
SUBSTITUTE HOUSE BILL 1513

State of Washington 53rd Legislature 1993 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Zellinsky, Eide, Sheldon and Schmidt; by request of Department of Licensing)

Read first time 03/08/93.

1 AN ACT Relating to vessel dealer registration; amending RCW
2 88.02.010 and 88.02.050; adding a new chapter to Title 88 RCW;
3 recodifying RCW 88.02.230; repealing RCW 88.02.023, 88.02.060,
4 88.02.078, 88.02.112, 88.02.115, 88.02.118, 88.02.125, 88.02.184,
5 88.02.188, 88.02.210, and 88.02.220; and prescribing penalties.

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

7 **Sec. 1.** RCW 88.02.010 and 1983 c 7 s 14 are each amended to read
8 as follows:

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

11 (1) "Vessel" means every watercraft used or capable of being used
12 as a means of transportation on the water, other than a seaplane.

13 (2) "Owner" means a person who has a lawful right to possession of
14 a vessel by purchase, exchange, gift, lease, inheritance, or legal
15 action whether or not the vessel is subject to a security interest.

16 (3) (~~"Dealer" means a person, partnership, association, or~~
17 ~~corporation engaged in the business of selling vessels at wholesale or~~
18 ~~retail in this state.~~

19 ~~(4))~~ "Department" means the department of licensing.

1 **Sec. 2.** RCW 88.02.050 and 1989 c 17 s 1 are each amended to read
2 as follows:

3 Application for a vessel registration shall be made to the
4 department or its authorized agent in the manner and upon forms
5 prescribed by the department. The application shall state the name and
6 address of each owner of the vessel and such other information as may
7 be required by the department, shall be signed by at least one owner,
8 and shall be accompanied by a vessel registration fee of six dollars
9 per year and the excise tax imposed under chapter 82.49 RCW. Any fees
10 required for licensing agents under RCW 46.01.140 shall be in addition
11 to the six-dollar annual registration fee.

12 Upon receipt of the application and the registration fee, the
13 department shall assign a registration number and issue a decal for
14 each vessel. The registration number and decal shall be issued and
15 affixed to the vessel in a manner prescribed by the department
16 consistent with the standard numbering system for vessels set forth in
17 volume 33, part 174, of the code of federal regulations. A valid decal
18 affixed as prescribed shall indicate compliance with the annual
19 registration requirements of this chapter.

20 The vessel registrations and decals are valid for a period of one
21 year, except that the director of licensing may extend or diminish
22 vessel registration periods, and the decals therefor, for the purpose
23 of staggered renewal periods. For registration periods of more or less
24 than one year, the department may collect prorated annual registration
25 fees and excise taxes based upon the number of months in the
26 registration period. Vessel registrations are renewable every year in
27 a manner prescribed by the department upon payment of the vessel
28 registration fee and excise tax. Upon renewing a vessel registration,
29 the department shall issue a new decal to be affixed as prescribed by
30 the department.

31 When the department issues either a notice to renew a vessel
32 registration or a decal for a new or renewed vessel registration, it
33 shall also provide information on the location of marine oil recycling
34 tanks and sewage holding tank pumping stations. This information will
35 be provided to the department by the state parks and recreation
36 commission in a form ready for distribution. The form will be
37 developed and prepared by the state parks and recreation commission
38 with the cooperation of the department of ecology. The department, the

1 state parks and recreation commission, and the department of ecology
2 shall enter into a memorandum of agreement to implement this process.

3 A person (~~acquiring~~) who acquires a vessel from other than a
4 dealer or who acquires a vessel already validly registered under this
5 chapter shall, within fifteen days of the acquisition or purchase of
6 the vessel, apply to the department or its authorized agent for
7 transfer of the vessel registration, and the application shall be
8 accompanied by a transfer fee of one dollar.

9 NEW SECTION. Sec. 3. The legislature finds and declares that the
10 distribution and sale of vessels in the state of Washington vitally
11 affects the general economy of the state and the public interest and
12 the public welfare. It is the intent of the legislature to regulate
13 and register vessel dealers doing business in Washington, to promote
14 honesty and fair dealing with citizens, and to preserve public
15 confidence in the vessel dealer industry.

16 NEW SECTION. Sec. 4. Unless the context clearly requires
17 otherwise, the definitions in this section apply throughout this
18 chapter.

