

This creates a competitive disadvantage for these organizations and entities operating facilities which host these events.

Section 2 would make the provisions of section 1 effective on July 1, 1991. In making changes that affect the state's revenues, it is sound public policy to recognize the effect of the changes in the same biennium that the legislation is passed. Where possible, these costs should not be pushed forward into future biennia.

With the exception of section 2, Engrossed House Bill No. 1778 is approved.\*

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## CHAPTER 393

[Second Substitute Senate Bill No. 5372]

### BOATING—SEWAGE DISPOSAL, ENVIRONMENTAL EDUCATION AND PROTECTION, AND PUBLIC ACCESS TO WATERWAYS

AN ACT Relating to recreational boating; amending RCW 82.49.030, 88.02.040, and 88.02.030; adding a new section to chapter 75.10 RCW; adding a new chapter to Title 88 RCW; and creating new sections.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. The legislature finds that the waters of Washington state provide a unique and valuable recreational resource to large and growing numbers of boaters. Proper stewardship of, and respect for, these waters requires that, while enjoying them for their scenic and recreational benefits, boaters must exercise care to assure that such activities do not contribute to the despoliation of these waters, and that watercraft be operated in a safe and responsible manner. The legislature has specifically addressed the topic of access to clean and safe waterways by requiring the 1987 boating safety study and by establishing the Puget Sound water quality authority.

The legislature finds that there is a need to educate Washington's boating community about safe and responsible actions on our waters and to increase the level and visibility of the enforcement of boating laws. To address the incidence of fatalities and injuries due to recreational boating on our state's waters, local and state efforts directed towards safe boating must be stimulated. To provide for safe waterways and public enjoyment, portions of the watercraft excise tax and boat registration fees should be made available for boating safety and other boating recreation purposes.

In recognition of the need for clean waterways, and in keeping with the Puget Sound water quality authority's 1987 management plan, the legislature finds that adequate opportunities for responsible disposal of boat sewage must be made available. There is hereby established a five-year initiative to install sewage pumpout or sewage dump stations at appropriate marinas.

To assure the use of these sewage facilities, a boater environmental education program must accompany the five-year initiative and continue to educate boaters about boat wastes and aquatic resources.

The legislature also finds that, in light of the increasing numbers of boaters utilizing state waterways, a program to acquire and develop sufficient waterway access facilities for boaters must be undertaken.

To support boating safety, environmental protection and education, and public access to our waterways, the legislature declares that a portion of the income from boating-related activities, as specified in RCW 82.49-.030 and 88.02.040, should support these efforts.

**NEW SECTION.** Sec. 2. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Boat wastes" shall include, but are not limited to, sewage, garbage, marine debris, plastics, contaminated bilge water, cleaning solvents, paint scrapings or discarded petroleum products associated with the use of vessels.

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

(3) "Commission" means the Washington state parks and recreation commission.

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

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

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

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

(8) "Sewage dump station" means any receiving chamber or tank designed to receive vessel sewage from a "porta-potty" or a portable container.

(9) "Sewage pumpout station" means a mechanical device, generally stationed on a dock, pier, float, barge, or other location convenient to boaters, designed to remove sewage waste from holding tanks on vessels.

(10) "Vessel" means every watercraft used or capable of being used as a means of transportation on the water, other than a seaplane.

**NEW SECTION.** Sec. 3. The commission, in consultation with the departments of ecology, fisheries, wildlife, natural resources, social and health services, and the Puget Sound water quality authority shall conduct a literature search and analyze pertinent studies to identify areas which are polluted or environmentally sensitive within the state's waters. Based on this

review the commission shall designate appropriate areas as polluted or environmentally sensitive, for the purposes of this act only.

**NEW SECTION.** Sec. 4. (1) A marina which meets one or more of the following criteria shall be designated by the commission as appropriate for installation of a sewage pumpout or sewage dump station:

(a) The marina is located in an environmentally sensitive or polluted area; or

(b) The marina has one hundred twenty-five slips or more and there is a lack of sewage pumpouts within a reasonable distance.

(2) In addition to subsection (1) of this section, the commission may at its discretion designate a marina as appropriate for installation of a sewage pumpout or sewage dump station if there is a demonstrated need for a sewage pumpout or sewage dump station at the marina based on professionally conducted studies undertaken by federal, state, or local government, or the private sector; and it meets the following criteria:

(a) The marina provides commercial services, such as sales of food, fuel or supplies, or overnight or live-aboard moorage opportunities;

(b) The marina is located at a heavily used boating destination or on a heavily traveled route, as determined by the commission; or

(c) There is a lack of adequate sewage pumpout station capacity within a reasonable distance.

(3) Exceptions to the designation made under this section may be made by the commission if no sewer, septic, water, or electrical services are available at the marina.

(4) In addition to marinas, the commission may designate boat launches or boater destinations as appropriate for installation of a sewage pumpout or sewage dump station based on the criteria found in subsections (1) and (2) of this section.

