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SENATE BILL 5176

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State of Washington

67th Legislature

2021 Regular Session

By Senators Van De Wege and Lovelett

Read first time 01/12/21. Referred to Committee on Agriculture, Water, Natural Resources & Parks.

1 AN ACT Relating to modifying boater education safety  
2 requirements; and amending RCW 79A.60.010, 79A.60.630, and  
3 79A.60.640.

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

5 **Sec. 1.** RCW 79A.60.010 and 2005 c 392 s 2 are each amended to  
6 read as follows:

7 (~~Unless the context clearly requires otherwise, the~~) The  
8 definitions in this section apply throughout this chapter unless the  
9 context clearly requires otherwise.

10 (1) "Accredited course" means a mandatory course of instruction  
11 on boating safety education that has been approved by the commission.

12 (2) "Boat wastes" includes, but is not limited to, sewage,  
13 garbage, marine debris, plastics, contaminated bilge water, cleaning  
14 solvents, paint scrapings, or discarded petroleum products associated  
15 with the use of vessels.

16 (3) "Boater" means any person on a vessel on waters of the state  
17 of Washington.

18 (4) "Boater education card" means a card issued to a person who  
19 has successfully completed a boating safety education test and has  
20 paid the registration fee for a serial number record to be maintained  
21 in the commission's database.

1 (5) "Boating educator" means a person providing an accredited  
2 course.

3 (6) "Carrying passengers for hire" means carrying passengers in a  
4 vessel on waters of the state for valuable consideration, whether  
5 given directly or indirectly or received by the owner, agent,  
6 operator, or other person having an interest in the vessel. This  
7 shall not include trips where expenses for food, transportation, or  
8 incidentals are shared by participants on an even basis. Anyone  
9 receiving compensation for skills or money for amortization of  
10 equipment and carrying passengers shall be considered to be carrying  
11 passengers for hire on waters of the state.

12 (7) "Certificate of accomplishment" means a form of certificate  
13 approved by the commission and issued by a boating educator to a  
14 person who has successfully completed an accredited course.

15 (8) "Commission" means the state parks and recreation commission.

16 (9) "Darkness" means that period between sunset and sunrise.

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

22 (11) "Guide" means any individual, including but not limited to  
23 subcontractors and independent contractors, engaged for compensation  
24 or other consideration by a whitewater river outfitter for the  
25 purpose of operating vessels. A person licensed under RCW 77.65.480  
26 or 77.65.440 and acting as a fishing guide is not considered a guide  
27 for the purposes of this chapter.

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

31 (13) "Motor driven boats and vessels" means all boats and vessels  
32 which are self propelled.

33 (14) "Motor vessel safety operating and equipment checklist"  
34 means a printed list of the safety requirements for a vessel with a  
35 motor installed or attached to the vessel being rented, chartered, or  
36 leased and meeting minimum requirements adopted by the commission in  
37 accordance with RCW 79A.60.630.

38 (15) "Muffler" or "muffler system" means a sound suppression  
39 device or system, including an underwater exhaust system, designed  
40 and installed to abate the sound of exhaust gases emitted from an

1 internal combustion engine and that prevents excessive or unusual  
2 noise.

3 (16) "Operate" means to steer, direct, or otherwise have physical  
4 control of a vessel that is underway.

5 (17) "Operator" means an individual who steers, directs, or  
6 otherwise has physical control of a vessel that is underway or  
7 exercises actual authority to control the person at the helm.

8 (18) "Observer" means the individual riding in a vessel who is  
9 responsible for observing a water skier at all times.

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

13 (20) "Person" means any individual, sole proprietorship,  
14 partnership, corporation, nonprofit corporation or organization,  
15 limited liability company, firm, association, or other legal entity  
16 located within or outside this state.

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

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

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

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

33 (25) "Reckless" or "recklessly" means acting carelessly and  
34 heedlessly in a willful and wanton disregard of the rights, safety,  
35 or property of another.

36 (26) "Rental motor vessel" means a motor vessel that is legally  
37 owned by a person that is registered as a rental and leasing agency  
38 for recreational motor vessels, and for which there is a written and  
39 signed rental, charter, or lease agreement between the owner, or  
40 owner's agent, of the vessel and the operator of the vessel.

1 (27) "Sewage pumpout or dump unit" means:

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

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

7 (28) "Underway" means that a vessel is not at anchor, or made  
8 fast to the shore, or aground.

9 (29) "Vessel" includes every description of watercraft on the  
10 water, other than a seaplane, used or capable of being used as a  
11 means of transportation on the water. However, it does not include  
12 inner tubes, air mattresses, surfboards, sailboards, and small rafts  
13 or flotation devices or toys customarily used by swimmers.

