
SUBSTITUTE SENATE BILL 6000

State of Washington

53rd Legislature

1994 Regular Session

By Senate Committee on Ecology & Parks (originally sponsored by Senators Fraser, Talmadge, Winsley and Oke; by request of Parks and Recreation Commission)

Read first time 01/28/94.

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

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

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

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

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

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

1 (4) "Person" means any natural person, firm, partnership,
2 corporation, association, organization, unit of state or local
3 government, or any other legal entity.

4 (5) "Commission facility" means any property or facility owned,
5 leased, operated, managed, or otherwise controlled by the commission or
6 by a person pursuant to a contract with the commission.

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

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

13 (8) "Vessel" means every watercraft or part thereof constructed,
14 used, or capable of being used as a means of transportation on the
15 water.

16 NEW SECTION. **Sec. 2.** (1) The commission may take reasonable
17 measures, including but not limited to the use of anchors, chains,
18 ropes, and locks, or removal from the water, to secure unauthorized
19 vessels located at or on a commission facility so that the unauthorized
20 vessels are in the possession and control of the commission. At least
21 ten days before securing any unauthorized vessel, the commission shall
22 send notification by registered mail to the last known address of the
23 last registered owner of the vessel and to the holder of a security
24 interest in the vessel. In the case of an unauthorized vessel where no
25 registration numbers are visible, or in the case of a vessel secured
26 pursuant to subsection (2) of this section, the commission need not
27 give notice before securing the vessel. At the time of securing the
28 vessel under subsections (1) and (2) of this section, the commission
29 shall attach to the vessel a readily visible notice or, when
30 practicable, shall post such notice in a conspicuous location at the
31 commission facility in the event the vessel is removed from the
32 premises. The notice shall be of a reasonable size and shall contain
33 the following information:

34 (a) The date and time the notice was attached;

35 (b) A statement that if the vessel is not removed within thirty
36 days it will be sold at public auction to satisfy the charges;

1 (c) The address and telephone number where additional information
2 may be obtained concerning the storage of the vessel and conditions for
3 its release; and

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

6 (2) The commission may take reasonable measures, including but not
7 limited to the use of anchors, chains, ropes, locks, or removal from
8 the water, to secure any vessel if the vessel, in the opinion of the
9 commission, is a nuisance, is in danger of sinking or creating other
10 damage to the commission facility, or is otherwise a threat to the
11 health, safety, or welfare of the public or environment at the
12 commission facility. The costs of any such procedure shall be paid by
13 the vessel's owner. At the time of securing any vessel under this
14 subsection, the commission shall attach to the vessel or otherwise post
15 a readily visible notice in the manner and containing the information
16 required for securing unauthorized vessels under subsection (1) of this
17 section.

18 (3) Within five days after a vessel is secured under subsection (1)
19 or (2) of this section, the commission shall make a reasonable effort
20 to notify the last registered owner, any lienholder of record, and any
21 security interest holder of record by registered mail. The notice
22 shall identify the vessel, indicate that the vessel was secured,
23 describe the owner's and secured party's rights under this chapter, and
24 indicate that the vessel will be deemed abandoned and subject to public
25 sale if not claimed within thirty days.

26 (4) If a vessel is secured under subsection (1) or (2) of this
27 section, the owner who is obligated to the commission for charges, or
28 the holder of a security interest in the vessel, may regain possession
29 of the vessel by:

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

33 (b) Making payment to the commission of all reasonable charges
34 incurred by the commission in securing the vessel under subsections (1)
35 and (2) of this section. If the owner fails to make payment of all
36 charges, the commission may bring an action in any court of competent
37 jurisdiction, which shall award the commission as much of the charges
38 as necessary to satisfy costs incurred by the commission under this

1 chapter, plus reasonable attorneys' fees and costs incurred by the
2 commission.

3 (5) A vessel that is not claimed within thirty days of the date of
4 notification under subsection (3) of this section is abandoned. A
5 vessel abandoned at a commission facility may, in the discretion of the
6 commission, be disposed of by public sale of the vessel by authorized
7 personnel to the highest and best bidder for cash as follows:

8 (a) Before the vessel is sold, the commission shall make a
9 reasonable effort to notify the vessel owner, any lienholder of record,
10 and any security interest holder of record at least twenty days prior
11 to the sale in the manner set forth in subsection (3) of this section
12 if the names and addresses of such persons are known. The notice shall
13 contain the time and place of the sale, a reasonable description of the
14 vessel to be sold, the amount of charges then owing with respect to the
15 vessel, and a summary of the rights and procedures under this chapter.
16 A notice of sale shall be published at least once, more than ten but
17 not more than twenty days before the sale, in a newspaper of general
18 circulation in the county in which the commission facility is located.
19 This notice shall include the name of the vessel, if any, the last
20 known owner and address, and a reasonable description of the vessel to
21 be sold. The commission may bid all or part of its charges at the sale
22 and may become a purchaser at the sale.

23 (b) Before the vessel is sold, any person seeking to redeem a
24 secured vessel under this section may commence a lawsuit in the
25 superior court for the county in which the vessel was secured to
26 contest the commission's decision to secure the vessel or the amount of
27 charges owing. This lawsuit shall be commenced within fifteen days of
28 the date the notification was sent pursuant to subsection (3) of this
29 section, or the right to a hearing is deemed waived and the owner is
30 liable for any charges owing the commission. In the event of
31 litigation, the prevailing party is entitled to reasonable attorneys'
32 fees and costs.

33 (c) The proceeds of a sale under this section shall be applied
34 first to the payment of reasonable charges incurred by the commission
35 then to the owner or to satisfy any liens of record or security
36 interests of record on the vessel in the order of their priority. If
37 the owner cannot in the exercise of due diligence be located by the
38 commission within one year of the date of the sale, any excess funds
39 from the sale, following the satisfaction of any bona fide security

1 interest, shall revert to the department of revenue under chapter 63.29
2 RCW. If the sale is for a sum less than the applicable charges, the
3 commission is entitled to assert a claim for the deficiency against the
4 vessel owner.

5 (d) In the event no one purchases the vessel at a sale, or a vessel
6 is not removed from the commission facility or other arrangements are
7 not made within ten days of sale, the commission may proceed to
8 otherwise properly dispose of the vessel, and may assert a claim
9 against the owner for any charges incurred thereby. In the event that
10 the vessel is otherwise disposed of under this subsection, any proceeds
11 from the disposal shall be applied pursuant to subsection (5)(c) of
12 this section.

13 (6) The rights granted to the commission under this section are in
14 addition to any other legal rights the commission may have to secure,
15 hold, and sell a vessel and in no manner does this section alter those
16 rights, or affect the priority of other liens on a vessel.

17 **Sec. 3.** RCW 63.21.080 and 1985 c 7 s 125 are each amended to read
18 as follows:

19 This chapter shall not apply to:

20 (1) Motor vehicles under chapter 46.52 RCW;

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

23 (3) Uniform disposition of unclaimed property under chapter 63.29
24 RCW; and

25 (4) Secured vessels under chapter 88.-- RCW (sections 1 and 2 of
26 this act).

27 NEW SECTION. **Sec. 4.** RCW 88.12.370 and 1989 c 393 s 2 are each
28 repealed.

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 88.12 RCW
30 to read as follows:

31 The provisions of RCW 88.12.185 through 88.12.225 do not apply to
32 vessels secured pursuant to chapter 88.-- RCW (sections 1 and 2 of this
33 act).

34 NEW SECTION. **Sec. 6.** Sections 1 and 2 of this act shall
35 constitute a new chapter in Title 88 RCW.

1 NEW SECTION. **Sec. 7.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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