
SUBSTITUTE SENATE BILL 5291

State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, Oke, Barr, Erwin, Moore and Winsley)

Read first time 02/25/93.

1 AN ACT Relating to boating safety; amending RCW 7.84.010, 7.84.020,
2 88.02.110, 88.12.010, 88.12.020, 88.12.330, 88.12.050, 88.12.080,
3 88.12.130, 88.12.160, 88.12.170, 88.12.180, 88.12.190, 88.12.200,
4 88.12.210, 88.12.220, 88.12.230, 88.12.250, 88.12.260, 88.12.280,
5 88.12.290, 88.12.390, 88.12.400, 88.12.410, 88.12.420, 88.12.440,
6 88.12.450, and 88.02.050; reenacting and amending RCW 88.12.100; adding
7 new sections to chapter 88.12 RCW; creating a new section; recodifying
8 RCW 88.12.010, 88.12.020, 88.12.100, 88.12.110, 88.12.120, 88.12.330,
9 88.12.050, 88.12.080, 88.12.130, 88.12.140, 88.12.150, 88.12.160,
10 88.12.170, 88.12.180, 88.12.190, 88.12.200, 88.12.210, 88.12.220,
11 88.12.280, 88.12.290, 88.12.300, 88.12.320, 88.12.350, 88.12.360,
12 88.12.380, 88.12.390, 88.12.400, 88.12.410, 88.12.420, 88.12.430,
13 88.12.440, 88.12.450, 88.12.460, and 88.12.470; repealing RCW
14 88.12.030, 88.12.040, 88.12.090, 88.12.240, 88.12.270, 88.12.310,
15 88.12.340, and 88.12.480; and prescribing penalties.

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

17 NEW SECTION. **Sec. 1.** It is the intent of the legislature that the
18 boating safety laws administered by the state parks and recreation
19 commission provide Washington's citizens with clear and reasonable

1 boating safety regulations and penalties. Therefore, the legislature
2 intends to recodify, clarify, and partially decriminalize the state-
3 wide boating safety laws in order to help the boating community
4 understand and comply with these laws.

5 It is also the intent of the legislature to increase boat
6 registration fees in order to provide additional funds to local
7 governments for boating safety enforcement and education programs.
8 Among other uses, the funds are to be used for enforcement, education,
9 training, and equipment, including vessel noise measurement equipment.

10 **Sec. 2.** RCW 7.84.010 and 1987 c 380 s 1 are each amended to read
11 as follows:

12 The legislature declares that decriminalizing certain offenses
13 contained in Titles 75, 76, 77, and 79 RCW and chapters 43.30 ~~((and))~~,
14 43.51, and 88.12 RCW and any rules adopted pursuant to those titles and
15 chapters would promote the more efficient administration of those
16 titles and chapters. The purpose of this chapter is to provide a just,
17 uniform, and efficient procedure for adjudicating those violations
18 which, in any of these titles and chapters or rules adopted under these
19 chapters or titles, are declared not to be criminal offenses. The
20 legislature respectfully requests the supreme court to prescribe any
21 rules of procedure necessary to implement this chapter.

22 **Sec. 3.** RCW 7.84.020 and 1987 c 380 s 2 are each amended to read
23 as follows:

24 Unless the context clearly requires otherwise, the definition in
25 this section applies throughout this chapter.

26 "Infraction" means an offense which, by the terms of Title 75, 76,
27 77, or 79 RCW or chapter 43.30 ~~((or))~~, 43.51, or 88.12 RCW and rules
28 adopted under these titles and chapters, is declared not to be a
29 criminal offense and is subject to the provisions of this chapter.

30 **Sec. 4.** RCW 88.02.110 and 1987 c 149 s 13 are each amended to read
31 as follows:

32 (1) Except as otherwise provided in this chapter, a violation of
33 this chapter ~~((, RCW 43.51.400,))~~ and the rules adopted by the
34 department ~~((and the state parks and recreation commission))~~ pursuant
35 to these statutes is a misdemeanor punishable only by a fine not to
36 exceed one hundred dollars per vessel for the first violation.

1 Subsequent violations in the same year are subject to the following
2 fines:

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

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

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

10 (3) All law enforcement officers shall have the authority to
11 enforce this chapter(~~(, RCW 43.51.400)~~), and the rules adopted by the
12 department (~~(and the state parks and recreation commission)~~) pursuant
13 to these statutes within their respective jurisdictions: PROVIDED,
14 That a city, town, or county may contract with a fire protection
15 district for such enforcement and fire protection districts are
16 authorized to engage in such activities.

17 **Sec. 5.** RCW 88.12.010 and 1933 c 72 s 1 are each amended to read
18 as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Boat wastes" includes, but is not limited to, sewage, garbage,
22 marine debris, plastics, contaminated bilge water, cleaning solvents,
23 paint scrapings, or discarded petroleum products associated with the
24 use of vessels.

25 (2) "Boater" means any person on a vessel on waters of the state of
26 Washington.

27 (3) "Carrying passengers for hire" means carrying passengers in a
28 vessel on waters of the state for valuable consideration, whether given
29 directly or indirectly or received by the owner, agent, operator, or
30 other person having an interest in the vessel. This shall not include
31 trips where expenses for food, transportation, or incidentals are
32 shared by participants on an even basis. Anyone receiving compensation
33 for skills or money for amortization of equipment and carrying
34 passengers shall be considered to be carrying passengers for hire on
35 waters of the state.

36 (4) "Commission" means the state parks and recreation commission.

1 ~~(5) "Darkness" ((is herein defined to be))~~ means that period
2 between ~~((one-half hour after))~~ sunset and ~~((one-half hour before))~~
3 sunrise.

4 ~~(("Waters", as used herein, are defined as any lake, pond or other
5 body of water.))~~

6 (6) "Environmentally sensitive area" means a restricted body of
7 water where discharge of untreated sewage from boats is especially
8 detrimental because of limited flushing, shallow water, commercial or
9 recreational shellfish, swimming areas, diversity of species, the
10 absence of other pollution sources, or other characteristics.

11 (7) "Marina" means a facility providing boat moorage space, fuel,
12 or commercial services. Commercial services include but are not
13 limited to overnight or live-aboard boating accommodations.

14 (8) "Motor driven boats and vessels" ((are defined herein as))
15 means all boats and vessels which are self propelled.

16 (9) "Muffler" or "muffler system" means a sound suppression device
17 or system, including an underwater exhaust system, designed and
18 installed to abate the sound of exhaust gases emitted from an internal
19 combustion engine and that prevents excessive or unusual noise.

20 (10) "Operate" means to steer, direct, or otherwise have physical
21 control of a vessel that is underway.

22 (11) "Operator" means an individual who steers, directs, or
23 otherwise has physical control of a vessel that is underway or
24 exercises actual authority to control the person at the helm.