14 (30) "Water skiing" means the physical act of being towed behind  
15 a vessel on, but not limited to, any skis, aquaplane, kneeboard,  
16 tube, or any other similar device.

17 (31) "Waters of the state" means any waters within the  
18 territorial limits of Washington state.

19 (32) "Whitewater river outfitter" means any person who is  
20 advertising to carry or carries passengers for hire on any whitewater  
21 river of the state, but does not include any person whose only  
22 service on a given trip is providing instruction in canoeing or  
23 kayaking skills.

24 (33) "Whitewater rivers of the state" means those rivers and  
25 streams, or parts thereof, within the boundaries of the state as  
26 listed in RCW 79A.60.470 or as designated by the commission under RCW  
27 79A.60.495.

28 (34) "Human-propelled vessel" means a vessel that is oared and  
29 paddled including, but not limited to, canoes, kayaks, rafts, stand-  
30 up paddleboards, and dragon boats.

31 **Sec. 2.** RCW 79A.60.630 and 2019 c 293 s 1 are each amended to  
32 read as follows:

33 (1) The commission shall establish and implement by rule a  
34 program to provide required boating safety education. The boating  
35 safety education program shall include training on preventing the  
36 spread of aquatic invasive species. The boating safety education  
37 program shall include educational materials regarding whale watching  
38 guidelines and other voluntary and regulatory measures related to  
39 whale watching. The boating safety education program must include

1 education and safety training for operators of human-propelled  
2 vessels. The program shall be phased in so that all boaters not  
3 exempted under RCW 79A.60.640(3) are required to obtain a boater  
4 education card by January 1, 2016. To obtain a boater education card,  
5 a boater shall provide a certificate of accomplishment issued by a  
6 boating educator for taking and passing an accredited boating safety  
7 education course, or pass an equivalency exam, or provide proof of  
8 completion of a course that meets the standard adopted by the  
9 commission.

10 (2) As part of the boating safety education program, the  
11 commission shall:

12 (a) Establish a program to be phased over eleven years starting  
13 July 1, 2005, with full implementation by January 1, 2016. The period  
14 July 1, 2005, through December 31, 2007, will be program development,  
15 boater notification of the new requirements for mandatory education,  
16 and processing cards to be issued to individuals having taken an  
17 accredited course prior to January 1, 2008. The schedule for phase-in  
18 of the mandatory education requirement by age group is as follows:

19 January 1, 2008 - All boat operators twenty years old and younger;

20 January 1, 2009 - All boat operators twenty-five years old and  
21 younger;

22 January 1, 2010 - All boat operators thirty years old and younger;

23 January 1, 2011 - All boat operators thirty-five years old and  
24 younger;

25 January 1, 2012 - All boat operators forty years old and younger;

26 January 1, 2013 - All boat operators fifty years old and younger;

27 January 1, 2014 - All boat operators sixty years old and younger;

28 January 1, 2015 - All boat operators seventy years old and younger;

29 January 1, 2016 - All boat operators;

30 (b) Establish a minimum standard of boating safety education  
31 accomplishment. The standard must be consistent with the applicable  
32 standard established by the national association of state boating law  
33 administrators;

34 (c) Adopt minimum standards for boating safety education course  
35 of instruction and examination that ensures compliance with the  
36 national association of state boating law administrators minimum  
37 standards;

38 (d) Approve and provide accreditation to boating safety education  
39 courses operated by volunteers, or commercial or nonprofit  
40 organizations, including, but not limited to, courses given by the

1 United States coast guard auxiliary and the United States power  
2 squadrons;

3 (e) Develop an equivalency examination that may be taken as an  
4 alternative to the boating safety education course;

5 (f) Establish a fee of ten dollars for the boater education card  
6 to fund all commission activities related to the boating safety  
7 education program created by chapter 392, Laws of 2005, including the  
8 initial costs of developing the program. Any surplus funds resulting  
9 from the fees received shall be distributed by the commission as  
10 grants to local marine law enforcement programs approved by the  
11 commission as provided in RCW 88.02.650;

12 (g) Establish a fee for the replacement of the boater education  
13 card that covers the cost of replacement;

14 (h) Consider and evaluate public agency and commercial  
15 opportunities to assist in program administration with the intent to  
16 keep administrative costs to a minimum;

17 (i) Approve and provide accreditation to boating safety education  
18 courses offered online; and

19 (j) Provide a report to the legislature by January 1, 2008, on  
20 its progress of implementation of the mandatory education program.

