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**HOUSE BILL 1435**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Blake, Buys, Takko, and Kretz

AN ACT Relating to designating a class of existing commercial ocean vessels that may be allowed to moor, without satisfying the insurance requirements of chapter 195, Laws of 2014, at a moorage facility without the moorage facility assuming additional liability; amending RCW 53.08.480 and 88.26.030; and reenacting and amending RCW 53.08.310 and 88.26.010.

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

**Sec.**  RCW 53.08.480 and 2014 c 195 s 203 are each amended to read as follows:

(1) Every moorage facility operator must:

(a) Obtain and maintain insurance coverage for the moorage facility; and

(b) Either: (i) Require, as a condition of moorage, all vessels other than transient vessels and legacy commercial ocean vessels to provide proof of marine insurance to the moorage facility; or (ii) sacrifice eligibility for reimbursement from the derelict vessel removal account under RCW 79.100.100 for the vessel as provided in subsection (5) of this section.

(2) Unless rules adopted by the department of natural resources require otherwise, insurance maintained by moorage facility operators and required of moored vessels must:

(a) Provide coverage at liability limits of at least three hundred thousand dollars per occurrence; and

(b) Include, at a minimum, general, legal, and pollution liability coverage.

(3) The purchaser of marine insurance under this section may satisfy the requirements of this section through the purchase of multiple policies as necessary.

(4) The requirement under this section for moorage facility operators to require proof of marine insurance from mooring vessels applies whenever a moorage facility operator enters an initial or renewal moorage agreement after June 12, 2014. The moorage facility operator is not required to verify independently whether a mooring vessel's insurance policy meets the requirements of this section and is not responsible for any change in insurance coverage applicable to the vessel that occurs after the initial agreement is entered into or in the time period between agreement renewals.

(5) Any moorage facility operator that the department has determined has failed to satisfy the requirements of this section is not eligible for reimbursement from the derelict vessel removal account under RCW 79.100.100.

**Sec.**  RCW 88.26.030 and 2014 c 195 s 202 are each amended to read as follows:

(1) Every private moorage facility operator must:

(a) Obtain and maintain insurance coverage for the private moorage facility; and

(b) Either: (i) Require, as a condition of moorage, all vessels other than transient vessels and legacy commercial ocean vessels to provide proof of marine insurance to the moorage facility; or (ii) assume potential secondary liability for the vessel as provided in subsection (5) of this section.

(2) Unless rules adopted by the department of natural resources require otherwise, insurance maintained by private moorage facility operators and required of moored vessels must:

(a) Provide coverage at liability limits of at least three hundred thousand dollars per occurrence; and

(b) Include, at a minimum, general, legal, and pollution liability coverage.

(3) The purchaser of marine insurance under this section may satisfy the requirements of this section through the purchase of multiple policies as necessary.

(4) The requirement under this section for private moorage facility operators to require proof of marine insurance from mooring vessels applies whenever a private moorage facility operator enters an initial or renewal moorage agreement after June 12, 2014. The private moorage facility operator is not required to verify independently whether a mooring vessel's insurance policy meets the requirements of this section and is not responsible for any change in insurance coverage applicable to the vessel that occurs after the initial agreement is entered into or in the time period between agreement renewals.

(5) Any private moorage facility operator who fails to satisfy the requirements of this section incurs secondary liability under RCW 79.100.060 for any vessel located at the private moorage facility that meets the definition of derelict vessel or abandoned vessel as those terms are defined in RCW 79.100.010.

**Sec.**  RCW 53.08.310 and 2014 c 195 s 205 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section, RCW 53.08.480, and 53.08.320.

(1) "Moorage facility" means any properties or facilities owned or operated by a moorage facility operator which are capable of use for the moorage or storage of vessels.

(2) "Moorage facility operator" means any port district, city, town, metropolitan park district, or county which owns and/or operates a moorage facility.

(3) "Owner" means every natural person, firm, partnership, corporation, association, or organization, or agent thereof, with actual or apparent authority, who expressly or impliedly contracts for use of a moorage facility.

(4) "Port charges" mean charges of a moorage facility operator for moorage and storage, and all other charges owing or to become owing under a contract between a vessel owner and the moorage facility operator, or under an officially adopted tariff including, but not limited to, costs of sale and related legal expenses.

(5) "Transient vessel" means a vessel using a moorage facility and which belongs to an owner who does not have a moorage agreement with the moorage facility operator. Transient vessels include, but are not limited to: Vessels seeking a harbor of refuge, day use, or overnight use of a moorage facility on a space-as-available basis. Transient vessels may also include vessels taken into custody under RCW 79.100.040.

(6) "Vessel" means every species of watercraft or other artificial contrivance capable of being used as a means of transportation on water and which does not exceed two hundred feet in length. "Vessel" includes any trailer used for the transportation of watercraft.

(7) "Legacy commercial ocean vessel" means an individual vessel whose owner was required to pay an annual derelict vessel removal fee under RCW 79.100.180 in 2015 for the specific vessel and had, in 2014, both a moorage agreement in place with a moorage facility operator for the specific vessel and a license from the department of fish and wildlife under Title 77 RCW designating the specific vessel for participation in a commercial ocean fishery. The status of "legacy commercial ocean vessel" belongs to the vessel itself and is not transferable to other vessels commonly or subsequently owned by the vessel owner.

**Sec.**  RCW 88.26.010 and 2014 c 195 s 204 are each reenacted and amended to read as follows:

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

(1) "Charges" means charges of a private moorage facility operator for moorage and storage, all other charges owing to or that become owing under a contract between a vessel owner and the private moorage facility operator, or any costs of sale and related legal expenses for implementing RCW 88.26.020.

(2) "Owner" means every natural person, firm, partnership, corporation, association, or organization, or their agent, with actual or apparent authority, who expressly or impliedly contracts for use of a moorage facility.

(3) "Private moorage facility" means any properties or facilities owned or operated by a private moorage facility operator that are capable of use for the moorage or storage of vessels.

(4) "Private moorage facility operator" means every natural person, firm, partnership, corporation, association, organization, or any other legal entity, employee, or their agent, that owns or operates a private moorage facility. Private moorage facility operation does not include a "moorage facility operator" as defined in RCW 53.08.310.

(5) "Transient vessel" means a vessel using a private moorage facility and that belongs to an owner who does not have a moorage agreement with the private moorage facility operator. Transient vessels include, but are not limited to, vessels seeking a harbor or refuge, day use, or overnight use of a private moorage facility on a space-as-available basis. Transient vessels may also include vessels taken into custody under RCW 79.100.040.

(6) "Vessel" means every watercraft used or capable of being used as a means of transportation on the water. "Vessel" includes any trailer used for the transportation of watercraft.

(7) "Legacy commercial ocean vessel" means an individual vessel whose owner was required to pay an annual derelict vessel removal fee under RCW 79.100.180 in 2015 for the specific vessel and had, in 2014, both a moorage agreement in place with a moorage facility operator for the specific vessel and a license from the department of fish and wildlife under Title 77 RCW designating the specific vessel for participation in a commercial ocean fishery. The status of "legacy commercial ocean vessel" belongs to the vessel itself and is not transferable to other vessels commonly or subsequently owned by the vessel owner.

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