.600 through 79A.05.695, the commission may amend the proposal or adopt an alternative plan.

If a plan for all or any portion of the Seashore Conservation Area is not submitted in accordance with RCW ((43.51.695 through 43.51.765)) 79A.05.635 through 79A.05.695, the commission shall adopt a recreation management plan for that site.

Administrative rules adopted by the commission under RCW 43.51.680 shall remain in effect for all or any portion of each ocean beach until a recreation management plan for that site is adopted or approved by the commission.

The commission shall not adopt a recreation management plan for all or any portion of an ocean beach while appeal of a commission decision regarding that site is pending.

EXPLANATORY NOTE

RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765 were recodified as RCW 79A.05.600 through 79A.05.630 and 79A.05.635 through 79A.05.695 pursuant to 1999 c 249 s 1601. The references to RCW 79A.05.600 through 79A.05.630 and 79A.05.635 through 79A.05.695 have been combined to accurately reflect those sections that relate to the Washington State Seashore Conservation Area, RCW 79A.05.600 through 79A.05.695.

Sec. 58. RCW 79A.05.693 and 1988 c 75 s 14 are each amended to read as follows:

1 The ocean beaches within the Seashore Conservation Area are hereby
2 declared a public highway and shall remain forever open to the use of
3 the public as provided in RCW ((43.51.695 through 43.51.765))
4 79A.05.635 through 79A.05.695.

5 EXPLANATORY NOTE

6 RCW 43.51.695 through 43.51.765 were recodified as RCW
7 79A.05.635 through 79A.05.695 pursuant to 1999 c 249 s 1601.

8 **Sec. 59.** RCW 79A.05.695 and 1988 c 75 s 15 are each amended to
9 read as follows:

10 Amendments to the recreation management plan may be adopted jointly
11 by each local government participating in the plan and submitted to the
12 commission for approval. The commission shall approve a proposed
13 amendment if, in the commission's judgment, the amendment adequately
14 fulfills the requirements of RCW ((43.51.650 through 43.51.685 and
15 43.51.695 through 43.51.765)) 79A.05.600 through 79A.05.695.

16 After a plan is approved, the commission may require local
17 jurisdictions to adopt amendments to the plan if the commission finds
18 that such amendments are necessary to protect public health and safety,
19 or to protect significant natural resources as determined by the agency
20 having jurisdiction over the resource.

21 EXPLANATORY NOTE

22 RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765
23 were recodified as RCW 79A.05.600 through 79A.05.630 and
24 79A.05.635 through 79A.05.695 pursuant to 1999 c 249 s 1601.
25 These citations have been combined to accurately reflect those
26 sections that relate to the Washington State Seashore
27 Conservation Area, RCW 79A.05.600 through 79A.05.695.

28 **Sec. 60.** RCW 79A.05.735 and 1994 c 264 s 23 are each amended to
29 read as follows:

30 The state department of natural resources and the state parks and
31 recreation commission have joined together in excellent cooperation in
32 the conducting of this study along with the citizen advisory
33 subcommittee and have joined together in cooperation with the
34 department of fish and wildlife to accomplish other projects of
35 multidisciplinary concern, and because it may be in the best interests
36 of the state to continue such cooperation, the state parks and
37 recreation commission, the department of natural resources, and the
38 department of fish and wildlife are hereby directed to consider both
39 short and long term objectives, the expertise of each agency's staff,

1 and alternatives such as reasonably may be expected to safeguard the
2 conservation area's values as described in RCW ((43.51.940)) 79A.05.725
3 giving due regard to efficiency and economy of management: PROVIDED,
4 That the interests conveyed to or by the state agencies identified in
5 this section shall be managed by the department of natural resources
6 until such time as the state parks and recreation commission or other
7 public agency is managing public recreation areas and facilities
8 located in such close proximity to the conservation area described in
9 RCW ((43.51.942)) 79A.05.730 so as to make combined management of those
10 areas and facilities and transfer of management of the conservation
11 area more efficient and economical than continued management by the
12 department of natural resources. At that time the department of
13 natural resources is directed to negotiate with the appropriate public
14 agency for the transfer of those management responsibilities for the
15 interests obtained within the conservation area under RCW ((43.51.940
16 through 43.51.945)) 79A.05.725 through 79A.05.745: PROVIDED FURTHER,
17 That the state agencies identified in this section may, by mutual
18 agreement, undertake management of portions of the conservation area as
19 they may from time to time determine in accordance with those rules and
20 regulations established for natural area preserves under chapter 79.70
21 RCW, for natural and conservation areas under present WAC 352-16-020(3)
22 and (6), and under chapter 77.12 RCW.

23 EXPLANATORY NOTE
24 (1) RCW 43.51.940 and 43.51.942 were recodified as RCW
25 79A.05.725 and 79A.05.730 pursuant to 1999 c 249 s 1601.
26 (2) RCW 43.51.940 through 43.51.945 were recodified as RCW
27 79A.05.725 through 79A.05.745 pursuant to 1999 c 249 s 1601.

28 **Sec. 61.** RCW 79A.05.750 and 1977 ex.s. c 75 s 1 are each amended
29 to read as follows:

30 It is the intent of RCW ((43.51.946 through 43.51.956)) 79A.05.750
31 through 79A.05.795 to establish and recognize the Yakima river corridor
32 from Selah Gap (Yakima Ridge) to Union Gap (Rattlesnake Hills) as a
33 uniquely valuable recreation, conservation, and scenic resource in the
34 state of Washington.

35 EXPLANATORY NOTE
36 RCW 43.51.946 through 43.51.956 were recodified as RCW
37 79A.05.750 through 79A.05.795 pursuant to 1999 c 249 s 1601.

1 separate and apart from all other money, funds, and accounts of the
2 committee.

3 EXPLANATORY NOTE

4 Chapter 43.99 RCW was recodified as chapter 79A.25 RCW pursuant
5 to 1999 c 249 s 1601.

6 **Sec. 66.** RCW 79A.15.030 and 1990 1st ex.s. c 14 s 4 are each
7 amended to read as follows:

8 (1) Moneys appropriated for this chapter shall be divided equally
9 between the habitat conservation and outdoor recreation accounts and
10 shall be used exclusively for the purposes specified in this chapter.

11 (2) Moneys deposited in these accounts shall be invested as
12 authorized for other state funds, and any earnings on them shall be
13 credited to the respective account.

14 (3) All moneys deposited in the habitat conservation and outdoor
15 recreation accounts shall be allocated under RCW (~~43.98A.040~~ and
16 ~~43.98A.050~~) 79A.15.040 and 79A.15.050 as grants to state or local
17 agencies for acquisition, development, and renovation within the
18 jurisdiction of those agencies, subject to legislative appropriation.
19 The committee may use or permit the use of any funds appropriated for
20 this chapter as matching funds where federal, local, or other funds are
21 made available for projects within the purposes of this chapter.

22 (4) Projects receiving grants under this chapter that are developed
23 or otherwise accessible for public recreational uses shall be available
24 to the public on a nondiscriminatory basis.

25 (5) The committee may make grants to an eligible project from both
26 the habitat conservation and outdoor recreation accounts and any one or
27 more of the applicable categories under such accounts described in RCW
28 (~~43.98A.040 and 43.98A.050~~) 79A.15.040 and 79A.15.050.

29 EXPLANATORY NOTE

30 RCW 43.98A.040 and 43.98A.050 were recodified as RCW 79A.15.040
31 and 79A.15.050 pursuant to 1999 c 249 s 1601.

32 **Sec. 67.** RCW 79A.15.060 and 1999 c 379 s 918 are each amended to
33 read as follows:

34 (1) The committee may adopt rules establishing acquisition policies
35 and priorities for distributions from the habitat conservation account.

36 (2) Moneys appropriated for this chapter may not be used by the
37 committee to fund additional staff positions or other overhead
38 expenses, or by a state, regional, or local agency to fund operation

1 and maintenance of areas acquired under this chapter, except that the
2 committee may use moneys appropriated for this chapter for the fiscal
3 biennium ending June 30, 2001, for the administrative costs of
4 implementing the pilot watershed plan implementation program
5 established in section 329(6), chapter 235, Laws of 1997, and
6 developing an inventory of publicly owned lands established in section
7 329(7), chapter 235, Laws of 1997.

8 (3) Moneys appropriated for this chapter may be used for costs
9 incidental to acquisition, including, but not limited to, surveying
10 expenses, fencing, and signing.

11 (4) Except as provided in subsection (5) of this section, the
12 committee may not approve a local project where the local agency share
13 is less than the amount to be awarded from the habitat conservation
14 account.

15 (5) During the fiscal biennium ending June 30, 2001, the committee
16 may approve a riparian zone habitat protection project established in
17 section 329(6), chapter 235, Laws of 1997, where the local agency share
18 is less than the amount to be awarded from the habitat conservation
19 account.

20 (6) In determining acquisition priorities with respect to the
21 habitat conservation account, the committee shall consider, at a
22 minimum, the following criteria:

23 (a) For critical habitat and natural areas proposals:

24 (i) Community support;

25 (ii) Immediacy of threat to the site;

26 (iii) Uniqueness of the site;

27 (iv) Diversity of species using the site;

28 (v) Quality of the habitat;

29 (vi) Long-term viability of the site;

30 (vii) Presence of endangered, threatened, or sensitive species;

31 (viii) Enhancement of existing public property;

32 (ix) Consistency with a local land use plan, or a regional or
33 state-wide recreational or resource plan; and

34 (x) Educational and scientific value of the site.

35 (b) For urban wildlife habitat proposals, in addition to the
36 criteria of (a) of this subsection:

37 (i) Population of, and distance from, the nearest urban area;

38 (ii) Proximity to other wildlife habitat;

39 (iii) Potential for public use; and

1 (iv) Potential for use by special needs populations.

2 (7) Before October 1st of each even-numbered year, the committee
3 shall recommend to the governor a prioritized list of state agency
4 projects to be funded under RCW (~~43.98A.040~~) 79A.15.040(1) (a), (b),
5 and (c). The governor may remove projects from the list recommended by
6 the committee and shall submit this amended list in the capital budget
7 request to the legislature. The list shall include, but not be limited
8 to, a description of each project; and shall describe for each project
9 any anticipated restrictions upon recreational activities allowed prior
10 to the project.

11 (8) Before October 1st of each year, the committee shall recommend
12 to the governor a prioritized list of all local projects to be funded
13 under RCW (~~43.98A.040~~) 79A.15.040(1)(c). The governor may remove
14 projects from the list recommended by the committee and shall submit
15 this amended list in the capital budget request to the legislature.
16 The list shall include, but not be limited to, a description of each
17 project and any particular match requirement, and describe for each
18 project any anticipated restrictions upon recreational activities
19 allowed prior to the project.

20 EXPLANATORY NOTE

21 RCW 43.98A.040 was recodified as RCW 79A.15.040 pursuant to
22 1999 c 249 s 1601.

23 **Sec. 68.** RCW 79A.15.070 and 1999 c 379 s 919 are each amended to
24 read as follows:

25 (1) In determining which state parks proposals and local parks
26 proposals to fund, the committee shall use existing policies and
27 priorities.

28 (2) Moneys appropriated for this chapter may not be used by the
29 committee to fund additional staff or other overhead expenses, or by a
30 state, regional, or local agency to fund operation and maintenance of
31 areas acquired under this chapter, except that the committee may use
32 moneys appropriated for this chapter for the fiscal biennium ending
33 June 30, 2001, for the administrative costs of implementing the pilot
34 watershed plan implementation program established in section 329(6),
35 chapter 235, Laws of 1997, and developing an inventory of publicly
36 owned lands established in section 329(7), chapter 235, Laws of 1997.

1 (3) Moneys appropriated for this chapter may be used for costs
2 incidental to acquisition, including, but not limited to, surveying
3 expenses, fencing, and signing.

4 (4) The committee may not approve a project of a local agency where
5 the share contributed by the local agency is less than the amount to be
6 awarded from the outdoor recreation account.

7 (5) The committee may adopt rules establishing acquisition policies
8 and priorities for the acquisition and development of trails and water
9 access sites to be financed from moneys in the outdoor recreation
10 account.

11 (6) In determining the acquisition and development priorities, the
12 committee shall consider, at a minimum, the following criteria:

13 (a) For trails proposals:

14 (i) Community support;

15 (ii) Immediacy of threat to the site;

16 (iii) Linkage between communities;

17 (iv) Linkage between trails;

18 (v) Existing or potential usage;

19 (vi) Consistency with an existing local land use plan or a regional
20 or state-wide recreational or resource plan;

21 (vii) Availability of water access or views;

22 (viii) Enhancement of wildlife habitat; and

23 (ix) Scenic values of the site.

24 (b) For water access proposals:

25 (i) Community support;

26 (ii) Distance from similar water access opportunities;

27 (iii) Immediacy of threat to the site;

28 (iv) Diversity of possible recreational uses; and

29 (v) Public demand in the area.

30 (7) Before October 1st of each even-numbered year, the committee
31 shall recommend to the governor a prioritized list of state agency
32 projects to be funded under RCW ((43.98A.050)) 79A.15.050(1) (a), (c),
33 and (d). The governor may remove projects from the list recommended by
34 the committee and shall submit this amended list in the capital budget
35 request to the legislature. The list shall include, but not be limited
36 to, a description of each project; and shall describe for each project
37 any anticipated restrictions upon recreational activities allowed prior
38 to the project.

1 (8) Before October 1st of each year, the committee shall recommend
2 to the governor a prioritized list of all local projects to be funded
3 under RCW ((43.98A.050)) 79A.15.050(1) (b), (c), and (d) of this act.
4 The governor may remove projects from the list recommended by the
5 committee and shall submit this amended list in the capital budget
6 request to the legislature. The list shall include, but not be limited
7 to, a description of each project and any particular match requirement,
8 and describe for each project any anticipated restrictions upon
9 recreational activities allowed prior to the project.

10 EXPLANATORY NOTE

11 RCW 43.98A.050 was recodified as RCW 79A.15.050 pursuant to
12 1999 c 249 s 1601.

13 **Sec. 69.** RCW 79A.25.020 and 1989 c 237 s 4 are each amended to
14 read as follows:

15 The director shall have the following powers and duties:

16 (1) To supervise the administrative operations of the committee and
17 its staff;

18 (2) To administer recreation grant-in-aid programs and provide
19 technical assistance to state and local agencies;

20 (3) To prepare and update a strategic plan for the acquisition,
21 renovation, and development of recreational resources and the
22 preservation and conservation of open space. The plan shall be
23 prepared in coordination with the office of the governor and the office
24 of financial management, with participation of federal, state, and
25 local agencies having recreational responsibilities, user groups,
26 private sector interests, and the general public. The plan shall be
27 submitted to the committee for review, and the committee shall submit
28 its recommendations on the plan to the governor. The plan shall
29 include, but is not limited to: (a) an inventory of current resources;
30 (b) a forecast of recreational resource demand; (c) identification and
31 analysis of actual and potential funding sources; (d) a process for
32 broad scale information gathering; (e) an assessment of the
33 capabilities and constraints, both internal and external to state
34 government, that affect the ability of the state to achieve the goals
35 of the plan; (f) an analysis of strategic options and decisions
36 available to the state; (g) an implementation strategy that is
37 coordinated with executive policy and budget priorities; and (h)

1 elements necessary to qualify for participation in or the receipt of
2 aid from any federal program for outdoor recreation;

3 (4) To represent and promote the interests of the state on
4 recreational issues and further the mission of the committee;

5 (5) Upon approval of the committee, to enter into contracts and
6 agreements with private nonprofit corporations to further state goals
7 of preserving, conserving, and enhancing recreational resources and
8 open space for the public benefit and use;

9 (6) To appoint such technical and other committees as may be
10 necessary to carry out the purposes of this chapter;

11 (7) To create and maintain a repository for data, studies,
12 research, and other information relating to recreation in the state,
13 and to encourage the interchange of such information;

14 (8) To encourage and provide opportunities for interagency and
15 regional coordination and cooperative efforts between public agencies
16 and between public and private entities involved in the development and
17 preservation of recreational resources; and

18 (9) To prepare the state trails plan, as required by RCW
19 ((67.32.050)) 79A.35.040.

20 EXPLANATORY NOTE

21 RCW 67.32.050 was recodified as RCW 79A.35.040 pursuant to 1999
22 c 249 s 1601.

23 **Sec. 70.** RCW 79A.25.030 and 1995 c 166 s 1 are each amended to
24 read as follows:

25 From time to time, but at least once each four years, the director
26 of licensing shall determine the amount or proportion of moneys paid to
27 him or her as motor vehicle fuel tax which is tax on marine fuel. The
28 director shall make or authorize the making of studies, surveys, or
29 investigations to assist him or her in making such determination, and
30 shall hold one or more public hearings on the findings of such studies,
31 surveys, or investigations prior to making his or her determination.
32 The studies, surveys, or investigations conducted pursuant to this
33 section shall encompass a period of twelve consecutive months each
34 time. The final determination by the director shall be implemented as
35 of the next biennium after the period from which the study data were
36 collected. The director may delegate his or her duties and authority
37 under this section to one or more persons of the department of
38 licensing if he or she finds such delegation necessary and proper to

1 the efficient performance of these duties. Costs of carrying out the
2 provisions of this section shall be paid from the marine fuel tax
3 refund account created in RCW (~~((43.99.040))~~) 79A.25.040, upon
4 legislative appropriation.

5 EXPLANATORY NOTE

6 RCW 43.99.040 was recodified as RCW 79A.25.040 pursuant to 1999
7 c 249 s 1601.

8 Also makes the section gender neutral.

9 **Sec. 71.** RCW 79A.25.040 and 1995 c 166 s 2 are each amended to
10 read as follows:

11 There is created the marine fuel tax refund account in the state
12 treasury. The director of licensing shall request the state treasurer
13 to refund monthly from the motor vehicle fund amounts which have been
14 determined to be tax on marine fuel. The state treasurer shall refund
15 such amounts and place them in the marine fuel tax refund account to be
16 held for those entitled thereto pursuant to chapter 82.36 RCW and RCW
17 (~~((43.99.050))~~) 79A.25.050, except that he or she shall not refund and
18 place in the marine fuel tax refund account for any period for which a
19 determination has been made pursuant to RCW (~~((43.99.030))~~) 79A.25.030
20 more than the greater of the following amounts: (1) An amount equal to
21 two percent of all moneys paid to him or her as motor vehicle fuel tax
22 for such period, (2) an amount necessary to meet all approved claims
23 for refund of tax on marine fuel for such period.

24 EXPLANATORY NOTE

25 RCW 43.99.050 and 43.99.030 were recodified as RCW 79A.25.050
26 and 79A.25.030 pursuant to 1999 c 249 s 1601.

27 Also makes the section gender neutral.

28 **Sec. 72.** RCW 79A.25.060 and 1995 c 166 s 3 are each amended to
29 read as follows:

30 The outdoor recreation account is created in the state treasury.
31 Moneys in the account are subject to legislative appropriation. The
32 committee shall administer the account in accordance with chapter
33 (~~((43.98A))~~) 79A.15 RCW and this chapter, and shall hold it separate and
34 apart from all other money, funds, and accounts of the committee.

35 Grants, gifts, or other financial assistance, proceeds received
36 from public bodies as administrative cost contributions, and moneys
37 made available to the state of Washington by the federal government for
38 outdoor recreation, may be deposited into the account.

EXPLANATORY NOTE

Chapter 43.98A RCW was recodified as chapter 79A.15 RCW pursuant to 1999 c 249 s 1601.

Sec. 73. RCW 79A.25.070 and 1995 c 166 s 4 are each amended to read as follows:

Upon expiration of the time limited by RCW 82.36.330 for claiming of refunds of tax on marine fuel, the state of Washington shall succeed to the right to such refunds. The director of licensing, after taking into account past and anticipated claims for refunds from and deposits to the marine fuel tax refund account and the costs of carrying out the provisions of RCW (~~(43.99.030)~~) 79A.25.030, shall request the state treasurer to transfer monthly from the marine fuel tax refund account an amount equal to the proportion of the moneys in the account representing the motor vehicle fuel tax rate under RCW 82.36.025 in effect on January 1, 1990, to the recreation resource account and the remainder to the motor vehicle fund.

EXPLANATORY NOTE

RCW 43.99.030 was recodified as RCW 79A.25.030 pursuant to 1999 c 249 s 1601.

Sec. 74. RCW 79A.25.080 and 1999 c 341 s 1 are each amended to read as follows:

Moneys transferred to the recreation resource account from the marine fuel tax refund account may be used when appropriated by the legislature, as well as any federal or other funds now or hereafter available, to pay the necessary administrative and coordinative costs of the interagency committee for outdoor recreation established by RCW (~~(43.99.110)~~) 79A.25.110. All moneys so transferred, except those appropriated as aforesaid, shall be divided into two equal shares and shall be used to benefit watercraft recreation in this state as follows:

(1) One share as grants to state agencies for (a) acquisition of title to, or any interests or rights in, marine recreation land, (b) capital improvement and renovation of marine recreation land, including periodic dredging in accordance with subsection (3) of this section, if needed, to maintain or make the facility more useful, or (c) matching funds in any case where federal or other funds are made available on a matching basis for purposes described in (a) or (b) of this subsection;

1 (2) One share as grants to public bodies to help finance (a)
2 acquisition of title to, or any interests or rights in, marine
3 recreation land, or (b) capital improvement and renovation of marine
4 recreation land, including periodic dredging in accordance with
5 subsection (3) of this section, if needed, to maintain or make the
6 facility more useful. A public body is authorized to use a grant,
7 together with its own contribution, as matching funds in any case where
8 federal or other funds are made available for purposes described in (a)
9 or (b) of this subsection. The committee may prescribe further terms
10 and conditions for the making of grants in order to carry out the
11 purposes of this chapter.

12 (3) For the purposes of this section "periodic dredging" is limited
13 to dredging of materials that have been deposited in a channel due to
14 unforeseen events. This dredging should extend the expected usefulness
15 of the facility for at least five years.

16 EXPLANATORY NOTE

17 RCW 43.99.110 was recodified as RCW 79A.25.110 pursuant to 1999
18 c 249 s 1601.

19 **Sec. 75.** RCW 79A.25.100 and 1965 c 5 s 10 are each amended to read
20 as follows:

21 Marine recreation land with respect to which money has been
22 expended under RCW ((43.99.080)) 79A.25.080 shall not, without the
23 approval of the committee, be converted to uses other than those for
24 which such expenditure was originally approved. The committee shall
25 only approve any such conversion upon conditions which will assure the
26 substitution of other marine recreation land of at least equal fair
27 market value at the time of conversion and of as nearly as feasible
28 equivalent usefulness and location.

29 EXPLANATORY NOTE

30 RCW 43.99.080 was recodified as RCW 79A.25.080 pursuant to 1999
31 c 249 s 1601.

32 **Sec. 76.** RCW 79A.25.180 and 1989 c 237 s 6 are each amended to
33 read as follows:

34 The director shall periodically review and have updated the guide
35 authorized by RCW ((43.99.142)) 79A.25.170.

36 EXPLANATORY NOTE

37 RCW 43.99.142 was recodified as RCW 79A.25.170 pursuant to 1999
38 c 249 s 1601.

1 located parks, that few state parks are located in or near urban areas,
2 that a need exists to conserve energy, and that local governments
3 having jurisdiction in urban areas cannot afford the costs of
4 maintaining and operating the extensive park systems needed to service
5 their large populations, the legislature hereby directs the interagency
6 committee for outdoor recreation to place a high priority on the
7 acquisition, development, redevelopment, and renovation of parks to be
8 located in or near urban areas and to be particularly accessible to and
9 used by the populations of those areas. For purposes of RCW
10 (~~43.51.380 and 43.51.385~~) 79A.25.250 and 79A.05.300, "urban areas"
11 means any incorporated city with a population of five thousand persons
12 or greater or any county with a population density of two hundred fifty
13 persons per square mile or greater. This section shall be implemented
14 by January 1, 1981.

15 EXPLANATORY NOTE

16 RCW 43.51.380 and 43.51.385 were recodified as RCW 79A.25.250
17 and 79A.05.300 pursuant to 1999 c 249 s 1601.

18 **Sec. 80.** RCW 79A.25.800 and 1998 c 264 s 1 are each amended to
19 read as follows:

20 (1) The legislature recognizes that coordinated funding efforts are
21 needed to maintain, develop, and improve the state's community outdoor
22 athletic fields. Rapid population growth and increased urbanization
23 have caused a decline in suitable outdoor fields for community athletic
24 activities and has resulted in overcrowding and deterioration of
25 existing surfaces. Lack of adequate community outdoor athletic fields
26 directly affects the health and well-being of all citizens of the
27 state, reduces the state's economic viability, and prevents Washington
28 from maintaining and achieving the quality of life that it deserves.
29 Therefore, it is the policy of the state and its agencies to maintain,
30 develop, fund, and improve youth or community athletic facilities,
31 including but not limited to community outdoor athletic fields.

32 (2) In carrying out this policy, the legislature intends to promote
33 the building of new community outdoor athletic fields, the upgrading of
34 existing community outdoor athletic fields, and the maintenance of
35 existing community outdoor athletic fields across the state of
36 Washington. The purpose of RCW (~~43.99.800 through 43.99.830~~)
37 79A.25.800 through 79A.25.830 is to create an advisory council to
38 provide information and advice to the interagency committee for outdoor

1 recreation in the distribution of the funds in the youth athletic
2 facility grant account established in RCW 43.99N.060(4).

3 EXPLANATORY NOTE

4 RCW 43.99.800 through 43.99.830 were recodified as RCW
5 79A.25.800 through 79A.25.830 pursuant to 1999 c 249 s 1601.

6 **Sec. 81.** RCW 79A.25.820 and 1998 c 264 s 3 are each amended to
7 read as follows:

8 Subject to available resources, the interagency committee for
9 outdoor recreation, in consultation with the community outdoor athletic
10 fields advisory council may:

11 (1) Prepare and update a strategic plan for the development,
12 maintenance, and improvement of community outdoor athletic fields in
13 the state. In the preparation of such plan, the interagency committee
14 for outdoor recreation may use available data from federal, state, and
15 local agencies having community outdoor athletic responsibilities, user
16 groups, private sector interests, and the general public. The plan may
17 include, but is not limited to:

18 (a) An inventory of current community outdoor athletic fields;

19 (b) A forecast of demand for these fields;

20 (c) An identification and analysis of actual and potential funding
21 sources; and

22 (d) Other information the interagency committee for outdoor
23 recreation deems appropriate to carry out the purposes of RCW
24 (~~43.99.800 through 43.99.830~~) 79A.25.800 through 79A.25.830;

25 (2) Determine the eligibility requirements for cities, counties,
26 and qualified nonprofit organizations to access funding from the youth
27 athletic facility grant account created in RCW 43.99N.060(4);

28 (3) Encourage and provide opportunities for interagency and
29 regional coordination and cooperative efforts between public agencies
30 and between public entities and nonprofit organizations involved in the
31 maintenance, development, and improvement of community outdoor athletic
32 fields; and

33 (4) Create and maintain data, studies, research, and other
34 information relating to community outdoor athletic fields in the state,
35 and to encourage the exchange of this information.

36 EXPLANATORY NOTE

37 RCW 43.99.800 through 43.99.830 were recodified as RCW
38 79A.25.800 through 79A.25.830 pursuant to 1999 c 249 s 1601.

1 (a) The commission is vested with and shall retain ownership of
2 land provided by the state for the state horse park. Any lands
3 acquired by the commission after July 23, 1995, for the state horse
4 park shall be purchased under chapter (~~43.98A~~) 79A.15 RCW. The
5 legislature encourages the commission to provide a long-term lease of
6 the selected property to the Washington state horse park authority at
7 a minimal charge. The lease shall contain provisions ensuring public
8 access to and use of the horse park facilities, and generally
9 maximizing public recreation opportunities at the horse park, provided
10 that the facility remains available primarily for horse-related
11 activities.

12 (b) Land provided for the state horse park by the county in which
13 the park is located shall remain in the ownership of that county unless
14 the county determines otherwise. The legislature encourages the county
15 to provide a long-term lease of selected property to the Washington
16 state horse park authority at a minimal charge.

17 (c) If the authority acquires additional lands through donations,
18 grants, or other means, or with funds generated from the operation of
19 the state horse park, the authority shall retain ownership of those
20 lands. The authority shall also retain ownership of horse park site
21 improvements paid for by or through donations or gifts to the
22 authority.

23 (3) Development, promotion, operation, management, and maintenance
24 of the state horse park is the responsibility of the authority created
25 in RCW (~~67.18.030~~) 79A.30.030.

