

Title 79A

PUBLIC RECREATIONAL LANDS

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Chapter 79A.05 RCW

PARKS AND RECREATION COMMISSION

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79A.05.010 Definitions. The definitions in this section apply throughout this title unless the context clearly requires otherwise.

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

(2) "Chair" means the member of the commission elected pursuant to RCW 79A.05.025.

(3) "Director" and "director of the state parks and recreation commission" mean the director of parks and recreation or the director's designee.

(4) "Recreation" means those activities of a voluntary and leisure time nature that aid in promoting entertainment, pleasure, play, relaxation, or instruction.

(5) "Natural forest" means a forest that faithfully represents, or is meant to become representative of, its unaltered state. [1999 c 249 § 101.]

Additional notes found at www.leg.wa.gov

79A.05.013 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521. For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 185.]

79A.05.015 Commission created—Composition—Compensation and expenses. There is hereby created a "state parks and recreation commission" consisting of seven citizens of the state. The members of the commission shall be appointed by the governor by and with the advice and consent of the senate and shall serve for a term of six years, expiring on December 31st of even-numbered years, and until their successors are appointed. In case of a vacancy, the governor shall fill the vacancy for the unexpired term of the commissioner whose office has become vacant.

In making the appointments to the commission, the governor shall choose citizens who understand park and recreation needs and interests. No person shall serve if he or she holds any elective or full-time appointive state, county, or municipal office. Members of the commission shall be compensated in accordance with RCW 43.03.240 and in addition shall be allowed their travel expenses incurred while absent from their usual places of residence in accordance with RCW 43.03.050 and 43.03.060.

Payment of expenses pertaining to the operation of the commission shall be made upon vouchers certified to by such persons as shall be designated by the commission. [1999 c 249 § 201; 1984 c 287 § 82; 1975-'76 2nd ex.s. c 34 § 116; 1969 ex.s. c 31 § 1; 1965 ex.s. c 132 § 1; 1965 c 8 § 43.51.020. Prior: 1947 c 271 § 1; 1945 c 36 § 1; 1921 c 7 § 10; RRS § 10768. Formerly RCW 43.51.020.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Additional notes found at www.leg.wa.gov

79A.05.020 Duties of commission. In addition to whatever other duties may exist in law or be imposed in the future, it is the duty of the commission to:

- (1) Implement integrated pest management practices and regulate pests as required by RCW 17.15.020;
- (2) Take steps necessary to control spartina and purple loosestrife as required by RCW 17.26.020;
- (3) Participate in the implementation of chapter 19.02 RCW;
- (4) Coordinate planning and provide staffing and administrative assistance to the Lewis and Clark trail committee as required by *RCW 27.34.340;
- (5) Administer those portions of chapter 46.10 RCW not dealing with the registration of snowmobiles as required by RCW 46.10.370;
- (6) Consult and participate in the scenic and recreational highway system as required by chapter 47.39 RCW; and
- (7) Develop, prepare, and distribute information relating to marine oil recycling tanks and sewage holding tank pumping stations, in cooperation with other departments, as required by chapter 88.02 RCW.

The commission has the power reasonably necessary to carry out these duties. [2011 c 171 § 114; 1999 c 249 § 301.]

***Reviser's note:** RCW 27.34.340 was repealed by 1999 c 35 § 5. See chapter 35, Laws of 1999 for the Lewis and Clark bicentennial advisory committee.

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Additional notes found at www.leg.wa.gov

79A.05.025 Chair—Meetings—Quorum—Lease of parkland or property. (1) The commission shall elect one of its members as chair. The commission may be convened at such times as the chair deems necessary, and a majority shall constitute a quorum for the transaction of business.

(2)(a) Except as provided in (b) of this subsection, the lease of parkland or property for a period exceeding twenty years requires the unanimous consent of the commission.

(b) With the affirmative vote of at least five members of the commission, the commission may enter into a lease for up to sixty-two years for property at Saint Edward state park. The commission may only enter into a lease under the provisions of this subsection (2)(b) if the commission finds that the department of commerce study required by section 3, chapter 103, Laws of 2016 fails to identify an economically viable public or nonprofit use for the property that is consistent with the state parks and recreation commission's mission and could proceed on a reasonable timeline. The lease at Saint Edward state park may only include the following:

- (i) The main seminary building;
- (ii) The pool building;
- (iii) The gymnasium;
- (iv) The parking lot located in between locations identified in (b)(i), (ii), and (iii) of this subsection;
- (v) The parking lot immediately north of the gymnasium; and
- (vi) Associated property immediately adjacent to the areas listed in (b)(i) through (v) of this subsection. [2016 c 103 § 1; 1999 c 249 § 202; 1965 c 8 § 43.51.030. Prior: 1947 c 271 § 3; RRS § 10768-2. Formerly RCW 43.51.030.]

Additional notes found at www.leg.wa.gov

79A.05.030 Powers and duties—Mandatory. The commission shall:

(1) Have the care, charge, control, and supervision of all parks and parkways acquired or set aside by the state for park or parkway purposes.

(2) Adopt policies, and adopt, issue, and enforce rules pertaining to the use, care, and administration of state parks and parkways. The commission shall cause a copy of the rules to be kept posted in a conspicuous place in every state park to which they are applicable, but failure to post or keep any rule posted shall be no defense to any prosecution for the violation thereof.

(3) Permit the use of state parks and parkways by the public under such rules as shall be adopted.

(4) Clear, drain, grade, seed, and otherwise improve or beautify parks and parkways, and erect structures, buildings, fireplaces, and comfort stations and build and maintain paths, trails, and roadways through or on parks and parkways.

(5) Grant concessions or leases in state parks and parkways upon such rentals, fees, or percentage of income or profits and for such terms, in no event longer than fifty years, except for a lease associated with land or property described in RCW 79A.05.025(2)(b) which may not exceed sixty-two years, and upon such conditions as shall be approved by the commission.

(a) Leases exceeding a twenty-year term, or the amendment or modification of these leases, shall require a vote consistent with RCW 79A.05.025(2).

(b) If, during the term of any concession or lease, it is the opinion of the commission that it would be in the best interest of the state, the commission may, with the consent of the concessionaire or lessee, alter and amend the terms and conditions of such concession or lease.

(c) Television station leases shall be subject to the provisions of RCW 79A.05.085.

(d) The rates of concessions or leases shall be renegotiated at five-year intervals. No concession shall be granted which will prevent the public from having free access to the scenic attractions of any park or parkway.

(6) Employ such assistance as it deems necessary. Commission expenses relating to its use of volunteer assistance shall be limited to premiums or assessments for the insurance of volunteers by the department of labor and industries, compensation of staff who assist volunteers, materials and equipment used in authorized volunteer projects, training, reimbursement of volunteer travel as provided in RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to volunteer recognition. The commission, at its discretion, may waive commission fees otherwise applicable to volunteers. The commission shall not use volunteers to replace or supplant classified positions. The use of volunteers may not lead to the elimination of any employees or permanent positions in the bargaining unit.

(7) By majority vote of its authorized membership, select and purchase or obtain options upon, lease, or otherwise acquire for and in the name of the state such tracts of land, including shore and tide lands, for park and parkway purposes as it deems proper. If the commission cannot acquire any tract at a price it deems reasonable, it may, by majority vote of its authorized membership, obtain title thereto, or any part thereof, by condemnation proceedings conducted by the

attorney general as provided for the condemnation of rights-of-way for state highways. Option agreements executed under authority of this subsection shall be valid only if:

(a) The cost of the option agreement does not exceed one dollar; and

(b) Moneys used for the purchase of the option agreement are from (i) funds appropriated therefor, or (ii) funds appropriated for undesignated land acquisitions, or (iii) funds deemed by the commission to be in excess of the amount necessary for the purposes for which they were appropriated; and

(c) The maximum amount payable for the property upon exercise of the option does not exceed the appraised value of the property.

(8) Cooperate with the United States, or any county or city of this state, in any matter pertaining to the acquisition, development, redevelopment, renovation, care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to which the state contributed or in whose care, control, or supervision the state participated pursuant to the provisions of this section, shall be governed by the provisions hereof.

(9) Within allowable resources, maintain policies that increase the number of people who have access to free or low-cost recreational opportunities for physical activity, including noncompetitive physical activity.

(10) Adopt rules establishing the requirements for a criminal history record information search for the following: Job applicants, volunteers, and independent contractors who have unsupervised access to children or vulnerable adults, or who will be responsible for collecting or disbursing cash or processing credit/debit card transactions. These background checks will be done through the Washington state patrol criminal identification section and may include a national check from the federal bureau of investigation, which shall be through the submission of fingerprints. A permanent employee of the commission, employed as of July 24, 2005, is exempt from the provisions of this subsection. [2016 c 103 § 2. Prior: 2005 c 373 § 1; 2005 c 360 § 5; prior: 1999 c 249 § 302; 1999 c 155 § 1; 1999 c 59 § 1; 1989 c 175 § 106; 1980 c 89 § 1; 1979 c 10 § 4; prior: 1977 ex.s. c 123 § 1; 1977 c 75 § 57; 1967 ex.s. c 90 § 1; 1965 c 8 § 43.51.040; prior: 1959 c 317 § 1; 1955 c 391 § 1; 1929 c 148 § 1; 1923 c 157 § 1; 1921 c 149 § 2; RRS § 10942. Formerly RCW 43.51.040.]

Findings—Intent—2005 c 360: See note following RCW 36.70A.070. *Inspection of recreational devices: Chapter 79A.40 RCW.*

Additional notes found at www.leg.wa.gov

79A.05.035 Additional powers and duties. (1) The commission shall:

(a) Manage timber and land under its jurisdiction to maintain and enhance aesthetic and recreational values;

(b) Apply modern conservation practices to maintain and enhance aesthetic, recreational, and ecological resources; and

(c) Designate and preserve certain forest areas throughout the state as natural forests or natural areas for interpretation, study, and preservation purposes.

(2) Trees may be removed from state parks:

(a) When hazardous to persons, property, or facilities;

(b) As part of a park maintenance or development project, or conservation practice;

(c) As part of a road or utility easement; or

(d) When damaged by a catastrophic forest event.

(3) Tree removal under subsection (2) of this section shall be done by commission personnel, unless the personnel lack necessary expertise. Except in emergencies and when feasible, significant trees shall be removed only after they have been marked or appraised by a professional forester. The removal of significant trees from a natural forest may take place only after a public hearing has been held, except in emergencies.

(4) When feasible, felled timber shall be left on the ground for natural purposes or used for park purposes including, but not limited to, building projects, trail mulching, and firewood. In natural forest areas, first consideration shall be given to leaving timber on the ground for natural purposes.

(5) The commission may issue permits to individuals under RCW 4.24.210 and 79A.05.090 for the removal of wood debris from state parks for personal firewood use.

(6) Only timber that qualifies for cutting or removal under subsection (2) of this section may be sold. Timber shall be sold only when surplus to the needs of the park.

(7) Net revenue derived from timber sales shall be deposited in the state parks renewal and stewardship account created in RCW 79A.05.215. [1999 c 249 § 303; 1984 c 82 § 1; 1981 c 271 § 3. Formerly RCW 43.51.045.]

Intent—2014 c 43: "It is the intent of the legislature to recognize that the parks and recreation commission currently has the authority to manage numerous public recreation trails throughout the state. The intent of this act is to authorize the parks and recreation commission to manage the Milwaukee Road corridor in the same manner and with the same authority as the commission manages all other recreation trails currently under its jurisdiction." [2014 c 43 § 1.]

Additional notes found at www.leg.wa.gov

79A.05.040 Director's duties. In addition to other duties the commission may from time to time impose, it is the duty of the director to:

(1) Ensure the control of weeds in parks to the extent required by RCW 17.04.160 and 17.10.205; and

(2) Participate in the operations of the environmental enhancement and job creation task force under chapter 43.21J RCW.

The director has the power reasonably necessary to carry out these duties. [1999 c 249 § 401.]

Additional notes found at www.leg.wa.gov

79A.05.045 Waste reduction and recycling. (1) The commission shall provide waste reduction and recycling information in each state park campground and day-use area.

(2) The commission shall provide recycling receptacles in the day-use and campground areas of at least forty state parks. The receptacles shall be clearly marked for the disposal of at least two of the following recyclable materials: Aluminum, glass, newspaper, plastic, and tin. The commission shall endeavor to provide recycling receptacles in parks that are near urban centers or in heavily used parks.

(3) The commission shall provide daily maintenance of such receptacles from April through September of each year.

(4) The commission is authorized to enter into agreements with any person, company, or nonprofit organization to provide for the collection and transport of recyclable materials and related activities under this section. [1999 c 249 § 304; 1991 c 11 § 1. Formerly RCW 43.51.046.]

Marinas and airports: RCW 70.93.095.

Additional notes found at www.leg.wa.gov

79A.05.050 Community restitution for littering in state parks—Policy and procedures. (1) The commission shall establish a policy and procedures for supervising and evaluating community restitution activities that may be imposed under RCW 70.93.060(3) including a description of what constitutes satisfactory completion of community restitution.

(2) The commission shall inform each state park of the policy and procedures regarding community restitution activities, and each state park shall then notify the commission as to whether or not the park elects to participate in the community restitution program. The commission shall transmit a list notifying the district courts of each state park that elects to participate. [2002 c 175 § 52; 1996 c 263 § 3. Formerly RCW 43.51.048.]

Additional notes found at www.leg.wa.gov

79A.05.055 Additional powers and duties. The commission may:

(1) Study and appraise parks and recreational needs of the state and assemble and disseminate information relative to parks and recreation;

(2) Make provisions for the publication and sale of interpretive, recreational, and historical materials and literature. Proceeds from such sales shall be directed to the parks improvement account; and

(3) Coordinate the parks and recreational functions of the various state departments, and cooperate with state and federal agencies in the promotion of parks and recreational opportunities. [1997 c 137 § 1; 1987 c 225 § 1; 1965 c 8 § 43.51.050. Prior: 1955 c 391 § 2; 1947 c 271 § 4; RRS § 10768-3. Formerly RCW 43.51.050.]

Additional notes found at www.leg.wa.gov

79A.05.059 State parks education and enhancement account. The state parks education and enhancement account is created in the custody of the state treasurer. All receipts from the sale of Washington state parks and recreation commission special license plates, after the deductions permitted by RCW 46.68.425, must be deposited into the account. Expenditures from the account may only be used to provide public educational opportunities and enhancement of Washington state parks. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2010 c 161 § 1162; 2005 c 44 § 4.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

79A.05.060 Parks improvement account—Transfers to state parks renewal and stewardship account. (1) The parks improvement account is hereby established in the state treasury.

(2) The commission shall deposit all moneys received from the sale of interpretive, recreational, and historical literature and materials in this account. Moneys in the account

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may be spent only for development, production, and distribution costs associated with literature and materials.

(3) Disbursements from the account shall be on the authority of the director, or the director's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW. No appropriation is required for disbursement of moneys to be used for support of further production of materials provided for in RCW 79A.05.055(2). The director may transfer a portion of the moneys in this account to the state parks renewal and stewardship account and may expend moneys so transferred for any purpose provided for in RCW 79A.05.215. [1999 c 249 § 402; 1997 c 137 § 2; 1987 c 225 § 2. Formerly RCW 43.51.052.]

Additional notes found at www.leg.wa.gov

79A.05.065 Park passes—Eligibility. (1)(a) The commission shall grant to any person who meets the eligibility requirements specified in this section a senior citizen's pass which shall: (i) Entitle such a person, and members of his or her camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission; and (ii) entitle such a person to free admission to any state park.

(b) The commission shall grant a senior citizen's pass to any person who applies for the senior citizen's pass and who meets the following requirements:

(i) The person is at least sixty-two years of age;

(ii) The person is a domiciliary of the state of Washington and meets reasonable residency requirements prescribed by the commission; and

(iii) The person and his or her spouse have a combined income that would qualify the person for a property tax exemption pursuant to RCW 84.36.381. The financial eligibility requirements of this subsection (1)(b)(iii) apply regardless of whether the applicant for a senior citizen's pass owns taxable property or has obtained or applied for such property tax exemption.

(c) Each senior citizen's pass granted pursuant to this section is valid as long as the senior citizen meets the requirements of (b)(ii) of this subsection. A senior citizen meeting the eligibility requirements of this section may make a voluntary donation for the upkeep and maintenance of state parks.

(d) A holder of a senior citizen's pass shall surrender the pass upon request of a commission employee when the employee has reason to believe the holder fails to meet the criteria in (b) of this subsection. The holder shall have the pass returned upon providing proof to the satisfaction of the director that the holder meets the eligibility criteria for obtaining the senior citizen's pass.

(2)(a) Any resident of Washington who is disabled as defined by the social security administration and who receives social security benefits for that disability, or any other benefits for that disability from any other governmental or nongovernmental source, or who is entitled to benefits for permanent disability under *RCW 71A.10.020(3) due to unemployability full time at the minimum wage, or who is legally blind or profoundly deaf, or who has been issued a card, decal, or special license plate for a permanent disability under RCW 46.19.010 shall be entitled to receive, regardless of age and upon making application therefor, a disability pass at no cost to the holder. The pass shall: (i) Entitle such a person, and members of his or her camping unit, to a fifty per-

cent reduction in the campsite rental fee prescribed by the commission; and (ii) entitle such a person to free admission to any state park.

(b) A card, decal, or special license plate issued for a permanent disability under RCW 46.19.010 may serve as a pass for the holder to entitle that person and members of the person's camping unit to a fifty percent reduction in the campsite rental fee prescribed by the commission, and to allow the holder free admission to state parks.

(3) Any resident of Washington who is a veteran and has a service-connected disability of at least thirty percent shall be entitled to receive a lifetime veteran's disability pass at no cost to the holder. The pass shall: (a) Entitle such a person, and members of his or her camping unit, to free use of any campsite within any state park; (b) entitle such a person to free admission to any state park; and (c) entitle such a person to an exemption from any reservation fees.

(4)(a) Any Washington state resident who provides out-of-home care to a child, as either a licensed foster-family home or a person related to the child, is entitled to a foster home pass.

(b) An applicant for a foster home pass must request a pass in the manner required by the commission. Upon receipt of a properly submitted request, the commission shall verify with the department of social and health services that the applicant qualifies under (a) of this subsection. Once issued, a foster home pass is valid for the period, which may not be less than one year, designated by the commission.

(c) When accompanied by a child receiving out-of-home care from the pass holder, a foster home pass: (i) Entitles such a person, and members of his or her camping unit, to free use of any campsite within any state park; and (ii) entitles such a person to free admission to any state park.

(d) For the purposes of this subsection (4):

(i) "Out-of-home care" means placement in a foster-family home or with a person related to the child under the authority of chapter 13.32A, 13.34, or 74.13 RCW;

(ii) "Foster-family home" has the same meaning as defined in RCW 74.15.020; and

(iii) "Person related to the child" means those persons referred to in RCW 74.15.020(2)(a) (i) through (vi).

(5) All passes issued pursuant to this section are valid at all parks any time during the year. However, the pass is not valid for admission to concessionaire operated facilities.

(6) The commission shall negotiate payment and costs, to allow holders of a foster home pass free access and usage of park campsites, with the following nonoperated, non-state-owned parks: Central Ferry, Chief Timothy, Crow Butte, and Lyons Ferry. The commission shall seek state general fund reimbursement on a biennial basis.

(7) The commission may deny or revoke any Washington state park pass issued under this section for cause, including but not limited to the following:

(a) Residency outside the state of Washington;

(b) Violation of laws or state park rules resulting in eviction from a state park;

(c) Intimidating, obstructing, or assaulting a park employee or park volunteer who is engaged in the performance of official duties;

(d) Fraudulent use of a pass;

(e) Providing false information or documentation in the application for a state parks pass;

(f) Refusing to display or show the pass to park employees when requested; or

(g) Failing to provide current eligibility information upon request by the agency or when eligibility ceases or changes.

(8) This section shall not affect or otherwise impair the power of the commission to continue or discontinue any other programs it has adopted for senior citizens.

(9) The commission may engage in a mutually agreed upon reciprocal or discounted program for all or specific pass programs with other outdoor recreation agencies.

(10) The commission shall adopt those rules as it finds appropriate for the administration of this section. Among other things, the rules shall prescribe a definition of "camping unit" which will authorize a reasonable number of persons traveling with the person having a pass to stay at the campsite rented by such a person, a minimum Washington residency requirement for applicants for a senior citizen's pass, and an application form to be completed by applicants for a senior citizen's pass. [2011 c 171 § 115; 2010 c 161 § 1163; 2008 c 238 § 1; 2007 c 441 § 1; 1999 c 249 § 305; 1997 c 74 § 1; 1989 c 135 § 1; 1988 c 176 § 909; 1986 c 6 § 1; 1985 c 182 § 1; 1979 ex.s. c 131 § 1; 1977 ex.s. c 330 § 1. Formerly RCW 43.51.055.]

***Reviser's note:** RCW 71A.10.020 was amended by 2011 1st sp.s. c 30 § 3, changing subsection (3) to subsection (4). RCW 71A.10.020 was subsequently amended by 2014 c 139 § 2, changing subsection (4) to subsection (5).

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Additional notes found at www.leg.wa.gov

79A.05.070 Further powers—Director of parks and recreation—Salaries. The commission may:

(1) Make rules and regulations for the proper administration of its duties;

(2) Accept any grants of funds made with or without a matching requirement by the United States, or any agency thereof, for purposes in keeping with the purposes of this chapter; accept gifts, bequests, devises and endowments for purposes in keeping with such purposes; enter into cooperative agreements with and provide for private nonprofit groups to use state park property and facilities to raise money to contribute gifts, grants, and support to the commission for the purposes of this chapter. The commission may assist the nonprofit group in a cooperative effort by providing necessary agency personnel and services, if available. However, none of the moneys raised may inure to the benefit of the nonprofit group, except in furtherance of its purposes to benefit the commission as provided in this chapter. The agency and the private nonprofit group must agree on the nature of any project to be supported by such gift or grant prior to the use of any agency property or facilities for raising money. Any such gifts may be in the form of recreational facilities developed or built in part or in whole for public use on agency property, provided that the facility is consistent with the purposes of the agency;

(3) Require certification by the commission of all parks and recreation workers employed in state aided or state controlled programs;

(4) Act jointly, when advisable, with the United States, any other state agencies, institutions, departments, boards, or commissions in order to carry out the objectives and responsibilities of this chapter;

(5) Grant franchises and easements for any legitimate purpose on parks or parkways, for such terms and subject to such conditions and considerations as the commission shall specify;

(6) Charge fees for services, utilities, and use of facilities as the commission shall deem proper. The commission may utilize unstaffed collection stations to collect any fees or distribute any permits necessary for access to state parks, including discover passes and day-use permits as those terms are defined in RCW 79A.80.010;

(7) Enter into agreements whereby individuals or companies may rent undeveloped parks or parkway land for grazing, agricultural, or mineral development purposes upon such terms and conditions as the commission shall deem proper, for a term not to exceed forty years;

(8) Determine the qualifications of and employ a director of parks and recreation who must receive a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040 and determine the qualifications and salary of and employ such other persons as may be needed to carry out the provisions hereof; and

(9) Utilize such other powers as in the judgment of a majority of its members are deemed necessary to effectuate the purposes of this chapter. However, the commission does not have power to supervise directly any local park or recreation district, and no funds shall be made available for such purpose. [2012 c 261 § 8; 2011 c 320 § 24; 2006 c 141 § 1; 2003 c 186 § 1; 1999 c 249 § 307; 1995 c 211 § 3; 1993 c 156 § 1; 1987 c 225 § 3; 1980 c 89 § 2; 1969 c 99 § 1; 1965 c 8 § 43.51.060. Prior: 1961 c 307 § 12; 1955 c 391 § 3; 1947 c 271 § 5; RRS § 10768-4. Formerly RCW 43.51.060.]

Effective date—2012 c 261: See note following RCW 79A.80.010.

Effective date—2011 c 320: See note following RCW 79A.80.005.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

Findings—Intent—1995 c 211: "The legislature finds that during the past fourteen years, the Washington state parks and recreation commission has endured a steady erosion of general fund operating support, which has caused park closures, staff reductions, and growing backlog of deferred maintenance projects. The legislature also finds that the growth of parks revenue has been constrained by staff limitations and by transfers of that revenue into the general fund.

The legislature intends to reverse the decline in operating support to its state parks, stabilize the system's level of general fund support, and inspire system employees and park visitors to enhance these irreplaceable resources and ensure their continuing availability to current and future state citizens and visitors. To achieve these goals, the legislature intends to dedicate park revenues to park operations, developing and renovating park facilities, undertaking deferred maintenance, and improving park stewardship. The legislature clearly intends that such revenues shall complement, not supplant, future general fund support." [1995 c 211 § 1.]

Additional notes found at www.leg.wa.gov

79A.05.075 Delegation of commission's powers and duties to director. No provision of law relating to the commission shall prevent the commission from delegating to the director such powers and duties of the commission as they

may deem proper. [1999 c 249 § 306; 1969 ex.s. c 31 § 2. Formerly RCW 43.51.061.]

Additional notes found at www.leg.wa.gov

79A.05.080 Lease of parklands for television stations.

The state parks and recreation commission is hereby authorized to lease the use of such areas in Mount Spokane state park, Steptoe Butte state park, Kamiak Butte state park or any other state park for television stations as the commission may decide are suitable for that purpose: PROVIDED, That this authority shall not extend to school lands or lands held by the state of Washington for educational purposes. [1965 c 8 § 43.51.062. Prior: 1953 c 39 § 1. Formerly RCW 43.51.062.]

Additional notes found at www.leg.wa.gov

79A.05.085 Lease of parklands for television stations—Lease rental rates, terms—Attachment of antennae.

The commission shall determine the fair market value for television station leases based upon independent appraisals and existing leases for television stations shall be extended at said fair market rental for at least one period of not more than twenty years: PROVIDED, That the rates in said leases shall be renegotiated at five year intervals: PROVIDED FURTHER, That said stations shall permit the attachment of antennae of publicly operated broadcast and microwave stations where electronically practical to combine the towers: PROVIDED FURTHER, That notwithstanding any term to the contrary in any lease, this section shall not preclude the commission from prescribing new and reasonable lease terms relating to the modification, placement, or design of facilities operated by or for a station, and any extension of a lease granted under this section shall be subject to this proviso: PROVIDED FURTHER, That notwithstanding any other provision of law the director in his or her discretion may waive any requirement that any environmental impact statement or environmental assessment be submitted as to any lease negotiated and signed between January 1, 1974, and December 31, 1974. [2013 c 23 § 265; 1974 ex.s. c 151 § 1. Formerly RCW 43.51.063.]

79A.05.087 Commercial advertising on or in state parks lands and buildings—Conditions and standards.

(1) The commission, in consultation with the department of archaeology and historic preservation, may permit commercial advertising on or in state parks lands and buildings when all the following conditions and standards are met with regard to the commercial advertising:

(a) It conforms to the United States secretary of the interior's standards for the treatment of historic properties when applied to advertising affecting historic structures, cultural and historic landscapes, and archaeological sites;

(b) It does not detract from the integrity of the park's natural, cultural, historic, and recreational resources and outstanding scenic view sheds;

(c) It does not create a potential conflict of interest because of the commercial or corporate entity's regulatory or business relationships with the commission; and

(d) It will acknowledge individuals and organizations that are donors or sponsors of park events or projects or support the sustainability of park concessionaires, lessees, or service providers.

(2) The commission is encouraged to use its advertising authority to promote:

- (a) Community economic development near state parks;
- (b) Wellness, healthy food options, healthy behaviors, and any other public health goals or principles adopted by the state; and
- (c) Park visitor awareness of services and activities within and near each park.

(3) The commission shall adopt standards for advertising, naming, product placement, and other forms of commercial recognition that require the commission to define and prohibit, at minimum, the following:

- (a) Obscene, indecent, or discriminatory content;
- (b) Political or public issue advocacy content;
- (c) Products, services, or other materials that are offensive, insulting, disparaging, or degrading; or
- (d) Products, services, or messages that are contrary to the public interest, including any advertisement that encourages or depicts unsafe behaviors or encourages unsafe or prohibited recreation activities. Tobacco and cannabis must be included among the products prohibited under this subsection (3)(d).

(4) Notwithstanding subsection (1) of this section, commercial advertising, including product placement, is permitted on commission web sites, electronic social media, and printed materials within or outside of state parks. [2014 c 86 § 4.]

79A.05.090 Exemption of persons over sixty-five from fees for collection in state parks of wood debris for personal use. Persons over the age of sixty-five are exempt from any permit or other administrative fee imposed by the commission for the collection of wood debris in state parks, if such wood is for personal use. [1983 c 193 § 1. Formerly RCW 43.51.065.]

79A.05.095 Donations of land for park purposes. The commission may receive and accept donations of lands for state park purposes, and shall be responsible for the management and control of all lands so acquired. It may from time to time recommend to the legislature the acquisition of lands for park purposes by purchase or condemnation. [1999 c 249 § 901; 1965 c 8 § 43.51.070. Prior: 1913 c 113 § 2; RRS § 10940. Formerly RCW 43.51.070.]

Additional notes found at www.leg.wa.gov

79A.05.100 Bequests and donations of money. The commission may receive in trust any money donated or bequeathed to it, and carry out the terms of such donation or bequest, or, in the absence of such terms, expend the same as it may deem advisable for park or parkway purposes.

Money so received shall be deposited in the state parks renewal and stewardship account. [1997 c 137 § 3; 1969 c 99 § 2; 1965 c 8 § 43.51.090. Prior: 1923 c 157 § 2; 1921 c 149 § 3; RRS § 10943. Formerly RCW 43.51.090.]

Additional notes found at www.leg.wa.gov

79A.05.105 Withdrawal of granted lands on public highways. Inasmuch as the value of land with standing timber is increasing and will continue to increase from year to year and no loss will be caused to the common school fund or

other fund into which the proceeds of the sale of any land held by the state would be paid by postponing the sale thereof, the commissioner of public lands may, upon his or her own motion, and shall, when directed so to do by the state parks and recreation commission, withdraw from sale any land held by the state abutting on any public highway and certify to the commission that such land is withheld from sale pursuant to the terms of this section.

Such lands shall not be sold until directed by the legislature, and shall in the meantime be under the care, charge, control, and supervision of the commission. [2013 c 23 § 266; 1965 c 8 § 43.51.100. Prior: 1921 c 149 § 4; RRS § 10944. Formerly RCW 43.51.100.]

79A.05.110 Withdrawal of other lands—Exchange for lands on highway. The commissioner of public lands may, upon his or her own motion, and shall, when directed so to do by the commission, withdraw from sale any land held by the state and not acquired directly from the United States with reservations as to the manner of sale thereof and the purposes for which it may be sold, and certify to the commission that such land is withheld from sale pursuant to the terms of this section.

All such land shall be under the care, charge, control, and supervision of the commission, and after appraisal in such manner as the commission directs may be exchanged for land of equal value, and to this end the chair and secretary of the commission may execute deeds of conveyance in the name of the state. [1999 c 249 § 902; 1965 c 8 § 43.51.110. Prior: 1921 c 149 § 5; RRS § 10945. Formerly RCW 43.51.110.]

Additional notes found at www.leg.wa.gov

79A.05.115 Cross-state trail facility. The commission shall develop and maintain a cross-state trail facility with appropriate appurtenances. [2018 c 279 § 1; 2009 c 338 § 1; 2006 c 160 § 1; 1999 c 301 § 1; 1996 c 129 § 2. Formerly RCW 43.51.112.]

Effective date—2009 c 338: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2009." [2009 c 338 § 5.]

Intent—1996 c 129: "The legislature intends to complete a cross-state trail system while maintaining long-term ownership of the Milwaukee Road corridor. In order to accomplish this, it will be beneficial to change the management and control of certain portions of the Milwaukee Road corridor currently managed and controlled by several state agencies and to provide a franchise to establish and maintain a rail line. It is the intent of the legislature that if a franchise is not agreed upon, no changes in the current management and control shall occur." [1996 c 129 § 1.]

Additional notes found at www.leg.wa.gov

79A.05.120 Cross-state trail—Transfer of lands in Milwaukee Road corridor. (1) To facilitate completion of a cross-state trail under the management of the parks and recreation commission, management and control of lands known as the Milwaukee Road corridor shall be transferred between state agencies as follows on the date a franchise agreement is entered into for a rail line over portions of the Milwaukee Road corridor:

- (a) Portions owned by the state between Ellensburg and the Columbia river that are managed by the parks and recreation commission are transferred to the department of transportation;

(b) Portions owned by the state between the west side of the Columbia river and Royal City Junction and between Warden and Lind that are managed by the department of natural resources are transferred to the department of transportation;

(c) Portions owned by the state between Lind and the Idaho border that are managed by the department of natural resources are transferred to the parks and recreation commission as of June 7, 2006; and

(d) Portions owned by the state between Lind and Marengo are transferred to the department of transportation.

(2) The department of natural resources may, by mutual agreement with the parks and recreation commission, transfer management authority over portions of the Milwaukee Road corridor to the state parks and recreation commission, at any time prior to the department of transportation entering into a franchise agreement.

(3) No transfers shall occur unless the department of transportation enters into a franchise agreement for a rail line over any of the portions of the Milwaukee Road corridor between Ellensburg and Marengo. [2018 c 279 § 2; 2009 c 338 § 2; 2006 c 160 § 2; 1999 c 301 § 2; 1996 c 129 § 3. Formerly RCW 43.51.1121.]

Effective date—2009 c 338: See note following RCW 79A.05.115.

Intent—Effective date—Severability—1996 c 129: See notes following RCW 79A.05.115.

Additional notes found at www.leg.wa.gov

79A.05.125 Cross-state trail—Rail line franchise negotiations by department of transportation. (1) The department of transportation shall negotiate one or more franchises with rail carriers to establish and maintain a rail line over portions of the Milwaukee Road corridor owned by the state between Ellensburg and Marengo. The department of transportation may negotiate such a franchise with any qualified rail carrier. Criteria for negotiating the franchise and establishing the right-of-way include:

(a) Assurances that resources from the franchise will be sufficient to compensate the state for use of the property, including completion of a cross-state trail between Easton and the Idaho border;

(b) Types of payment for use of the franchise, including payment for the use of federally granted trust lands in the transportation corridor;

(c) Standards for maintenance of the line;

(d) Provisions ensuring that both the conventional and intermodal rail service needs of local shippers are met. Such accommodations may comprise agreements with the franchisee to offer or maintain adequate service or to provide service by other carriers at commercially reasonable rates;

(e) Provisions requiring the franchisee, upon reasonable request of any other rail operator, to provide rail service and interchange freight over what is commonly known as the Stampede Pass rail line from Cle Elum to Auburn at commercially reasonable rates;

(f) If any part of the franchise agreement is invalidated by actions or rulings of the federal surface transportation board or a court of competent jurisdiction, the remaining portions of the franchise agreement are not affected;

(g) Compliance with environmental standards; and

(h) Provisions for insurance and the coverage of liability.

(2) The franchise may provide for periodic review of financial arrangements under the franchise.

(3) The department of transportation, in consultation with the parks and recreation commission and the senate and house transportation committees, shall negotiate the terms of the franchise, and shall present the agreement to the parks and recreation commission for approval of as to terms and provisions affecting the cross-state trail or affecting the commission. [2018 c 279 § 3; 2009 c 338 § 3; 2006 c 160 § 3; 2005 c 319 § 134; 1999 c 301 § 3; 1996 c 129 § 4. Formerly RCW 43.51.113.]

Effective date—2009 c 338: See note following RCW 79A.05.115.

Findings—Intent—Part headings—Effective dates—2005 c 319: See notes following RCW 43.17.020.

Review and approval of franchise—Report to the legislature: "(1) Before entering into a final agreement to issue a franchise negotiated in accordance with RCW 43.51.113, the department of transportation shall submit the franchise to the legislative transportation committee for review and approval.

(2) If the department of transportation has not entered into a final agreement to franchise a rail line over portions of the Milwaukee Road corridor by December 1, 1998, a report of the progress and obstacles to such an agreement shall be made. The report shall be submitted by December 15, 1998, to appropriate committees of the legislature." [1996 c 129 § 6.]

Intent—Effective date—Severability—1996 c 129: See notes following RCW 79A.05.115.

Additional notes found at www.leg.wa.gov

79A.05.130 Cross-state trail account—Land acquisition—Rules describing trail. (1) The cross-state trail account is created in the custody of the state treasurer. Eleven million five hundred thousand dollars is provided to the state parks and recreation commission to acquire, construct, and maintain a cross-state trail. This amount may consist of: (a) Legislative appropriations intended for trail development; (b) payments for the purchase of federally granted trust lands; and (c) franchise fees derived from use of the rail corridor. The legislature intends that any amounts provided from the transportation fund are to be repaid to the transportation fund from franchise fees.

(2) The department shall deposit franchise fees from use of the rail corridor according to the following priority: (a) To the department of transportation for actual costs incurred in administering the franchise; (b) to the department of natural resources as compensation for use of federally granted trust lands in the rail corridor; (c) to the transportation fund to reimburse any amounts transferred or appropriated from that fund by the legislature for trail development; (d) to the cross-state trail account, not to exceed eleven million five hundred thousand dollars, provided that this amount shall be reduced proportionate with any funds transferred or appropriated by the 1996 legislature or paid from franchise fees for the purchase of federally granted trust lands or for trail development; and (e) the remainder to the essential rail assistance account, created under RCW 47.76.250. Expenditures from the cross-state trail account may be used only for the acquisition, development, operation, and maintenance of the cross-state trail. Only the director of the state parks and recreation commission or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

(3) The commission may acquire land from willing sellers for the cross-state trail, but not by eminent domain.

(4) The commission shall adopt rules describing the cross-state trail. [2018 c 279 § 4; 2009 c 338 § 4; 2006 c 160 § 4; 1999 c 301 § 4; 1996 c 129 § 5. Formerly RCW 43.51.114.]

Effective date—2009 c 338: See note following RCW 79A.05.115.

Intent—Effective date—Severability—1996 c 129: See notes following RCW 79A.05.115.

Additional notes found at www.leg.wa.gov

79A.05.135 Dedication as parks and parkways. All state parks and parkways, subject to the provisions of this chapter are set apart and dedicated as public parks and parkways for the benefit and enjoyment of all the people of this state. [1965 c 8 § 43.51.120. Prior: 1921 c 149 § 6; RRS § 10946. Formerly RCW 43.51.120.]

79A.05.140 Permits for improvement of parks—Limitations. The state parks and recreation commission may grant permits to individuals, groups, churches, charities, organizations, agencies, clubs, or associations to improve any state park or parkway, or any lands belonging to the state and withdrawn from sale under the provisions of this chapter. These improvements shall not interfere with access to or use of such public lands or facilities by the general public and shall benefit the public in terms of safety, recreation, aesthetics, or wildlife or natural area preservation. These improvements on public lands and facilities shall be for the use of all members of the general public. [1999 c 59 § 2; 1982 c 156 § 1; 1965 c 8 § 43.51.130. Prior: 1929 c 83 § 1; RRS § 10946-1. Formerly RCW 43.51.130.]

79A.05.145 Application for permit. Any such individual, group, organization, agency, club, or association desiring to obtain such permit shall make application therefor in writing to the commission, describing the lands proposed to be improved and stating the nature of the proposed improvement. [1999 c 59 § 3; 1982 c 156 § 2; 1965 c 8 § 43.51.140. Prior: 1929 c 83 § 2; RRS § 10946-2. Formerly RCW 43.51.140.]

79A.05.150 Plans and specifications. If the state parks and recreation commission determines that the proposed improvement will substantially alter a park, parkway, or parkland, it shall require the applicant to submit detailed plans and specifications of the proposed improvement, which, as submitted, or as modified by the state parks and recreation commission, shall be incorporated in the permit when granted. [1982 c 156 § 3; 1965 c 8 § 43.51.150. Prior: 1929 c 83 § 3; RRS § 10946-3. Formerly RCW 43.51.150.]

79A.05.155 Surety bond. If the commission determines it necessary, the applicant shall execute and file with the secretary of state a bond payable to the state, in such penal sum as the commission shall require, with good and sufficient sureties to be approved by the commission, conditioned that the grantee of the permit will make the improvement in accordance with the plans and specifications contained in the permit, and, in case the improvement is made upon lands withdrawn from sale under the provisions of RCW

79A.05.105, will pay into the state treasury to the credit of the fund to which the proceeds of the sale of such lands would belong, the appraised value of all merchantable timber and material on the land, destroyed, or used in making such improvement. [2000 c 11 § 31; 1982 c 156 § 4; 1965 c 8 § 43.51.160. Prior: 1929 c 83 § 4; RRS § 10946-4. Formerly RCW 43.51.160.]

79A.05.160 Police powers of designated officers employed by commission. (1) Designated officers, employed by the commission, shall be vested with police powers to enforce the laws of this state:

(a) Within the boundaries of any state park, including lands owned, managed, or comanaged by the commission under lease or other agreement;

(b) In winter recreation facilities established and administered by the commission pursuant to RCW 79A.05.225(1)(a);

(c) On public roadways and public waterways bisecting the contiguous borders of any state park, including lands owned, managed, or comanaged by the commission under lease or other agreement;

(d) Upon the prior written consent of the sheriff or chief of police in whose primary territorial jurisdiction the exercise of the powers occur;

(e) In response to the request of a peace officer with enforcement authority; and

(f) When the officer is in fresh pursuit for an offense committed in the presence of the officer while the officer had police powers as specified in (a) through (e) of this subsection.

(2) The director may, under the provisions of RCW 7.84.140, enter into an agreement allowing officers of the department of natural resources, the department of fish and wildlife, and tribal law enforcement agencies on contiguous or comanaged property, to enforce certain civil infractions created under this title. [2016 c 185 § 1; 2011 c 320 § 15; 1965 c 8 § 43.51.170. Prior: 1921 c 149 § 7; RRS § 10947. Formerly RCW 43.51.170.]

Effective date—2011 c 320: See note following RCW 79A.80.005.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

79A.05.162 Physical injury to a person/substantial damage to property—Authority of a designated officer. When physical injury to a person or substantial damage to property occurs, or is about to occur, within the presence of an officer of the commission designated with police powers pursuant to RCW 79A.05.160, the designated officer is authorized to take such action as is reasonably necessary to prevent physical injury to a person or substantial damage to property or prevent further injury to a person or further substantial damage to property. A designated officer shall be immune from civil liability for damages arising out of the action of the designated officer to prevent physical injury to a person or substantial damage to property or prevent further injury to a person or further substantial damage to property, unless it is shown that the designated officer acted with gross negligence or bad faith. [2016 c 185 § 2.]

