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SENATE BILL 5291

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State of Washington                      53rd Legislature                      1993 Regular Session

By Senators Fraser, Oke, Barr, Erwin, Moore and Winsley

Read first time 01/21/93. Referred to Committee on Ecology & Parks.

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, 88.12.040, 88.12.050,  
3 88.12.080, 88.12.130, 88.12.160, 88.12.170, 88.12.180, 88.12.190,  
4 88.12.200, 88.12.210, 88.12.220, 88.12.230, 88.12.250, 88.12.260,  
5 88.12.280, 88.12.290, 88.12.390, 88.12.400, 88.12.410, 88.12.420,  
6 88.12.440, and 88.12.450; 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 88.12.040, 88.12.050, 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 88.12.230, 88.12.260, 88.12.280, 88.12.290, 88.12.300, 88.12.320,  
12 88.12.350, 88.12.360, 88.12.380, 88.12.390, 88.12.400, 88.12.410,  
13 88.12.420, 88.12.430, 88.12.440, 88.12.450, 88.12.460, and 88.12.470;  
14 repealing RCW 88.12.030, 88.12.240, 88.12.270, 88.12.310, 88.12.340,  
15 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 decriminalize the state-wide boating  
3 safety laws in order to help the boating community understand and  
4 comply with these laws.

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

7 The legislature declares that decriminalizing certain offenses  
8 contained in Titles 75, 76, 77, and 79 RCW and chapters 43.30 ~~((and))~~,  
9 43.51, and 88.12 RCW and any rules adopted pursuant to those titles and  
10 chapters would promote the more efficient administration of those  
11 titles and chapters. The purpose of this chapter is to provide a just,  
12 uniform, and efficient procedure for adjudicating those violations  
13 which, in any of these titles and chapters or rules adopted under these  
14 chapters or titles, are declared not to be criminal offenses. The  
15 legislature respectfully requests the supreme court to prescribe any  
16 rules of procedure necessary to implement this chapter.

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

19 Unless the context clearly requires otherwise, the definition in  
20 this section applies throughout this chapter.

21 "Infraction" means an offense which, by the terms of Title 75, 76,  
22 77, or 79 RCW or chapter 43.30 ~~((or))~~, 43.51, or 88.12 RCW and rules  
23 adopted under these titles and chapters, is declared not to be a  
24 criminal offense and is subject to the provisions of this chapter.

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

27 (1) Except as otherwise provided in this chapter, a violation of  
28 this chapter ~~((, RCW 43.51.400,))~~ and the rules adopted by the  
29 department ~~((and the state parks and recreation commission))~~ pursuant  
30 to these statutes is a misdemeanor punishable only by a fine not to  
31 exceed one hundred dollars per vessel for the first violation.  
32 Subsequent violations in the same year are subject to the following  
33 fines:

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

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

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

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

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

15 Unless the context clearly requires otherwise, the definitions in  
16 this section apply throughout this chapter.

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

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

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

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

33 (5) "Darkness" ((is herein defined to be)) means that period  
34 between ((one-half hour after)) sunset and ((one-half hour before))  
35 sunrise.

36 (( "Waters", as used herein, are defined as any lake, pond or other  
37 body of water.))

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

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

9       (8) "Motor driven boats and vessels" (~~are defined herein as~~)  
10 means all boats and vessels which are self propelled.

11       (9) "Operate" means to steer, direct, or otherwise have physical  
12 control of a vessel that is underway.

13       (10) "Operator" means an individual who steers, directs, or  
14 otherwise has physical control of a vessel that is underway or  
15 exercises actual authority to control the person at the helm.

16       (11) "Observer" means the individual riding in a vessel who is  
17 responsible for observing a water skier at all times.

18       (12) "Personal flotation device" means a buoyancy device, life  
19 preserver, buoyant vest, ring buoy, or buoy cushion designed to float  
20 a person in the water that is inspected and approved by the United  
21 States coast guard.