26 EXPLANATORY NOTE

27 (1) Chapter 43.98A RCW was recodified as chapter 79A.15 RCW
28 pursuant to 1999 c 249 s 1601.

29 (2) RCW 67.18.030 was recodified as RCW 79A.30.030 pursuant to
30 1999 c 249 s 1601.

31 **Sec. 85.** RCW 79A.30.030 and 1995 c 200 s 4 are each amended to
32 read as follows:

33 (1) A nonprofit corporation may be formed under the nonprofit
34 corporation provisions of chapter 24.03 RCW to carry out the purposes
35 of this chapter. Except as provided in RCW (~~67.18.040~~) 79A.30.040,
36 the corporation shall have all the powers and be subject to the same
37 restrictions as are permitted or prescribed to nonprofit corporations
38 and shall exercise those powers only for carrying out the purposes of
39 this chapter and those purposes necessarily implied therefrom. The

1 nonprofit corporation shall be known as the Washington state horse park
2 authority. The articles of incorporation shall provide that it is the
3 responsibility of the authority to develop, promote, operate, manage,
4 and maintain the Washington state horse park. The articles of
5 incorporation shall provide for appointment of directors and other
6 conduct of business consistent with the requirements of this chapter.

7 (2)(a) The articles of incorporation shall provide for a seven-
8 member board of directors for the authority, all appointed by the
9 governor. Board members shall serve three-year terms, except that two
10 of the original appointees shall serve one-year terms, and two of the
11 original appointees shall serve two-year terms. A board member may
12 serve consecutive terms.

13 (b) The articles of incorporation shall provide that the governor
14 appoint board members as follows:

15 (i) One board member shall represent the interests of the
16 commission. In making this appointment, the governor shall solicit
17 recommendations from the commission;

18 (ii) One board member shall represent the interests of the county
19 in which the park is located. In making this appointment, the governor
20 shall solicit recommendations from the county legislative authority;
21 and

22 (iii) Five board members shall represent the geographic and sports
23 discipline diversity of equestrian interests in the state, and at least
24 one of these members shall have business experience relevant to the
25 organization of horse shows or operation of a horse show facility. In
26 making these appointments, the governor shall solicit recommendations
27 from a variety of active horse-related organizations in the state.

28 (3) The articles of incorporation shall include a policy that
29 provides for the preferential use of a specific area of the horse park
30 facilities at nominal cost for horse groups associated with youth
31 groups and the disabled.

32 (4) The governor shall make appointments to fill board vacancies
33 for positions authorized under subsection (2) of this section, upon
34 additional solicitation of recommendations from the board of directors.

35 (5) The board of directors shall perform their duties in the best
36 interests of the authority, consistent with the standards applicable to
37 directors of nonprofit corporations under RCW 24.03.127.

EXPLANATORY NOTE

RCW 67.18.040 was recodified as RCW 79A.30.040 pursuant to 1999
c 249 s 1601.

Sec. 86. RCW 79A.35.030 and 1970 ex.s. c 76 s 4 are each amended
to read as follows:

(1) The system shall be composed of trails as designated by the
IAC. Such trails shall meet the conditions established in this chapter
and such supplementary criteria as the IAC may prescribe.

(2) The IAC shall establish a procedure whereby federal, state, and
local governmental agencies and/or public and private organizations may
propose trails for inclusion within the system. Such proposals will
comply with the proposal requirements contained in RCW ((67.32.060))
79A.35.050.

(3) In consultation with appropriate federal, state, and local
governmental agencies and public and private organizations, the IAC
shall establish a procedure for public review of the proposals
considered appropriate for inclusion in the state-wide trails system.

EXPLANATORY NOTE

RCW 67.32.060 was recodified as RCW 79A.35.050 pursuant to 1999
c 249 s 1601.

Sec. 87. RCW 79A.40.020 and 1959 c 327 s 2 are each amended to
read as follows:

It shall be unlawful after June 10, 1959, to construct or install
any such recreational device as set forth in RCW ((70.88.010))
79A.40.010 without first submitting plans and specifications for such
device to the state parks and recreation commission and receiving the
approval of the commission for such construction or installation.
Violation of this section shall be a misdemeanor.

EXPLANATORY NOTE

RCW 70.88.010 was recodified as RCW 79A.40.010 pursuant to 1999
c 249 s 1601.

Sec. 88. RCW 79A.40.030 and 1959 c 327 s 3 are each amended to
read as follows:

The state parks and recreation commission shall have the authority
and the responsibility for the inspection of the devices set forth in
RCW ((70.88.010)) 79A.40.010 and in addition shall have the following
powers and duties:

1 (1) Whenever the commission, after hearing called upon its own
2 motion or upon complaint, finds that additional apparatus, equipment,
3 facilities or devices for use or in connection with the transportation
4 or conveyance of persons upon the devices set forth in RCW
5 ((70.88.010)) 79A.40.010, ought reasonably to be provided, or any
6 repairs or improvements to, or changes in, any theretofore in use ought
7 reasonably to be made, or any additions or changes in construction
8 should reasonably be made thereto, in order to promote the security and
9 safety of the public or employees, it may make and serve an order
10 directing such repairs, improvements, changes, or additions to be made.

11 (2) If the commission finds that the equipment, or appliances in
12 connection therewith, or the apparatus, or other structures of the
13 recreational device set forth in RCW ((70.88.010)) 79A.40.010 are
14 defective, and that the operation thereof is dangerous to the employees
15 of the owner or operator of such device or to the public, it shall
16 immediately give notice to the owner or operator of such device of the
17 repairs or reconstruction necessary to place the same in a safe
18 condition, and may prescribe the time within which they shall be made.
19 If, in its opinion, it is needful or proper, the commission may forbid
20 the operation of the device until it is repaired and placed in a safe
21 condition.

22 EXPLANATORY NOTE

23 RCW 70.88.010 was recodified as RCW 79A.40.010 pursuant to 1999
24 c 249 s 1601.

25 **Sec. 89.** RCW 79A.40.060 and 1959 c 327 s 6 are each amended to
26 read as follows:

27 The inspector of recreational devices and his or her assistants
28 shall inspect all equipment and appliances connected with the
29 recreational devices set forth in RCW ((70.88.010)) 79A.40.010 and make
30 such reports of his or her inspection to the commission as may be
31 required. He or she shall, on discovering any defective equipment, or
32 appliances connected therewith, rendering the use of the equipment
33 dangerous, immediately report the same to the owner or operator of the
34 device on which it is found, and in addition report it to the
35 commission. If in the opinion of the inspector the continued operation
36 of the defective equipment constitutes an immediate danger to the
37 safety of the persons operating or being conveyed by such equipment,
38 the inspector may condemn such equipment and shall immediately notify

1 the commission of his or her action in this respect: PROVIDED, That
2 inspection required by this chapter must be conducted at least once
3 each year.

4 EXPLANATORY NOTE

5 RCW 70.88.010 was recodified as RCW 79A.40.010 pursuant to 1999
6 c 249 s 1601.
7 Also makes the section gender neutral.

8 **Sec. 90.** RCW 79A.40.080 and 1991 c 75 s 2 are each amended to read
9 as follows:

10 Inspections, rules, and orders of the state parks and recreation
11 commission resulting from the exercise of the provisions of this
12 chapter and chapter ((70.117)) 79A.45 RCW shall not in any manner be
13 deemed to impose liability upon the state for any injury or damage
14 resulting from the operation or signing of the facilities regulated by
15 this chapter, and all actions of the state parks and recreation
16 commission and its personnel shall be deemed to be an exercise of the
17 police power of the state.

18 EXPLANATORY NOTE

19 Chapter 70.117 RCW was recodified as chapter 79A.45 RCW
20 pursuant to 1999 c 249 s 1601.

21 **Sec. 91.** RCW 79A.45.040 and 1989 c 81 s 5 are each amended to read
22 as follows:

23 Ski area operators shall place a notice of the provisions of RCW
24 ((70.117.020(7))) 79A.45.030(7) on their trail maps, at or near the
25 ticket booth, and at the bottom of each ski lift or similar device.

26 EXPLANATORY NOTE

27 RCW 70.117.020 was recodified as RCW 79A.45.030 pursuant to
28 1999 c 249 s 1601.

29 **Sec. 92.** RCW 79A.60.010 and 1998 c 219 s 5 are each amended to
30 read as follows:

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

33 (1) "Boat wastes" includes, but is not limited to, sewage, garbage,
34 marine debris, plastics, contaminated bilge water, cleaning solvents,
35 paint scrapings, or discarded petroleum products associated with the
36 use of vessels.

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

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

12 (4) "Commission" means the state parks and recreation commission.

13 (5) "Darkness" means that period between sunset and sunrise.

14 (6) "Environmentally sensitive area" means a restricted body of
15 water where discharge of untreated sewage from boats is especially
16 detrimental because of limited flushing, shallow water, commercial or
17 recreational shellfish, swimming areas, diversity of species, the
18 absence of other pollution sources, or other characteristics.

19 (7) "Guide" means any individual, including but not limited to
20 subcontractors and independent contractors, engaged for compensation or
21 other consideration by a whitewater river outfitter for the purpose of
22 operating vessels. A person licensed under RCW 77.32.211 or 75.28.780
23 and acting as a fishing guide is not considered a guide for the
24 purposes of this chapter.

25 (8) "Marina" means a facility providing boat moorage space, fuel,
26 or commercial services. Commercial services include but are not
27 limited to overnight or live-aboard boating accommodations.

28 (9) "Motor driven boats and vessels" means all boats and vessels
29 which are self propelled.