79A.05.165 Penalties. (1) Every person is guilty of a misdemeanor who:

(a) Cuts, breaks, injures, destroys, takes, or removes any tree, shrub, timber, plant, or natural object in any park or parkway except in accordance with such rules as the commission may prescribe; or

(b) Kills, or pursues with intent to kill, any bird or animal in any park or parkway except in accordance with a research pass, permit, or other approval issued by the commission, pursuant to rule, for scientific research purposes; or

(c) Takes any fish from the waters of any park or parkway, except in conformity with such general rules as the commission may prescribe; or

(d) Willfully mutilates, injures, defaces, or destroys any guidepost, notice, tablet, fence, inclosure, or work for the protection or ornamentation of any park or parkway; or

(e) Lights any fire upon any park or parkway, except in such places as the commission has authorized, or willfully or carelessly permits any fire which he or she has lighted or which is under his or her charge, to spread or extend to or burn any of the shrubbery, trees, timber, ornaments, or improvements upon any park or parkway, or leaves any campfire which he or she has lighted or which has been left in his or her charge, unattended by a competent person, without extinguishing it; or

(f) Places within any park or parkway or affixes to any object therein contained, without a written license from the commission, any word, character, or device designed to advertise any business, profession, article, thing, exhibition, matter, or event.

(2)(a) Except as provided in (b) of this subsection, a person who violates any rule adopted, promulgated, or issued by the commission pursuant to the provisions of this chapter is guilty of a misdemeanor.

(b) The commission may specify by rule, when not inconsistent with applicable statutes, that violation of the rule is an infraction under chapter 7.84 RCW. [2007 c 441 § 2; (2008 c 83 § 2 expired December 1, 2010); 2003 c 53 § 382; 1997 c 214 § 1; 1987 c 380 § 15; 1965 c 8 § 43.51.180. Prior: 1921 c 149 § 8; RRS § 10948. Formerly RCW 43.51.180.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Additional notes found at www.leg.wa.gov

79A.05.170 Transfer of surplus land—Reversionary clause required—Release—Parkland acquisition account. (1) Any lands owned by the state parks and recreation commission, which are determined to be surplus to the needs of the state for development for state park purposes and which the commission proposes to deed to a local government or other entity, shall be accompanied by a clause requiring that if the land is not used for outdoor recreation purposes, ownership of the land shall revert to the state parks and recreation commission.

(2) The state parks and recreation commission, in cases where land subject to such a reversionary clause is proposed for use or disposal for purposes other than recreation, shall require that, if the land is surplus to the needs of the commission for park purposes at the time the commission becomes aware of its proposed use for nonrecreation purposes, the holder of the land or property shall reimburse the commission

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for the release of the reversionary interest in the land. The reimbursement shall be in the amount of the fair market value of the reversionary interest as determined by a qualified appraiser agreeable to the commission. Appraisal costs shall be borne by the local entity which holds title to the land.

(3) Any funds generated under a reimbursement under this section shall be deposited in the parkland acquisition account which is hereby created in the state treasury. Moneys in this account are to be used solely for the purchase or acquisition of property for use as state park property by the commission, as directed by the legislature; all such funds shall be subject to legislative appropriation. [1991 sp.s. c 13 § 23; 1985 c 57 § 33; 1984 c 87 § 1. Formerly RCW 43.51.200.]

Additional notes found at www.leg.wa.gov

79A.05.175 Disposal of land not needed for park purposes. Whenever the commission finds that any land under its control cannot advantageously be used for park purposes, it is authorized to dispose of such land by the method provided in this section or by the method provided in RCW 79A.05.170. If such lands are school or other grant lands, control thereof shall be relinquished by resolution of the commission to the proper state officials. If such lands were acquired under restrictive conveyances by which the state may hold them only so long as they are used for park purposes, they may be returned to the donor or grantors by the commission. All other such lands may be either sold by the commission to the highest bidder or exchanged for other lands of equal value by the commission, and all conveyance documents shall be executed by the governor. All such exchanges shall be accompanied by a transfer fee, to be set by the commission and paid by the other party to the transfer; such fee shall be paid into the parkland acquisition account established under RCW 79A.05.170. The commission may accept sealed bids, electronic bids, or oral bids at auction. Bids on all sales shall be solicited at least twenty days in advance of the sale date by an advertisement appearing at least once a week for two consecutive weeks in a newspaper of general circulation in the county in which the land to be sold is located. If the commission feels that no bid received adequately reflects the fair value of the land to be sold, it may reject all bids, and may call for new bids. All proceeds derived from the sale of such park property shall be paid into the parkland acquisition account. All land considered for exchange shall be evaluated by the commission to determine its adaptability to park usage. The equal value of all lands exchanged shall first be determined by the appraisals to the satisfaction of the commission. No sale or exchange of state parklands shall be made without the unanimous consent of the commission. [2007 c 145 § 1; 1999 c 249 § 601; 1998 c 42 § 1; 1984 c 87 § 2; 1971 ex.s. c 246 § 1; 1969 c 99 § 3; 1965 c 8 § 43.51.210. Prior: 1953 c 64 § 1; 1947 c 261 § 1; RRS § 10951a. Formerly RCW 43.51.210.]

Additional notes found at www.leg.wa.gov

79A.05.178 Real property disposal—Disputed land—Manner—Notice and hearing—Suit for noncompliance. (1) Notwithstanding any other provision of this chapter, the commission may directly dispose of up to ten contiguous acres of real property, without public auction, to resolve trespass, property ownership disputes, and boundary adjust-

ments with adjacent private property owners. Real property to be disposed of under this section may be disposed of only after appraisal and for at least fair market value, and only if the transaction is in the best interest of the state. The commission shall cooperate with potential purchasers to arrive at a mutually agreeable sales price. If necessary, determination of fair market value may include the use of separate independent appraisals by each party and the review of the appraisals, as agreed upon by the parties. All conveyance documents shall be executed by the governor. All proceeds from the disposal of the property shall be paid into the parkland acquisition account. No disposal of real property may be made without the unanimous consent of the commission.

(2) Prior to the disposal of any real property under subsection (1) of this section, the commission shall hold a public hearing on the proposal in the county where the real property, or the greatest portion of the real property, is located. At least ten days, but not more than twenty-five days, prior to the hearing, the commission shall publish a paid public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing, at least once in one or more daily newspapers of general circulation in the county and at least once in one or more weekly newspapers circulated in the area where the real property is located. A news release concerning the public hearing must be disseminated among print and electronic media in the area where the real property is located. The public notice and news release shall also identify the real property involved in the proposed disposal and describe the purpose of the proposed disposal. A summary of the testimony presented at the public hearing shall be prepared for the commission's consideration when reviewing the proposed disposal of real property.

(3) If there is a failure to substantially comply with the procedures set out under this section, then the agreement to dispose of the real property is subject to being declared invalid by a court of competent jurisdiction. Such a suit must be brought within one year of the date of the real property disposal agreement. [2000 c 42 § 1.]

79A.05.179 Notification requirements. Actions under this chapter are subject to the notification requirements of RCW 43.17.400. [2007 c 62 § 11.]

Finding—Intent—Severability—2007 c 62: See notes following RCW 43.17.400.

79A.05.180 Exchange of state land by commission—Public notice—News release—Hearing—Procedure. Before the director of parks and recreation presents a proposed exchange to the parks and recreation commission involving an exchange of state land pursuant to this chapter, the director shall hold a public hearing on the proposal in the county where the state lands or the greatest proportion thereof is located. Ten days but not more than twenty-five days prior to such hearing, the director shall publish a paid public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing, at least once in one or more daily newspapers of general circulation in the county and at least once in one or more weekly newspapers circulated in the area where the state owned land is located. A news release pertaining to the hearing shall be disseminated among printed and electronic media in the area

where the state land is located. The public notice and news release also shall identify lands involved in the proposed exchange and describe the purposes of the exchange and proposed use of the lands involved. A summary of the testimony presented at the hearings shall be prepared for the commission's consideration when reviewing the director's exchange proposal. If there is a failure to substantially comply with the procedures set forth in this section, then the exchange agreement shall be subject to being declared invalid by a court. Any such suit must be brought within one year from the date of the exchange agreement. [1998 c 42 § 2; 1975 1st ex.s. c 107 § 1. Formerly RCW 43.51.215.]

Exchange of land under control of department of natural resources, procedure: RCW 79.17.050.

79A.05.185 Small boat facilities for Puget Sound authorized. To encourage the development of the Puget Sound country as a recreational boating area, the commission is authorized to establish landing, launch ramp, and other facilities for small pleasure boats at places on Puget Sound frequented by such boats and where the commission shall find such facilities will be of greatest advantage to the users of pleasure boats. The commission is authorized to acquire land or to make use of lands belonging to the state for such purposes, and to construct the necessary floats, launch ramp, and other desirable structures and to make such further development of any area used in connection therewith as in the judgment of the commission is best calculated to facilitate the public enjoyment thereof. [1999 c 249 § 904; 1965 c 8 § 43.51.220. Prior: 1949 c 154 § 1; RRS § 10768-4d. Formerly RCW 43.51.220.]

Additional notes found at www.leg.wa.gov

79A.05.187 Transfer of ownership of commission-owned vessel—Review of vessel's physical condition. (1) Prior to transferring ownership of a commission-owned vessel, the commission shall conduct a thorough review of the physical condition of the vessel, the vessel's operating capability, and any containers and other materials that are not fixed to the vessel.

(2) If the commission determines the vessel is in a state of advanced deterioration or poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination, that the commission may: (a) Not transfer the vessel until the conditions identified under this subsection have been corrected; or (b) permanently dispose of the vessel by landfill, deconstruction, or other related method.

(3) Vessels taken into custody under chapter 79.100 RCW are not subject to this section or RCW 79A.05.189. [2013 c 291 § 11.]

79A.05.189 Transfer of ownership of commission-owned vessel—Further requirements. (1) Following the inspection required under RCW 79A.05.187 and prior to transferring ownership of a commission-owned vessel, the commission shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the commission.

(2)(a) The commission shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW 70.105D.020.

(b) However, the commission may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the commission's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the commission, based on factors including the vessel's size, condition, and anticipated use of the vessel, including initial destination following transfer.

(c) The commission may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the commission is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550. [2013 c 291 § 12.]

79A.05.190 Recreational metal detectors—Available land. (1) By September 1, 1997, the commission shall increase the area available for use by recreational metal detectors by at least two hundred acres.

(2) Beginning September 1, 1998, and each year thereafter until August 31, 2003, the commission shall increase the area of land available for use by recreational metal detectors by at least fifty acres. [1997 c 150 § 2. Formerly RCW 43.51.235.]

Intent—1997 c 150: "It is the intent of the legislature that those significant historic archaeological resources on state parklands that are of importance to the history of our state, or its communities, be protected for the people of the state. At the same time, the legislature also recognizes that the recreational use of metal detectors in state parks is a legitimate form of recreation that can be compatible with the protection of significant historic archaeological resources." [1997 c 150 § 1.]

79A.05.195 Identification of historic archaeological resources in state parks—Plan—Availability of land for use by recreational metal detectors. (1) The commission shall develop a cost-effective plan to identify historic archaeological resources in at least one state park containing a military fort located in Puget Sound. The plan shall include the use of a professional archaeologist and volunteer citizens.

(2) Any parkland that is made available for use by recreational metal detectors under this section shall count toward the requirements established in RCW 79A.05.190. [1999 c 249 § 905; 1997 c 150 § 3. Formerly RCW 43.51.237.]

Additional notes found at www.leg.wa.gov

79A.05.200 Certain tidelands transferred to commission. The powers, functions, and duties heretofore exercised by the department of fish and wildlife, or its director, respecting the management, control, and operation of the following enumerated tidelands, which are presently suitable for public recreational use, are hereby transferred to the parks and recreation commission which shall also have respecting such tidelands all the powers conferred by this chapter, as now or hereafter amended, respecting parks and parkways:

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Parcel No. 1. (Toandos Peninsula) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, and 3, section 5, lots 1, 2, and 3, section 4, and lot 1, section 3, all in township 25 north, range 1 west, W.M., with a frontage of 158.41 lineal chains, more or less.

Parcel No. 2. (Shine) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, 3 and that portion of lot 4 lying north of the south 8.35 chains thereof as measured along the government meander line, all in section 35, township 28 north, range 1 east, W.M., with a frontage of 76.70 lineal chains, more or less.

Subject to an easement for right-of-way for county road granted to Jefferson county December 8, 1941 under application No. 1731, records of department of public lands.

Parcel No. 3. (Mud Bay - Lopez Island) The tidelands of the second class, owned by the state of Washington situate in front of, adjacent to, or abutting upon lots 5, 6 and 7, section 18, lot 5, section 7 and lots 3, 4, and 5, section 8, all in township 34 north, range 1 west, W.M., with a frontage of 172.11 lineal chains, more or less.

Excepting, however, any tideland of the second class in front of said lot 3, section 8 conveyed through deeds issued April 14, 1909 pursuant to the provisions of chapter 24, Laws of 1895 under application No. 4985, records of department of public lands.

Parcel No. 4. (Spencer Spit) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 3, and 4, section 7, and lot 5, section 18 all in township 35 north, range 1 west, W.M., with a frontage of 118.80 lineal chains, more or less.

Parcel No. 5. (Lilliwaup) The tidelands of the second class, owned by the state of Washington, lying easterly of the east line of vacated state oyster reserve plat No. 133 produced southerly and situate in front of, adjacent to or abutting upon lot 9, section 30, lot 8, section 19 and lot 5 and the south 20 acres of lot 4, section 20, all in township 23 north, range 3 west, W.M., with a frontage of 62.46 lineal chains, more or less. [2000 c 11 § 32; 1967 ex.s. c 96 § 1. Formerly RCW 43.51.240.]

Certain tidelands reserved for recreational use: RCW 79.125.740.

Additional notes found at www.leg.wa.gov

79A.05.205 Certain tidelands transferred to commission—Access to and from tidelands. The state parks and recreation commission may take appropriate action to provide public and private access, including roads and docks, to and from the tidelands described in RCW 79A.05.200. [2000 c 11 § 33; 1967 ex.s. c 96 § 2. Formerly RCW 43.51.250.]

79A.05.210 Sale of state trust lands—Terms and conditions. (1) The department of natural resources and the commission shall have authority to negotiate sales to the commission, for park and outdoor recreation purposes, of trust lands at fair market value.

(2) The department of natural resources and the commission shall negotiate a sale to the commission of the lands and timber thereon identified in the joint study under section 4, chapter 163, Laws of 1985, and commonly referred to as the Point Lawrence trust property, San Juan county — on the

extreme east point of Orcas Island. Timber conservation and management practices provided for in RCW 79A.05.035 and 79A.05.305 shall govern the management of land and timber transferred under this subsection as of the effective date of the transfer, upon payment for the property, and nothing in this chapter shall be construed as restricting or otherwise modifying the department of natural resources' management, control, or use of such land and timber until such date. [1999 c 249 § 906; 1995 c 211 § 4; 1992 c 185 § 1; 1988 c 79 § 1; 1987 c 466 § 1; 1985 c 163 § 1; 1981 c 271 § 1; 1980 c 4 § 1; 1971 ex.s. c 210 § 1. Formerly RCW 43.51.270.]

Findings—Intent—Effective date—Severability—1995 c 211: See notes following RCW 79A.05.070.

Withdrawal of state trust lands for park and recreational purpose: RCW 79A.50.080 through 79A.50.100.

Additional notes found at www.leg.wa.gov

79A.05.215 State parks renewal and stewardship account. The state parks renewal and stewardship account is created in the state treasury. Except as otherwise provided in this chapter, all receipts from user fees, concessions, leases, donations collected under RCW 46.16A.090(3), and other state park-based activities shall be deposited into the account. The proceeds from the recreation access pass account created in RCW 79A.80.090 must be used for the purpose of operating and maintaining state parks. Expenditures from the account may be used for operating state parks, developing and renovating park facilities, undertaking deferred maintenance, enhancing park stewardship, and other state park purposes. Expenditures from the account may be made only after appropriation by the legislature. [2011 c 320 § 22; (2013 2nd sp.s. c 15 § 7 expired June 30, 2017); 2010 c 161 § 1164; 2007 c 340 § 2; 1995 c 211 § 7. Formerly RCW 43.51.275.]

Effective date—Expiration date—2013 2nd sp.s. c 15 §§ 5-7: See notes following RCW 82.19.040.

Effective date—2011 c 320: See note following RCW 79A.80.005.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Findings—Intent—Effective date—Severability—1995 c 211: See notes following RCW 79A.05.070.

79A.05.220 Trust lands—Periodic review to identify parcels appropriate for transfer to commission. The parks and recreation commission and the department of natural resources may periodically conduct a joint review of trust lands managed by the department to identify those parcels which may be appropriate for transfer to the commission for public recreation purposes. [1987 c 466 § 3. Formerly RCW 43.51.285.]

Escheat land suitable for park purposes: RCW 79.10.030.

79A.05.225 Winter recreational facilities—Commission duties—Liability. (1) In addition to its other powers, duties, and functions the commission may:

(a) Plan, construct, and maintain suitable facilities for winter recreational activities on lands administered or acquired by the commission or as authorized on lands administered by other public agencies or private landowners by agreement;

(b) Provide and issue upon payment of the proper fee, under RCW 79A.05.230, 79A.05.240, and 46.61.585, with the assistance of such authorized agents as may be necessary for the convenience of the public, special permits to park in designated winter recreational area parking spaces;

(c) Administer the snow removal operations for all designated winter recreational area parking spaces; and

(d) Compile, publish, and distribute maps indicating such parking spaces, adjacent trails, and areas and facilities suitable for winter recreational activities.

(2) The commission must require the winter recreation program and its services to be self-supported solely through permit fees, gifts, grants, donations, and other revenues dedicated to the winter recreational program account in RCW 79A.05.235 and the snowmobile account in *RCW 46.10.075.

(3) The commission may contract with any public or private agency for the actual conduct of such duties, but shall remain responsible for the proper administration thereof. The commission is not liable for unintentional injuries to users of lands administered for winter recreation purposes under this section or under RCW 46.10.370, whether the lands are administered by the commission, by other public agencies, or by private landowners through agreement with the commission. Nothing in this section prevents the liability of the commission for injuries sustained by a user by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. A road covered with snow and groomed for the purposes of winter recreation consistent with this chapter and chapter 46.10 RCW shall not be presumed to be a known dangerous artificial latent condition for the purposes of this chapter. [2011 c 320 § 25; 2011 c 171 § 116; 1999 c 249 § 1401. Prior: 1990 c 136 § 2; 1990 c 49 § 2; 1982 c 11 § 1; 1975 1st ex.s. c 209 § 1. Formerly RCW 43.51.290.]

Reviser's note: *(1) RCW 46.10.075 was recodified as RCW 46.68.350 pursuant to 2010 c 161 § 1230, effective July 1, 2011.

(2) This section was amended by 2011 c 171 § 116 and by 2011 c 320 § 25, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2011 c 320: See note following RCW 79A.80.005.

Findings—Intent—2011 c 320: See RCW 79A.80.005.

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Additional notes found at www.leg.wa.gov

79A.05.230 Winter recreational area parking permits—Fee—Expiration. The fee for the issuance of special winter recreational area parking permits shall be determined by the commission after consultation with the winter recreation advisory committee. If the person making application therefor is also the owner of a snowmobile registered pursuant to chapter 46.10 RCW, there shall be no fee for the issuance of an annual permit. All special winter recreational area parking permits shall commence and expire on the dates established by the commission. [1990 c 49 § 3; 1986 c 47 § 1; 1982 c 11 § 2; 1975 1st ex.s. c 209 § 2. Formerly RCW 43.51.300.]

Additional notes found at www.leg.wa.gov

79A.05.235 Winter recreational program account—Deposit of parking permit fees—Winter recreation programs by public and private agencies. There is hereby created the winter recreational program account in the state treasury. Special winter recreational area parking permit fees collected under this chapter shall be remitted to the state treasurer to be deposited in the winter recreational program account and shall be appropriated only to the commission for nonsnowmobile winter recreation purposes including the administration, acquisition, development, operation, planning, and maintenance of winter recreation facilities and the development and implementation of winter recreation, safety, enforcement, and education programs. The commission may accept gifts, grants, donations, or moneys from any source for deposit in the winter recreational program account.

Any public agency in this state may develop and implement winter recreation programs. The commission may make grants to public agencies and contract with any public or private agency or person to develop and implement winter recreation programs. [1991 sp.s. c 13 § 6; 1985 c 57 § 35; 1982 c 11 § 3; 1975 1st ex.s. c 209 § 3. Formerly RCW 43.51.310.]

Additional notes found at www.leg.wa.gov

79A.05.240 Winter recreational parking areas—Restriction of overnight parking. The commission may, after consultation with the winter recreation advisory committee, adopt rules and regulations prohibiting or restricting overnight parking at any special state winter recreational parking areas owned or administered by it. Where such special state winter recreational parking areas are administered by the commission pursuant to an agreement with other public agencies, such agreement may provide for prohibition or restriction of overnight parking. [1982 c 11 § 4; 1975 1st ex.s. c 209 § 4. Formerly RCW 43.51.320.]

Additional notes found at www.leg.wa.gov

79A.05.245 Penalty for violation of RCW 79A.05.240 or 46.61.585. See RCW 46.61.587.

79A.05.250 Winter recreational parking areas—Rules. The commission may adopt such rules as are necessary to implement and enforce RCW 79A.05.225 through 79A.05.240 and 46.61.585 after consultation with the winter recreation advisory committee. [2000 c 11 § 34; 1982 c 11 § 5; 1975 1st ex.s. c 209 § 7. Formerly RCW 43.51.330.]

Additional notes found at www.leg.wa.gov

79A.05.255 Winter recreation advisory committee—Generally. (1) There is created a winter recreation advisory committee to advise the parks and recreation commission in the administration of this chapter and to assist and advise the commission in the development of winter recreation facilities and programs.

(2) The committee shall consist of:

(a) Six representatives of the nonsnowmobiling winter recreation public appointed by the commission, including a resident of each of the six geographical areas of this state where nonsnowmobiling winter recreation activity occurs, as defined by the commission.

(b) Three representatives of the snowmobiling public appointed by the commission.

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(c) One representative of the department of natural resources, one representative of the department of fish and wildlife, and one representative of the Washington state association of counties, each of whom shall be appointed by the director of the particular department or association.

(3) The terms of the members appointed under subsection (2)(a) and (b) of this section shall begin on October 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies for the remainder of the unexpired term: PROVIDED, That the first of these members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(4) Members of the committee shall be reimbursed from the winter recreational program account created by RCW 79A.05.235 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The committee shall meet at times and places it determines not less than twice each year and additionally as required by the committee chair or by majority vote of the committee. The chair of the committee shall be chosen under procedures adopted by the committee. The committee shall adopt any other procedures necessary to govern its proceedings.

(6) The director of parks and recreation or the director's designee shall serve as secretary to the committee and shall be a nonvoting member. [2000 c 48 § 1; 2000 c 11 § 35; 1994 c 264 § 19; 1990 c 49 § 1; 1989 c 175 § 107; 1988 c 36 § 16; 1987 c 330 § 1101; 1986 c 47 § 2; 1982 c 11 § 6; 1975 1st ex.s. c 209 § 8. Formerly RCW 43.51.340.]

Reviser's note: This section was amended by 2000 c 11 § 35 and by 2000 c 48 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

79A.05.260 Sun Lakes state park—"Vic Meyers Golf Course" designation—"Vic Meyers Lake" designation. The legislature hereby names the golf course located at Sun Lakes State Park the "Vic Meyers Golf Course", and Rainbow Lake shall be re-named "Vic Meyers Lake". The state shall provide and install a proper marker in a suitable location in the main activity area of the park which will set forth the key role Victor Aloysius Meyers had in the development of Sun Lakes State Park and the important part he had for many years in the political and governmental history of the state. In addition, the name hereby established for the golf course shall be prominently displayed at the golf course club house.

The legislature finds it appropriate to so honor Victor Aloysius Meyers for his long and dedicated service to the people of this state. [1977 ex.s. c 266 § 1. Formerly RCW 43.51.350.]

79A.05.265 Hostels—Legislative declaration of intent. The legislature finds that there is a need for hostels in the state for the safety and welfare of transient persons with limited resources. It is the intent of RCW 79A.05.265 through 79A.05.275 that such facilities be established using locally donated structures. It is the further intent of RCW 79A.05.265 through 79A.05.275 that the state dispense any

available federal or other moneys for such related projects and provide assistance where possible. [2000 c 11 § 36; 1977 ex.s. c 281 § 1. Formerly RCW 43.51.360.]

79A.05.270 "Hostel" defined. For purposes of *this chapter, "hostel" means a simple basic structure that serves as a safe, low-cost accommodation for mobile people of all ages from this country and abroad. [1977 ex.s. c 281 § 2. Formerly RCW 43.51.365.]

***Reviser's note:** "This chapter" apparently refers to RCW 43.51.360 through 43.51.375; which were subsequently recodified as RCW 79A.05.265 through 79A.05.280 pursuant to 1999 c 249 § 1601.

79A.05.275 Hostels—Authority of political subdivisions to establish. Any political subdivision of the state is authorized to establish hostels within its jurisdiction. The facilities and services shall include, but not be limited to:

(1) Short term sleeping accommodations including adequate restroom and bathing facilities; and

(2) Information and referral services, including, but not limited to availability of employment and health services.

Details of operations and regulations, including the establishment of appropriate fees to recover actual operating and maintenance costs, shall be within the discretion of the operating authority: PROVIDED, That the consumption of alcoholic beverages or the possession or use of a controlled substance in violation of chapter 69.50 RCW shall be prohibited. [1977 ex.s. c 281 § 3. Formerly RCW 43.51.370.]

79A.05.280 Hostels—Commission authorized to accept grants or moneys for the support thereof—Rules required. The parks and recreation commission is authorized to accept grants or moneys from any federal or private source for support of hostels. The commission at its discretion is directed to apportion and transfer any such moneys to contracting agencies or political subdivisions which operate hostels: PROVIDED, That the commission shall establish rules and regulations for the operation of hostels which are substantially similar to the operating standards and customs established by the American Youth Hostels Incorporated. [1977 ex.s. c 281 § 4. Formerly RCW 43.51.375.]

79A.05.285 Land evaluation, acquisition. The commission is authorized to evaluate and acquire land under *RCW 79.01.612 in cooperation with the department of natural resources. [1999 c 249 § 907.]

***Reviser's note:** RCW 79.01.612 was recodified as RCW 79.10.030 pursuant to 2003 c 334 § 555.

Additional notes found at www.leg.wa.gov

79A.05.290 Acquisition of land held by department of natural resources. The commission may select land held by the department of natural resources for acquisition under RCW 79A.50.010 et seq. [1999 c 249 § 908.]

Additional notes found at www.leg.wa.gov

79A.05.300 Establishment of urban area state parks by parks and recreation commission. For the reasons specified in RCW 79A.25.250, the state parks and recreation commission shall place a high priority on the establishment of urban area state parks and shall revise its plan for future

state parks to achieve this priority. This section shall be implemented by January 1, 1981. [2000 c 11 § 37; 1980 c 89 § 4. Formerly RCW 43.51.385.]

79A.05.305 Declaration of policy—Lands for public park purposes. The legislature declares that it is the continuing policy of the state of Washington to set aside and manage certain lands within the state for public park purposes. To comply with public park purposes, these lands shall be acquired and managed to:

(1) Maintain and enhance ecological, aesthetic, and recreational purposes;

(2) Preserve and maintain mature and old-growth forests containing trees of over ninety years and other unusual ecosystems as natural forests or natural areas, which may also be used for interpretive purposes;

(3) Protect cultural and historical resources, locations, and artifacts, which may also be used for interpretive purposes;

(4) Provide a variety of recreational opportunities to the public, including but not limited to use of developed recreation areas, trails, and natural areas;

(5) Preserve and maintain habitat which will protect and promote endangered, threatened, and sensitive plants, endangered, threatened, and sensitive animal species, and habitat beneficial for the feeding, nesting, and reproduction of all pollinators, including honey bees; and

(6) Encourage public participation in the formulation and implementation of park policies and programs. [2019 c 353 § 9; 1984 c 82 § 2. Formerly RCW 43.51.395.]

Findings—Intent—2019 c 353: See note following RCW 43.23.300.

79A.05.310 Powers and duties—Program of boating safety education—Casualty and accident reporting program. The state parks and recreation commission shall:

(1) Coordinate a statewide program of boating safety education using to the maximum extent possible existing programs offered by the United States power squadron and the United States coast guard auxiliary;

(2) Adopt rules in accordance with chapter 34.05 RCW, consistent with United States coast guard regulations, standards, and precedents, as needed for the efficient administration and enforcement of this section;

(3) Enter into agreements aiding the administration of this chapter;

(4) Adopt and administer a casualty and accident reporting program consistent with United States coast guard regulations;

(5) Adopt and enforce recreational boating safety rules, including but not necessarily limited to equipment and navigating requirements, consistent with United States coast guard regulations;

(6) Coordinate with local and state agencies the development of biennial plans and programs for the enhancement of boating safety, safety education, and enforcement of safety rules and laws; allocate money appropriated to the commission for these programs as necessary; and accept and administer any public or private grants or federal funds which are obtained for these purposes under chapter 43.88 RCW; and

(7) Take additional actions necessary to gain acceptance of a program of boating safety for this state under the federal

boating safety act of 1971. [1998 c 245 § 66; 1994 c 151 § 3; 1984 c 183 § 4; 1983 2nd ex.s. c 3 § 52. Formerly RCW 43.51.400.]

Penalties for violations: RCW 88.02.380.

79A.05.335 Authority of commission to use facilities and resources for interpretation. The legislature finds that the parks and recreation lands owned and managed by the commission are a significant collection of valuable scenic, natural, cultural, and historical resources for the citizens of Washington state. The legislature further finds that if citizens understand and appreciate the scenic, natural, cultural, and historical resources present in Washington's state parks, they will be inspired to conserve this important legacy for future generations. Therefore, the commission may use its facilities and resources to provide scenic, natural, cultural, or historical resource interpretation throughout the state parks system. [2014 c 86 § 1; 1991 c 107 § 1. Formerly RCW 43.51.415.]

79A.05.340 Interpretive activities authorized. The commission may provide scenic, natural, cultural, or historical resource interpretive activities for visitors to state parks that:

- (1) Explain the functions, history, significance, and cultural aspects of ecosystems;
- (2) Explain the relationship between human needs, human behaviors and attitudes, and the environment;
- (3) Explain the diverse human heritage and cultural changes over time in Washington state;
- (4) Offer experiences and information to increase citizen understanding, appreciation, and stewardship of their natural, cultural, ethnic, and artistic heritage; and
- (5) Explain the need for natural, cultural, and historical resource protection and preservation as well as the methods by which these goals can be achieved. [2014 c 86 § 2; 1991 c 107 § 2. Formerly RCW 43.51.417.]

79A.05.345 Stewarding and interpreting state parks—Commission's authority to consult, enter agreements, and solicit assistance from other organizations. The commission may consult and enter into agreements with and solicit assistance from other public agencies, the state parks foundation, private entities, employee business units, and tribes that are interested in stewarding and interpreting state parks scenic, natural, cultural, and recreational resources. [2014 c 86 § 3; 1991 c 107 § 3. Formerly RCW 43.51.419.]

79A.05.347 Agreements under RCW 79A.05.345 or otherwise involving the management of state parkland or a facility—Performance measures. (1) When entering into any agreement under RCW 79A.05.345 or otherwise involving the management of state parkland or a facility by a public or private partner, the commission shall consider, when appropriate:

- (a) If the entity has an adequate source of available funding to assume the financial responsibilities of the agreement;
- (b) If the entity has sufficient expertise to assume the scope of responsibilities of the agreement;
- (c) If the agreement results in net financial benefits to the state; and

(d) If the agreement results in advancement of the commission's public purpose.

(2) Any agreement subject to this section must include specific performance measures. The performance measures must cover, but are not limited to, the entity's ability to manage financial operating costs, to adequately perform management responsibilities, and to address and respond to public concerns. The agreement must provide that failure to meet any performance measure may lead to the termination of the contract or requirements for remedial action to be taken before the agreement may be extended.

(3) The commission's authority to enter into agreements under this section, RCW 79A.05.087, or 79A.05.345 does not include the ability to rename any state park after a corporate or commercial entity, product, or service. [2014 c 86 § 5.]

79A.05.351 Outdoor education and recreation grant program—Creation—Establish and implement program by rule—Advisory committee—Account. (1) The outdoor education and recreation grant program is hereby created, subject to the availability of funds in the outdoor education and recreation account. The commission shall establish and implement the program by rule to provide opportunities for public agencies, private nonprofit organizations, formal school programs, nonformal after-school programs, and community-based programs to receive grants from the account. Programs that provide outdoor education opportunities to schools shall be fully aligned with the state's essential academic learning requirements.

(2) The program shall be phased in beginning with the schools and students with the greatest needs in suburban, rural, and urban areas of the state. The program shall focus on students who qualify for free and reduced-price lunch, who are most likely to fail academically, or who have the greatest potential to drop out of school.

(3) The director shall set priorities and develop criteria for the awarding of grants to outdoor environmental, ecological, agricultural, or other natural resource-based education and recreation programs considering at least the following:

- (a) Programs that contribute to the reduction of academic failure and dropout rates;
- (b) Programs that make use of research-based, effective environmental, ecological, agricultural, or other natural resource-based education curriculum;
- (c) Programs that contribute to healthy life styles through outdoor recreation and sound nutrition;
- (d) Various Washington state parks as venues and use of the commission's personnel as a resource;
- (e) Programs that maximize the number of participants that can be served;
- (f) Programs that will commit matching and in-kind resources;
- (g) Programs that create partnerships with public and private entities;
- (h) Programs that provide students with opportunities to directly experience and understand nature and the natural world;
- (i) Programs that include ongoing program evaluation, assessment, and reporting of their effectiveness; and
- (j) Programs that utilize veterans for at least fifty percent of program implementation or administration.

(4) The director shall create an advisory committee to assist and advise the commission in the development and administration of the outdoor education and recreation program. The director should solicit representation on the committee from the office of the superintendent of public instruction, the department of fish and wildlife, the business community, outdoor organizations with an interest in education, and any others the commission deems sufficient to ensure a cross section of stakeholders. When the director creates such an advisory committee, its members shall be reimbursed from the outdoor education and recreation program account for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The outdoor education and recreation program account is created in the custody of the state treasurer. Funds deposited in the outdoor education and recreation program account shall be transferred only to the commission to be used solely for the commission's outdoor education and recreation program purposes identified in this section including the administration of the program. The director may accept gifts, grants, donations, or moneys from any source for deposit in the outdoor education and recreation program account. Any public agency in this state may develop and implement outdoor education and recreation programs. The director may make grants to public agencies and contract with any public or private agency or person to develop and implement outdoor education and recreation programs. The outdoor education and recreation program account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2015 c 245 § 1; 2007 c 176 § 2.]

Intent—2007 c 176: "It is the intent of the legislature to establish an outdoor education and recreation program to provide a large number of underserved students with quality opportunities to directly experience the natural world. It is the intent of the program to improve students' overall academic performance, self-esteem, personal responsibility, community involvement, personal health, and understanding of nature. Further, it is the intent of the program to empower local communities to engage students in outdoor education and recreation experiences." [2007 c 176 § 1.]

UNDERWATER PARKS

79A.05.355 Underwater parks—Lead agency. The state parks and recreation commission shall act as the lead agency for the establishment of underwater parks in state waters and for environmental reviews of projects necessary to establish underwater parks. The commission may enter into interagency agreements to facilitate timely receipt of necessary permits from other state agencies and local governments. [1993 c 267 § 1. Formerly RCW 43.51.430.]

79A.05.360 Underwater parks—Authority to establish—Powers and duties. The commission may establish a system of underwater parks to provide for diverse recreational diving opportunities and to conserve and protect unique marine resources of the state of Washington. In establishing and maintaining an underwater park system, the commission may:

- (1) Plan, construct, and maintain underwater parks;
- (2) Acquire property and enter management agreements with other units of state government for the management of lands, tidelands, and bedlands as underwater parks;

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(3) Construct artificial reefs and other underwater features to enhance marine life and recreational uses of an underwater park;

(4) Accept gifts and donations for the benefit of underwater parks;

(5) Facilitate private efforts to construct artificial reefs and underwater parks;

(6) Work with the federal government, local governments and other appropriate agencies of state government, including but not limited to: The department of natural resources, the department of fish and wildlife and the natural heritage council to carry out the purposes of this chapter; and

(7) Contract with other state agencies or local governments for the management of an underwater park unit. [1999 c 249 § 1301; 1994 c 264 § 20; 1993 c 267 § 2. Formerly RCW 43.51.432.]

Additional notes found at www.leg.wa.gov

79A.05.370 Underwater parks—Diverse recreational opportunity. In establishing an underwater park system, the commission shall seek to create diverse recreational opportunities in areas throughout Washington state. The commission shall place a high priority upon creating units that possess unique or diverse marine life or underwater natural or artificial features such as shipwrecks. [1993 c 267 § 4. Formerly RCW 43.51.436.]

79A.05.375 Underwater parks—Liability. The commission is not liable for unintentional injuries to users of underwater parks, whether the facilities are administered by the commission or by another entity or person. However, nothing in this section prevents the liability of the commission for injuries sustained by a user by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. [1993 c 267 § 5. Formerly RCW 43.51.438.]

WATER TRAIL RECREATION PROGRAM

79A.05.380 Water trail recreation program—Created. The legislature recognizes the increase in water-oriented recreation by users of human and wind-powered, beachable vessels such as kayaks, canoes, or day sailors on Washington's waters. These recreationists frequently require overnight camping facilities along the shores of public or private beaches. The legislature now creates a water trail recreation program, to be administered by the Washington state parks and recreation commission. The legislature recognizes that the effort to develop water trail sites is a continuing need and that the commission provides beneficial expertise and consultation to water trail user groups, agencies, and private landowners for the existing Cascadia marine trail and Willapa Bay water trail. [2003 c 338 § 1; 1993 c 182 § 1. Formerly RCW 43.51.440.]

79A.05.385 Water trail recreation program—Powers and duties. In addition to its other powers, duties, and functions, the commission may:

- (1) Plan, construct, and maintain suitable facilities for water trail activities on lands administered or acquired by the

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commission or as authorized on lands administered by tribes or other public agencies or private landowners by agreement.

(2) Compile, publish, distribute, and charge a fee for maps or other forms of public information indicating areas and facilities suitable for water trail activities.

(3) Contract with a public agency, private entity, or person for the actual conduct of these duties.

(4) Work with individuals or organizations who wish to volunteer their time to support the water trail recreation program.

(5) Provide expertise and consultation to individuals, agencies, and organizations in the continued development of water trail sites in this state. [2003 c 338 § 2; 2003 c 126 § 601; 1993 c 182 § 2. Formerly RCW 43.51.442.]

Reviser's note: This section was amended by 2003 c 126 § 601 and by 2003 c 338 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

79A.05.390 Water trail recreation program—Grants. The commission may make water trail program grants to public agencies or tribal governments and may contract with any public agency, tribal government, entity, or person to develop and implement water trail programs. [1993 c 182 § 3. Formerly RCW 43.51.444.]

79A.05.395 Water trail recreation program—Liability. The commission is not liable for unintentional injuries to users of facilities administered for water trail purposes under this chapter, whether the facilities are administered by the commission or by any other entity or person. However, nothing in this section prevents the liability of the commission for injuries sustained by a user by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. [1993 c 182 § 4. Formerly RCW 43.51.446.]

79A.05.410 Water trail recreation program—Rules. The commission may adopt rules to administer the water trail program and facilities on areas owned or administered by the commission. Where water trail facilities administered by other public or private entities are incorporated into the water trail system, the rules adopted by those entities shall prevail. The commission is not responsible or liable for enforcement of these alternative rules. [2003 c 338 § 3; 2003 c 126 § 603; 1993 c 182 § 7. Formerly RCW 43.51.452.]

Additional notes found at www.leg.wa.gov

79A.05.415 Water trail recreation program—Violation. Violation of the provisions of the commission's rules governing the use of water trail facilities and property shall constitute a civil infraction, punishable as provided under chapter 7.84 RCW. [1993 c 182 § 8. Formerly RCW 43.51.454.]

79A.05.425 Water trail recreation program—Disposition of funds. Any unspent balance of funds in the water trail program account created in *RCW 79A.05.405 as of June 30, 2003, must be transferred to the state parks renewal and stewardship account created in RCW 79A.05.215. All

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receipts from sales of materials under RCW 79A.05.385 and all monetary civil penalties collected under RCW 79A.05.415 must be deposited in the state parks renewal and stewardship account. Any gifts, grants, donations, or moneys from any source received by the commission for the water trail program must also be deposited in the state parks renewal and stewardship account. Funds transferred or deposited into the state parks renewal and stewardship account under this section must be used solely for water trail program purposes. [2003 c 338 § 4.]

***Reviser's note:** RCW 79A.05.405 was repealed by 2003 c 338 § 5.

YOUTH DEVELOPMENT AND CONSERVATION CORPS

79A.05.545 Washington conservation corps. The commission shall cooperate, when appropriate, as a partner in the Washington conservation corps established in chapter 43.220 RCW. [2011 c 20 § 14; 1999 c 249 § 701.]

Findings—Intent—2011 c 20: See note following RCW 43.220.020.

Intent—Application—2011 c 20: See RCW 43.220.905.

Additional notes found at www.leg.wa.gov

SEASHORE CONSERVATION AREA

79A.05.600 Declaration of principles. The beaches bounding the Pacific Ocean from the Straits of Juan de Fuca to Cape Disappointment at the mouth of the Columbia River constitute some of the last unspoiled seashore remaining in the United States. They provide the public with almost unlimited opportunities for recreational activities, like swimming, surfing and hiking; for outdoor sports, like hunting, fishing, clamming, and boating; for the observation of nature as it existed for hundreds of years before the arrival of Europeans; and for relaxation away from the pressures and tensions of modern life. In past years, these recreational activities have been enjoyed by countless Washington citizens, as well as by tourists from other states and countries. The number of people wishing to participate in such recreational activities grows annually. This increasing public pressure makes it necessary that the state dedicate the use of the ocean beaches to public recreation and to provide certain recreational and sanitary facilities. Nonrecreational use of the beach must be strictly limited. Even recreational uses must be regulated in order that Washington's unrivaled seashore may be saved for our children in much the same form as we know it today. [2009 c 549 § 1029; 1967 c 120 § 1. Formerly RCW 43.51.650.]

Additional notes found at www.leg.wa.gov

79A.05.605 Seashore conservation area—Established. There is established for the recreational use and enjoyment of the public the Washington State Seashore Conservation Area. It shall include all lands now or hereafter under state ownership or control lying between Cape Disappointment and Leadbetter Point; between Toke Point and the South jetty on Point Chehalis; and between Damon Point and the Makah Indian Reservation and occupying the area between the line of ordinary high tide and the line of extreme low tide, as these lines now are or may hereafter be located, and, where applicable, between the Seashore Conservation

Line, as established by survey of the Washington state parks and recreation commission and the line of extreme low tide, as these lines now are or may hereafter be located; and shall also include all state-owned nontrust accreted lands along the ocean: PROVIDED, That no such conservation area shall include any lands within the established boundaries of any Indian reservation. [1969 ex.s. c 55 § 1; 1967 c 120 § 2. Formerly RCW 43.51.655.]

Additional notes found at www.leg.wa.gov

79A.05.610 Jurisdiction over and administration of area. Except as otherwise provided in RCW 79A.05.600 through 79A.05.630, the Washington State Seashore Conservation Area shall be under the jurisdiction of the Washington state parks and recreation commission, which shall administer RCW 79A.05.600 through 79A.05.630 in accordance with the powers granted it herein and under the appropriate provisions of this chapter. [2000 c 11 § 46; 1969 ex.s. c 55 § 2; 1967 c 120 § 3. Formerly RCW 43.51.660.]

