

---

SENATE BILL 5687

---

State of Washington

57th Legislature

2001 Regular Session

By Senators Rasmussen, Oke, Johnson and Jacobsen

Read first time 01/30/2001. Referred to Committee on Natural Resources, Parks & Shorelines.

1 AN ACT Relating to mandatory education for operators of vessels;  
2 amending RCW 79A.60.010; adding new sections to chapter 79A.60 RCW; and  
3 prescribing penalties.

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

5 **Sec. 1.** RCW 79A.60.010 and 2000 c 11 s 92 are each amended to read  
6 as follows:

7 (~~Unless the context clearly requires otherwise,~~) The definitions  
8 in this section apply throughout this chapter unless the context  
9 clearly requires otherwise.

10 (1) "Accredited boating educator" means a person or organization  
11 accredited under section 7 of this act to provide a course of mandatory  
12 boating safety education.

13 (2) "Accredited course" means a mandatory course of instruction on  
14 boating safety education that has been accredited by the commission  
15 under section 7 of this act.

16 (3) "Accredited test" means a test that has been accredited by the  
17 commission under section 9 of this act.

18 (4) "Boat wastes" includes, but is not limited to, sewage, garbage,  
19 marine debris, plastics, contaminated bilge water, cleaning solvents,

1 paint scrapings, or discarded petroleum products associated with the  
2 use of vessels.

3 ~~((+2))~~ (5) "Boater" means any person on a vessel on waters of the  
4 state of Washington.

5 ~~((+3))~~ (6) "Boater education card" means a card issued by an  
6 accredited boating educator to a person who:

7 (a) Successfully completed the course before September 1, 2000;

8 (b) Has successfully completed an accredited course; or

9 (c) Has passed an accredited test.

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

19 ~~((+4))~~ (8) "Certificate of competency" means a certificate in a  
20 form approved by the commission to be issued by the provider of a  
21 rental motor vessel or the provider of a recently delivered vessel  
22 certifying that the person renting the vessel or having recently  
23 received the vessel has successfully completed a motor vessel safety  
24 check list and is competent to operate that vessel.

25 (9) "Commission" means the state parks and recreation commission.

26 ~~((+5))~~ (10) "Darkness" means that period between sunset and  
27 sunrise.

28 ~~((+6))~~ (11) "Educated operator" means a person who has met the  
29 mandatory boating safety education requirements established in section  
30 7 or 9 of this act.

31 (12) "Environmentally sensitive area" means a restricted body of  
32 water where discharge of untreated sewage from boats is especially  
33 detrimental because of limited flushing, shallow water, commercial or  
34 recreational shellfish, swimming areas, diversity of species, the  
35 absence of other pollution sources, or other characteristics.

36 ~~((+7))~~ (13) "Guide" means any individual, including but not  
37 limited to subcontractors and independent contractors, engaged for  
38 compensation or other consideration by a whitewater river outfitter for  
39 the purpose of operating vessels. A person licensed under RCW

1 (~~(77.32.211 or 75.28.780)~~) 77.65.440 or 77.65.480 and acting as a  
2 fishing guide is not considered a guide for the purposes of this  
3 chapter.

4 (~~(+8)~~) (14) "Horsepower" means the rated amount of mechanical  
5 power of the engine actually being used at any particular time.

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

9 (~~(+9)~~) (16) "Motor driven boats and vessels" means all boats and  
10 vessels which are self propelled.

11 (~~(+10)~~) (17) "Motor vessel safety check list" means a printed list  
12 of the safety requirements of a motor vessel being rented or having  
13 been recently delivered and meeting the minimum requirements  
14 established by the commission in accordance with section 7 of this act.

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

19 (~~(+11)~~) (19) "National association of boating law administrators"  
20 means the organization of state and local law enforcement officers,  
21 boating safety experts, and the administrative personnel who are  
22 responsible for boating safety programs.

23 (20) "Observer" means the individual riding in a vessel who is  
24 responsible for observing a water skier at all times.

25 (21) "Operate" means to steer, direct, or otherwise have physical  
26 control of a vessel that is underway.

