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SENATE BILL 6259

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State of Washington 57th Legislature

2002 Regular Session

By Senators Jacobsen, Oke and Rasmussen; by request of Department of Natural Resources

Read first time 01/14/2002. Referred to Committee on Natural Resources, Parks & Shorelines.

1 AN ACT Relating to installing recreational docks and mooring buoys;  
2 and amending RCW 79.90.105.

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

4 **Sec. 1.** RCW 79.90.105 and 2001 c 277 s 1 are each amended to read  
5 as follows:

6 (1) The abutting residential owner to state-owned shorelands,  
7 tidelands, or related beds of navigable waters, other than harbor  
8 areas, may install and maintain without charge a dock on such areas if  
9 used exclusively for private recreational purposes and the area is not  
10 subject to prior rights, including any rights of upland, tideland, or  
11 shoreland owners as provided in RCW 79.94.070, 79.94.260, 79.94.280,  
12 and 79.95.010. The dock cannot be sold or leased separately from the  
13 upland residence. The dock cannot be used to moor boats for commercial  
14 or residential use. This permission is subject to applicable local,  
15 state, and federal rules and regulations governing location, design,  
16 construction, size, and length of the dock. ((This permission may be  
17 revoked by the department upon finding of public necessity which is  
18 limited to the protection of waterward access or ingress rights of  
19 other landowners or public health and safety. The revocation may be

1 ~~appealed as an adjudicative proceeding under chapter 34.05 RCW, the~~  
2 ~~administrative procedure act.)~~) Nothing in this (~~(section)~~) subsection  
3 (1) prevents the abutting owner from obtaining a lease if otherwise  
4 provided by law.

5 (2) The abutting residential owner to state-owned shorelands,  
6 tidelands, or related beds of navigable waters, other than harbor  
7 areas, may (~~(anchor to)~~) install and maintain a mooring buoy(~~(s)~~)  
8 without charge if the boat that is (~~(anchored)~~) moored to the buoy is  
9 used for private recreational purposes (~~(and)~~), the area is not subject  
10 to prior rights, including any rights of upland, tideland, or shoreland  
11 owners as provided in RCW 79.94.070, 79.94.260, 79.94.280, and  
12 79.95.010, and the buoy will not obstruct the use of mooring buoys  
13 previously authorized by lease, license, or other instrument by the  
14 department.

15 (a) The buoy must be located as near to the abutting residential  
16 property as practical, consistent with applicable rules and regulations  
17 and the provisions of this section. The buoy must be located, or  
18 relocated if necessary, to accommodate the use of lawfully installed  
19 and maintained buoys.

20 (b) If two or more residential owners, who otherwise qualify for  
21 free use under the provisions of this section, are in dispute over  
22 assertion of rights to install and maintain a mooring buoy in the same  
23 location, they may seek formal settlement through adjudication in  
24 superior court for the county in which the buoy site is located. In  
25 the adjudication, preference must be given to the residential owner  
26 that first installed a buoy on that site, if it meets all applicable  
27 rules, regulations, and provisions of this section, and then to the  
28 owner of the residential property nearest the site. Nothing in this  
29 section requires the department to mediate or otherwise resolve  
30 disputes between residential owners over the use of the same site for  
31 a mooring buoy.

32 (c) The buoy(~~(s)~~) cannot be sold or leased separately from the  
33 (~~(upland residence)~~) abutting residential property. The (~~(mooring)~~)  
34 buoy cannot be used to moor boats for commercial(~~(, transient,)~~) or  
35 residential use, nor to moor boats over sixty feet in length. (One  
36 buoy may be installed without charge for the first one hundred feet of  
37 shoreline property owned, and one additional buoy may be installed  
38 without charge for every one hundred feet of shoreline property owned  
39 above the initial one hundred feet. The permission granted in this

1 ~~subsection is subject to the boat or mooring system not posing a hazard~~  
2 ~~or obstruction to navigation or fishing or habitat degradation.))~~

3 (d) If the department determines that it is necessary for secure  
4 moorage, the abutting residential owner may install and maintain a  
5 second mooring buoy, under the same provisions as the first, the use of  
6 which is limited to a second mooring line to the boat moored at the  
7 first buoy.

8 (e) The permission granted in this subsection (2) is subject to  
9 applicable local, state, and federal rules and regulations governing  
10 location, design, installation, maintenance, and operation of the  
11 mooring buoy, anchoring system, and moored boat. Nothing in this  
12 subsection (2) prevents a boat owner from obtaining a lease if  
13 otherwise provided by law. This subsection (2) also applies to areas  
14 that have been designated by the commissioner of public lands or the  
15 fish and wildlife commission as aquatic reserves.

16 (3) This permission to install and maintain a recreational dock or  
17 mooring buoy may be revoked by the department, or the department may  
18 direct the owner of a recreational dock or mooring buoy to relocate  
19 their dock or buoy, if the department makes a finding of public  
20 necessity to protect waterward access ((~~or~~)), ingress rights of other  
21 landowners ((~~or~~)), public health or safety, or public resources.  
22 Circumstances prompting a finding of public necessity may include, but  
23 are not limited to, the dock, buoy, anchoring system, or boat posing a  
24 hazard or obstruction to navigation or fishing, contributing to  
25 degradation of aquatic habitat, contributing to decertification of  
26 shellfish beds otherwise suitable for commercial or recreational  
27 harvest, or interfering with the department's ability to exercise its  
28 leasing authority under chapters 79.90 through 79.96 RCW. The  
29 revocation may be appealed as ((an adjudicative proceeding under  
30 chapter 34.05 RCW, the administrative procedure act)) provided for  
31 under RCW 79.90.400.

32 (4) Nothing in this ((sub))section authorizes a boat owner to  
33 abandon a vessel at a recreational dock, mooring buoy, or elsewhere.

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