Additional notes found at www.leg.wa.gov

79A.05.615 Principles and purposes to be followed in administering area. The Washington state parks and recreation commission shall administer the Washington State Seashore Conservation Area in harmony with the broad principles set forth in RCW 79A.05.600. Where feasible, the area shall be preserved in its present state; everywhere it shall be maintained in the best possible condition for public use. All forms of public outdoor recreation shall be permitted and encouraged in the area, unless specifically excluded or limited by the commission. While the primary purpose in the establishment of the area is to preserve the coastal beaches for public recreation, other uses shall be allowed as provided in RCW 79A.05.600 through 79A.05.630, or when found not inconsistent with public recreational use by the Washington state parks and recreation commission. [2000 c 11 § 47; 1969 ex.s. c 55 § 3; 1967 c 120 § 4. Formerly RCW 43.51.665.]

Additional notes found at www.leg.wa.gov

79A.05.620 Cooperation and assistance of federal, state, and local agencies. In administering the Washington State Seashore Conservation Area, the Washington state parks and recreation commission shall seek the cooperation and assistance of federal agencies, other state agencies, and local political subdivisions. All state agencies, and the governing officials of each local subdivision shall cooperate with the commission in carrying out its duties. Except as otherwise provided in RCW 79A.05.600 through 79A.05.630, and notwithstanding any other provision of law, other state agencies and local subdivisions shall perform duties in the Washington State Seashore Conservation Area which are within their normal jurisdiction, except when such performance clearly conflicts with the purposes of RCW 79A.05.600 through 79A.05.630. [2000 c 11 § 48; 1969 ex.s. c 55 § 4; 1967 c 120 § 5. Formerly RCW 43.51.670.]

Additional notes found at www.leg.wa.gov

79A.05.625 Powers and authority of department of fish and wildlife not interfered with. Nothing in RCW 79A.05.600 through 79A.05.630 and 79A.05.635 through 79A.05.695 shall be construed to interfere with the powers,

duties and authority of the department of fish and wildlife to regulate the conservation or taking of food fish and shellfish. Nor shall anything in RCW 79A.05.600 through 79A.05.630 and 79A.05.635 through 79A.05.695 be construed to interfere with the powers, duties and authority of the department of fish and wildlife to regulate, manage, conserve, and provide for the harvest of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall be permitted in any state park. [2000 c 11 § 49; 1994 c 264 § 22; 1988 c 75 § 17; 1987 c 506 § 92; 1983 c 3 § 109; 1969 ex.s. c 55 § 5; 1967 c 120 § 6. Formerly RCW 43.51.675.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Additional notes found at www.leg.wa.gov

79A.05.630 Sale, lease, and disposal of lands within the Seashore Conservation Area—Disposal of certain lands. Lands within the Seashore Conservation Area shall not be sold, leased, or otherwise disposed of, except as provided in this section.

(1) The commission may, under authority granted in RCW 79A.05.175 and 79A.05.180, exchange state parklands in the Seashore Conservation Area for lands of equal value to be managed by the commission consistent with this chapter. Only state parklands lying east of the Seashore Conservation Line, as it is located at the time of exchange, may be so exchanged.

(2) The commission may, under authority granted in RCW 79A.05.178, directly dispose of up to five contiguous acres of real property, without public auction, to resolve trespass, property ownership disputes, and boundary adjustments with adjacent property owners. Real property to be disposed of under this subsection may be disposed of only after appraisal and for at least fair market value, and only if the transaction is in the best interest of the state. All conveyance documents shall be executed by the governor. All proceeds from the disposal of the property shall be paid into the parkland acquisition account and proceeds received pursuant to any sale under this subsection shall be reinvested in real property located inside or within one mile of the Seashore Conservation Area.

(3) The department of natural resources may lease the lands within the Washington State Seashore Conservation Area as well as the accreted lands along the ocean in state ownership for the exploration and production of oil and gas except that oil drilling rigs and equipment shall not be placed on the Seashore Conservation Area or state-owned accreted lands.

Sale of sand from accretions shall be made to supply the needs of cranberry growers for cranberry bogs in the vicinity and shall not be prohibited if found by the commission to be reasonable, and not generally harmful or destructive to the character of the land. The commission may grant leases and permits for the removal of sands for construction purposes from any lands within the Seashore Conservation Area if found by the commission to be reasonable and not generally harmful or destructive to the character of the land. Net income from such leases shall be deposited in the state parks renewal and stewardship account. [2011 c 184 § 1; 2000 c 11 § 50; (2003 1st sp.s. c 26 § 929 expired June 30, 2005); 1997

c 137 § 4; 1995 c 203 § 1; 1988 c 75 § 18; 1969 ex.s. c 55 § 6; 1967 c 120 § 8. Formerly RCW 43.51.685.]

Additional notes found at www.leg.wa.gov

79A.05.635 Ocean beach recreation management plans—Cooperative program. A cooperative program to provide recreation management plans for the ocean beaches that comprise the Seashore Conservation Area established by RCW 79A.05.605 is created. [2000 c 11 § 51; 1988 c 75 § 1. Formerly RCW 43.51.695.]

Additional notes found at www.leg.wa.gov

79A.05.640 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply to RCW 79A.05.600 through 79A.05.695.

(1) "Local government" means a county, city, or town.

(2) "Ocean beaches" include the three ocean beaches described in RCW 79A.05.605.

(3) "Pedestrian use" means any use that does not involve a motorized vehicle. [2000 c 11 § 52; 1988 c 75 § 2. Formerly RCW 43.51.700.]

Additional notes found at www.leg.wa.gov

79A.05.645 Local recreation management plans. Local governments having a portion of the Seashore Conservation Area within their boundaries may, individually or through an agreement with other local governments located on the same ocean beach, adopt a recreation management plan which meets the requirements of RCW 79A.05.600 through 79A.05.695 for that portion of the ocean beach. The legislature hereby encourages adoption of a single plan for each beach. [2000 c 11 § 53; 1988 c 75 § 3. Formerly RCW 43.51.705.]

Additional notes found at www.leg.wa.gov

79A.05.650 Reservation for pedestrian use—Restrictions on motorized traffic. (1) Except as provided in RCW 79A.05.655 and 79A.05.660, a total of forty percent of the length of the beach subject to the recreation management plan shall be reserved for pedestrian use under this section and RCW 79A.05.665. Restrictions on motorized traffic under this section shall be from April 15th to the day following Labor day of each year. Local jurisdictions may adopt provisions within recreation management plans that exceed the requirements of this section. The commission shall not require that a plan designate for pedestrian use more than forty percent of the land subject to the plan.

(2) In designating areas to be reserved for pedestrian use, the plan shall consider the following:

(a) Public safety;

(b) Statewide interest in recreational use of the ocean beaches;

(c) Protection of shorebird and marine mammal habitats;

(d) Preservation of native beach vegetation;

(e) Protection of sand dune topography;

(f) Prudent management of clam beds;

(g) Economic impacts to the local community; and

(h) Public access and parking availability. [2000 c 11 § 54; 1988 c 75 § 4. Formerly RCW 43.51.710.]

Additional notes found at www.leg.wa.gov

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79A.05.655 Areas reserved for pedestrian use—Exception. Notwithstanding RCW 79A.05.650(1), recreation management plans may make provision for vehicular traffic on areas otherwise reserved for pedestrian use in order to:

(1) Facilitate clam digging;

(2) Accommodate organized recreational events of not more than seven consecutive days duration;

(3) Provide for removal of wood debris under RCW 4.24.210 and 79A.05.035(5); and

(4) Accommodate removal of sand located upland from the Seashore Conservation Area or removal of sand within the Seashore Conservation Area under the terms of a covenant, easement, or deed. [2000 c 11 § 55; 1988 c 75 § 5. Formerly RCW 43.51.715.]

Additional notes found at www.leg.wa.gov

79A.05.660 Public vehicles. Recreation management plans shall not prohibit or restrict public vehicles operated in the performance of official duties, vehicles responding to an emergency, or vehicles specially authorized by the director or the director's designee. [1999 c 249 § 1101; 1988 c 75 § 6. Formerly RCW 43.51.720.]

Additional notes found at www.leg.wa.gov

79A.05.665 Land adjoining national wildlife refuges and state parks—Pedestrian use—Exception. Recreation management plans shall, upon request of the commission, reserve on a permanent, seasonal, or temporary basis, land adjoining national wildlife refuges and state parks for pedestrian use. After a plan is approved, the commission may require local jurisdictions to adopt amendments to the plan governing driving on land adjoining wildlife refuges and state parks. Land reserved for pedestrian use under this section for at least the period from April 15th through the day following Labor Day of each year shall be included when determining compliance with the requirements of RCW 79A.05.650. [2000 c 11 § 56; 1988 c 75 § 7. Formerly RCW 43.51.725.]

Additional notes found at www.leg.wa.gov

79A.05.670 Consultation with government agencies required. In preparing, adopting, or approving a recreation management plan, local jurisdictions and the commission shall consult with the department of fish and wildlife and the United States fish and wildlife service. [1999 c 249 § 1102; 1988 c 75 § 8. Formerly RCW 43.51.730.]

Additional notes found at www.leg.wa.gov

79A.05.675 Compliance with federal and state laws required. Recreation management plans shall comply with all applicable federal and state laws. [1988 c 75 § 9. Formerly RCW 43.51.735.]

Additional notes found at www.leg.wa.gov

79A.05.680 Hearings. Before adopting a recreation management plan, or amendments to an existing plan, local jurisdictions shall conduct a public hearing. Notice of the hearing shall be published in a newspaper of general circulation in each jurisdiction adopting the plan as well as in a newspaper of general statewide circulation on at least two

occasions not less than fourteen days before the first day of the hearing. When a proposed recreation management plan has been prepared by more than one jurisdiction, joint hearings may be conducted. [1988 c 75 § 10. Formerly RCW 43.51.740.]

Additional notes found at www.leg.wa.gov

79A.05.685 Adoption of plans—Approval—Procedure. Recreation management plans shall be adopted by each participating jurisdiction and submitted to the commission by September 1, 1989. The commission shall approve the proposed plan if, in the commission's judgment, the plan adequately fulfills the requirements of RCW 79A.05.600 through 79A.05.695.

If the proposed plan is not approved, the commission shall suggest modifications to the participating local governments. Local governments shall have ninety days after receiving the suggested modifications to resubmit a recreation management plan. Thereafter, if the commission finds that a plan does not adequately fulfill the requirements of RCW 79A.05.600 through 79A.05.695, the commission may amend the proposal or adopt an alternative plan.

If a plan for all or any portion of the Seashore Conservation Area is not submitted in accordance with RCW 79A.05.635 through 79A.05.695, the commission shall adopt a recreation management plan for that site.

Administrative rules adopted by the commission under *RCW 43.51.680 shall remain in effect for all or any portion of each ocean beach until a recreation management plan for that site is adopted or approved by the commission.

The commission shall not adopt a recreation management plan for all or any portion of an ocean beach while appeal of a commission decision regarding that site is pending. [2000 c 11 § 57; 1988 c 75 § 11. Formerly RCW 43.51.745.]

*Reviser's note: RCW 43.51.680 was repealed by 1988 c 75 § 19, effective January 1, 1989.

Additional notes found at www.leg.wa.gov

79A.05.688 Appeal. Any individual, partnership, corporation, association, organization, cooperative, local government, or state agency aggrieved by a decision of the commission under this chapter may appeal under chapter 34.05 RCW. [1999 c 249 § 1103; 1988 c 75 § 12. Formerly RCW 43.51.750.]

Additional notes found at www.leg.wa.gov

79A.05.690 Cooperation for law enforcement. The commission shall cooperate with state and local law enforcement agencies in meeting the need for law enforcement within the Seashore Conservation Area. [1988 c 75 § 13. Formerly RCW 43.51.755.]

Additional notes found at www.leg.wa.gov

79A.05.693 Ocean beaches in Seashore Conservation Area declared public highways. The ocean beaches within the Seashore Conservation Area are hereby declared a public highway and shall remain forever open to the use of the public as provided in RCW 79A.05.635 through 79A.05.695. [2000 c 11 § 58; 1988 c 75 § 14. Formerly RCW 43.51.760.]

Additional notes found at www.leg.wa.gov

79A.05.695 Amendments to plan—Approval—Procedure. Amendments to the recreation management plan may be adopted jointly by each local government participating in the plan and submitted to the commission for approval. The commission shall approve a proposed amendment if, in the commission's judgment, the amendment adequately fulfills the requirements of RCW 79A.05.600 through 79A.05.695.

After a plan is approved, the commission may require local jurisdictions to adopt amendments to the plan if the commission finds that such amendments are necessary to protect public health and safety, or to protect significant natural resources as determined by the agency having jurisdiction over the resource. [2000 c 11 § 59; 1988 c 75 § 15. Formerly RCW 43.51.765.]

Additional notes found at www.leg.wa.gov

GREEN RIVER GORGE CONSERVATION AREA

79A.05.700 Declaration. The Green River Gorge, between the town of Kanasket and the Kummer bridge in King county, is a twelve mile spectacularly winding gorge with steep to overhanging rock walls reaching heights of from one hundred fifty to three hundred feet. The beauty and natural features of the gorge are generally confined within the canyon rim. This twelve mile gorge area contains many examples of unique biological and geological features for educational and recreational interpretation, almost two miles of Eocene sediment rocks and fossils are exposed revealing one of the most complete stratigraphic sections to be found in the region. The area, a unique recreational attraction with more than one million seven hundred thousand people living within an hour's driving time, is presently used by hikers, geologists, fishers, kayakers and canoeists, picnickers and swimmers, and those seeking the solitude offered by this unique area. Abutting and adjacent landowners generally have kept the gorge lands in their natural state; however, economic and urbanization pressures for development are rapidly increasing. Local and state outdoor recreation plans show a regional need for resources and facilities which could be developed in this area. A twelve-mile strip incorporating the visual basins of the Green river from the Kummer bridge to Palmer needs to be acquired and developed as a conservation area to preserve this unique area for the recreational needs of the region. [2013 c 23 § 267; 1969 ex.s. c 162 § 1. Formerly RCW 43.51.900.]

79A.05.705 Green River Gorge conservation area created. There is hereby created a Washington state parks and recreation commission conservation area to be known as "Green River Gorge conservation area". [1969 ex.s. c 162 § 2. Formerly RCW 43.51.910.]

79A.05.710 Acquisition of real property, easements, or rights authorized. In addition to all other powers and duties prescribed by law, the state parks and recreation commission is authorized and directed to acquire such real property, easements, or rights in the Green River Gorge in King county, together with such real property, easements, and rights as is necessary for such park and conservation purposes in any manner authorized by law for the acquisition of

lands for parks and parkway purposes. Except for such real property as is necessary and convenient for development of picnicking or camping areas and their related facilities, it is the intent of this section that such property shall be acquired to preserve, as much as possible, the gorge within the canyon rim in its natural pristine state. [1969 ex.s. c 162 § 3. Formerly RCW 43.51.920.]

79A.05.715 Acquisition of real property, easements, or rights authorized—Rights of other state agencies not to be infringed upon. Nothing herein shall be construed as authorizing or directing the state parks and recreation commission to acquire any real property, easements, or rights in the Green River Gorge in King county which are now held by any state agency for the purposes of outdoor recreation, conservation, fish, or wildlife management or public hunting or fishing without the approval of such agency. [1969 ex.s. c 162 § 4. Formerly RCW 43.51.930.]

MOUNT SI CONSERVATION AREA

79A.05.725 Legislative declaration. Mt. Si and Little Si in King county offer unique scenic, natural, and geological features which can be viewed from the I-90 highway. They also afford outstanding recreational opportunities enjoyed by the citizens of this state and tourists alike. The legislature recognizes the importance of guarding portions of this area from those types of development which would permanently alter the area's natural form and beauty. It further recognizes the necessity of setting forth procedures to manage the area, to enhance the opportunities afforded the state's citizens, one-half of whom live within one-half hour driving time of Mt. Si, and to safeguard to the extent possible the scenic, natural, geological, game habitat, and recreational values therein, and to safeguard and promote the upper Snoqualmie River valley's economy in which the recreational use of Mt. Si plays a pivotal role. Therefore, the legislature declares this area to be of statewide significance for the foregoing purposes to be enhanced and safeguarded in accordance with the procedures set forth in chapter 306, Laws of 1977 ex. sess. [1977 ex.s. c 306 § 1; 1975-'76 2nd ex.s. c 88 § 1. Formerly RCW 43.51.940.]

79A.05.730 "Mt. Si conservation area"—Created. There is hereby created a "Mt. Si conservation area" to include approximately twenty-five hundred acres of state, United States government, and privately owned lands within Sections 25, 26, 35, and 36, Township 24 North, Range 8 East, W.M., and Sections 2, 3, 10, 11, and 12 of Township 23 North, Range 8 East, W.M., as identified for inclusion in the conservation area and described more specifically by the Mt. Si citizen advisory subcommittee in their published report of December 6, 1976, to the Washington state department of natural resources and the Washington state parks and recreation commission as contained in the report filed by those agencies to the house and senate committees on parks and recreation, filed December 1976. [1977 ex.s. c 306 § 2. Formerly RCW 43.51.942.]

Designation of Mt. Si conservation area as Mt. Si natural resources conservation area: RCW 79.71.100.

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79A.05.735 Mt. Si conservation area—Management. The state department of natural resources and the state parks and recreation commission have joined together in excellent cooperation in the conducting of this study along with the citizen advisory subcommittee and have joined together in cooperation with the department of fish and wildlife to accomplish other projects of multidisciplinary concern, and because it may be in the best interests of the state to continue such cooperation, the state parks and recreation commission, the department of natural resources, and the department of fish and wildlife are hereby directed to consider both short and long term objectives, the expertise of each agency's staff, and alternatives such as reasonably may be expected to safeguard the conservation area's values as described in RCW 79A.05.725 giving due regard to efficiency and economy of management: PROVIDED, That the interests conveyed to or by the state agencies identified in this section shall be managed by the department of natural resources until such time as the state parks and recreation commission or other public agency is managing public recreation areas and facilities located in such close proximity to the conservation area described in RCW 79A.05.730 so as to make combined management of those areas and facilities and transfer of management of the conservation area more efficient and economical than continued management by the department of natural resources. At that time the department of natural resources is directed to negotiate with the appropriate public agency for the transfer of those management responsibilities for the interests obtained within the conservation area under RCW 79A.05.725 through 79A.05.745: PROVIDED FURTHER, That the state agencies identified in this section may, by mutual agreement, undertake management of portions of the conservation area as they may from time to time determine in accordance with those rules and regulations established for natural area preserves under chapter 79.70 RCW, for natural and conservation areas under present WAC 352-16-020(3) and (6), and under chapter 77.12 RCW. [2000 c 11 § 60; 1994 c 264 § 23; 1988 c 36 § 17; 1977 ex.s. c 306 § 3. Formerly RCW 43.51.943.]

79A.05.740 Mt. Si conservation area—Valuation of included lands. The full market value for department of natural resources' managed trust lands or interest therein within the conservation area shall be determined by the department of natural resources for any lands or interests to be dedicated or leased as provided herein. The department of natural resources shall determine the value of dedicating such lands or interests in lands as it may determine to be necessary to carry out the purposes of chapter 306, Laws of 1977 ex. sess. either by execution of fifty-five year scenic or development easements or by execution of fifty-five year leases, including such conditions as may be necessary to carry out the purposes of chapter 306, Laws of 1977 ex. sess. Any lease issued pursuant to chapter 306, Laws of 1977 ex. sess. may be subject to renewal under the provisions of *RCW 79.01.276 as presently existing or hereafter amended. Nothing in chapter 306, Laws of 1977 ex. sess. shall be deemed to alter or affect normal management on lands owned by the state for which no dedication by easement or lease has been made and it is further recognized that no restrictions on management of such lands shall be required unless the applicable trust relating to

such lands shall have been compensated. [1998 c 245 § 67; 1977 ex.s. c 306 § 4. Formerly RCW 43.51.944.]

*Reviser's note: RCW 79.01.276 was repealed by 1979 ex.s. c 109 § 23.

79A.05.745 Eminent domain—Use prohibited. No property or interest in property shall be acquired for the purpose of chapter 306, Laws of 1977 ex. sess. by the exercise of the power of eminent domain. [1977 ex.s. c 306 § 6. Formerly RCW 43.51.945.]

WASHINGTON STATE
YAKIMA RIVER CONSERVATION AREA

79A.05.750 Legislative declaration. It is the intent of RCW 79A.05.750 through 79A.05.795 to establish and recognize the Yakima river corridor from Selah Gap (Yakima Ridge) to Union Gap (Rattlesnake Hills) as a uniquely valuable recreation, conservation, and scenic resource in the state of Washington. [2000 c 11 § 61; 1977 ex.s. c 75 § 1. Formerly RCW 43.51.946.]

79A.05.755 "Washington State Yakima river conservation area"—Created. There is hereby created an area to be known as the "Washington State Yakima river conservation area". This area designation may be used as a common reference by all state and local agencies, municipalities, and federal agencies. [1977 ex.s. c 75 § 3. Formerly RCW 43.51.947.]

79A.05.760 Yakima river conservation area—Size prescribed. For the purposes of RCW 79A.05.750 through 79A.05.795, the Yakima river conservation area is to contain no more than the area delineated in appendix D on pages D-3, D-4, D-6, D-7, D-9, and D-10 of the report entitled "The Yakima River Regional Greenway" which resulted from the Yakima river study authorized in section 170, chapter 269, Laws of 1975, first extraordinary session. This area is also defined as sections 12 and 17, township 13 north, range 18 east totaling approximately 18.0 acres, sections 7, 17, 18, 20, 21, 28, 29, 32, 33, township 13 north, range 19 east totaling approximately 936.0 acres, and sections 4, 5, 8, 9, 17, township 12 north, range 19 east totaling approximately 793.7 acres. [1999 c 249 § 1001; 1977 ex.s. c 75 § 2. Formerly RCW 43.51.948.]

Additional notes found at www.leg.wa.gov

79A.05.765 Yakima river conservation area—Authority of Yakima county commissioners. The Yakima county commissioners are authorized to coordinate the acquisition, development, and operation of the Yakima river conservation area in accordance with the purposes of RCW 79A.05.750 through 79A.05.795 and in cooperation with public parks, conservation and resource managing agencies. [2000 c 11 § 62; 1977 ex.s. c 75 § 4. Formerly RCW 43.51.949.]

79A.05.770 Yakima river conservation area—Land acquisition. The Yakima county commissioners are authorized to acquire such real property, easements or rights in river-related lands in the Yakima river conservation area,

together with such real property, easements, and rights as are necessary for such conservation and parks purposes in any manner authorized by law for the acquisition of lands for conservation, parks and parkway purposes: PROVIDED, That only the Yakima county commissioners shall have the power of eminent domain for the purposes of this chapter. [1977 ex.s. c 75 § 5. Formerly RCW 43.51.950.]

79A.05.775 Intent to preserve river wetlands in their natural state. Except for such property as is necessary or suitable for the development of recreational areas and their related facilities, it is the intent of this section that such property shall be acquired to preserve, as much as possible, the river wetlands in their natural state. [1977 ex.s. c 75 § 6. Formerly RCW 43.51.951.]

79A.05.780 Yakima river conservation area—Consultation between commission and Yakima county commissioners. The Washington state parks and recreation commission is directed to consult with the Yakima county commissioners in the acquisition, development, and operation of the Yakima river conservation area in accordance with the purposes of RCW 79A.05.750 through 79A.05.795 and the Yakima river study authorized in section 170, chapter 269, Laws of 1975, first extraordinary session. [2000 c 11 § 63; 1977 ex.s. c 75 § 7. Formerly RCW 43.51.952.]

79A.05.785 Yakima river conservation area—Recreation and conservation funding board directed to assist Yakima county commissioners. The recreation and conservation funding board is directed to assist the Yakima county commissioners in obtaining state, federal, and private funding for the acquisition, development, and operation of the Yakima river conservation area. [2007 c 241 § 25; 1977 ex.s. c 75 § 8. Formerly RCW 43.51.953.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.05.790 County or city zoning and/or permitted land uses not affected. Nothing herein shall be construed as affecting nor being in conflict with existing county or city zoning and/or permitted land uses and the right to develop, build or expand existing uses in accordance with the said zoning or permitted land uses within the Yakima river conservation area. [1977 ex.s. c 75 § 9. Formerly RCW 43.51.954.]

79A.05.793 Department of fish and wildlife, fish and wildlife commission—Powers, duties, and authority—No hunting in any state park. Nothing in RCW 79A.05.750 through 79A.05.795 shall be construed to interfere with the powers, duties, and authority of the state department of fish and wildlife or the state fish and wildlife commission to regulate, manage, conserve, and provide for the harvest of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall be permitted in any state park. [2000 c 11 § 64; 1993 sp.s. c 2 § 19; 1987 c 506 § 93; 1977 ex.s. c 75 § 10. Formerly RCW 43.51.955.]

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Additional notes found at www.leg.wa.gov

79A.05.795 Acquisition of real property, etc., of another agency by Yakima county commissioners—Agency approval required. Nothing herein shall be construed as authorizing or directing the Yakima county commissioners to acquire any real property, easements, or rights in the Yakima river conservation area which are now held by any other agency without the approval of that agency. [1977 ex.s. c 75 § 11. Formerly RCW 43.51.956.]

Chapter 79A.15 RCW

ACQUISITION OF HABITAT CONSERVATION AND OUTDOOR RECREATION LANDS

Sections

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79A.15.005 Findings.

The legislature finds:
 (1) That Washington possesses an abundance of natural wealth in the form of forests, mountains, wildlife, waters, and other natural resources, all of which help to provide an unparalleled diversity of outdoor recreation opportunities and a quality of life unmatched in this nation;

(2) That as the state's population grows, the demand on these resources is growing too, placing greater stress on today's already overcrowded public recreational lands and facilities, and resulting in a significant loss of wildlife habitat and lands of unique natural value;

(3) That public acquisition and development programs have not kept pace with the state's expanding population;

(4) That private investment and employment opportunities in general and the tourist industry in particular are dependent upon the continued availability of recreational opportunities and our state's unique natural environment;

(5) That if current trends continue, some wildlife species and rare ecosystems will be lost in the state forever and public recreational lands will not be adequate to meet public demands;

(6) That there is accordingly a need for the people of the state to reserve certain areas of the state, in rural as well as urban settings, for the benefit of present and future generations.

It is therefore the policy of the state to acquire as soon as possible the most significant lands for wildlife conservation and outdoor recreation purposes before they are converted to other uses, and to develop existing public recreational land and facilities to meet the needs of present and future generations. [1990 1st ex.s. c 14 § 1. Formerly RCW 43.98A.005.]

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79A.15.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Acquisition" means the purchase on a willing seller basis of fee or less than fee interests in real property. These interests include, but are not limited to, options, rights of first refusal, conservation easements, leases, and mineral rights.

(2) "Board" means the recreation and conservation funding board.

(3) "Confer" means a dialogue between project sponsors and local county and city officials with the purpose of early review of potential projects. The dialogue may include any matter relevant to a particular project, which may include but need not be limited to: Project purpose and scope; project elements; estimated project cost; costs and benefits to the community; plans for project management and maintenance; and public access.

(4) "Critical habitat" means lands important for the protection, management, or public enjoyment of certain wildlife species or groups of species, including, but not limited to, wintering range for deer, elk, and other species, waterfowl and upland bird habitat, fish habitat, and habitat for endangered, threatened, or sensitive species.

(5) "Farmlands" means any land defined as: (a) "Farm and agricultural land" in RCW 84.34.020(2); and (b) "farm and agricultural conservation land" in RCW 84.34.020(8).

(6) "Forestlands" means any land defined as "timberland" in RCW 84.34.020(3).

(7) "Local agencies" means a city, county, town, federally recognized Indian tribe, special purpose district, port district, or other political subdivision of the state providing services to less than the entire state.

(8) "Multiple benefits" means recreational uses that are compatible with habitat conservation or resources uses or management practices that are compatible with and provide the ability to achieve additional conservation benefits.

(9) "Natural areas" means areas that have, to a significant degree, retained their natural character and are important in preserving rare or vanishing flora, fauna, geological, natural historical, or similar features of scientific or educational value.

(10) "Nonprofit nature conservancies" means organizations as defined in RCW 84.34.250.

(11) "Riparian habitat" means land adjacent to water bodies, as well as submerged land such as streambeds, which can provide functional habitat for salmonids and other fish and wildlife species. Riparian habitat includes, but is not limited to, shorelines and near-shore marine habitat, estuaries, lakes, wetlands, streams, and rivers.

(12) "Special needs populations" means physically restricted people or people of limited means.

(13) "State agencies" means the state parks and recreation commission, the department of natural resources, the department of enterprise services, and the department of fish and wildlife.

(14) "Trails" means public ways constructed for and open to pedestrians, equestrians, or bicyclists, or any combination thereof, other than a sidewalk constructed as a part of a city street or county road for exclusive use of pedestrians.

(15) "Urban wildlife habitat" means lands that provide habitat important to wildlife in proximity to a metropolitan area.

(16) "Water access" means boat or foot access to marine waters, lakes, rivers, or streams. [2016 c 149 § 2; 2015 c 225 § 126; 2009 c 341 § 1; 2007 c 241 § 26; 2005 c 303 § 1; 1990 1st ex.s. c 14 § 2. Formerly RCW 43.98A.010.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—2016 c 149: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 31, 2016]." [2016 c 149 § 12.]

Intent—2016 c 149: "In section 3163, chapter 3, Laws of 2015 3rd sp. sess., the legislature directed the recreation and conservation office to review and make recommendations for changes to the Washington wildlife and recreation program. The recreation and conservation office conducted the review and this act details the proposed recommendations for statutory revisions to chapter 79A.15 RCW that will promote habitat conservation, outdoor recreation, working lands preservation, property rights, coordination between the state and local governments, and ensure continued success of the program for future generations." [2016 c 149 § 1.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.15.020 Habitat conservation account. The habitat conservation account is established in the state treasury. The board shall administer the account in accordance with chapter 79A.25 RCW and this chapter, and shall hold it separate and apart from all other money, funds, and accounts of the board. [2007 c 241 § 27; 2000 c 11 § 65; 1990 1st ex.s. c 14 § 3. Formerly RCW 43.98A.020.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.15.030 Allocation and use of moneys—Grants.

(1) Moneys appropriated prior to July 1, 2016, for this chapter shall be divided as follows:

(a) Appropriations for a biennium of forty million dollars or less must be allocated equally between the habitat conservation account and the outdoor recreation account.

(b) If appropriations for a biennium total more than forty million dollars, the money must be allocated as follows: (i) Twenty million dollars to the habitat conservation account and twenty million dollars to the outdoor recreation account; (ii) any amount over forty million dollars up to fifty million dollars shall be allocated as follows: (A) Ten percent to the habitat conservation account; (B) ten percent to the outdoor recreation account; (C) forty percent to the riparian protection account; and (D) forty percent to the farmlands preservation account; and (iii) any amounts over fifty million dollars must be allocated as follows: (A) Thirty percent to the habitat conservation account; (B) thirty percent to the outdoor recreation account; (C) thirty percent to the riparian protection account; and (D) ten percent to the farmlands preservation account.

(2) Beginning July 1, 2016, moneys appropriated for this chapter must be allocated as follows: (a) Forty-five percent to the habitat conservation account; (b) forty-five percent to the outdoor recreation account; and (c) ten percent to the farm and forest account.

(3) Moneys deposited in these accounts shall be invested as authorized for other state funds, and any earnings on them shall be credited to the respective account.

(4) All moneys deposited in the habitat conservation, outdoor recreation, and farm and forest accounts shall be allocated as provided under RCW 79A.15.040, 79A.15.050, and 79A.15.130 as grants to state or local agencies or nonprofit nature conservancies for acquisition, development, and renovation within the jurisdiction of those agencies, subject to legislative appropriation. The board may use or permit the use of any funds appropriated for this chapter as matching funds where federal, local, or other funds are made available for projects within the purposes of this chapter. Moneys appropriated to these accounts that are not obligated to a specific project may be used to fund projects from lists of alternate projects from the same account in biennia succeeding the biennium in which the moneys were originally appropriated.

(5) Projects receiving grants for development, recreational access, or fee simple acquisition of land under this chapter must be accessible for public recreation and outdoor education unless the board specifically approves limiting public access in order to protect sensitive species, water quality, or public safety.

(6) The board may make grants to an eligible project from the habitat conservation, outdoor recreation, and farm and forest accounts and any one or more of the applicable categories under such accounts described in RCW 79A.15.040, 79A.15.050, and 79A.15.130.

(7) The board may accept private donations to the habitat conservation account, the outdoor recreation account, and the farm and forest account for the purposes specified in this chapter.

(8) The board may retain a portion of the funds appropriated for this chapter for its office for the administration of the programs and purposes specified in this chapter. The portion of the funds retained for administration may not exceed: (a) The actual administration costs averaged over the previous five biennia as a percentage of the legislature's new appropriation for this chapter; or (b) the amount specified in the appropriation, if any. Each biennium the percentage specified under (a) of this subsection must be approved by the office of financial management and submitted along with the prioritized lists of projects to be funded in RCW 79A.15.060, 79A.15.070, and 79A.15.130.

(9) Habitat and recreation land and facilities acquired or developed with moneys appropriated for this chapter may not, without prior approval of the board, be converted to a use other than that for which funds were originally approved. The board shall adopt rules and procedures governing the approval of such a conversion. [2016 c 149 § 3; 2015 c 183 § 1; 2009 c 341 § 2; 2007 c 241 § 28; 2005 c 303 § 2; 2000 c 11 § 66; 1990 1st ex.s. c 14 § 4. Formerly RCW 43.98A.030.]

Application—2016 c 149 §§ 3, 4, 5, and 10: "The allocations in sections 3, 4, and 5 of this act apply to the prioritized list of all projects submitted by November 1, 2016. The eligibility provisions in sections 4 and 5 of this act for nonprofit nature conservancies, as defined in RCW 84.34.250, and eligibility provisions in section 10 of this act are effective for projects submitted in 2016. The recreation and conservation funding board shall provide a prioritized list of projects to be funded under RCW 79A.15.130(2)(b) by November 1, 2017. All other provisions of this act apply to subsequent grant cycles." [2016 c 149 § 11.]

Effective date—Intent—2016 c 149: See notes following RCW 79A.15.010.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Outdoor recreation account: Chapter 79A.25 RCW.

Additional notes found at www.leg.wa.gov

79A.15.040 Habitat conservation account—Distribution and use of moneys. (1) Moneys appropriated for this chapter prior to July 1, 2016, to the habitat conservation account shall be distributed in the following way:

(a) Not less than forty percent through June 30, 2011, at which time the amount shall become forty-five percent, for the acquisition and development of critical habitat;

(b) Not less than thirty percent for the acquisition and development of natural areas;

(c) Not less than twenty percent for the acquisition and development of urban wildlife habitat; and

(d) Not less than ten percent through June 30, 2011, at which time the amount shall become five percent, shall be used by the board to fund restoration and enhancement projects on state lands. Only the department of natural resources and the department of fish and wildlife may apply for these funds to be used on existing habitat and natural area lands.

(2) Moneys appropriated beginning July 1, 2016, for this chapter to the habitat conservation account shall be distributed in the following way:

(a) Not less than thirty-five percent for the acquisition and development of critical habitat;

(b) Not less than twenty-five percent for the acquisition and development of natural areas;

(c) Not less than fifteen percent for the acquisition or enhancement or restoration of riparian habitat;

(d) Not less than fifteen percent for the acquisition and development of urban wildlife habitat; and

(e) Not less than ten percent or three million dollars, whichever is less, for the board to fund restoration and enhancement projects on state lands. Any amount above three million dollars must be distributed for the purposes of (c) of this subsection.

(3)(a) In distributing these funds, the board retains discretion to meet the most pressing needs for critical habitat, natural areas, riparian protection, and urban wildlife habitat, and is not required to meet the percentages described in subsections (1) and (2) of this section in any one biennium.

(b) If not enough project applications are submitted in a category within the habitat conservation account to meet the percentages described in subsections (1) and (2) of this section in any biennium, the board retains discretion to distribute any remaining funds to the other categories within the account.

(4) State agencies and nonprofit nature conservancies may apply for acquisition and development funds for natural areas projects under subsection (1)(b) of this section.

(5) State and local agencies and nonprofit nature conservancies may apply for acquisition and development funds for critical habitat, urban wildlife habitat, and riparian protection projects under this section. Other state agencies not defined in RCW 79A.15.010, such as the department of transportation and the department of corrections, may enter into inter-

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agency agreements with state agencies to apply in partnership for riparian protection funds under this section.

(6) The department of natural resources, the department of fish and wildlife, and the state parks and recreation commission may apply for restoration and enhancement funds to be used on existing state-owned lands.

(7)(a) Any lands that have been acquired with grants under this section by the department of fish and wildlife are subject to an amount in lieu of real property taxes and an additional amount for control of noxious weeds as determined by RCW 77.12.203.

(b) Any lands that have been acquired with grants under this section by the department of natural resources are subject to payments in the amounts required under the provisions of RCW 79.70.130 and 79.71.130.

(8) Except as otherwise conditioned by RCW 79A.15.140 or 79A.15.150, the board in its evaluating process shall consider the following in determining distribution priority:

(a) Whether the entity applying for funding is a Puget Sound partner, as defined in RCW 90.71.010;

(b) Effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under RCW 35.105.050, whether the entity receiving assistance has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030; and

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(9) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310. [2016 c 149 § 4; 2008 c 299 § 29. Prior: 2007 c 341 § 34; 2007 c 241 § 29; 2005 c 303 § 3; 1999 c 379 § 917; 1997 c 235 § 718; 1990 1st ex.s. c 14 § 5. Formerly RCW 43.98A.040.]

Application—2016 c 149 §§ 3, 4, 5, and 10: See note following RCW 79A.15.030.

Effective date—Intent—2016 c 149: See notes following RCW 79A.15.010.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.15.050 Outdoor recreation account—Distribution and use of moneys. (1) Moneys appropriated prior to July 1, 2016, for this chapter to the outdoor recreation account shall be distributed in the following way:

(a) Not less than thirty percent to the state parks and recreation commission for the acquisition and development of state parks, with at least fifty percent of the money for acquisition costs;

(b) Not less than thirty percent for the acquisition, development, and renovation of local parks, with at least fifty percent of this money for acquisition costs;

(c) Not less than twenty percent for the acquisition, renovation, or development of trails;

(d) Not less than fifteen percent for the acquisition, renovation, or development of water access sites, with at least seventy-five percent of this money for acquisition costs; and

(e) Not less than five percent for development and renovation projects on state recreation lands. Only the department of natural resources and the department of fish and wildlife may apply for these funds to be used on their existing recreation lands.

(2) Moneys appropriated beginning July 1, 2016, for this chapter to the outdoor recreation account shall be distributed in the following way:

(a) Not less than thirty percent to the state parks and recreation commission for the acquisition and development of state parks, with at least forty percent but no more than fifty percent of the money for acquisition costs;

(b) Not less than thirty percent for the acquisition, development, and renovation of local parks, with at least forty percent but no more than fifty percent of this money for acquisition costs;

(c) Not less than twenty percent for the acquisition, renovation, or development of trails;

(d) Not less than ten percent for the acquisition, renovation, or development of water access sites, with at least seventy-five percent of this money for acquisition costs; and

(e) Not less than ten percent or three million dollars, whichever is less, for development and renovation projects on state recreation lands. Any amount above three million dollars must be distributed for the purposes of (d) of this subsection.

(3)(a) In distributing these funds, the board retains discretion to meet the most pressing needs for state and local parks, trails, and water access sites, and is not required to meet the percentages described in subsections (1) and (2) of this section in any one biennium.

(b) If not enough project applications are submitted in a category within the outdoor recreation account to meet the percentages described in subsections (1) and (2) of this section in any biennium, the board retains discretion to distribute any remaining funds to the other categories within the account.

(4) Only the state parks and recreation commission may apply for acquisition and development funds for state parks under subsections (1)(a) and (2)(a) of this section.

(5) Only local agencies may apply for acquisition, development, or renovation funds for local parks under subsections (1)(b) and (2)(b) of this section.

(6) Only state and local agencies may apply for funds for trails under subsections (1)(c) and (2)(c) of this section.

(7) Only state and local agencies may apply for funds for water access sites under subsections (1)(d) and (2)(d) of this section.

(8) Only the department of natural resources and the department of fish and wildlife may apply for funds for development and renovation projects on existing state recreation lands under subsections (1)(e) and (2)(e) of this section. [2016 c 149 § 5; 2007 c 241 § 30; 2005 c 303 § 4; 2003 c 184 § 1; 1999 c 379 § 941; 1999 c 379 § 920; 1990 1st ex.s. c 14 § 6. Formerly RCW 43.98A.050.]

Application—2016 c 149 §§ 3, 4, 5, and 10: See note following RCW 79A.15.030.

Effective date—Intent—2016 c 149: See notes following RCW 79A.15.010.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.15.060 Habitat conservation account—Acquisition policies and priorities. (1) The board may adopt rules establishing acquisition policies and priorities for distributions from the habitat conservation account.

(2) Except as provided in RCW 79A.15.030(8), moneys appropriated for this chapter may not be used by the board to fund staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation or maintenance of areas acquired under this chapter.

(3) Moneys appropriated for this chapter may be used by grant recipients for costs incidental to acquisition, including, but not limited to, surveying expenses, fencing, noxious weed control, and signing.

(4) The board may not approve a local project where the local agency share is less than the amount to be awarded from the habitat conservation account.

(5) In determining acquisition priorities with respect to the habitat conservation account, the board shall consider, at a minimum, the following criteria:

(a) For critical habitat and natural areas proposals:

(i) Multiple benefits for the project;

(ii) Whether, and the extent to which, a conservation easement can be used to meet the purposes for the project;

(iii) Community support for the project based on input from, but not limited to, local citizens, local organizations, and local elected officials;

(iv) The project proposal's ongoing stewardship program that includes estimated costs of maintaining and operating the project including, but not limited to, control of noxious weeds and detrimental invasive species, and that identifies the source of the funds from which the stewardship program will be funded;

(v) Recommendations as part of a watershed plan or habitat conservation plan, or a coordinated regionwide prioritization effort, and for projects primarily intended to benefit salmon, limiting factors, or critical pathways analysis;

(vi) Immediacy of threat to the site;

(vii) Uniqueness of the site;

(viii) Diversity of species using the site;

(ix) Quality of the habitat;

(x) Long-term viability of the site;

(xi) Presence of endangered, threatened, or sensitive species;

(xii) Enhancement of existing public property;

(xiii) Consistency with a local land use plan, or a regional or statewide recreational or resource plan, including projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130;

(xiv) Educational and scientific value of the site;

(xv) Integration with recovery efforts for endangered, threatened, or sensitive species;

(xvi) The statewide significance of the site;

(xvii) Habitat benefits for the feeding, nesting, and reproduction of all pollinators, including honey bees.