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

27       (14) "Polluted area" means a body of water used by boaters that is  
28 contaminated by boat wastes at unacceptable levels, based on applicable  
29 water quality and shellfish standards.

30       (15) "Public entities" means all elected or appointed bodies,  
31 including tribal governments, responsible for collecting and spending  
32 public funds.

33       (16) "Sewage pumpout or dump unit" means:

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

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

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

3       (18) "Vessel" includes every description of watercraft on the  
4 water, other than a seaplane, used or capable of being used as a means  
5 of transportation on the water.

6       (19) "Water skiing" means the physical act of being towed behind a  
7 vessel on, but not limited to, any skis, aquaplane, kneeboard, tube, or  
8 any other similar device.

9       (20) "Waters of the state" means any waters within the territorial  
10 limits of Washington state.

11       (21) "Whitewater rivers of the state" means those rivers and  
12 streams, or parts thereof, within the boundaries of the state as listed  
13 in RCW 88.12.300.

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

16       A violation designated in this chapter as a civil infraction shall  
17 constitute a misdemeanor until the violation is included in a civil  
18 infraction monetary schedule adopted by rule by the state supreme court  
19 pursuant to chapter 7.84 RCW.

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

22       ~~((Every person operating or driving a motor propelled boat or~~  
23 ~~vessel on any waters in the state, shall drive the same in a careful~~  
24 ~~and prudent manner at a)) A person shall not operate a vessel in a~~  
25 negligent manner. For the purposes of this section, to "operate in a  
26 negligent manner" means operating a vessel in disregard of careful and  
27 prudent operation, or in disregard of careful and prudent rates of  
28 speed that are no greater than is reasonable and proper under the  
29 conditions existing at the point of operation, taking into account the  
30 amount and character of traffic, size of the lake or body of water,  
31 freedom from obstruction to view ahead, effects of vessel wake, and so  
32 as not to unduly or unreasonably endanger life, limb, property or other  
33 rights of any person entitled to the use of such waters. Except as  
34 provided in section 6 of this act, a violation of this section is an  
35 infraction under chapter 7.84 RCW.

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

3       (1) It shall be unlawful for any person to operate a vessel in a  
4 ~~((negligent))~~ reckless manner. ~~((For the purpose of this section, to~~  
5 ~~"operate in a negligent manner" shall be construed to mean the~~  
6 ~~operation of a vessel in such manner as to endanger or be likely to~~  
7 ~~endanger any persons or property or to operate at a rate of speed~~  
8 ~~greater than will permit the operator in the exercise of reasonable~~  
9 ~~care to bring the vessel to a safe stop.))~~ A person commits the crime  
10 of reckless operation of a vessel if the operator operates a vessel  
11 carelessly and heedlessly in a willful or wanton disregard of the  
12 rights, safety, or property of others.

13       (2) A person is guilty of operating a vessel while under the  
14 influence of intoxicating liquor or any drug if the person operates a  
15 vessel within this state while:

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

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

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

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

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

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

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

38       (5)) A violation of this section is a misdemeanor, punishable by  
39 up to ninety days in jail and by a fine of not more than one thousand

1 dollars. In addition, the court may order the defendant to pay  
2 restitution for any damages or injuries resulting from the offense.

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

5 (1) Every (~~peace~~) law enforcement officer of this state and its  
6 political subdivisions has the authority to enforce this chapter. Law  
7 enforcement officers may enforce recreational boating rules adopted by  
8 the commission. Such law enforcement officers include, but are not  
9 limited to, county sheriffs, officers of other local law enforcement  
10 entities, wildlife agents of the department of wildlife and fisheries  
11 patrol officers of the department of fisheries, through their  
12 directors, the state patrol, through its chief, (~~county sheriffs, and~~  
13 other local law enforcement bodies, shall assist in the enforcement)  
14 and state park rangers. In the exercise of this responsibility, all  
15 such officers may stop and board any (~~watercraft~~) vessel and direct  
16 it to a suitable pier or anchorage (~~for boarding~~) to enforce this  
17 chapter.