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

34 (11) "Operate" means to steer, direct, or otherwise have physical
35 control of a vessel that is underway.

36 (12) "Operator" means an individual who steers, directs, or
37 otherwise has physical control of a vessel that is underway or
38 exercises actual authority to control the person at the helm.

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

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

6 (15) "Person" means any individual, sole proprietorship,
7 partnership, corporation, nonprofit corporation or organization,
8 limited liability company, firm, association, or other legal entity
9 located within or outside this state.

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

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

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

21 (19) "Public entities" means all elected or appointed bodies,
22 including tribal governments, responsible for collecting and spending
23 public funds.

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

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

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

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

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

35 (23) "Vessel" includes every description of watercraft on the
36 water, other than a seaplane, used or capable of being used as a means
37 of transportation on the water. However, it does not include inner
38 tubes, air mattresses, sailboards, and small rafts or flotation devices
39 or toys customarily used by swimmers.

1 (24) "Water skiing" means the physical act of being towed behind a
2 vessel on, but not limited to, any skis, aquaplane, kneeboard, tube, or
3 any other similar device.

4 (25) "Waters of the state" means any waters within the territorial
5 limits of Washington state.

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

11 (27) "Whitewater rivers of the state" means those rivers and
12 streams, or parts thereof, within the boundaries of the state as listed
13 in RCW ((88.12.265)) 79A.60.470 or as designated by the commission
14 under RCW ((88.12.279)) 79A.60.495.

15 EXPLANATORY NOTE

16 RCW 88.12.265 and 88.12.279 were recodified as RCW 79A.60.470
17 and 79A.60.495, respectively, pursuant to 1999 c 249 s 1601.

18 **Sec. 93.** RCW 79A.60.030 and 1993 c 244 s 7 are each amended to
19 read as follows:

20 A person shall not operate a vessel in a negligent manner. For the
21 purposes of this section, to "operate in a negligent manner" means
22 operating a vessel in disregard of careful and prudent operation, or in
23 disregard of careful and prudent rates of speed that are no greater
24 than is reasonable and proper under the conditions existing at the
25 point of operation, taking into account the amount and character of
26 traffic, size of the lake or body of water, freedom from obstruction to
27 view ahead, effects of vessel wake, and so as not to unduly or
28 unreasonably endanger life, limb, property or other rights of any
29 person entitled to the use of such waters. Except as provided in RCW
30 ((88.12.015)) 79A.60.020, a violation of this section is an infraction
31 under chapter 7.84 RCW.

32 EXPLANATORY NOTE

33 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999
34 c 249 s 1601.

35 **Sec. 94.** RCW 79A.60.050 and 1998 c 219 s 1 are each amended to
36 read as follows:

37 (1) When the death of any person ensues within three years as a
38 proximate result of injury proximately caused by the operating of any

1 vessel by any person, the operator is guilty of homicide by watercraft
2 if he or she was operating the vessel:

3 (a) While under the influence of intoxicating liquor or any drug,
4 as defined by RCW ((88.12.025)) 79A.60.040;

5 (b) In a reckless manner; or

6 (c) With disregard for the safety of others.

7 (2) When the death is caused by a skier towed by a vessel, the
8 operator of the vessel is not guilty of homicide by watercraft.

9 (3) A violation of this section is punishable as a class A felony
10 according to chapter 9A.20 RCW.

11 EXPLANATORY NOTE

12 RCW 88.12.025 was recodified as RCW 79A.60.040 pursuant to 1999
13 c 249 s 1601.

14 **Sec. 95.** RCW 79A.60.060 and 1998 c 219 s 2 are each amended to
15 read as follows:

16 (1) "Serious bodily injury" means bodily injury which involves a
17 substantial risk of death, serious permanent disfigurement, or
18 protracted loss or impairment of the function of any part or organ of
19 the body.

20 (2) A person is guilty of assault by watercraft if he or she
21 operates any vessel:

22 (a) In a reckless manner, and this conduct is the proximate cause
23 of serious bodily injury to another; or

24 (b) While under the influence of intoxicating liquor or any drug,
25 as defined by RCW ((88.12.025)) 79A.60.040, and this conduct is the
26 proximate cause of serious bodily injury to another.

27 (3) When the injury is caused by a skier towed by a vessel, the
28 operator of the vessel is not guilty of assault by watercraft.

29 (4) A violation of this section is punishable as a class B felony
30 according to chapter 9A.20 RCW.

31 EXPLANATORY NOTE

32 RCW 88.12.025 was recodified as RCW 79A.60.040 pursuant to 1999
33 c 249 s 1601.

34 **Sec. 96.** RCW 79A.60.070 and 1998 c 219 s 3 are each amended to
35 read as follows:

36 A person convicted under RCW ((88.12.029 or 88.12.032)) 79A.60.050
37 or 79A.60.060 shall, as a condition of community ((supervision))
38 custody imposed under RCW 9.94A.383 or community placement imposed

1 under RCW 9.94A.120(9), complete a diagnostic evaluation by an alcohol
2 or drug dependency agency approved by the department of social and
3 health services or a qualified probation department, defined under RCW
4 46.61.516, that has been approved by the department of social and
5 health services. If the person is found to have an alcohol or drug
6 problem that requires treatment, the person shall complete treatment in
7 a program approved by the department of social and health services
8 under chapter 70.96A RCW. If the person is found not to have an
9 alcohol or drug problem that requires treatment, he or she shall
10 complete a course in an information school approved by the department
11 of social and health services under chapter 70.96A RCW. The convicted
12 person shall pay all costs for any evaluation, education, or treatment
13 required by this section, unless the person is eligible for an existing
14 program offered or approved by the department of social and health
15 services. Nothing in chapter 219, Laws of 1998 requires the addition
16 of new treatment or assessment facilities nor affects the department of
17 social and health services use of existing programs and facilities
18 authorized by law.

19 EXPLANATORY NOTE

20 (1) RCW 88.12.029 and 88.12.032 were recodified as RCW
21 79A.60.050 and 79A.60.060 pursuant to 1999 c 249 s 1601.
22 (2) RCW 9.94A.383 was amended by 1999 c 196 s 10, changing the
23 term "community supervision" to "community custody."

24 **Sec. 97.** RCW 79A.60.130 and 1993 c 244 s 39 are each amended to
25 read as follows:

26 (1) All motor-propelled vessels shall be equipped and maintained
27 with an effective muffler that is in good working order and in constant
28 use. For the purpose of this section, an effective muffler or
29 underwater exhaust system does not produce sound levels in excess of
30 ninety decibels when subjected to a stationary sound level test that
31 shall be prescribed by rules adopted by the commission, as of July 25,
32 1993, and for engines manufactured on or after January 1, 1994, a noise
33 level of eighty-eight decibels when subjected to a stationary sound
34 level test that shall be prescribed by rules adopted by the commission.

35 (2) A vessel that does not meet the requirements of subsection (1)
36 of this section shall not be operated on the waters of this state.

37 (3) No person may operate a vessel on waters of the state in such
38 a manner as to exceed a noise level of seventy-five decibels measured
39 from any point on the shoreline of the body of water on which the

1 vessel is being operated that shall be specified by rules adopted by
2 the commission, as of July 25, 1993. Such measurement shall not
3 preclude a stationary sound level test that shall be prescribed by
4 rules adopted by the commission.

5 (4) This section does not apply to: (a) A vessel tuning up,
6 testing for, or participating in official trials for speed records or
7 a sanctioned race conducted pursuant to a permit issued by an
8 appropriate governmental agency; or (b) a vessel being operated by a
9 vessel or marine engine manufacturer for the purpose of testing or
10 development. Nothing in this subsection prevents local governments
11 from adopting ordinances to control the frequency, duration, and
12 location of vessel testing, tune-up, and racing.

13 (5) Any officer authorized to enforce this section who has reason
14 to believe that a vessel is not in compliance with the noise levels
15 established in this section may direct the operator of the vessel to
16 submit the vessel to an on-site test to measure noise level, with the
17 officer on board if the officer chooses, and the operator shall comply
18 with such request. If the vessel exceeds the decibel levels
19 established in this section, the officer may direct the operator to
20 take immediate and reasonable measures to correct the violation.

21 (6) Any officer who conducts vessel sound level tests as provided
22 in this section shall be qualified in vessel noise testing.
23 Qualifications shall include but may not be limited to the ability to
24 select the appropriate measurement site and the calibration and use of
25 noise testing equipment.

26 (7) A person shall not remove, alter, or otherwise modify in any
27 way a muffler or muffler system in a manner that will prevent it from
28 being operated in accordance with this chapter.

29 (8) A person shall not manufacture, sell, or offer for sale any
30 vessel that is not equipped with a muffler or muffler system that does
31 not comply with this chapter. This subsection shall not apply to power
32 vessels designed, manufactured, and sold for the sole purpose of
33 competing in racing events and for no other purpose. Any such
34 exemption or exception shall be documented in any and every sale
35 agreement and shall be formally acknowledged by signature on the part
36 of both the buyer and the seller. Copies of the agreement shall be
37 maintained by both parties. A copy shall be kept on board whenever the
38 vessel is operated.

1 (9) Except as provided in RCW ((88.12.015)) 79A.60.020, a violation
2 of this section is an infraction under chapter 7.84 RCW.

3 (10) Vessels that are equipped with an engine modified to increase
4 performance beyond the engine manufacturer's stock configuration shall
5 have an exhaust system that complies with the standards in this section
6 after January 1, 1994. Until that date, operators or owners, or both,
7 of such vessels with engines that are out of compliance shall be issued
8 a warning and be given educational materials about types of muffling
9 systems available to muffle noise from such high performance engines.

10 (11) Nothing in this section preempts a local government from
11 exercising any power that it possesses under the laws or Constitution
12 of the state of Washington to adopt more stringent regulations.

