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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

Read first time 01/20/15. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to designating a class of existing commercial  
2 ocean vessels that may be allowed to moor, without satisfying the  
3 insurance requirements of chapter 195, Laws of 2014, at a moorage  
4 facility without the moorage facility assuming additional liability;  
5 amending RCW 53.08.480 and 88.26.030; and reenacting and amending RCW  
6 53.08.310 and 88.26.010.

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

8 **Sec. 1.** RCW 53.08.480 and 2014 c 195 s 203 are each amended to  
9 read as follows:

10 (1) Every moorage facility operator must:

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

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

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

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

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

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

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

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

21 **Sec. 2.** RCW 88.26.030 and 2014 c 195 s 202 are each amended to  
22 read as follows:

23 (1) Every private moorage facility operator must:

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

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

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

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

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

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

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

14 (5) Any private moorage facility operator who fails to satisfy  
15 the requirements of this section incurs secondary liability under RCW  
16 79.100.060 for any vessel located at the private moorage facility  
17 that meets the definition of derelict vessel or abandoned vessel as  
18 those terms are defined in RCW 79.100.010.

19 **Sec. 3.** RCW 53.08.310 and 2014 c 195 s 205 are each reenacted  
20 and amended to read as follows:

21 Unless the context clearly requires otherwise, the definitions in  
22 this section apply throughout this section, RCW 53.08.480, and  
23 53.08.320.

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

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

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

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

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

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

13 (7) "Legacy commercial ocean vessel" means an individual vessel  
14 whose owner was required to pay an annual derelict vessel removal fee  
15 under RCW 79.100.180 in 2015 for the specific vessel and had, in  
16 2014, both a moorage agreement in place with a moorage facility  
17 operator for the specific vessel and a license from the department of  
18 fish and wildlife under Title 77 RCW designating the specific vessel  
19 for participation in a commercial ocean fishery. The status of  
20 "legacy commercial ocean vessel" belongs to the vessel itself and is  
21 not transferable to other vessels commonly or subsequently owned by  
22 the vessel owner.

23 **Sec. 4.** RCW 88.26.010 and 2014 c 195 s 204 are each reenacted  
24 and amended to read as follows:

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

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

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

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

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

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

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

17 (7) "Legacy commercial ocean vessel" means an individual vessel  
18 whose owner was required to pay an annual derelict vessel removal fee  
19 under RCW 79.100.180 in 2015 for the specific vessel and had, in  
20 2014, both a moorage agreement in place with a moorage facility  
21 operator for the specific vessel and a license from the department of  
22 fish and wildlife under Title 77 RCW designating the specific vessel  
23 for participation in a commercial ocean fishery. The status of  
24 "legacy commercial ocean vessel" belongs to the vessel itself and is  
25 not transferable to other vessels commonly or subsequently owned by  
26 the vessel owner.

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