21 **Sec. 3.** RCW 79A.60.640 and 2005 c 392 s 4 are each amended to  
22 read as follows:

23 (1) No person shall operate or permit the operation of motor  
24 driven boats and vessels with a mechanical power of fifteen  
25 horsepower or greater unless the person:

26 (a) Is at least twelve years of age, except that an operator of a  
27 personal watercraft shall comply with the age requirements under RCW  
28 79A.60.190; and

29 (b) (i) Has in his or her possession a boater education card,  
30 unless exempted under subsection (3) of this section; or

31 (ii) Is accompanied by and is under the direct supervision of a  
32 person sixteen years of age or older who is in possession of a boater  
33 education card, or who is not yet required to possess the card as  
34 provided in the program phase in RCW 79A.60.630(2) (a).

35 (2) Any person who can demonstrate they have successfully  
36 completed, prior to July 24, 2005, a boating safety education course  
37 substantially equivalent to the standards adopted by the commission  
38 shall be eligible for a boater education card upon application to the  
39 commission and payment of the fee, without having to take a course or

1 equivalency exam as provided in RCW 79A.60.630(1). Successful  
2 completion of a boating safety education course could include an  
3 original or copy of an original certificate issued by the commission,  
4 the United States coast guard auxiliary, or the United States power  
5 squadrons, or official certification by these organizations that the  
6 individual successfully completed a course substantially equivalent  
7 to the standards adopted by the commission.

8 (3) The following persons are not required to carry a boater  
9 education card:

10 (a) The operator of a vessel engaged in a lawful commercial  
11 fishery operation as licensed by the department of fish and wildlife  
12 under Title 77 RCW. However, the person when operating a vessel for  
13 recreational purposes must carry either a valid commercial fishing  
14 license issued by the department of fish and wildlife or a boater  
15 education card;

16 (b) Any person who possesses a valid marine operator license  
17 issued by the United States coast guard when operating a vessel  
18 authorized by such coast guard license. However, the person when  
19 operating a vessel for recreational purposes must carry either a  
20 valid marine operator license issued by the United States coast guard  
21 or a boater education card;

22 (c) Any person who is legally engaged in the operation of a  
23 vessel that is exempt from vessel registration requirements under  
24 chapter 88.02 RCW and applicable rules and is used for purposes of  
25 law enforcement or official government work. However, the person when  
26 operating a vessel for recreational purposes must carry a boater  
27 education card;

28 (d) Any person at least twelve years old renting, chartering, or  
29 leasing a motor driven boat or vessel with an engine power of fifteen  
30 horsepower or greater who completes a commission-approved motor  
31 vessel safety operating and equipment checklist each time before  
32 operating the motor driven boat or vessel, except that an operator of  
33 a personal watercraft shall comply with the age requirements under  
34 RCW 79A.60.190;

35 (e) Any person who is not a resident of Washington state and who  
36 does not operate a motor driven boat or vessel with an engine power  
37 of fifteen horsepower or greater in waters of the state for more than  
38 sixty consecutive days;

1 (f) Any person who is not a resident of Washington state and who  
2 holds a current out-of-state or out-of-country certificate or card  
3 that is equivalent to the rules adopted by the commission;

4 (g) Any person who has purchased the boat or vessel within the  
5 last sixty days, and has a bill of sale in his or her possession to  
6 document the date of purchase;

7 (h) Any person, including those less than twelve years of age,  
8 who is involved in practicing for, or engaging in, a permitted racing  
9 event where a valid document has been issued by the appropriate  
10 local, state, or federal government agency for the event, and is  
11 available for inspection on-site during the racing event; and

12 (i) Any person who is not yet required to have a boater education  
13 card under the phased schedule in RCW 79A.60.630(2)(a) (~~;~~ and

14 ~~(j) Any person born before January 1, 1955~~)).

15 (4) Except as provided in subsection (3)(a) through (i) of this  
16 section, a boater must carry a boater education card while operating  
17 a vessel and is required to present the boater education card, or  
18 alternative license as provided in subsection (3)(a) and (b) of this  
19 section, to a law enforcement officer upon request.

20 (5) Failure to possess a boater education card required by this  
21 section is an infraction under chapter 7.84 RCW. The penalty shall be  
22 waived if the boater provides proof to the court within sixty days  
23 that he or she has received a boater education card.

24 (6) No person shall permit the rental, charter, or lease of a  
25 motor driven boat or vessel with an engine power of fifteen  
26 horsepower or greater to a person without first reviewing with that  
27 person, and all other persons who may be permitted by the person to  
28 operate the vessel, all the information contained in the motor vessel  
29 safety operating and equipment checklist.

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