

HOUSE BILL REPORT

EHB 1409

As Passed Legislature

Title: An act relating to the disclosure of vessel owner information.

Brief Description: Concerning the disclosure of vessel owner information.

Sponsors: Representatives Walkinshaw, Hayes, Clibborn, Hargrove, Fey, Farrell, Zeiger, Orcutt and Tarleton.

Brief History:

Committee Activity:

Transportation: 2/5/15, 2/9/15 [DP].

Floor Activity:

Passed House: 2/10/16, 96-1.

Passed Senate: 3/2/16, 43-3.

Passed Legislature.

Brief Summary of Engrossed Bill

- Establishes that vessel record information is treated in the same way as motor vehicle record information for purposes of vessel information disclosure.
- Identifies entities that may enter into contracts to receive lists of vessel owners.
- Requires provisions in the information disclosure contract that require the Department of Licensing (DOL) or its agents to conduct regular permissible use and data security audits.
- Requires that the DOL charge fees for lists of vessel owners requested by private entities, and base the rates on the amount of records requested.
- Provides that business entities may request the name and address of individual vessel owners for use in the course of business from the DOL with a disclosure agreement and provides penalties for using information for other purposes than is stated in the disclosure agreement.
- Establishes a \$2 fee for each vessel record provided to a business entity and states that the fee be deposited into the Highway Safety Account.
- Requires that requests from law enforcement officers for vessel information must be granted.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Requires that the DOL must disclose vessel records for any vessel owned by a governmental entity upon request.
- Allows law enforcement to redisclose a vessel owner's name and address when trying to locate the owner of, or otherwise deal with, a vessel that has become a hazard.
- Changes the circumstances in which the DOL may release vessel owner information from when the vessel has become unmoored and is drifting or beached to when the vessel has become a hazard.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 24 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Bergquist, Gregerson, Hayes, Kochmar, McBride, Moeller, Morris, Ortiz-Self, Pike, Riccelli, Sells, Shea, Takko, Tarleton, Wilson, Young and Zeiger.

Staff: Jerry Long (786-7306).

Background:

Vessels are registered and titled in the State of Washington like vehicles. According to the Department of Licensing (DOL), for calendar year 2014 there were 228,334 vessel registrations. The DOL administers the registration and titling processes. The information that is required when titling a vessel in the state is the registration number, decal number, hull identification number, model year, manufacturer, the registered owner's name, physical address, and mailing address.

Until the summer of 2014, the DOL had been disclosing personal information contained in vessel records in the same manner as vehicle records. The information was disclosed to certain entities for specific purposes. During the 2014 legislative session, legislation was enacted outlining the purposes for which the DOL may furnish lists of registered vehicle owners to prescribed entities for specific purposes. The federal Driver's Privacy Protection Act does not apply to release of certain information in vessel registration and title records.

Similar to vehicles, there are federal laws requiring the disclosure of some vessel owner information for the purpose of notifying owners of safety recall notices.

The Public Records Act (PRA) requires that state and local government agencies make public records available for public inspection and copying unless the records are exempt. Under state statutes for public disclosure, there is some protection for release under the public disclosure laws for vehicle and vessel information. For vehicles, it is any record pertaining to a vehicle license plate, driver's license, or identicard that, alone or in combination with any other records, may reveal the identity of an individual. For vessels, it is any record pertaining to a vessel registration issued that, alone or in combination with any other records, may reveal the identity of an individual.

Summary of Engrossed Bill:

For purposes of vessel information disclosure, vessel record information is treated in the same way as motor vehicle record information.

Disclosure of Lists of Vessel Owners.

The DOL may furnish lists of registered and legal vessel owners to:

- manufacturers of vessels or their authorized agents, to allow the manufacturers to notify owners of safety recalls;
- manufacturers of vessels, legitimate businesses as defined by the DOL in rule, or their authorized agents, for using the lists of registered and legal owner information to conduct research activities and produce statistical reports, as long as the entity does not allow personal information to be published, redisclosed, or used to contact individuals. The DOL may only provide the manufacturer of a vessel, or the manufacturer of components contained in a vessel, the lists of registered or legal owners who purchased or leased a vessel manufactured by that manufacturer or a vessel containing components manufactured by that component manufacturer;
- United States and Canadian governmental agencies, for use in the enforcement of vessel laws and safety programs;
- insurers or insurance support organizations, self-insured entities, or their agents, employees, or contractors for use in connection with claims investigation activities, antifraud activities, and rating or underwriting;
- law enforcement entities for use in locating the owner of a vessel that has become unmoored and is drifting or beached;
- authorized agents or contractors of the DOL to be used in connection with providing vessel excise tax, licensing, title, and registration information to vessel dealers; and
- businesses regularly making loans to persons to finance the purchase of a vessel.

