

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

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

5 NEW SECTION. **Sec. 1.** The legislature finds that Washington has
6 abundant waterways for citizens and visitors to enjoy boating,
7 kayaking, and other paddlesports activities. The legislature further
8 finds that Washington state's diverse waterways consisting of rivers,
9 lakes, bays, inlets, and coastal areas require different skills,
10 preparation, and safety equipment. The legislature further finds that
11 Washington has the fifth highest rate of boating-related deaths in
12 the nation. The legislature further finds that boating-related
13 fatalities, including drownings, have increased recently. The
14 legislature therefore finds that expanding boater safety and
15 education training would better prepare boaters and operators of
16 human-propelled vessels to safely enjoy their time on the water.

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

1 (~~Unless the context clearly requires otherwise, the~~) The
2 definitions in this section apply throughout this chapter unless the
3 context clearly requires otherwise.

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

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

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

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

16 (5) "Boating educator" means a person providing an accredited
17 course.

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

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

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

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

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

37 (11) "Guide" means any individual, including but not limited to
38 subcontractors and independent contractors, engaged for compensation
39 or other consideration by a whitewater river outfitter for the
40 purpose of operating vessels. A person licensed under RCW 77.65.480

1 or 77.65.440 and acting as a fishing guide is not considered a guide
2 for the purposes of this chapter.

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

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

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

13 (15) "Muffler" or "muffler system" means a sound suppression
14 device or system, including an underwater exhaust system, designed
15 and installed to abate the sound of exhaust gases emitted from an
16 internal combustion engine and that prevents excessive or unusual
17 noise.

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

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

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

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

28 (20) "Person" means any individual, sole proprietorship,
29 partnership, corporation, nonprofit corporation or organization,
30 limited liability company, firm, association, or other legal entity
31 located within or outside this state.

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

36 (22) "Personal watercraft" means a vessel of less than sixteen
37 feet that uses a motor powering a water jet pump, as its primary
38 source of motive power and that is designed to be operated by a
39 person sitting, standing, or kneeling on, or being towed behind the

1 vessel, rather than in the conventional manner of sitting or standing
2 inside the vessel.

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

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

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

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

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

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

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

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

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

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

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

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

1 (33) "Whitewater rivers of the state" means those rivers and
2 streams, or parts thereof, within the boundaries of the state as
3 listed in RCW 79A.60.470 or as designated by the commission under RCW
4 79A.60.495.

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

8 **Sec. 3.** RCW 79A.60.630 and 2019 c 293 s 1 are each amended to
9 read as follows:

10 (1) (a) The commission shall establish and implement by rule a
11 program to provide required boating safety education. The boating
12 safety education program shall include training on preventing the
13 spread of aquatic invasive species. The boating safety education
14 program shall include educational materials regarding whale watching
15 guidelines and other voluntary and regulatory measures related to
16 whale watching. The boating safety education program must include
17 education and safety training for operators of human-propelled
18 vessels in marine waters. The program (~~(shall be phased in so that)~~)
19 must require all boaters not exempted under RCW 79A.60.640(3) (~~(are~~
20 ~~required)~~) to obtain a boater education card (~~(by January 1, 2016)~~).
21 To obtain a boater education card, a boater shall provide a
22 certificate of accomplishment issued by a boating educator for taking
23 and passing an accredited boating safety education course, or pass an
24 equivalency exam, or provide proof of completion of a course that
25 meets the standard adopted by the commission.

26 (b) The commission shall establish a specialized human-propelled
27 vessel boater education card. However, boaters are encouraged to
28 obtain a boater education card. Except as provided in (c) of this
29 subsection, an operator of a human-propelled vessel in marine waters
30 must obtain either a boater education card or a human-propelled
31 vessel boater education card.

32 (c) A person is not required to obtain a boater education card or
33 human-propelled vessel boater education card if the person is:

34 (i) Renting and operating a human-propelled vessel under the
35 guidance of a human-propelled vessel rental business; or

36 (ii) Operating a human-propelled vessel within the first 60 days
37 after purchase of the vessel.

