

Chapter 88.04 RCW
CHARTER BOAT SAFETY ACT

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Inspection and regulation, department of labor and industries: RCW 43.22.050.

Regulation by

first-class cities: RCW 35.22.280.

noncharter and charter code cities: RCW 35A.11.020.

second-class cities: RCW 35.23.440.

RCW 88.04.005 Purposes. The purposes of this chapter are as follows:

- (1) Regulate charter boats for the carrying of more than six passengers, which are operated on state waters and which are not regulated by the United States coast guard;
- (2) Protect the safety and health of employees, passengers, and persons utilizing charter boats;
- (3) Authorize the department of labor and industries to adopt rules regulating the use of charter boats operating on state waters and to issue licenses; and
- (4) Provide penalties for violations of this chapter. [1999 c 111 s 1; 1989 c 295 s 1.]

RCW 88.04.015 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Department" means the department of labor and industries.
- (2) "Carrying passengers or cargo" means the transporting of any person or persons or cargo on a vessel for a fee or other consideration.
- (3) "Charter boat" means a vessel or barge operating on state waters that is not inspected or licensed by the United States coast guard and over which the United States coast guard does not exercise jurisdiction and which is rented, leased, or chartered to carry more than six persons or cargo.

(4) "Equipment" means a system, part, or component of a vessel as originally manufactured, or a system, part, or component manufactured or sold for replacement, repair, or improvement of a system, part, or component of a vessel; an accessory or equipment for, or appurtenance to a vessel; or a marine safety article, accessory, or equipment, including radio equipment, intended for use by a person on board a vessel.

(5) "State waters" means all waters within the territorial limits of the state of Washington, and not subject to the jurisdiction of the United States coast guard.

(6) "Operate" means to start or operate any engine which propels a vessel, or to physically control the motion, direction, or speed of a vessel.

(7) "Owner" means a person who claims lawful possession of a vessel by virtue of legal title or an equitable interest in a vessel which entitles that person to possession of the vessel; but does not include charterers and lessees.

(8) "Passenger" means a person carried on board a charter boat except:

(a) The owner of the vessel or the owner's agent; or

(b) The captain and members of the vessel's crew.

(9) "Operator's license" means a vessel operator's license issued by the United States coast guard or department for the specified tonnage and operational waters of the vessel.

(10) "Vessel" means every description of motorized watercraft, other than a bare-boat charter boat, seaplane, or sailboat, used or capable of being used to transport more than six passengers or cargo on water for rent, lease, or hire.

(11) "Bare-boat charter" means the unconditional lease, rental, or charter of a boat by the owner, or his or her agent, to a person who by written agreement, or contract, assumes all responsibility and liability for the operation, navigation, and provisioning of the boat during the term of the agreement or contract, except when a captain or crew is required or provided by the owner or owner's agents to be hired by the charterer to operate the vessel. [1999 c 111 s 2; 1991 c 45 s 1; 1989 c 295 s 2.]

RCW 88.04.025 Operating on state waters—Conditions. A person shall not rent, lease, or hire out a charter boat, nor carry, advertise for the carrying of, nor arrange for the carrying of, more than six passengers on a vessel for a fee or other consideration on state waters unless each of the following conditions is satisfied:

(1) (a) The department has inspected the vessel within the previous twelve months and has issued for the vessel a certificate of inspection that is still valid and current and which allows the carrying of more than six passengers; or

(b) The United States coast guard has inspected the vessel and has issued a certificate of inspection that is still valid and current and which allows the carrying of more than six passengers.

(2) The operator of the vessel is licensed as an operator by either the United States coast guard or the department. The operator must carry such license at all times while operating the vessel and must display such license upon demand by the department.

(3) The vessel has a valid and current registration certificate which is available for inspection by the department.

(4) The vessel is covered by current and valid liability insurance. Proof of such coverage must be provided to the department upon demand. [1999 c 111 s 3; 1989 c 295 s 3.]

RCW 88.04.035 Inspection of charter boats—Certificate of inspection. The department shall inspect or provide for the inspection of every charter boat once every twelve months with the vessel in the water to determine if the vessel and its equipment comply with the rules promulgated by the department and with the applicable state and federal laws and regulations. Beginning no later than January 1, 2002, the department shall also inspect or provide for the inspection of every charter boat that carries more than six passengers once every sixty months with the vessel in drydock. In addition, the department may at any time inspect or provide for the inspection of any charter boat if the department has reasonable cause to believe either that a provision of this chapter has been violated or that an inspection is necessary to ensure the safety of persons or property on the vessel.

(1) Ninety days before any certificate of inspection expires, the department shall mail written notification to the owner of the vessel that a twelve-month or sixty-month inspection must be completed before the expiration date. The department shall include with the notification an application for inspection, which must be completed and returned by the owner no later than sixty days before the expiration date of the current certificate of inspection. The owner shall include the registration fee with the completed application form. A person filing an application shall certify by the person's signature that the information furnished on the application is true and correct.

(2) If, after the inspection, the department determines that the charter boat and its equipment comply with the rules promulgated by the department and with the applicable state and federal laws and regulations, the department shall issue to the owner of the charter boat a certificate of inspection. Such certificate shall specify the maximum passenger, crew, and total person capacity of the charter boat. The certificate shall be valid for one year from the date of issuance. The certificate shall be prominently displayed on the charter boat while the charter boat is operating upon state waters.

(3) The department shall determine the minimum number of crew necessary for the safe operation of the charter boat.

(4) If the department determines that the charter boat or its equipment does not comply with the rules promulgated by the department and with the applicable state and federal laws and regulations, the department shall not issue a certificate of inspection and any current certificate of inspection shall be revoked by the department. [1999 c 111 s 4; 1989 c 295 s 4.]

RCW 88.04.045 Application for inspection—Inspection fee—Deposit of fees. (1) The owner of a vessel which does not have a current certificate of inspection or which has not previously been inspected by the department and which must be inspected by the department shall file an application for inspection, accompanied by the required fee, no later than sixty days before the scheduled or requested inspection date. A person filing an application shall certify by the person's

signature that the information furnished on the application is true and correct.

(2) When the department inspects or provides for the inspection of any charter boat because the department has reasonable cause to believe either that a provision of this chapter has been violated or that an inspection is necessary to ensure the safety of persons or property, the owner shall not be required to pay an inspection fee for that inspection.

(3) When a twelve-month in-water inspection and a sixty-month drydock inspection are required in the same year, the owner shall only be required to pay the fee for the drydock inspection.

(4) All sums received from licenses, inspection fees, or other sources described in this chapter shall be deposited in the industrial insurance trust funds and shall be used for administrative, education, and enforcement costs associated with this chapter. [1999 c 111 s 5; 1989 c 295 s 5.]

RCW 88.04.055 Evidentiary hearings. (1) A person who has been denied a certificate of inspection or a license may petition the department for an evidentiary hearing.

(2) A person who owns a charter boat may petition the department for an evidentiary hearing regarding the determination of the maximum passengers, crew, or total capacity of the charter boat. [1989 c 295 s 9.]

RCW 88.04.065 Reciprocal agreements—Annual operating permits—Education and enforcement programs. (1) The department may enter into reciprocal agreements with other states concerning the operation and inspection of charter boats from those states that operate on the waters of the state of Washington. Reciprocity shall be granted only if a state can establish to the satisfaction of the department that their laws and standards concerning charter boats meet or exceed the laws and rules of the state of Washington. A charter boat that operates on state waters under a reciprocal agreement pursuant to this section shall obtain an annual operating permit from the department for a fee for each year the charter boat does business on the waters of the state of Washington. The department shall deposit the fees from annual operating permits issued pursuant to this section in the industrial insurance trust funds.

(2) The department shall develop an education and enforcement program designed to eliminate the operation of charter boats that have not been inspected and certified as required by this chapter, and shall provide the public with information regarding the safety features and requirements necessary for the lawful operation of charter boats. [1999 c 111 s 6; 1989 c 295 s 10.]

RCW 88.04.075 Exemptions from chapter. The provisions of this chapter shall not apply to:

(1) A vessel that is a charter boat but is being used by the documented or registered owner of the charter boat exclusively for the owner's own noncommercial or personal pleasure purposes;

(2) A vessel owned by a person or corporate entity which is donated and used by a person or nonprofit organization to transport

passengers for charitable or noncommercial purposes, regardless of whether consideration is directly or indirectly paid to the owner;

(3) A vessel that is rented, leased, or hired by an operator to transport passengers for noncommercial or personal pleasure purposes;

(4) A vessel used exclusively for, or incidental to, an educational purpose; or

(5) A bare-boat charter boat. [1991 c 45 s 2; 1989 c 295 s 11.]

RCW 88.04.085 Application of Washington industrial safety and health act. Unless specifically provided by statute this chapter and the rules adopted thereunder shall be implemented and enforced, including penalties, violations, citations, appeals, and other administrative procedures, pursuant to the Washington industrial safety and health act, chapter 49.17 RCW. [1989 c 295 s 12.]

RCW 88.04.310 Inspection program fee. The owner or operator of every vessel inspected by the department shall pay the department a fee for each inspection. The fee shall be established by rule and shall cover the full cost of the inspection program including travel, per diem, and administrative and legal support costs for the program. [1999 c 111 s 7; 1989 c 295 s 6; 1979 c 74 s 2.]

RCW 88.04.320 Operating violations enumerated—Penalties. (1) It is unlawful for any person to operate a vessel unless that person holds a valid license issued by the United States coast guard or the department to operate a vessel of that class.

(2) It is unlawful for any person to operate a vessel unless the vessel is operated in compliance with the rules of the department of labor and industries and has a current certificate of inspection posted.

(3) Any violation of the licensing and inspection provisions of this chapter is punishable pursuant to the penalties provided under the Washington industrial safety and health act, chapter 49.17 RCW. [1989 c 295 s 7; 1979 c 74 s 3.]

RCW 88.04.330 Rule-making authority. The department shall adopt by rule, under chapter 34.05 RCW:

(1) Procedures, standards, and fees for the licensing of operators of any vessel used as a charter boat, as defined under RCW 88.04.015, operating on state waters for rent, lease, or hire;

(2) Standards and fees for the inspection of vessels;

(3) Minimum safety and health standards for passengers and crew on board charter boats consistent with the rules adopted by the United States coast guard in 46 C.F.R., subchapter T, small passenger vessels under one hundred gross tons; and

(4) Any other rules needed for the efficient administration of the purposes of this chapter. [1999 c 111 s 8; 1989 c 295 s 8; 1979 c 74 s 4.]

RCW 88.04.900 Short title. This chapter may be known and cited as the charter boat safety act. [1989 c 295 s 13.]