

SENATE BILL REPORT

SHB 1289

As Reported By Senate Committee On:
Law & Justice, March 27, 1995

Title: An act relating to vessels.

Brief Description: Specifying the duties of an operator of a vessel involved in an accident.

Sponsors: House Committee on Law & Justice (originally sponsored by Representatives Ballasiotes, Costa, Sheahan, Van Luven, Lambert, Mason, Mielke, Reams, Delvin, Foreman and Scott).

Brief History:

Committee Activity: Law & Justice: 3/21/95, 3/27/95 [DPA].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Smith, Chair; Hargrove, Haugen, Johnson, Long, McCaslin, Roach and Schow.

Staff: Dick Armstrong (786-7460)

Background: Certain regulations apply to the operation of vessels on Washington waters. "Vessels" include all watercraft, other than seaplanes, used for transportation on the water. The word does not include inner tubes, air mattresses, and small rafts or flotation devices, or toys customarily used by swimmers.

The operator of a vessel involved in a collision, accident, or other casualty, must render all practical and necessary assistance to anyone affected by the collision to save them from danger caused by the incident. The operator is relieved of that obligation if the operator's own vessel or passengers would be placed in serious danger. The operator must also provide all pertinent accident information to the law enforcement agency having jurisdiction.

A violation is a civil infraction unless the operator commits three violations within one year, in which case a violation is a misdemeanor. The civil infraction penalty is \$110. A comparable federal law exists that imposes criminal liability on an operator of a vessel to stop and render assistance and provide identification.

There are no additional penalties if an operator involved in an accident leaves the scene of the accident. In contrast, if a person leaves the scene of a car accident, the person is subject to various penalties depending upon whether the accident resulted in property damage or injury or death to another person involved in the accident. If a person leaves the scene of a car accident which has resulted in injury or death to another person, the person is guilty of a class C felony. That crime is ranked at seriousness level IV on the Sentencing Reform Act grid. The standard range for a first-time offender convicted of a level IV offense is 3 -

9 months. First-time offenders are eligible for the first-time offender waiver, which carries a possible jail sentence of 0 - 90 days, other conditions, and supervision.

Summary of Amended Bill: Operators of vessels involved in boating accidents have essentially the same obligations as drivers of cars involved in car accidents. When an accident occurs, the operator must stop at the scene of the accident or as close to the scene as possible and fulfill various requirements. The penalty provisions are modeled after the hit and run provisions involving motor vehicles.

Accidents Involving Unattended Vessels. If the accident involves a collision with an unattended vessel, the operator must either locate the owner of the boat or leave a note on the other boat, providing the operator's name, address, and telephone number. A violation of this provision is a misdemeanor.

Accidents Involving Attended Vessels. If the accident involves a collision with another vessel that is attended by another person and results only in property damage, the operator must give the person the operator's name, address, and telephone number. A violation is a gross misdemeanor.

Accidents Resulting in Injury or Death To Another Person. If the accident results in injury or death to another person, the operator must give his or her name, address, and telephone number to anyone struck or injured at the scene. In addition, as under current law, the operator must render assistance, if possible, to save them from danger caused by the accident.

Violation of this provision is a class C felony. The crime is ranked on the Sentencing Reform Act grid at level 4. The standard range for a level 4 offense is 6-12 months in jail. A first-time offender is eligible for the first-time offender waiver.

Defenses. The requirements do not apply to anyone injured or incapacitated by the accident if the person is physically incapable of complying with the requirements.

The requirements do apply if the operator cannot comply without risk of serious danger to the operator's own vessel or passengers. However, an operator who fails to comply for this reason must report the accident to the nearest office of the local law enforcement agency immediately upon securing the safety of the operator's passengers and vessel. A violation of this provision is a misdemeanor.

Reporting requirements do not apply if the only damage to a vessel is incidental damage or damage incurred in the ordinary course of business.

Amended Bill Compared to Substitute Bill: The bill is rewritten to make the obligations of operators of boats involved in accidents essentially the same as the obligations of drivers of cars involved in car accidents. The amended version addresses the issue of accidents where injuries are not sustained.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Existing law is not adequate to provide protection from irresponsible boaters. Boaters can act in an irresponsible manner, leave the scene of an accident after causing considerable injury to a person, and the law does nothing to punish them. Provisions need to be included which recognize the manner in which local law enforcement and the Coast Guard operate. The bill needs some amendments to make it more workable.

Testimony Against: None.

Testified: David Weidner (pro); David L. Williams, Recreational Boaters of Washington (pro with changes); Stuart D. Smith, Whatcom County Sheriff's Office (pro with changes); Ken Carlson, Olympia Police Harbor Patrol (pro with changes).