19 (1) "Vessel" means every watercraft used or capable of being used
20 as a means of transportation on the water, other than a seaplane.

21 (2) "Owner" means a person who has a lawful right to possession of
22 a vessel by purchase, exchange, gift, lease, inheritance, or legal
23 action whether or not the vessel is subject to a security interest.

24 (3) "Dealer" means a person, partnership, association, or
25 corporation engaged in the business of selling vessels at wholesale or
26 retail in this state.

27 (4) "Department" means the department of licensing.

28 (5) "Established place of business" means a location meeting the
29 requirements of section 8 of this act at which a vessel dealer conducts
30 business in this state.

31 NEW SECTION. Sec. 5. Vessel dealer display decals shall only be
32 used:

33 (1) To demonstrate vessels held for sale when operated by a
34 prospective customer holding a dated demonstration permit, and shall be
35 carried in the vessel at all times it is being operated by such
36 individual;

1 (2) On vessels owned or consigned for sale that are in fact
2 available for sale and being used only for vessel dealer business
3 purposes by an officer of the corporation, a partner, a proprietor, or
4 by a bona fide employee of the firm if a dealer identification card so
5 identifying any such individual is carried in the vessel at all times
6 it is so operated.

7 (3) Vessel dealer display decals shall not be used on rental
8 vessels.

9 NEW SECTION. **Sec. 6.** (1) A vessel in a vessel dealer's inventory
10 is not subject to registration under this chapter. A vessel
11 registration decal is not required to be displayed on the vessel, but
12 whenever the vessel is operated on the waters of this state, the vessel
13 must display the vessel dealer's registration number and registration
14 decal.

15 (2) Dealer registrations are not transferable.

16 NEW SECTION. **Sec. 7.** (1) Each vessel dealer shall register with
17 the department in the manner and upon forms prescribed by the
18 department, in accordance with rules adopted under chapter 34.05 RCW.
19 After the completed vessel dealer application has been satisfactorily
20 filed and the applicant is eligible as determined by the department's
21 rules, the department shall, if no denial proceeding is in effect,
22 issue the vessel dealer's registration on the basis of staggered annual
23 expiration dates.

24 (2) Before issuing a vessel dealer's registration, the department
25 shall require the applicant to file with the department a surety bond
26 in the amount of five thousand dollars. The bond shall run to the
27 state of Washington and be executed by a surety company authorized to
28 do business in the state of Washington. The attorney general shall
29 approve the bond as to form and it must be conditioned that the dealer
30 shall conduct his or her business in conformity with the provisions of
31 this chapter. A vessel consignor or purchaser who has suffered loss or
32 damage by reason of an act or omission by a dealer that constitutes a
33 violation of this chapter may institute an action for recovery against
34 the dealer and the surety upon the bond. Successive recoveries against
35 the bond are permitted, but the aggregate liability of the surety to
36 all persons may not exceed the amount of the bond. Upon exhaustion of

1 the penalty of the bond or the cancellation of the bond by the surety,
2 the vessel dealer registration is automatically canceled.

3 (3) Vessel dealers selling fifteen vessels or fewer per license
4 year are not subject to subsection (2) of this section if the retail
5 value of each vessel does not exceed two thousand dollars.

6 (4) For each fiscal biennia, the director shall establish the
7 amount of registration, renewal, display decal, and display decal
8 replacement fees. Such fees shall be set at a sufficient level to
9 defray the costs of administering the vessel dealer registration
10 program. All such fees shall be fixed by rule adopted by the director
11 in accordance with the administrative procedure act, chapter 34.05 RCW.
12 All fees collected under this section shall be deposited with the state
13 treasurer and credited to the general fund.

14 (5) Manufacturers who produce only documented commercial vessels
15 for commercial or governmental use are exempt from obtaining a
16 Washington state vessel dealer's license.

17 NEW SECTION. **Sec. 8.** (1) An "established place of business"
18 requires the following:

19 (a) A place of business in the state of Washington, in an area
20 where vessel dealer business may be lawfully conducted in accordance
21 with the terms of all applicable building code, zoning, and other land
22 use regulatory ordinances;

23 (b) Display of a sign, permanently affixed to the land or building,
24 clearly visible to the public, identifying the nature of the business
25 as marine sales, service, repair, or manufacturing;

26 (c) A business phone at the place of business that is listed with
27 directory assistance in the business name;

28 (d) The dealer shall keep the place of business open or maintain a
29 telecommunications system so that the public and representatives of the
30 department may contact the vessel dealer or dealer's salesperson at
31 reasonable times;

32 (e) The books, records, and files necessary to conduct the business
33 shall be kept and maintained at the place of business listed on the
34 vessel dealer's registration, and shall be available for inspection by
35 representatives of the department during normal business hours.

36 (2) The department may waive any requirements pertaining to a
37 vessel dealer's established place of business if such waiver both
38 serves the purposes of this chapter and is necessary due to unique

1 circumstances such as a highly specialized business or impediments to
2 displaying a business sign.

3 NEW SECTION. **Sec. 9.** It is unlawful for a person, firm, or
4 association to act as a vessel dealer or vessel manufacturer, to engage
5 in the business as such, serve in the capacity as such, advertise
6 himself, herself, or themselves as such, solicit sales as such, or
7 distribute or transfer vessels for resale in this state, without first
8 holding a current registration as provided in this chapter. It is
9 unlawful for a person other than a registered vessel dealer to display
10 a vessel for sale unless the registered owner or legal owner is the
11 displayer or holds a notarized power of attorney. A person or firm
12 engaged in buying and offering for sale, or buying and selling vessels,
13 or in any other way engaged in vessel dealer activity without holding
14 a vessel dealer's registration, is guilty of a gross misdemeanor and,
15 upon conviction, is subject to a fine of up to five thousand dollars
16 for each violation and up to a year in jail. A second offense is a
17 class C felony punishable under chapter 9A.20 RCW. A violation of this
18 section is also a per se violation of chapter 19.86 RCW and is
19 considered a deceptive practice.

20 NEW SECTION. **Sec. 10.** In addition to other penalties imposed by
21 this chapter for unauthorized or personal use of vessel dealer display
22 decals, the director may confiscate all display decals for such period
23 as the director deems appropriate, and in addition, or in lieu of other
24 sanctions, the director may impose a monetary penalty not exceeding
25 twice the amount of excise tax that should have been paid to register
26 each vessel properly. A monetary penalty assessment is in addition to
27 any fees owing to register each vessel properly. Any monetary penalty
28 imposed or vessel display decals confiscated shall be done in
29 accordance with chapter 34.05 RCW. Any monetary penalty imposed by the
30 director and the delinquent excise taxes collected shall be deposited
31 in the general fund.

32 NEW SECTION. **Sec. 11.** It is a gross misdemeanor for any person to
33 obtain a vessel dealer's registration for the purpose of evading excise
34 tax on vessels under chapter 82.49 RCW.

1 NEW SECTION. **Sec. 12.** (1) Except as otherwise provided in this
2 chapter, including sections 9, 10, and 11 of this act, a violation of
3 this chapter and the rules adopted by the department pursuant to this
4 chapter, is a misdemeanor punishable by a fine not to exceed one
5 hundred dollars per vessel for the first violation. Subsequent
6 violations in the same year are subject to the following fines:

7 (a) For the second violation, a fine of two hundred dollars per
8 vessel;

9 (b) For the third and successive violations, a fine of four hundred
10 dollars per vessel.

11 (2) After subtraction of court costs and administrative collection
12 fees, moneys collected under this section shall be credited to the
13 current expense fund of the arresting jurisdiction.

14 (3) All law enforcement officers shall have the authority to
15 enforce this chapter and the rules adopted by the department pursuant
16 to this chapter.

17 NEW SECTION. **Sec. 13.** (1) Vessel dealers shall possess a
18 certificate of title for each used vessel or a manufacturer's statement
19 of origin, a carpenter's certificate, or a factory invoice with other
20 evidence of ownership for each new vessel in the vessel dealer's
21 inventory unless the vessel for sale is consigned or subject to an
22 inventory security agreement. Each certificate of title shall be
23 either in the name of the dealer or in the name of the dealer's
24 immediate vendor properly assigned.

25 (2) A vessel dealer may display and sell consigned vessels or
26 vessels subject to an inventory security agreement if there is a
27 written and signed consignment agreement for each vessel or an
28 inventory security agreement covering all inventory vessels. The
29 consignment agreement shall include verification by the vessel dealer
30 that a vessel title or manufacturer's statement of origin exists and
31 its location, the name and address of the registered owner, and the
32 legal owner, if any. Vessels that are subject to an inventory security
33 interest shall be supported with a certificate of title or
34 manufacturer's statement of origin that is in the dealer's possession
35 or the possession of the inventory security party. Upon payment of the
36 debt secured for that vessel, the secured party shall deliver the
37 certificate of title or the manufacturer's statement of origin,
38 appropriately released, to the dealer. It is the vessel dealer's

1 responsibility to ensure that title documents are available for title
2 transfer upon the sale of the vessel.

3 (3) Following the retail sale of any vessel, the dealer shall
4 promptly make application and execute the assignment and warranty of
5 the certificate of title. Such assignment shall show any secured party
6 holding a security interest created at the time of sale. The dealer
7 shall deliver the certificate of title and application for registration
8 to the department.

9 NEW SECTION. **Sec. 14.** (1) The department may authorize vessel
10 dealers properly registered pursuant to this chapter to issue temporary
11 permits to operate vessels under such rules as the department adopts.

12 (2) The fee for each temporary permit application distributed to an
13 authorized vessel dealer shall be an amount fixed by rule and adopted
14 by the director. The fee must be credited to the payment of
15 registration fees at the time application for registration is made.

16 NEW SECTION. **Sec. 15.** For the purposes of an investigation or
17 proceeding under this chapter the director or an officer designated by
18 the director may administer oaths and affirmations, subpoena witnesses
19 and records, compel their attendance, take evidence, and require the
20 production of books, papers, correspondence, memoranda, agreements, or
21 other documents or records that the director deems relevant or material
22 to the inquiry.

23 In case of contumacy by, or refusal to obey a subpoena issued to,
24 a person, a court of competent jurisdiction, upon application by the
25 director or the officer designated by the director, may order the
26 person to produce documentary or other evidence touching the matter
27 under investigation or in question. The failure to obey an order of
28 the court may be punished as contempt.

29 NEW SECTION. **Sec. 16.** Except as otherwise provided in this
30 chapter, the director may by order deny, suspend, or revoke the
31 registration of any vessel dealer, or in lieu thereof or in addition
32 thereto, may by order assess monetary penalties of a civil nature not
33 to exceed one thousand dollars per violation, if the director finds
34 that the applicant or registrant:

1 (1) Is applying for a dealer's registration or has obtained a
2 dealer's registration for the purpose of evading excise taxes on
3 vessels;

4 (2) Has been adjudged guilty of a felony that directly relates to
5 marine trade and the time elapsed since the adjudication is less than
6 ten years. For purposes of this section, adjudged guilty means, in
7 addition to a final conviction in court, an unvacated forfeiture of
8 bail or collateral deposited to secure a defendant's appearance in
9 court, the payment of a fine, a plea of guilty, or a finding of guilt
10 regardless of whether the sentence is deferred or the penalty is
11 suspended;

12 (3) Has failed to comply with the trust account requirements of
13 this chapter;

14 (4) Has failed to transfer a certificate of title to a purchaser as
15 required in this chapter;

16 (5) Has misrepresented the facts at the time of application for
17 registration or renewal; or

18 (6) Has failed to comply with applicable provisions of, or any
19 rules adopted under, this chapter.

20 NEW SECTION. **Sec. 17.** If it appears to the director that a person
21 has engaged or is about to engage in an act or practice constituting a
22 violation of this chapter, or a rule adopted or an order issued under
23 this chapter, the director may issue an order directing the person to
24 cease and desist from continuing the act or practice. The director
25 shall give reasonable notice of an opportunity for a hearing. The
26 director may issue a temporary order pending a hearing. The temporary
27 order remains in effect until ten days after the hearing is held and
28 becomes final if the person to whom the notice is addressed does not
29 request a hearing within twenty days after receipt of the notice.

30 NEW SECTION. **Sec. 18.** The director may bring an action in
31 superior court against a person who has violated an order issued under
32 this chapter, to enforce such an order, or to restrain or prevent an
33 act or practice prohibited under this chapter. In an action to
34 enforce an injunction, the director may petition for the recovery of
35 civil penalties of not more than twenty-five thousand dollars.

1 NEW SECTION. **Sec. 19.** Any vessel dealer or manufacturer, by or
2 against whom a petition in bankruptcy has been filed, shall within ten
3 days of the filing notify the department of the proceedings in
4 bankruptcy, including the identity and location of the court in which
5 the proceedings are pending.

6 NEW SECTION. **Sec. 20.** (1) A vessel dealer shall complete and
7 maintain for a period of at least three years a record of the purchase
8 and sale of all vessels purchased or consigned and sold by the vessel
9 dealer. Records shall be made available for inspection by the
10 department during normal business hours. The records shall consist of:

11 (a) The registration and title numbers of the state in which the
12 vessel was last registered;

13 (b) A description of the vessel, including the documented name,
14 documentation number, hull identification number, and name of vessel;

15 (c) The name and address of the person from whom the vessel was
16 purchased;

17 (d) The name of the legal owner, if any;

18 (e) The name and address of the purchaser;

19 (f) If purchased from a dealer, the name, business address, dealer
20 registration number, and resale tax number of the dealer;

21 (g) The written consignment or listing agreement allowing a vessel
22 dealer to sell the vessel;

23 (h) Trust account records of receipt, deposits, and withdrawals;

24 (i) All sale documents, which shall show the full name of the
25 dealer or employee involved in the sale;

26 (j) Evidence of title transfer; and

27 (k) Any additional information the department may require. The
28 dealer shall maintain the records separate and apart from all other
29 business records of the dealer and shall keep them on file at the
30 dealer's established place of business.

31 (2) Before renewal of the vessel dealer registration, the
32 department shall require, on the forms prescribed, a record of the
33 number of vessels sold during the registration year. Vessel dealers
34 who assert that they qualify for the exemption provided in section 7(3)
35 of this act shall also record, on forms prescribed, the highest retail
36 value of any vessel sold in the registration year.

1 NEW SECTION. **Sec. 21.** A vessel dealer who receives cash or a
2 negotiable instrument of deposit in excess of one thousand dollars, or
3 a deposit of any amount that will be held for more than fourteen
4 calendar days, shall place the funds in a separate trust account. Only
5 cash or negotiable instruments from a retail purchaser are required to
6 be placed in such trust account.

7 (1) The cash or negotiable instrument must be set aside immediately
8 upon receipt for the trust account, or endorsed to such a trust account
9 immediately upon receipt.

10 (2) The cash or negotiable instrument must be deposited in the
11 trust account by the close of banking hours on the day following the
12 receipt.

13 (3) After delivery of the purchaser's vessel the vessel dealer
14 shall remove the deposited funds from the trust account.

15 (4) The dealer shall not commingle the trust account funds with
16 any other funds at any time.

17 (5) The funds shall remain in the trust account until the delivery
18 of the purchased vessel. However, upon written agreement from the
19 purchaser, the vessel dealer may remove and release trust funds before
20 delivery.

21 NEW SECTION. **Sec. 22.** The department may adopt rules under
22 chapter 34.05 RCW to implement this chapter.

23 NEW SECTION. **Sec. 23.** The following acts or parts of acts are
24 each repealed:

25 (1) RCW 88.02.023 and 1987 c 149 s 4;

26 (2) RCW 88.02.060 and 1987 c 149 s 1 & 1983 c 7 s 19;

27 (3) RCW 88.02.078 and 1987 c 149 s 2;

28 (4) RCW 88.02.112 and 1987 c 149 s 3;

29 (5) RCW 88.02.115 and 1987 c 149 s 6;

30 (6) RCW 88.02.118 and 1987 c 149 s 7;

31 (7) RCW 88.02.125 and 1987 c 149 s 8;

32 (8) RCW 88.02.184 and 1987 c 149 s 9;

33 (9) RCW 88.02.188 and 1987 c 149 s 12;

34 (10) RCW 88.02.210 and 1987 c 149 s 10; and

35 (11) RCW 88.02.220 and 1991 c 339 s 33 & 1987 c 149 s 11.

1 NEW SECTION. **Sec. 24.** RCW 88.02.230 is recodified as a section in
2 chapter 88.-- RCW (sections 3 through 22 of this act).

3 NEW SECTION. **Sec. 25.** Sections 3 through 22 of this act shall
4 constitute a new chapter in Title 88 RCW.

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