27 (~~(+12)~~) (22) "Operator" means an individual who steers, directs,  
28 or otherwise has physical control of a vessel that is underway or  
29 exercises actual authority to control the person at the helm.

30 (~~(+13)~~) "Observer" means the individual riding in a vessel who is  
31 responsible for observing a water skier at all times.

32 (~~(+14)~~) (23) "Out-of-state education card" means a document issued  
33 under the Canadian mandatory boating safety education law or under the  
34 law of a state meeting safety education requirements similar to the  
35 minimum requirements established by the commission.

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

1       (~~(15)~~) (25) "Person" means any individual, sole proprietorship,  
2 partnership, corporation, nonprofit corporation or organization,  
3 limited liability company, firm, association, or other legal entity  
4 located within or outside this state.

5       (~~(16)~~) (26) "Personal flotation device" means a buoyancy device,  
6 life preserver, buoyant vest, ring buoy, or buoy cushion that is  
7 designed to float a person in the water and that is approved by the  
8 commission.

9       (~~(17)~~) (27) "Personal watercraft" means a vessel of less than  
10 sixteen feet that uses a motor powering a water jet pump, as its  
11 primary source of motive power and that is designed to be operated by  
12 a person sitting, standing, or kneeling on, or being towed behind the  
13 vessel, rather than in the conventional manner of sitting or standing  
14 inside the vessel.

15       (~~(18)~~) (28) "Polluted area" means a body of water used by boaters  
16 that is contaminated by boat wastes at unacceptable levels, based on  
17 applicable water quality and shellfish standards.

18       (~~(19)~~) (29) "Proof of age" means a boater education card, birth  
19 certificate, passport, driver's license, or other official document  
20 that states a person's date of birth.

21       (30) "Proof of residency" means a passport, driver's license, or  
22 other official government document that states a person's place of  
23 residence.

24       (31) "Public entities" means all elected or appointed bodies,  
25 including tribal governments, responsible for collecting and spending  
26 public funds.

27       (~~(20)~~) (32) "Recently delivered vessel" means a motor vessel  
28 delivered within the previous sixty days under a lease exceeding sixty  
29 days, under a purchase, or by gift.

30       (33) "Reckless" or "recklessly" means acting carelessly and  
31 heedlessly in a willful and wanton disregard of the rights, safety, or  
32 property of another.

33       (~~(21)~~) (34) "Rental motor vessel" means a motor vessel being  
34 rented for sixty days or less.

35       (35) "Sewage pumpout or dump unit" means:

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

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

4 (~~(22)~~) (36) "Underway" means that a vessel is not at anchor, or  
5 made fast to the shore, or aground.

6 (~~(23)~~) (37) "Vessel" includes every description of watercraft on  
7 the water, other than a seaplane, used or capable of being used as a  
8 means of transportation on the water. However, it does not include  
9 inner tubes, air mattresses, sailboards, and small rafts or flotation  
10 devices or toys customarily used by swimmers.

11 (~~(24)~~) (38) "Water skiing" means the physical act of being towed  
12 behind a vessel on, but not limited to, any skis, aquaplane, kneeboard,  
13 tube, or any other similar device.

14 (~~(25)~~) (39) "Waters of the state" means any waters within the  
15 territorial limits of Washington state.

16 (~~(26)~~) (40) "Whitewater river outfitter" means any person who is  
17 advertising to carry or carries passengers for hire on any whitewater  
18 river of the state, but does not include any person whose only service  
19 on a given trip is providing instruction in canoeing or kayaking  
20 skills.

21 (~~(27)~~) (41) "Whitewater rivers of the state" means those rivers  
22 and streams, or parts thereof, within the boundaries of the state as  
23 listed in RCW 79A.60.470 or as designated by the commission under RCW  
24 79A.60.495.