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

22 (~~3~~)) This chapter shall be construed to supplement federal laws  
23 and regulations. To the extent this chapter is inconsistent with  
24 federal laws and regulations, the federal laws and regulations shall  
25 control.

26 NEW SECTION. **Sec. 10.** A new section is added to chapter 88.12 RCW  
27 to read as follows:

28 (1) An operator who, recklessly, willfully, or repetitiously  
29 endangers a vessel or the persons on board the vessel, by showing,  
30 masking, extinguishing, altering, or removing any light or signal or  
31 willfully with intent to endanger the vessel, exhibits any false light  
32 or signal, is guilty of a misdemeanor as defined in RCW 9.92.030.

33 (2) Except as provided in section 6 of this act, an operator who  
34 negligently violates the vessel lighting rules adopted by the  
35 commission or who is unaware of lighting violations on the vessel is  
36 guilty of an infraction under chapter 7.84 RCW.

1 (3) The commission shall specify by rule lighting standards in  
2 accordance with United States coast guard regulations.

3 **Sec. 11.** RCW 88.12.040 and 1990 c 231 s 2 are each amended to read  
4 as follows:

5 (1) All such motor driven boats or vessels shall use an adequate  
6 and operating muffling device (~~((with))~~) such as a series of baffles and  
7 chambers, which shall effectively blend the exhaust and motor noise in  
8 such a manner so as to preclude excessive or unusual noise.

9 (2) It shall be unlawful to remove, disable, bypass, or use a  
10 cutout device on any muffler or muffling device of any vessel, except  
11 while engaged in organized racing events in an area designated for that  
12 purpose.

13 (3) A violation of this section constitutes a misdemeanor under RCW  
14 9.92.030.

15 **Sec. 12.** 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 United States coast guard-approved  
23 personal flotation device on board for each person on the vessel. Each  
24 personal flotation device shall be in serviceable condition, of an  
25 appropriate size, and readily accessible. Vessels sixteen feet and  
26 longer shall have personal flotation devices as specified by commission  
27 rules.

28 (2) Except as provided for in section 6 of this act, a violation of  
29 this section by an operator of a recreational vessel not carrying  
30 passengers for hire is a civil infraction under chapter 7.84 RCW.

31 (3) A violation of this section by an operator of a vessel carrying  
32 passengers for hire is a misdemeanor as defined under RCW 9.92.030.

33 (4) The commission shall specify by rule the kinds of personal  
34 flotation devices appropriate for vessels used for recreational  
35 purposes.



1       **Sec. 13.** RCW 88.12.080 and 1990 c 231 s 1 are each amended to read  
2 as follows:

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

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

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

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

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

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

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

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

1 that is actually operated by the person or persons being towed. Every  
2 remote-operated personal watercraft shall have a flag attached which  
3 meets the requirements of this subsection.

4 (3) The observer and the operator shall not be the same person.  
5 The observer shall be an individual who meets the minimum  
6 qualifications for an observer established by rules of the commission.

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

19 (5) Except as provided in section 6 of this act, a violation of  
20 subsection (2), (3), or (4) of this section is a civil infraction  
21 punishable under RCW 7.84.100.

22 (6) No person shall engage or attempt to engage in water skiing, or  
23 operate any vessel to tow a water skier, on the waters of Washington  
24 state during the period from one hour after sunset until one hour prior  
25 to sunrise. A violation of this subsection is a misdemeanor as defined  
26 in RCW 9.92.030.

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

29 (7) No person engaged in water skiing(~~(~~  
30 ~~personal watercraft,~~) shall conduct himself or herself in a  
31 ~~((negligent))~~ reckless manner that willfully or wantonly endangers, or  
32 is likely to endanger, any person or property. A violation of this  
33 subsection is a misdemeanor as defined in RCW 9.92.030.