**NEW SECTION.** Sec. 5. (1) Marinas and boat launches designated as appropriate for installation of a sewage pumpout or sewage dump station under section 4 of this act shall be eligible for funding support for installation of such facilities from funds specified in section 11 of this act. The commission shall notify owners or operators of all designated marinas and boat launches of the designation, and of the availability of funding to support installation of appropriate sewage disposal facilities. The commission shall encourage the owners and operators to apply for available funding.

(2) The commission shall contract with, or enter into an interagency agreement with another state agency to contract with, applicants based on the criteria specified below:

(a)(i) Contracts may be awarded to publicly owned, tribal, or privately owned marinas or boat launches.

(ii) Contracts may provide for state reimbursement to cover eligible costs as deemed reasonable by commission rule. Eligible costs include purchase, installation, or major renovation of the sewage pumpout or sewage

dump stations, including sewer, water, electrical connections, and those costs attendant to the purchase, installation, and other necessary appurtenances, such as required pier space, as determined by the commission.

(iii) Ownership of the sewage pumpout or sewage dump station will be retained by the state through the commission in privately owned marinas. Ownership of the sewage pumpout or sewage dump station in publicly owned marinas will be held by the public entity.

(iv) Operation, normal and expected maintenance, and ongoing utility costs will be the responsibility of the marina or boat launch operator. The sewage pumpout or sewage dump station must be kept in operating condition and available for public use at all times during operating hours of the facility, excluding necessary maintenance periods.

(v) The marina owner agrees to allow the installation, existence and use of the sewage pumpout or sewage dump station by granting an easement at no cost for such purposes.

(b) Contracts awarded pursuant to (a) of this subsection shall be subject, for a period of at least ten years, to the following conditions:

(i) Any facility entering into a contract under this section must allow the boating public access to the sewage pumpout or sewage dump station during operating hours.

(ii) The applicant must agree to monitor and encourage the use of the sewage pumpout or sewage dump station, and to cooperate in any related boater environmental education program administered or approved by the commission.

(iii) The applicant must agree not to charge a fee for the use of the sewage pumpout or sewage dump station.

(iv) The applicant must agree to arrange and pay a reasonable fee for a periodic inspection of the sewage pumpout facility by the local health department or appropriate authority.

(v) Use of a free sewage pumpout or sewage dump station by the boating public shall be deemed to be included in the term "outdoor recreation" for the purposes of chapter 4.24 RCW.

**NEW SECTION.** Sec. 6. The department of ecology, in consultation with the commission, shall, for initiation of the state-wide program only, develop criteria for the design, installation, and operation of sewage pumpout and sewage dump stations, taking into consideration the ease of access to the station by the boating public. The department of ecology may adopt rules to administer the provisions of this section.

**NEW SECTION.** Sec. 7. The commission shall undertake a state-wide boater environmental education program concerning the effects of boat wastes. The boater environmental education program shall provide informational materials on proper boat waste disposal methods, environmentally safe boat maintenance practices, locations of sewage pumpout and sewage dump stations, and boat oil recycling facilities.

**NEW SECTION.** Sec. 8. The commission shall award grants to local government entities for boater environmental education or boat waste management planning. Grants shall be allocated according to criteria developed by the commission.

**NEW SECTION.** Sec. 9. The commission shall, in consultation with interested parties, review progress on installation of sewage pumpout and sewage dump stations, the boater environmental education program, and the boating safety program. The commission shall report its findings to the legislature by December 1994.

Sec. 10. Section 10, chapter 7, Laws of 1983 and RCW 82.49.030 are each amended to read as follows:

(1) The excise tax imposed under this chapter is due and payable to the department of licensing or its agents at the time of registration of a vessel. The department of licensing shall not issue or renew a registration for a vessel until the tax is paid in full.

(2) The excise tax collected under this chapter shall be deposited in the general fund.

(3) Until June 30, 1995, the watercraft excise tax revenues exceeding five million dollars in each fiscal year, but not exceeding six million dollars, may, subject to appropriation by the legislature, be used for the purposes specified in section 11 of this act.

**NEW SECTION.** Sec. 11. The amounts allocated in accordance with RCW 82.49.030(3) shall be expended upon appropriation in accordance with the following limitations:

(1) Thirty percent of the funds shall be appropriated to the interagency committee for outdoor recreation and be expended for use by state and local government for public recreational waterway boater access and boater destination sites. Priority shall be given to critical site acquisition. The interagency committee for outdoor recreation shall administer such funds as a competitive grants program. The amounts provided for in this subsection shall be evenly divided between state and local governments.

(2) Thirty percent of the funds shall be expended by the commission exclusively for sewage pumpout or sewage dump stations at publicly and privately owned marinas as provided for in sections 4 and 5 of this act.

(3) Twenty-five percent of the funds shall be expended for grants to state agencies and other public entities to enforce boating safety and registration laws and to carry out boating safety programs. The commission shall administer such grant program.

(4) Fifteen percent shall be expended for instructional materials, programs or grants to the public school system, public entities, or other non-profit community organizations to support boating safety and boater environmental education or boat waste management planning. The commission shall administer this program.