25 NEW SECTION. **Sec. 2.** (1) A person may not operate a motor vessel  
26 under mechanical power of more than ten horsepower unless the person is  
27 at least thirteen years old, and:

28 (a) Has in the person's possession on the vessel a boater education  
29 card and has proof of age;

30 (b) Possesses a valid master's, mate's, or motorboat operator's  
31 license issued by the United States coast guard, or issued by another  
32 country in a form recognized by the United States coast guard, or is  
33 working under and supervised directly by a person so licensed;

34 (c) Possesses a certificate under the international standards for  
35 training, certification, and watchkeeping for seafarers;

36 (d) Is authorized to operate the vessel as an enforcement officer,  
37 a member of a branch of the military, scientific service, or other  
38 similar government service;

1 (e) Possesses proof of residency showing the person not a resident  
2 of this state, and is operating a motor vessel that has not been in  
3 Washington state for more than sixty consecutive days;

4 (f) Possesses a current out-of-state education card;

5 (g) Has in the person's possession a rental motor vessel safety  
6 check list and certificate of competency for the rental motor vessel  
7 being operated;

8 (h) Is the lessee of a vessel on a lease exceeding sixty days, or  
9 the owner of a vessel delivered within the previous sixty days, and has  
10 in the person's possession a motor vessel safety check list and  
11 certificate of competency for the recently delivered vessel being  
12 operated;

13 (i) Has successfully completed a boating safety course  
14 substantially equivalent to an accredited course before September 30,  
15 2002, and has in the person's possession and exhibits to an enforcement  
16 officer a certificate or other creditable written proof of that  
17 completion;

18 (j) Is accompanied by and under the direct supervision of a person  
19 at least sixteen years old who is an educated operator;

20 (k) Is an educated operator ten to fourteen years old operating a  
21 motor vessel being powered by an engine of twenty horsepower or less,  
22 provided that the vessel so powered is proved to be incapable of  
23 reaching speeds in excess of twenty miles per hour;

24 (l) Is an educated operator twelve to fifteen years old operating  
25 a motor vessel being powered by an engine greater than twenty  
26 horsepower if accompanied by and under the direct supervision of a  
27 parent, guardian, or responsible educated operator at least sixteen  
28 years old. However, the vessel so powered must be incapable of  
29 reaching speeds in excess of thirty-five miles per hour as loaded; or

30 (m) Is not yet required to have a boater education card under  
31 subsection (3) of this section.

32 (2)(a) The operation of a vessel carrying passengers for hire in  
33 violation of this section is a misdemeanor.

34 (b) All other violations of this section are civil infractions.

35 (3) This section applies as follows:

36 (a) Beginning January 1, 2002, this section applies to an operator  
37 born after April 1, 1985, who operates a motor vessel powered by more  
38 than ten horsepower;

1 (b) Beginning January 1, 2003, this section applies to a person  
2 born before April 1, 1985, who operates a motor vessel powered by more  
3 than ten horsepower that is less than four meters in length; and

4 (c) Beginning January 1, 2009, this section applies to any person  
5 who operates a motor vessel of any length.

6 NEW SECTION. **Sec. 3.** In a proceeding for a violation of section  
7 2 of this act for the operation of a vessel not carrying passengers for  
8 hire, the court may conditionally suspend all or part of the fine to be  
9 imposed if the defendant appears personally and agrees to complete  
10 within the time limits imposed by the court, and at the defendant's own  
11 expense, an accredited course.

12 NEW SECTION. **Sec. 4.** (1) A certificate of competency for a rental  
13 vessel is valid only for the period or periods of rental of that vessel  
14 or of the period of the rental of a vessel from the same provider that  
15 is of similar size, design, and power. A certificate of competency for  
16 a recently delivered vessel is valid for the lesser of: (a) The time  
17 specified in the certificate; (b) until the lessee or the owner is  
18 issued a boater education card; or (c) sixty days from the date of  
19 issue of the certificate. A certificate of competency must state the  
20 time limitations on its validity.

21 (2) A violation of this section is an infraction.

22 NEW SECTION. **Sec. 5.** When an enforcement officer has a reason to  
23 believe that there has been a violation of this chapter, the  
24 enforcement officer may require the operator to present a boater  
25 education card, proof of age, proof of residency, or other document  
26 required to comply with section 2 of this act. Failure to exhibit a  
27 document required to comply with section 2 of this act constitutes  
28 prima facie evidence of a violation of section 2 of this act. An  
29 operator may rebut the prima facie evidence by presenting to the court  
30 evidence that he or she was operating the motor vessel in compliance  
31 with section 2 of this act on the date of the violation.

