Proposed Substitute House Bill 1781 (H-1263.2)

House Innovation, Community & Economic Development, and Veterans Committee
By Representative Donaghy

Original Bill:

The bill directs the Parks and Recreation Commission (Commission) to implement a boater safety education program for a boater operating a human-powered vessel by January 1, 2024. It also requires an operator of a human-powered vessel to obtain a $10 paddle education card. The bill also establishes that a boater education card and a paddle education card expire 20 years after the date of issuance.

Proposed Substitute House Bill (H-1263.2) compared to the Original Bill:

- Removes the requirement that a person must pass a human-powered vessel boating safety education test or equivalent exam in order to be issued a paddle education card.
- Specifies that the human-powered vessel safety education course of instruction must include a basic overview of water safety best practices and right of way.
- Removes the requirement that the Commission must develop an equivalency examination that may be taken as an alternative to the human-powered vessel safety education course.
- Requires the Commission to establish a process for boater's clubs and academic institutions providing human-powered vessel safety education courses that are accredited by the Commission to request paddle education cards and distribute them to their members or students upon completion of a human-powered vessel safety education course.
- Requires the Commission to establish a process for federally recognized tribes to request paddle education cards and distribute them to their members, their members' family members, and their members' descendants.
- Eliminates the requirement for the Commission to establish a $10 fee for a paddle education card.
- Requires the Commission to develop an option for commercial or nonprofit organizations providing accredited human-powered vessel safety education courses to receive a branded version of a paddle education card featuring the organization's name or logo, for a fee.

Staff: Emily Poole
Date: February 14, 2023

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-1263.2/23 2nd draft

ATTY/TYPIST: ML:lel

BRIEF DESCRIPTION: Modifying boater safety and education requirements.

AN ACT Relating to modifying boater safety and education requirements; amending RCW 79A.60.010, 79A.60.630, and 79A.60.640; adding a new section to chapter 79A.60 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that the Washington state parks and recreation commission oversees a robust boating safety education program that has been successful in educating the motor boating public to increase safety on the water. The legislature further finds that recent data on Washington boating fatalities show that there are more reportable fatalities on human-powered watercraft than on other types of vessels. Therefore, the legislature intends to reduce the risk of accidents and fatalities among recreational operators of human-powered watercraft by establishing a new safety education program for human-powered watercraft.

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

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

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

(2) "Boat wastes" includes, but is 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.

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

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

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

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

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

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

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

(10) "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.

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

(12) "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.

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

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

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

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

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

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

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

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

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

(22) "Personal watercraft" means a vessel of less than ((~~sixteen~~)) 16 feet that uses a motor powering a water jet pump, as its primary source of motive power and that is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

(23) "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.

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

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

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

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

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

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

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

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

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

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

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

(33) "Whitewater rivers of the state" means those rivers and streams, or parts thereof, within the boundaries of the state as

listed in RCW 79A.60.470 or as designated by the commission under RCW 79A.60.495.

(34)(a) "Human-powered vessel" means a vessel powered only by its occupant or occupants including, but not limited to, a vessel powered only by the occupant's hands or feet, oars, or paddles.

(b) "Human-powered vessel" includes, but is not limited to, canoes, kayaks, and stand-up paddleboards.

(c) "Human-powered vessel" does not include surfboards.

(35) "Paddle education card" means a card issued to a person who has successfully completed a human-powered vessel safety education course.

NEW SECTION. **Sec. 3.** A new section is added to chapter 79A.60 RCW to read as follows:

(1) By January 1, 2024, the commission shall adopt by rule and implement a program to provide required boating safety education for a boater operating a human-powered vessel. To obtain a paddle education card, a person shall provide a certificate of accomplishment issued by a boating educator for taking a human-powered vessel safety education course or provide proof of completion of a course that meets the standard adopted by the commission.

(2) As part of the human-powered vessel safety education program, the commission shall:

(a) Establish a program for human-powered vessels that also includes an abbreviated program or checklist for individuals that are renting human-powered vessels for short-term use;

(b) Adopt minimum standards for a human-powered vessel safety education course of instruction, which shall include a basic overview of water safety best practices and right-of-way;

(c) Approve and provide accreditation to human-powered vessel safety education courses for human-powered vessels provided by volunteers or by commercial or nonprofit organizations, including public and private boater's clubs and academic institutions that provide human-powered vessel safety education courses to participating members or students;

(d) Establish a process for boater's clubs and academic institutions providing human-powered vessel safety education courses that are accredited by the commission to request paddle education cards and distribute them to their members or students upon completion of a human-powered vessel safety education course;

(e) Establish a process for federally recognized tribes to request paddle education cards and distribute them to their members, their members' family members, and their members' descendants. The process may not require federally recognized tribes to pay a fee or provide identifying information to the commission regarding recipients of paddle education cards, but recipients of paddle education cards may choose to provide such information to the commission in order to register their card in the commission's database;

(f) Develop an electronic option for a paddle education card that can be stored digitally in addition to a physical card. The commission shall also develop an option for commercial or nonprofit organizations providing accredited human-powered vessel safety education courses to receive a branded version of a paddle education card featuring the organization's name or logo, for a fee. Any surplus funds resulting from the fees received must be distributed by the commission as grants to local marine law enforcement programs approved by the commission as provided in RCW 88.02.650;

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

(h) Approve and provide accreditation to human-powered vessel safety education courses offered online; and

(i) Coordinate with the department of licensing to offer a voluntary registration program for human-powered vessels.

