

Enrolled
Senate Bill 25

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CHAPTER

AN ACT

Relating to charter boats; creating new provisions; amending ORS 704.525, 830.430, 830.435, 830.440, 830.445, 830.450, 830.460, 830.705 and 830.997; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

CHARTER BOAT REGULATION
(Definition)

SECTION 1. ORS 830.430 is amended to read:

830.430. As used in ORS 830.430 to 830.460 and 830.997:

[(1) "Ocean" means those waters of the Pacific Ocean that are west of the demarcation lines described in the International Collision Regulations at Sea of 1972.]

[(2) "Ocean charter vessel" means a vessel used in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes in the ocean.]

(1) "Charter boat" means a boat used to carry seven or more passengers for hire for angling, sightseeing or other recreational purposes.

(2) "Charter boat" does not include a "passenger vessel" or "small passenger vessel," as defined by the State Marine Board by rule, that:

(a) Has been inspected and documented by the United States Coast Guard;

(b) Carries more than 12 passengers for hire; and

(c) Operates east of the demarcation lines described in the International Collision Regulations at Sea of 1972 on waters identified by the board by rule.

(General Authority of State Marine Board)

SECTION 2. Section 3 of this 2013 Act is added to and made a part of ORS 830.430 to 830.460.

SECTION 3. The State Marine Board shall adopt rules establishing:

(1) Licensing requirements for operators of charter boats; and

(2) Safety standards for charter boats.

SECTION 4. ORS 830.435 is amended to read:

830.435. (1) Except as otherwise provided in this section, a person may not engage in the business of carrying **seven or more** passengers for hire for angling, sightseeing or other recreational

purposes [in ocean] **on the** waters [within the jurisdiction] of this state without first obtaining [an ocean charter vessel] **a charter boat** license from the State Marine Board.

[(2) The board may adopt rules allowing a person who holds a license or registration issued by the State of Washington to engage in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes to conduct those activities if:]

(2) A person who holds a valid license or registration issued by the State of Washington may engage in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes in this state without obtaining a charter boat license from the board if:

(a) The person operates a [vessel] **charter boat** that leaves from and returns to a port in the State of Washington;

(b) The person operates the [vessel] **charter boat** within the jurisdiction of [this] **the State of Oregon** in the Pacific Ocean north of Cape Falcon, or in the Columbia River; and

(c) The State of Washington adopts provisions that allow [engaging] **a person to engage** in the business of carrying passengers for hire for angling, sightseeing or other recreational purposes with a valid Oregon [ocean charter vessel] **charter boat** license within the jurisdiction of the State of Washington in the Pacific Ocean south of Leadbetter Point, or in the Columbia River.

[(3) The license required by subsection (1) of this section is in lieu of registration required by ORS chapter 704 to carry passengers for hire for angling, sightseeing or other recreational purposes in any navigable waters of this state. Payment of the license fee referred to in ORS 830.440 (2)(b) is in lieu of any other fee or tax for the possession, use or operation of the vessel.]

(Licensure)

SECTION 5. ORS 830.440 is amended to read:

830.440. (1) An individual who desires to obtain [an ocean charter vessel license shall make written application therefor] **a charter boat license shall submit a written application** to the State Marine Board. The application shall include [such] information regarding the [vessel] **charter boat** and copies of [such] documents and licenses regarding operation of the [vessel] **charter boat as required by** the board [may require] **by rule**. The application shall be accompanied by proof that the applicant has protection against liability imposed by law covering occurrences by the operator of the [ocean charter vessel] **charter boat**, and the employees of the operator, for the payment of damages for bodily [injuries, including death resulting therefrom,] **injury or death** in the minimum amount of [\$300,000] **\$500,000** per occurrence, at any time while engaged in carrying passengers for hire. The applicant shall certify that the [vessel] **charter boat** complies with the equipment requirements established by the board under ORS 830.450.

(2) With an application submitted under subsection (1) of this section, an applicant for a charter boat license must provide evidence of the charter boat's carrying capacity in the form of a certificate issued by the boat manufacturer or the United States Coast Guard or through a process established by the board by rule.

[(2)] **(3) The annual fee for [an ocean charter vessel] a charter boat license is:**

(a) For [vessels] **charter boats** owned by residents of this state if the [vessel] **charter boat** has license, title and number issued pursuant to ORS chapter 830, \$50.

(b) For [vessels] **charter boats** owned by residents of this state if the [vessel] **charter boat** has a valid marine document issued by an agency of the federal government, \$100. **Payment of a fee under this paragraph is in lieu of any other fee or tax imposed by the State of Oregon for possessing, owning or operating a charter boat.**

(c) For [vessels] **charter boats** owned by persons who reside in a state that requires Oregon residents to pay a license fee to operate [an ocean charter vessel] **a charter boat** in the waters of that state, [such fee as] **the same fee that** is charged Oregon residents to operate [an ocean charter vessel] **a charter boat** in the state where the nonresident applicant resides.

(d) For all *[vessels]* **charter boats** owned by nonresidents other than those described in paragraph (c) of this subsection, \$100.

~~[(3)(a)]~~ **(4)(a)** A person who applies for a license to operate *[an ocean charter vessel]* **a charter boat** and who accepts deposits from clients in excess of \$100 per person or whose agent accepts such deposits, shall submit a bond or other financial security in the amount of \$5,000 to the board at the time of application. The bond or other financial security shall be held by the board for the benefit of clients of the licensee who pay a money deposit to the licensee or the licensee's agent in anticipation of services to be received. The bond or other financial security amount shall be released to such client or clients conditioned upon a failure of the licensee or the licensee's agent to return the deposit following cancellation of services or other failure to provide agreed upon services.

(b) The board shall release or retain all or any portion of a bond or other financial security as described in paragraph (a) of this subsection according to the provisions of ORS chapter 183.

~~[(4)]~~ **(5)** A license issued pursuant to this section is transferable to a replacement *[vessel]* **charter boat** of the license holder and is transferable to the purchaser of the *[vessel]* **charter boat** when the *[vessel]* **charter boat** is sold.

[(5) For the purposes of reciprocity under ORS 704.025 and 830.435, the board may adopt rules to waive the annual fees required under subsection (2)(a) and (b) of this section for a person who possesses a current Oregon outfitter and guide registration under ORS chapter 704 and operates in the waters of the Columbia River downstream from the Lewis and Clark Bridge. The board may specify conditions for the waiver of fees under this subsection.]

SECTION 6. ORS 830.445 is amended to read:

830.445. (1) The liability protection required by ORS 830.440 shall be provided in one of the following ways:

(a) By a policy or policies of bodily injury liability insurance described as protection and indemnity insurance in the Standard American Institute Hull Form, issued by an insurer authorized by ORS chapter 731 to transact such insurance in this state.

(b) By a bond or bonds, issued by a surety company or companies, authorized by ORS chapter 731 to transact such business in this state.

(c) By evidence of insurance issued on behalf of Lloyds of London by an insurance broker authorized by ORS chapter 731 to transact such business in this state.

(d) By any other evidence of liability protection approved by the State Marine Board.

(2) If the provider of liability protection cancels or refuses to renew the protection, the *[company]* **provider**, not less than 30 days prior to the effective date of termination of the protection, shall notify the board in writing of the termination and its effective date. Upon receipt of a liability protection termination notice, the board shall send written notice to the *[ocean charter vessel]* **charter boat** operator that the board will suspend that person's *[ocean charter vessel]* **charter boat** license unless proof of liability protection required by ORS 830.440 is filed with the board prior to the effective date of the proposed liability protection termination. The board may suspend *[an ocean charter vessel]* **a charter boat** license if the licensee fails to maintain in full force and effect the liability protection required by ORS 830.440. A license that has been suspended pursuant to this section may not be reinstated until proof of liability protection required by ORS 830.440 has been filed with the board.

(Charter Boat Equipment)

SECTION 7. ORS 830.450 is amended to read:

830.450. *[No person shall operate a vessel to engage in activities for which an ocean charter vessel license is required unless all equipment required pursuant to this section is on board the vessel and in proper working order. In establishing equipment requirements, the State Marine Board shall consider recommendations from charter boat associations.]* **The State Marine Board shall establish by rule the equipment that a charter boat must carry to operate in this state.** The board shall consider requiring **a charter boat to carry** the following types of equipment:

(1) If the [vessel] **charter boat** operates **on navigable waters of the United States** not more than 20 miles from the nearest port:

- (a) First-aid kit.
- (b) Automatic bilge warning light or bell for high water condition, audible or visible from each steering station.
- (c) Depth finder.
- (d) Life jackets.
- (e) Light and smoke flares.
- (f) VHF radio with frequencies appropriate to contact the United States Coast Guard.
- (g) Power-operated bilge pumps.
- (h) Running lights.
- (i) Anchor and anchor chain or line.
- (j) Displayed ocean class United States Coast Guard operator's license.
- (k) Engine room space ventilation system and blower system.
- (L) Fire extinguishers.
- (m) Magnetic compass.
- (n) Bailing buckets or hand-operated bilge pump.
- (o) [Loran C] **Installed electronic position fixing device** or radar navigational equipment.
- (p) Emergency Position Indicator Radio Beacon device (EPIRB).
- (q) Life ring.

(2) If the [vessel] **charter boat** operates **on navigable waters of the United States** more than 20 miles from the nearest port, in addition to the equipment specified in subsection (1) of this section[, *the board shall consider requiring the following types of equipment*]:

[*(a) Single sideband radio.*]

[*(b)*] (a) Life raft or unsinkable shore boat.

[*(c)*] (b) Navigational charts for the area in which the [vessel] **charter boat** is operating.

[*(d)*] (c) Water lights.

(3) If the charter boat operates on state waters:

- (a) First-aid kit.**
- (b) Automatic bilge warning light or bell for high water condition, audible or visible from each steering station.**
- (c) Depth finder.**
- (d) Life jackets.**
- (e) Light and smoke flares.**
- (f) Power-operated bilge pumps.**
- (g) Running lights.**
- (h) Anchor and anchor chain or line.**
- (i) Engine room space ventilation system and blower system.**
- (j) Fire extinguishers.**
- (k) Magnetic compass.**
- (L) Bailing buckets or hand-operated bilge pump.**
- (m) Life ring.**

(Prohibited Conduct and Disciplinary Authority)

SECTION 8. ORS 830.460 is amended to read:

830.460. (1) [No person shall] **A person may not** make any false statement of material fact in [making] **submitting an** application for [an ocean charter vessel license pursuant to] **a charter boat license under ORS 830.440.**

[2) No person shall operate a vessel to engage in activities for which an ocean charter vessel license is required, if it is determined upon inspection by the State Marine Board or its representative,

or upon citation by a peace officer, that the vessel fails to comply with the equipment requirements of ORS 830.450, until all equipment requirements are met.]

[(3) No person shall operate a vessel to engage in activities for which an ocean charter vessel license is required without having in effect the protection against liability referred to in ORS 830.440 and 830.445.]

(2) A person may not operate a charter boat to engage in activities for which a charter boat license is required:

(a) If the State Marine Board or a representative of the board determines upon inspection that, or if a peace officer issues a citation because, the charter boat fails to comply with any equipment requirements imposed by the board pursuant to ORS 830.450.

(b) Without having protection against liability as described in ORS 830.440 and 830.445.

(c) If the number of persons on board the charter boat exceeds the carrying capacity of the charter boat.

(d) Without first providing to the board the names of all employees, agents and other persons who physically assist passengers of the charter boat with angling, sightseeing or other recreational activities.

(3) A person may not offer for compensation or monetary gain or advertise the use of a charter boat for angling, sightseeing or other recreational activities without a charter boat license.

(4) A person may not accept money or other remuneration for angling, sightseeing or other recreational activities for which a charter boat license is required without a charter boat license, except that a person may share the costs or expenses for a trip by trip participants. As used in this subsection:

(a)(A) "Costs or expenses for a trip" means the costs or expenses for food, fuel, bait or other consumable items used during a trip.

(B) "Costs or expenses for a trip" does not include any costs or expenses related to equipment maintenance, insurance, moorage, leases or fees for the use of an area.

(b) "Trip" means the duration of the angling, sightseeing or other recreational activity beginning at the point of departure from a dock, pier, float, moorage or shore-based landing where a person enters a charter boat.

SECTION 9. Section 10 of this 2013 Act is added to and made a part of ORS 830.430 to 830.460.

SECTION 10. (1) For the purpose of ensuring the safe and legal operation of charter boats in this state, the State Marine Board:

(a) Shall require the disclosure of a boating, wildlife, hunting, angling, commercial fishing or public safety related violation by an operator, owner or deckhand of a charter boat that occurs within two years of the date on which a charter boat license is issued or updated.

(b) May revoke, suspend or deny issuance of a charter boat license for a violation of this chapter or ORS chapter 477, 496, 497, 498, 501, 506, 508, 509, 511, 530 or 704 or a rule adopted pursuant to this chapter or ORS chapter 477, 496, 497, 498, 501, 506, 508, 509, 511, 530 or 704, or for a violation of a law or rule regulating the safety and welfare of the public.

(2) When a person is found guilty of a violation of ORS 830.430 to 830.460 or any rule adopted pursuant to ORS 830.430 to 830.460, the court having jurisdiction of the offense may order the board to revoke a charter boat license held by that person.

(3) When a court orders revocation of a charter boat license under this section, the court shall take up the charter boat license and forward it with a copy of the revocation order to the board. Upon receipt of the charter boat license and the revocation order, the board shall revoke the charter boat license in accordance with the revocation order.

(Criminal Penalties)

SECTION 11. ORS 830.997 is amended to read:

830.997. [(1) Failure to comply with ORS 830.435, 830.440 or 830.460 (1) is a Class B misdemeanor.]

[(2) Failure to comply with ORS 830.450 is a Class A violation.]

[(3) Failure to comply with ORS 830.460 (2) is a Class A misdemeanor.]

[(4) Failure to comply with ORS 830.460 (3) is a Class A misdemeanor.]

(1) Violation of ORS 830.435 or 830.460 or a rule adopted pursuant to ORS 830.450 is a Class A misdemeanor.

(2) Violation of ORS 830.440 is a Class B misdemeanor.

OUTFITTER AND GUIDE ADVISORY COMMITTEE

SECTION 12. ORS 704.525 is amended to read:

704.525. (1) The State Marine Board shall appoint an advisory committee to provide advice to the board on various matters regarding the implementation of this chapter. The committee shall be composed of members appointed as follows:

(a) Two members from among those individuals recommended by the Oregon Guides and Packers.

(b) One member from among those individuals recommended by the McKenzie River Guides.

(c) One member from among those individuals recommended by the Eastern Oregon Guides.

(d) One member from among those individuals recommended by the Rogue River Outfitters.

(e) One member from among those individuals recommended by the Deschutes River Public Outfitters.

(f) One member from among those individuals recommended by the Rogue River Guides Association, Inc.

(g) One member from among those individuals recommended by the Tillamook Guides Association.

(h) Three public members selected by the board.

(2) The board may not appoint to the advisory committee more than one individual who holds a charter boat license under ORS 830.430 to 830.460.

[(2)] **(3)** In addition to such other duties as the board may prescribe, the advisory committee shall provide advice and recommendations to the board regarding:

(a) Methods of improving communication between the board and the guiding and outfitting industry.

(b) The need for competency testing of guides and outfitters.

(c) Refinements of the definitions of guides and outfitters.

(d) Adequacy of liability insurance coverage.

(e) Identifying decals for motorboats used by guides in providing outfitter and guide services.

(f) Registration reciprocity for guides conducting outfitting and guiding services on the Snake and Columbia Rivers.

CONFORMING AMENDMENTS

SECTION 13. ORS 830.705 is amended to read:

830.705. (1) This section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 do not apply to:

(a) A boat which has a valid marine document issued by the United States Coast Guard or any federal agency which succeeds to the duty of issuing marine documents.

(b) Foreign boats operated only temporarily in the waters of this state.

(c) A boat owned and operated by the United States or a state or by an entity or political subdivision of the United States or a state, except recreational type public vessels.

(d) A ship's lifeboat used solely for lifesaving purposes.

(e) A boat belonging to a class of boats which has been exempted from the provisions of this section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 by the State Marine Board as provided in ORS 830.110 (9).

(f) A boat already covered by a number in full force and effect which has been issued to it pursuant to federal laws or a federally approved numbering system of another state; provided that such boat shall not have been within this state for a period in excess of 60 consecutive days.

(2) This section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870 do apply to all boats other than boats described in subsection (1) of this section which are propelled by machinery, whether or not the machinery is the principal source of propulsion and to sailboats which are 12 feet or more in length.

(3) This section and ORS 830.300 and 830.710 to 830.870 do not apply to any vessel for which [an ocean charter vessel] a **charter boat** license has been issued and for which the fee has been paid as provided in ORS 830.440 [(2)(b)].

OPERATIVE DATE

SECTION 14. (1) Sections 2, 3, 9 and 10 of this 2013 Act and the amendments to ORS 704.525, 830.430, 830.435, 830.440, 830.445, 830.450, 830.460, 830.705 and 830.997 by sections 1, 4 to 8 and 11 to 13 of this 2013 Act become operative on January 1, 2014.

(2) The State Marine Board may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the board by sections 2, 3, 9 and 10 of this 2013 Act and the amendments to ORS 704.525, 830.430, 830.435, 830.440, 830.445, 830.450, 830.460, 830.705 and 830.997 by sections 1, 4 to 8 and 11 to 13 of this 2013 Act.

APPLICABILITY

SECTION 15. (1) The amendments to ORS 830.440 and 830.445 by sections 5 and 6 of this 2013 Act apply to applications for licensure received by the State Marine Board on or after the operative date specified in section 14 of this 2013 Act.

(2) The amendments to ORS 830.997 by section 11 of this 2013 Act apply to convictions entered on or after the operative date specified in section 14 of this 2013 Act.

UNIT CAPTIONS

SECTION 16. The unit captions used in this 2013 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2013 Act.

EMERGENCY CLAUSE

SECTION 17. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by Senate March 21, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House May 9, 2013

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State