34 (8) The requirements of subsections (2), (3), (4), and ~~((5))~~ (6)  
35 of this section shall not apply to persons engaged in tournaments,  
36 competitions, or exhibitions that have been authorized or otherwise  
37 permitted by the appropriate agency having jurisdiction and authority  
38 to authorize such events.

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

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

5       (1) A person shall not operate a personal watercraft unless each  
6 person aboard the personal watercraft is wearing a type I, type II,  
7 type III, or type V personal flotation device approved by the United  
8 States coast guard. Except as provided for in section 6 of this act,  
9 a violation of this subsection is a civil infraction punishable under  
10 RCW 7.84.100.

11       (2) A person operating a personal watercraft equipped by the  
12 manufacturer with a lanyard-type engine cutoff switch shall attach the  
13 lanyard to his or her person, clothing, or personal flotation device as  
14 appropriate for the specific vessel. It is unlawful for any person to  
15 remove or disable a cutoff switch that was installed by the  
16 manufacturer.

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

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

21       (5) A person shall not operate a personal watercraft in a reckless  
22 manner. Maneuvers that willfully or wantonly endanger life, limb, or  
23 property, including but not limited to weaving through congested vessel  
24 traffic, jumping the wake of another vessel unreasonably or  
25 unnecessarily close to the vessel or when visibility around the vessel  
26 is obstructed, and swerving at the last possible moment to avoid  
27 collision constitutes reckless operation of a personal watercraft.

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

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

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

1       **Sec. 15.** RCW 88.12.130 and 1984 c 183 s 1 are each amended to read  
2 as follows:

3       (1) The operator of a vessel involved in a collision, accident, or  
4 other casualty, to the extent the operator can do so without serious  
5 danger to the operator's own vessel or persons aboard, shall render all  
6 practical and necessary assistance to persons affected by the  
7 collision, accident, or casualty to save them from danger caused by the  
8 incident. Under no circumstances may the rendering of assistance or  
9 other compliance with this section be evidence of the liability of such  
10 operator for the collision, accident, or casualty. (~~The operator~~  
11 ~~shall also give his or her name, address, and the identification of the~~  
12 ~~operator's vessel to the state parks and recreation commission and any~~  
13 ~~person injured and to the owner of any property damaged)) The operator  
14 shall also give all pertinent accident information, as specified by  
15 rule by the commission, to the law enforcement agency having  
16 jurisdiction: PROVIDED, That this requirement shall not apply to  
17 operators of vessels when they are participating in an organized  
18 competitive event (~~covered by a permit issued by the United States~~  
19 ~~coast guard)) authorized or otherwise permitted by the appropriate  
20 agency having jurisdiction and authority to authorize such events.  
21 These duties are in addition to any duties otherwise imposed by law.  
22 Except as provided for in section 6 of this act, a violation of this  
23 subsection is a civil infraction punishable under RCW 7.84.100.~~~~

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

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

34       Any person taking up any (~~scow, boat, skiff, canoe, or other water~~  
35 ~~craft,)) vessel found adrift, and out of the custody of the owner, in  
36 (~~any stream or body of water, within, or bordering upon)) waters of  
37 this state, shall forthwith notify the owner thereof, if to him or her  
38 known, or if upon reasonable inquiry he or she can ascertain the name~~~~

1 and residence of the owner, and request such owner to pay all  
2 reasonable charges, and take such ((~~water-craft~~)) vessel away.