25 (12) "Observer" means the individual riding in a vessel who is
26 responsible for observing a water skier at all times.

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

30 (14) "Personal flotation device" means a buoyancy device, life
31 preserver, buoyant vest, ring buoy, or buoy cushion that is designed to
32 float a person in the water and that is approved by the commission.

33 (15) "Personal watercraft" means a vessel of less than sixteen feet
34 that uses a motor powering a water jet pump, as its primary source of
35 motive power and that is designed to be operated by a person sitting,
36 standing, or kneeling on, or being towed behind the vessel, rather than
37 in the conventional manner of sitting or standing inside the vessel.

1 (16) "Polluted area" means a body of water used by boaters that is
2 contaminated by boat wastes at unacceptable levels, based on applicable
3 water quality and shellfish standards.

4 (17) "Public entities" means all elected or appointed bodies,
5 including tribal governments, responsible for collecting and spending
6 public funds.

7 (18) "Reckless" or "recklessly" means acting carelessly and
8 heedlessly in a willful and wanton disregard of the rights, safety, or
9 property of another.

10 (19) "Sewage pumpout or dump unit" means:

11 (a) A receiving chamber or tank designed to receive vessel sewage
12 from a "porta-potty" or a portable container; and

13 (b) A stationary or portable mechanical device on land, a dock,
14 pier, float, barge, vessel, or other location convenient to boaters,
15 designed to remove sewage waste from holding tanks on vessels.

16 (20) "Underway" means that a vessel is not at anchor, or made fast
17 to the shore, or aground.

18 (21) "Vessel" includes every description of watercraft on the
19 water, other than a seaplane, used or capable of being used as a means
20 of transportation on the water. However, it does not include inner
21 tubes, air mattresses, and small rafts or flotation devices or toys
22 customarily used by swimmers.

23 (22) "Water skiing" means the physical act of being towed behind a
24 vessel on, but not limited to, any skis, aquaplane, kneeboard, tube, or
25 any other similar device.

26 (23) "Waters of the state" means any waters within the territorial
27 limits of Washington state.

28 (24) "Whitewater rivers of the state" means those rivers and
29 streams, or parts thereof, within the boundaries of the state as listed
30 in RCW 88.12.300.

31 NEW SECTION. Sec. 6. A new section is added to chapter 88.12 RCW
32 to read as follows:

33 (1) It is a misdemeanor, punishable under RCW 9.92.030, for any
34 person to commit a violation designated as an infraction under this
35 chapter, if during a period of three hundred sixty-five days the person
36 has previously committed two infractions for violating the same
37 provision under this chapter and if the violation is also committed

1 during such period and is of the same provision as the previous
2 violations.

3 (2) A violation designated in this chapter as a civil infraction
4 shall constitute a misdemeanor until the violation is included in a
5 civil infraction monetary schedule adopted by rule by the state supreme
6 court pursuant to chapter 7.84 RCW.

7 **Sec. 7.** RCW 88.12.020 and 1933 c 72 s 2 are each amended to read
8 as follows:

9 ~~((Every person operating or driving a motor propelled boat or
10 vessel on any waters in the state, shall drive the same in a careful
11 and prudent manner at a))~~ A person shall not operate a vessel in a
12 negligent manner. For the purposes of this section, to "operate in a
13 negligent manner" means operating a vessel in disregard of careful and
14 prudent operation, or in disregard of careful and prudent rates of
15 speed that are no greater than is reasonable and proper under the
16 conditions existing at the point of operation, taking into account the
17 amount and character of traffic, size of the lake or body of water,
18 freedom from obstruction to view ahead, effects of vessel wake, and so
19 as not to unduly or unreasonably endanger life, limb, property or other
20 rights of any person entitled to the use of such waters. Except as
21 provided in section 6 of this act, a violation of this section is an
22 infraction under chapter 7.84 RCW.

23 **Sec. 8.** RCW 88.12.100 and 1990 c 231 s 3 and 1990 c 31 s 1 are
24 each reenacted and amended to read as follows:

25 (1) It shall be unlawful for any person to operate a vessel in a
26 ~~((negligent))~~ reckless manner. ~~((For the purpose of this section, to
27 "operate in a negligent manner" shall be construed to mean the
28 operation of a vessel in such manner as to endanger or be likely to
29 endanger any persons or property or to operate at a rate of speed
30 greater than will permit the operator in the exercise of reasonable
31 care to bring the vessel to a safe stop.))~~

32 (2) ~~((A person is guilty of operating a vessel while under the
33 influence of intoxicating liquor or any drug if the person operates a
34 vessel within this state while))~~ It shall be a violation for a person
35 to operate a vessel while under the influence of intoxicating liquor or
36 any drug. A person is considered to be under the influence of
37 intoxicating liquor or any drug if:

1 (a) The person has 0.10 grams or more of alcohol per two hundred
2 ten liters of breath, as shown by analysis of the person's breath made
3 under RCW 46.61.506; or

4 (b) The person has 0.10 percent or more by weight of alcohol in the
5 person's blood, as shown by analysis of the person's blood made under
6 RCW 46.61.506; or

7 (c) The person is under the influence of or affected by
8 intoxicating liquor or any drug; or

9 (d) The person is under the combined influence of or affected by
10 intoxicating liquor and any drug.

11 The fact that any person charged with a violation of this section
12 is or has been entitled to use such drug under the laws of this state
13 shall not constitute a defense against any charge of violating this
14 section. A person cited under this subsection may upon request be
15 given a breath test for breath alcohol or may request to have a blood
16 sample taken for blood alcohol analysis. An arresting officer shall
17 administer field sobriety tests when circumstances permit.

18 ~~(3) ((For the purposes of this section, "vessel" means any~~
19 ~~watercraft used or capable of being used as a means of transportation~~
20 ~~on the water, other than a seaplane.~~

21 ~~(4) For the purpose of this section, "vessel operator" means a~~
22 ~~person who is in actual physical control of a vessel.~~

23 ~~(5))~~ A violation of this section is a misdemeanor, punishable ~~((by~~
24 ~~up to ninety days in jail and by a fine of not more than one thousand~~
25 ~~dollars))~~ as provided under RCW 9.92.030. In addition, the court may
26 order the defendant to pay restitution for any damages or injuries
27 resulting from the offense.

28 **Sec. 9.** RCW 88.12.330 and 1988 c 36 s 73 are each amended to read
29 as follows:

30 (1) Every ~~((peace))~~ law enforcement officer of this state and its
31 political subdivisions has the authority to enforce this chapter. Law
32 enforcement officers may enforce recreational boating rules adopted by
33 the commission. Such law enforcement officers include, but are not
34 limited to, county sheriffs, officers of other local law enforcement
35 entities, wildlife agents of the department of wildlife and fisheries
36 patrol officers of the department of fisheries, through their
37 directors, the state patrol, through its chief, ~~((county sheriffs, and~~
38 other local law enforcement bodies, shall assist in the enforcement))

1 and state park rangers. In the exercise of this responsibility, all
2 such officers may stop and board any (~~watercraft~~) vessel and direct
3 it to a suitable pier or anchorage (~~for boarding~~) to enforce this
4 chapter.

5 (2) (~~A person, while operating a watercraft on any waters of this~~
6 ~~state, shall not knowingly flee or attempt to elude a law enforcement~~
7 ~~officer after having received a signal from the law enforcement officer~~
8 ~~to bring the boat to a stop.~~

9 (3)) This chapter shall be construed to supplement federal laws
10 and regulations. To the extent this chapter is inconsistent with
11 federal laws and regulations, the federal laws and regulations shall
12 control.

13 NEW SECTION. Sec. 10. A new section is added to chapter 88.12 RCW
14 to read as follows:

15 In addition to the equipment standards prescribed under this
16 chapter, the commission shall adopt rules specifying equipment
17 standards for vessels. Except where the violation is classified as a
18 misdemeanor under this chapter, violation of any equipment standard
19 adopted by the commission is an infraction under chapter 7.84 RCW.

20 NEW SECTION. Sec. 11. A new section is added to chapter 88.12 RCW
21 to read as follows:

22 An operator or owner who endangers a vessel, or the persons on
23 board the vessel, by showing, masking, extinguishing, altering, or
24 removing any light or signal or by exhibiting any false light or
25 signal, is guilty of a misdemeanor, punishable as provided in RCW
26 9.92.030.

27 NEW SECTION. Sec. 12. A new section is added to chapter 88.12 RCW
28 to read as follows:

29 (1) The commission shall adopt rules providing for its inspection
30 and approval of the personal flotation devices that may be used to
31 satisfy the requirements of this chapter and governing the manner in
32 which such devices shall be used. The commission shall prescribe the
33 different types of devices that are appropriate for the different uses,
34 such as water skiing or operation of a personal watercraft. In
35 adopting its rules the commission shall consider the United States
36 coast guard rules or regulations. The commission may approve devices

1 inspected and approved by the coast guard without conducting any
2 inspection of the devices itself.

3 (2) In situations where personal flotation devices are required
4 under provisions of this chapter, the devices shall be in good and
5 serviceable condition and of appropriate size. If they are not, then
6 they shall not be considered as personal flotation devices under such
7 provisions.

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

10 If an infraction is issued under this chapter because a vessel does
11 not contain the required equipment and if the operator is not the owner
12 of the vessel, but is operating the vessel with the express or implied
13 permission of the owner, then either or both operator or owner may be
14 cited for the infraction.

15 **Sec. 14.** RCW 88.12.050 and 1933 c 72 s 5 are each amended to read
16 as follows:

17 ~~((Every motor driven boat operating on any such waters and carrying
18 passengers for hire or leased for hire, shall have a life preserver or
19 life float for each passenger said boat or vessel has capacity to
20 carry, placed or attached in such manner as to be convenient for use.))~~

21 (1) No person may operate or permit the operation of a vessel on
22 the waters of the state without a personal flotation device on board
23 for each person on the vessel. Each personal flotation device shall be
24 in serviceable condition, of an appropriate size, and readily
25 accessible.

26 (2) Except as provided in section 6 of this act, a violation of
27 subsection (1) of this section is an infraction under chapter 7.84 RCW
28 if the vessel is not carrying passengers for hire.

29 (3) A violation of subsection (1) of this section is a misdemeanor
30 punishable under RCW 9.92.030, if the vessel is carrying passengers for
31 hire.

32 **Sec. 15.** RCW 88.12.080 and 1990 c 231 s 1 are each amended to read
33 as follows:

34 (1) The purpose of this section is to promote safety in water
35 skiing on the waters of Washington state, provide a means of ensuring
36 safe water skiing and promote the enjoyment of water skiing.

1 (2) (~~When used in this section, the following words and phrases~~
2 ~~shall have the meanings designated in this section unless a different~~
3 ~~meaning is expressly provided or unless the context clearly indicates~~
4 ~~otherwise.~~

5 (a) ~~"Operator" means the individual in physical control of a~~
6 ~~vessel. The operator of a personal watercraft shall be at least~~
7 ~~fourteen years of age.~~

8 (b) ~~"Observer" means the individual riding in a vessel who shall be~~
9 ~~responsible for observing the water skier at all times. The observer~~
10 ~~and the operator shall not be the same person. The observer shall be~~
11 ~~an individual who meets the minimum qualifications for an observer~~
12 ~~established by rules of the state parks and recreation commission.~~

13 (c) ~~"Personal watercraft" means a vessel of less than sixteen feet~~
14 ~~which uses a motor powering a water jet pump, as its primary source of~~
15 ~~motive power and which is designed to be operated by a person sitting,~~
16 ~~standing, or kneeling on, or being towed behind the vessel, rather than~~
17 ~~in the conventional manner of sitting or standing inside the vessel.~~

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

20 (e) ~~"Waters of Washington state" means any waters within the~~
21 ~~territorial limits of Washington state.~~

22 (3)) No vessel ((which has in tow a person or persons on water
23 ~~skis, or similar contrivance shall be operated)) operator may tow or
24 attempt to tow a water skier on any waters of Washington state unless
25 such craft shall be occupied by at least an operator and an observer.
26 The observer shall continuously observe the person or persons being
27 towed and shall display a flag immediately after the towed person or
28 persons fall into the water, and during the time preparatory to skiing
29 while the person or persons are still in the water. Such flag shall be
30 a bright red or brilliant orange color, measuring at least twelve
31 inches square, mounted on a pole not less than twenty-four inches long
32 and displayed as to be visible from every direction. This subsection
33 does not apply to a personal watercraft, the design of which makes no
34 provision for carrying an operator or any other person on board, and
35 that is actually operated by the person or persons being towed. Every
36 remote-operated personal watercraft shall have a flag attached which
37 meets the requirements of this subsection. Except as provided under
38 section 6 of this act, a violation of this subsection is an infraction
39 under chapter 7.84 RCW.~~

1 (3) The observer and the operator shall not be the same person.
2 The observer shall be an individual who meets the minimum
3 qualifications for an observer established by rules of the commission.
4 Except as provided under section 6 of this act, a violation of this
5 subsection is an infraction under chapter 7.84 RCW.

