
SENATE BILL 5316

State of Washington

53rd Legislature

1993 Regular Session

By Senators Moore and McCaslin

Read first time 01/22/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to private moorage facilities; and adding a new
2 chapter to Title 88 RCW.

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

4 NEW SECTION. **Sec. 1.** Unless the context clearly requires
5 otherwise, the definitions in this section apply throughout this
6 chapter.

7 (1) "Charges" means charges of a private moorage facility operator
8 for moorage and storage, all other charges owing to or that become
9 owing under a contract between a vessel owner and the private moorage
10 facility operator, or any costs of sale and related legal expenses for
11 implementing section 2 of this act.

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

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

18 (4) "Private moorage facility operator" means every natural person,
19 firm, partnership, corporation, association, organization, or any other

1 legal entity, employee, or their agent, that owns or operates a private
2 moorage facility. Private moorage facility operation does not include
3 a "moorage facility operator" as defined in RCW 53.08.310.

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

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

14 NEW SECTION. **Sec. 2.** (1) Any private moorage facility operator
15 may take reasonable measures, including the use of chains, ropes, and
16 locks, or removal from the water, to secure vessels within the private
17 moorage facility so that the vessels are in the possession and control
18 of the operator and cannot be removed from the facility. These
19 procedures may be used if an owner mooring or storing a vessel at the
20 facility fails, after being notified that charges are owing and of the
21 owner's right to commence legal proceedings to contest that such
22 charges are owing, to pay charges owed or to commence legal
23 proceedings. Notification shall be by registered mail to the owner at
24 the last known address. In the case of a transient vessel, or where no
25 address was furnished by the owner, the operator need not give notice
26 prior to securing the vessel. At the time of securing the vessel, an
27 operator shall attach to the vessel a readily visible notice. The
28 notice shall be of a reasonable size and shall contain the following
29 information:

30 (a) The date and time the notice was attached;

31 (b) A statement that if the account is not paid in full within
32 ninety days from the time the notice is attached the vessel may be sold
33 at public auction to satisfy the charges; and

34 (c) The address and telephone number where additional information
35 may be obtained concerning release of the vessel.

36 After a vessel is secured, the operator shall make a reasonable
37 effort to notify the owner by registered mail in order to give the
38 owner the information contained in the notice.

1 (2) A private moorage facility operator, at his or her discretion,
2 may move moored vessels ashore for storage within properties under the
3 operator's control or for storage with a private person under their
4 control as bailees of the private moorage facility, if the vessel is,
5 in the opinion of the operator, a nuisance, in danger of sinking or
6 creating other damage, or is owing charges. The costs of any such
7 procedure shall be paid by the vessel's owner.

8 (3) If a vessel is secured under subsection (1) of this section or
9 moved ashore under subsection (2) of this section, the owner who is
10 obligated to the private operator for charges may regain possession of
11 the vessel by:

12 (a) Making arrangements satisfactory with the operator for the
13 immediate removal of the vessel from the facility or for authorized
14 moorage; and

15 (b) Making payment to the operator of all charges, or by posting
16 with the operator a sufficient cash bond or other acceptable security,
17 to be held in trust by the operator pending written agreement of the
18 parties with respect to payment by the vessel owner of the amount
19 owing, or pending resolution of the matter of the charges in a civil
20 action in a court of competent jurisdiction. After entry of judgment,
21 including any appeals, in a court of competent jurisdiction, or after
22 the parties reach agreement with respect to payment, the trust shall
23 terminate and the operator shall receive so much of the bond or other
24 security as agreed, or as is necessary, to satisfy any judgment, costs,
25 and interest as may be awarded to the operator. The balance shall be
26 refunded immediately to the owner at the last known address.

27 (4) If a vessel has been secured by the operator under subsection
28 (1) of this section and is not released to the owner under the bonding
29 provisions of this section within ninety days after notifying or
30 attempting to notify the owner under subsection (1) of this section,
31 the vessel is conclusively presumed to have been abandoned by the
32 owner.

33 (5) If a vessel moored or stored at a private moorage facility is
34 abandoned, the operator may authorize the public sale of the vessel by
35 authorized personnel to the highest and best bidder for cash as
36 follows:

37 (a) Before the vessel is sold, the vessel owner shall be given at
38 least twenty days' notice of the sale in the manner set forth in
39 subsection (1) of this section if the name and address of the owner is

1 known. The notice shall contain the time and place of the sale, a
2 reasonable description of the vessel to be sold, and the amount of
3 charges owed with respect to the vessel. The notice of sale shall be
4 published at least once, more than ten but not more than twenty days
5 before the sale, in a newspaper of general circulation in the county in
6 which the facility is located. This notice shall include the name of
7 the vessel, if any, the last known owner and address, and a reasonable
8 description of the vessel to be sold. The operator may bid all or part
9 of its charges at the sale and may become a purchaser at the sale.

10 (b) Before the vessel is sold, any person seeking to redeem an
11 impounded vessel under this section may commence a lawsuit in the
12 superior court for the county in which the vessel was impounded to
13 contest the validity of the impoundment or the amount of charges owing.
14 This lawsuit must be commenced within ten days of the date the
15 notification was provided under subsection (1) of this section, or the
16 right to a hearing is deemed waived and the owner is liable for any
17 charges owing the operator. In the event of litigation, the prevailing
18 party is entitled to reasonable attorneys' fees and costs.

19 (c) The proceeds of a sale under this section shall be applied
20 first to the payment of charges. The balance, if any, shall be paid to
21 the owner. If the owner cannot in the exercise of due diligence be
22 located by the operator within one year of the date of the sale, the
23 excess funds from the sale shall revert to the department of revenue
24 under chapter 63.29 RCW. If the sale is for a sum less than the
25 applicable charges, the operator is entitled to assert a claim for
26 deficiency.

27 (d) In the event no one purchases the vessel at a sale, or a vessel
28 is not removed from the premises or other arrangements are not made
29 within ten days of sale, title to the vessel will revert to the
30 operator.

31 (6) The rights granted to a private moorage facility operator under
32 this section are in addition to any other legal rights an operator may
33 have to hold and sell a vessel and in no manner does this section alter
34 those rights.

35 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act shall
36 constitute a new chapter in Title 88 RCW.

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