3 **Sec. 17.** RCW 88.12.170 and Code 1881 s 3243 are each amended to  
4 read as follows:

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

12 **Sec. 18.** RCW 88.12.180 and Code 1881 s 3244 are each amended to  
13 read as follows:

14 In all cases where notice is not given personally, it shall be the  
15 duty of the taker-up to post up at the post office nearest the place  
16 where such ((~~scow, boat, skiff, canoe, or other water-craft~~)) vessel  
17 may be taken up, a written notice of the taking up of such ((~~water~~  
18 ~~craft~~)) vessel, which shall contain a description of the same, with the  
19 name, if any is painted thereon, also the place where taken up, the  
20 place where the property may be found, and the charge for taking the  
21 same up. If the taker-up is traveling upon ((~~such stream or body of~~))  
22 waters of the state, such notice shall be posted up at the first post  
23 office he or she shall pass after the taking up; and in all cases, he  
24 or she shall at the time when, and place where, he or she posts up such  
25 notice, also mail a copy of such notice, directed to the postmaster of  
26 each post office on ((~~said stream or body of~~)) waters of the state, and  
27 within fifty miles of the place where such ((~~water-craft~~)) vessel is  
28 taken up.

29 **Sec. 19.** RCW 88.12.190 and Code 1881 s 3245 are each amended to  
30 read as follows:

31 Every person taking up any ((~~scow, boat, skiff, canoe, or other~~  
32 ~~water-craft,~~)) vessel so found adrift, and giving the notice herein  
33 required, shall be entitled to receive from the owner claiming the  
34 property, a reasonable compensation for his or her time, services,  
35 expenses, and risk in taking up said property, and take notice of the  
36 same, to be settled by agreement between the parties. In case ((he))

1 the person has not, within ten days after the taking up, substantially  
2 complied with the provisions of this chapter in giving the notice,  
3 ((he)) the person shall be entitled to no compensation, but he or she  
4 shall be liable to all damages the owner may have suffered, and be also  
5 liable to the owner for the value of the use of ((~~said water craft~~))  
6 the vessel, from the time of taking it up until the same is delivered  
7 to the owner.

8 **Sec. 20.** RCW 88.12.200 and 1987 c 202 s 248 are each amended to  
9 read as follows:

10 In case the parties cannot agree on the amount to be paid the  
11 taker-up, or the ownership, and the sum claimed is less than one  
12 hundred dollars, the owner may file a complaint, setting out the facts,  
13 and the judge, on hearing, shall decide the same with a jury, or not,  
14 and in the same manner as is provided in ordinary civil actions before  
15 a district judge. If the amount claimed by the taker-up is more than  
16 one hundred dollars, the owner shall file his or her complaint in the  
17 superior court of the county where the property is, and trial shall be  
18 had as in other civil actions; but if the taker-up claims more than one  
19 hundred dollars, and a less amount is awarded him or her, he or she  
20 shall be liable for all the costs in the superior court; and in all  
21 cases where the taker-up shall recover a less amount than has been  
22 tendered him or her by the owner or claimant, previous to filing his or  
23 her complaint, he or she shall pay the costs before the district judge  
24 or in the superior court: PROVIDED, That in all cases the owner, after  
25 filing his or her complaint before a district judge, shall be entitled  
26 to the possession of ((~~such water craft~~)) the vessel, upon giving bond,  
27 with security to the satisfaction of the judge, in double the amount  
28 claimed by the taker-up. When the complaint is filed in the superior  
29 court, the clerk thereof shall approve the security of the bond. The  
30 bond shall be conditioned to pay such costs as shall be awarded to the  
31 finder or taker-up of such ((~~scow, boat, skiff, canoe, or other water~~  
32 ~~craft~~)) vessel.

33 **Sec. 21.** RCW 88.12.210 and Code 1881 s 3247 are each amended to  
34 read as follows:

35 In case the taker-up shall use the ((~~scow, boat, skiff, canoe or~~  
36 ~~other water craft~~)) vessel, more than is necessary to put it into a  
37 place of safety, he or she shall be liable to the owner for such use,

1 and for all damage; and in case it shall suffer injury from his or her  
2 neglect to take suitable care of it, he or she shall be liable to the  
3 owner for all damage.

4 **Sec. 22.** RCW 88.12.220 and 1987 c 202 s 249 are each amended to  
5 read as follows:

6 In case such (~~(water-craft)~~) vessel is of less value than one  
7 hundred dollars, and is not claimed within three months, the taker-up  
8 may apply to a district judge of the district where the property is,  
9 who, upon being satisfied that due notice has been given, and that the  
10 owner cannot, with reasonable diligence be found, shall order the  
11 (~~(scow, boat, skiff, canoe, or other water-craft)~~) vessel to be sold,  
12 and after paying the taker-up such sum as he or she shall be entitled  
13 to, and the costs, the balance shall be paid the county treasurer as is  
14 provided in the case of the sale of estrays. In case the (~~(scow, boat,~~  
15 ~~skiff, canoe, or other water-craft,)~~) vessel exceeds one hundred  
16 dollars, and is not claimed within six months, application shall be  
17 made to the superior court of the county, and the same proceeding shall  
18 be thereupon had. All sales made under this section shall be conducted  
19 as sales of personal property on execution.

20 **Sec. 23.** RCW 88.12.230 and 1986 c 217 s 1 are each amended to read  
21 as follows:

22 The purpose of (~~(this chapter)~~) RCW 88.12.250 through 88.12.320 is  
23 to further the public interest, welfare, and safety by providing for  
24 the protection and promotion of safety in the operation of  
25 (~~(watercraft)~~) vessels carrying passengers for hire on the whitewater  
26 rivers of this state.

27 NEW SECTION. **Sec. 24.** A new section is added to chapter 88.12 RCW  
28 to read as follows:

29 Except as provided in RCW 88.12.320(3), the commission of a  
30 prohibited act under RCW 88.12.250 through 88.12.320 constitutes a  
31 misdemeanor under RCW 9.92.030.

32 **Sec. 25.** RCW 88.12.250 and 1986 c 217 s 3 are each amended to read  
33 as follows:

34 (1) No person may operate any (~~(watercraft)~~) vessel carrying  
35 passengers for hire on whitewater rivers of the state in a manner that

1 interferes with other ((watercraft)) vessels or with the free and  
2 proper navigation of the rivers of this state.

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

7 (3) No ((watercraft)) vessel carrying passengers for hire on  
8 whitewater rivers of the state may be loaded with passengers or cargo  
9 beyond its safe carrying capacity taking into consideration the type  
10 and construction of the ((watercraft)) vessel and other existing  
11 operating conditions. In the case of inflatable ((crafts)) vessels,  
12 safe carrying capacity in whitewater shall be considered as less than  
13 the United States Coast Guard capacity rating for each ((watercraft))  
14 vessel. This subsection shall not apply in cases of an unexpected  
15 emergency on the river.

16 (4) Individuals licensed under chapter 77.32 RCW and acting as  
17 fishing guides are exempt from section 24 of this act and RCW 88.12.260  
18 through 88.12.320.

19 **Sec. 26.** RCW 88.12.260 and 1986 c 217 s 4 are each amended to read  
20 as follows:

21 (1) Except as provided in subsection (2) of this section,  
22 ((watercraft)) vessels carrying passengers for hire on whitewater  
23 rivers proceeding downstream have the right of way over ((watercraft))  
24 vessels proceeding upstream.

25 (2) In all cases, ((watercraft)) vessels carrying passengers for  
26 hire on whitewater rivers not under power have the right of way over  
27 motorized craft underway.

28 **Sec. 27.** RCW 88.12.280 and 1986 c 217 s 6 are each amended to read  
29 as follows:

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

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

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



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

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

6       (~~(5)~~) (e) Ensure that each (~~(watercraft)~~) vessel has accessible  
7 an adequate first-aid kit;

8       (~~(6)~~) (f) Ensure that each (~~(watercraft)~~) vessel has a spare  
9 propelling device;

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

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

14       (2) No person may operate on the whitewater rivers of this state a  
15 vessel carrying passengers for hire unless the person has been issued  
16 a valid Red Cross standard first aid card or at least its equivalent.