6 (4) No person shall engage or attempt to engage in water skiing(~~(,~~
7 ~~or operate or ride on a personal watercraft,~~) without wearing ((an
8 adequate and effective United States coast guard approved type I, II,
9 III, or V personal floatation device in good and serviceable condition
10 and of appropriate size, or a wet suit which is approved for personal
11 floatation by the United States coast guard. A person operating a
12 personal watercraft equipped by the manufacturer with a lanyard type
13 engine cutoff switch must attach the lanyard to his or her person,
14 clothing, or personal floatation device as is appropriate for the
15 specific vessel. It is unlawful for any person to remove or disable a
16 cutoff switch which was installed by the manufacturer)) a personal
17 floatation device. Except as provided under section 6 of this act, a
18 violation of this subsection is an infraction under chapter 7.84 RCW.

19 (5) No person shall engage or attempt to engage in water skiing, or
20 operate any vessel to tow a water skier, on the waters of Washington
21 state during the period from one hour after sunset until one hour prior
22 to sunrise. A violation of this subsection is a misdemeanor,
23 punishable as provided under RCW 9.92.030.

24 (6) (~~No person shall operate a personal watercraft on the waters~~
25 ~~of Washington state during the period from sunset until sunrise.~~

26 ~~(7))~~ No person engaged in water skiing(~~(,~~ ~~or the operation of a~~
27 ~~personal watercraft,~~) either as operator, observer, or skier, shall
28 conduct himself or herself in a ((negligent)) reckless manner that
29 willfully or wantonly endangers, or is likely to endanger, any person
30 or property. A violation of this subsection is a misdemeanor as
31 provided under RCW 9.92.030.

32 (~~(8))~~ (7) The requirements of subsections (2), (3), (4), and (5)
33 of this section shall not apply to persons engaged in tournaments,
34 competitions, or exhibitions that have been authorized or otherwise
35 permitted by the appropriate agency having jurisdiction and authority
36 to authorize such events.

37 (~~(9) It shall be unlawful for a person to lease, hire, or rent a~~
38 ~~personal watercraft to any person who is under sixteen years of age.))~~

1 NEW SECTION. **Sec. 16.** A new section is added to chapter 88.12 RCW
2 to read as follows:

3 (1) A person shall not load or permit to be loaded a vessel with
4 passengers or cargo beyond its safe carrying ability or carry
5 passengers or cargo in an unsafe manner taking into consideration
6 weather and other existing operating conditions.

7 (2) A person shall not operate or permit to be operated a vessel
8 equipped with a motor or other propulsion machinery of a power beyond
9 the vessel's ability to operate safely, taking into consideration the
10 vessel's type, use, and construction, the weather conditions, and other
11 existing operating conditions.

12 (3) A violation of subsection (1) or (2) of this section is an
13 infraction punishable as provided under chapter 7.84 RCW except as
14 provided under section 6 of this act or where the overloading or
15 overpowering is reasonably advisable to effect a rescue or for some
16 similar emergency purpose.

17 (4) If it appears reasonably certain to any law enforcement officer
18 that a person is operating a vessel clearly loaded or powered beyond
19 its safe operating ability and in the judgment of that officer the
20 operation creates an especially hazardous condition, the officer may
21 direct the operator to take immediate and reasonable steps necessary
22 for the safety of the individuals on board the vessel, including
23 directing the operator to return to shore or a mooring and to remain
24 there until the situation creating the hazard is corrected or ended.
25 Failure to follow the direction of an officer under this subsection is
26 a misdemeanor punishable as provided under RCW 9.92.030.

27 NEW SECTION. **Sec. 17.** A new section is added to chapter 88.12 RCW
28 to read as follows:

29 (1) A person shall not operate a personal watercraft unless each
30 person aboard the personal watercraft is wearing a personal flotation
31 device approved by the commission. Except as provided for in section
32 6 of this act, a violation of this subsection is a civil infraction
33 punishable under RCW 7.84.100.

34 (2) A person operating a personal watercraft equipped by the
35 manufacturer with a lanyard-type engine cutoff switch shall attach the
36 lanyard to his or her person, clothing, or personal flotation device as
37 appropriate for the specific vessel. It is unlawful for any person to

1 remove or disable a cutoff switch that was installed by the
2 manufacturer.

3 (3) A person shall not operate a personal watercraft during
4 darkness.

5 (4) A person under the age of fourteen shall not operate a personal
6 watercraft on the waters of this state.

7 (5) A person shall not operate a personal watercraft in a reckless
8 manner, including recklessly weaving through congested vessel traffic,
9 recklessly jumping the wake of another vessel unreasonably or
10 unnecessarily close to the vessel or when visibility around the vessel
11 is obstructed, or recklessly swerving at the last possible moment to
12 avoid collision.

13 (6) A person shall not lease, hire, or rent a personal watercraft
14 to a person under the age of sixteen.

15 (7) Subsections (1) through (6) of this section shall not apply to
16 a performer engaged in a professional exhibition or a person
17 participating in a regatta, race, marine parade, tournament, or
18 exhibition authorized or otherwise permitted by the appropriate agency
19 having jurisdiction and authority to authorize such events.

20 (8) Violations of subsections (2) through (6) of this section
21 constitute a misdemeanor under RCW 9.92.030.

22 **Sec. 18.** RCW 88.12.130 and 1984 c 183 s 1 are each amended to read
23 as follows:

24 (1) The operator of a vessel involved in a collision, accident, or
25 other casualty, to the extent the operator can do so without serious
26 danger to the operator's own vessel or persons aboard, shall render all
27 practical and necessary assistance to persons affected by the
28 collision, accident, or casualty to save them from danger caused by the
29 incident. Under no circumstances may the rendering of assistance or
30 other compliance with this section be evidence of the liability of such
31 operator for the collision, accident, or casualty. (~~The operator
32 shall also give his or her name, address, and the identification of the
33 operator's vessel to the state parks and recreation commission and any
34 person injured and to the owner of any property damaged~~) The operator
35 shall also give all pertinent accident information, as specified by
36 rule by the commission, to the law enforcement agency having
37 jurisdiction: PROVIDED, That this requirement shall not apply to
38 operators of vessels when they are participating in an organized

1 competitive event (~~covered by a permit issued by the United States~~
2 ~~coast guard~~) authorized or otherwise permitted by the appropriate
3 agency having jurisdiction and authority to authorize such events.
4 These duties are in addition to any duties otherwise imposed by law.
5 Except as provided for in section 6 of this act, a violation of this
6 subsection is a civil infraction punishable under RCW 7.84.100.

7 (2) Any person who complies with subsection (1) of this section or
8 who gratuitously and in good faith renders assistance at the scene of
9 a vessel collision, accident, or other casualty, without objection of
10 the person assisted, shall not be held liable for any civil damages as
11 a result of the rendering of assistance or for any act or omission in
12 providing or arranging salvage, towage, medical treatment, or other
13 assistance, where the assisting person acts as any reasonably prudent
14 person would have acted under the same or similar circumstances.

15 **Sec. 19.** RCW 88.12.160 and Code 1881 s 3242 are each amended to
16 read as follows:

17 Any person taking up any (~~scow, boat, skiff, canoe, or other water~~
18 ~~craft,~~) vessel found adrift, and out of the custody of the owner, in
19 (~~any stream or body of water, within, or bordering upon~~) waters of
20 this state, shall forthwith notify the owner thereof, if to him or her
21 known, or if upon reasonable inquiry he or she can ascertain the name
22 and residence of the owner, and request such owner to pay all
23 reasonable charges, and take such (~~water-craft~~) vessel away.

24 **Sec. 20.** RCW 88.12.170 and Code 1881 s 3243 are each amended to
25 read as follows:

26 Such notice shall be given personally, or in writing; if in
27 writing, it shall be served upon the owner, or may be sent by mail to
28 the post office where such owner usually receives his or her letters.
29 Such notice shall inform the party where the (~~scow, boat, skiff,~~
30 ~~canoe, or other water-craft~~) vessel was taken up, and where it may be
31 found, and what amount the taker-up or finder demands for his or her
32 charges.

33 **Sec. 21.** RCW 88.12.180 and Code 1881 s 3244 are each amended to
34 read as follows:

35 In all cases where notice is not given personally, it shall be the
36 duty of the taker-up to post up at the post office nearest the place

1 where such (~~scow, boat, skiff, canoe, or other water craft~~) vessel
2 may be taken up, a written notice of the taking up of such (~~water~~
3 ~~craft~~) vessel, which shall contain a description of the same, with the
4 name, if any is painted thereon, also the place where taken up, the
5 place where the property may be found, and the charge for taking the
6 same up. If the taker-up is traveling upon (~~such stream or body of~~)
7 waters of the state, such notice shall be posted up at the first post
8 office he or she shall pass after the taking up; and in all cases, he
9 or she shall at the time when, and place where, he or she posts up such
10 notice, also mail a copy of such notice, directed to the postmaster of
11 each post office on (~~said stream or body of~~) waters of the state, and
12 within fifty miles of the place where such (~~water craft~~) vessel is
13 taken up.

14 **Sec. 22.** RCW 88.12.190 and Code 1881 s 3245 are each amended to
15 read as follows:

16 Every person taking up any (~~scow, boat, skiff, canoe, or other~~
17 ~~water craft,~~) vessel so found adrift, and giving the notice herein
18 required, shall be entitled to receive from the owner claiming the
19 property, a reasonable compensation for his or her time, services,
20 expenses, and risk in taking up said property, and take notice of the
21 same, to be settled by agreement between the parties. In case ((he))
22 the person has not, within ten days after the taking up, substantially
23 complied with the provisions of this chapter in giving the notice,
24 ((he)) the person shall be entitled to no compensation, but he or she
25 shall be liable to all damages the owner may have suffered, and be also
26 liable to the owner for the value of the use of (~~said water craft~~)
27 the vessel, from the time of taking it up until the same is delivered
28 to the owner.

29 **Sec. 23.** RCW 88.12.200 and 1987 c 202 s 248 are each amended to
30 read as follows:

31 In case the parties cannot agree on the amount to be paid the
32 taker-up, or the ownership, and the sum claimed is less than one
33 (~~hundred~~) thousand dollars, the owner may file a complaint, setting
34 out the facts, and the judge, on hearing, shall decide the same with a
35 jury, or not, and in the same manner as is provided in ordinary civil
36 actions before a district judge. If the amount claimed by the taker-up
37 is more than one (~~hundred~~) thousand dollars, the owner shall file his

1 or her complaint in the superior court of the county where the property
2 is, and trial shall be had as in other civil actions; but if the taker-
3 up claims more than one (~~hundred~~) thousand dollars, and a less amount
4 is awarded him or her, he or she shall be liable for all the costs in
5 the superior court; and in all cases where the taker-up shall recover
6 a less amount than has been tendered him or her by the owner or
7 claimant, previous to filing his or her complaint, he or she shall pay
8 the costs before the district judge or in the superior court:
9 PROVIDED, That in all cases the owner, after filing his or her
10 complaint before a district judge, shall be entitled to the possession
11 of (~~such water craft~~) the vessel, upon giving bond, with security to
12 the satisfaction of the judge, in double the amount claimed by the
13 taker-up. When the complaint is filed in the superior court, the clerk
14 thereof shall approve the security of the bond. The bond shall be
15 conditioned to pay such costs as shall be awarded to the finder or
16 taker-up of such (~~scow, boat, skiff, canoe, or other water craft~~)
17 vessel.

18 **Sec. 24.** RCW 88.12.210 and Code 1881 s 3247 are each amended to
19 read as follows:

20 In case the taker-up shall use the (~~scow, boat, skiff, canoe or~~
21 ~~other water craft~~) vessel, more than is necessary to put it into a
22 place of safety, he or she shall be liable to the owner for such use,
23 and for all damage; and in case it shall suffer injury from his or her
24 neglect to take suitable care of it, he or she shall be liable to the
25 owner for all damage.

26 **Sec. 25.** RCW 88.12.220 and 1987 c 202 s 249 are each amended to
27 read as follows:

28 In case such (~~water craft~~) vessel is of less value than one
29 hundred dollars, and is not claimed within three months, the taker-up
30 may apply to a district judge of the district where the property is,
31 who, upon being satisfied that due notice has been given, and that the
32 owner cannot, with reasonable diligence be found, shall order the
33 (~~scow, boat, skiff, canoe, or other water craft~~) vessel to be sold,
34 and after paying the taker-up such sum as he or she shall be entitled
35 to, and the costs, the balance shall be paid the county treasurer as is
36 provided in the case of the sale of estrays. In case the (~~scow, boat,~~
37 ~~skiff, canoe, or other water craft,~~) vessel exceeds one hundred

1 dollars, and is not claimed within six months, application shall be
2 made to the superior court of the county, and the same proceeding shall
3 be thereupon had. All sales made under this section shall be conducted
4 as sales of personal property on execution.

5 **Sec. 26.** RCW 88.12.230 and 1986 c 217 s 1 are each amended to read
6 as follows:

7 The purpose of (~~this chapter~~) RCW 88.12.250 through 88.12.320 is
8 to further the public interest, welfare, and safety by providing for
9 the protection and promotion of safety in the operation of
10 (~~watercraft~~) vessels carrying passengers for hire on the whitewater
11 rivers of this state.

12 NEW SECTION. **Sec. 27.** A new section is added to chapter 88.12 RCW
13 to read as follows:

14 Except as provided in RCW 88.12.320(3), the commission of a
15 prohibited act under RCW 88.12.250 through 88.12.320 constitutes a
16 misdemeanor, punishable as provided under RCW 9.92.030.