(b) For urban wildlife habitat proposals, in addition to the criteria of (a) of this subsection:

(i) Population of, and distance from, the nearest urban area;

(ii) Proximity to other wildlife habitat;

(iii) Potential for public use; and

(iv) Potential for use by special needs populations.

(c) For riparian protection proposals, the board must consider, at a minimum, the following criteria:

(i) Whether the project continues the conservation reserve enhancement program. Applications that extend the duration of leases of riparian areas that are currently enrolled in the conservation reserve enhancement program are eligible. These applications are eligible for a conservation lease extension of at least twenty-five years of duration;

(ii) Whether the projects are identified or recommended in a watershed plan, salmon recovery plan, or other local plans, such as habitat conservation plans, and these must be highly considered in the process;

(iii) Whether there is community support for the project;

(iv) Whether the proposal includes an ongoing stewardship program that includes control of noxious weeds, detrimental invasive species, and that identifies the source of the funds from which the stewardship program will be funded;

(v) Whether there is an immediate threat to the site;

(vi) Whether the quality of the habitat is improved or, for projects including restoration or enhancement, the potential for restoring quality habitat including linkage of the site to other high quality habitat;

(vii) Whether the project is consistent with a local land use plan or a regional or statewide recreational or resource plan. The projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130 must be highly considered in the process;

(viii) Whether the site has educational or scientific value;

(ix) Whether the site has passive recreational values for walking trails, wildlife viewing, the observation of natural settings, or other multiple benefits; and

(x) Whether the project provides habitat benefits for the feeding, nesting, and reproduction of all pollinators, including honey bees.

(d) Moneys appropriated for this chapter to riparian protection projects must be distributed for the acquisition or enhancement or restoration of riparian habitat. All enhancement or restoration projects, except those qualifying under (c)(i) of this subsection, must include the acquisition of a real property interest in order to be eligible.

(6) Before November 1st of each even-numbered year, the board shall recommend to the governor a prioritized list of all projects to be funded under RCW 79A.15.040. The governor may remove projects from the list recommended by the board and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project. [2019 c 353 § 12; 2016 c 149 § 6. Prior: 2009 c 341 § 3; 2009 c 16 § 1; 2007 c 241 § 31; 2005 c 303 §

(2019 Ed.)

8; 2000 c 11 § 67; 1999 c 379 § 918; 1997 c 235 § 719; 1990 1st ex.s. c 14 § 7. Formerly RCW 43.98A.060.]

Findings—Intent—2019 c 353: See note following RCW 43.23.300.

Effective date—Intent—2016 c 249: See notes following RCW 79A.15.010.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.15.065 Grants through habitat conservation account—Statement of environmental benefits—Development of outcome-focused performance measures. In providing grants through the habitat conservation account, the board shall require grant applicants to incorporate the environmental benefits of the project into their grant applications, and the board shall utilize the statement of environmental benefits in the grant application and review process. The board shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grant program. To the extent possible, the board should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The board shall consult with affected interest groups in implementing this section. [2007 c 241 § 32; 2001 c 227 § 8.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Findings—Intent—2001 c 227: See note following RCW 43.41.270.

79A.15.070 Acquisition and development priorities—Generally. (1) In determining which state parks proposals and local parks proposals to fund, the board shall use existing policies and priorities.

(2) Except as provided in RCW 79A.15.030(8), moneys appropriated for this chapter may not be used by the board to fund staff or other overhead expenses, or by a state, regional, or local agency to fund operation or maintenance of areas acquired under this chapter.

(3) Moneys appropriated for this chapter may be used by grant recipients for costs incidental to acquisition and development, including, but not limited to, surveying expenses, fencing, and signing.

(4) The board may not approve a project of a local agency where the share contributed by the local agency is less than the amount to be awarded from the outdoor recreation account. The local agency's share may be reduced or waived if the project meets the needs of an underserved population or a community in need, as defined by the board.

(5) The board may adopt rules establishing acquisition policies and priorities for the acquisition and development of trails and water access sites to be financed from moneys in the outdoor recreation account.

(6) In determining the acquisition and development priorities, the board shall consider, at a minimum, the following criteria:

(a) For trails proposals:

(i) Community support for the project;

(ii) Immediacy of threat to the site;

(iii) Linkage between communities;

(iv) Linkage between trails;

(v) Existing or potential usage;

(vi) Consistency with a local land use plan, or a regional or statewide recreational or resource plan, including projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130;

(vii) Availability of water access or views;

(viii) Enhancement of wildlife habitat; and

(ix) Scenic values of the site.

(b) For water access proposals:

(i) Community support for the project;

(ii) Distance from similar water access opportunities;

(iii) Immediacy of threat to the site;

(iv) Diversity of possible recreational uses;

(v) Public demand in the area; and

(vi) Consistency with a local land use plan, or a regional or statewide recreational or resource plan, including projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130.

(7) Before November 1st of each even-numbered year, the board shall recommend to the governor a prioritized list of all projects to be funded under RCW 79A.15.050. The governor may remove projects from the list recommended by the board and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project. [2016 c 149 § 7; 2007 c 241 § 33; 2005 c 303 § 9; 2000 c 11 § 68; 1999 c 379 § 919; 1997 c 235 § 720; 1990 1st ex.s. c 14 § 8. Formerly RCW 43.98A.070.]

Effective date—Intent—2016 c 149: See notes following RCW 79A.15.010.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.15.080 Recommended project list—Board authority to obligate funds—Legislature's authority. The board shall not sign contracts or otherwise financially obligate funds from the habitat conservation account, the outdoor recreation account, or the farm and forest account as provided in this chapter before the legislature has appropriated funds for a specific list of projects. The legislature may remove projects from the list recommended by the governor. [2016 c 149 § 8; 2007 c 241 § 34; 2005 c 303 § 10; 1990 1st ex.s. c 14 § 9. Formerly RCW 43.98A.080.]

Effective date—Intent—2016 c 149: See notes following RCW 79A.15.010.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.15.090 Condemnation. Moneys made available under this chapter for land acquisition shall not be used to acquire land through condemnation. [1990 1st ex.s. c 14 § 10. Formerly RCW 43.98A.090.]

79A.15.110 Review of proposed project application. State or local agencies or nonprofit nature conservancies shall review the proposed project application and confer with

the county or city with jurisdiction over the project area prior to applying for funds for the acquisition of property under this chapter. The appropriate county or city legislative authority may, at its discretion, submit a letter to the board identifying the authority's position with regard to the acquisition project. The board shall make the letters received under this section available to the governor and the legislature when the prioritized project list is submitted under this chapter. [2016 c 149 § 9; 2007 c 241 § 36; 2005 c 303 § 5.]

Effective date—Intent—2016 c 149: See notes following RCW 79A.15.010.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.15.120 Riparian protection account—Use of funds. (1) The riparian protection account is established in the state treasury. The board must administer the account in accordance with chapter 79A.25 RCW and this chapter, and hold it separate and apart from all other money, funds, and accounts of the board.

(2) Moneys appropriated for this chapter to the riparian protection account must be distributed for the acquisition or enhancement or restoration of riparian habitat. All enhancement or restoration projects, except those qualifying under subsection (9)(a) of this section, must include the acquisition of a real property interest in order to be eligible.

(3) State and local agencies and lead entities under chapter 77.85 RCW, nonprofit nature conservancy organizations or associations, and the conservation commission may apply for acquisition and enhancement or restoration funds for riparian habitat projects under subsection (1) of this section. Other state agencies not defined in RCW 79A.15.010, such as the department of transportation and the department of corrections, may enter into interagency agreements with state agencies to apply in partnership for funds under this section.

(4) The board may adopt rules establishing acquisition policies and priorities for distributions from the riparian protection account.

(5) Except as provided in *RCW 79A.15.030(7), moneys appropriated for this section may not be used by the board to fund staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation or maintenance of areas acquired under this chapter.

(6) Moneys appropriated for this section may be used by grant recipients for costs incidental to restoration and acquisition, including, but not limited to, surveying expenses, fencing, and signing.

(7) The board may not approve a local project where the local agency or nonprofit nature conservancy organization or association share is less than the amount to be awarded from the riparian protection account. In-kind contributions, including contributions of a real property interest in land may be used to satisfy the local agency's or nonprofit nature conservancy organization's or association's share.

(8) State agencies receiving grants for acquisition of land under this section must pay an amount in lieu of real property taxes equal to the amount of tax that would be due if the land were taxable as open space land under chapter 84.34 RCW except taxes levied for any state purpose, plus an additional amount for control of noxious weeds equal to that which

would be paid if such lands were privately owned. The county assessor and county legislative authority shall assist in determining the appropriate calculation of the amount of tax that would be due.

(9) In determining acquisition priorities with respect to the riparian protection account, the board must consider, at a minimum, the following criteria:

(a) Whether the project continues the conservation reserve enhancement program. Applications that extend the duration of leases of riparian areas that are currently enrolled in the conservation reserve enhancement program shall be eligible. Such applications are eligible for a conservation lease extension of at least twenty-five years of duration;

(b) Whether the projects are identified or recommended in a watershed planning process under chapter 247, Laws of 1998, salmon recovery planning under chapter 77.85 RCW, or other local plans, such as habitat conservation plans, and these must be highly considered in the process;

(c) Whether there is community support for the project;

(d) Whether the proposal includes an ongoing stewardship program that includes control of noxious weeds, detrimental invasive species, and that identifies the source of the funds from which the stewardship program will be funded;

(e) Whether there is an immediate threat to the site;

(f) Whether the quality of the habitat is improved or, for projects including restoration or enhancement, the potential for restoring quality habitat including linkage of the site to other high quality habitat;

(g) Whether the project is consistent with a local land use plan, or a regional or statewide recreational or resource plan. The projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130 must be highly considered in the process;

(h) Whether the site has educational or scientific value; and

(i) Whether the site has passive recreational values for walking trails, wildlife viewing, or the observation of natural settings.

(10) Before November 1st of each even-numbered year, the board will recommend to the governor a prioritized list of projects to be funded under this section. The governor may remove projects from the list recommended by the board and will submit this amended list in the capital budget request to the legislature. The list must include, but not be limited to, a description of each project and any particular match requirement. [2009 c 341 § 4; 2009 c 16 § 2; 2007 c 241 § 37; 2005 c 303 § 6.]

Reviser's note: *(1) RCW 79A.15.030 was amended by 2016 c 149 § 3, changing subsection (7) to subsection (8).

(2) This section was amended by 2009 c 16 § 2 and by 2009 c 341 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.15.130 Farm and forest account—Use of funds.

(1) The farm and forest account is established in the state treasury. The board will administer the account in accordance with chapter 79A.25 RCW and this chapter, and hold it sepa-

rate and apart from all other money, funds, and accounts of the board. Moneys appropriated for this chapter to the farm and forest account must be distributed for the acquisition and preservation of farmlands and forestlands in order to maintain the opportunity for agricultural and forest management activity upon these lands.

(2) Moneys appropriated beginning July 1, 2016, for this chapter shall be divided as follows:

(a) Not less than ninety percent for the acquisition and preservation of farmlands.

(b) Not less than ten percent for the acquisition and preservation of forestlands.

(3) Moneys appropriated for this chapter to the farm and forest account may be distributed for: (a) The acquisition of a less than fee simple interest in farmlands or forestland, such as a conservation easement or lease; (b) the enhancement or restoration of ecological functions on those properties; or (c) both. In order for a farmland or forestland preservation grant to provide for an environmental enhancement or restoration project, the project must include the acquisition of a real property interest.

(4) Cities, counties, nonprofit nature conservancies, and the conservation commission may apply for acquisition and enhancement or restoration funds for farmland or forestland preservation projects within their jurisdictions under subsection (1) of this section.

(5) The board may adopt rules establishing acquisition and enhancement or restoration policies and priorities for distributions from the farm and forest account.

(6) The acquisition of a property interest in a project under this section does not provide a right of access to the property by the public unless explicitly provided for in a conservation easement or other form of deed restriction.

(7) Except as provided in RCW 79A.15.030(8), moneys appropriated for this section may not be used by the board to fund staff positions or other overhead expenses, or by cities, counties, nonprofit nature conservancies, or the conservation commission to fund operation or maintenance of areas acquired under this chapter.

(8) Moneys appropriated for this section may be used by grant recipients for costs incidental to restoration and acquisition, including, but not limited to, surveying expenses, fencing, noxious weed control, and signing.

(9) The board may not approve a local project where the local agency's or nonprofit nature conservancies' share is less than the amount to be awarded from the farm and forest account. In-kind contributions, including contributions of a real property interest in land, may be used to satisfy the local agency's or nonprofit nature conservancies' share.

(10) In determining the acquisition priorities for farmland projects, the board must consider, at a minimum, the following criteria:

(a) Community support for the project;

(b) A recommendation as part of a limiting factors or critical pathways analysis, a watershed plan or habitat conservation plan, or a coordinated regionwide prioritization effort;

(c) The likelihood of the conversion of the site to nonagricultural or more highly developed usage;

(d) Consistency with a local land use plan, or a regional or statewide recreational or resource plan. The projects that assist in the implementation of local shoreline master plans

updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130 must be highly considered in the process;

- (e) Benefits to salmonids;
- (f) Benefits to other fish and wildlife habitat;
- (g) Integration with recovery efforts for endangered, threatened, or sensitive species;
- (h) The viability of the site for continued agricultural production, including, but not limited to:
 - (i) Soil types;
 - (ii) On-site production and support facilities such as barns, irrigation systems, crop processing and storage facilities, wells, housing, livestock sheds, and other farming infrastructure;
 - (iii) Suitability for producing different types or varieties of crops;
 - (iv) Farm-to-market access;
 - (v) Water availability; and
- (i) Other community values provided by the property when used as agricultural land, including, but not limited to:
 - (i) Viewshed;
 - (ii) Aquifer recharge;
 - (iii) Occasional or periodic collector for stormwater runoff;
 - (iv) Agricultural sector job creation;
 - (v) Migratory bird habitat and forage area; and
 - (vi) Educational and curriculum potential.

(11) In allotting funds for environmental enhancement or restoration projects, the board will require the projects to meet the following criteria:

- (a) Enhancement or restoration projects must further the ecological functions of the farmlands;
- (b) The projects, such as fencing, bridging watercourses, replanting native vegetation, replacing culverts, clearing of waterways, etc., must be less than fifty percent of the acquisition cost of the project including any in-kind contribution by any party;
- (c) The projects should be based on accepted methods of achieving beneficial enhancement or restoration results; and
- (d) The projects should enhance the viability of the preserved farmland to provide agricultural production while conforming to any legal requirements for habitat protection.

(12) In determining the acquisition priorities for forestland projects, the board must consider, at a minimum, the following criteria:

- (a) Community support for the project;
- (b) A recommendation as part of a limiting factors or critical pathways analysis, a watershed plan or habitat conservation plan, or a coordinated regionwide prioritization effort;
- (c) The likelihood of conversion of the site to nontimber or more highly developed use;
- (d) Consistency with a local land use plan, or a regional or statewide recreational or resource plan. The projects that assist in the implementation of local shoreline master plans updated according to RCW 90.58.080 or local comprehensive plans updated according to RCW 36.70A.130 must be highly considered in the process;
- (e) Multiple benefits of the project;
- (f) Project attributes, including but not limited to:
 - (i) Clean air and water;
 - (ii) Stormwater management;

(iii) Wildlife habitat; and

(iv) Potential for carbon sequestration.

(13) In allotting funds for environmental enhancement or restoration projects, the board must require the projects to meet the following criteria:

- (a) Enhancement or restoration projects must further the ecological functions of the forestlands;
- (b) The projects, such as fencing, bridging watercourses, replanting native vegetation, replacing culverts, etc., must be less than fifty percent of the acquisition cost of the project including any in-kind contribution by any party;
- (c) The projects should be based on accepted methods of achieving beneficial enhancement or restoration results;
- (d) The projects should enhance the viability of the preserved forestland to provide timber production while conforming to any legal requirements for habitat protection.

(14) Before November 1st of each even-numbered year, the board will recommend to the governor a prioritized list of all projects to be funded under this section. The governor may remove projects from the list recommended by the board and must submit this amended list in the capital budget request to the legislature. The list must include, but not be limited to, a description of each project and any particular match requirement. [2016 c 149 § 10; 2009 c 341 § 5; 2007 c 241 § 38; 2005 c 303 § 7.]

Application—2016 c 149 §§ 3, 4, 5, and 10: See note following RCW 79A.15.030.

Effective date—Intent—2016 c 149: See notes following RCW 79A.15.010.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.15.140 Puget Sound partners. When administering funds under this chapter, the committee shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under RCW 90.71.310, or for any other reason, shall not be given less preferential treatment than Puget Sound partners. [2007 c 341 § 35.]

Additional notes found at www.leg.wa.gov

79A.15.150 Administering funds—Preference to an evergreen community. When administering funds under this chapter, the recreation and conservation funding board shall give preference only to an evergreen community recognized under RCW 35.105.030 in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community. [2008 c 299 § 34.]

Additional notes found at www.leg.wa.gov

Chapter 79A.25 RCW

RECREATION AND CONSERVATION FUNDING BOARD

(Formerly: Interagency committee for outdoor recreation)

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CONSTRUCTION

- 79A.25.902 Short title.

79A.25.005 Policy—Mission of board. (1) As Washington begins its second century of statehood, the legislature recognizes that renewed efforts are needed to preserve, conserve, and enhance the state's recreational resources. Rapid population growth and increased urbanization have caused a decline in suitable land for recreation and resulted in overcrowding and deterioration of existing facilities. Lack of adequate recreational resources directly affects the health and well-being of all citizens of the state, reduces the state's eco-

nomics viability, and prevents Washington from maintaining and achieving the quality of life that it deserves.

It is therefore the policy of the state and its agencies to preserve, conserve, and enhance recreational resources and open space. In carrying out this policy, the mission of the recreation and conservation funding board and its office is to (a) create and work actively for the implementation of a unified statewide strategy for meeting the recreational needs of Washington's citizens, (b) represent and promote the interests of the state on recreational issues in concert with other state and local agencies and the governor, (c) encourage and provide interagency and regional coordination, and interaction between public and private organizations, (d) administer recreational grant-in-aid programs and provide technical assistance, and (e) serve as a repository for information, studies, research, and other data relating to recreation.

(2) Washington is uniquely endowed with fresh and salt waters rich in scenic and recreational value. This outdoor heritage enriches the lives of citizens, attracts new residents and businesses to the state, and is a major support of its expanding tourist industry. Rising population, increased income and leisure time, and the rapid growth of boating and other water sports have greatly increased the demand for water related recreation, while waterfront land is rapidly rising in value and disappearing from public use. There is consequently an urgent need for the acquisition or improvement of waterfront land on fresh and salt water suitable for marine recreational use by Washington residents and visitors. To meet this need, it is necessary and proper that the portion of motor vehicle fuel taxes paid by boat owners and operators on fuel consumed in their watercraft and not reclaimed as presently provided by law should be expended for the acquisition or improvement of marine recreation land on the Pacific Ocean, Puget Sound, bays, lakes, rivers, reservoirs and other fresh and salt waters of the state. [2007 c 241 § 39; 1989 c 237 § 1; 1965 c 5 § 1 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.010.]

Intent—2007 c 241: "The legislature intends to change the name of the interagency committee for outdoor recreation to the recreation and conservation funding board. Similarly, the office of the interagency committee is renamed the recreation and conservation office.

The legislature does not intend this act to make any substantive policy changes other than to change or clarify the names of the relevant entities.

The name changes in this act have no impact on the powers, duties, or responsibilities previously delegated to the interagency committee for outdoor recreation or the office of the interagency committee by statute, budget proviso, or executive order.

The name changes in this act have no impact on the validity of the documents, contracts, agreements, policies, and written decisions made, entered into, recorded, issued, or established before this name change by the interagency committee for outdoor recreation, its office, or director. Documents, contracts, agreements, policies, publications, and written decisions are not required to be changed to conform to the name changes, and the continued use of former names on documents made, recorded, issued, or established prior to the changes in this act does not affect the document's validity after the change." [2007 c 241 § 1.]

Additional notes found at www.leg.wa.gov

79A.25.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the recreation and conservation funding board.

(2) "Council" means the Washington invasive species council created in RCW 79A.25.310.

(3) "Director" means the director of the recreation and conservation office.

(4) "Marine recreation land" means any land with or without improvements which (a) provides access to, or in whole or in part borders on, fresh or salt water suitable for recreational use by watercraft, or (b) may be used to create, add to, or make more usable, bodies of water, waterways, or land, for recreational use by watercraft.

(5) "Office," "recreation and conservation office," or "the office of recreation and conservation" means the state agency responsible for administration of programs and activities of the recreation and conservation funding board, the salmon recovery funding board, the invasive species council, and such other duties or boards, councils, or advisory groups as are or may be established or directed for administrative placement in the agency.

(6) "Public body" means any county, city, town, port district, park and recreation district, metropolitan park district, or other municipal corporation which is authorized to acquire or improve public outdoor recreation land, and also means Indian tribes now or hereafter recognized as such by the federal government for participation in the land and water conservation program.

(7) "Tax on marine fuel" means motor vehicle fuel tax which is (a) tax on fuel used in, or sold or distributed for use in, any watercraft, (b) refundable pursuant to chapter 82.38 RCW, and (c) paid to the director of licensing with respect to taxable sales, distributions, or uses occurring on or after December 3, 1964.

(8) "Watercraft" means any boat, vessel, or other craft used for navigation on or through water. [2013 c 225 § 636; 2007 c 241 § 40; 2006 c 152 § 9; 1989 c 237 § 2; 1979 c 158 § 108; 1972 ex.s. c 56 § 1; 1965 c 5 § 2 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.020.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Effective date—2013 c 225: See note following RCW 82.38.010.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.25.020 Director's powers and duties. The director shall have the following powers and duties:

(1) To supervise the administrative operations of the boards, office, and their staff;

(2) To administer recreation and conservation grant-in-aid programs and contracts, and provide technical assistance to state and local agencies;

(3) To prepare and update a strategic plan for the acquisition, renovation, and development of recreational resources and the preservation and conservation of open space. The plan shall be prepared in coordination with the office of the governor and the office of financial management, with participation of federal, state, and local agencies having recreational responsibilities, user groups, private sector interests, and the general public. The plan shall be submitted to the recreation and conservation funding board for review, and the board shall submit its recommendations on the plan to the

governor. The plan shall include, but is not limited to: (a) an inventory of current resources; (b) a forecast of recreational resource demand; (c) identification and analysis of actual and potential funding sources; (d) a process for broad scale information gathering; (e) an assessment of the capabilities and constraints, both internal and external to state government, that affect the ability of the state to achieve the goals of the plan; (f) an analysis of strategic options and decisions available to the state; (g) an implementation strategy that is coordinated with executive policy and budget priorities; and (h) elements necessary to qualify for participation in or the receipt of aid from any federal program for outdoor recreation;

(4) To represent and promote the interests of the state on recreational issues and further the mission of the board and office;

(5) Upon approval of the relevant board, to enter into contracts and agreements with private nonprofit corporations to further state goals of preserving, conserving, and enhancing recreational resources and open space for the public benefit and use;

(6) To appoint such technical and other committees as may be necessary to carry out the purposes of this chapter;

(7) To create and maintain a repository for data, studies, research, and other information relating to recreation and conservation resources in the state, and to encourage the interchange of such information;

(8) To encourage and provide opportunities for inter-agency and regional coordination and cooperative efforts between public agencies and between public and private entities involved in the development and preservation of recreational and conservation resources; and

(9) To prepare the state trails plan, as required by RCW 79A.35.040. [2007 c 241 § 41; 2000 c 11 § 69; 1989 c 237 § 4. Formerly RCW 43.99.025.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.25.030 Proportion of motor vehicle fuel tax moneys that are tax on marine fuel. (1) The amount or proportion of motor vehicle fuel tax moneys that are tax on marine fuel is deemed to be one percent of the total motor vehicle fuel tax moneys collected annually.

(2) One percent of the total motor vehicle fuel tax moneys collected annually is to be deposited into the marine fuel tax refund account as provided in RCW 79A.25.040 and 79A.25.070. [2010 c 23 § 1; 2007 c 241 § 42; 2000 c 11 § 70; 1995 c 166 § 1; 1979 c 158 § 109; 1975-'76 2nd ex.s. c 50 § 1; 1969 ex.s. c 74 § 1; 1965 c 5 § 3 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.030.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.25.040 Marine fuel tax refund account—Moneys derived from tax on marine fuel—Refunding and placement in account—Exception. There is created the marine fuel tax refund account in the state treasury. The director of licensing must request the state treasurer to refund monthly from the motor vehicle fund an amount equal to one

percent of the motor vehicle fuel tax moneys collected during that period. The state treasurer must refund such amounts and place them in the marine fuel tax refund account to be held for those entitled thereto pursuant to chapter 82.38 RCW and RCW 79A.25.050, except that the treasurer may not refund and place in the marine fuel tax refund account more than the greater of the following amounts: (1) An amount equal to two percent of all moneys paid to the treasurer as motor vehicle fuel tax for such period, (2) an amount necessary to meet all approved claims for refund of tax on marine fuel for such period. [2013 c 225 § 637; 2010 c 23 § 2; 2000 c 11 § 71; 1995 c 166 § 2; 1991 sp.s. c 13 § 42; 1985 c 57 § 53; 1979 c 158 § 110; 1965 c 5 § 4 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.040.]

Effective date—2013 c 225: See note following RCW 82.38.010.

Additional notes found at www.leg.wa.gov

79A.25.050 Marine fuel tax refund account—Claims for refunds paid from. Claims submitted pursuant to chapter 82.38 RCW for refund of tax on marine fuel which has been placed in the marine fuel tax refund account must, if approved, be paid from that account. [2013 c 225 § 638; 1965 c 5 § 5 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.050.]

Effective date—2013 c 225: See note following RCW 82.38.010.

79A.25.060 Outdoor recreation account—Deposits. The outdoor recreation account is created in the state treasury. Moneys in the account are subject to legislative appropriation. The board shall administer the account in accordance with chapter 79A.15 RCW and this chapter, and shall hold it separate and apart from all other money, funds, and accounts of the board.

Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and moneys made available to the state of Washington by the federal government for outdoor recreation, may be deposited into the account. [2007 c 241 § 43; 2000 c 11 § 72; 1995 c 166 § 3; 1991 sp.s. c 13 § 52; 1985 c 57 § 54; 1967 ex.s. c 62 § 1; 1965 c 5 § 6 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.060.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.25.070 Recreation resource account, motor vehicle fund—Transfers of moneys from marine fuel tax account. Upon expiration of the time limited by *RCW 82.36.330 for claiming of refunds of tax on marine fuel, the state of Washington shall succeed to the right to such refunds. The director of licensing, after taking into account past and anticipated claims for refunds from and deposits to the marine fuel tax refund account, shall request the state treasurer to transfer monthly from the marine fuel tax refund account an amount equal to the proportion of the moneys in the account representing: (1) A motor vehicle fuel tax rate of: (a) Nineteen cents per gallon of motor vehicle fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007; (c) twenty-one cents per gallon of motor vehicle fuel from July 1, 2007, through June 30, 2009; (d) twenty-two cents per

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gallon of motor vehicle fuel from July 1, 2009, through June 30, 2011; (e) twenty-three cents per gallon of motor vehicle fuel from July 1, 2011, through July 31, 2015; (f) thirty cents per gallon of motor vehicle fuel from August 1, 2015, through June 30, 2016; and (g) thirty-four and nine-tenths cents per gallon of motor vehicle fuel from July 1, 2016, through June 30, 2031; and (2) beginning July 1, 2031, and thereafter, the state's motor vehicle fuel tax rate in existence at the time of the fuel purchase, to the recreation resource account and the remainder to the motor vehicle fund. [2015 3rd sp.s. c 44 § 113; (2015 2nd sp.s. c 9 § 4 repealed by 2015 3rd sp.s. c 44 § 111); 2010 c 23 § 3; 2003 c 361 § 409; 2000 c 11 § 73; 1995 c 166 § 4; 1990 c 42 § 116; 1979 c 158 § 111; 1965 c 5 § 7 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.070.]

***Reviser's note:** Chapter 82.36 RCW was repealed in its entirety by 2013 c 225 § 501, effective July 1, 2016.

Effective date—2015 3rd sp.s. c 44: See note following RCW 46.68.395.

Findings—Intent—2015 2nd sp.s. c 9: See note following RCW 46.09.520.

Findings—2003 c 361: See note following RCW 82.38.030.

Purpose—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 46.68.090.

Additional notes found at www.leg.wa.gov

79A.25.080 Recreation resource account—Distribution of moneys transferred. (1) Moneys transferred to the recreation resource account from the marine fuel tax refund account may be used when appropriated by the legislature, as well as any federal or other funds now or hereafter available, to pay the office and necessary administrative and coordinative costs of the recreation and conservation funding board established by RCW 79A.25.110. All moneys so transferred, except those appropriated as aforesaid, shall be divided into two equal shares and shall be used to benefit watercraft recreation in this state as follows:

(a) One share as grants to state agencies for (i) acquisition of title to, or any interests or rights in, marine recreation land, (ii) capital improvement and renovation of marine recreation land, including periodic dredging in accordance with subsection (2) of this section, if needed, to maintain or make the facility more useful, or (iii) matching funds in any case where federal or other funds are made available on a matching basis for purposes described in (a)(i) or (ii) of this subsection;

(b) One share as grants to public bodies to help finance (i) acquisition of title to, or any interests or rights in, marine recreation land, or (ii) capital improvement and renovation of marine recreation land, including periodic dredging in accordance with subsection (2) of this section, if needed, to maintain or make the facility more useful. A public body is authorized to use a grant, together with its own contribution, as matching funds in any case where federal or other funds are made available for purposes described in (a)(i) or (ii) of this subsection. The board may prescribe further terms and conditions for the making of grants in order to carry out the purposes of this chapter.

(2) For the purposes of this section "periodic dredging" is limited to dredging of materials that have been deposited in a channel due to unforeseen events. This dredging should

extend the expected usefulness of the facility for at least five years.

(3) During the 2009-2011 fiscal biennium, the legislature may appropriate such amounts as reflect the excess fund balance in the recreation resource account to the state parks and recreation commission for maintenance and operation of parks and to improve accessibility for boaters and off-road vehicle users. This appropriation is not required to follow the specific distribution specified in subsection (1)(a) and (b) of this section. [2009 c 564 § 958; 2007 c 241 § 44; 2000 c 11 § 74; 1999 c 341 § 1; 1995 c 166 § 5; 1971 ex.s. c 140 § 1; 1965 ex.s. c 136 § 1; 1965 c 5 § 8 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.080.]

Effective date—2009 c 564: See note following RCW 2.68.020.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.25.090 Interest on funds granted by board to be returned to source account. Interest earned on funds granted or made available by the board shall not be expended by the recipient but shall be returned to the source account for disbursement by the board in accordance with general budget and accounting procedure. [2007 c 241 § 45; 1995 c 166 § 6; 1967 ex.s. c 62 § 7. Formerly RCW 43.99.095.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.25.100 Conversion of marine recreation land to other uses—Approval—Substitution. Marine recreation land with respect to which money has been expended under RCW 79A.25.080 shall not, without the approval of the board, be converted to uses other than those for which such expenditure was originally approved. The board shall only approve any such conversion upon conditions which will assure the substitution of other marine recreation land of at least equal fair market value at the time of conversion and of as nearly as feasible equivalent usefulness and location. [2007 c 241 § 46; 2000 c 11 § 75; 1965 c 5 § 10 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.100.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.25.110 Recreation and conservation funding board—Created—Membership—Terms—Compensation and travel expenses. There is created the recreation and conservation funding board consisting of the commissioner of public lands, the director of parks and recreation, and the director of fish and wildlife, or their designees, and, by appointment of the governor with the advice and consent of the senate, five members from the public at large who have a demonstrated interest in and a general knowledge of outdoor recreation and conservation in the state. The terms of members appointed from the public at large shall commence on January 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term. The governor shall appoint one of the members from the public at large to serve as chair of the board for the duration of the member's term. Members

employed by the state shall serve without additional pay and participation in the work of the board shall be deemed performance of their employment. Members from the public at large shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement individually for travel expenses incurred in performance of their duties as members of the board in accordance with RCW 43.03.050 and 43.03.060. [2007 c 241 § 47; 1994 c 264 § 31; 1988 c 36 § 21; 1985 c 77 § 1; 1984 c 287 § 84. Prior: 1981 c 338 § 7; 1981 c 206 § 1; 1975-'76 2nd ex.s. c 34 § 125; 1971 c 60 § 1; 1967 ex.s. c 62 § 2; 1965 c 5 § 11 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.110.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Construction and maintenance of outdoor recreation facilities by department of natural resources, review by recreation and conservation funding board: RCW 79.10.140.

Additional notes found at www.leg.wa.gov

79A.25.120 Plans for public outdoor recreation land acquisition or improvement—Contents—Submission—Recommendations. Any public body or any agency of state government authorized to acquire or improve public outdoor recreation land which desires funds from the outdoor recreation account, the recreation resource account, or the non-highway and off-road vehicle activities program account shall submit to the board a long-range plan for developing outdoor recreation facilities within its authority and detailed plans for the projects sought to be financed from these accounts, including estimated cost and such other information as the board may require. The board shall analyze all proposed plans and projects, and shall recommend to the governor for inclusion in the budget such projects as it may approve and find to be consistent with an orderly plan for the acquisition and improvement of outdoor recreation lands in the state. [2007 c 241 § 48; 1995 c 166 § 7; 1983 c 3 § 114; 1965 c 5 § 12 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.120.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.25.130 Participation in federal programs—Authority. The board or director may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program respecting outdoor recreation or conservation. The board or director may enter into contracts and agreements with the United States or any appropriate agency thereof, keep financial and other records relating thereto, and furnish to appropriate officials and agencies of the United States such reports and information as may be reasonably necessary to enable such officials and agencies to perform their duties under such programs. [2007 c 241 § 49; 1967 ex.s. c 62 § 5. Formerly RCW 43.99.124.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.25.140 Commitments or agreements forbidden unless sufficient funds available—Agreements with federal agencies on behalf of state or local agencies—Conditions. The board or director shall not make any commitment or enter into any agreement until it is determined that sufficient funds are available to meet project costs. It is the legislative intent that, to such extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under authority of this chapter, such areas and facilities shall be publicly maintained for outdoor recreation purposes. When requested by a state agency or public body, the board or director may enter into and administer agreements with the United States or any appropriate agency thereof for planning, acquisition, and development projects involving participating federal-aid funds on behalf of any state agency, public body, or subdivision of this state: PROVIDED, That recipients of funds give necessary assurances to the board or director that they have available sufficient matching funds to meet their shares, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of such state agency, public body, or subdivision for public outdoor recreation use. [2007 c 241 § 50; 1967 ex.s. c 62 § 6. Formerly RCW 43.99.126.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.25.150 Assistance furnished by state departments—Appointment of director and personnel—Civil service exemption. When requested by the board, members employed by the state shall furnish assistance to the board from their departments for the analysis and review of proposed plans and projects, and such assistance shall be a proper charge against the appropriations to the several agencies represented on the board. Assistance may be in the form of money, personnel, or equipment and supplies, whichever is most suitable to the needs of the board.

The director of the recreation and conservation office shall be appointed by, and serve at the pleasure of, the governor. The governor shall select the director from a list of three candidates submitted by the board. However, the governor may request and the board shall provide an additional list or lists from which the governor may select the director. The director shall have background and experience in the areas of recreation and conservation management and policy. The director shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The director shall appoint such personnel as may be necessary to carry out the duties of the office. Not more than three employees appointed by the director shall be exempt from the provisions of chapter 41.06 RCW. [2010 c 128 § 7; 2007 c 241 § 51; 1989 c 237 § 3; 1981 c 206 § 2; 1967 ex.s. c 62 § 3; 1965 c 5 § 13 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.130.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

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79A.25.170 Public parks and recreation sites guide.

In addition to its other powers and duties the director is authorized to coordinate the preparation of a comprehensive guide of public parks and recreation sites in the state of Washington. Such guide may include one or more maps showing the locations of such public parks and recreation areas, and may also include information as to the facilities and recreation opportunities available. All state agencies providing public recreational facilities shall participate. Cooperation of federal agencies providing public recreational facilities within the state shall be solicited.

The director shall determine the costs of providing and distributing such a guide and pursue the most feasible means of paying the costs of initial production. The guide shall be sold for an amount to cover the reasonable production and distribution costs involved, and the director may contract with any state agency, local government agency, or private firm as otherwise allowed by law for any part of such production or distribution. [1989 c 237 § 5; 1979 ex.s. c 24 § 1. Formerly RCW 43.99.142.]

Plan submittal: "The committee shall submit a plan for production and distribution of the guide to the State Legislature on or before January 1, 1981." [1979 ex.s. c 24 § 3.]

Additional notes found at www.leg.wa.gov

79A.25.180 Public parks and recreation sites guide—Review and update. The director shall periodically review and have updated the guide authorized by RCW 79A.25.170. [2000 c 11 § 76; 1989 c 237 § 6; 1979 ex.s. c 24 § 4. Formerly RCW 43.99.146.]

Additional notes found at www.leg.wa.gov

79A.25.190 Appropriations by subsequent legislatures. The 1967 and subsequent legislatures may appropriate funds requested in the budget for grants to public bodies and state agencies from the recreation resource account to the board for allocation and disbursement. The board shall include a list of prioritized state agency projects to be funded from the recreation resource account with its biennial budget request. [2007 c 241 § 52; 1995 c 166 § 8; 1965 c 5 § 15 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.150.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.25.200 Recreation resource account. The recreation resource account is created in the state treasury. Moneys in this account are subject to legislative appropriation. The board shall administer the account in accordance with this chapter and chapter 79A.35 RCW and shall hold it separate and apart from all other money, funds, and accounts of the board. Moneys received from the marine fuel tax refund account under RCW 79A.25.070 shall be deposited into the account. Grants, gifts, or other financial assistance, proceeds received from public bodies as administrative cost contributions, and moneys made available to the state of Washington by the federal government for outdoor recreation may be deposited into the account. During the 2011-2013 fiscal biennium, the recreation resource account may be used by the department of fish and wildlife for the purposes of activities related to aquatic and marine enforcement. [2012 2nd sp.s. c

7 § 931; 2007 c 241 § 53; 2000 c 11 § 77; 1995 c 166 § 10. Formerly RCW 43.99.170.]

Effective date—2012 2nd sp.s. c 7: See note following RCW 2.68.020.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.25.210 Firearms range account—Grant program—Rules. The firearms range account is hereby created in the state general fund. Moneys in the account shall be subject to legislative appropriation and shall be used for purchase and development of land, construction or improvement of range facilities, including fixed structure construction or remodeling, equipment purchase, safety or environmental improvements, noise abatement, and liability protection for public and nonprofit firearm range training and practice facilities.

Grant funds shall not be used for expendable shooting supplies, or normal operating expenses. In making grants, the board shall give priority to projects for noise abatement or safety improvement. Grant funds shall not supplant funds for other organization programs.

The funds will be available to nonprofit shooting organizations, school districts, and state, county, or local governments on a match basis. All entities receiving matching funds must be open on a regular basis and usable by law enforcement personnel or the general public who possess Washington concealed pistol licenses or Washington hunting licenses or who are enrolled in a firearm safety class.

Applicants for a grant from the firearms range account shall provide matching funds in either cash or in-kind contributions. The match must represent one dollar in value for each one dollar of the grant except that in the case of a grant for noise abatement or safety improvements the match must represent one dollar in value for each two dollars of the grant. In-kind contributions include but are not limited to labor, materials, and new property. Existing assets and existing development may not apply to the match.

Applicants other than school districts or local or state government must be registered as a nonprofit or not-for-profit organization with the Washington secretary of state. The organization's articles of incorporation must contain provisions for the organization's structure, officers, legal address, and registered agent.

Organizations requesting grants must provide the hours of range availability for public and law enforcement use. The fee structure will be submitted with the grant application.

Any nonprofit organization or agency accepting a grant under this program will be required to pay back the entire grant amount to the firearms range account if the use of the range facility is discontinued less than ten years after the grant is accepted.

Entities receiving grants must make the facilities for which grant funding is received open for hunter safety education classes and firearm safety classes on a regular basis for no fee.

Government units or school districts applying for grants must open their range facility on a regular basis for hunter safety education classes and firearm safety classes.

The board shall adopt rules to implement chapter 195, Laws of 1990, pursuant to chapter 34.05 RCW. During the 2017-2019 and 2019-2021 fiscal biennia, expenditures from

the firearms range account may be used to implement chapter 74, Laws of 2017 (SHB 1100) (concealed pistol licenses) and chapter 282, Laws of 2017 (SB 5268) (concealed pistol license notices). [2019 c 415 § 987; 2017 3rd sp.s. c 1 § 997; 2007 c 241 § 54; 1996 c 96 § 1; 1994 sp.s. c 7 § 443; 1990 c 195 § 2. Formerly RCW 77.12.720.]

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Finding—Intent—Severability—1994 sp.s. c 7: See notes following RCW 43.70.540.

Findings—1990 c 195: "Firearms are collected, used for hunting, recreational shooting, and self-defense, and firearm owners as well as bow users need safe, accessible areas in which to shoot their equipment. Approved shooting ranges provide that opportunity, while at the same time, promote public safety. Interest in all shooting sports has increased while safe locations to shoot have been lost to the pressures of urban growth." [1990 c 195 § 1.]

Additional notes found at www.leg.wa.gov

79A.25.230 Firearms range account—Gifts and grants. The board or director may accept gifts and grants upon such terms as the board shall deem proper. All monetary gifts and grants shall be deposited in the firearms range account of the general fund. [2007 c 241 § 56; 1990 c 195 § 4. Formerly RCW 77.12.740.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Findings—1990 c 195: See note following RCW 79A.25.210.

79A.25.240 Grants and loan administration. The recreation and conservation office shall provide necessary grants and loan administration support to the salmon recovery funding board as provided in RCW 77.85.120. The office shall also be responsible for tracking salmon recovery expenditures under RCW 77.85.140. The office shall provide all necessary administrative support to the salmon recovery funding board, and the salmon recovery funding board shall be located with the office. [2009 c 345 § 13; 2007 c 241 § 57; 2003 c 39 § 44; 2000 c 11 § 78; 1999 sp.s. c 13 § 17.]

Finding—Intent—2009 c 345: See notes following RCW 77.85.030.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.25.250 Acquisition, development, etc., of urban area parks by recreation and conservation funding board. Recognizing the fact that the demand for park services is greatest in our urban areas, that parks should be accessible to all Washington citizens, that the urban poor cannot afford to travel to remotely located parks, that few state parks are located in or near urban areas, that a need exists to conserve energy, and that local governments having jurisdiction in urban areas cannot afford the costs of maintaining and operating the extensive park systems needed to service their large populations, the legislature hereby directs the recreation and conservation funding board to place a high priority on the acquisition, development, redevelopment, and renovation of parks to be located in or near urban areas and to be particularly accessible to and used by the populations of those areas.