13 EXPLANATORY NOTE

14 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999
15 c 249 s 1601.

16 **Sec. 98.** RCW 79A.60.160 and 1999 c 310 s 1 are each amended to
17 read as follows:

18 (1) No person may operate or permit the operation of a vessel on
19 the waters of the state without a personal flotation device on board
20 for each person on the vessel. Each personal flotation device shall be
21 in serviceable condition, of an appropriate size, and readily
22 accessible.

23 (2) Except as provided in RCW ((88.12.015)) 79A.60.020, a violation
24 of subsection (1) of this section is an infraction under chapter 7.84
25 RCW if the vessel is not carrying passengers for hire.

26 (3) A violation of subsection (1) of this section is a misdemeanor
27 punishable under RCW 9.92.030, if the vessel is carrying passengers for
28 hire.

29 (4) No person shall operate a vessel under nineteen feet in length
30 on the waters of this state with a child twelve years old and under,
31 unless the child is wearing a personal flotation device that meets or
32 exceeds the United States coast guard approval standards of the
33 appropriate size, while the vessel is underway. For the purposes of
34 this section, a personal flotation device is not considered readily
35 accessible for children twelve years old and under unless the device is
36 worn by the child while the vessel is underway. The personal flotation
37 device must be worn at all times by a child twelve years old and under

1 whenever the vessel is underway and the child is on an open deck or
2 open cockpit of the vessel. The following circumstances are excepted:

3 (a) While a child is below deck or in the cabin of a boat with an
4 enclosed cabin;

5 (b) While a child is on a United States coast guard inspected
6 passenger-carrying vessel operating on the navigable waters of the
7 United States; or

8 (c) While on board a vessel at a time and place where no person
9 would reasonably expect a danger of drowning to occur.

10 (5) Except as provided in RCW ((88.12.015)) 79A.60.020, a violation
11 of subsection (4) of this section is an infraction under chapter 7.84
12 RCW. Enforcement of subsection (4) of this section by law enforcement
13 officers may be accomplished as a primary action, and need not be
14 accompanied by the suspected violation of some other offense.

15 EXPLANATORY NOTE

16 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999
17 c 249 s 1601.

18 **Sec. 99.** RCW 79A.60.170 and 1993 c 244 s 15 are each amended to
19 read as follows:

20 (1) The purpose of this section is to promote safety in water
21 skiing on the waters of Washington state, provide a means of ensuring
22 safe water skiing and promote the enjoyment of water skiing.

23 (2) No vessel operator may tow or attempt to tow a water skier on
24 any waters of Washington state unless such craft shall be occupied by
25 at least an operator and an observer. The observer shall continuously
26 observe the person or persons being towed and shall display a flag
27 immediately after the towed person or persons fall into the water, and
28 during the time preparatory to skiing while the person or persons are
29 still in the water. Such flag shall be a bright red or brilliant
30 orange color, measuring at least twelve inches square, mounted on a
31 pole not less than twenty-four inches long and displayed as to be
32 visible from every direction. This subsection does not apply to a
33 personal watercraft, the design of which makes no provision for
34 carrying an operator or any other person on board, and that is actually
35 operated by the person or persons being towed. Every remote-operated
36 personal watercraft shall have a flag attached which meets the
37 requirements of this subsection. Except as provided under RCW

1 ((88.12.015)) 79A.60.020, a violation of this subsection is an
2 infraction under chapter 7.84 RCW.

3 (3) The observer and the operator shall not be the same person.
4 The observer shall be an individual who meets the minimum
5 qualifications for an observer established by rules of the commission.
6 Except as provided under RCW ((88.12.015)) 79A.60.020, a violation of
7 this subsection is an infraction under chapter 7.84 RCW.

8 (4) No person shall engage or attempt to engage in water skiing
9 without wearing a personal flotation device. Except as provided under
10 RCW ((88.12.015)) 79A.60.020, a violation of this subsection is an
11 infraction under chapter 7.84 RCW.

12 (5) No person shall engage or attempt to engage in water skiing, or
13 operate any vessel to tow a water skier, on the waters of Washington
14 state during the period from one hour after sunset until one hour prior
15 to sunrise. A violation of this subsection is a misdemeanor,
16 punishable as provided under RCW 9.92.030.

17 (6) No person engaged in water skiing either as operator, observer,
18 or skier, shall conduct himself or herself in a reckless manner that
19 willfully or wantonly endangers, or is likely to endanger, any person
20 or property. A violation of this subsection is a misdemeanor as
21 provided under RCW 9.92.030.

22 (7) The requirements of subsections (2), (3), (4), and (5) of this
23 section shall not apply to persons engaged in tournaments,
24 competitions, or exhibitions that have been authorized or otherwise
25 permitted by the appropriate agency having jurisdiction and authority
26 to authorize such events.

27 EXPLANATORY NOTE
28 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999
29 c 249 s 1601.

30 **Sec. 100.** RCW 79A.60.180 and 1993 c 244 s 16 are each amended to
31 read as follows:

32 (1) A person shall not load or permit to be loaded a vessel with
33 passengers or cargo beyond its safe carrying ability or carry
34 passengers or cargo in an unsafe manner taking into consideration
35 weather and other existing operating conditions.

36 (2) A person shall not operate or permit to be operated a vessel
37 equipped with a motor or other propulsion machinery of a power beyond
38 the vessel's ability to operate safely, taking into consideration the

1 vessel's type, use, and construction, the weather conditions, and other
2 existing operating conditions.

3 (3) A violation of subsection (1) or (2) of this section is an
4 infraction punishable as provided under chapter 7.84 RCW except as
5 provided under RCW (~~88.12.015~~) 79A.60.020 or where the overloading or
6 overpowering is reasonably advisable to effect a rescue or for some
7 similar emergency purpose.

8 (4) If it appears reasonably certain to any law enforcement officer
9 that a person is operating a vessel clearly loaded or powered beyond
10 its safe operating ability and in the judgment of that officer the
11 operation creates an especially hazardous condition, the officer may
12 direct the operator to take immediate and reasonable steps necessary
13 for the safety of the individuals on board the vessel, including
14 directing the operator to return to shore or a mooring and to remain
15 there until the situation creating the hazard is corrected or ended.
16 Failure to follow the direction of an officer under this subsection is
17 a misdemeanor punishable as provided under RCW 9.92.030.

18 EXPLANATORY NOTE

19 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999
20 c 249 s 1601.

21 **Sec. 101.** RCW 79A.60.190 and 1993 c 244 s 17 are each amended to
22 read as follows:

23 (1) A person shall not operate a personal watercraft unless each
24 person aboard the personal watercraft is wearing a personal flotation
25 device approved by the commission. Except as provided for in RCW
26 (~~88.12.015~~) 79A.60.020, a violation of this subsection is a civil
27 infraction punishable under RCW 7.84.100.

28 (2) A person operating a personal watercraft equipped by the
29 manufacturer with a lanyard-type engine cutoff switch shall attach the
30 lanyard to his or her person, clothing, or personal flotation device as
31 appropriate for the specific vessel. It is unlawful for any person to
32 remove or disable a cutoff switch that was installed by the
33 manufacturer.

34 (3) A person shall not operate a personal watercraft during
35 darkness.

36 (4) A person under the age of fourteen shall not operate a personal
37 watercraft on the waters of this state.

1 (5) A person shall not operate a personal watercraft in a reckless
2 manner, including recklessly weaving through congested vessel traffic,
3 recklessly jumping the wake of another vessel unreasonably or
4 unnecessarily close to the vessel or when visibility around the vessel
5 is obstructed, or recklessly swerving at the last possible moment to
6 avoid collision.

7 (6) A person shall not lease, hire, or rent a personal watercraft
8 to a person under the age of sixteen.

9 (7) Subsections (1) through (6) of this section shall not apply to
10 a performer engaged in a professional exhibition or a person
11 participating in a regatta, race, marine parade, tournament, or
12 exhibition authorized or otherwise permitted by the appropriate agency
13 having jurisdiction and authority to authorize such events.

14 (8) Violations of subsections (2) through (6) of this section
15 constitute a misdemeanor under RCW 9.92.030.

16 EXPLANATORY NOTE

17 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999
18 c 249 s 1601.

19 **Sec. 102.** RCW 79A.60.200 and 1996 c 36 s 1 are each amended to
20 read as follows:

21 (1) The operator of a vessel involved in a collision, accident, or
22 other casualty, to the extent the operator can do so without serious
23 danger to the operator's own vessel or persons aboard, shall render all
24 practical and necessary assistance to persons affected by the
25 collision, accident, or casualty to save them from danger caused by the
26 incident. Under no circumstances may the rendering of assistance or
27 other compliance with this section be evidence of the liability of such
28 operator for the collision, accident, or casualty. The operator shall
29 also give all pertinent accident information, as specified by rule by
30 the commission, to the law enforcement agency having jurisdiction:
31 PROVIDED, That this requirement shall not apply to operators of vessels
32 when they are participating in an organized competitive event
33 authorized or otherwise permitted by the appropriate agency having
34 jurisdiction and authority to authorize such events. These duties are
35 in addition to any duties otherwise imposed by law. Except as provided
36 for in RCW ((88.12.015)) 79A.60.020 and subsection (3) of this section,
37 a violation of this subsection is a civil infraction punishable under
38 RCW 7.84.100.

1 (2) Any person who complies with subsection (1) of this section or
2 who gratuitously and in good faith renders assistance at the scene of
3 a vessel collision, accident, or other casualty, without objection of
4 the person assisted, shall not be held liable for any civil damages as
5 a result of the rendering of assistance or for any act or omission in
6 providing or arranging salvage, towage, medical treatment, or other
7 assistance, where the assisting person acts as any reasonably prudent
8 person would have acted under the same or similar circumstances.