17 **Sec. 28.** RCW 88.12.250 and 1986 c 217 s 3 are each amended to read
18 as follows:

19 (1) No person may operate any (~~watercraft~~) vessel carrying
20 passengers for hire on whitewater rivers in a manner that interferes
21 with other (~~watercraft~~) vessels or with the free and proper
22 navigation of the rivers of this state.

23 (2) Every operator of a (~~watercraft~~) vessel carrying passengers
24 for hire on whitewater rivers shall at all times operate the
25 (~~watercraft~~) vessel in a careful and prudent manner and at such a
26 speed as to not endanger the life, limb, or property of any person.

27 (3) No (~~watercraft~~) vessel carrying passengers for hire on
28 whitewater rivers may be loaded with passengers or cargo beyond its
29 safe carrying capacity taking into consideration the type and
30 construction of the (~~watercraft~~) vessel and other existing operating
31 conditions. In the case of inflatable (~~crafts~~) vessels, safe
32 carrying capacity in whitewater shall be considered as less than the
33 United States Coast Guard capacity rating for each (~~watercraft~~)
34 vessel. This subsection shall not apply in cases of an unexpected
35 emergency on the river.

1 (4) Individuals licensed under chapter 77.32 RCW and acting as
2 fishing guides are exempt from section 27 of this act and RCW 88.12.260
3 through 88.12.320.

4 **Sec. 29.** RCW 88.12.260 and 1986 c 217 s 4 are each amended to read
5 as follows:

6 (1) Except as provided in subsection (2) of this section,
7 ~~((watercraft))~~ vessels on whitewater rivers proceeding downstream have
8 the right of way over ~~((watercraft))~~ vessels proceeding upstream.

9 (2) In all cases, ~~((watercraft))~~ vessels not under power proceeding
10 downstream on whitewater rivers have the right of way over motorized
11 craft underway.

12 **Sec. 30.** RCW 88.12.280 and 1986 c 217 s 6 are each amended to read
13 as follows:

14 (1) While carrying passengers for hire on whitewater rivers
15 ~~((sections))~~ in this state, the operator and owner of the vessel shall:

16 ~~((+1))~~ (a) If using inflatable ((watercraft)) vessels, use only
17 ~~((watercraft)) vessels~~ with three or more separate air chambers;

18 ~~((+2))~~ (b) Ensure that all passengers and operators are wearing a
19 securely fastened ((United States Coast Guard approved type III or type
20 V life jacket in good condition)) personal flotation device;

21 ~~((+3))~~ (c) Ensure that each ((watercraft)) vessel has accessible
22 a spare United States coast guard-approved type III or type V ((life
23 jacket)) personal flotation device in good repair;

24 ~~((+4))~~ (d) Ensure that each ((watercraft)) vessel has on it a
25 bagged throwable line with a floating line and bag;

26 ~~((+5))~~ (e) Ensure that each ((watercraft)) vessel has accessible
27 an adequate first-aid kit;

28 ~~((+6))~~ (f) Ensure that each ((watercraft)) vessel has a spare
29 propelling device;

30 ~~((+7))~~ (g) Ensure that a repair kit and air pump are accessible to
31 inflatable ((watercraft)) vessel; and

32 ~~((+8))~~ (h) Ensure that equipment to prevent and treat hypothermia
33 is accessible to all ((watercraft)) vessels on a trip.

34 (2) No person may operate on the whitewater rivers of this state a
35 vessel carrying passengers for hire unless the person has successfully
36 completed a lifesaving training course meeting standards adopted by the
37 commission.

1 **Sec. 31.** RCW 88.12.290 and 1986 c 217 s 7 are each amended to read
2 as follows:

3 (1) (~~Watercraft~~) Vessel operators and passengers on any trip
4 carrying passengers for hire on whitewater rivers of the state shall
5 not allow the use of alcohol during the course of a trip on a
6 whitewater river section in this state.

7 (2) Any (~~watercraft~~) vessel carrying passengers for hire on any
8 whitewater river section in this state must be accompanied by at least
9 one other (~~watercraft~~) vessel under the supervision of the same
10 operator or owner or being operated by a person registered under RCW
11 88.12.320 or an operator under the direction or control of a person
12 registered under RCW 88.12.320.

13 **Sec. 32.** RCW 88.12.390 and 1989 c 393 s 4 are each amended to read
14 as follows:

15 (1) A marina which meets one or more of the following criteria
16 shall be designated by the commission as appropriate for installation
17 of a sewage pumpout or (~~sewage~~) dump (~~station~~) unit:

18 (a) The marina is located in an environmentally sensitive or
19 polluted area; or

20 (b) The marina has one hundred twenty-five slips or more and there
21 is a lack of sewage pumpout(~~s~~) or dump units within a reasonable
22 distance.

23 (2) In addition to subsection (1) of this section, the commission
24 may at its discretion designate a marina as appropriate for
25 installation of a sewage pumpout or (~~sewage~~) dump (~~station~~) unit if
26 there is a demonstrated need for a sewage pumpout or (~~sewage~~) dump
27 (~~station~~) unit at the marina based on professionally conducted
28 studies undertaken by federal, state, or local government, or the
29 private sector; and it meets the following criteria:

30 (a) The marina provides commercial services, such as sales of food,
31 fuel or supplies, or overnight or live-aboard moorage opportunities;

32 (b) The marina is located at a heavily used boating destination or
33 on a heavily traveled route, as determined by the commission; or

34 (c) There is a lack of adequate sewage pumpout (~~station~~) or dump
35 unit capacity within a reasonable distance.

36 (3) Exceptions to the designation made under this section may be
37 made by the commission if no sewer, septic, water, or electrical
38 services are available at the marina.

1 (4) In addition to marinas, the commission may designate boat
2 launches or boater destinations as appropriate for installation of a
3 sewage pumpout or (~~sewage~~) dump (~~station~~) unit based on the
4 criteria found in subsections (1) and (2) of this section.

5 **Sec. 33.** RCW 88.12.400 and 1989 c 393 s 5 are each amended to read
6 as follows:

7 (1) Marinas and boat launches designated as appropriate for
8 installation of a sewage pumpout or (~~sewage~~) dump (~~station~~) unit
9 under RCW 88.12.390 shall be eligible for funding support for
10 installation of such facilities from funds specified in RCW 88.12.450.
11 The commission shall notify owners or operators of all designated
12 marinas and boat launches of the designation, and of the availability
13 of funding to support installation of appropriate sewage disposal
14 facilities. The commission shall encourage the owners and operators to
15 apply for available funding.

16 (2) The commission shall seek to provide the most cost-efficient
17 and accessible facilities possible for reducing the amount of boat
18 waste entering the state's waters. The commission shall consider
19 providing funding support for portable pumpout facilities in this
20 effort.

