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SENATE BILL 6000

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State of Washington

53rd Legislature

1994 Regular Session

By Senators Fraser, Talmadge, Winsley and Oke; by request of Parks and Recreation Commission

Read first time 01/10/94. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to abandoned vessels; amending RCW 63.21.080;  
2 adding a new chapter to Title 88 RCW; and repealing RCW 88.12.185,  
3 88.12.195, 88.12.205, 88.12.215, 88.12.218, 88.12.225, and 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 a public agency for moorage and  
9 storage, and all other charges owing to or that become owing to the  
10 public agency, including but not limited to costs of securing or  
11 removing vessels, damages, and any costs of sale and related legal  
12 expenses for implementing section 2 of this act.

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

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

1 (4) "Public agency" means any agency or instrumentality of the  
2 state, federal, or local government that owns, leases, operates,  
3 manages, or otherwise controls a public agency facility.

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

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

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

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

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

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

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

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

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

12 (3) After a vessel is secured under subsection (1) or (2) of this  
13 section, a public agency shall make a reasonable effort to notify the  
14 last registered owner by registered mail in order to give the owner the  
15 information contained in the notice.

16 (4) If a vessel is secured under subsection (1) or (2) of this  
17 section, the owner who is obligated to the public agency for charges  
18 may regain possession of the vessel by:

19 (a) Making arrangements satisfactory to the public agency for the  
20 immediate removal of the vessel from the public agency's control or for  
21 authorized storage or moorage; and

22 (b) Making payment to the public agency of all charges. If the  
23 owner fails to make payment of all charges, the public agency may bring  
24 an action in any court of competent jurisdiction, which shall award the  
25 agency as much of the charges as necessary to satisfy costs incurred by  
26 the public agency under this chapter, plus reasonable attorneys' fees  
27 and costs incurred by the public agency.

28 (5) A vessel that is not claimed within thirty days of the date  
29 notification was posted under subsection (1) or (2) of this section is  
30 abandoned. A vessel abandoned at a public agency facility may, in the  
31 discretion of a public agency, be disposed of by public sale of the  
32 vessel by authorized personnel to the highest and best bidder for cash  
33 as follows:

34 (a) Before the vessel is sold, the vessel owner shall be given at  
35 least twenty days' notice of the sale in the manner set forth in  
36 subsection (1) of this section if the name and address of the owner is  
37 known. The notice shall contain the time and place of the sale, a  
38 reasonable description of the vessel to be sold, and the amount of  
39 charges then owing with respect to the vessel. A notice of sale shall

1 be published at least once, more than ten but not more than twenty days  
2 before the sale, in a newspaper of general circulation in the county in  
3 which the public agency facility is located. This notice shall include  
4 the name of the vessel, if any, the last known owner and address, and  
5 a reasonable description of the vessel to be sold. The public agency  
6 may bid all or part of its charges at the sale and may become a  
7 purchaser at the sale.

8 (b) Before the vessel is sold, any person seeking to redeem a  
9 secured vessel under this section may commence a lawsuit in the  
10 superior court for the county in which the vessel was secured to  
11 contest the public agency's decision to secure the vessel or the amount  
12 of charges owing. This lawsuit shall be commenced within fifteen days  
13 of the date the notification was posted under subsection (1) or (2) of  
14 this section, or the right to a hearing is deemed waived and the owner  
15 is liable for any charges owing the public agency. In the event of  
16 litigation, the prevailing party is entitled to reasonable attorneys'  
17 fees and costs.

18 (c) The proceeds of a sale under this section shall be applied  
19 first to the payment of charges. The balance, if any, shall be paid to  
20 the owner. If the owner cannot in the exercise of due diligence be  
21 located by the public agency within one year of the date of the sale,  
22 the excess funds from the sale shall revert to the department of  
23 revenue under chapter 63.29 RCW. If the sale is for a sum less than  
24 the applicable charges, the public agency is entitled to assert a claim  
25 for the deficiency.

26 (d) In the event no one purchases the vessel at a sale, or a vessel  
27 is not removed from the public agency facility or other arrangements  
28 are not made within ten days of sale, the public agency may proceed to  
29 otherwise properly dispose of the vessel, and may assert a claim  
30 against the owner for any costs incurred thereby.

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

33 This chapter shall not apply to:

34 (1) Motor vehicles under chapter 46.52 RCW;

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

37 (3) Uniform disposition of unclaimed property under chapter 63.29  
38 RCW; and

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

3       NEW SECTION. Sec. 4. The following acts or parts of acts are each  
4 repealed:

5       (1) RCW 88.12.185 and 1993 c 244 s 19, Code 1881 s 3242, & 1854 p  
6 386 s 1;

7       (2) RCW 88.12.195 and 1993 c 244 s 20, Code 1881 s 3243, & 1854 p  
8 386 s 2;

9       (3) RCW 88.12.205 and 1993 c 244 s 21, Code 1881 s 3244, & 1854 p  
10 386 s 3;

11       (4) RCW 88.12.215 and 1993 c 244 s 22, Code 1881 s 3245, & 1854 p  
12 386 s 4;

13       (5) RCW 88.12.218 and 1993 c 244 s 23, 1987 c 202 s 248, Code 1881  
14 s 3246, & 1854 p 386 s 5;

15       (6) RCW 88.12.225 and 1993 c 244 s 25, 1987 c 202 s 249, Code 1881  
16 s 3247, & 1854 p 387 s 7; and

17       (7) RCW 88.12.370 and 1989 c 393 s 2.

18       NEW SECTION. Sec. 5. Sections 1 and 2 of this act shall  
19 constitute a new chapter in Title 88 RCW.

20       NEW SECTION. Sec. 6. If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.

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