9 (3) An operator of a vessel is guilty of a class C felony and is
10 punishable pursuant to RCW 9A.20.021 if the operator: (a) Is involved
11 in a collision that results in injury to a person; (b) knew or
12 reasonably should have known that a person was injured in the
13 collision; and (c) leaves the scene of the collision without rendering
14 all practical and necessary assistance to the injured person as
15 required pursuant to subsection (1) of this section, under
16 circumstances in which the operator could have rendered assistance
17 without serious danger to the operator's own vessel or persons aboard.
18 This subsection (3) does not apply to vessels involved in commerce,
19 including but not limited to tugs, barges, cargo vessels, commercial
20 passenger vessels, fishing vessels, and processing vessels.

21 EXPLANATORY NOTE

22 RCW 88.12.015 was recodified as RCW 79A.60.020 pursuant to 1999
23 c 249 s 1601.

24 **Sec. 103.** RCW 79A.60.300 and 1994 c 51 s 8 are each amended to
25 read as follows:

26 The provisions of RCW (~~88.12.185 through 88.12.225~~) 79A.60.230
27 through 79A.60.290 do not apply to vessels secured pursuant to chapter
28 (~~88.27~~) 79A.65 RCW.

29 EXPLANATORY NOTE

30 (1) Chapter 88.27 RCW was recodified as chapter 79A.65 RCW
31 pursuant to 1999 c 249 s 1601.

32 (2) RCW 88.12.185 through 88.12.225 were recodified as RCW
33 79A.60.230 through 79A.60.290 pursuant to 1999 c 249 s 1601.

34 **Sec. 104.** RCW 79A.60.400 and 1993 c 244 s 26 are each amended to
35 read as follows:

36 The purpose of RCW (~~88.12.250 through 88.12.275~~) 79A.60.440
37 through 79A.60.480 is to further the public interest, welfare, and
38 safety by providing for the protection and promotion of safety in the

1 operation of vessels carrying passengers for hire on the whitewater
2 rivers of this state.

3 EXPLANATORY NOTE

4 RCW 88.12.250 through 88.12.275 were recodified as RCW
5 79A.60.440 through 79A.60.480 pursuant to 1999 c 249 s 1601.

6 **Sec. 105.** RCW 79A.60.410 and 1997 c 391 s 2 are each amended to
7 read as follows:

8 (1) No person shall act in the capacity of a paid whitewater river
9 outfitter, or advertise in any newspaper or magazine or any other trade
10 publication, or represent himself or herself as a whitewater river
11 outfitter in the state, without first obtaining a whitewater river
12 outfitter's license from the department of licensing in accordance with
13 RCW ((88.12.275)) 79A.60.480.

14 (2) Every whitewater river outfitter's license must, at all times,
15 be conspicuously placed on the premises set forth in the license.

16 EXPLANATORY NOTE

17 RCW 88.12.275 was recodified as RCW 79A.60.480 pursuant to 1999
18 c 249 s 1601.

19 **Sec. 106.** RCW 79A.60.420 and 1997 c 391 s 3 are each amended to
20 read as follows:

21 Except as provided in RCW ((88.12.275)) 79A.60.480, the commission
22 of a prohibited act or the omission of a required act under RCW
23 ((88.12.245 through 88.12.275)) 79A.60.430 through 79A.60.480
24 constitutes a misdemeanor, punishable as provided under RCW 9.92.030.

25 EXPLANATORY NOTE

26 (1) RCW 88.12.275 was recodified as RCW 79A.60.480 pursuant to
27 1999 c 249 s 1601.

28 (2) RCW 88.12.245 through 88.12.275 were recodified as RCW
29 79A.60.430 through 79A.60.480 pursuant to 1999 c 249 s 1601.

30 **Sec. 107.** RCW 79A.60.440 and 1993 c 244 s 28 are each amended to
31 read as follows:

32 (1) No person may operate any vessel carrying passengers for hire
33 on whitewater rivers in a manner that interferes with other vessels or
34 with the free and proper navigation of the rivers of this state.

35 (2) Every operator of a vessel carrying passengers for hire on
36 whitewater rivers shall at all times operate the vessel in a careful

1 and prudent manner and at such a speed as to not endanger the life,
2 limb, or property of any person.

3 (3) No vessel carrying passengers for hire on whitewater rivers may
4 be loaded with passengers or cargo beyond its safe carrying capacity
5 taking into consideration the type and construction of the vessel and
6 other existing operating conditions. In the case of inflatable
7 vessels, safe carrying capacity in whitewater shall be considered as
8 less than the United States coast guard capacity rating for each
9 vessel. This subsection shall not apply in cases of an unexpected
10 emergency on the river.

11 (4) Individuals licensed under chapter 77.32 RCW and acting as
12 fishing guides are exempt from RCW ((88.12.235)) 79A.60.420 and
13 ((88.12.260 through 88.12.275)) 79A.60.460 through 79A.60.480.

14 EXPLANATORY NOTE

15 (1) RCW 88.12.235 was recodified as RCW 79A.60.420 pursuant to
16 1999 c 249 s 1601.

17 (2) RCW 88.12.260 through 88.12.275 were recodified as RCW
18 79A.60.460 through 79A.60.480 pursuant to 1999 c 249 s 1601.

19 **Sec. 108.** RCW 79A.60.470 and 1997 c 391 s 6 are each amended to
20 read as follows:

21 Whitewater river sections include but are not limited to:

22 (1) Green river above Flaming Geyser state park;

23 (2) Klickitat river above the confluence with Summit creek;

24 (3) Methow river below the town of Carlton;

25 (4) Sauk river above the town of Darrington;

26 (5) Skagit river above Bacon creek;

27 (6) Suiattle river;

28 (7) Tieton river below Rimrock dam;

29 (8) Skykomish river below Sunset Falls and above the Highway 2
30 bridge one mile east of the town of Gold Bar;

31 (9) Wenatchee river above the Wenatchee county park at the town of
32 Monitor;

33 (10) White Salmon river; and

34 (11) Any other section of river designated a "whitewater river
35 section" by the commission under RCW ((88.12.279)) 79A.60.495.

36 EXPLANATORY NOTE

37 RCW 88.12.279 was recodified as RCW 79A.60.495 pursuant to 1999
38 c 249 s 1601.

1 **Sec. 109.** RCW 79A.60.480 and 1997 c 391 s 7 are each amended to
2 read as follows:

3 (1) The department of licensing shall issue a whitewater river
4 outfitter's license to an applicant who submits a completed
5 application, pays the required fee, and complies with the requirements
6 of this section.

7 (2) An applicant for a whitewater river outfitter's license shall
8 make application upon a form provided by the department of licensing.
9 The form must be submitted annually and include the following
10 information:

11 (a) The name, residence address, and residence telephone number,
12 and the business name, address, and telephone number of the applicant;

13 (b) Certification that all employees, subcontractors, or
14 independent contractors hired as guides meet training standards under
15 RCW ((~~88.12.245(2)~~)) 79A.60.430 before carrying any passengers for
16 hire;

17 (c) Proof that the applicant has liability insurance for a minimum
18 of three hundred thousand dollars per claim for occurrences by the
19 applicant and the applicant's employees that result in bodily injury or
20 property damage. All guides must be covered by the applicant's
21 insurance policy;

22 (d) Certification that the applicant will maintain the insurance
23 for a period of not less than one year from the date of issuance of the
24 license; and

25 (e) Certification by the applicant that for a period of not less
26 than twenty-four months immediately preceding the application the
27 applicant:

28 (i) Has not had a license, permit, or certificate to carry
29 passengers for hire on a river revoked by another state or by an agency
30 of the government of the United States due to a conviction for a
31 violation of safety or insurance coverage requirements no more
32 stringent than the requirements of this chapter; and

33 (ii) Has not been denied the right to apply for a license, permit,
34 or certificate to carry passengers for hire on a river by another
35 state.

36 (3) The department of licensing shall charge a fee for each
37 application, to be set in accordance with RCW 43.24.086.

1 (4) Any person advertising or representing himself or herself as a
2 whitewater river outfitter who is not currently licensed is guilty of
3 a gross misdemeanor.

4 (5) The department of licensing shall submit annually a list of
5 licensed persons and companies to the department of community, trade,
6 and economic development, tourism promotion division.

7 (6) If an insurance company cancels or refuses to renew insurance
8 for a licensee, the insurance company shall notify the department of
9 licensing in writing of the termination of coverage and its effective
10 date not less than thirty days before the effective date of
11 termination.

12 (a) Upon receipt of an insurance company termination notice, the
13 department of licensing shall send written notice to the licensee that
14 on the effective date of termination the department of licensing will
15 suspend the license unless proof of insurance as required by this
16 section is filed with the department of licensing before the effective
17 date of the termination.

18 (b) If an insurance company fails to give notice of coverage
19 termination, this failure shall not have the effect of continuing the
20 coverage.

21 (c) The department of licensing may suspend a license under this
22 section if the licensee fails to maintain in full force and effect the
23 insurance required by this section.

24 (7) The state of Washington shall be immune from any civil action
25 arising from the issuance of a license under this section.

26 EXPLANATORY NOTE

27 RCW 88.12.245 was recodified as RCW 79A.60.430 pursuant to 1999
28 c 249 s 1601.

29 **Sec. 110.** RCW 79A.60.485 and 1997 c 391 s 9 are each amended to
30 read as follows:

31 The department of licensing may adopt and enforce such rules,
32 including the setting of fees, as may be consistent with and necessary
33 to implement RCW ((88.12.275)) 79A.60.480. The fees must approximate
34 the cost of administration. The fees must be deposited in the master
35 license account.

36 EXPLANATORY NOTE

37 RCW 88.12.275 was recodified as RCW 79A.60.480 pursuant to 1999
38 c 249 s 1601.

1 and those costs attendant to the purchase, installation, and other
2 necessary appurtenances, such as required pier space, as determined by
3 the commission.

4 (iii) Ownership of the sewage pumpout or dump unit will be retained
5 by the state through the commission in privately owned marinas.
6 Ownership of the sewage pumpout or dump unit in publicly owned marinas
7 will be held by the public entity.

8 (iv) Operation, normal and expected maintenance, and ongoing
9 utility costs will be the responsibility of the contract recipient.
10 The sewage pumpout or dump unit shall be kept in operating condition
11 and available for public use at all times during operating hours of the
12 facility, excluding necessary maintenance periods.

13 (v) The contract recipient agrees to allow the installation,
14 existence and use of the sewage pumpout or dump unit by granting an
15 irrevocable license for a minimum of ten years at no cost to the
16 commission.

17 (b) Contracts awarded pursuant to (a) of this subsection shall be
18 subject, for a period of at least ten years, to the following
19 conditions:

20 (i) Any contract recipient entering into a contract under this
21 section must allow the boating public access to the sewage pumpout or
22 dump unit during operating hours.

23 (ii) The contract recipient must agree to monitor and encourage the
24 use of the sewage pumpout or dump unit, and to cooperate in any related
25 boater environmental education program administered or approved by the
26 commission.

27 (iii) The contract recipient must agree not to charge a fee for the
28 use of the sewage pumpout or dump unit.

29 (iv) The contract recipient must agree to arrange and pay a
30 reasonable fee for a periodic inspection of the sewage pumpout or dump
31 unit by the local health department or appropriate authority.

32 (v) Use of a free sewage pumpout or dump unit by the boating public
33 shall be deemed to be included in the term "outdoor recreation" for the
34 purposes of chapter 4.24 RCW.

35 EXPLANATORY NOTE

36 RCW 88.12.315 and 88.12.375 were recodified as RCW 79A.60.530
37 and 79A.60.590, respectively, pursuant to 1999 c 249 s 1601.

1 (2) The spill prevention education program shall illustrate ways to
2 reduce oil contamination of bilge water, accidental spills of hydraulic
3 fluid and other hazardous substances during routine maintenance, and
4 reduce spillage during refueling. The program shall illustrate proper
5 disposal of oil and hazardous substances and promote strategies to meet
6 shoreside oil and hazardous substance handling, and disposal needs of
7 the targeted groups. The program shall include a series of training
8 workshops and the development of educational materials.

9 EXPLANATORY NOTE

10 RCW 90.56.090 was recodified as RCW 79A.60.620 pursuant to 1999
11 c 249 s 1601. This amendment clarifies that the department
12 referred to is the department of ecology.

13 **Sec. 115.** RCW 79A.65.010 and 1994 c 51 s 1 are each amended to
14 read as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

17 (1) "Charges" means charges of the commission for moorage and
18 storage, and all other charges related to the vessel and owing to or
19 that become owing to the commission, including but not limited to costs
20 of securing, disposing, or removing vessels, damages to any commission
21 facility, and any costs of sale and related legal expenses for
22 implementing RCW (~~88.27.020 and 88.27.030~~) 79A.65.020 and 79A.65.030.

23 (2) "Commission" means the Washington state parks and recreation
24 commission.

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

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

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

34 (6)(a) "Registered owner" means any person that is either: (i)
35 Shown as the owner in a vessel certificate of documentation issued by
36 the secretary of the United States department of transportation under
37 46 U.S.C. Sec. 12103; or (ii) the registered owner or legal owner of a
38 vessel for which a certificate of title has been issued under chapter
39 88.02 RCW; or (iii) the owner of a vessel registered under the vessel

1 registration laws of another state under which laws the commission can
2 readily identify the ownership of vessels registered with that state.

3 (b) "Registered owner" also includes: (i) Any holder of a security
4 interest or lien recorded with the United States department of
5 transportation with respect to a vessel on which a certificate of
6 documentation has been issued; (ii) any holder of a security interest
7 identified in a certificate of title for a vessel registered under
8 chapter 88.02 RCW; or (iii) any holder of a security interest in a
9 vessel where the holder is identified in vessel registration
10 information of a state with vessel registration laws that fall within
11 (a)(iii) of this subsection and under which laws the commission can
12 readily determine the identity of the holder.

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

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

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

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

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

31 EXPLANATORY NOTE

32 RCW 88.27.020 and 88.27.030 were recodified as RCW 79A.65.020
33 and 79A.65.030 pursuant to 1999 c 249 s 1601.

34 **Sec. 116.** RCW 79A.65.030 and 1994 c 51 s 3 are each amended to
35 read as follows:

36 (1) The commission may provide for the public sale of vessels
37 considered abandoned under RCW ((88.27.020)) 79A.65.020. At such

1 sales, the vessels shall be sold for cash to the highest and best
2 bidder.

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

17 (3) Before a vessel is sold, any person seeking to redeem a secured
18 vessel may commence a lawsuit in the superior court for the county in
19 which the vessel was secured to contest the commission's decision to
20 secure the vessel or the amount of charges owing. This lawsuit shall
21 be commenced within fifteen days of the date the notification was
22 posted under RCW ((88.27.020(3))) 79A.65.020(3), or the right to a
23 hearing is deemed waived and the owner is liable for any charges owing
24 the commission. In the event of litigation, the prevailing party is
25 entitled to reasonable attorneys' fees and costs.

26 (4) The proceeds of a sale under this section shall be applied
27 first to the payment of the amount of the reasonable charges incurred
28 by the commission and moorage fees owed to the commission, then to the
29 owner or to satisfy any liens of record or security interests of record
30 on the vessel in the order of their priority. If an owner cannot in
31 the exercise of due diligence be located by the commission within one
32 year of the date of the sale, any excess funds from the sale, following
33 the satisfaction of any bona fide security interest, shall revert to
34 the department of revenue under chapter 63.29 RCW. If the sale is for
35 a sum less than the applicable charges, the commission is entitled to
36 assert a claim for the deficiency against the vessel owner. Nothing in
37 this section prevents any lien holder or secured party from asserting
38 a claim for any deficiency owed the lien holder or secured party.

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

9 EXPLANATORY NOTE

10 RCW 88.27.020 was recodified as RCW 79A.65.020 pursuant to 1999
11 c 249 s 1601.

12 **Sec. 117.** RCW 79A.65.040 and 1994 c 51 s 4 are each amended to
13 read as follows:

14 If the full amount of all charges due the commission on an
15 unauthorized vessel is not paid to the commission within thirty days
16 after the date on which notice is affixed or posted under RCW
17 (~~(88.27.020(3))~~) 79A.65.020(3), the commission may bring an action in
18 any court of competent jurisdiction to recover the charges, plus
19 reasonable attorneys' fees and costs incurred by the commission.

20 EXPLANATORY NOTE

21 RCW 88.27.020 was recodified as RCW 79A.65.020 pursuant to 1999
22 c 249 s 1601.

23 NEW SECTION. **Sec. 118.** The following acts or parts of acts are
24 each repealed:

25 (1) RCW 75.08.274 (Taking food fish for propagation or scientific
26 purposes--Permit authorized by rule) and 1998 c 190 s 72, 1995 1st
27 sp.s. c 2 s 15, 1983 1st ex.s. c 46 s 28, 1971 c 35 s 1, & 1955 c 12 s
28 75.16.010;

29 (2) RCW 75.25.090 (Personal use fishing licenses--Fees) and 1993 c
30 215 s 1, 1989 c 305 s 5, & 1987 c 87 s 1;

31 (3) RCW 75.28.012 (Licensing districts--Created) and 1993 c 20 s 3,
32 1983 1st ex.s. c 46 s 102, 1971 ex.s. c 283 s 2, & 1957 c 171 s 1;

33 (4) RCW 76.12.200 (Reserved timber--Report to legislature) and 1989
34 c 424 s 3; and

35 (5) RCW 77.32.060 (Licenses, permits, tags, stamps, and raffle
36 tickets--Amount of fees to be retained by license dealers) and 1998 c
37 245 s 160, 1996 c 101 s 9, 1995 c 116 s 2, 1987 c 506 s 78, 1985 c 464

1 s 1, 1981 c 310 s 17, 1980 c 78 s 107, 1979 ex.s. c 3 s 3, 1970 ex.s.
2 c 29 s 2, 1957 c 176 s 2, & 1955 c 36 s 77.32.060.

3 EXPLANATORY NOTE

4 (1) RCW 75.08.274 was repealed by 1998 c 191 s 46, effective
5 April 1, 1999, without cognizance of its amendment by 1998 c
6 190 s 72. Repealing this section removes the decodified
7 section from the code.

8 (2) RCW 75.25.090 was amended by 1993 c 215 s 1 without
9 reference to its repeal by 1993 sp.s. c 17 s 31, effective
10 January 1, 1994. Repealing this section removes the decodified
11 section from the code.

12 (3) RCW 75.28.012 was amended by 1993 c 20 s 3 without
13 reference to its repeal by 1993 c 340 s 56, effective January
14 1, 1994. Repealing this section removes the decodified section
15 from the code.

16 (4) RCW 76.12.200 requires reporting pursuant to RCW 76.12.190
17 which expired June 30, 1994, making this section obsolete.

18 (5) RCW 77.32.060 was amended by 1998 c 245 s 160 without
19 reference to its repeal by 1998 c 191 s 45. Repealing this
20 section removes the decodified section from the code.

--- END ---