21 (3) The commission shall contract with, or enter into an
22 interagency agreement with another state agency to contract with,
23 applicants based on the criteria specified below:

24 (a)(i) Contracts may be awarded to publicly owned, tribal, or
25 privately owned marinas or boat launches.

26 (ii) Contracts may provide for state reimbursement to cover
27 eligible costs as deemed reasonable by commission rule. Eligible costs
28 include purchase, installation, or major renovation of the sewage
29 pumpout or (~~sewage~~) dump (~~stations~~) units, including sewer, water,
30 electrical connections, and those costs attendant to the purchase,
31 installation, and other necessary appurtenances, such as required pier
32 space, as determined by the commission.

33 (iii) Ownership of the sewage pumpout or (~~sewage~~) dump
34 (~~station~~) unit will be retained by the state through the commission
35 in privately owned marinas. Ownership of the sewage pumpout or
36 (~~sewage~~) dump (~~station~~) unit in publicly owned marinas will be held
37 by the public entity.

1 (iv) Operation, normal and expected maintenance, and ongoing
2 utility costs will be the responsibility of the (~~marina or boat launch~~
3 ~~operator~~) contract recipient. The sewage pumpout or (~~sewage~~) dump
4 (~~station must~~) unit shall be kept in operating condition and
5 available for public use at all times during operating hours of the
6 facility, excluding necessary maintenance periods.

7 (v) The (~~marina owner~~) contract recipient agrees to allow the
8 installation, existence and use of the sewage pumpout or (~~sewage~~)
9 dump (~~station~~) unit by granting an (~~easement~~) irrevocable license
10 for a minimum of ten years at no cost (~~for such purposes~~) to the
11 commission.

12 (b) Contracts awarded pursuant to (a) of this subsection shall be
13 subject, for a period of at least ten years, to the following
14 conditions:

15 (i) Any (~~facility~~) contract recipient entering into a contract
16 under this section must allow the boating public access to the sewage
17 pumpout or (~~sewage~~) dump (~~station~~) unit during operating hours.

18 (ii) The (~~applicant~~) contract recipient must agree to monitor and
19 encourage the use of the sewage pumpout or (~~sewage~~) dump (~~station~~)
20 unit, and to cooperate in any related boater environmental education
21 program administered or approved by the commission.

22 (iii) The (~~applicant~~) contract recipient must agree not to charge
23 a fee for the use of the sewage pumpout or (~~sewage~~) dump (~~station~~)
24 unit.

25 (iv) The (~~applicant~~) contract recipient must agree to arrange and
26 pay a reasonable fee for a periodic inspection of the sewage pumpout
27 (~~facility~~) or dump unit by the local health department or appropriate
28 authority.

29 (v) Use of a free sewage pumpout or (~~sewage~~) dump (~~station~~)
30 unit by the boating public shall be deemed to be included in the term
31 "outdoor recreation" for the purposes of chapter 4.24 RCW.

32 **Sec. 34.** RCW 88.12.410 and 1989 c 393 s 6 are each amended to read
33 as follows:

34 The department of ecology, in consultation with the commission,
35 shall, for initiation of the state-wide program only, develop criteria
36 for the design, installation, and operation of sewage pumpout and
37 (~~sewage~~) dump (~~stations~~) units, taking into consideration the ease
38 of access to the (~~station~~) unit by the boating public. The

1 department of ecology may adopt rules to administer the provisions of
2 this section.

3 **Sec. 35.** RCW 88.12.420 and 1989 c 393 s 7 are each amended to read
4 as follows:

5 The commission shall undertake a state-wide boater environmental
6 education program concerning the effects of boat wastes. The boater
7 environmental education program shall provide informational materials
8 on proper boat waste disposal methods, environmentally safe boat
9 maintenance practices, locations of sewage pumpout and (~~sewage~~) dump
10 (~~stations~~) units, and boat oil recycling facilities.

11 **Sec. 36.** RCW 88.12.440 and 1989 c 393 s 9 are each amended to read
12 as follows:

13 The commission shall, in consultation with interested parties,
14 review progress on installation of sewage pumpout and (~~sewage~~) dump
15 (~~stations~~) units, the boater environmental education program, and the
16 boating safety program. The commission shall report its findings to
17 the legislature by December 1994.

18 **Sec. 37.** RCW 88.12.450 and 1989 c 393 s 11 are each amended to
19 read as follows:

20 The amounts allocated in accordance with RCW 82.49.030(3) shall be
21 expended upon appropriation in accordance with the following
22 limitations:

23 (1) Thirty percent of the funds shall be appropriated to the
24 interagency committee for outdoor recreation and be expended for use by
25 state and local government for public recreational waterway boater
26 access and boater destination sites. Priority shall be given to
27 critical site acquisition. The interagency committee for outdoor
28 recreation shall administer such funds as a competitive grants program.
29 The amounts provided for in this subsection shall be evenly divided
30 between state and local governments.

31 (2) Thirty percent of the funds shall be expended by the commission
32 exclusively for sewage pumpout or (~~sewage~~) dump (~~stations~~) units at
33 publicly and privately owned marinas as provided for in RCW 88.12.390
34 and 88.12.400.

35 (3) Twenty-five percent of the funds shall be expended for grants
36 to state agencies and other public entities to enforce boating safety

1 and registration laws and to carry out boating safety programs. The
2 commission shall administer such grant program.

3 (4) Fifteen percent shall be expended for instructional materials,
4 programs or grants to the public school system, public entities, or
5 other nonprofit community organizations to support boating safety and
6 boater environmental education or boat waste management planning. The
7 commission shall administer this program.

8 **Sec. 38.** RCW 88.02.050 and 1989 c 17 s 1 are each amended to read
9 as follows:

10 Application for a vessel registration shall be made to the
11 department or its authorized agent in the manner and upon forms
12 prescribed by the department. The application shall state the name and
13 address of each owner of the vessel and such other information as may
14 be required by the department, shall be signed by at least one owner,
15 and shall be accompanied by a vessel registration fee of (~~six~~) ten
16 dollars per year and the excise tax imposed under chapter 82.49 RCW.
17 Any fees required for licensing agents under RCW 46.01.140 shall be in
18 addition to the (~~six-dollar~~) ten-dollar annual registration fee.

19 Upon receipt of the application and the registration fee, the
20 department shall assign a registration number and issue a decal for
21 each vessel. The registration number and decal shall be issued and
22 affixed to the vessel in a manner prescribed by the department
23 consistent with the standard numbering system for vessels set forth in
24 volume 33, part 174, of the code of federal regulations. A valid decal
25 affixed as prescribed shall indicate compliance with the annual
26 registration requirements of this chapter.