(3) A paddle education card expires and is no longer valid 20 years after the date of issuance. A person may renew a paddle education card by providing the commission a certificate of accomplishment issued by a human-powered vessel safety educator for taking an accredited human-powered vessel safety education course or providing the commission proof of completion of a course that meets the standard adopted by the commission.

(4) A boater possessing a valid boater education card required under RCW 79A.60.630 is not required to obtain a paddle education card to operate a human-powered vessel.

Sec. 4. RCW 79A.60.630 and 2019 c 293 s 1 are each amended to read as follows:

(1) The commission shall establish and implement by rule a program to provide required boating safety education. The boating

safety education program shall include training on preventing the spread of aquatic invasive species. The boating safety education program shall include educational materials regarding whale watching guidelines and other voluntary and regulatory measures related to whale watching. The program ((~~shall be phased in so that~~)) must require all boaters not exempted under RCW 79A.60.640((~~(3) are required~~)) (2) to obtain a boater education card ((~~by January 1, 2016~~)). To obtain a boater education card, a boater shall provide a certificate of accomplishment issued by a boating educator for taking and passing an accredited boating safety education course, or pass an equivalency exam, or provide proof of completion of a course that meets the standard adopted by the commission.

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

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

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

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

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

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

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

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

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

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

~~January 1, 2016 - All boat operators;~~

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

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

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

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

((~~(f)~~)) (e) Establish a fee of ((~~ten dollars~~)) $10 for the boater education card to fund all commission activities related to the boating safety education program created by chapter 392, Laws of 2005, including the initial costs of developing the program. The commission shall develop an electronic option for a paddle education card that can be stored digitally in addition to a physical card. Any surplus funds resulting from the fees received shall be distributed by the commission as grants to local marine law enforcement programs approved by the commission as provided in RCW 88.02.650;

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

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

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

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

(3) A boater education card expires and is no longer valid 20 years after the date of issuance. A person may renew a boater education card by:

(a) Providing the commission a certificate of accomplishment issued by a boating educator for taking and passing an accredited boating safety education course;

(b) Passing an equivalency exam developed by the commission; or

(c) Providing the commission proof of completion of a course that meets the standard adopted by the commission.

Sec. 5. RCW 79A.60.640 and 2005 c 392 s 4 are each amended to read as follows:

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

(a) Is at least ((~~twelve~~)) 12 years of age, except that an operator of a personal watercraft shall comply with the age requirements under RCW 79A.60.190; and

(b)(i) Has in his or her possession a boater education card or a paddle education card for human-powered vessels, unless exempted under subsection ((~~(3)~~)) (2) of this section; or

(ii) Is accompanied by and is under the direct supervision of a person ((~~sixteen~~)) 16 years of age or older who is in possession of a boater education card((~~, or who is not yet required to possess the card as provided in the program phase in RCW 79A.60.630(2)(a)~~)) or a paddle education card for human-powered vessels.

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

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

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

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

(c) Any person who is legally engaged in the operation of a vessel that is exempt from vessel registration requirements under chapter 88.02 RCW and applicable rules and is used for purposes of

law enforcement or official government work. However, the person when operating a vessel for recreational purposes must carry a boater education card;

(d) Any person at least ((~~twelve~~)) 12 years old renting, chartering, or leasing a human-powered vessel, motor-driven boat, or vessel ((~~with an engine power of fifteen horsepower or greater~~)) who completes a commission-approved motor vessel safety operating and equipment checklist each time before operating the motor-driven boat or vessel, except that an operator of a personal watercraft shall comply with the age requirements under RCW 79A.60.190;

(e) Any person who is not a resident of Washington state and who does not operate a motor-driven boat or vessel ((~~with an engine power of fifteen horsepower or greater~~)) in waters of the state for more than ((~~sixty~~)) 60 consecutive days;

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

(g) Any person who has purchased the boat or vessel within the last ((~~sixty~~)) 60 days, and has a bill of sale in his or her possession to document the date of purchase; and

(h) Any person, including those less than ((~~twelve~~)) 12 years of age, who is involved in practicing for, or engaging in, a permitted racing event where a valid document has been issued by the appropriate local, state, or federal government agency for the event, and is available for inspection on-site during the racing event((~~;~~

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

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

~~(4)~~)) (3) Except as provided in subsection ((~~(3)~~)) (2)(a) through ((~~(i)~~)) (h) of this section, a boater must carry a boater education card or paddle education card while operating a vessel and is required to present the boater education card, or alternative license as provided in subsection ((~~(3)~~)) (2)(a) and (b) of this section, to a law enforcement officer upon request. The commission shall adopt a digital option for boater education cards and paddle education cards.

((~~(5)~~)) (4) Failure to possess a boater education card or a paddle education card required by this section is an infraction under chapter 7.84 RCW. The penalty shall be waived if the boater provides proof to the court within ((~~sixty~~)) 60 days that he or she has received a boater education card.

((~~(6)~~)) (5) No person shall permit the rental, charter, or lease of a motor-driven boat or vessel ((~~with an engine power of fifteen horsepower or greater~~)) or a human-powered vessel to a person without first reviewing with that person, and all other persons who may be permitted by the person to operate the vessel, all the information contained in the motor vessel safety operating and equipment checklist or human-powered vessel safety operating and equipment checklist.

--- END ---