Prior to the release of any information, the DOL must enter into a contract with an authorized entity. The contract must contain provisions requiring the DOL or its agents to conduct regular permissible use and data security audits.

The DOL must charge fees for lists of vessel owners requested by a private entity. A fee of \$10 per 1,000 records during 2015; \$20 per 1,000 records beginning January 1, 2016; and \$25 per 1,000 records beginning January 1, 2021. The DOL must prorate the fee when the request is for less than a full 1,000 records.

If the request is an update of vessel records that have changed, the DOL must collect a fee of 1 cent per record during 2015; 2 cents per record beginning January 1, 2016; and 2.5 cents per record beginning January 1, 2021. The DOL must deposit these fees into the DOL Technology Improvement and Data Management Account.

Where a mailing address and a residence address are on the vessel record, only the mailing address will be disclosed. Both addresses will be disclosed when a request is from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority, and only for use in the normal course of conducting their business.

If a list of registered and legal owners of vessels is used for any purpose other than that authorized, the entity responsible for the unauthorized disclosure or use will be denied further access to the information by the DOL.

The contract must include that the DOL or its agents conduct both permissible use and data security audits subject to the following conditions and limitations:

- the data security audits must demonstrate compliance with the data security standards adopted by the Office of the Chief Information Officer;
- the DOL must take into consideration any third-party audit a data recipient has previously had and if it meets both recognized national and international standards; and
- the costs of the audits must be paid for by the data recipient.

Disclosure of Individual Vessel Owners.

The name or address of an individual vessel owner must not be released by the DOL, county auditor, agency, or firm authorized by the DOL except for the following circumstances:

- The requesting party is a business entity that requests information for use in the course of business.
- There is a written request for disclosure that specifies the purpose for which the information will be used.
- The requesting party must enter into a disclosure agreement with the DOL that the information will only be used for the purpose stated in the request.
- Personal information received by any of these entities is prohibited from being used for direct marketing purposes.
- Where both a mailing address and a residence address are on the vessel record, only the mailing address will be disclosed. Both addresses will be disclosed when a request is from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority, and only for use in the normal course of conducting their business.
- The disclosing entity must retain the request for disclosure for three years.

Any person furnished with a vessel owner's information must be responsible for assuring that the information furnished is not used for a purpose other than stated in the agreement between the person and the DOL.

The DOL must charge a fee of \$2 for each record provided to a business entity and deposit the fee into the Highway Safety Account.

Requests from law enforcement officers for vessel information must be granted.

The DOL must disclose vessel records for any vessel owned by a governmental entity upon request.

The DOL may review the activities of a person who receives vessel record information to ensure compliance with the limitations imposed on the use of the information. The DOL must suspend or revoke for five years the privilege of obtaining vessel record information of

a person found in violation. In addition to the five-year information restriction, the unauthorized disclosure from a vessel record or the false representation to obtain information from the DOL vessel records or the use of information obtained from the DOL vessel records for a purpose other than intended, or the sale or distribution of a vessel owner's name or address to another person not disclosed is a misdemeanor with a fine to \$10,000, or by imprisonment in a county jail for up to 364 days, or by both a fine and imprisonment for each violation.

Changes the circumstances in which the DOL may release vessel owner information from when the vessel has become unmoored and is drifting or beached to when the vessel has become a hazard. Allows law enforcement to redisclose a vessel owner's name and address when trying to locate the owner of, or otherwise deal with, a vessel that has become a hazard.

Other Provisions.

The bill adds a new section to the vessel registration statutes that states vessel owner records are governed within the motor vehicle statutes.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The expectation is that vessel records will not be disclosed and treated in the same way registered vehicle owners are. The bill has the language for law enforcement to obtain the identity of a registered owner of a vessel when the vessel has become unmoored and is drifting or beached and law enforcement needs to locate the vessel owner.

The bill aligns the vessel owner records disclosure with the 2014 vehicle owners records bill enacted in 2014. It was discovered when the DOL was implementing the 2014 vehicle bill, that the federal Driver's Privacy Protection Act did not apply to vessels. This bill codifies the current DOL practices.

The bill requires that information on a government-owned vessel always be fully accessible. Government cannot hide information concerning a government-owned vessel.

(In support with amendment(s)) It is recommended that the Senate amendment, that law enforcement entities must provide a vessel owner's name or address when trying to locate the owner of or otherwise deal with a vessel that has become a hazard, be incorporated into the bill.

(Opposed) None.

Persons Testifying: (In support) Representative Walkinshaw, prime sponsor; Paul Thorpe and Doug Levy, Recreational Boating Association of Washington; and Tony Sermonti, Department of Licensing.

(In support with amendment(s)) Rowland Thompson, Allied Daily Newspapers.

Persons Signed In To Testify But Not Testifying: None.