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

1 When the department issues either a notice to renew a vessel
2 registration or a decal for a new or renewed vessel registration, it
3 shall also provide information on the location of marine oil recycling
4 tanks and sewage holding tank pumping stations. This information will
5 be provided to the department by the state parks and recreation
6 commission in a form ready for distribution. The form will be
7 developed and prepared by the state parks and recreation commission
8 with the cooperation of the department of ecology. The department, the
9 state parks and recreation commission, and the department of ecology
10 shall enter into a memorandum of agreement to implement this process.

11 A person acquiring a vessel from a dealer or a vessel already
12 validly registered under this chapter shall, within fifteen days of the
13 acquisition or purchase of the vessel, apply to the department or its
14 authorized agent for transfer of the vessel registration, and the
15 application shall be accompanied by a transfer fee of one dollar.

16 NEW SECTION. **Sec. 39.** A new section is added to chapter 88.12 RCW
17 to read as follows:

18 (1) All motor-propelled vessels shall be equipped and maintained
19 with an effective muffler that is in good working order and in constant
20 use. For the purpose of this section, an effective muffler or
21 underwater exhaust system does not produce sound levels in excess of
22 ninety decibels when subjected to a stationary sound level test that
23 shall be prescribed by rules adopted by the commission, as of the
24 effective date of this section, and for engines manufactured on or
25 after January 1, 1994, a noise level of eighty-eight decibels when
26 subjected to a stationary sound level test that shall be prescribed by
27 rules adopted by the commission.

28 (2) A vessel that does not meet the requirements of subsection (1)
29 of this section shall not be operated on the waters of this state.

30 (3) No person may operate a vessel on waters of the state in such
31 a manner as to exceed a noise level of seventy-five decibels measured
32 from any point on the shoreline of the body of water on which the
33 vessel is being operated that shall be specified by rules adopted by
34 the commission, as of the effective date of this section. Such
35 measurement shall not preclude a stationary sound level test that shall
36 be prescribed by rules adopted by the commission.

37 (4) This section does not apply to: (a) A vessel tuning up,
38 testing for, or participating in official trials for speed records or

1 a sanctioned race conducted pursuant to a permit issued by an
2 appropriate governmental agency; or (b) a vessel being operated by a
3 vessel or marine engine manufacturer for the purpose of testing or
4 development. Nothing in this subsection prevents local governments
5 from adopting ordinances to control the frequency, duration, and
6 location of vessel testing, tune-up, and racing.

7 (5) Any officer authorized to enforce this section who has reason
8 to believe that a vessel is not in compliance with the noise levels
9 established in this section may direct the operator of the vessel to
10 submit the vessel to an on-site test to measure noise level, with the
11 officer on board if the officer chooses, and the operator shall comply
12 with such request. If the vessel exceeds the decibel levels
13 established in this section, the officer may direct the operator to
14 take immediate and reasonable measures to correct the violation.

15 (6) Any officer who conducts vessel sound level tests as provided
16 in this section shall be qualified in vessel noise testing.
17 Qualifications shall include but may not be limited to the ability to
18 select the appropriate measurement site and the calibration and use of
19 noise testing equipment.

20 (7) A person shall not remove, alter, or otherwise modify in any
21 way a muffler or muffler system in a manner that will prevent it from
22 being operated in accordance with this chapter.

23 (8) A person shall not manufacture, sell, or offer for sale any
24 vessel that is not equipped with a muffler or muffler system that does
25 not comply with this chapter. This subsection shall not apply to power
26 vessels designed, manufactured, and sold for the sole purpose of
27 competing in racing events and for no other purpose. Any such
28 exemption or exception shall be documented in any and every sale
29 agreement and shall be formally acknowledged by signature on the part
30 of both the buyer and the seller. Copies of the agreement shall be
31 maintained by both parties. A copy shall be kept on board whenever the
32 vessel is operated.

33 (9) Except as provided in section 6 of this act, a violation of
34 this section is an infraction under chapter 7.84 RCW.

35 (10) Vessels that are equipped with an engine modified to increase
36 performance beyond the engine manufacturer's stock configuration shall
37 have an exhaust system that complies with the standards in this section
38 after January 1, 1994. Until that date, operators or owners, or both,
39 of such vessels with engines that are out of compliance shall be issued

1 a warning and be given educational materials about types of muffling
2 systems available to muffle noise from such high performance engines.

3 (11) Nothing in this section preempts a local government from
4 exercising any power that it possesses under the laws or Constitution
5 of the state of Washington to adopt more stringent regulations.

6 NEW SECTION. **Sec. 40.** The following acts or parts of acts are
7 each repealed:

8 (1) RCW 88.12.030 and 1933 c 72 s 3;

9 (2) RCW 88.12.040 and 1990 c 231 s 2 & 1933 c 72 s 4;

10 (3) RCW 88.12.090 and 1933 c 72 s 6;

11 (4) RCW 88.12.240 and 1986 c 217 s 2;

12 (5) RCW 88.12.270 and 1986 c 217 s 5;

13 (6) RCW 88.12.310 and 1986 c 217 s 9;

14 (7) RCW 88.12.340 and 1986 c 217 s 12; and

15 (8) RCW 88.12.480 and 1992 c 100 s 8.

16 NEW SECTION. **Sec. 41.** (1) The code reviser shall correct all
17 statutory references to sections recodified by this section.

18 (2) The following sections shall be codified or recodified in the
19 following order in chapter 88.12 RCW:

20 RCW 88.12.010

21 RCW 88.12.--- (section 6 of this act)

22 RCW 88.12.020

23 RCW 88.12.100

24 RCW 88.12.110

25 RCW 88.12.120

26 RCW 88.12.330

27 RCW 88.12.--- (section 10 of this act)

28 RCW 88.12.--- (section 11 of this act)

29 RCW 88.12.--- (section 39 of this act)

30 RCW 88.12.--- (section 12 of this act)

31 RCW 88.12.--- (section 13 of this act)

32 RCW 88.12.050

33 RCW 88.12.080

34 RCW 88.12.--- (section 16 of this act)

35 RCW 88.12.--- (section 17 of this act)

36 RCW 88.12.130

37 RCW 88.12.140

1 RCW 88.12.150
2 RCW 88.12.160
3 RCW 88.12.170
4 RCW 88.12.180
5 RCW 88.12.190
6 RCW 88.12.200
7 RCW 88.12.210
8 RCW 88.12.220
9 RCW 88.12.--- (section 27 of this act)
10 RCW 88.12.280
11 RCW 88.12.290
12 RCW 88.12.300
13 RCW 88.12.320
14 RCW 88.12.350
15 RCW 88.12.360
16 RCW 88.12.380
17 RCW 88.12.390
18 RCW 88.12.400
19 RCW 88.12.410
20 RCW 88.12.420
21 RCW 88.12.430
22 RCW 88.12.440
23 RCW 88.12.450
24 RCW 88.12.460
25 RCW 88.12.470.

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