Sec. 12. Section 17, chapter 7, Laws of 1983 and RCW 88.02.040 are each amended to read as follows:

The department shall provide for the issuance of vessel registrations and may appoint agents for collecting fees and issuing registration numbers and decals. Fees for vessel registrations collected by the director shall be deposited in the general fund; PROVIDED, That any amount above one million one hundred thousand dollars per fiscal year shall be allocated to counties by the state treasurer for boating safety/education and law enforcement programs. Eligibility for such allocation shall be contingent upon approval of the local boating safety program by the state parks and recreation commission. Fund allocation shall be based on the numbers of registered vessels by county of moorage. Each benefiting county shall be responsible for equitable distribution of such allocation to other jurisdictions with approved boating safety programs within said county. Any fees not allocated to counties due to the absence of an approved boating safety program, shall be allocated to the commission for awards to local governments to offset law enforcement and boating safety impacts of boaters recreating in jurisdictions other than where registered.

Sec. 13. Section 16, chapter 7, Laws of 1983 as last amended by section 1, chapter 452, Laws of 1985 and RCW 88.02.030 are each amended to read as follows:

Vessel registration is required under this chapter except for the following:

(1) Military or public vessels of the United States, except recreational-type public vessels;

(2) Vessels owned by a state or subdivision thereof, used principally for governmental purposes and clearly identifiable as such;

(3) Vessels owned by a resident of a country other than the United States if the vessel is not physically located upon the waters of this state for a period of more than sixty days;

(4) Vessels owned by a resident of another state if the vessel is registered in accordance with the laws of the state in which the owner resides, but only to the extent that a similar exemption or privilege is granted under the laws of that state for vessels registered in this state: PROVIDED, That any vessel which is validly registered in another state and which is physically located in this state for a period of more than sixty days is subject to registration under this chapter;

(5) Vessels used as a ship's lifeboat;

(6) Vessels equipped with propulsion machinery of less than ten horse power that:

(a) Are owned by the owner of a vessel for which a valid vessel number has been issued;

(b) Display the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the department; and

(c) Are used as a tender for direct transportation between that vessel and the shore and for no other purpose;

(7) Vessels under sixteen feet in overall length which have no propulsion machinery of any type or which are not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels owned in the United States and are powered by propulsion machinery of ten or less horsepower;

(8) Vessels with no propulsion machinery of any type for which the primary mode of propulsion is human power;

(9) Vessels which are temporarily in this state undergoing repair or alteration;

(10) Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States. Commercial vessels which the department of revenue determines have the external appearance of vessels which would otherwise be required to register under this chapter, must display decals issued annually by the department of revenue that indicate the vessel's exempt status; and

(11) Vessels primarily engaged in commerce which are owned by a resident of a country other than the United States.

NEW SECTION. Sec. 14. The commission shall adopt rules as are necessary to carry out all sections of this act except for sections 6, 10, and 11(1) of this act. The commission shall comply with all applicable provisions of chapter 34.05 RCW in adopting the rules.

NEW SECTION. Sec. 15. The interagency committee for outdoor recreation shall adopt rules as are necessary to carry out section 11(1) of this act. The interagency committee for outdoor recreation shall comply with all applicable provisions of chapter 34.05 RCW in adopting the rules.

NEW SECTION. Sec. 16. A new section is added to chapter 75.10 RCW to read as follows:

Fisheries patrol officers are authorized to enforce all provisions of chapter 88.02 RCW and any rules adopted thereunder, and the provisions of RCW 43.51.400 and any rules adopted thereunder.

NEW SECTION. Sec. 17. On or before January 1, 1992, the department of fisheries shall report to the legislature on the number of citations issued or other enforcement actions taken regarding the provisions enumerated in section 16 of this act. The report shall provide an accounting of the registration fees, penalties, and other funds accruing of the state, and the expenses to the department in undertaking the enforcement actions.

NEW SECTION. Sec. 18. By January 1, 1991, the commission shall issue a report to the appropriate committees of the house of representatives and senate showing how funds have been allocated under sections 1 through 17 of this act and the extent to which the allocations have resulted in additional vessel registrations and increased watercraft excise tax revenues.

**NEW SECTION.** Sec. 19. Sections 1 through 9 and 11 of this act shall constitute a new chapter in Title 88 RCW.

Passed the Senate April 23, 1989.

Passed the House April 23, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

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CHAPTER 394

[House Bill No. 1019]

HOME DETENTION—DRUG OFFENDERS—ELIGIBILITY

AN ACT Relating to home detention; and reenacting and amending RCW 9.94A.030.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11, chapter 145, Laws of 1988, section 1, chapter 153, Laws of 1988, section 2, chapter 154, Laws of 1988, and section 1, chapter 157, Laws of 1988 and RCW 9.94A.030 are each reenacted and amended to read as follows:

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

(1) "Commission" means the sentencing guidelines commission.

(2) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(3) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(4) "Community placement" means a one-year period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(5) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(6) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed pursuant to this chapter by a court. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers,