



LC 25000-007/498 Boating Safety Law Changes

Problem

1. Boater education card requirement and certain major violations. Individuals found guilty of Boating Under the Influence of Intoxicants (BUII) are subject to having their boating privileges revoked for 1-3 years. Tracking court judgments are difficult because the Marine Board may not have boat operators in our registration database. Some judges have even incorrectly revoked the boater education card, not currently allowed in statute. If the person is a boat owner, the Board is directed to suspend the certificate of number (registration), which is problematic when the boat is owned by multiple individuals, a trust or a corporation.
2. Update obsolete language in ORS 830.315 Reckless Boating. The language uses a standard of "willful or wanton" disregard for safety, which is not well understood in the courts and is inconsistent with similar violations in the motor vehicle code. The Board has seen a spike in reckless boating offenses relating to serious accidents, which are a Class A misdemeanor.
3. Violation for "no life jacket." Not carrying a properly fitting life jacket for every person on board is currently a Class B violation with a presumptive fine of \$265. Life jackets are a crucial component of safe boating, but the high value of the fine has led to inconsistent enforcement statewide. For example, there are numerous cases each year where officers select one individual in a group to receive the citation and the others receive warnings. Currently, three violations would cost the group \$795, viewed as too high for a recreational endeavor. A Class D violation at \$115 is consistent with a seat belt violation in motor vehicle code, and would be more broadly applied across the state.

Solution

1. Enables courts and the Marine Board to suspend the Boater Education Card for convictions for BUII for 1 to 3 years as defined in ORS 830, and also enables suspension of the boater education card for one year for a conviction of Reckless Boating. No other violations could result in suspension under this proposal.
2. Updates the language of ORS 830.315 Reckless Boating, referencing the standard for "reckless" that is used in motor vehicle code and defined in ORS 161.085(9) "*Recklessly, when used with respect to a result or to a circumstance described by a statute defining an offense, means that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.*
3. Changes the fine for a "no life jacket" violation for adults from a class B to a class D violation. The benefit of this is that officers will evenly enforce the violation to all adults in a boat who do not have an appropriately sized life jacket on board. Law enforcement officers feel this will be an improved tool for educating the public but without inflicting a severe financial hardship for an activity that is recreational in nature. Note that this does not change the violation for child 12 or younger without a life jacket – this will remain a Class B violation.

Fees

Reducing fine for not carrying a properly fitting life jacket from a Class B violation (\$265) to a Class D (\$115)