32 NEW SECTION. **Sec. 6.** (1) A person may not:

33 (a) Give a false statement in order to obtain a boater education  
34 card for the person or another;

1 (b) Exhibit to an enforcement officer an altered boater education  
2 card;

3 (c) Forge or alter a boater education card, certificate of  
4 accreditation, certificate of competency, or a motor vessel safety  
5 check list;

6 (d) Produce or possess an unauthorized replica of a boater  
7 education card or a certificate of competency; or

8 (e) Permit another to use a boater education card issued in their  
9 name.

10 (2) A violation of this section is a misdemeanor.

11 NEW SECTION. **Sec. 7.** In consultation with the Washington state  
12 boating safety council, the commission shall establish and implement a  
13 program of mandatory boating safety education. In establishing the  
14 mandatory boating safety education program, the commission shall by  
15 rule establish minimum standards:

16 (1) For a mandatory boating safety education course that are  
17 consistent with the applicable standards established by the national  
18 association of state boating law administrators and that take into  
19 consideration the mandatory boating safety education requirement of  
20 Canada. The commission may revise the minimum education standards as  
21 necessary to meet changes in standards by other jurisdictions;

22 (2) To issue accredited course certification to commercial and  
23 volunteer organizations that provide boating safety education courses.  
24 These organizations must meet the standards adopted by the commission  
25 by rule for an accredited boating educator;

26 (3) To produce a waterproof and counterfeit resistant form of a  
27 boater education card to be issued by an accredited boating educator  
28 showing satisfactory completion of the accredited course;

29 (4) For motor vessel safety check lists and a form of certificate  
30 of competency to be issued by providers of rental motor vessels or  
31 recently delivered vessels as prerequisite to operating such a vessel  
32 by a person not possessing a boater education card; and

33 (5) To issue accredited course certification or a written statement  
34 of the reason for denying accreditation to a commercial or volunteer  
35 organization that provides boating safety education courses within a  
36 reasonable time after receiving an application to become an accredited  
37 course.



1        NEW SECTION.    **Sec. 8.**    Boating safety courses offered as part of  
2 the regular programs of the United States coast guard auxiliary and the  
3 United States power squadrons are declared accredited courses and these  
4 organizations are accredited boating educators and authorized to issue  
5 boater education cards to persons who have successfully completed an  
6 accredited course.    These organizations may issue a boater education  
7 card to individuals who have successfully completed a United States  
8 coast guard auxiliary or United States power squadrons boating safety  
9 course prior to the effective date of this section.

10       NEW SECTION.    **Sec. 9.**    As an alternative to taking an accredited  
11 course as required under section 7 of this act, an operator may choose  
12 to take an accredited test.

13       (1) The commission may accredit a test that:

14       (a) Uses association items, multiple choice questions, or short  
15 answer questions; and

16       (b) Includes at least the collision rules and the rules stated in  
17 RCW 79A.60.010 through 79A.60.220; and

18       (c) Covers the minimum standards for an accredited course.

19       (2) An accredited test must be administered, proctored, and  
20 supervised for its duration by an accredited boating educator or by  
21 another person approved by the commission.

22       NEW SECTION.    **Sec. 10.**    The commission may not require that the  
23 course content and printed material for an accredited course include  
24 more than that required by the standards of the national association of  
25 boating law administrators.    At the discretion of the accredited  
26 boating educator, an accredited course may include content and printed  
27 material on boating education that is additional to the standards  
28 published by the national association of boating law administrators.

29       NEW SECTION.    **Sec. 11.**    At least annually, an accredited boating  
30 educator shall, for statistical purposes only, submit to the commission  
31 a record of the number of boating education cards issued.    An  
32 accredited boating educator shall keep a record of the names of the  
33 persons issued boater education cards within the previous ten years,  
34 but is not required to submit this information to the state unless it  
35 ceases to be an accredited boating educator.

1        NEW SECTION.   **Sec. 12.**   Sections 2 through 11 of this act are each  
2   added to chapter 79A.60 RCW.

--- **END** ---