38 (2) As part of the boating safety education program, the
39 commission shall:

1 (a) ~~((Establish a program to be phased over eleven years starting~~
2 ~~July 1, 2005, with full implementation by January 1, 2016. The period~~
3 ~~July 1, 2005, through December 31, 2007, will be program development,~~
4 ~~boater notification of the new requirements for mandatory education,~~
5 ~~and processing cards to be issued to individuals having taken an~~
6 ~~accredited course prior to January 1, 2008. The schedule for phase-in~~
7 ~~of the mandatory education requirement by age group is as follows:~~
8 ~~January 1, 2008 - All boat operators twenty years old and younger;~~
9 ~~January 1, 2009 - All boat operators twenty-five years old and~~
10 ~~younger;~~
11 ~~January 1, 2010 - All boat operators thirty years old and younger;~~
12 ~~January 1, 2011 - All boat operators thirty-five years old and~~
13 ~~younger;~~
14 ~~January 1, 2012 - All boat operators forty years old and younger;~~
15 ~~January 1, 2013 - All boat operators fifty years old and younger;~~
16 ~~January 1, 2014 - All boat operators sixty years old and younger;~~
17 ~~January 1, 2015 - All boat operators seventy years old and younger;~~
18 ~~January 1, 2016 - All boat operators;~~

19 ~~(b))~~ Establish a minimum standard of boating safety education
20 accomplishment. The standard must be consistent with the applicable
21 standard established by the national association of state boating law
22 administrators;

23 ~~((e))~~ (b) Adopt minimum standards for boating safety education
24 course of instruction and examination that ensures compliance with
25 the national association of state boating law administrators minimum
26 standards;

27 ~~((d))~~ (c) Approve and provide accreditation to boating safety
28 education courses operated by volunteers, or commercial or nonprofit
29 organizations, including, but not limited to, courses given by the
30 United States coast guard auxiliary and the United States power
31 squadrons;

32 ~~((e))~~ (d) Develop an equivalency examination that may be taken
33 as an alternative to the boating safety education course;

34 ~~((f))~~ (e) Establish a fee of ten dollars for the boater
35 education card to fund all commission activities related to the
36 boating safety education program created by chapter 392, Laws of
37 2005, including the initial costs of developing the program. Any
38 surplus funds resulting from the fees received shall be distributed
39 by the commission as grants to local marine law enforcement programs
40 approved by the commission as provided in RCW 88.02.650;

1 ~~((g))~~ (f) Establish a fee for the replacement of the boater
2 education card that covers the cost of replacement;

3 ~~((h))~~ (g) Consider and evaluate public agency and commercial
4 opportunities to assist in program administration with the intent to
5 keep administrative costs to a minimum; and

6 ~~((i))~~ (h) Approve and provide accreditation to boating safety
7 education courses offered online(~~(; and~~

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

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

12 (1) No person shall operate or permit the operation of motor
13 driven boats and vessels (~~(with a mechanical power of fifteen~~
14 ~~horsepower or greater)) unless the person:~~

15 (a) Is at least twelve years of age, except that an operator of a
16 personal watercraft shall comply with the age requirements under RCW
17 79A.60.190; and

18 (b) (i) Has in his or her possession a boater education card or a
19 human-propelled vessel boater education card, unless exempted under
20 subsection (3) of this section; or

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

25 (2) Any person who can demonstrate they have successfully
26 completed, prior to July 24, 2005, a boating safety education course
27 substantially equivalent to the standards adopted by the commission
28 shall be eligible for a boater education card upon application to the
29 commission and payment of the fee, without having to take a course or
30 equivalency exam as provided in RCW 79A.60.630(1). Successful
31 completion of a boating safety education course could include an
32 original or copy of an original certificate issued by the commission,
33 the United States coast guard auxiliary, or the United States power
34 squadrons, or official certification by these organizations that the
35 individual successfully completed a course substantially equivalent
36 to the standards adopted by the commission.

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

1 (a) The operator of a vessel engaged in a lawful commercial
2 fishery operation as licensed by the department of fish and wildlife
3 under Title 77 RCW. However, the person when operating a vessel for
4 recreational purposes must carry either a valid commercial fishing
5 license issued by the department of fish and wildlife or a boater
6 education card;

7 (b) Any person who possesses a valid marine operator license
8 issued by the United States coast guard when operating a vessel
9 authorized by such coast guard license. However, the person when
10 operating a vessel for recreational purposes must carry either a
11 valid marine operator license issued by the United States coast guard
12 or a boater education card;

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

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

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

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

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

36 (h) Any person, including those less than twelve years of age,
37 who is involved in practicing for, or engaging in, a permitted racing
38 event where a valid document has been issued by the appropriate
39 local, state, or federal government agency for the event, and is
40 available for inspection on-site during the racing event((†

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

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

4 (4) Except as provided in subsection (3)(a) through ~~((+i))~~ (h)
5 of this section, a boater must carry a boater education card while
6 operating a vessel and is required to present the boater education
7 card, or alternative license as provided in subsection (3)(a) and (b)
8 of this section, to a law enforcement officer upon request.

9 (5) Failure to possess a boater education card or a human-
10 propelled vessel boater education card required by this section is an
11 infraction under chapter 7.84 RCW. The penalty shall be waived if the
12 boater provides proof to the court within sixty days that he or she
13 has received a boater education card.

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

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