

## CHAPTER 138

[Substitute House Bill No. 95]

## MARINE EXPLORATION PERMITS—CIVIL AND CRIMINAL VIOLATIONS

AN ACT Relating to marine waters; amending section 22, chapter 286, Laws of 1971 ex. sess. and RCW 90.58.220; adding new sections to chapter 90.58 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. There is added to chapter 90.58 RCW a new section to read as follows:

(1) Within this section the following definitions apply:

(a) "Exploration activity" means reconnaissance or survey work related to gathering information about geologic features and formations underlying or adjacent to marine waters;

(b) "Marine waters" include the waters of Puget Sound north to the Canadian border, the waters of the Strait of Juan de Fuca, the waters between the western boundary of the state and the ordinary high water mark, and related bays and estuaries;

(c) "Vessel" includes ships, boats, barges, or any other floating craft.

(2) A person desiring to perform oil or natural gas exploration activities by vessel located on or within marine waters of the state shall first obtain a permit from the department of ecology. The department may approve an application for a permit only if it determines that the proposed activity will not:

(a) Interfere materially with the normal public uses of the marine waters of the state;

(b) Interfere with activities authorized by a permit issued under RCW 90.58.140(2);

(c) Injure the marine biota, beds, or tidelands of the waters;

(d) Violate water quality standards established by the department; or

(e) Create a public nuisance.

(3) Decisions on an application under subsection (2) of this section are subject to review only by the pollution control hearings board under chapter 43.21B RCW.

(4) This section does not apply to activities conducted by an agency of the United States or the state of Washington.

(5) This section does not lessen, reduce, or modify RCW 90.58.160.

(6) The department may adopt rules necessary to implement this section.

(7) The attorney general shall enforce this section.

NEW SECTION. Sec. 2. There is added to chapter 90.58 RCW a new section to read as follows:

(1) A person who violates section 1 of this act, or any rule adopted thereunder, is subject to a penalty in an amount of up to five thousand dollars a day for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty provided for in this section.

(2) The penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the director or the director's representative describing such violation with reasonable particularity. The director or the director's representative may, upon written application therefor received within fifteen days after notice imposing any penalty is received by the person incurring the penalty, and when deemed to carry out the purposes of this chapter, remit or mitigate any penalty provided for in this section upon such terms as he or she deems proper, and shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as he or she may deem proper.

(3) Any person incurring any penalty under this section may appeal the penalty to the hearings board as provided for in chapter 43.21B RCW. Such appeals shall be filed within thirty days of receipt of notice imposing any penalty unless an application for remission or mitigation is made to the department. When an application for remission or mitigation is made, such appeals shall be filed within thirty days of receipt of notice from the director or the director's representative setting forth the disposition of the application. Any penalty imposed under this section shall become due and payable thirty days after receipt of a notice imposing the same unless application for remission or mitigation is made or an appeal is filed. When an application for remission or mitigation is made, any penalty incurred hereunder shall become due and payable thirty days after receipt of notice setting forth the disposition of the application unless an appeal is filed from such disposition. Whenever an appeal of any penalty incurred under this section is filed, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part.

(4) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the attorney general, upon the request of the director, shall bring an action in the name of the state of Washington in the superior court of Thurston county or of any county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evidence shall be the same as an ordinary

civil action except as otherwise in this chapter provided. All penalties recovered under this section shall be paid into the state treasury and credited to the general fund.

Sec. 3. Section 22, chapter 286, Laws of 1971 ex. sess. and RCW 90.58.220 are each amended to read as follows:

In addition to incurring civil liability under RCW 90.58.210, any person found to have wilfully engaged in activities on the shorelines of the state in violation of the provisions of this chapter or any of the master programs, rules, or regulations adopted pursuant thereto shall be guilty of a gross misdemeanor, and shall be punished by a fine of not less than twenty-five nor more than one thousand dollars or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment: PROVIDED, That the fine for the third and all subsequent violations in any five-year period shall be not less than five hundred nor more than ten thousand dollars: PROVIDED FURTHER, That fines for violations of section 1 of this 1983 act, or any rule adopted thereunder, shall be determined under section 2 of this 1983 act.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House February 28, 1983.

Passed the Senate April 15, 1983.

Approved by the Governor April 23, 1983.

Filed in Office of Secretary of State April 23, 1983.

## CHAPTER 139

[Engrossed House Bill No. 180]

### SNOWMOBILE ADVISORY COMMITTEE—SUNSET TERMINATION EXTENDED

AN ACT Relating to the snowmobile advisory committee; and amending section 2, chapter 182, Laws of 1979 ex. sess. and RCW 46.10.220.

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

Sec. 1. Section 2, chapter 182, Laws of 1979 ex. sess. and RCW 46.10.220 are each amended to read as follows:

(1) There is created in the Washington state parks and recreation commission a snowmobile advisory committee to advise the commission regarding the administration of this chapter.

(2) The purpose of the committee is to assist and advise the commission in the planned development of snowmobile facilities and programs.

(3) The committee shall consist of: