
SUBSTITUTE HOUSE BILL 2158

State of Washington

53rd Legislature

1994 Regular Session

By House Committee on Natural Resources & Parks (originally sponsored by Representatives Pruitt and Hansen; by request of Parks and Recreation Commission)

Read first time 01/28/94.

1 AN ACT Relating to abandoned vessels; amending RCW 63.21.080;
2 adding a new section to chapter 88.12 RCW; adding a new chapter to
3 Title 88 RCW; and repealing RCW 88.12.370.

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

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

8 (1) "Charges" means charges of the commission for moorage and
9 storage, and all other charges related to the vessel and owing to or
10 that become owing to the commission, including but not limited to costs
11 of securing, disposing, or removing vessels, damages to any commission
12 facility, and any costs of sale and related legal expenses for
13 implementing sections 2 and 3 of this act.

14 (2) "Commission" means the Washington state parks and recreation
15 commission.

16 (3) "Commission facility" means any property or facility owned,
17 leased, operated, managed, or otherwise controlled by the commission or
18 by a person pursuant to a contract with the commission.

1 (4) "Owner" means a person who has a lawful right to possession of
2 a vessel by purchase, exchange, gift, lease, inheritance, or legal
3 action whether or not the vessel is subject to a security interest, and
4 shall not include the holder of a bona fide security interest.

5 (5) "Person" means any natural person, firm, partnership,
6 corporation, association, organization, or any other entity.

7 (6)(a) "Registered owner" means any person that is either: (i)
8 Shown as the owner in a vessel certificate of documentation issued by
9 the secretary of the United States department of transportation under
10 46 U.S.C. Sec. 12103; or (ii) the registered owner or legal owner of a
11 vessel for which a certificate of title has been issued under chapter
12 88.02 RCW; or (iii) the owner of a vessel registered under the vessel
13 registration laws of another state under which laws the commission can
14 readily identify the ownership of vessels registered with that state.

15 (b) "Registered owner" also includes: (i) Any holder of a security
16 interest or lien recorded with the United States department of
17 transportation with respect to a vessel on which a certificate of
18 documentation has been issued; (ii) any holder of a security interest
19 identified in a certificate of title for a vessel registered under
20 chapter 88.02 RCW; or (iii) any holder of a security interest in a
21 vessel where the holder is identified in vessel registration
22 information of a state with vessel registration laws that fall within
23 (a)(iii) of this subsection and under which laws the commission can
24 readily determine the identity of the holder.

25 (c) "Registered owner" does not include any vessel owner or holder
26 of a lien or security interest in a vessel if the vessel does not have
27 visible information affixed to it (such as name and hailing port or
28 registration numbers) that will enable the commission to obtain
29 ownership information for the vessel without incurring unreasonable
30 expense.

31 (7) "Registered vessel" means a vessel having a registered owner.

32 (8) "Secured vessel" means any vessel that has been secured by the
33 commission that remains in the commission's possession and control.

34 (9) "Unauthorized vessel" means a vessel using a commission
35 facility of any type whose owner has not paid the required moorage fees
36 or has left the vessel beyond the posted time limits, or a vessel
37 otherwise present without permission of the commission.

38 (10) "Vessel" means every watercraft or part thereof constructed,
39 used, or capable of being used as a means of transportation on the

1 water. It includes any equipment or personal property on the vessel
2 that is used or capable of being used for the operation, navigation, or
3 maintenance of the vessel.

4 NEW SECTION. **Sec. 2.** (1) The commission may take reasonable
5 measures, including but not limited to the use of anchors, chains,
6 ropes, and locks, or removal from the water, to secure unauthorized
7 vessels located at or on a commission facility so that the unauthorized
8 vessels are in the possession and control of the commission. At least
9 ten days before securing any unauthorized registered vessel, the
10 commission shall send notification by registered mail to the last
11 registered owner or registered owners of the vessel at their last known
12 address or addresses.

13 (2) The commission may take reasonable measures, including but not
14 limited to the use of anchors, chains, ropes, locks, or removal from
15 the water, to secure any vessel if the vessel, in the opinion of the
16 commission, is a nuisance, is in danger of sinking or creating other
17 damage to a commission facility, or is otherwise a threat to the
18 health, safety, or welfare of the public or environment at a commission
19 facility. The costs of any such procedure shall be paid by the
20 vessel's owner.

21 (3) At the time of securing any vessel under subsection (1) or (2)
22 of this section, the commission shall attach to the vessel a readily
23 visible notice or, when practicable, shall post such notice in a
24 conspicuous location at the commission facility in the event the vessel
25 is removed from the premises. The notice shall be of a reasonable size
26 and shall contain the following information:

27 (a) The date and time the notice was attached or posted;

28 (b) A statement that the vessel has been secured by the commission
29 and that if the commission's charges, if any, are not paid and the
30 vessel is not removed by (the thirty-fifth consecutive day
31 following the date of attachment or posting of the notice), the vessel
32 will be considered abandoned and will be sold at public auction to
33 satisfy the charges;

34 (c) The address and telephone number where additional information
35 may be obtained concerning the securing of the vessel and conditions
36 for its release; and

37 (d) A description of the owner's or secured party's rights under
38 this chapter.

1 (4) With respect to registered vessels: Within five days of the
2 date that notice is attached or posted under subsection (3) of this
3 section, the commission shall send such notice, by registered mail, to
4 each registered owner.

5 (5) If a vessel is secured under subsection (1) or (2) of this
6 section, the owner, or any person with a legal right to possess the
7 vessel, may claim the vessel by:

8 (a) Making arrangements satisfactory to the commission for the
9 immediate removal of the vessel from the commission's control or for
10 authorized storage or moorage; and

11 (b) Making payment to the commission of all reasonable charges
12 incurred by the commission in securing the vessel under subsection (1)
13 and (2) of this section.

14 (6) A vessel is considered abandoned if, within the thirty-five day
15 period following the date of attachment or posting of notice in
16 subsection (3) of this section, the vessel has not been claimed under
17 subsection (5) of this section.

18 NEW SECTION. **Sec. 3.** (1) The commission may provide for the
19 public sale of vessels considered abandoned under section 2 of this
20 act. At such sales, the vessels shall be sold for cash to the highest
21 and best bidder.

22 (2) Before a vessel is sold, the commission shall make a reasonable
23 effort to provide notice of sale, at least twenty days before the day
24 of the sale, to each registered owner of a registered vessel and each
25 owner of an unregistered vessel. The notice shall contain the time and
26 place of the sale, a reasonable description of the vessel to be sold,
27 and the amount of charges then owing with respect to the vessel, and a
28 summary of the rights and procedures under this chapter. A notice of
29 sale shall be published at least once, more than ten but not more than
30 twenty days before the sale, in a newspaper of general circulation in
31 the county in which the commission facility is located. This notice
32 shall include: (a) If known, the name of the vessel and the last owner
33 and the owner's address; and (b) a reasonable description of the
34 vessel. The commission may bid all or part of its charges at the sale
35 and may become a purchaser at the sale.

36 (3) Before a vessel is sold, any person seeking to redeem a secured
37 vessel may commence a lawsuit in the superior court for the county in
38 which the vessel was secured to contest the commission's decision to

1 secure the vessel or the amount of charges owing. This lawsuit shall
2 be commenced within fifteen days of the date the notification was
3 posted under section 2(3) of this act, or the right to a hearing is
4 deemed waived and the owner is liable for any charges owing the
5 commission. In the event of litigation, the prevailing party is
6 entitled to reasonable attorneys' fees and costs.

7 (4) The proceeds of a sale under this section shall be applied
8 first to the payment of reasonable charges incurred by the commission,
9 then to the owner or to satisfy any liens of record or security
10 interests of record on the vessel in the order of their priority. If
11 an owner cannot in the exercise of due diligence be located by the
12 commission within one year of the date of the sale, any excess funds
13 from the sale, following the satisfaction of any bona fide security
14 interest, shall revert to the department of revenue under chapter 63.29
15 RCW. If the sale is for a sum less than the applicable charges, the
16 commission is entitled to assert a claim for the deficiency against the
17 vessel owner.

18 (5) If no one purchases the vessel at a sale, the commission may
19 proceed to properly dispose of the vessel in any way the commission
20 considers appropriate, including, but not limited to, destruction of
21 the vessel or by negotiated sale. The commission may assert a claim
22 against the owner for any charges incurred thereby. If the vessel, or
23 any part of the vessel, or any rights to the vessel, are sold under
24 this subsection, any proceeds from the sale shall be distributed in the
25 manner provided in subsection (4) of this section.

26 NEW SECTION. **Sec. 4.** If the full amount of all charges due the
27 commission on an unauthorized vessel is not paid to the commission
28 within thirty days after the date on which notice is affixed or posted
29 under section 2(3) of this act, the commission may bring an action in
30 any court of competent jurisdiction to recover the charges, plus
31 reasonable attorneys' fees and costs incurred by the commission.

32 NEW SECTION. **Sec. 5.** The rights granted to the commission under
33 sections 1 through 5 of this act are in addition to any other legal
34 rights the commission may have to secure, hold, and sell a vessel and
35 in no manner does this section alter those rights, or affect the
36 priority of other liens on a vessel.

1 **Sec. 6.** RCW 63.21.080 and 1985 c 7 s 125 are each amended to read
2 as follows:

3 This chapter shall not apply to:

4 (1) Motor vehicles under chapter 46.52 RCW;

5 (2) Unclaimed property in the hands of a bailee under chapter 63.24
6 RCW; (~~and~~)

7 (3) Uniform disposition of unclaimed property under chapter 63.29
8 RCW; and

9 (4) Secured vessels under chapter 88.-- RCW (sections 1 through 5
10 of this act).

11 NEW SECTION. **Sec. 7.** RCW 88.12.370 and 1989 c 393 s 2 are each
12 repealed.

13 NEW SECTION. **Sec. 8.** A new section is added to chapter 88.12 RCW
14 to read as follows:

15 The provisions of RCW 88.12.185 through 88.12.225 do not apply to
16 vessels secured pursuant to chapter 88.-- RCW (sections 1 through 5 of
17 this act).

18 NEW SECTION. **Sec. 9.** Sections 1 through 5 of this act shall
19 constitute a new chapter in Title 88 RCW.

20 NEW SECTION. **Sec. 10.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

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