

SECOND SUBSTITUTE SENATE BILL 5291

State of Washington

53rd Legislature

1993 Regular Session

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

Read first time 03/08/93.

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 new sections; 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.** Section 38 of this act applies to  
7 registrations expiring June 30, 1995, and thereafter.

8 NEW SECTION. **Sec. 41.** The following acts or parts of acts are  
9 each repealed:

- 10 (1) RCW 88.12.030 and 1933 c 72 s 3;
- 11 (2) RCW 88.12.040 and 1990 c 231 s 2 & 1933 c 72 s 4;
- 12 (3) RCW 88.12.090 and 1933 c 72 s 6;
- 13 (4) RCW 88.12.240 and 1986 c 217 s 2;
- 14 (5) RCW 88.12.270 and 1986 c 217 s 5;
- 15 (6) RCW 88.12.310 and 1986 c 217 s 9;
- 16 (7) RCW 88.12.340 and 1986 c 217 s 12; and
- 17 (8) RCW 88.12.480 and 1992 c 100 s 8.

18 NEW SECTION. **Sec. 42.** (1) The code reviser shall correct all  
19 statutory references to sections recodified by this section.

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

- 22 RCW 88.12.010
- 23 RCW 88.12.--- (section 6 of this act)
- 24 RCW 88.12.020
- 25 RCW 88.12.100
- 26 RCW 88.12.110
- 27 RCW 88.12.120
- 28 RCW 88.12.330
- 29 RCW 88.12.--- (section 10 of this act)
- 30 RCW 88.12.--- (section 11 of this act)
- 31 RCW 88.12.--- (section 39 of this act)
- 32 RCW 88.12.--- (section 12 of this act)
- 33 RCW 88.12.--- (section 13 of this act)
- 34 RCW 88.12.050
- 35 RCW 88.12.080
- 36 RCW 88.12.--- (section 16 of this act)

1 RCW 88.12.--- (section 17 of this act)  
2 RCW 88.12.130  
3 RCW 88.12.140  
4 RCW 88.12.150  
5 RCW 88.12.160  
6 RCW 88.12.170  
7 RCW 88.12.180  
8 RCW 88.12.190  
9 RCW 88.12.200  
10 RCW 88.12.210  
11 RCW 88.12.220  
12 RCW 88.12.--- (section 27 of this act)  
13 RCW 88.12.280  
14 RCW 88.12.290  
15 RCW 88.12.300  
16 RCW 88.12.320  
17 RCW 88.12.350  
18 RCW 88.12.360  
19 RCW 88.12.380  
20 RCW 88.12.390  
21 RCW 88.12.400  
22 RCW 88.12.410  
23 RCW 88.12.420  
24 RCW 88.12.430  
25 RCW 88.12.440  
26 RCW 88.12.450  
27 RCW 88.12.460  
28 RCW 88.12.470.

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