For purposes of RCW 79A.25.250 and 79A.05.300, "urban areas" means any incorporated city with a population of five thousand persons or greater or any county with a population density of two hundred fifty persons per square mile or greater. This section shall be implemented by January 1, 2017. [2007 c 241 § 58; 2000 c 11 § 79; 1980 c 89 § 3. Formerly RCW 43.51.380.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.25.260 Habitat and recreation lands coordinating group—Members—Progress reports—Duties. (Expires July 31, 2027.) (1) The habitat and recreation lands coordinating group is established. The group must include representatives from the office, the state parks and recreation commission, the department of natural resources, and the department of fish and wildlife. The members of the group must have subject matter expertise with the issues presented in this section. Representatives from appropriate stakeholder organizations and local government must also be considered for participation on the group, but may only be appointed or invited by the director.

(2) To ensure timely completion of the duties assigned to the group, the director shall submit yearly progress reports to the office of financial management.

(3) The group must:

(a) Review agency land acquisition and disposal plans and policies to help ensure statewide coordination of habitat and recreation land acquisitions and disposals;

(b) Produce an interagency, statewide biennial forecast of habitat and recreation land acquisition and disposal plans;

(c) Establish procedures for publishing the biennial forecast of acquisition and disposal plans on web sites or other centralized, easily accessible formats;

(d) Develop and convene an annual forum for agencies to coordinate their near-term acquisition and disposal plans;

(e) Develop a recommended method for interagency geographic information system-based documentation of habitat and recreation lands in cooperation with other state agencies using geographic information systems;

(f) Develop recommendations for standardization of acquisition and disposal recordkeeping, including identifying a preferred process for centralizing acquisition data;

(g) Develop an approach for monitoring the success of acquisitions;

(h) Identify and commence a dialogue with key state and federal partners to develop an inventory of potential public lands for transfer into habitat and recreation land management status; and

(i) Review existing and proposed habitat conservation plans on a regular basis to foster statewide coordination and save costs.

(4) If prioritization among the various requirements of subsection (3) of this section is necessary due to the availability of resources, the group shall prioritize implementation of subsection (3)(a) through (d) and (g) of this section.

(5) The group shall revisit the planning requirements of relevant grant programs administered by the office to determine whether coordination of state agency habitat and recreation land acquisition and disposal could be improved by modifying those requirements.

(6) The group must develop options for centralizing coordination of habitat and recreation land acquisition made with funds from federal grants. The advantages and drawbacks of the following options, at a minimum, must be developed:

(a) Requiring that agencies provide early communication on the status of federal grant applications to the office, the office of financial management, or directly to the legislature;

(b) Establishing a centralized pass-through agency for federal funds, where individual agencies would be the primary applicants.

(7) This section expires July 31, 2027. Prior to January 1, 2027, the group shall make a formal recommendation to the board and the appropriate committees of the legislature as to whether the existence of the habitat and recreation lands coordinating group should be continued beyond July 31, 2027, and if so, whether any modifications to its enabling statute should be pursued. [2016 c 151 § 1; 2012 c 128 § 1; 2007 c 247 § 1.]

Finding—2012 c 128: "The legislature finds that participation by the state's habitat and recreation land management agencies in the habitat and recreation lands coordinating group is an inherent part of transparent, efficient, and effective state habitat and recreation land management, and must be conducted within existing resources." [2012 c 128 § 2.]

79A.25.300 Findings. The legislature finds that:

(1) The land, water, and other resources of Washington are being severely impacted by the invasion of an increasing number of harmful invasive plant and animal species.

(2) These impacts are resulting in damage to Washington's environment and causing economic hardships.

(3) The multitude of public and private organizations with an interest in controlling and preventing the spread of harmful invasive species in Washington need a mechanism for cooperation, communication, collaboration, and developing a statewide plan of action to meet these threats. [2006 c 152 § 1.]

79A.25.310 Washington invasive species council—Created. (1) There is created the Washington invasive species council to exist until June 30, 2022. Staff support to the council shall be provided by the recreation and conservation office and from the agencies represented on the council. For administrative purposes, the council shall be located within the office.

(2) The purpose of the council is to provide policy level direction, planning, and coordination for combating harmful invasive species throughout the state and preventing the introduction of others that may be potentially harmful.

(3) The council is a joint effort between local, tribal, state, and federal governments, as well as the private sector and nongovernmental interests. The purpose of the council is to foster cooperation, communication, and coordinated approaches that support local, state, and regional initiatives for the prevention and control of invasive species.

(4) For the purposes of this chapter, "invasive species" include nonnative organisms that cause economic or environmental harm and are capable of spreading to new areas of the state. "Invasive species" does not include domestic livestock, intentionally planted agronomic crops, or nonharmful exotic organisms. [2016 sp.s. c 7 § 1; 2011 c 154 § 2; 2007 c 241 § 61; 2006 c 152 § 2.]

Findings—2011 c 154: "The land, water, and other resources of Washington state are being severely impacted by the invasion of an increasing number of harmful invasive plant and animal species. These impacts are resulting in damage to the state's environment and causing economic hardships. The multitude of public and private organizations with an interest and authority in controlling and preventing the spread of harmful invasive species in Washington state need a mechanism for cooperation, communication, collaboration, and implementation of the statewide plan of action to combat these threats." [2011 c 154 § 1.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.25.320 Washington invasive species council—Membership. (1) Membership in the council includes a representative from the following entities:

- (a) The department of agriculture, represented by the director or the director's designee;
- (b) The department of fish and wildlife, represented by the director or the director's designee;
- (c) The department of ecology, represented by the director or the director's designee;
- (d) The department of natural resources, represented by the commissioner or the commissioner's designee;
- (e) The department of transportation, represented by the secretary or the secretary's designee;
- (f) The Washington state noxious weed control board, appointed by the board;
- (g) A county located east of the crest of the Cascade mountains, appointed by the other members of the council; and
- (h) A county located west of the crest of the Cascade mountains, appointed by the other members of the council.

(2) The councilmembers may add members to the council as the councilmembers deem appropriate to accomplish its goals.

(3) The council must invite one representative each from the United States department of agriculture, the United States fish and wildlife service, the United States environmental protection agency, and the United States coast guard to participate on the council in a nonvoting, ex officio capacity.

(4) A representative of the office of the governor must convene the first meeting of the council and serve as chair until the council selects a chair. At the first meeting of the council, the council shall address issues including, but not limited to, voting methods, meeting schedules, and the need for and use of advisory and technical committees. [2006 c 152 § 3.]

79A.25.330 Washington invasive species council—Goals. The council's goals are to:

- (1) Minimize the effects of harmful invasive species on Washington's citizens and ensure the economic and environmental well-being of the state;
- (2) Serve as a forum for identifying and understanding invasive species issues from all perspectives;
- (3) Serve as a forum to facilitate the communication, cooperation, and coordination of local, tribal, state, federal, private, and nongovernmental entities for the prevention, control, and management of nonnative invasive species;
- (4) Serve as an avenue for public outreach and for raising public awareness of invasive species issues;
- (5) Develop and implement a statewide invasive species strategic plan as described in this chapter;

(6) Review the current funding mechanisms and levels for state agencies to manage noxious weeds on the lands under their authority;

(7) Make recommendations for legislation necessary to carry out the purposes of this chapter;

(8) Establish criteria for the prioritization of invasive species response actions and projects; and

(9) Utilizing the process described in subsection (8) of this section, select at least one project per year from the strategic plan for coordinated action by the Washington invasive species councilmember entities. [2006 c 152 § 4.]

79A.25.340 Washington invasive species council—Statewide strategic plan. (1) The council shall develop and periodically update a statewide strategic plan for addressing invasive species. The strategic plan should incorporate the reports and activities of the aquatic nuisance species committee, the state noxious weed control board, and other appropriate reports and activities. In addition, the council must coordinate with the biodiversity council created in Executive Order 04-02 to ensure that a statewide strategy for the control of invasive species is integrated into the thirty-year strategy for biodiversity conservation that the biodiversity council must submit to the legislature in 2007.

(2) The strategic plan must, at a minimum, address:

- (a) Statewide coordination and intergovernmental cooperation;
- (b) Prevention of new biological invasions through deliberate or unintentional introduction;
- (c) Inventory and monitoring of invasive species;
- (d) Early detection of and rapid response to new invasions;
- (e) Control, management, and eradication of established populations of invasive species;
- (f) Projects that can be implemented during the period covered by the strategic plan for the control, management, and eradication of new or established populations of invasive species;

(g) Revegetation, reclamation, or restoration of native species following control or eradication of invasive species;

(h) Tools that can be made available to assist state agencies that are responsible for managing public land to control invasive noxious weeds and recommendations as to how the agencies should be held responsible for the failure to control invasive noxious weeds;

(i) Research and public education;

(j) Funding and resources available for invasive species prevention, control, and management; and

(k) Recommendations for legislation necessary to carry out the purposes of this chapter.

(3) The strategic plan must be updated at least once every three years following its initial development. The strategic plan must be submitted to the governor and appropriate committees of the legislature by September 15th of each applicable year. The council shall complete the initial strategic plan within two years of June 7, 2006.

(4) Each state department and agency named to the council shall, consistent with state law, make best efforts to implement elements of the completed plan that are applicable to the department or agency. [2006 c 152 § 5.]

79A.25.350 Washington invasive species council—Biennial report. (1) The council shall submit a biennial report of its activities to the governor and the relevant policy committees of the senate and house of representatives by December 15th of each even-numbered year. The report must include an evaluation of progress made in the preceding biennium to implement or carry out the strategic plan and an identification of projects from the strategic plan that will be a focus for the following biennium.

(2) Prior to the start of the 2011 legislative session, the council must prepare a report to the appropriate committees of the legislature that makes recommendations as to the extension or modification of the council. [2016 c 197 § 11; 2006 c 152 § 6.]

79A.25.360 Washington invasive species council—Advisory and technical committees authorized. The council may establish advisory and technical committees that it considers necessary to aid and advise the council in the performance of its functions. The committees may be continuing or temporary committees. The council shall determine the representation, membership, terms, and organization of the committees and appoint their members. [2006 c 152 § 7.]

79A.25.370 Washington invasive species council—Invasive species council account. (Expires June 30, 2022.) (1) The invasive species council account is created in the custody of the state treasurer. All receipts from appropriations, gifts, grants, and donations must be deposited into the account. Expenditures from the account may be used only to carry out the purposes of the council. The account is subject to allotment procedures under chapter 43.88 RCW and the approval of the director of the recreation and conservation office is required for expenditures. All expenditures must be directed by the council.

(2) This section expires June 30, 2022. [2016 sp.s. c 7 § 2; 2011 c 154 § 3; 2007 c 241 § 62; 2006 c 152 § 8.]

Findings—2011 c 154: See note following RCW 79A.25.310.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

YOUTH OR COMMUNITY ATHLETIC FACILITIES

79A.25.800 Intent. (Contingent expiration date.) (1) The legislature recognizes that coordinated funding efforts are needed to maintain, develop, and improve the state's community outdoor athletic fields. Rapid population growth and increased urbanization have caused a decline in suitable outdoor fields for community athletic activities and has resulted in overcrowding and deterioration of existing surfaces. Lack of adequate community outdoor athletic fields directly affects the health and well-being of all citizens of the state, reduces the state's economic viability, and prevents Washington from maintaining and achieving the quality of life that it deserves. Therefore, it is the policy of the state and its agencies to maintain, develop, fund, and improve youth or community athletic facilities, including but not limited to community outdoor athletic fields.

(2) In carrying out this policy, the legislature intends to promote the building of new community outdoor athletic fields, the upgrading of existing community outdoor athletic

fields, and the maintenance of existing community outdoor athletic fields across the state of Washington. [2003 c 126 § 701; 2000 c 11 § 80; 1998 c 264 § 1. Formerly RCW 43.99.800.]

*Reviser's note: RCW 82.14.0494 has a contingent expiration date. See RCW 82.14.0494(5).

Additional notes found at www.leg.wa.gov

79A.25.820 Strategic plan—Funding eligibility—Regional coordination and cooperative efforts—Data collection and exchange. (Contingent expiration date.) Subject to available resources, the recreation and conservation funding board may:

(1) Prepare and update a strategic plan for the development, maintenance, and improvement of community outdoor athletic fields in the state. In the preparation of such plan, the board may use available data from federal, state, and local agencies having community outdoor athletic responsibilities, user groups, private sector interests, and the general public. The plan may include, but is not limited to:

(a) An inventory of current community outdoor athletic fields;

(b) A forecast of demand for these fields;

(c) An identification and analysis of actual and potential funding sources; and

(d) Other information the board deems appropriate to carry out the purposes of RCW 79A.25.800 through 79A.25.830;

(2) Determine the eligibility requirements for cities, counties, and qualified nonprofit organizations to access funding from the youth athletic facility account created in RCW 43.99N.060(4);

(3) Encourage and provide opportunities for interagency and regional coordination and cooperative efforts between public agencies and between public entities and nonprofit organizations involved in the maintenance, development, and improvement of community outdoor athletic fields; and

(4) Create and maintain data, studies, research, and other information relating to community outdoor athletic fields in the state, and to encourage the exchange of this information. [2007 c 241 § 59; 2003 c 126 § 702; 2000 c 11 § 81; 1998 c 264 § 3. Formerly RCW 43.99.820.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

79A.25.830 Gifts, grants, or endowments. (Contingent expiration date.) The recreation and conservation funding board or office may receive gifts, grants, or endowments from public and private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of RCW 79A.25.800 through 79A.25.830 and spend gifts, grants, or endowments or income from the public or private sources according to their terms, unless the receipt of the gifts, grants, or endowments violates RCW 42.17A.560. [2011 c 60 § 48; 2007 c 241 § 60; 2000 c 11 § 82; 1998 c 264 § 4. Formerly RCW 43.99.830.]

Contingent expiration date—2011 c 60 § 48: "Section 82, chapter 11, Laws of 2000; section 60, chapter 241, Laws of 2007; and section 48, chapter 60, Laws of 2011 expire one year after RCW 82.14.0494 expires." [2011 c 60 § 52.]

Effective date—2011 c 60: See RCW 42.17A.919.

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Additional notes found at www.leg.wa.gov

CONSTRUCTION

79A.25.902 Short title. This chapter shall be known and may be cited as the Marine Recreation Land Act of 1964. [1965 c 5 § 18 (Initiative Measure No. 215, approved November 3, 1964). Formerly RCW 43.99.910.]

Chapter 79A.30 RCW WASHINGTON STATE HORSE PARK

Sections

79A.30.005	Findings—Purpose.
79A.30.010	Definitions.
79A.30.020	Park established—Site approval—Ownership of land—Development, promotion, operation, management, and maintenance.
79A.30.030	Washington state horse park authority—Formation—Powers—Articles of incorporation—Board.
79A.30.040	Washington state horse park authority—Powers.
79A.30.050	Collaboration by authority and state on projects of shared interest—Cooperation with groups for youth recreational activities.

79A.30.005 Findings—Purpose. The legislature finds that:

(1) Horses are part of a large, highly diverse, and vital industry which provides significant economic, employment, recreational, and educational contributions to residents of and visitors to the state of Washington;

(2) Currently there is no adequate facility in the Pacific Northwest with the acreage, services, and capacity to host large regional horse shows, national championships, or Olympics-quality events to showcase and promote this important Washington industry;

(3) Establishing a first-class horse park facility in Washington would meet important needs of the state's horse industry, attract investment, enhance recreational opportunities, and bring new exhibitors and tourists to the state from throughout the region and beyond; and

(4) A unique opportunity exists to form a partnership between state, county, and private interests to create a major horse park facility that will provide public recreational opportunities and statewide economic and employment benefits.

It is the purpose of this legislation to create the framework for such a partnership to facilitate development of the Washington state horse park. It is further the intent of the legislature that the state horse park shall be developed in stages, based on factors such as the availability of funds, equipment, and other materials donated by private sources; the availability and willingness of volunteers to work on park development; and the availability of revenues generated by the state horse park as it is developed and utilized. [1995 c 200 § 1. Formerly RCW 67.18.005.]

79A.30.010 Definitions. Unless the context clearly indicates otherwise, the definitions in this section apply throughout this chapter.

(1) "Authority" means the Washington state horse park authority authorized to be created in RCW 79A.30.030.

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

(3) "Horses" includes all domesticated members of the taxonomic family Equidae, including but not limited to horses, donkeys, and mules.

(4) "State horse park" means the Washington state horse park established in RCW 79A.30.020. [2000 c 11 § 83; 1995 c 200 § 2. Formerly RCW 67.18.010.]

79A.30.020 Park established—Site approval—Ownership of land—Development, promotion, operation, management, and maintenance. (1) The Washington state horse park is hereby established, to be located at a site approved by the commission. In approving a site for the state horse park, the commission shall consider areas with large blocks of land suitable for park development, the distance to various population centers in the state, the ease of transportation to the site for large vehicles traveling along either a north-south or an east-west corridor, and other factors deemed important by the commission.

(2) Ownership of land for the state horse park shall be as follows:

(a) The commission is vested with and shall retain ownership of land provided by the state for the state horse park. Any lands acquired by the commission after July 23, 1995, for the state horse park shall be purchased under chapter 79A.15 RCW. The legislature encourages the commission to provide a long-term lease of the selected property to the Washington state horse park authority at a minimal charge. The lease shall contain provisions ensuring public access to and use of the horse park facilities, and generally maximizing public recreation opportunities at the horse park, provided that the facility remains available primarily for horse-related activities.

(b) Land provided for the state horse park by the county in which the park is located shall remain in the ownership of that county unless the county determines otherwise. The legislature encourages the county to provide a long-term lease of selected property to the Washington state horse park authority at a minimal charge.

(c) If the authority acquires additional lands through donations, grants, or other means, or with funds generated from the operation of the state horse park, the authority shall retain ownership of those lands. The authority shall also retain ownership of horse park site improvements paid for by or through donations or gifts to the authority.

(3) Development, promotion, operation, management, and maintenance of the state horse park is the responsibility of the authority created in RCW 79A.30.030. [2000 c 11 § 84; 1995 c 200 § 3. Formerly RCW 67.18.020.]

79A.30.030 Washington state horse park authority—Formation—Powers—Articles of incorporation—Board.

(1) A nonprofit corporation may be formed under the nonprofit corporation provisions of chapter 24.03 RCW to carry out the purposes of this chapter. Except as provided in RCW 79A.30.040, the corporation shall have all the powers and be subject to the same restrictions as are permitted or prescribed to nonprofit corporations and shall exercise those powers

only for carrying out the purposes of this chapter and those purposes necessarily implied therefrom. The nonprofit corporation shall be known as the Washington state horse park authority. The articles of incorporation shall provide that it is the responsibility of the authority to develop, promote, operate, manage, and maintain the Washington state horse park. The articles of incorporation shall provide for appointment of directors and other conduct of business consistent with the requirements of this chapter.

(2)(a) The articles of incorporation shall provide for an eleven-member board of directors for the authority, all appointed by the commission. Board members shall serve three-year terms, except that two of the original appointees shall serve one-year terms, and two of the original appointees shall serve two-year terms. Of the board members appointed pursuant to chapter 31, Laws of 2013, one shall serve an initial one-year term, one shall serve an initial two-year term, and two shall serve an initial term of three years. A board member may serve consecutive terms.

(b) The articles of incorporation shall provide that the commission appoint board members as follows:

(i) One board member shall represent the interests of the commission;

(ii) One board member shall represent the interests of the county in which the park is located. In making this appointment, the commission shall solicit recommendations from the county legislative authority; and

(iii) Nine board members shall represent the geographic and sports discipline diversity of equestrian interests in the state, and at least three of these members shall have business experience relevant to the organization of horse shows or operation of a horse show facility. In making these appointments, the commission shall solicit recommendations from a variety of active horse-related organizations in the state.

(3) The articles of incorporation shall include a policy that provides for the preferential use of a specific area of the horse park facilities at nominal cost for horse groups associated with youth groups and individuals with disabilities.

(4) The commission shall make appointments to fill board vacancies for positions authorized under subsection (2) of this section, upon additional solicitation of recommendations from the board of directors.

(5) The board of directors shall perform their duties in the best interests of the authority, consistent with the standards applicable to directors of nonprofit corporations under RCW 24.03.127. [2013 c 31 § 2; 2011 1st sp.s. c 21 § 32; 2000 c 11 § 85; 1995 c 200 § 4. Formerly RCW 67.18.030.]

Findings—2013 c 31: "The legislature finds that the Washington state horse park authority is a unique public-private partnership for providing equestrian recreational opportunities. Because the authority is a statutorily created nonprofit corporation, its growth as an organization requires statutory authorization. The legislature finds that expanding membership of the authority's board will: Allow additional board representation for the geographic and sports discipline diversity of equestrian interests; add relevant business experience to the board; and avoid duplicating efforts of other organizations." [2013 c 31 § 1.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

79A.30.040 Washington state horse park authority—Powers. To meet its responsibility for developing, promot-

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ing, operating, managing, and maintaining the state horse park, the authority is empowered to do the following:

(1) Exercise the general powers authorized for any nonprofit corporation as specified in RCW 24.03.035. All debts of the authority shall be in the name of the authority and shall not be debts of the state of Washington for which the state or any state agency shall have any obligation to pay; and the authority may not issue bonds. Neither the full faith and credit of the state nor the state's taxing power is pledged for any indebtedness of the authority;

(2) Employ and discharge at its discretion employees, agents, advisors, and other personnel;

(3) Apply for or solicit, accept, administer, and dispose of grants, gifts, and bequests of money, services, securities, real estate, or other property. However, if the authority accepts a donation designated for a specific purpose, the authority shall use the donation for the designated purpose;

(4) Establish, revise, collect, manage, and expend such fees and charges at the state horse park as the authority deems necessary to accomplish its responsibilities;

(5) Make such expenditures as are appropriate for paying the administrative costs and expenses of the authority and the state horse park;

(6) Authorize use of the state horse park facilities by the general public and by and for compatible nonequestrian events as the authority deems reasonable, so long as the primacy of the center for horse-related purposes is not compromised;

(7) Insure its obligations and potential liability;

(8) Enter into cooperative agreements with and provide for private nonprofit groups to use the state horse park facilities and property to raise money to contribute gifts, grants, and support to the authority for the purposes of this chapter;

(9) Grant concessions or leases at the state horse park upon such terms and conditions as the authority deems appropriate, but in no event shall the term of a concession or lease exceed twenty-five years. Concessions and leases shall be consistent with the purposes of this chapter and may be renegotiated at least every five years; and

(10) Generally undertake any and all lawful acts necessary or appropriate to carry out the purposes for which the authority and the state horse park are created. [1995 c 200 § 5. Formerly RCW 67.18.040.]

79A.30.050 Collaboration by authority and state on projects of shared interest—Cooperation with groups for youth recreational activities.

(1) If the authority and state agencies find it mutually beneficial to do so, they are authorized to collaborate and cooperate on projects of shared interest. Agencies authorized to collaborate with the authority include but are not limited to: The commission for activities and projects related to public recreation; the department of agriculture for projects related to the equine agricultural industry; the *department of community, trade, and economic development with respect to community and economic development and tourism issues associated with development of the state horse park; Washington State University with respect to opportunities for animal research, education, and extension; the department of ecology with respect to opportunities for making the state horse park's waste treatment facilities a demonstration model for the handling of waste to pro-

tect water quality; and with local community colleges with respect to programs related to horses, economic development, business, and tourism.

(2) The authority shall cooperate with 4-H clubs, pony clubs, youth groups, and local park departments to provide youth recreational activities. The authority shall also provide for preferential use of an area of the horse park facility for youth and the disabled at nominal cost. [1995 c 200 § 6. Formerly RCW 67.18.050.]

***Reviser's note:** The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Chapter 79A.35 RCW

WASHINGTON STATE RECREATION TRAILS SYSTEM

Sections

79A.35.010	Definitions.
79A.35.020	Purpose.
79A.35.030	Trails to be designated by board—Inclusion of other trails—Procedure.
79A.35.040	State trails plan.
79A.35.050	Proposals for designation of existing or proposed trails as state recreational trails.
79A.35.060	Coordination by recreation and conservation funding board.
79A.35.070	Categories of trails or areas—Policy statement as to certain state lands.
79A.35.080	General types of use.
79A.35.090	Guidelines.
79A.35.100	Consultation and cooperation with state, federal, and local agencies.
79A.35.110	Participation by volunteer organizations—Liability of public agencies therefor limited.
79A.35.120	Department of transportation—Participation.
79A.35.130	Participants in conservation corps programs—Exempt from provisions related to rates of compensation.
79A.35.900	Short title.

79A.35.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the recreation and conservation funding board.

(2) "System" means the Washington state recreation trails system. [2007 c 241 § 63; 1970 ex.s. c 76 § 2. Formerly RCW 67.32.020.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Recreation and conservation funding board: Chapter 79A.25 RCW.

79A.35.020 Purpose. (1) In order to provide for the ever increasing outdoor recreation needs of an expanding resident and tourist population and to promote public access to, travel within, and the enjoyment and appreciation of outdoor areas of Washington, it is declared to be in the public interest to plan a system of trails throughout the state to enable and encourage the public to engage in outdoor recreation activities.

(2) The purpose of this chapter is to provide the means for attaining these objectives by instituting a method for establishing a system of state recreation trails, and by prescribing the manner by which a proposed trail may be included in the system. [1970 ex.s. c 76 § 3. Formerly RCW 67.32.030.]

79A.35.030 Trails to be designated by board—Inclusion of other trails—Procedure. (1) The system shall be composed of trails as designated by the board. Such trails shall meet the conditions established in this chapter and such supplementary criteria as the board may prescribe.

(2) The board shall establish a procedure whereby federal, state, and local governmental agencies and/or public and private organizations may propose trails for inclusion within the system. Such proposals will comply with the proposal requirements contained in RCW 79A.35.050.

(3) In consultation with appropriate federal, state, and local governmental agencies and public and private organizations, the board shall establish a procedure for public review of the proposals considered appropriate for inclusion in the statewide trails system. [2007 c 241 § 64; 2000 c 11 § 86; 1970 ex.s. c 76 § 4. Formerly RCW 67.32.040.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.35.040 State trails plan. The director shall prepare a state trails plan as part of the statewide outdoor recreation and open space plan. Included in this plan shall be an inventory of existing trails and potential trail routes on all lands within the state presently being used or with potential for use by all types of trail users. Such trails plan may include general routes or corridors within which specific trails or segments thereof may be considered for designation as state recreation trails. [1989 c 237 § 7; 1971 ex.s. c 47 § 1; 1970 ex.s. c 76 § 5. Formerly RCW 67.32.050.]

Application of chapter—Permission necessary to enter upon private lands: RCW 46.09.300.

Additional notes found at www.leg.wa.gov

79A.35.050 Proposals for designation of existing or proposed trails as state recreational trails. Before any specific existing or proposed trail is considered for designation as a state recreational trail, a proposal must be submitted to the board showing the following:

(1) For existing trails:

(a) The route of such trail, including maps and illustrations, and the recommended mode or modes of travel to be permitted thereon;

(b) The characteristics that, in the judgment of the agency or organization proposing the trail, make it worthy of designation as a component of a state recreation trail or trail system;

(c) A map showing the current status of land ownership and use along the designated route;

(d) The name of the agency or combination of agencies that would be responsible for acquiring additional trail rights-of-way or easements, trail improvement, operation and maintenance, and a statement from those agencies indicating the conditions under which they would be willing to accept those responsibilities;

(e) Any anticipated problems of maintaining and supervising the use of such trail and any anticipated hazards to the use of any land or resource adjacent to such trail;

(f) And such others as deemed necessary by the board.

(2) In addition, for proposed trails or for existing trails which require additional right-of-way acquisition, easements, and/or development:

(a) The method of acquiring trail rights-of-way or easements;

(b) The estimated cost of acquisition of lands, or interest in land, if any is required;

(c) The plans for developing the trail and the estimated cost thereof;

(d) Proposed sources of funds to accomplish (a) and (b) of this subsection. [2007 c 241 § 65; 1970 ex.s. c 76 § 6. Formerly RCW 67.32.060.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.35.060 Coordination by recreation and conservation funding board. Following designation of a state recreation trail, the recreation and conservation funding board may coordinate:

(1) The agency or agencies that will acquire (where appropriate), develop and/or maintain the trail;

(2) The most appropriate location for the trail;

(3) Modes of travel to be permitted;

(4) And other functions as appropriate. [2007 c 241 § 66; 1970 ex.s. c 76 § 7. Formerly RCW 67.32.070.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.35.070 Categories of trails or areas—Policy statement as to certain state lands. The following seven categories of trails or areas are hereby established for purposes of this chapter:

(1) Cross-state trails which connect scenic, historical, geological, geographical, or other significant features which are characteristic of the state;

(2) Water-oriented trails which provide a designated path to, on, or along fresh and/or salt water in which the water is the primary point of interest;

(3) Scenic-access trails which give access to quality recreation, scenic, historic or cultural areas of statewide or national significance;

(4) Urban trails which provide opportunities within an urban setting for walking, bicycling, horseback riding, or other compatible activities. Where appropriate, they will connect parks, scenic areas, historical points, and neighboring communities;

(5) Historical trails which identify and interpret routes which were significant in the historical settlement and development of the state;

(6) ORV vehicle trails which are suitable for use by both four-wheel drive vehicles and two-wheel vehicles. Such trails may be included as a part of the trail systems enumerated in subsections (1), (2), (3) and (5) of this section or may be separately designated;

(7) Off-road and off-trail areas which are suitable for use by both four-wheel drive vehicles and two-wheel vehicles. The board shall coordinate an inventory and classification of such areas giving consideration to the type of use such areas will receive from persons operating four-wheel drive vehicles and two-wheel vehicles.

The planning and designation of trails shall take into account and give due regard to the interests of federal agencies, state agencies and bodies, counties, municipalities, private landowners and individuals, and interested recreation

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organizations. It is not required that the above categories be used to designate specific trails, but the board will assure that full consideration is given to including trails from all categories within the system. As it relates to all classes of trails and to all types of trail users, it is herein declared as state policy to increase recreational trail access to and within state and federally owned lands and private lands where access may be obtained. It is the intent of the legislature that public recreation facilities be developed as fully as possible to provide greater recreation opportunities for the citizens of the state. The purpose of chapter 153, Laws of 1972 ex. sess. is to increase the availability of trails and areas for off-road vehicles by granting authority to state and local governments to maintain a system of ORV trails and areas, and to fund the program to provide for such development. State lands should be used as fully as possible for all public recreation which is compatible with the income-producing requirements of the various trusts. [2007 c 241 § 67; 1977 ex.s. c 220 § 21; 1972 ex.s. c 153 § 1; 1971 ex.s. c 47 § 2; 1970 ex.s. c 76 § 8. Formerly RCW 67.32.080.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Application of chapter—Permission necessary to enter upon private lands: RCW 46.09.300.

79A.35.080 General types of use. All trails designated as state recreational trails will be constructed, maintained, and operated to provide for one or more of the following general types of use: Foot, foot powered bicycle, horse, motor vehicular or watercraft travel as appropriate to the terrain and location, or to legal, administrative or other necessary restraints. It is further provided that the same trail shall not be designated for use by foot and vehicular travel at the same time. [1970 ex.s. c 76 § 9. Formerly RCW 67.32.090.]

79A.35.090 Guidelines. With the concurrence of any federal or state agency administering lands through which a state recreation trail may pass, and after consultation with local governments, private organizations and landowners which the board knows or believes to be concerned, the board may issue guidelines including, but not limited to: Encouraging the permissive use of volunteer organizations for planning, maintenance, or trail construction assistance; trail construction and maintenance standards, a trail use reporting procedure, and a uniform trail mapping system. [2007 c 241 § 68; 1971 ex.s. c 47 § 3; 1970 ex.s. c 76 § 10. Formerly RCW 67.32.100.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Application of chapter—Permission necessary to enter upon private lands: RCW 46.09.300.

79A.35.100 Consultation and cooperation with state, federal, and local agencies. The board is authorized and encouraged to consult and to cooperate with any state, federal, or local governmental agency or body including special districts subject to the provisions of chapter 85.38 RCW, with private landowners, and with any privately owned utility having jurisdiction or control over or information concerning the use, abandonment, or disposition of roadways, utility rights-of-way, dikes or levees, or other properties suitable for the

purpose of improving or expanding the system in order to assure, to the extent practicable, that any such properties having value for state recreation trail purposes may be made available for such use. [2007 c 241 § 69; 1993 c 258 § 1; 1970 ex.s. c 76 § 11. Formerly RCW 67.32.110.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

79A.35.110 Participation by volunteer organizations—Liability of public agencies therefor limited. Volunteer organizations may assist public agencies, with the agency's approval, in the construction and maintenance of recreational trails in accordance with the guidelines issued by the board. In carrying out such volunteer activities the members of the organizations shall not be considered employees or agents of the public agency administering the trails, and such public agencies shall not be subject to any liability whatsoever arising out of volunteer activities. The liability of public agencies to members of such volunteer organizations shall be limited in the same manner as provided for in RCW 4.24.210. [2007 c 241 § 70; 1971 ex.s. c 47 § 4. Formerly RCW 67.32.130.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Application of chapter—Permission necessary to enter upon private lands: RCW 46.09.300.

79A.35.120 Department of transportation—Participation. The department of transportation shall consider plans for trails along and across all new construction projects, improvement projects, and along or across any existing highways in the state system as deemed desirable by the board. [2007 c 241 § 71; 1984 c 7 § 368; 1971 ex.s. c 47 § 5. Formerly RCW 67.32.140.]

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Application of chapter—Permission necessary to enter upon private lands: RCW 46.09.300.

79A.35.130 Participants in conservation corps programs—Exempt from provisions related to rates of compensation. Participants in conservation corps programs offered by a nonprofit organization affiliated with a national service organization established under the authority of the national and community service trust act of 1993, P.L. 103-82, are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work provided:

- (1) The nonprofit organization must be registered as a nonprofit corporation pursuant to chapter 24.03 RCW;
- (2) The nonprofit organization's management and administrative headquarters must be located in Washington;
- (3) Participants in the program spend at least fifteen percent of their time in the program on education and training activities; and
- (4) Participants in the program receive a stipend or living allowance as authorized by federal or state law.

Participants are exempt from provisions related to rates of compensation only for environmental and trail maintenance work conducted pursuant to the conservation corps program. [2011 c 56 § 1.]

79A.35.900 Short title. This chapter may be cited as the Washington State Recreation Trails System Act. [1970 ex.s. c 76 § 1. Formerly RCW 67.32.010.]

Chapter 79A.40 RCW CONVEYANCES FOR PERSONS IN RECREATIONAL ACTIVITIES

Sections

- 79A.40.010 Safe and adequate facilities and equipment required of owner and operator—Operator not common carrier.
- 79A.40.020 Plans, specifications to be submitted to state parks and recreation commission—Approval—Certification by a qualified engineer—Penalty.
- 79A.40.030 Orders directing repairs, improvements, changes, etc.—Notice—Forbidding operation.
- 79A.40.040 Penalty for violation of chapter or rules, etc., of parks and recreation commission.
- 79A.40.050 Inspector of recreational devices—Employees.
- 79A.40.060 Powers and duties of inspector—Condemnation of equipment—Annual inspection.
- 79A.40.070 Program funding—Costs of inspection and plan review—Administrative fee—Fee schedule—Lien—Disposition of funds.
- 79A.40.080 State immunity from liability—Actions deemed exercise of police power.
- 79A.40.090 Rules and codes.
- 79A.40.100 Judicial review.

79A.40.010 Safe and adequate facilities and equipment required of owner and operator—Operator not common carrier. Every owner or operator of any recreational device designed and operated for the conveyance of persons which aids in promoting entertainment, pleasure, play, relaxation, or instruction, specifically including devices generally associated with winter sports activities such as aerial lifts, surface lifts, and similar devices and equipment, shall construct, furnish, maintain, and provide safe and adequate facilities and equipment with which safely and properly to receive and transport all persons offered to and received by the owner or operator of such devices, and to promote the safety of such owner's or operator's patrons, employees and the public. The owner or operator of the devices and equipment covered by this section shall be deemed not to be a common carrier. [2014 c 133 § 1; 1965 ex.s. c 85 § 1; 1961 c 253 § 1; 1959 c 327 § 1. Formerly RCW 70.88.010.]

79A.40.020 Plans, specifications to be submitted to state parks and recreation commission—Approval—Certification by a qualified engineer—Penalty. (1) It shall be unlawful after June 10, 1959, to construct or install any such recreational device as set forth in RCW 79A.40.010 without first submitting plans and specifications for such device to the state parks and recreation commission and receiving the approval of the commission for such construction or installation.

(2) The plans and specifications must be submitted to the commission in a manner provided by the commission accompanied by a certification by a qualified engineer. The certification must indicate that the conveyance was designed by a qualified engineer and that the conveyance, if properly installed as provided in the plan, will be safe. Upon completion of the installation, the operator or owner shall submit further certification by a qualified engineer to the commission that the conveyance has been installed in accordance with the plan. The qualified engineer submitting a certification as pro-

vided in this chapter must be formally approved to submit such a certification by the commission. The commission shall establish the necessary qualifications for any engineer seeking the ability to certify equipment pursuant to this chapter.

(3) Violation of this section shall be a misdemeanor. [2014 c 133 § 2; 2000 c 11 § 87; 1959 c 327 § 2. Formerly RCW 70.88.020.]

79A.40.030 Orders directing repairs, improvements, changes, etc.—Notice—Forbidding operation. The state parks and recreation commission shall have the authority and the responsibility for the inspection of the devices set forth in RCW 79A.40.010 and in addition shall have the following powers and duties:

(1) Whenever the commission, after hearing called upon its own motion or upon complaint, finds that additional apparatus, equipment, facilities or devices for use or in connection with the transportation or conveyance of persons upon the devices set forth in RCW 79A.40.010, ought reasonably to be provided, or any repairs or improvements to, or changes in, any theretofore in use ought reasonably to be made, or any additions or changes in construction should reasonably be made thereto, in order to promote the security and safety of the public or employees, it may make and serve an order directing such repairs, improvements, changes, or additions to be made.

(2) If the commission finds that the equipment, or appliances in connection therewith, or the apparatus, or other structures of the recreational device set forth in RCW 79A.40.010 are defective, and that the operation thereof is dangerous to the employees of the owner or operator of such device or to the public, it shall immediately give notice to the owner or operator of such device of the repairs or reconstruction necessary to place the same in a safe condition, and may prescribe the time within which they shall be made. If, in its opinion, it is needful or proper, the commission may forbid the operation of the device until it is repaired and placed in a safe condition. [2000 c 11 § 88; 1959 c 327 § 3. Formerly RCW 70.88.030.]

79A.40.040 Penalty for violation of chapter or rules, etc., of parks and recreation commission. Any violation of this chapter or the rules, regulations and codes of the state parks and recreation commission relating to public safety in the construction, operation and maintenance of the recreational devices provided for in this chapter shall be a misdemeanor. [1965 ex.s. c 85 § 2; 1959 c 327 § 4. Formerly RCW 70.88.040.]

79A.40.050 Inspector of recreational devices—Employees. The state parks and recreation commission shall employ or retain a person qualified in engineering experience and training who shall be designated as the inspector of recreational devices, and may employ such additional employees as are necessary to properly administer this chapter. The inspector and such additional employees may be hired on a temporary basis or borrowed from other state departments, or the commission may contract with individuals or firms for such inspecting service on an independent basis. [2014 c 133 § 3; 1959 c 327 § 5. Formerly RCW 70.88.050.]

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79A.40.060 Powers and duties of inspector—Condemnation of equipment—Annual inspection. The inspector of recreational devices and his or her assistants shall inspect all equipment and appliances connected with the recreational devices set forth in RCW 79A.40.010 and make such reports of his or her inspection to the commission as may be required. He or she shall, on discovering any defective equipment, or appliances connected therewith, rendering the use of the equipment dangerous, immediately report the same to the owner or operator of the device on which it is found, and in addition report it to the commission. If in the opinion of the inspector the continued operation of the defective equipment constitutes an immediate danger to the safety of the persons operating or being conveyed by such equipment, the inspector may condemn such equipment and shall immediately notify the commission of his or her action in this respect: PROVIDED, That inspection required by this chapter must be conducted at least once each year, prior to each use season. [2014 c 133 § 4; 2000 c 11 § 89; 1959 c 327 § 6. Formerly RCW 70.88.060.]

79A.40.070 Program funding—Costs of inspection and plan review—Administrative fee—Fee schedule—Lien—Disposition of funds. The program authorized by this chapter and chapter 79A.45 RCW must be funded by fees charged to the owners or operators of ski areas. The expenses incurred in connection with making inspections and reviewing plans and specifications under this chapter shall be paid by the owner or operator of such recreational devices by reimbursing the commission for the costs it incurred to hire an engineer to complete an inspection or perform plan review. The commission shall maintain accurate and complete records of the costs incurred for each inspection and plan review for construction approval and shall assess the respective owners or operators of the recreational devices an administrative fee associated with the review or service provided by the commission, which amount may vary based on the service or level of review required. The commission shall adopt a fee schedule for the services provided under this chapter, subject to RCW 43.135.055, by rule. The costs as assessed by the commission shall be a lien on the equipment of the owner or operator of the recreational devices so inspected or installed. Such moneys collected by the commission under this section shall be paid into the state parks renewal and stewardship account. [2014 c 133 § 5; 1997 c 137 § 5; 1990 c 136 § 1; 1975 1st ex.s. c 74 § 1; 1961 c 253 § 2; 1959 c 327 § 7. Formerly RCW 70.88.070.]

Parks and parkways account abolished: RCW 43.79.405.

Additional notes found at www.leg.wa.gov

79A.40.080 State immunity from liability—Actions deemed exercise of police power. Inspections, rules, and orders of the state parks and recreation commission resulting from the exercise of the provisions of this chapter and chapter 79A.45 RCW shall not in any manner be deemed to impose liability upon the state for any injury or damage resulting from the operation or signing of the facilities regulated by this chapter, and all actions of the state parks and recreation commission and its personnel shall be deemed to be an exercise of the police power of the state. [2000 c 11 § 90; 1991 c

75 § 2; 1990 c 136 § 3; 1959 c 327 § 8. Formerly RCW 70.88.080.]

79A.40.090 Rules and codes. The state parks and recreation commission is empowered to adopt reasonable rules and codes relating to public safety in the construction, operation, signing, and maintenance of the recreational devices provided for in this chapter. The rules and codes authorized hereunder shall be in accordance with established standards, if any, and shall not be discriminatory in their application. [1991 c 75 § 3; 1959 c 327 § 9. Formerly RCW 70.88.090.]

79A.40.100 Judicial review. The procedure for review of the orders or actions of the state parks and recreation commission, its agents or employees, shall be conducted in accordance with chapter 34.05 RCW. [2007 c 234 § 98; 1959 c 327 § 10. Formerly RCW 70.88.100.]

Chapter 79A.45 RCW

SKIING AND COMMERCIAL SKI ACTIVITY

Sections

79A.45.010	Ski area sign requirements.
79A.45.020	"Trails" or "runs" defined.
79A.45.030	Standard of conduct—Prohibited acts—Responsibility.
79A.45.040	Skiing outside of trails or boundaries—Notice of skier responsibility.
79A.45.050	Leaving scene of skiing accident—Penalty—Notice.
79A.45.060	Insurance requirements for operators.
79A.45.070	Skiing in an area or trail closed to the public—Penalty.

79A.45.010 Ski area sign requirements. (1) The operator of any ski area shall maintain a sign system based on international or national standards and as may be required by the state parks and recreation commission.

All signs for instruction of the public shall be bold in design with wording short, simple, and to the point. All such signs shall be prominently placed.

Entrances to all machinery, operators', and attendants' rooms shall be posted to the effect that unauthorized persons are not permitted therein.

The sign "Working on Lift" or a similar warning sign shall be hung on the main disconnect switch and at control points for starting the auxiliary or prime mover when a person is working on the passenger tramway.

(2) All signs required for normal daytime operation shall be in place, and those pertaining to the tramway, lift, or tow operations shall be adequately lighted for night skiing.

(3) If a particular trail or run has been closed to the public by an operator, the operator shall place a notice thereof at the top of the trail or run involved, and no person shall ski on a run or trail which has been designated "Closed".

(4) An operator shall place a notice at the embarking terminal or terminals of a lift or tow which has been closed that the lift or tow has been closed and that a person embarking on such a lift or tow shall be considered to be a trespasser.

(5) Any snow making machines or equipment shall be clearly visible and clearly marked. Snow grooming equipment or any other vehicles shall be equipped with a yellow flashing light at any time the vehicle is moving on or in the vicinity of a ski run; however, low profile vehicles, such as snowmobiles, may be identified in the alternative with a flag on a mast of not less than six feet in height.

(6) The operator of any ski area shall maintain a readily visible sign on each rope tow, wire rope tow, j-bar, t-bar, ski lift, or other similar device, advising the users of the device that:

(a) Any person not familiar with the operation of the lift shall ask the operator thereof for assistance and/or instruction; and

(b) The skiing-ability level recommended for users of the lift and the runs served by the device shall be classified "easiest", "more difficult", and "most difficult". [1991 c 75 § 1; 1989 c 81 § 2; 1977 ex.s. c 139 § 1. Formerly RCW 70.117.010.]

Additional notes found at www.leg.wa.gov

79A.45.020 "Trails" or "runs" defined. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

"Trails" or "runs" means those trails or runs that have been marked, signed, or designated by the ski area operator as ski trails or ski runs within the ski area boundary. [1989 c 81 § 1. Formerly RCW 70.117.015.]

Additional notes found at www.leg.wa.gov

79A.45.030 Standard of conduct—Prohibited acts—Responsibility. (1) In addition to the specific requirements of this section, all skiers shall conduct themselves within the limits of their individual ability and shall not act in a manner that may contribute to the injury of themselves or any other person.

(2) No person shall:

(a) Embark or disembark upon a ski lift except at a designated area;

(b) Throw or expel any object from any tramway, ski lift, commercial skimobile, or other similar device while riding on the device;

(c) Act in any manner while riding on a rope tow, wire rope tow, j-bar, t-bar, ski lift, or similar device that may interfere with the proper or safe operation of the lift or tow;

(d) Wilfully engage in any type of conduct which may injure any person, or place any object in the uphill ski track which may cause another to fall, while traveling uphill on a ski lift; or

(e) Cross the uphill track of a j-bar, t-bar, rope tow, wire rope tow, or other similar device except at designated locations.

(3) Every person shall maintain control of his or her speed and course at all times, and shall stay clear of any snowgrooming equipment, any vehicle, any lift tower, and any other equipment on the mountain.

(4) A person shall be the sole judge of his or her ability to negotiate any trail, run, or uphill track and no action shall be maintained against any operator by reason of the condition of the track, trail, or run unless the condition results from the negligence of the operator.

(5) Any person who boards a rope tow, wire rope tow, j-bar, t-bar, ski lift, or other similar device shall be presumed to have sufficient abilities to use the device. No liability shall attach to any operator or attendant for failure to instruct the person on the use of the device, but a person shall follow any written or verbal instructions that are given regarding the use.

(6) Because of the inherent risks in the sport of skiing all persons using the ski hill shall exercise reasonable care for their own safety. However, the primary duty shall be on the person skiing downhill to avoid any collision with any person or object below him or her.

(7) Any person skiing outside the confines of trails open for skiing or runs open for skiing within the ski area boundary shall be responsible for any injuries or losses resulting from his or her action.

(8) Any person on foot or on any type of sliding device shall be responsible for any collision whether the collision is with another person or with an object.

(9) A person embarking on a lift or tow without authority shall be considered to be a trespasser. [1989 c 81 § 3; 1977 ex.s. c 139 § 2. Formerly RCW 70.117.020.]

Additional notes found at www.leg.wa.gov

79A.45.040 Skiing outside of trails or boundaries—Notice of skier responsibility. Ski area operators shall place a notice of the provisions of RCW 79A.45.030(7) on their trail maps, at or near the ticket booth, and at the bottom of each ski lift or similar device. [2000 c 11 § 91; 1989 c 81 § 5. Formerly RCW 70.117.025.]

Additional notes found at www.leg.wa.gov

79A.45.050 Leaving scene of skiing accident—Penalty—Notice. (1) Any person who is involved in a skiing accident and who departs from the scene of the accident without leaving personal identification or otherwise clearly identifying himself or herself before notifying the proper authorities or obtaining assistance, knowing that any other person involved in the accident is in need of medical or other assistance, shall be guilty of a misdemeanor.

(2) An operator shall place a prominent notice containing the substance of this section in such places as are necessary to notify the public. [1989 c 81 § 4; 1977 ex.s. c 139 § 3. Formerly RCW 70.117.030.]

Additional notes found at www.leg.wa.gov

79A.45.060 Insurance requirements for operators. (1) Every operator of an aerial lift, surface lift, or similar device shall maintain liability insurance of not less than one million dollars per occurrence.

(2) This section shall not apply to operators of tramways that are not open to the general public and that are operated without charge, except that this section shall apply to operators of tramways that are operated by schools, ski clubs, or similar organizations. [2014 c 133 § 6; 1977 ex.s. c 139 § 4. Formerly RCW 70.117.040.]

79A.45.070 Skiing in an area or trail closed to the public—Penalty. A person is guilty of a misdemeanor if the person knowingly skis in an area or on a ski trail, owned or controlled by a ski area operator, that is closed to the public and that has signs posted indicating the closure. [2011 c 276 § 1.]

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Chapter 79A.50 RCW

PUBLIC LANDS FOR STATE OR CITY PARKS

Sections

- 79A.50.010 Use of public lands for state or city park purposes—Regents' consent, when.
- 79A.50.020 Use of public lands for state or city park purposes—Rental—Deposit of rent.
- 79A.50.030 Use of public lands for state or city park purposes—Removal of timber—Consent—Compensation.
- 79A.50.040 State lands used for state parks—Trust lands, payment of full market value rental—Other lands, rent free.
- 79A.50.050 State lands used for state parks—Trust lands—Determination of full market value by board of natural resources.
- 79A.50.060 State lands used for state parks—Trust lands—Full market value rental defined—Factor in determination.
- 79A.50.070 State lands used for state parks—Certain funds appropriated for rental to be deposited without deduction for management purposes.
- 79A.50.080 Utilization of public lands for outdoor recreational and other beneficial public uses—State agency cooperation.
- 79A.50.090 Department estopped from certain actions respecting state parks without concurrence of commission.
- 79A.50.100 State trust lands—Withdrawal—Revocation or modification of withdrawal when used for recreational purposes—Hearing—Notice—Board to determine most beneficial use in accordance with policy.
- 79A.50.110 Exchange of lands to secure private lands for parks and recreation purposes.

79A.50.010 Use of public lands for state or city park purposes—Regents' consent, when. The department of natural resources is hereby authorized to withdraw from sale or lease, and reserve for state or city park purposes, public lands selected by the state parks and recreation commission, for such time as it shall determine will be for the best interests of the state and any particular fund for which said public lands are being held in trust: PROVIDED, None of the lands selected under the provisions of section 3, chapter 91, Laws of 1903, shall be withdrawn or reserved hereunder without the consent of the board of regents of the University of Washington; except that the consent of the board of regents of the University of Washington shall not be required with regard to any such lands which are situated within the corporate limits of any city or town and are presently zoned for residential use. [1969 ex.s. c 129 § 2; 1951 c 26 § 1. Formerly RCW 79.08.102.]

Reviser's note: 1903 c 91 § 3 referred to herein is not codified. See Index of Public Land Acts of Special or Historical Nature not codified in RCW following Title 79 RCW digest.

79A.50.020 Use of public lands for state or city park purposes—Rental—Deposit of rent. The department of natural resources and the state parks and recreation commission shall fix a yearly reasonable rental for the use of public lands reserved for state park purposes, which shall be paid by the commission to the department for the particular fund for which the lands had been held in trust, and which rent shall be transmitted to the state treasurer for deposit in such fund. [1988 c 128 § 59; 1951 c 26 § 2. Formerly RCW 79.08.104.]

79A.50.030 Use of public lands for state or city park purposes—Removal of timber—Consent—Compensation. No merchantable timber shall be cut or removed from lands reserved for state park purposes without the consent of the department of natural resources and without payment to the particular fund for which the lands are held in trust, the

reasonable value thereof as fixed by the department. [1988 c 128 § 60; 1951 c 26 § 3. Formerly RCW 79.08.106.]

79A.50.040 State lands used for state parks—Trust lands, payment of full market value rental—Other lands, rent free. The parks and recreation commission shall pay to the department of natural resources the full market value rental for state-owned lands acquired in trust from the United States that are used for state parks. All other state lands used by the parks and recreation commission for state parks shall be rent free. [1967 ex.s. c 63 § 4. Formerly RCW 79.08.1062.]

79A.50.050 State lands used for state parks—Trust lands—Determination of full market value by board of natural resources. The full market value shall be determined by the board of natural resources for trust lands used for state park purposes. [1969 ex.s. c 189 § 1; 1967 ex.s. c 63 § 5. Formerly RCW 79.08.1064.]

79A.50.060 State lands used for state parks—Trust lands—Full market value rental defined—Factor in determination. The full market value rental for trust lands used by the parks and recreation commission shall be a percentage of the full market value of the land and the board of natural resources shall consider in its deliberations the average percentage of return realized by the state during the preceding fiscal biennium on the invested common school permanent fund. [1969 ex.s. c 189 § 2; 1967 ex.s. c 63 § 6. Formerly RCW 79.08.1066.]

79A.50.070 State lands used for state parks—Certain funds appropriated for rental to be deposited without deduction for management purposes. Any funds appropriated to the state parks and recreation commission for payment of rental for use of state lands reserved for state park purposes during the 1969-71 biennium and received by the department of natural resources shall be deposited by the department to the applicable trust land accounts without the deduction normally applied to such revenues for management purposes. [1969 ex.s. c 189 § 3. Formerly RCW 79.08.1069.]

79A.50.080 Utilization of public lands for outdoor recreational and other beneficial public uses—State agency cooperation. In order to maximize outdoor recreation opportunities for the people of the state of Washington and allow for the full utilization of state owned land, all state departments and agencies are authorized and directed to cooperate together in fully utilizing the public lands. All state departments and agencies, vested with statutory authority for utilizing land for outdoor recreation or other beneficial public uses, are authorized and directed to apply to another state department or agency holding suitable public lands for permission of use. The department or agency applied to is authorized and directed to grant permission of use to the applying department or agency if the public use of the public land would be consistent with the existing and continuing principal uses. Trust lands may be withdrawn for outdoor recreation purposes from sale or lease for other purposes by the department of natural resources pursuant to this section subject to the constraints imposed by the Washington state Con-

stitution and the federal enabling statute. The decision regarding such consistency with existing and continuing principal uses shall be made by the agency owning or controlling such lands and which decision shall be final. [1969 ex.s. c 247 § 1. Formerly RCW 79.08.1072.]

79A.50.090 Department estopped from certain actions respecting state parks without concurrence of commission. The department of natural resources shall not rescind the withdrawal of public land in any existing and future state park nor sell any timber or other valuable material therefrom or grant any right-of-way or easement thereon, except as provided in the withdrawal order or for off-site drilling, without the concurrence of the state parks and recreation commission.

The department of natural resources shall have reasonable access across such lands in order to reach other public lands administered by the department of natural resources. [1969 ex.s. c 247 § 2. Formerly RCW 79.08.1074.]

State trust lands—Withdrawal—Revocation or modification of withdrawal when used for recreational purposes—Board to determine most beneficial use in accordance with policy: RCW 79A.50.100.

79A.50.100 State trust lands—Withdrawal—Revocation or modification of withdrawal when used for recreational purposes—Hearing—Notice—Board to determine most beneficial use in accordance with policy. (1) A public hearing may be held prior to any withdrawal of state trust lands and shall be held prior to any revocation of withdrawal or modification of withdrawal of state trust lands used for recreational purposes by the department of natural resources or by other state agencies.

(2) The department shall cause notice of the withdrawal, revocation of withdrawal or modification of withdrawal of state trust lands as described in subsection (1) of this section to be published by advertisement once a week for four weeks prior to the public hearing in at least one newspaper published and of general circulation in the county or counties in which the state trust lands are situated, and by causing a copy of said notice to be posted in a conspicuous place in the department's Olympia office, in the district office in which the land is situated, and in the office of the county auditor in the county where the land is situated thirty days prior to the public hearing. The notice shall specify the time and place of the public hearing and shall describe with particularity each parcel of state trust lands involved in said hearing.

(3) The board of natural resources shall administer the hearing according to its prescribed rules and regulations.

(4) The board of natural resources shall determine the most beneficial use or combination of uses of the state trust lands. Its decision will be conclusive as to the matter: PROVIDED, HOWEVER, That said decisions as to uses shall conform to applicable state plans and policy guidelines adopted by the *department of community, trade, and economic development. [1995 c 399 § 209; 1985 c 6 § 24; 1969 ex.s. c 129 § 1. Formerly RCW 79.08.1078.]

**Reviser's note:* The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Purchase of withdrawn state trust lands by state parks and recreation commission: RCW 79A.05.210.

Reconveyance of state forestland to counties for park purposes: RCW 79.22.300 through 79.22.330.

79A.50.110 Exchange of lands to secure private lands for parks and recreation purposes. For the purpose of securing and preserving privately owned lands for parks and recreation purposes, the department of natural resources is authorized, with the advice and approval of the state board of natural resources, to exchange any state lands of equal value for such lands. Lands acquired by exchange as herein provided shall be withdrawn from lease and sale and reserved for park and recreation purposes. [1967 ex.s. c 64 § 2. Formerly RCW 79.08.109.]

Outdoor recreation facilities, construction and maintenance by department of natural resources: RCW 79.10.140.

Additional notes found at www.leg.wa.gov

Chapter 79A.55 RCW SCENIC RIVER SYSTEM

Sections

79A.55.005	Legislative finding—Purpose.
79A.55.010	Definitions.
79A.55.020	Management policies—Development—Inclusion of management plans—Identification and exclusion of unsuitably developed lands—Boundaries of river areas—Hearings—Notice—Studies—Proposals for system additions.
79A.55.030	Administration of management program—Powers, duties, and authority of commission.
79A.55.040	State agencies and local governments to pursue policies to conserve and enhance included river areas—Shoreline management act—Private lands—Trust lands.
79A.55.050	Criteria for inclusion of rivers within system.
79A.55.060	Authority of department of fish and wildlife unaffected.
79A.55.070	Rivers designated as part of system.
79A.55.080	Inclusion of state's scenic rivers in national wild and scenic river system not precluded.
79A.55.090	Wildlife fund moneys not to be used.

79A.55.005 Legislative finding—Purpose. The legislature hereby finds that many rivers of this state, with their immediate environs, possess outstanding natural, scenic, historic, ecological, and recreational values of present and future benefit to the public. The legislature further finds that the policy of permitting the construction of dams and other impoundment facilities at appropriate sections of the rivers of this state needs to be complemented by a policy that would protect and preserve the natural character of such rivers and fulfill other conservation purposes. It is hereby declared to be the policy of this state that certain selected rivers of the state which, with their immediate environs, possess the aforementioned characteristics, shall be preserved in as natural a condition as practical and that overuse of such rivers, which tends to downgrade their natural condition, shall be discouraged.

The purpose of this chapter is to establish a program for managing publicly owned land on rivers included in the state's scenic river system, to indicate the river segments to be initially included in that system, to prescribe a procedure for adding additional components to the system, and to protect the rights of private property owners. [1977 ex.s. c 161 § 1. Formerly RCW 79.72.010.]

79A.55.010 Definitions. The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Participating local government" means the legislative authority of any city or county, a portion of whose territorial jurisdiction is bounded by or includes a river or river segment of the state's scenic river system.

(3) "River" means a flowing body of water or a section, segment, or portion thereof.

(4) "River area" means a river and the land area in its immediate environs as established by the participating agencies not exceeding a width of one-quarter mile landward from the streamway on either side of the river.

(5) "Scenic easement" means the negotiated right to control the use of land, including the air space above the land, for the purpose of protecting the scenic view throughout the visual corridor.

(6) "Streamway" means that stream-dependent corridor of single or multiple, wet or dry, channel or channels within which the usual seasonal or stormwater runoff peaks are contained, and within which environment the flora, fauna, soil, and topography is dependent on or influenced by the height and velocity of the fluctuating river currents.

(7) "System" means all the rivers and river areas in the state designated by the legislature for inclusion as scenic rivers but does not include tributaries of a designated river unless specifically included by the legislature. The inclusion of a river in the system does not mean that other rivers or tributaries in a drainage basin shall be required to be part of the management program developed for the system unless the rivers and tributaries within the drainage basin are specifically designated for inclusion by the legislature.

(8) "Visual corridor" means that area which can be seen in a normal summer month by a person of normal vision walking either bank of a river included in the system. The visual corridor shall not exceed the river area. [1999 c 249 § 801; 1999 c 151 § 1701; 1994 c 264 § 64; 1988 c 36 § 57; 1987 c 57 § 1; 1984 c 7 § 371; 1977 ex.s. c 161 § 2. Formerly RCW 79.72.020.]

Reviser's note: This section was amended by 1999 c 151 § 1701 and by 1999 c 249 § 801, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

79A.55.020 Management policies—Development—Inclusion of management plans—Identification and exclusion of unsuitably developed lands—Boundaries of river areas—Hearings—Notice—Studies—Proposals for system additions. (1) The commission shall develop and adopt management policies for publicly owned or leased land on the rivers designated by the legislature as being a part of the state's scenic river system and within the associated river areas. The commission may adopt rules identifying river classifications which reflect the characteristics common to various segments of scenic rivers and may adopt management policies consistent with local government's shoreline management master plans appropriate for each such river classification. All such policies shall be adopted by the commission in accordance with the provisions of chapter 34.05 RCW, as now or hereafter amended. Any variance with such a policy by any public agency shall be authorized only by the approval of the commission and shall be made only to alleviate unusual hardships unique to a given segment of the system.

(2) Any policies developed pursuant to subsection (1) of this section shall include management plans for protecting ecological, economic, recreational, aesthetic, botanical, scenic, geological, hydrological, fish and wildlife, historical, cultural, archaeological, and scientific features of the rivers designated as being in the system. Such policies shall also include management plans to encourage any nonprofit group, organization, association, person, or corporation to develop and adopt programs for the purpose of increasing fish propagation.

(3) The commission shall identify on a river by river basis any publicly owned or leased lands which could be included in a river area of the system but which are developed in a manner unsuitable for land to be managed as part of the system. The commission shall exclude lands so identified from the provisions of any management policies implementing the provisions of this chapter.

(4) The commission shall determine the boundaries which shall define the river area associated with any included river. With respect to the rivers named in RCW 79A.55.070, the commission shall make such determination, and those determinations authorized by subsection (3) of this section, within one year of September 21, 1977.

(5) Before making a decision regarding the river area to be included in the system, a variance in policy, or the excluding of land from the provisions of the management policies, the commission shall hold hearings in accord with chapter 34.05 RCW, with at least one public hearing to be held in the general locale of the river under consideration. The commission shall cause to be published in a newspaper of general circulation in the area which includes the river or rivers to be considered, a description, including a map showing such river or rivers, of the material to be considered at the public hearing. Such notice shall appear at least twice in the time period between two and four weeks prior to the public hearing.

The commission shall seek and receive comments from the public regarding potential additions to the system, shall initiate studies, and may submit to any session of the legislature proposals for additions to the state scenic river system. These proposals shall be accompanied by a detailed report on the factors which, in the commission's judgment, make an area a worthy addition to the system. [2009 c 187 § 6. Prior: 1999 c 249 § 802; 1999 c 151 § 1702; 1977 ex.s. c 161 § 3. Formerly RCW 79.72.030.]

Additional notes found at www.leg.wa.gov

79A.55.030 Administration of management program—Powers, duties, and authority of commission. (1)

The management program for the system shall be administered by the commission. The commission shall have the responsibility for coordinating the development of the program between affected state agencies and participating local governments, and shall develop and adopt rules, in accord with chapter 34.05 RCW, the Administrative Procedure Act, for each portion of the system, which shall implement the management policies. In developing rules for a specific river in the system, the commission shall hold at least one public hearing in the general locale of the river under consideration. The hearing may constitute the hearing required by chapter 34.05 RCW. The commission shall cause a brief summary of

the proposed rules to be published twice in a newspaper of general circulation in the area that includes the river to be considered in the period of time between two and four weeks prior to the public hearing. In addition to the foregoing required publication, the commission shall also provide notice of the hearings, rules, and decisions of the commission to radio and television stations and major local newspapers in the areas that include the river to be considered.

(2) In addition to any other powers granted to carry out the intent of this chapter, the commission is authorized to: (a) Purchase, within the river area, real property in fee or any lesser right or interest in real property including, but not limited to scenic easements and future development rights, visual corridors, wildlife habitats, unique ecological areas, historical sites, camping and picnic areas, boat launching sites, and/or easements abutting the river for the purpose of preserving or enhancing the river or facilitating the use of the river by the public for fishing, boating and other water related activities; and (b) purchase, outside of a river area, public access to the river area.

The right of eminent domain shall not be utilized in any purchase made pursuant to this section.

(3) The commission is further authorized to: (a) Acquire by gift, devise, grant, or dedication the fee, an option to purchase, a right of first refusal or any other lesser right or interest in real property and upon acquisition such real property shall be held and managed within the scenic river system; and (b) accept grants, contributions, or funds from any agency, public or private, or individual for the purposes of this chapter.

(4) The commission is hereby vested with the power to obtain injunctions and other appropriate relief against violations of any provisions of this chapter and any rules adopted under this section or agreements made under the provisions of this chapter. [1999 c 249 § 803; 1999 c 151 § 1703; 1989 c 175 § 169; 1977 ex.s. c 161 § 4. Formerly RCW 79.72.040.]

Reviser's note: This section was amended by 1999 c 151 § 1703 and by 1999 c 249 § 803, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

79A.55.040 State agencies and local governments to pursue policies to conserve and enhance included river areas—Shoreline management act—Private lands—Trust lands. (1)

All state government agencies and local governments are hereby directed to pursue policies with regard to their respective activities, functions, powers, and duties which are designed to conserve and enhance the conditions of rivers which have been included in the system, in accordance with the management policies and the rules adopted by the commission for such rivers. Local agencies are directed to pursue such policies with respect to all lands in the river area owned or leased by such local agencies. Nothing in this chapter shall authorize the modification of a shoreline management plan adopted by a local government and approved by the state pursuant to chapter 90.58 RCW without the approval of the department of ecology and local government. The policies adopted pursuant to this chapter shall be integrated, as fully as possible, with those of the shoreline management act of 1971.

(2) Nothing in this chapter shall grant to the commission the power to restrict the use of private land without either the specific written consent of the owner thereof or the acquisition of rights in real property authorized by RCW 79A.55.030.

(3) Nothing in this chapter shall prohibit the department of natural resources from exercising its full responsibilities and obligations for the management of state trust lands. [1999 c 249 § 804; 1999 c 151 § 1704; 1977 ex.s. c 161 § 5. Formerly RCW 79.72.050.]

Reviser's note: This section was amended by 1999 c 151 § 1704 and by 1999 c 249 § 804, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

79A.55.050 Criteria for inclusion of rivers within system. Rivers of a scenic nature are eligible for inclusion in the system. Ideally, a scenic river:

- (1) Is free-flowing without diversions that hinder recreational use;
- (2) Has a streamway that is relatively unmodified by rip-rapping and other stream bank protection;
- (3) Has water of sufficient quality and quantity to be deemed worthy of protection;
- (4) Has a relatively natural setting and adequate open space;
- (5) Requires some coordinated plan of management in order to enhance and preserve the river area; and
- (6) Has some lands along its length already in public ownership, or the possibility for purchase or dedication of public access and/or scenic easements. [1977 ex.s. c 161 § 6. Formerly RCW 79.72.060.]

79A.55.060 Authority of department of fish and wildlife unaffected. Nothing contained in this chapter shall affect the authority of the department of fish and wildlife to construct facilities or make improvements to facilitate the passage or propagation of fish nor shall anything in this chapter be construed to interfere with the powers, duties, and authority of the department of fish and wildlife to regulate, manage, conserve, and provide for the harvest of fish or wildlife within any area designated as being in the state's scenic river system. No hunting shall be permitted in any state park. [1999 c 249 § 805; 1988 c 36 § 58; 1977 ex.s. c 161 § 7. Formerly RCW 79.72.070.]

Additional notes found at www.leg.wa.gov

79A.55.070 Rivers designated as part of system. The following rivers of the state of Washington are hereby designated as being in the scenic river system of the state of Washington:

- (1) The Skykomish river from the junction of the north and south forks of the Skykomish river:
 - (a) Downstream approximately fourteen miles to its junction with the Sultan river;
 - (b) Upstream approximately twenty miles on the south fork to the junction of the Tye and Foss rivers;
 - (c) Upstream approximately eleven miles on the north fork to its junction with Bear creek;

(2019 Ed.)

(2) The Beckler river from its junction with the south fork of the Skykomish river upstream approximately eight miles to its junction with Rapid river;

(3) The Tye river from its junction with the south fork of the Skykomish river upstream approximately fourteen miles to Tye Lake; and

(4) The Little Spokane river from the upstream boundary of the state park boat put-in site near Rutter parkway and downstream to its confluence with the Spokane river. [1991 c 206 § 1; 1977 ex.s. c 161 § 8. Formerly RCW 79.72.080.]

Green River Gorge conservation area: RCW 79A.05.700 through 79A.05.715.

Washington state Yakima river conservation area: RCW 79A.05.750 through 79A.05.795.

79A.55.080 Inclusion of state's scenic rivers in national wild and scenic river system not precluded. Nothing in this chapter shall preclude a section or segment of the state's scenic rivers included in the system from becoming a part of the national wild and scenic river system. [1977 ex.s. c 161 § 9. Formerly RCW 79.72.090.]

79A.55.090 *Wildlife fund moneys not to be used. No funds shall be expended from the *wildlife fund to carry out the provisions of this chapter. [1988 c 36 § 59; 1977 ex.s. c 161 § 10. Formerly RCW 79.72.100.]

***Reviser's note:** The "state wildlife fund" was renamed the "state wildlife account" pursuant to 2005 c 224 § 4 and 2005 c 225 § 4.

Chapter 79A.60 RCW

REGULATION OF RECREATIONAL VESSELS

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79A.60.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(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 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. [2005 c 392 § 2; 2003 c 39 § 45; 2000 c 11 § 92; 1998 c 219 § 5; 1997 c 391 § 1; 1993 c 244 § 5; 1933 c 72 § 1; RRS § 9851-1. Formerly RCW 88.12.010.]

Intent—2005 c 392: See note following RCW 79A.60.630.

Intent—1993 c 244: "It is the intent of the legislature that the boating safety laws administered by the state parks and recreation commission provide Washington's citizens with clear and reasonable boating safety regulations and penalties. Therefore, the legislature intends to recodify, clarify, and partially decriminalize the statewide boating safety laws in order to help the boating community understand and comply with these laws.

It is also the intent of the legislature to increase boat registration fees in order to provide additional funds to local governments for boating safety enforcement and education programs. The funds are to be used for enforcement, education, training, and equipment, including vessel noise measurement equipment. The legislature encourages programs that provide boating safety education in the primary and secondary school system for boat users and potential future boat users. The legislature also encourages boating safety programs that use volunteer and private sector efforts to enhance boating safety and education." [1993 c 244 § 1.]

79A.60.020 Violations of chapter punishable as misdemeanor—Circumstances—Violations designated as civil infractions. (1) A violation of this chapter designated as an infraction is a misdemeanor, punishable under RCW 9.92.030, if the current violation is the person's third violation of the same provision of this chapter during the past three hundred sixty-five days.

(2) A violation designated in this chapter as a civil infraction shall constitute a civil infraction pursuant to chapter 7.84 RCW. [1999 c 249 § 1501; 1993 c 244 § 6. Formerly RCW 88.12.015.]

Intent—1993 c 244: See note following RCW 79A.60.010.

Additional notes found at www.leg.wa.gov

79A.60.030 Operation of vessel in a negligent manner—Penalty. A person shall not operate a vessel in a negligent manner. For the purposes of this section, to "operate in a negligent manner" means operating a vessel in disregard of careful and prudent operation, or in disregard of careful and prudent rates of speed that are no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, size of the lake or body of water, freedom from obstruction to view ahead, effects of vessel wake, and so as not to unduly or unreasonably endanger life, limb, property or other rights of any person entitled to the use of such waters. Except as provided in RCW 79A.60.020, a violation of this section is an infraction under chapter 7.84 RCW. [2000 c 11 § 93; 1993 c 244 § 7; 1933 c 72 § 2; RRS § 9851-2. Formerly RCW 88.12.020.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.040 Operation of vessel in a reckless manner—Operation of a vessel under the influence of intoxicating liquor, marijuana, or any drug—Consent to breath or blood test—Penalty. (1) It is unlawful for any person to operate a vessel in a reckless manner.

(2) It is unlawful for a person to operate a vessel while under the influence of intoxicating liquor, marijuana, or any drug. A person is considered to be under the influence of intoxicating liquor, marijuana, or any drug if, within two hours of operating a vessel:

(a) The person has an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) The person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or

(d) The person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.

(3) The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.

(4)(a) Any person who operates a vessel within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of the person's breath for the purpose of determining the alcohol concentration in the person's breath if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person was operating a vessel while under the influence of intoxicating liquor or a combination of intoxicating liquor and any other drug.

(b) When an arrest results from an accident in which there has been serious bodily injury to another person or death or the arresting officer has reasonable grounds to believe the person was operating a vessel while under the influence of THC or any other drug, a blood test may be administered with the consent of the arrested person and a valid waiver of the warrant requirement or without the consent of the person so arrested pursuant to a search warrant or when exigent circumstances exist.

(c) Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood.

(d) An arresting officer may administer field sobriety tests when circumstances permit.

(5) The test or tests of breath must be administered pursuant to RCW 46.20.308. The officer shall warn the person that if the person refuses to take the test, the person will be issued a class 1 civil infraction under RCW 7.80.120.

(6) A violation of subsection (1) of this section is a misdemeanor. A violation of subsection (2) of this section is a gross misdemeanor. In addition to the statutory penalties imposed, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense. [2014 c 132 § 1; 2013 c 278 § 1; 1998 c 213 § 7; 1993 c 244 § 8. Prior: 1990 c 231 § 3; 1990 c 31 § 1; 1987 c 373 § 6; 1986 c 153 § 6; 1985 c 267 § 2. Formerly RCW 88.12.025, 88.12.100, and 88.02.095.]

Intent—1993 c 244: See note following RCW 79A.60.010.

Legislative finding, purpose—Severability—1987 c 373: See notes following RCW 46.61.502.

Additional notes found at www.leg.wa.gov

79A.60.045 Vessel impoundment—Procedure—Forfeiture. (1) Whenever the operator of a vessel is arrested for a violation of RCW 79A.60.040, the arresting officer, or another officer acting at the arresting officer's direction, has authority to impound the vessel as provided in this section.

(2) This section is not intended to limit or constrain the ability of local government from enacting and enforcing ordinances or other regulations relating to the impoundment of vessels for the purposes of enforcing RCW 79A.60.040.

(3) Unless vessel impound is required for evidentiary purposes, a law enforcement officer must seek a series of reasonable alternatives to impound before impounding the vessel. Reasonable alternatives to impound may include, but are not limited to:

(a) Working with the vessel's owner to locate a qualified operator who can take possession of the vessel within thirty minutes following the arrest of the vessel's operator and giving possession of the vessel to such a person;

(b) Leaving the vessel at a marina, dock, or moorage facility, provided that:

(i) The owner is present and willing to sign a liability waiver by which the owner agrees to waive any claims related to such an action against the law enforcement officer and the officer's agency and indemnify the officer and the agency against any claims related to such an action by any third party; and

(ii) The owner agrees to pay any applicable moorage charges or fees; and

(c) Towing the vessel to the closest boat ramp, marina, or similar type facility where the owner can meet the impounding officer within thirty minutes in order to:

(i) Moor the vessel by accepting any applicable moorage charges or fees; or

(ii) Take possession of the vessel if the owner was not present at the time of the arrest.

(4) For the purposes of this section, storing an impounded vessel may include, but is not limited to:

(a) Removing the vessel to and placing it in a secure or other type of moorage facility; or

(b) Placing the vessel in the custody of an operator licensed by the United States coast guard per 46 C.F.R. Sec. 11.482 to provide commercial assistance towing services in Washington state who must:

(i) Tow it to a storage facility operated by the towing entity for storage or to a moorage facility for storage; or

(ii) Tow it to a location designated by the operator or owner of the vessel.

(5) In exigent circumstances, an impounding officer may temporarily attach an impounded vessel to a mooring buoy or anchor the vessel to the bottom for up to twenty-four hours, after which time the impounding officer must move or cause the vessel to be moved to an appropriate facility for storage as outlined in subsection (4) of this section.

(6) If the impounding officer secures a vessel by placing it on its trailer, the officer, moorage facility representative, or commercial assistance towing service is authorized to detach the vessel's trailer from the vehicle to which it is attached, attach the trailer to an impounding vehicle, operate the vessel to load it on the trailer, and then tow the vessel on its trailer to the storage facility.

(7) All vessels must be handled appropriately and returned in substantially the same condition as they existed before being impounded, unless forfeited pursuant to subsection (12) of this section. Except as provided in subsection (12)(b) of this section, all personal property in the vessel must be kept intact and must be returned to the vessel's owner

or agent during the normal business hours of the entity storing the vessel upon request, provided the vessel owner, or the owner's agent, is able to provide sufficient proof of his or her identity.

(8) No moorage facility or vessel towing service provider is required to accept an impounded or otherwise secured vessel under this section for towing or storage. An impounding officer intending to secure a vessel by means of storing it at a moorage facility must have the permission of the owner or operator of the moorage facility prior to leaving the vessel at the facility. The impounding officer shall identify an authorized person on the vessel impound authorization and inventory form to represent the vessel impound facility. The officer must provide a copy of the vessel impound authorization and inventory form to the designated person representing the vessel impound facility along with the addresses of the registered and legal owners of the vessel. The moorage facility may require that the impounding officer's agency take responsibility for the foreclosure process set forth in subsection (12) of this section before they consent to accept an impounded vessel.

(9)(a) An impounding officer impounding a vessel pursuant to this section shall notify the legal and registered owner or owners of the impoundment of the vessel. The notification must be in writing and sent within one business day after the impound by first-class mail, digital transmission, or facsimile to the last known address of the registered and legal owner or owners of the vessel, as identified by the department of licensing, and must inform the owner or owners of the identity of the person or agency authorizing the impound. The impounding officer may serve the operator with the vessel impound authorization and inventory form at the time of impound if the operator is a legal or registered owner of the vessel. Personal service of the vessel impound authorization and inventory form meets the notice requirement of this subsection with respect to the legal or registered owner personally served. The notification must be provided on a vessel impound authorization and inventory form and include: (i) The name, address, and telephone number of the facility where the vessel is being held; (ii) the right of redemption and opportunity for a hearing to contest the validity of the impoundment; and (iii) the rate that is being charged for the storage of the vessel while impounded.

(b) A notice does not need to be sent to the legal or registered owner or owners of an impounded vessel if the vessel has been redeemed.

(c) The impounded vessel may not be redeemed by the operator within a twelve-hour period starting at the time of the operator's arrest. The vessel may be redeemed by or released to an owner or an agent of the owner that is not the operator within the twelve-hour period following arrest.

(10) A moorage facility that accepts a vessel impounded pursuant to this section for storage may charge the owner of the vessel up to one hundred twenty-five percent of the normal moorage rates of tenants or guests in addition to a fee for securing the impounded vessel. A moorage facility must store the vessel in the least costly boat slip or storage area available that is appropriate for the vessel size. An entity that provides emergency vessel towing services that accepts a vessel impounded pursuant to this section for towing or storage, or both, may charge its normal towing and storage fees. The

costs of removal and storage of vessels under this section is a lien upon the vessel until paid, unless the impoundment is determined to be invalid. The registered owner of a vessel impounded pursuant to this section is responsible for paying all fees associated with the towing and storage of the vessel resulting from its impoundment, except as otherwise provided in subsection (15) of this section.

(11) Within fifteen days of impoundment of the vessel, or until the vessel is forfeited pursuant to subsection (12) of this section, the legal or registered owner of a vessel impounded and stored pursuant to this section may redeem the vessel by paying all towing and storage fees charged as allowed in subsection (10) of this section. Within fifteen days of impoundment of the vessel, or until the vessel is forfeited pursuant to subsection (12) of this section, any person who shows proof of ownership or written authorization from the impounded vessel's registered or legal owner or the vessel's insurer may view the vessel without charge during the normal business hours of the entity storing the vessel. The moorage facility may request that a representative of the impounding agency be present during redemption. If requested, the impounding agency must provide a representative as requested by the moorage facility.

(12) If an impounded vessel stored pursuant to this section is not redeemed by its registered or legal owner pursuant to subsection (11) of this section within fifteen days of its impoundment, the entity storing the vessel, or the agency of the impounding officer, if required by the moorage facility under subsection (8) of this section, may initiate foreclosure. Forfeiture by the vessel owner is complete twenty days after mailing of the notice required by this subsection, unless within that time the owner, or any lienholder or holder of a security interest, pays all fees associated with the towing and storage of the vessel resulting from its impoundment. However, foreclosure may not be completed while a hearing under subsection (15) of this section to contest the validity of the impoundment is pending in district or municipal court or while any appeal of a decision of the district or municipal court on the validity of the impoundment is pending.

(a) In order to foreclose on the vessel, the foreclosing entity must mail notice of its intent. Such a notice must, at a minimum, state: (i) The intent of the foreclosing entity to foreclose on the vessel; (ii) that, when the foreclosure process is complete, the owner forfeits all ownership interest in the vessel; (iii) the right of the foreclosing entity to take possession of or dispose of the vessel upon completion of the foreclosure process; and (iv) that the owner, or other interested person or entity, may avoid forfeiture of the vessel by paying all fees associated with the towing and storage of the vessel resulting from its impoundment within twenty days of mailing of the notice. The notice must be mailed to the owner of the vessel at the address on file with the state with which the vessel is registered, or on file with the federal government, if the vessel is registered with the federal government, and any lienholder or secured interests on record. A notice need not be sent to the purported owner or any other person whose interest in the vessel is not recorded with a state or with the federal government.

(b) Upon completion of the foreclosure process, the registered and legal owners of the vessel forfeit any and all ownership interest in it and the entity administering the foreclo-

sure process must dispose of it through sale. The proceeds of a sale under this section shall be applied first to payment of the amount of reasonable charges incurred by the entity for towing, storage, and sale, then to the owner or to satisfy any liens of record or security interests of record on the vessel in the order of their priority. If the sale is for a sum less than the applicable charges, the foreclosing entity is entitled to assert a claim for the deficiency against the vessel owner. Nothing in this section prevents any lienholder or secured party from asserting a claim for any deficiency owed the lienholder or secured party. If more than one thousand dollars remains after the satisfaction of amounts owed to the entity and to any owner or bona fide security interest, then the foreclosing entity must remit the moneys to the department of licensing for deposit in the derelict vessel removal account established in RCW 79.100.100. A copy of the forfeited vessel disposition report form identifying the vessel resulting in any surplus shall accompany the remitted funds. Transfer of ownership of the vessel after foreclosure must comply with RCW 79.100.150, when applicable. All personal property in the vessel not claimed prior to foreclosure must be turned over to the law enforcement agency that authorized the impoundment. The personal property must be disposed of pursuant to chapter 63.32 or 63.40 RCW, or as otherwise provided by law. Within fourteen days of the completion of the foreclosure process of a vessel pursuant to this subsection, the foreclosing entity shall send a forfeited vessel disposition report, together with a copy of the vessel impound authorization and inventory form and the notice of intent to foreclose, to the department of licensing so that the department may include documentation in the ownership records of the vessel. The vessel disposition information sent to the department of licensing on the forfeited vessel disposition report relieves the previous owner of the vessel from any civil or criminal liability for the operation of the vessel from the date of sale thereafter, and transfers full liability for the vessel to the party to whom the vessel is transferred by the foreclosing entity.

(13) Any individual or entity whose assistance has been requested by an impounding officer who in good faith provides trailering, towing, or secured or other type of moorage of a vessel impounded pursuant to this section is not liable for any damage to or theft of the vessel or its contents, or for damages for loss of use of the vessel resulting from any act or omission in providing assistance other than for acts or omissions constituting gross negligence or willful or wanton misconduct, or for any damages arising from any act or omission committed during the foreclosure process.

(14) If a law enforcement officer impounds and secures a vessel pursuant to this section, the impounding officer and the government agency employing the officer are not liable for any damage to or theft of the vessel or its contents, or for damages for loss of use of the vessel, or for any damages arising from any act or omission committed during the foreclosure process.

(15) Any legal or registered owner seeking to redeem an impounded vessel under this section has a right to a hearing in the district or municipal court for the jurisdiction in which the vessel was impounded to contest the validity of the impoundment. The district court has jurisdiction to determine the issues involving all impoundments including those autho-

rized by the state or its agents, unless the impoundment was authorized by municipal agents. The municipal court has exclusive jurisdiction to determine the issues involving impoundments authorized by agents of the municipality. Any request for a hearing must be made in writing per the instructions provided on the uniform vessel impound authorization and inventory form and must be received by the appropriate court within ten business days of the date that the vessel impound authorization and inventory form was mailed to or served on the registered or legal owner or owners of the impounded vessel. If the hearing request is not received by the court within ten business days of the sending or personal service of the notice of impoundment pursuant to subsection (9) of this section, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the court shall proceed to hear and determine the validity of the impoundment.

(a) Within five days after the request for a hearing, the court shall notify the operator of the impound facility, the registered and legal owners of the vessel, and the officer or agency authorizing the impound in writing of the hearing date and time.

(b) At the hearing, the petitioner may produce any relevant evidence that is admissible under court rules to show that the impoundment, towing, or storage fees charged were not proper. The court may consider a written report made under oath by the officer who authorized the impoundment in lieu of the officer's personal appearance at the hearing.

(c) At the conclusion of the hearing, the court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the fees established in subsection (10) of this section, and who is responsible for payment of the fees. The court may not adjust fees or charges that are in compliance with subsection (10) of this section.

(d) If the impoundment is found proper, the impoundment, towing, and storage fees as permitted under this chapter together with court costs must be assessed against the petitioner.

(e) If the impoundment is determined to be in violation of this section, then the registered and legal owners of the vessel bear no impoundment, towing, or storage fees, any security must be returned or discharged as appropriate, and the agency that authorized the impoundment is liable for any towing, storage, or other impoundment fees permitted under this chapter. The court shall enter judgment in favor of the moorage facility or vessel towing contractor against the agency authorizing the impound for the impoundment, towing, and storage fees incurred. In addition, the court shall enter judgment in favor of the petitioner for the amount of the filing fee required by law for the impound hearing petition. If an impoundment is determined to be in violation of this section, the impounding officer and the government agency employing the officer are not liable for damage to or theft of the vessel or its contents, or damages for loss of use of the vessel, if the impounding officer had reasonable suspicion to believe that the operator of the vessel was operating the vessel while under the influence of intoxicating liquor or any drug, was in physical control of the vessel while under the influence of intoxicating liquor or any drug, or was operating

the vessel in a reckless manner, or if the impounding officer otherwise acted reasonably under the circumstances in acting to impound and secure the vessel.

(f) If any judgment entered under this subsection is not paid within fifteen days of notice in writing of its entry, the court shall award reasonable attorneys' fees and costs against the defendant in any action to enforce the judgment. Notice of entry of judgment may be made by registered or certified mail, and proof of mailing may be made by affidavit of the party mailing the notice. Notice of the entry of the judgment must read essentially as follows:

TO:
YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the Court located at in the sum of \$....., in an action entitled, Case No. YOU ARE FURTHER NOTIFIED that attorneys' fees and costs will be awarded against you under RCW if the judgment is not paid within 15 days of the date of this notice.
DATED this day of, (year)
Signature

Typed name and address of party mailing notice

(16) By September 30, 2017, the department of licensing in collaboration with the commission shall create the following forms for use in the enforcement of this section:

(a) A vessel impound authorization and inventory form. This form must include sections for the impounding officer to record the addresses of the registered and legal owners of the vessel and the designated individual that will act on behalf of the impound facility; and

(b) A forfeited vessel disposition report form.

(17) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Impound" means to take and hold a vessel in legal custody.

(b) "Legal owner" means a person having a perfected security interest or a registered owner of a vessel unencumbered by a security interest.

(c) "Moorage facility" includes a private moorage facility as defined in RCW 88.26.010, a moorage facility as defined in RCW 53.08.310, or a moorage facility owned or operated by the agency of the arresting officer.

(d) "Registered owner" or "owner" means the person whose lawful right of possession of a vessel has most recently been recorded with the department of licensing.

(e) "Secure moorage" is in-water moorage or dry storage at a moorage facility in a location specifically designated for the moorage of vessels and in a location where access is controlled or security is provided.

(f) "Vessel" includes any vessel as defined in RCW 79A.60.010 and includes any associated trailer or towing device used to transport the vessel if it is included in the impoundment. [2017 c 247 § 1.]

79A.60.050 Homicide by watercraft—Penalty. (1) When the death of any person ensues within three years as a proximate result of injury proximately caused by the operating of any vessel by any person, the operator is guilty of homicide by watercraft if he or she was operating the vessel:

(a) While under the influence of intoxicating liquor or any drug, as defined by RCW 79A.60.040;

(b) In a reckless manner; or

(c) With disregard for the safety of others.

(2) When the death is caused by a skier towed by a vessel, the operator of the vessel is not guilty of homicide by watercraft.

(3) A violation of this section is punishable as a class A felony according to chapter 9A.20 RCW. [2000 c 11 § 94; 1998 c 219 § 1. Formerly RCW 88.12.029.]

79A.60.060 Assault by watercraft—Penalty. (1) "Serious bodily injury" means bodily injury which involves a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body.

(2) A person is guilty of assault by watercraft if he or she operates any vessel:

(a) In a reckless manner, and this conduct is the proximate cause of serious bodily injury to another; or

(b) While under the influence of intoxicating liquor or any drug, as defined by RCW 79A.60.040, and this conduct is the proximate cause of serious bodily injury to another.

(3) When the injury is caused by a skier towed by a vessel, the operator of the vessel is not guilty of assault by watercraft.

(4) A violation of this section is punishable as a class B felony according to chapter 9A.20 RCW. [2000 c 11 § 95; 1998 c 219 § 2. Formerly RCW 88.12.032.]

79A.60.080 Failure to stop for law enforcement officer. Any operator of a vessel who willfully fails to stop when requested or signaled to do so by a person reasonably identifiable as a law enforcement officer is guilty of a gross misdemeanor. [1990 c 235 § 1. Formerly RCW 88.12.035, 88.12.110, and 88.08.070.]

79A.60.090 Eluding a law enforcement vessel. Any operator of a vessel who willfully fails or refuses to immediately bring the vessel to a stop and who operates the vessel in a manner indicating a wanton or willful disregard for the lives or property of others while attempting to elude a pursuing law enforcement vessel, after being given a visual or audible signal to bring the vessel to a stop, shall be guilty of a class C felony punishable under chapter 9A.20 RCW. The signal given by the law enforcement officer may be by hand, voice, emergency light, or siren. The officer giving such a signal shall be in uniform and his or her vessel shall be appropriately marked showing it to be an official law enforcement vessel. [1990 c 235 § 2. Formerly RCW 88.12.045, 88.12.120, and 88.08.080.]

79A.60.100 Enforcement—Chapter to supplement federal law. (1) Every law enforcement officer of this state and its political subdivisions has the authority to enforce this chapter. Law enforcement officers may enforce recreational boating rules adopted by the commission. Such law enforcement officers include, but are not limited to, county sheriffs, officers of other local law enforcement entities, fish and wildlife officers, through the director, the state patrol, and state park rangers. In the exercise of this responsibility, all such

officers may stop and board any vessel and direct it to a suitable pier or anchorage to enforce this chapter.

(2) This chapter shall be construed to supplement federal laws and regulations. To the extent this chapter is inconsistent with federal laws and regulations, the federal laws and regulations shall control. [2001 c 253 § 60; 1994 c 264 § 80; 1993 c 244 § 9; 1988 c 36 § 73; 1986 c 217 § 10. Formerly RCW 88.12.055, 88.12.330, and 91.14.100.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.110 Equipment standards—Rules—Penalty. In addition to the equipment standards prescribed under this chapter, the commission shall adopt rules specifying equipment standards for vessels. Except where the violation is classified as a misdemeanor under this chapter, violation of any equipment standard adopted by the commission is an infraction under chapter 7.84 RCW. [1993 c 244 § 10. Formerly RCW 88.12.065.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.120 Tampering with vessel lights or signals—Exhibiting false lights or signals—Penalty. An operator or owner who endangers a vessel, or the persons on board the vessel, by showing, masking, extinguishing, altering, or removing any light or signal or by exhibiting any false light or signal, is guilty of a misdemeanor, punishable as provided in RCW 9.92.030. [1993 c 244 § 11. Formerly RCW 88.12.075.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.130 Muffler or underwater exhaust system required—Exemptions—Enforcement—Penalty. (1) All motor-propelled vessels shall be equipped and maintained with an effective muffler that is in good working order and in constant use. For the purpose of this section, an effective muffler or underwater exhaust system does not produce sound levels in excess of ninety decibels when subjected to a stationary sound level test that shall be prescribed by rules adopted by the commission, as of July 25, 1993, and for engines manufactured on or after January 1, 1994, a noise level of eighty-eight decibels when subjected to a stationary sound level test that shall be prescribed by rules adopted by the commission.

(2) A vessel that does not meet the requirements of subsection (1) of this section shall not be operated on the waters of this state.

(3) No person may operate a vessel on waters of the state in such a manner as to exceed a noise level of seventy-five decibels measured from any point on the shoreline of the body of water on which the vessel is being operated that shall be specified by rules adopted by the commission, as of July 25, 1993. Such measurement shall not preclude a stationary sound level test that shall be prescribed by rules adopted by the commission.

(4) This section does not apply to: (a) A vessel tuning up, testing for, or participating in official trials for speed records or a sanctioned race conducted pursuant to a permit issued by an appropriate governmental agency; or (b) a vessel being operated by a vessel or marine engine manufacturer for the purpose of testing or development. Nothing in this subsection prevents local governments from adopting ordinances to con-

trol the frequency, duration, and location of vessel testing, tune-up, and racing.

(5) Any officer authorized to enforce this section who has reason to believe that a vessel is not in compliance with the noise levels established in this section may direct the operator of the vessel to submit the vessel to an on-site test to measure noise level, with the officer on board if the officer chooses, and the operator shall comply with such request. If the vessel exceeds the decibel levels established in this section, the officer may direct the operator to take immediate and reasonable measures to correct the violation.

(6) Any officer who conducts vessel sound level tests as provided in this section shall be qualified in vessel noise testing. Qualifications shall include but may not be limited to the ability to select the appropriate measurement site and the calibration and use of noise testing equipment.

(7) A person shall not remove, alter, or otherwise modify in any way a muffler or muffler system in a manner that will prevent it from being operated in accordance with this chapter.

(8) A person shall not manufacture, sell, or offer for sale any vessel that is not equipped with a muffler or muffler system that does not comply with this chapter. This subsection shall not apply to power vessels designed, manufactured, and sold for the sole purpose of competing in racing events and for no other purpose. Any such exemption or exception shall be documented in any and every sale agreement and shall be formally acknowledged by signature on the part of both the buyer and the seller. Copies of the agreement shall be maintained by both parties. A copy shall be kept on board whenever the vessel is operated.

(9) Except as provided in RCW 79A.60.020, a violation of this section is an infraction under chapter 7.84 RCW.

(10) Vessels that are equipped with an engine modified to increase performance beyond the engine manufacturer's stock configuration shall have an exhaust system that complies with the standards in this section after January 1, 1994. Until that date, operators or owners, or both, of such vessels with engines that are out of compliance shall be issued a warning and be given educational materials about types of muffling systems available to muffle noise from such high performance engines.

(11) Nothing in this section preempts a local government from exercising any power that it possesses under the laws or Constitution of the state of Washington to adopt more stringent regulations. [2000 c 11 § 97; 1993 c 244 § 39. Formerly RCW 88.12.085.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.140 Personal flotation devices—Inspection and approval—Rules. (1) The commission shall adopt rules providing for its inspection and approval of the personal flotation devices that may be used to satisfy the requirements of this chapter and governing the manner in which such devices shall be used. The commission shall prescribe the different types of devices that are appropriate for the different uses, such as water skiing or operation of a personal watercraft. In adopting its rules the commission shall consider the United States coast guard rules or regulations. The commission may approve devices inspected and approved by the coast guard without conducting any inspection of the devices itself.

(2) In situations where personal flotation devices are required under provisions of this chapter, the devices shall be in good and serviceable condition and of appropriate size. If they are not, then they shall not be considered as personal flotation devices under such provisions. [1993 c 244 § 12. Formerly RCW 88.12.095.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.150 Failure of vessel to contain safety equipment—Owner/operator may be cited for applicable infraction or crime. If a vessel does not contain the safety equipment required under this chapter and the rules of the commission, and the operator is not the owner of the vessel but is operating the vessel with the express or implied permission of the owner, then either the owner or the operator, or both, may be cited for the applicable infraction or charged with the applicable crime. [2013 c 278 § 6; 1993 c 244 § 13. Formerly RCW 88.12.105.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.160 Personal flotation devices required—Penalty. (1) No person may operate or permit the operation of a vessel on the waters of the state without a personal flotation device on board for each person on the vessel. Each personal flotation device shall be in serviceable condition, of an appropriate size, and readily accessible.

(2) Except as provided in RCW 79A.60.020, a violation of subsection (1) of this section is an infraction under chapter 7.84 RCW if the vessel is not carrying passengers for hire.

(3) A violation of subsection (1) of this section is a misdemeanor punishable under RCW 9.92.030, if the vessel is carrying passengers for hire.

(4) No person shall operate a vessel under nineteen feet in length on the waters of this state with a child twelve years old and under, unless the child is wearing a personal flotation device that meets or exceeds the United States coast guard approval standards of the appropriate size, while the vessel is underway. For the purposes of this section, a personal flotation device is not considered readily accessible for children twelve years old and under unless the device is worn by the child while the vessel is underway. The personal flotation device must be worn at all times by a child twelve years old and under whenever the vessel is underway and the child is on an open deck or open cockpit of the vessel. The following circumstances are excepted:

(a) While a child is below deck or in the cabin of a boat with an enclosed cabin;

(b) While a child is on a United States coast guard inspected passenger-carrying vessel operating on the navigable waters of the United States; or

(c) While on board a vessel at a time and place where no person would reasonably expect a danger of drowning to occur.

(5) Except as provided in RCW 79A.60.020, a violation of subsection (4) of this section is an infraction under chapter 7.84 RCW. Enforcement of subsection (4) of this section by law enforcement officers may be accomplished as a primary action, and need not be accompanied by the suspected violation of some other offense. [2000 c 11 § 98; 1999 c 310 § 1; 1993 c 244 § 14; 1933 c 72 § 5; RRS § 9851-5. Formerly RCW 88.12.115 and 88.12.050.]

(2019 Ed.)

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.170 Water skiing safety—Requirements. (1) The purpose of this section is to promote safety in water skiing on the waters of Washington state, provide a means of ensuring safe water skiing and promote the enjoyment of water skiing.

(2) No vessel operator may tow or attempt to tow a water skier on any waters of Washington state unless such craft shall be occupied by at least an operator and an observer. The observer shall continuously observe the person or persons being towed and shall display a flag immediately after the towed person or persons fall into the water, and during the time preparatory to skiing while the person or persons are still in the water. Such flag shall be a bright red or brilliant orange color, measuring at least twelve inches square, mounted on a pole not less than twenty-four inches long and displayed as to be visible from every direction. This subsection does not apply to a personal watercraft, the design of which makes no provision for carrying an operator or any other person on board, and that is actually operated by the person or persons being towed. Every remote-operated personal watercraft shall have a flag attached which meets the requirements of this subsection. Except as provided under RCW 79A.60.020, a violation of this subsection is an infraction under chapter 7.84 RCW.

(3) The observer and the operator shall not be the same person. The observer shall be an individual who meets the minimum qualifications for an observer established by rules of the commission. Except as provided under RCW 79A.60.020, a violation of this subsection is an infraction under chapter 7.84 RCW.

(4) No person shall engage or attempt to engage in water skiing without wearing a personal flotation device. Except as provided under RCW 79A.60.020, a violation of this subsection is an infraction under chapter 7.84 RCW.

(5) No person shall engage or attempt to engage in water skiing, or operate any vessel to tow a water skier, on the waters of Washington state during the period from one hour after sunset until one hour prior to sunrise. A violation of this subsection is a misdemeanor, punishable as provided under RCW 9.92.030.

(6) No person engaged in water skiing either as operator, observer, or skier, shall conduct himself or herself in a reckless manner that willfully or wantonly endangers, or is likely to endanger, any person or property. A violation of this subsection is a misdemeanor as provided under RCW 9.92.030.

(7) The requirements of subsections (2), (3), (4), and (5) of this section shall not apply to persons engaged in tournaments, competitions, or exhibitions that have been authorized or otherwise permitted by the appropriate agency having jurisdiction and authority to authorize such events. [2000 c 11 § 99; 1993 c 244 § 15; 1990 c 231 § 1; 1989 c 241 § 1. Formerly RCW 88.12.125, 88.12.080, and 88.12.070.]

Intent—1993 c 244: See note following RCW 79A.60.010.

Additional notes found at www.leg.wa.gov

79A.60.180 Loading or powering vessel beyond safe operating ability—Penalties. (1) A person shall not load or permit to be loaded a vessel with passengers or cargo beyond its safe carrying ability or carry passengers or cargo in an

unsafe manner taking into consideration weather and other existing operating conditions.

(2) A person shall not operate or permit to be operated a vessel equipped with a motor or other propulsion machinery of a power beyond the vessel's ability to operate safely, taking into consideration the vessel's type, use, and construction, the weather conditions, and other existing operating conditions.

(3) A violation of subsection (1) or (2) of this section is an infraction punishable as provided under chapter 7.84 RCW except as provided under RCW 79A.60.020 or where the overloading or overpowering is reasonably advisable to effect a rescue or for some similar emergency purpose.

(4) If it appears reasonably certain to any law enforcement officer that a person is operating a vessel clearly loaded or powered beyond its safe operating ability and in the judgment of that officer the operation creates an especially hazardous condition, the officer may direct the operator to take immediate and reasonable steps necessary for the safety of the individuals on board the vessel, including directing the operator to return to shore or a mooring and to remain there until the situation creating the hazard is corrected or ended. Failure to follow the direction of an officer under this subsection is a misdemeanor punishable as provided under RCW 9.92.030. [2000 c 11 § 100; 1993 c 244 § 16. Formerly RCW 88.12.135.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.190 Operation of personal watercraft—Prohibited activities—Penalties. (1) A person shall not operate a personal watercraft unless each person aboard the personal watercraft is wearing a personal flotation device approved by the commission. Except as provided for in RCW 79A.60.020, a violation of this subsection is a civil infraction punishable under RCW 7.84.100.

(2) A person operating a personal watercraft equipped by the manufacturer with a lanyard-type engine cutoff switch shall attach the lanyard to his or her person, clothing, or personal flotation device as appropriate for the specific vessel. It is unlawful for any person to remove or disable a cutoff switch that was installed by the manufacturer.

(3) A person shall not operate a personal watercraft during darkness.

(4) A person under the age of fourteen shall not operate a personal watercraft on the waters of this state.

(5) A person shall not operate a personal watercraft in a reckless manner, including recklessly weaving through congested vessel traffic, recklessly jumping the wake of another vessel unreasonably or unnecessarily close to the vessel or when visibility around the vessel is obstructed, or recklessly swerving at the last possible moment to avoid collision.

(6) A person shall not lease, hire, or rent a personal watercraft to a person under the age of sixteen.

(7) Subsections (1) through (6) of this section shall not apply to a performer engaged in a professional exhibition or a person participating in a regatta, race, marine parade, tournament, or exhibition authorized or otherwise permitted by the appropriate agency having jurisdiction and authority to authorize such events.

(8) Violations of subsections (2) through (6) of this section constitute a misdemeanor under RCW 9.92.030. [2000 c 11 § 101; 1993 c 244 § 17. Formerly RCW 88.12.145.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.200 Duty of operator involved in collision, accident, or other casualty—Immunity from liability of persons rendering assistance—Penalties. (1) The operator of a vessel involved in a collision, accident, or other casualty, to the extent the operator can do so without serious danger to the operator's own vessel or persons aboard, shall render all practical and necessary assistance to persons affected by the collision, accident, or casualty to save them from danger caused by the incident. Under no circumstances may the rendering of assistance or other compliance with this section be evidence of the liability of such operator for the collision, accident, or casualty. The operator shall also give all pertinent accident information, as specified by rule by the commission, to the law enforcement agency having jurisdiction: PROVIDED, That this requirement shall not apply to operators of vessels when they are participating in an organized competitive event authorized or otherwise permitted by the appropriate agency having jurisdiction and authority to authorize such events. These duties are in addition to any duties otherwise imposed by law. Except as provided for in RCW 79A.60.020 and subsection (3) of this section, a violation of this subsection is a civil infraction punishable under RCW 7.84.100.

(2) Any person who complies with subsection (1) of this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty, without objection of the person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act or omission in providing or arranging salvage, towage, medical treatment, or other assistance, where the assisting person acts as any reasonably prudent person would have acted under the same or similar circumstances.

(3) An operator of a vessel is guilty of a class C felony and is punishable pursuant to RCW 9A.20.021 if the operator: (a) Is involved in a collision that results in injury to a person; (b) knew or reasonably should have known that a person was injured in the collision; and (c) leaves the scene of the collision without rendering all practical and necessary assistance to the injured person as required pursuant to subsection (1) of this section, under circumstances in which the operator could have rendered assistance without serious danger to the operator's own vessel or persons aboard. This subsection (3) does not apply to vessels involved in commerce, including but not limited to tugs, barges, cargo vessels, commercial passenger vessels, fishing vessels, and processing vessels. [2000 c 11 § 102; 1996 c 36 § 1; 1993 c 244 § 18; 1984 c 183 § 1; 1983 2nd ex.s. c 3 § 48. Formerly RCW 88.12.155, 88.12.130, and 88.02.080.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.210 Casualty and accident reports—Confidentiality—Use as evidence. (1) All reports made to the commission pursuant to RCW 79A.60.200 and 79A.05.310 shall be without prejudice to the person who makes the report

and shall be for the confidential usage of governmental agencies, except as follows:

(a) Statistical information which shall be made public;

(b) The names and addresses of the operator and owner and the registration number or name of the vessel as documented which was involved in an accident or casualty and the names and addresses of any witnesses which, if reported, shall be disclosed upon written request to any person involved in a reportable accident, or, for a reportable casualty, to any member of a decedent's family or the personal representatives of the family.

(2) A report made to the commission pursuant to RCW 79A.60.200 and 79A.05.310 or copy thereof shall not be used in any trial, civil or criminal, arising out of an accident or casualty, except that solely to prove a compliance or failure to comply with the report requirements of RCW 79A.60.200 and 79A.05.310, a certified statement which indicates that a report has or has not been made to the commission shall be provided upon demand to any court or upon written request to any person who has or claims to have made a report. [1999 c 249 § 1502; 1984 c 183 § 3. Formerly RCW 88.12.165, 88.12.140, and 43.51.402.]

Additional notes found at www.leg.wa.gov

79A.60.220 Boating accident reports by local government agencies—Investigation—Report of coroner. Law enforcement authorities, fire departments, or search and rescue units of any city or county government shall provide to the commission a report, prepared by the local government agency regarding any boating accident occurring within their jurisdiction resulting in a death or injury requiring hospitalization. Such report shall be provided to the commission within ten days of the occurrence of the accident. The results of any investigation of the accident conducted by the city or county governmental agency shall be included in the report provided to the commission. At the earliest opportunity, but in no case more than forty-eight hours after becoming aware of an accident, the agency shall notify the commission of the accident. The commission shall have authority to investigate any boating accident. The results of any investigation conducted by the commission shall be made available to the local government for further processing. This provision does not eliminate the requirement for a boating accident report by the operator required under RCW 79A.60.200.

The report of a county coroner, or any public official assuming the functions of a coroner, concerning the death of any person resulting from a boating accident, shall be submitted to the commission within one week of completion. Information in such report may be, together with information in other such reports, incorporated into the state boating accident report provided for in RCW 79A.05.310(4), and shall be for the confidential usage of governmental agencies as provided in RCW 79A.60.210. [1999 c 249 § 1503; 1987 c 427 § 1. Formerly RCW 88.12.175, 88.12.150, and 43.51.403.]

Additional notes found at www.leg.wa.gov

79A.60.230 Vessels adrift—Owner to be notified. Any person taking up any vessel found adrift, and out of the custody of the owner, in waters of this state, shall forthwith notify the owner thereof, if to him or her known, or if upon reasonable inquiry he or she can ascertain the name and resi-

dence of the owner, and request such owner to pay all reasonable charges, and take such vessel away. [1993 c 244 § 19; Code 1881 § 3242; 1854 p 386 § 1; RRS § 9891. Formerly RCW 88.12.185, 88.12.160, and 88.20.010.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.240 Notice—Contents—Service. Such notice as is required by RCW 79A.60.230 shall be given personally, or in writing; if in writing, it shall be served upon the owner, or may be sent by mail to the post office where such owner usually receives his or her letters. Such notice shall inform the party where the vessel was taken up, and where it may be found, and what amount the taker-up or finder demands for his or her charges. [1999 c 249 § 1504; 1993 c 244 § 20; Code 1881 § 3243; 1854 p 386 § 2; RRS § 9892. Formerly RCW 88.12.195, 88.12.170, and 88.20.020.]

Intent—1993 c 244: See note following RCW 79A.60.010.

Additional notes found at www.leg.wa.gov

79A.60.250 Posting of notice. (1) In all cases where the notice required by RCW 79A.60.230 is not given personally, it shall be the duty of the taker-up to post up at the post office nearest the place where such vessel may be taken up, a written notice of the taking up of such vessel. The written notice shall contain a description of the vessel, with the name, if any is painted thereon, also the place where taken up, the place where the property may be found, and the charge for taking the same up.

(2) If the taker-up is traveling upon waters of the state, such notice shall additionally be posted up at the first post office he or she shall pass after the taking up.

(3) In all cases, the person who took up the vessel shall at the time when, and place where, he or she posts up such notice, also mail a copy of such notice, directed to the postmaster of each post office on waters of the state, and within fifty miles of the place where such vessel is taken up. [1999 c 249 § 1505; 1993 c 244 § 21; Code 1881 § 3244; 1854 p 386 § 3; RRS § 9893. Formerly RCW 88.12.205, 88.12.180, and 88.20.030.]

Intent—1993 c 244: See note following RCW 79A.60.010.

Additional notes found at www.leg.wa.gov

79A.60.260 Compensation—Liability on failure to give notice. Every person taking up any vessel so found adrift, and giving the notice herein required, shall be entitled to receive from the owner claiming the property, a reasonable compensation for his or her time, services, expenses, and risk in taking up said property, and take notice of the same, to be settled by agreement between the parties. In case the person has not, within ten days after the taking up, substantially complied with the provisions of this chapter in giving the notice, the person shall be entitled to no compensation, but he or she shall be liable to all damages the owner may have suffered, and be also liable to the owner for the value of the use of the vessel, from the time of taking it up until the same is delivered to the owner. [1993 c 244 § 22; Code 1881 § 3245; 1854 p 386 § 4; RRS § 9894. Formerly RCW 88.12.215, 88.12.190, and 88.20.040.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.270 Disputed claims—Trial—Bond. In case the parties cannot agree on the amount to be paid the taker-up, or the ownership, and the sum claimed is less than one thousand dollars, the owner may file a complaint, setting out the facts, and the judge, on hearing, shall decide the same with a jury, or not, and in the same manner as is provided in ordinary civil actions before a district judge. If the amount claimed by the taker-up is more than one thousand dollars, the owner shall file his or her complaint in the superior court of the county where the property is, and trial shall be had as in other civil actions; but if the taker-up claims more than one thousand dollars, and a less amount is awarded him or her, he or she shall be liable for all the costs in the superior court; and in all cases where the taker-up shall recover a less amount than has been tendered him or her by the owner or claimant, previous to filing his or her complaint, he or she shall pay the costs before the district judge or in the superior court: PROVIDED, That in all cases the owner, after filing his or her complaint before a district judge, shall be entitled to the possession of the vessel, upon giving bond, with security to the satisfaction of the judge, in double the amount claimed by the taker-up. When the complaint is filed in the superior court, the clerk thereof shall approve the security of the bond. The bond shall be conditioned to pay such costs as shall be awarded to the finder or taker-up of such vessel. [1993 c 244 § 23; 1987 c 202 § 248; Code 1881 § 3246; 1854 p 386 § 5; RRS § 9895. Formerly RCW 88.12.218, 88.12.200, and 88.20.050.]

Intent—1993 c 244: See note following RCW 79A.60.010.

Intent—1987 c 202: See note following RCW 2.04.190.

79A.60.280 Liability for excessive or negligent use. In case the taker-up shall use the vessel, more than is necessary to put it into a place of safety, he or she shall be liable to the owner for such use, and for all damage; and in case it shall suffer injury from his or her neglect to take suitable care of it, he or she shall be liable to the owner for all damage. [1993 c 244 § 24; Code 1881 § 3247, part; 1854 p 387 § 6; RRS § 9896, part. FORMER PART OF SECTION: Code 1881 § 3247, part. Now codified as RCW 88.20.070. Formerly RCW 88.12.222, 88.12.210, and 88.20.060.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.290 Unclaimed vessel—Procedure. In case such vessel is of less value than one hundred dollars, and is not claimed within three months, the taker-up may apply to a district judge of the district where the property is, who, upon being satisfied that due notice has been given, and that the owner cannot, with reasonable diligence be found, shall order the vessel to be sold, and after paying the taker-up such sum as he or she shall be entitled to, and the costs, the balance shall be paid the county treasurer as is provided in the case of the sale of estrays. In case the vessel exceeds one hundred dollars, and is not claimed within six months, application shall be made to the superior court of the county, and the same proceeding shall be thereupon had. All sales made under this section shall be conducted as sales of personal property on execution. [1993 c 244 § 25; 1987 c 202 § 249; Code 1881 § 3247, part; 1854 p 387 § 7; RRS § 9896, part. Formerly RCW 88.12.225, 88.12.220, 88.20.070, and 88.20.060, part.]

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Intent—1993 c 244: See note following RCW 79A.60.010.

Intent—1987 c 202: See note following RCW 2.04.190.

79A.60.300 Vessels secured pursuant to chapter 79A.65 RCW. The provisions of RCW 79A.60.230 through 79A.60.290 do not apply to vessels secured pursuant to chapter 79A.65 RCW. [2000 c 11 § 103; 1994 c 51 § 8. Formerly RCW 88.12.227.]

79A.60.400 Vessels carrying passengers for hire on whitewater rivers—Purpose. The purpose of RCW 79A.60.440 through 79A.60.480 is to further the public interest, welfare, and safety by providing for the protection and promotion of safety in the operation of vessels carrying passengers for hire on the whitewater rivers of this state. [2000 c 11 § 104; 1993 c 244 § 26; 1986 c 217 § 1. Formerly RCW 88.12.230 and 91.14.005.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.410 Vessels carrying passengers for hire on whitewater rivers—Whitewater river outfitter's license required. (1) No person shall act in the capacity of a paid whitewater river outfitter, or advertise in any newspaper or magazine or any other trade publication, or represent himself or herself as a whitewater river outfitter in the state, without first obtaining a whitewater river outfitter's license from the department of licensing in accordance with RCW 79A.60.480.

(2) Every whitewater river outfitter's license must, at all times, be conspicuously placed on the premises set forth in the license. [2000 c 11 § 105; 1997 c 391 § 2. Formerly RCW 88.12.232.]

Additional notes found at www.leg.wa.gov

79A.60.420 Vessels carrying passengers for hire on whitewater rivers—Conduct constituting misdemeanor. Except as provided in RCW 79A.60.480, the commission of a prohibited act or the omission of a required act under RCW 79A.60.430 through 79A.60.480 constitutes a misdemeanor, punishable as provided under RCW 9.92.030. [2000 c 11 § 106; 1997 c 391 § 3; 1993 c 244 § 27. Formerly RCW 88.12.235.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.430 Vessels carrying passengers for hire on whitewater rivers—Safety requirements. (1) While carrying passengers for hire on whitewater rivers in this state, the licensed whitewater river outfitter shall comply with the following requirements at the beginning of every trip:

(a) If using inflatable vessels, use only vessels with three or more separate air chambers;

(b) Ensure that all passengers are wearing a securely fastened United States coast guard-approved type V personal flotation device of the proper size, and that all guides are wearing a securely fastened United States coast guard-approved type III or type V personal flotation device;

(c) Ensure that a spare United States coast guard-approved type III or type V personal flotation device in good repair is accessible to all vessels on each trip;

(d) Ensure that each vessel has on it a bagged throwable line with a floating line and bag;

(e) Ensure that each vessel has accessible an adequate first aid kit;

(f) Ensure that each vessel has a spare propelling device;

(g) Ensure that a repair kit and air pump are accessible to inflatable vessel;

(h) Ensure that equipment to prevent and treat hypothermia is accessible to all vessels on a trip; and

(i) Ensure that each vessel is operated by a guide who has complied with the requirements of subsection (2) of this section.

(2) No person may act as a guide unless the individual is at least eighteen years of age and has:

(a) Successfully completed a lifesaving training course meeting standards adopted by the commission;

(b) Completed a program of guide training on whitewater rivers, conducted by a guide instructor, which program must run for a minimum of fifty hours on a whitewater river and must include at least the following elements:

(i) Equipment preparation and boat rigging;

(ii) Reading river characteristics including currents, eddies, rapids, and hazards;

(iii) Methods of scouting and running rapids;

(iv) River rescue techniques, including emergency procedures and equipment recovery; and

(v) Communications with clients, including paddling and safety instruction; and

(c) Completed at least one trip on an entire section of whitewater river before carrying passengers for hire in a vessel on any such section of whitewater river.

(3) A guide instructor must have traveled at least one thousand five hundred river miles, seven hundred fifty of which must have been while acting as a guide.

(4) Any person conducting guide training on whitewater rivers shall, upon request of a guide trainee, issue proof of completion to the guide completing the required training program. [1997 c 391 § 4; 1993 c 244 § 30; 1986 c 217 § 6. Formerly RCW 88.12.245, 88.12.280, and 91.14.050.]

Intent—1993 c 244: See note following RCW 79A.60.010.

Additional notes found at www.leg.wa.gov

79A.60.440 Vessels carrying passengers for hire on whitewater rivers—Operation of vessel—Exemptions.

(1) No person may operate any vessel carrying passengers for hire on whitewater rivers in a manner that interferes with other vessels or with the free and proper navigation of the rivers of this state.

(2) Every operator of a vessel carrying passengers for hire on whitewater rivers shall at all times operate the vessel in a careful and prudent manner and at such a speed as to not endanger the life, limb, or property of any person.

(3) No vessel carrying passengers for hire on whitewater rivers may be loaded with passengers or cargo beyond its safe carrying capacity taking into consideration the type and construction of the vessel and other existing operating conditions. In the case of inflatable vessels, safe carrying capacity in whitewater shall be considered as less than the United States coast guard capacity rating for each vessel. This subsection shall not apply in cases of an unexpected emergency on the river.

(4) Individuals licensed under chapter 77.32 RCW and acting as fishing guides are exempt from RCW 79A.60.420

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and 79A.60.460 through 79A.60.480. [2000 c 11 § 107; 1993 c 244 § 28; 1986 c 217 § 3. Formerly RCW 88.12.250 and 91.14.020.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.450 Vessels carrying passengers for hire on whitewater rivers—Use of alcohol prohibited—Vessel to be accompanied by vessel with licensed outfitter. (1) Whitewater river outfitters and guides on any trip carrying passengers for hire on whitewater rivers of the state shall not allow the use of alcohol during the course of a trip on a whitewater river section in this state.

(2) Any vessel carrying passengers for hire on any whitewater river section in this state must be accompanied by at least one other vessel being operated by a licensed whitewater river outfitter or a guide under the direction or control of a licensed whitewater river outfitter. [1997 c 391 § 5; 1993 c 244 § 31; 1986 c 217 § 7. Formerly RCW 88.12.255, 88.12.290, and 91.14.060.]

Intent—1993 c 244: See note following RCW 79A.60.010.

Additional notes found at www.leg.wa.gov

79A.60.460 Vessels carrying passengers for hire on whitewater rivers—Rights-of-way. (1) Except as provided in subsection (2) of this section, vessels on whitewater rivers proceeding downstream have the right-of-way over vessels proceeding upstream.

(2) In all cases, vessels not under power proceeding downstream on whitewater rivers have the right-of-way over motorized craft underway. [1993 c 244 § 29; 1986 c 217 § 4. Formerly RCW 88.12.260 and 91.14.030.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.470 Vessels carrying passengers for hire on whitewater rivers—Designation of whitewater river sections. Whitewater river sections include but are not limited to:

(1) Green river above Flaming Geyser state park;

(2) Klickitat river above the confluence with Summit creek;

(3) Methow river below the town of Carlton;

(4) Sauk river above the town of Darrington;

(5) Skagit river above Bacon creek;

(6) Suiattle river;

(7) Tieton river below Rimrock dam;

(8) Skykomish river below Sunset Falls and above the Highway 2 bridge one mile east of the town of Gold Bar;

(9) Wenatchee river above the Wenatchee county park at the town of Monitor;

(10) White Salmon river; and

(11) Any other section of river designated a "whitewater river section" by the commission under RCW 79A.60.495. [2000 c 11 § 108; 1997 c 391 § 6; 1986 c 217 § 8. Formerly RCW 88.12.265, 88.12.300, and 91.14.070.]

79A.60.480 Vessels carrying passengers for hire on whitewater rivers—Whitewater river outfitter's license—Application—Fees—Insurance—Penalties—State immune from civil actions arising from licensure. (1) The department of licensing may issue a whitewater river outfitter's license to an applicant who submits a completed applica-

tion, pays the required fee, and complies with the requirements of this section.

(2) An applicant for a whitewater river outfitter's license shall make application upon a form provided by the department of licensing. The form must be submitted annually and include the following information:

(a) The name, residence address, and residence telephone number, and the business name, address, and telephone number of the applicant;

(b) Certification that all employees, subcontractors, or independent contractors hired as guides meet training standards under RCW 79A.60.430 before carrying any passengers for hire;

(c) Proof that the applicant has liability insurance for a minimum of three hundred thousand dollars per claim for occurrences by the applicant and the applicant's employees that result in bodily injury or property damage. All guides must be covered by the applicant's insurance policy;

(d) Certification that the applicant will maintain the insurance for a period of not less than one year from the date of issuance of the license; and

(e) Certification by the applicant that for a period of not less than twenty-four months immediately preceding the application the applicant:

(i) Has not had a license, permit, or certificate to carry passengers for hire on a river revoked by another state or by an agency of the government of the United States due to a conviction for a violation of safety or insurance coverage requirements no more stringent than the requirements of this chapter; and

(ii) Has not been denied the right to apply for a license, permit, or certificate to carry passengers for hire on a river by another state.

(3) The department of licensing shall charge a fee for each application, to be set in accordance with RCW 43.24.086.

(4) Any person advertising or representing himself or herself as a whitewater river outfitter who is not currently licensed is guilty of a gross misdemeanor.

(5) The department of licensing shall submit annually a list of licensed persons and companies to the *department of community, trade, and economic development, tourism promotion division.

(6) If an insurance company cancels or refuses to renew insurance for a licensee, the insurance company shall notify the department of licensing in writing of the termination of coverage and its effective date not less than thirty days before the effective date of termination.

(a) Upon receipt of an insurance company termination notice, the department of licensing shall send written notice to the licensee that on the effective date of termination the department of licensing will suspend the license unless proof of insurance as required by this section is filed with the department of licensing before the effective date of the termination.

(b) If an insurance company fails to give notice of coverage termination, this failure shall not have the effect of continuing the coverage.

(c) The department of licensing may sanction a license under RCW 18.235.110 if the licensee fails to maintain in full force and effect the insurance required by this section.

(7) The state of Washington shall be immune from any civil action arising from the issuance of a license under this section. [2002 c 86 § 327; 2000 c 11 § 109; 1997 c 391 § 7; 1995 c 399 § 216; 1986 c 217 § 11. Formerly RCW 88.12.275, 88.12.320, and 91.14.090.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

79A.60.485 Vessels carrying passengers for hire on whitewater rivers—Rules to implement RCW 79A.60.480

—**Fees.** The department of licensing may adopt and enforce such rules, including the setting of fees, as may be consistent with and necessary to implement RCW 79A.60.480. The fees must approximate the cost of administration. The fees must be deposited in the business and professions account created in RCW 43.24.150. [2011 c 298 § 35; 2000 c 11 § 110; 1997 c 391 § 9. Formerly RCW 88.12.276.]

Purpose—Intent—Agency transfer—Contracting—Effective date—2011 c 298: See notes following RCW 19.02.020.

79A.60.490 Vessels carrying passengers for hire on whitewater rivers—License sanction for certain convictions.

Within five days after conviction for any of the provisions of RCW 79A.60.430 through 79A.60.480, the court shall forward a copy of the judgment to the department of licensing. After receiving proof of conviction, the department of licensing may sanction the license of any whitewater river outfitter under RCW 18.235.110. Proof of compliance with all licensing requirements and correction of the violation under which the whitewater river outfitter was convicted may be considered by the department as mitigating factors when taking disciplinary action. [2002 c 86 § 328; 2000 c 11 § 111; 1997 c 391 § 8. Formerly RCW 88.12.278.]

Additional notes found at www.leg.wa.gov

79A.60.495 Designation as whitewater river—Rules—Schedule of fines.

The commission shall adopt rules that designate as whitewater rivers all sections of rivers with at least one class III rapid or greater, as described in the American Whitewater Affiliation's whitewater safety code. The commission is authorized to consider the imposition of a schedule of fines for minor violations. [1997 c 391 § 10. Formerly RCW 88.12.279.]

79A.60.498 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 329.]

Additional notes found at www.leg.wa.gov

79A.60.500 Uniform waterway marking system. The parks and recreation commission is hereby directed to develop and adopt rules establishing a uniform waterway marking system for waters of the state not serviced by such a marking system administered by the federal government. Such system shall be designed to provide for standardized waterway marking buoys, floats, and other waterway marking devices which identify or specify waterway hazards, vessel traffic patterns, and similar information of necessity or

use to boaters. Any new or replacement waterway marking buoy, float, or device installed by a unit of local government shall be designed and installed consistent with rules adopted by the parks and recreation commission pursuant to this section. [1987 c 427 § 3. Formerly RCW 88.12.285, 88.12.350, and 43.51.404.]

79A.60.510 Findings—Sewage disposal initiative established—Boater environmental education—Waterway access facilities. 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 partnership.

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 partnership's water quality work 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 88.02.650, should support these efforts. [2011 c 171 § 117; 2007 c 341 § 57; 1999 c 249 § 1506; 1989 c 393 § 1. Formerly RCW 88.12.295, 88.12.360, and 88.36.010.]

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Additional notes found at www.leg.wa.gov

79A.60.520 Identification and designation of polluted and environmentally sensitive areas. The commission, in consultation with the departments of ecology, fish and wildlife, natural resources, social and health services, and the Puget Sound partnership shall conduct a literature search and

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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 chapter 393, Laws of 1989 only. [2007 c 341 § 56; 1999 c 249 § 1507; 1994 c 264 § 81; 1989 c 393 § 3. Formerly RCW 88.12.305, 88.12.380, and 88.36.030.]

Additional notes found at www.leg.wa.gov

79A.60.530 Designation of marinas, boat launches, or boater destinations for installation of sewage pumpout or dump units. (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 dump unit:

(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 pumpout or dump units 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 dump unit if there is a demonstrated need for a sewage pumpout or dump unit 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 or dump unit 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 dump unit based on the criteria found in subsections (1) and (2) of this section. [1993 c 244 § 32; 1989 c 393 § 4. Formerly RCW 88.12.315, 88.12.390, and 88.36.040.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.540 Contracts for financial assistance—Ownership of sewage pumpout or dump unit—Ongoing costs. (1) Marinas and boat launches designated as appropriate for installation of a sewage pumpout or dump unit under RCW 79A.60.530 shall be eligible for funding support for installation of such facilities from funds specified in RCW 79A.60.590. 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 seek to provide the most cost-efficient and accessible facilities possible for reducing the amount of boat waste entering the state's waters. The com-

mission shall consider providing funding support for portable pumpout facilities in this effort.

(3) 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 dump units, 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 dump unit will be retained by the state through the commission in privately owned marinas. Ownership of the sewage pumpout or dump unit 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 contract recipient. The sewage pumpout or dump unit shall 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 contract recipient agrees to allow the installation, existence and use of the sewage pumpout or dump unit by granting an irrevocable license for a minimum of ten years at no cost to the commission.

(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 contract recipient entering into a contract under this section must allow the boating public access to the sewage pumpout or dump unit during operating hours.

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

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

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

(v) Use of a free sewage pumpout or dump unit by the boating public shall be deemed to be included in the term "outdoor recreation" for the purposes of chapter 4.24 RCW. [2000 c 11 § 112; 1993 c 244 § 33; 1989 c 393 § 5. Formerly RCW 88.12.325, 88.12.400, and 88.36.050.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.550 Development by department of ecology of design, installation, and operation of sewage pumpout and dump units—Rules. The department of ecology, in consultation with the commission, shall, for initiation of the statewide program only, develop criteria for the design, installation, and operation of sewage pumpout and dump units, taking into consideration the ease of access to the unit by the boating public. The department of ecology may adopt

rules to administer the provisions of this section. [1993 c 244 § 34; 1989 c 393 § 6. Formerly RCW 88.12.335, 88.12.410, and 88.36.060.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.560 Boater environmental education program. The commission shall undertake a statewide 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 dump units, and boat oil recycling facilities. [1993 c 244 § 35; 1989 c 393 § 7. Formerly RCW 88.12.345, 88.12.420, and 88.36.070.]

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.570 Grants for environmental education or boat waste management planning. 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. [1989 c 393 § 8. Formerly RCW 88.12.355, 88.12.430, and 88.36.080.]

79A.60.580 Review of programs by commission. The commission shall, in consultation with interested parties, review progress on installation of sewage pumpout and dump units, the boater environmental education program, and the boating safety program. [1999 c 249 § 1508; 1993 c 244 § 36; 1989 c 393 § 9. Formerly RCW 88.12.365, 88.12.440, and 88.36.090.]

Intent—1993 c 244: See note following RCW 79A.60.010.

Additional notes found at www.leg.wa.gov

79A.60.590 Allocation of funds. 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 recreation and conservation funding board 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 recreation and conservation funding board 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 dump units at publicly and privately owned marinas as provided for in RCW 79A.60.530 and 79A.60.540.

(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 nonprofit community organizations to support boating safety and boater environmental education or boat waste management planning. The commission shall

administer this program. [2007 c 241 § 72; 2000 c 11 § 113; 1993 c 244 § 37; 1989 c 393 § 11. Formerly RCW 88.12.375, 88.12.450, and 88.36.100.]

*Reviser's note: RCW 82.49.030 was amended by 2000 c 103 § 18, deleting subsection (3).

Intent—Effective date—2007 c 241: See notes following RCW 79A.25.005.

Intent—1993 c 244: See note following RCW 79A.60.010.

79A.60.595 Commission to adopt rules. The commission shall adopt rules as are necessary to carry out all sections of chapter 393, Laws of 1989 except for RCW 79A.60.550 and 82.49.030. The commission shall comply with all applicable provisions of chapter 34.05 RCW in adopting the rules. [1999 c 249 § 1509; 1989 c 393 § 14. Formerly RCW 88.12.385, 88.12.460, and 88.36.110.]

Additional notes found at www.leg.wa.gov

79A.60.600 Liquid petroleum gas leak warning devices—Findings. (1) The legislature finds that:

(a) Washington state has the greatest length of marine shoreline miles of the lower forty-eight states;

(b) Such marine waters and the extensive freshwater lakes and rivers of the state provide innumerable recreational opportunities, and support a state recreational vessel population that is one of the largest in the country;

(c) Many of Washington's popular recreational waters are remote from population centers and thus remote from emergency health care facilities;

(d) Washington's climate in the western portion of the state, in which its marine recreational waters lie, is cool and wet for much of the year. Much of the state's recreational vessel activity is conducted in the late fall and winter months in connection with fishing activities. For these reasons the great majority of Washington vessels are equipped with heating devices. These appliances are in use for a much greater portion of the boating season than in other states, and are predominantly fueled by liquid petroleum gas;

(e) Current state and federal standards governing heating and cooking appliances on vessels that are fueled by liquid petroleum gas do not adequately protect against undetected gas leaks. Such gas leaks have led to explosions on Washington waters, causing loss of life and property damage;

(f) The commission coordinates a statewide program of boating safety education to communicate accident prevention information to boaters at risk of fires, explosions, and other hazards, and administers a boating accident reporting program to assess the effectiveness of accident prevention measures.

(2) It is the intent of the legislature to address the state's unique local circumstances regarding inadequate protection of Washington's boaters from undetected leaks of liquid petroleum gas-fueled appliances by incorporating into the boating safety program an intensified boating fire prevention program with special emphasis on preventing fires and carbon monoxide poisoning caused by auxiliary fuels and appliances. [1994 c 151 § 1; 1993 c 469 § 1. Formerly RCW 88.12.500.]

Additional notes found at www.leg.wa.gov

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79A.60.610 Recreational boating fire prevention education program. The commission shall undertake a statewide recreational boating fire prevention education program concerning the safe use of marine fuels and electrical systems. The boating fire prevention education program shall provide for the distribution of fire safety materials and decals warning of fire hazards and for educational opportunities to educate boaters on the safety practices needed to operate heaters, stoves, and other appliances in Washington's unique aquatic environment. The commission shall evaluate the boating public's voluntary participation in the program and the program's impact on safe boating. [2006 c 140 § 4; 1994 c 151 § 2. Formerly RCW 88.12.505.]

Additional notes found at www.leg.wa.gov

79A.60.620 Small spill prevention education program. (1) The Washington sea grant program, in consultation with the department of ecology, shall develop and conduct a voluntary spill prevention education program that targets small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas. Washington sea grant shall coordinate the spill prevention education program with recreational boater education performed by the state parks and recreation commission.

(2) The spill prevention education program shall illustrate ways to reduce oil contamination of bilge water, accidental spills of hydraulic fluid and other hazardous substances during routine maintenance, and reduce spillage during refueling. The program shall illustrate proper disposal of oil and hazardous substances and promote strategies to meet shoreside oil and hazardous substance handling, and disposal needs of the targeted groups. The program shall include a series of training workshops and the development of educational materials. [2000 c 11 § 114; 1991 c 200 § 110. Formerly RCW 90.56.090.]

79A.60.630 Boating safety education—Commission's duties—Fee—Report to the legislature. (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 all boaters not exempted under RCW 79A.60.640(3) are required 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) 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) 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) Develop an equivalency examination that may be taken as an alternative to the boating safety education course;

(f) Establish a fee of ten dollars 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. 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) Establish a fee for the replacement of the boater education card that covers the cost of replacement;

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

(i) 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. [2019 c 293 § 1; 2011 c 171 § 118; 2005 c 392 § 3.]

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Intent—2005 c 392: "It is the intent of the legislature to establish a boating safety education program that contributes to the reduction of accidents and increases the enjoyment of boating by all operators of all recreational vessels on the waters of this state. Based on the 2003 report to the legislature titled "Recreational Boating Safety in Washington, A Report on Methods to Achieve Safer Boating Practices," the legislature recognizes that boating accidents also occur in nonmotorized vessels in this state, but, at this time there is no national educational standard for nonmotorized vessels.

Therefore, the commission is hereby authorized and directed to work with agencies and organizations representing nonmotorized vessel activities and individuals operating nonmotorized vessels to decrease accidents of operators in these vessels. It is also the intent of the legislature to encourage boating safety education programs that use volunteer and private sector efforts to enhance boating safety and education for operators of nonmotorized vessels to work closely with the state parks and recreation commission in its efforts to reduce all boating accidents in this state." [2005 c 392 § 1.]

79A.60.640 Requirements to operate motor driven boats/vessels—Exemptions—Penalty. (1) No person shall operate or permit the operation of motor driven boats and vessels with a mechanical power of fifteen horsepower or greater unless the person:

(a) Is at least twelve 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, unless exempted under subsection (3) of this section; or

(ii) Is accompanied by and is under the direct supervision of a person sixteen 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).

(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 years old renting, chartering, or leasing a motor driven boat or vessel with an engine power of fifteen horsepower or greater who completes a commission-approved motor vessel safety operating and equip-

ment 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 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 days, and has a bill of sale in his or her possession to document the date of purchase;

(h) Any person, including those less than twelve 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) Except as provided in subsection (3)(a) through (i) of this section, a boater must carry a boater education card while operating a vessel and is required to present the boater education card, or alternative license as provided in subsection (3)(a) and (b) of this section, to a law enforcement officer upon request.

(5) Failure to possess a boater 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 days that he or she has received a boater education card.

(6) 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 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. [2005 c 392 § 4.]

Intent—2005 c 392: See note following RCW 79A.60.630.

79A.60.650 Boating safety education certification account. The boating safety education certification account is created in the custody of the state treasurer. All receipts from fees collected for the issuance of a boater education card shall be deposited in the account and shall be used only for the administration of RCW 79A.60.630 and 79A.60.640. Only the state parks and recreation commission may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. [2005 c 392 § 5.]

Intent—2005 c 392: See note following RCW 79A.60.630.

79A.60.660 Operating motor driven boat or vessel for teak surfing, platform dragging, bodysurfing—Prohibition—Exceptions—Penalty. (1) No person may operate a

motor driven boat or vessel or have the engine of a motor driven boat or vessel run idle while an individual is teak surfing, platform dragging, or bodysurfing behind the motor driven boat or vessel.

(2) No person may operate a motor driven boat or vessel or have the engine of a motor driven boat or vessel run idle while an individual is occupying or holding onto the swim platform, swim deck, swim step, or swim ladder of the motor driven boat or vessel.

(3) Subsection (2) of this section does not apply when an individual is occupying the swim platform, swim deck, swim step, or swim ladder for a very brief period of time while assisting with the docking or departure of the vessel, while exiting or entering the vessel, or while the vessel is engaged in law enforcement or emergency rescue activity.

(4) For the purposes of this section, "teak surfing" or "platform dragging" means holding onto the swim platform, swim deck, swim step, swim ladder, or any portion of the exterior of the transom of a motor driven boat or vessel for any amount of time while the motor driven boat or vessel is underway at any speed.

(5) For the purposes of this section, "bodysurfing" means swimming or floating on one's stomach or on one's back on or in the wake directly behind a motor driven boat or vessel that is underway.

(6) A violation of this section is a natural resource infraction punishable as provided under chapter 7.84 RCW, however the fine imposed may not exceed one hundred dollars. [2006 c 140 § 1.]

Additional notes found at www.leg.wa.gov

79A.60.670 Boating activities program—Boating activities advisory committee—Adoption of rules. (1) The boating activities program is created in the recreation and conservation funding board.

(2) The recreation and conservation funding board shall distribute moneys appropriated from the boating activities account created in RCW 79A.60.690 as follows, or as otherwise appropriated by the legislature, after deduction for the board's expenses in administering the boating activities program and for related studies:

(a) To the commission for boater safety, boater education, boating-related law enforcement activities, activities included in RCW 88.02.650, related administrative expenses, and boating-related environmental programs, such as pumpout stations, to enhance clean waters for boating;

(b) For grants to state agencies, counties, municipalities, port districts, federal agencies, nonprofit organizations, and Indian tribes to improve boating access to water and marine parks, enhance the boater experience, boater safety, boater education, and boating-related law enforcement activities, and to provide funds for boating-related environmental programs, such as pumpout stations, to enhance clean waters for boating; and

(c) If the amount available for distribution from the boating activities account is equal to or less than two million five hundred thousand dollars per fiscal year, then eighty percent of the amount available must be distributed to the commission for the purposes of (a) of this subsection and twenty percent for grants in (b) of this subsection. Amounts available for distribution in excess of two million five hundred thou-

sand dollars per fiscal year shall be distributed by the board for purposes of (a) and (b) of this subsection.

(3) The recreation and conservation funding board shall establish an application process for boating activities grants.

(4) Agencies receiving grants for capital purposes from the boating activities account shall consider the possibility of contracting with the commission, the department of natural resources, or other federal, state, and local agencies to employ the youth development and conservation corps or other youth crews in completing the project.

(5) To solicit input on the boating activities grant application process, criteria for grant awards, and use of grant moneys, and to determine the interests of the boating community, the recreation and conservation funding board shall solicit input from a boating activities advisory committee. The recreation and conservation funding board may utilize a currently established boating issues committee that has similar responsibility for input on recreational boating-related funding issues. Members of the boating activities advisory committee are not eligible for compensation but may be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(6) The recreation and conservation funding board may adopt rules to implement this section. [2011 c 171 § 119; 2007 c 311 § 2.]

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

79A.60.680 Study of boater needs—Funding recommendations. (1) By December 1, 2007, the *interagency committee for outdoor recreation shall complete an initial study of boater needs and make recommendations to the appropriate committees of the legislature on the initial amount of funding that should be provided to the commission for boating-related law enforcement purposes under RCW 79A.60.670(2)(a).

(2) The *interagency committee for outdoor recreation shall periodically update its study of boater needs as necessary and shall make recommendations to the governor and the appropriate committees of the legislature concerning funding allocations to state parks and other grant applicants. [2007 c 311 § 3.]

***Reviser's note:** Chapter 241, Laws of 2007 amended numerous sections of chapter 79A.25 RCW, and changed the name of the "interagency committee for outdoor recreation" to the "recreation and conservation funding board."

79A.60.690 Boating activities account. The boating activities account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as authorized under RCW 79A.60.670 and 79A.60.680.

Grants, gifts, or other financial assistance received by the *interagency committee for outdoor recreation from state and nonstate sources for purposes of boating activities may be deposited into the account. [2007 c 311 § 1.]

***Reviser's note:** Chapter 241, Laws of 2007 amended numerous sections of chapter 79A.25 RCW, and changed the name of the "interagency committee for outdoor recreation" to the "recreation and conservation funding board."

79A.60.700 Refusal to submit to certain tests—Not admissible as evidence—Penalty. (1) The refusal of a person to submit to a test of the alcohol concentration, THC concentration, or presence of any drug in the person's blood or breath is not admissible into evidence at a subsequent criminal trial.

(2) A person's refusal to submit to a test or tests pursuant to RCW 79A.60.040(4)(a) constitutes a class 1 civil infraction under RCW 7.80.120. [2014 c 132 § 2; 2013 c 278 § 2.]

79A.60.710 Vessels for hire—Requirements—Application of section—Penalty. (1) No person who has vessels for hire, or the agent or employee thereof, shall rent, lease, charter, or otherwise permit the use of a vessel, unless the person:

(a) Displays the vessel registration numbers and a valid decal on the vessel hull as required by RCW 88.02.550(1);

(b) Keeps a copy of the vessel registration certificate aboard the vessel, in compliance with RCW 88.02.340;

(c) Displays a carbon monoxide decal on the vessel as required by RCW 88.02.390(2) if the vessel is motor-driven and is not a personal watercraft;

(d) Provides a copy of the rental agreement to be kept aboard during the rental, lease, charter, or use period for vessels required under chapter 88.02 RCW to be registered;

(e) Ensures that the vessel, if motor-propelled, meets the muffler or underwater exhaust system requirement in RCW 79A.60.130;

(f) Outfits the vessel with the quantity and type of personal flotation devices required by RCW 79A.60.140 and 79A.60.160 for the number and ages of the people who will use the vessel;

(g) Explains the personal flotation device requirements to the person renting, leasing, chartering, or otherwise using the vessel;

(h) Equips the vessel with a skier-down flag, and explains observer and personal flotation requirements of RCW 79A.60.170, if the persons renting, leasing, chartering, or otherwise using the vessel will be waterskiing;

(i) If the vessel is a personal watercraft, provides a personal flotation device and a lanyard attached to an engine cut-off switch for the operator to wear at all times when operating the personal watercraft, as required by RCW 79A.60.190;

(j) Reviews with the person operating the vessel, and all other persons who the operator may permit to operate the vessel, all the information contained in the motor vessel safety operating and equipment checklist prescribed by the Washington state parks and recreation commission and required under RCW 79A.60.640(6); and

(k) Provides all other safety equipment required by RCW 79A.60.110 and referenced in the motor vessel safety operating and equipment checklist prescribed by the Washington state parks and recreation commission and required under RCW 79A.60.640(6).

(2) This section does not apply to fishing guides and charter boat operators who have a United States coast guard operator's license and are operating on navigable waters, and people who act in the capacity of a paid whitewater river outfitter or guide, or who operate a vessel carrying passengers for hire on whitewater rivers in this state.

(3) As provided in RCW 79A.60.020, a violation of this section is a civil infraction punishable under chapter 7.84 RCW, unless:

(a) The violation is a violation of RCW 88.02.550, which is punished as a class 2 civil infraction; or

(b) The current violation is the person's third violation of the same provision of this chapter during the past three hundred sixty-five days. If it is the person's third violation, then it must be punished as a misdemeanor under RCW 9.92.030. [2013 c 278 § 5.]

Chapter 79A.65 RCW

COMMISSION MOORAGE FACILITIES

Sections

79A.65.010	Definitions.
79A.65.020	Securing unauthorized vessels—Notice—Claiming vessels—Abandoned vessels—Derelict vessel removal account.
79A.65.030	Sale of abandoned vessels—Notice—Redemption of vessels—Use of proceeds—Disposal of vessels.
79A.65.040	Action to recover charges—Attorneys' fees—Costs.
79A.65.050	Rights not affected.

79A.65.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Charges" means charges of the commission for moorage and storage, and all other charges related to the vessel and owing to or that become owing to the commission, including but not limited to costs of securing, disposing, or removing vessels, damages to any commission facility, and any costs of sale and related legal expenses for implementing RCW 79A.65.020 and 79A.65.030.

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

(3) "Commission facility" means any moorage facility, as that term is defined in RCW 53.08.310, owned, leased, operated, managed, or otherwise controlled by the commission or by a person pursuant to a contract with the commission.

(4) "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, and shall not include the holder of a bona fide security interest.

(5) "Person" means any natural person, firm, partnership, corporation, association, organization, or any other entity.

(6)(a) "Registered owner" means any person that is either: (i) Shown as the owner in a vessel certificate of documentation issued by the secretary of the United States department of transportation under 46 U.S.C. Sec. 12103; or (ii) the registered owner or legal owner of a vessel for which a certificate of title has been issued under chapter 88.02 RCW; or (iii) the owner of a vessel registered under the vessel registration laws of another state under which laws the commission can readily identify the ownership of vessels registered with that state.

(b) "Registered owner" also includes: (i) Any holder of a security interest or lien recorded with the United States department of transportation with respect to a vessel on which a certificate of documentation has been issued; (ii) any holder of a security interest identified in a certificate of title

for a vessel registered under chapter 88.02 RCW; or (iii) any holder of a security interest in a vessel where the holder is identified in vessel registration information of a state with vessel registration laws that fall within (a)(iii) of this subsection and under which laws the commission can readily determine the identity of the holder.

(c) "Registered owner" does not include any vessel owner or holder of a lien or security interest in a vessel if the vessel does not have visible information affixed to it (such as name and hailing port or registration numbers) that will enable the commission to obtain ownership information for the vessel without incurring unreasonable expense.

(7) "Registered vessel" means a vessel having a registered owner.

(8) "Secured vessel" means any vessel that has been secured by the commission that remains in the commission's possession and control.

(9) "Unauthorized vessel" means a vessel using a commission facility of any type whose owner has not paid the required moorage fees or has left the vessel beyond the posted time limits, or a vessel otherwise present without permission of the commission.

(10) "Vessel" means every watercraft or part thereof constructed, used, or capable of being used as a means of transportation on the water. It includes any equipment or personal property on the vessel that is used or capable of being used for the operation, navigation, or maintenance of the vessel. [2002 c 286 § 20; 2000 c 11 § 115; 1994 c 51 § 1. Formerly RCW 88.27.010.]

Additional notes found at www.leg.wa.gov

79A.65.020 Securing unauthorized vessels—Notice—Claiming vessels—Abandoned vessels—Derelict vessel removal account.

(1) The commission may take reasonable measures, including but not limited to the use of anchors, chains, ropes, and locks, or removal from the water, to secure unauthorized vessels located at or on a commission facility so that the unauthorized vessels are in the possession and control of the commission. At least ten days before securing any unauthorized registered vessel, the commission shall send notification by registered mail to the last registered owner or registered owners of the vessel at their last known address or addresses.

(2) The commission may take reasonable measures, including but not limited to the use of anchors, chains, ropes, locks, or removal from the water, to secure any vessel if the vessel, in the opinion of the commission, is a nuisance, is in danger of sinking or creating other damage to a commission facility, or is otherwise a threat to the health, safety, or welfare of the public or environment at a commission facility. The costs of any such procedure shall be paid by the vessel's owner.

(3) At the time of securing any vessel under subsection (1) or (2) of this section, the commission shall attach to the vessel a readily visible notice or, when practicable, shall post such notice in a conspicuous location at the commission facility in the event the vessel is removed from the premises. The notice shall be of a reasonable size and shall contain the following information:

(a) The date and time the notice was attached or posted;

(b) A statement that the vessel has been secured by the commission and that if the commission's charges, if any, are not paid and the vessel is not removed by (the thirty-fifth consecutive day following the date of attachment or posting of the notice), the vessel will be considered abandoned and will be sold at public auction to satisfy the charges;

(c) The address and telephone number where additional information may be obtained concerning the securing of the vessel and conditions for its release; and

(d) A description of the owner's or secured party's rights under this chapter.

(4) With respect to registered vessels: Within five days of the date that notice is attached or posted under subsection (3) of this section, the commission shall send such notice, by registered mail, to each registered owner.

(5) If a vessel is secured under subsection (1) or (2) of this section, the owner, or any person with a legal right to possess the vessel, may claim the vessel by:

(a) Making arrangements satisfactory to the commission for the immediate removal of the vessel from the commission's control or for authorized storage or moorage; and

(b) Making payment to the commission of all reasonable charges incurred by the commission in securing the vessel under subsections (1) and (2) of this section and of all moorage fees owed to the commission.

(6) A vessel is considered abandoned if, within the thirty-five day period following the date of attachment or posting of notice in subsection (3) of this section, the vessel has not been claimed under subsection (5) of this section.

(7) If the owner or owners of a vessel are unable to reimburse the commission for all reasonable charges under subsections (1) and (2) of this section within a reasonable time, the commission may seek reimbursement of ninety percent of all reasonable and auditable costs from the derelict vessel removal account established in RCW 79.100.100. [2013 c 291 § 3; 2002 c 286 § 21; 1994 c 51 § 2. Formerly RCW 88.27.020.]

Additional notes found at www.leg.wa.gov

79A.65.030 Sale of abandoned vessels—Notice—Redemption of vessels—Use of proceeds—Disposal of vessels. (1) The commission may provide for the public sale of vessels considered abandoned under RCW 79A.65.020. At such sales, the vessels shall be sold for cash to the highest and best bidder. The commission may establish either a minimum bid or require a letter of credit, or both, to discourage the future reabandonment of the vessel.

(2) Before a vessel is sold, the commission shall make a reasonable effort to provide notice of sale, at least twenty days before the day of the sale, to each registered owner of a registered vessel and each owner of an unregistered vessel. The notice shall contain the time and place of the sale, a reasonable description of the vessel to be sold, and the amount of charges then owing with respect to the vessel, and a summary of the rights and procedures under this chapter. A notice of sale shall be published at least once, more than ten but not more than twenty days before the sale, in a newspaper of general circulation in the county in which the commission facility is located. This notice shall include: (a) If known, the name of the vessel and the last owner and the owner's

address; and (b) a reasonable description of the vessel. The commission may bid all or part of its charges at the sale and may become a purchaser at the sale.

(3) Before a vessel is sold, any person seeking to redeem a secured vessel may commence a lawsuit in the superior court for the county in which the vessel was secured to contest the commission's decision to secure the vessel or the amount of charges owing. This lawsuit shall be commenced within fifteen days of the date the notification was posted under RCW 79A.65.020(3), or the right to a hearing is deemed waived and the owner is liable for any charges owing the commission. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs.

(4) The proceeds of a sale under this section shall be applied first to the payment of the amount of the reasonable charges incurred by the commission and moorage fees owed to the commission, then to the owner or to satisfy any liens of record or security interests of record on the vessel in the order of their priority. If an owner cannot in the exercise of due diligence be located by the commission within one year of the date of the sale, any excess funds from the sale, following the satisfaction of any bona fide security interest, shall revert to the derelict vessel removal account established in RCW 79.100.100. If the sale is for a sum less than the applicable charges, the commission is entitled to assert a claim for the deficiency against the vessel owner. Nothing in this section prevents any lienholder or secured party from asserting a claim for any deficiency owed the lienholder or secured party.

(5) If no one purchases the vessel at a sale, the commission may proceed to properly dispose of the vessel in any way the commission considers appropriate, including, but not limited to, destruction of the vessel or by negotiated sale. The commission may assert a claim against the owner for any charges incurred thereby. If the vessel, or any part of the vessel, or any rights to the vessel, are sold under this subsection, any proceeds from the sale shall be distributed in the manner provided in subsection (4) of this section. [2002 c 286 § 22; 2000 c 11 § 116; 1994 c 51 § 3. Formerly RCW 88.27.030.]

Additional notes found at www.leg.wa.gov

79A.65.040 Action to recover charges—Attorneys' fees—Costs. If the full amount of all charges due the commission on an unauthorized vessel is not paid to the commission within thirty days after the date on which notice is affixed or posted under RCW 79A.65.020(3), the commission may bring an action in any court of competent jurisdiction to recover the charges, plus reasonable attorneys' fees and costs incurred by the commission. [2000 c 11 § 117; 1994 c 51 § 4. Formerly RCW 88.27.040.]

79A.65.050 Rights not affected. The rights granted to the commission under this chapter are in addition to any other legal rights the commission may have to secure, hold, and sell a vessel and in no manner does this section alter those rights, or affect the priority of other liens on a vessel. [1994 c 51 § 5. Formerly 88.27.050.]

Chapter 79A.70 RCW

WASHINGTON STATE PARKS FOUNDATION

Sections

- 79A.70.005 Findings.
- 79A.70.010 Purpose.
- 79A.70.020 Definitions.
- 79A.70.030 Washington state parks foundation—Establishment—Board of directors.
- 79A.70.040 Foundation's duties—Grant process.
- 79A.70.050 Foundation moneys not to supplant preexisting funding.

79A.70.005 Findings. The legislature finds that:

- (1) State parks are a valuable asset to the people of the state of Washington, contributing to their health, education, and well-being;
- (2) Well maintained state parks are an attraction and contribute significantly to the economic well-being of the state of Washington;
- (3) Well maintained state parks encourage the appreciation of the natural resources and natural beauty of the state of Washington;
- (4) There is an increasing demand for more state parks and more state parks services;
- (5) There are individuals and groups who desire to contribute to the continued vitality of the state parks system;
- (6) Providing a tax-deductible method for individuals and groups to contribute is an effective way of increasing available funds to improve the state parks system; and
- (7) It is in the public interest to create a nonprofit foundation to provide such a method for individuals and groups to contribute to the preservation, restoration, and enhancement of the state parks system. [2000 c 25 § 1.]

79A.70.010 Purpose. The purpose of the Washington state parks foundation is to solicit support for the state parks system, [to] cooperate with other organizations, and to encourage gifts to support and improve the state parks. [2014 c 86 § 6; 2000 c 25 § 2.]

79A.70.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Foundation" means the Washington state parks foundation created in RCW 79A.70.030.
- (2) "State parks" means that system of parks administered by the commission under this title.
- (3) "Eligible grant recipients" includes any and all of the activities of the commission in carrying out the provisions of this title and friends groups or other organizations that propose projects or programs solely for the benefit of state parks.
- (4) "Eligible projects" means any project, action, program, or part of any project, action, or program that serves to preserve, restore, improve, or enhance the state parks. [2014 c 86 § 7; 2000 c 25 § 3.]

79A.70.030 Washington state parks foundation—Establishment—Board of directors. (1) By September 1, 2000, the commission shall file articles of incorporation in accordance with the Washington nonprofit corporation act, chapter 24.03 RCW, to establish the Washington state parks foundation. The foundation shall not be an agency, instru-

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mentality, or political subdivision of the state and shall not disburse public funds.

(2) The foundation shall have a board of directors consisting of up to fifteen members, whose terms, method of appointment, and authority must be in accordance with the Washington nonprofit corporation act, chapter 24.03 RCW. [2014 c 86 § 8; 2000 c 25 § 4.]

79A.70.040 Foundation's duties—Grant process. (1) The foundation shall actively solicit contributions from individuals and groups for the benefit of the state parks.

(2) The foundation shall develop criteria for guiding themselves in either the creation of an endowment, or the making of grants to eligible grant recipients and eligible projects in the state parks, or both.

(3) A competitive grant process shall be conducted at least annually by the foundation to award funds for the benefit of state parks. Competitive grant applications shall only be submitted to the foundation by the commission, friends groups, or other organizations with projects or programs solely for the benefit of state parks. Grants shall be awarded to eligible projects consistent with the criteria developed by the foundation. [2014 c 86 § 9; 2000 c 25 § 5.]

79A.70.050 Foundation moneys not to supplant preexisting funding. Money provided to the state parks by the foundation shall not be used to supplant preexisting funding sources. [2000 c 25 § 6.]

Chapter 79A.80 RCW

ACCESS TO RECREATIONAL LANDS

Sections

- 79A.80.005 Findings—Intent—2011 c 320.
- 79A.80.010 Definitions.
- 79A.80.020 Discover pass.
- 79A.80.030 Day-use permit.
- 79A.80.040 Vehicle access pass.
- 79A.80.050 Valid camper registration/annual natural investment permit—Commission may provide free entry to state parks.
- 79A.80.060 Sno-park seasonal permit.
- 79A.80.070 Short-term parking.
- 79A.80.080 Pass/permit requirements—Penalty.
- 79A.80.090 Recreation access pass account.
- 79A.80.100 Purchase, return, replacement of discover passes and day-use permits.
- 79A.80.110 Discounted passes—Bulk sales.

79A.80.005 Findings—Intent—2011 c 320. (1) The legislature finds that there is an increasing demand for outdoor recreation opportunities and conservation measures on lands managed by the department of fish and wildlife, the department of natural resources, and the parks and recreation commission. Development and maintenance of outdoor recreation facilities and conservation of lands have not kept pace with this demand. This demand, combined with shrinking resources for management, has led to the degradation of our lands to the detriment of the recreating public and efforts to conserve our natural resources.

(2) The legislature further finds that the recreating public cannot readily discern which agency of the state is responsible for the management of particular state lands or which policies apply to those lands.

(3) It is the intent of this act to reform and improve access to and management of state lands on a sustainable basis for the recreating public by: Providing a motor vehicle access pass and access policies for state lands; recovering the cost incurred by the state for operations and management of recreation opportunities; providing resources to address the growing demand and impacts of outdoor recreationists and conservation of our natural resources; and providing effective education and enforcement of state land access policies. [2011 c 320 § 1.]

Effective date—2011 c 320: "Except for section 12 of this act, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2011." [2011 c 320 § 29.]

79A.80.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" or "agencies" means the department of fish and wildlife, the department of natural resources, and the parks and recreation commission.

(2) "Annual natural investment permit" means the annual permit issued by the parks and recreation commission for the purpose of launching boats from the designated state parks boat launch sites.

(3) "Camper registration" means proof of payment of a camping fee on recreational lands managed by the parks and recreation commission.

(4) "Day-use permit" means the permit created in RCW 79A.80.030.

(5) "Discover pass" means the annual pass created in RCW 79A.80.020.

(6) "Motor vehicle" has the same meaning as defined in RCW 46.04.320 and which are required to be registered under chapter 46.16A RCW. "Motor vehicle" does not include those motor vehicles exempt from registration under RCW 46.16A.080, wheeled all-terrain vehicles registered for use under RCW 46.09.442, and state and publicly owned motor vehicles as provided in RCW 46.16A.170.

(7) "Recreation site or lands" means a state park, state lands and state forestlands as those terms are defined in RCW 79.02.010, natural resources conservation areas as that term is defined in RCW 79.71.030, natural area preserves as that term is defined in RCW 79.70.020, and fish and wildlife conservation sites including water access areas, boat ramps, wildlife areas, parking areas, roads, and trailheads.

(8) "Sno-park permit" means the permit issued by the parks and recreation commission for providing access to winter recreational facilities for the period of November 1st through March 31st.

(9) "Vehicle access pass" means the pass created in RCW 79A.80.040. [2019 c 175 § 3; 2013 2nd sp.s. c 23 § 22; 2012 c 261 § 1; 2011 c 320 § 2.]

Intent—2019 c 175: See note following RCW 79A.80.060.

Finding—Intent—2013 2nd sp.s. c 23: See note following RCW 46.09.442.

Effective date—2013 2nd sp.s. c 23: See note following RCW 46.09.310.

Effective date—2012 c 261: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 30, 2012]." [2012 c 261 § 14.]

Effective date—2011 c 320: See note following RCW 79A.80.005.

79A.80.020 Discover pass. (1) Except as otherwise provided in this chapter, a discover pass is required for any motor vehicle to:

(a) Park at any recreation site or lands; or

(b) Operate on any recreation site or lands.

(2) Except as provided in RCW 79A.80.110, the cost of a discover pass is thirty dollars. Every four years the office of financial management must review the cost of the discover pass and, if necessary, recommend to the legislature an adjustment to the cost of the discover pass to account for inflation.

(3) A discover pass is valid for one year beginning from the date that the discover pass is marked for activation. The activation date may differ from the purchase date pursuant to any policies developed by the agencies.

(4) Sales of discover passes must be consistent with RCW 79A.80.100.

(5) The discover pass must contain space for two motor vehicle license plate numbers. A discover pass is valid only for those vehicle license plate numbers written on the pass. However, the agencies may offer for sale a family discover pass that is fully transferable among vehicles and does not require the placement of a license plate number on the pass to be valid. The agencies must collectively set a price for the sale of a family discover pass that is no more than fifty dollars. A discover pass is valid only for use with one motor vehicle at any one time.

(6)(a) One complimentary discover pass must be provided to a volunteer who performed twenty-four hours of service on agency-sanctioned volunteer projects in a year. The agency must provide vouchers to volunteers identifying the number of volunteer hours they have provided for each project. The vouchers may be brought to an agency to be redeemed for a discover pass.

(b) Married spouses under chapter 26.04 RCW may present an agency with combined vouchers demonstrating the collective performance of twenty-four hours of service on agency-sanctioned volunteer projects in a year to be redeemed for a single complimentary discover pass. [2017 c 121 § 1; 2013 2nd sp.s. c 15 § 1; 2012 c 261 § 2; 2011 c 320 § 3.]

Effective date—2012 c 261: See note following RCW 79A.80.010.

Effective date—2011 c 320: See note following RCW 79A.80.005.

79A.80.030 Day-use permit. (1) A person may purchase a day-use permit to meet the requirements of RCW 79A.80.080. Except as provided in RCW 79A.80.110, a day-use permit is ten dollars per day and must be available for purchase from each agency. A day-use permit is valid for one calendar day.

(2) The agencies may provide short-term parking under RCW 79A.80.070 where a day-use permit is not required.

(3) Every four years the office of financial management must review the cost of the day-use permit and, if necessary, recommend to the legislature an adjustment to the cost of the day-use permit to account for inflation.

(4) Sales of day-use permits must be consistent with RCW 79A.80.100. [2013 2nd sp.s. c 15 § 2; 2012 c 261 § 3; 2011 c 320 § 4.]

Effective date—2012 c 261: See note following RCW 79A.80.010.

Effective date—2011 c 320: See note following RCW 79A.80.005.

79A.80.040 Vehicle access pass. (1) The vehicle access pass is created solely for access to the department of fish and wildlife recreation sites or lands. The vehicle access pass is only available to a person who purchases a current valid: Big game hunting license issued under RCW 77.32.450; small game hunting license issued under RCW 77.32.460; western Washington pheasant permit issued under RCW 77.32.575; trapping license issued under RCW 77.65.450; watchable wildlife decal issued under RCW 77.32.560; or combination, saltwater, or freshwater personal use fishing license issued under RCW 77.32.470.

(2) One vehicle access pass must be issued per purchase pursuant to subsection (1) of this section.

(3) The vehicle access pass is valid for the license year of the license it is purchased with.

(4) The vehicle access pass must contain space for two motor vehicle license plate numbers. A vehicle access pass is only valid for those vehicle license plate numbers written on the pass. [2012 c 261 § 5; 2011 c 320 § 5.]

Effective date—2012 c 261: See note following RCW 79A.80.010.

Effective date—2011 c 320: See note following RCW 79A.80.005.

79A.80.050 Valid camper registration/annual natural investment permit—Commission may provide free entry to state parks. (1) A discover pass or a day-use permit are not required within a state park for persons who have a valid camper registration, or annual natural investment permit, issued by the state parks and recreation commission.

(2) The state parks and recreation commission must provide up to twelve days a year where entry to state parks is free. At least three of those days must be on weekends. When practicable, the free access days should be timed to correspond with any similar free access days planned by the national park service for national parks located in the general region of high volume state parks. [2012 c 261 § 6; 2011 c 320 § 6.]

Effective date—2012 c 261: See note following RCW 79A.80.010.

Effective date—2011 c 320: See note following RCW 79A.80.005.

79A.80.060 Sno-park seasonal permit. The discover pass or the day-use permit are not required, for persons who have a valid sno-park permit issued by the state parks and recreation commission, at designated sno-parks between November 1st through March 31st. [2019 c 175 § 2; 2011 c 320 § 7.]

Intent—2019 c 175: "In 2016, the legislature directed state parks to develop options and recommendations to improve the consistency, equity, and simplicity in recreational access fee systems. This process identified the layering of park permit requirements that apply to sno-parks, and so the legislature intends to address this issue." [2019 c 175 § 1.]

Effective date—2011 c 320: See note following RCW 79A.80.005.

79A.80.070 Short-term parking. Each agency, where applicable, must designate short-term parking not to exceed thirty minutes where the discover pass or day-use permit are not required at recreation sites or lands. [2011 c 320 § 8.]

Effective date—2011 c 320: See note following RCW 79A.80.005.

79A.80.080 Pass/permit requirements—Penalty. (1)

A discover pass, vehicle access pass, or day-use permit must be visibly displayed in the front windshield, or otherwise in a prominent location for motor vehicles without a windshield, of any motor vehicle:

(a) Operating on any recreation site or lands; or

(b) Parking at any recreation site or lands.

(2) The discover pass, the vehicle access pass, or the day-use permit is not required:

(a) On private lands, state-owned aquatic lands other than water access areas, or at agency offices, hatcheries, or other facilities where public business is conducted;

(b) For persons who use, possess, or enter lands owned or managed by the agencies for nonrecreational purposes consistent with a written authorization from the agency, including but not limited to leases, contracts, and easements;

(c) On department of fish and wildlife lands only, for persons possessing a current vehicle access pass pursuant to RCW 79A.80.040; or

(d) When operating on a road managed by the department of natural resources or the department of fish and wildlife, including a forest or land management road, that is not blocked by a gate.

(3)(a) An agency may waive the requirements of this section for any person who has secured the ability to access specific recreational land through the provision of monetary consideration to the agency or for any person attending an event or function that required the provision of monetary compensation to the agency.

(b) Special events and group activities are core recreational activities and major public service opportunities within state parks. When waiving the requirements of this section for special events, the state parks and recreation commission must consider the direct and indirect costs and benefits to the state, local market rental rates, the public service functions of the event sponsor, and other public interest factors when setting appropriate fees for each event or activity.

(4) Failure to comply with subsection (1) of this section is a natural resource infraction under chapter 7.84 RCW. An agency is authorized to issue a notice of infraction to any person who fails to comply with subsection (1)(a) of this section or to any motor vehicle that fails to comply with subsection (1)(b) of this section.

(5) The penalty for failure to comply with the requirements of this section is ninety-nine dollars. This penalty must be reduced to fifty-nine dollars if an individual provides proof of purchase of a discover pass to the court within fifteen days after the issuance of the notice of violation. [2013 2nd sp.s. c 15 § 3; 2012 c 261 § 7; 2011 c 320 § 9.]

Effective date—2012 c 261: See note following RCW 79A.80.010.

Effective date—2011 c 320: See note following RCW 79A.80.005.

79A.80.090 Recreation access pass account. (1) The recreation access pass account is created in the state treasury. All moneys received from the sale of discover passes and day-use permits must be deposited into the account.

(2) Each fiscal biennium, the first seventy-one million dollars in revenue must be distributed to the agencies in the following manner:

(a) Eight percent to the department of fish and wildlife and deposited into the state wildlife account created in RCW 77.12.170;

(b) Eight percent to the department of natural resources and deposited into the parkland trust revolving fund created in RCW 43.30.385;

(c) Eighty-four percent to the state parks and recreation commission and deposited into the state parks renewal and stewardship account created in RCW 79A.05.215;

(d) During the 2015-2017 fiscal biennium, expenditures from the recreation access pass account may be used for Skamania county court costs. During the 2015-2017 and 2017-2019 fiscal biennia, expenditures from the recreation access pass account may be used for the state parks and recreation commission, in partnership with the departments of fish and wildlife and natural resources, to develop options and recommendations to improve recreational access fee systems.

(3) Each fiscal biennium, revenues in excess of seventy-one million dollars must be distributed equally among the agencies to the accounts identified in subsection (2) of this section. [2017 3rd sp.s. c 1 § 988; 2016 sp.s. c 36 § 948; 2011 c 320 § 10.]

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Effective date—2011 c 320: See note following RCW 79A.80.005.

79A.80.100 Purchase, return, replacement of discover passes and day-use permits. (1) Discover passes and day-use permits may be made available for purchase:

(a) Through vendors under contract with one or more of the agencies. The agencies may provide vendors with discover passes and day-use permits at the sales price established under RCW 79A.80.020 and 79A.80.030 to sell at retail;

(b) Directly from the state parks and recreation commission, both through that agency's parks reservation system, directly from agency employees or volunteers at staffed state parks, or as otherwise provided in RCW 79A.05.070;

(c) From the department of licensing as provided in RCW 46.16A.090 and 46.01.370;

(d) From other outlets authorized by law to sell state licenses, permits, or passes; and

(e) Consistent with RCW 77.32.050, through the department of fish and wildlife's automated licensing system.

(2) The agencies must maintain a policy to address conditions related to return, replacements, and for providing the full year of recreational lands access that the discover pass provides to individuals who are required by the department of licensing to change license plate numbers during the effective dates of a discover pass tied to the affected vehicle.

(3) For discover passes and day-use permits purchased through the department of licensing, county auditors, or other agents or subagents appointed by the director of the department of licensing, the selling entity is not responsible for delivering the purchased discover pass to the purchaser. The responsibility for delivering the discover pass belongs to the agencies. [2012 c 261 § 4.]

Effective date—2012 c 261: See note following RCW 79A.80.010.

79A.80.110 Discounted passes—Bulk sales. (1) By mutual agreement, the agencies may sell discounted discover passes at a rate below that established under RCW 79A.80.020 or discounted day-use permits at a rate below that established under RCW 79A.80.030 for purposes of bulk sales to retailers, agency license and permit product bundling, and partnership opportunities to expand accessibility and visibility of the discover pass and recreational opportunities on agency-managed lands.

(2) In exercising this authority, the agencies must prioritize opportunities for discounted sales that result in a net revenue gain. [2013 2nd sp.s. c 15 § 4.]