17       **Sec. 28.** RCW 88.12.290 and 1986 c 217 s 7 are each amended to read  
18 as follows:

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

23       (2) Any (~~(watercraft)~~) vessel carrying passengers for hire on any  
24 whitewater river section in this state must be accompanied by at least  
25 one other (~~(watercraft)~~) vessel under the supervision of the same  
26 operator or owner or being operated by a person registered under RCW  
27 88.12.320 or an operator under the direction or control of a person  
28 registered under RCW 88.12.320.

29       **Sec. 29.** RCW 88.12.390 and 1989 c 393 s 4 are each amended to read  
30 as follows:

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

34       (a) The marina is located in an environmentally sensitive or  
35 polluted area; or

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

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

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

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

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

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

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

24 **Sec. 30.** RCW 88.12.400 and 1989 c 393 s 5 are each amended to read  
25 as follows:

26 (1) Marinas and boat launches designated as appropriate for  
27 installation of a sewage pumpout or (~~sewage~~) dump (~~(station)~~) unit  
28 under RCW 88.12.390 shall be eligible for funding support for  
29 installation of such facilities from funds specified in RCW 88.12.450.  
30 The commission shall notify owners or operators of all designated  
31 marinas and boat launches of the designation, and of the availability  
32 of funding to support installation of appropriate sewage disposal  
33 facilities. The commission shall encourage the owners and operators to  
34 apply for available funding.

35 (2) The commission shall seek to provide the most cost-efficient  
36 and accessible facilities possible for reducing the amount of boat  
37 waste entering the state's waters. The commission shall consider

1 providing funding support for portable pumpout facilities in this  
2 effort.

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

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

8 (ii) Contracts may provide for state reimbursement to cover  
9 eligible costs as deemed reasonable by commission rule. Eligible costs  
10 include purchase, installation, or major renovation of the sewage  
11 pumpout or ((sewage)) dump ((stations)) units, including sewer, water,  
12 electrical connections, and those costs attendant to the purchase,  
13 installation, and other necessary appurtenances, such as required pier  
14 space, as determined by the commission.

15 (iii) Ownership of the sewage pumpout or ((sewage)) dump  
16 ((station)) unit will be retained by the state through the commission  
17 in privately owned marinas. Ownership of the sewage pumpout or  
18 ((sewage)) dump ((station)) unit in publicly owned marinas will be held  
19 by the public entity.

20 (iv) Operation, normal and expected maintenance, and ongoing  
21 utility costs will be the responsibility of the ((marina or boat launch  
22 operator)) contract recipient. The sewage pumpout or ((sewage)) dump  
23 ((station—must)) unit shall be kept in operating condition and  
24 available for public use at all times during operating hours of the  
25 facility, excluding necessary maintenance periods.

26 (v) The ((marina owner)) contract recipient agrees to allow the  
27 installation, existence and use of the sewage pumpout or ((sewage))  
28 dump ((station)) unit by granting an ((easement)) irrevocable license  
29 for a minimum of ten years at no cost ((for such purposes)) to the  
30 commission.

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

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

37 (ii) The ((applicant)) contract recipient must agree to monitor and  
38 encourage the use of the sewage pumpout or ((sewage)) dump ((station))

1 unit, and to cooperate in any related boater environmental education  
2 program administered or approved by the commission.

3 (iii) The ((applicant)) contract recipient must agree not to charge  
4 a fee for the use of the sewage pumpout or ((sewage)) dump ((station))  
5 unit.

6 (iv) The ((applicant)) contract recipient must agree to arrange and  
7 pay a reasonable fee for a periodic inspection of the sewage pumpout  
8 ((facility)) or dump unit by the local health department or appropriate  
9 authority.

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

13 **Sec. 31.** RCW 88.12.410 and 1989 c 393 s 6 are each amended to read  
14 as follows:

15 The department of ecology, in consultation with the commission,  
16 shall, for initiation of the state-wide program only, develop criteria  
17 for the design, installation, and operation of sewage pumpout and  
18 ((sewage)) dump ((stations)) units, taking into consideration the ease  
19 of access to the ((station)) unit by the boating public. The  
20 department of ecology may adopt rules to administer the provisions of  
21 this section.

22 **Sec. 32.** RCW 88.12.420 and 1989 c 393 s 7 are each amended to read  
23 as follows:

24 The commission shall undertake a state-wide boater environmental  
25 education program concerning the effects of boat wastes. The boater  
26 environmental education program shall provide informational materials  
27 on proper boat waste disposal methods, environmentally safe boat  
28 maintenance practices, locations of sewage pumpout and ((sewage)) dump  
29 ((stations)) units, and boat oil recycling facilities.

30 **Sec. 33.** RCW 88.12.440 and 1989 c 393 s 9 are each amended to read  
31 as follows:

32 The commission shall, in consultation with interested parties,  
33 review progress on installation of sewage pumpout and ((sewage)) dump  
34 ((stations)) units, the boater environmental education program, and the  
35 boating safety program. The commission shall report its findings to  
36 the legislature by December 1994.

1       **Sec. 34.** RCW 88.12.450 and 1989 c 393 s 11 are each amended to  
2 read as follows:

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

6       (1) Thirty percent of the funds shall be appropriated to the  
7 interagency committee for outdoor recreation and be expended for use by  
8 state and local government for public recreational waterway boater  
9 access and boater destination sites. Priority shall be given to  
10 critical site acquisition. The interagency committee for outdoor  
11 recreation shall administer such funds as a competitive grants program.  
12 The amounts provided for in this subsection shall be evenly divided  
13 between state and local governments.

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

18       (3) Twenty-five percent of the funds shall be expended for grants  
19 to state agencies and other public entities to enforce boating safety  
20 and registration laws and to carry out boating safety programs. The  
21 commission shall administer such grant program.

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

27       NEW SECTION.   **Sec. 35.** The following acts or parts of acts are  
28 each repealed:

- 29       (1) RCW 88.12.030 and 1933 c 72 s 3;  
30       (2) RCW 88.12.240 and 1986 c 217 s 2;  
31       (3) RCW 88.12.270 and 1986 c 217 s 5;  
32       (4) RCW 88.12.310 and 1986 c 217 s 9;  
33       (5) RCW 88.12.340 and 1986 c 217 s 12; and  
34       (6) RCW 88.12.480 and 1992 c 100 s 8.

35       NEW SECTION.   **Sec. 36.** (1) The code reviser shall correct all  
36 statutory references to sections recodified by this section.

1 (2) The following sections shall be codified or recodified in the  
2 following order in chapter 88.12 RCW:  
3 RCW 88.12.010  
4 RCW 88.12.--- (section 6 of this act)  
5 RCW 88.12.020  
6 RCW 88.12.100  
7 RCW 88.12.110  
8 RCW 88.12.120  
9 RCW 88.12.330  
10 RCW 88.12.--- (section 10 of this act)  
11 RCW 88.12.040  
12 RCW 88.12.050  
13 RCW 88.12.--- (section 14 of this act)  
14 RCW 88.12.130  
15 RCW 88.12.140  
16 RCW 88.12.150  
17 RCW 88.12.160  
18 RCW 88.12.170  
19 RCW 88.12.180  
20 RCW 88.12.190  
21 RCW 88.12.200  
22 RCW 88.12.210  
23 RCW 88.12.220  
24 RCW 88.12.230  
25 RCW 88.12.--- (section 24 of this act)  
26 RCW 88.12.260  
27 RCW 88.12.280  
28 RCW 88.12.290  
29 RCW 88.12.300  
30 RCW 88.12.320  
31 RCW 88.12.350  
32 RCW 88.12.360  
33 RCW 88.12.380  
34 RCW 88.12.390  
35 RCW 88.12.400  
36 RCW 88.12.410  
37 RCW 88.12.420  
38 RCW 88.12.430  
39 RCW 88.12.440

- 1 RCW 88.12.450
- 2 RCW 88.12.460
- 3 RCW 88.12.470.

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