

Senate Bill 25

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor John A. Kitzhaber, M.D., for State Marine Board)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that State Marine Board has authority over charter boats carrying seven or more passengers. Creates and modifies provisions related to regulation of charter boats.

Increases punishment related to violation of certain provisions regulating charter boats to maximum of one year's imprisonment, \$6,250 fine, or both.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to charter boats; creating new provisions; amending ORS 704.525, 830.430, 830.435, 830.440,
3 830.445, 830.450, 830.460, 830.705 and 830.997; and declaring an emergency.

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

CHARTER BOAT REGULATION

(Definition)

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9 **SECTION 1.** ORS 830.430 is amended to read:

10 830.430. As used in ORS 830.430 to 830.460 and 830.997[:], "**charter boat**" means a boat used
11 to carry seven or more passengers for hire for angling, sightseeing or other recreational
12 purposes.

13 [(1) "*Ocean*" means those waters of the Pacific Ocean that are west of the demarcation lines de-
14 scribed in the International Collision Regulations at Sea of 1972.]

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

(General Authority of State Marine Board)

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20 **SECTION 2.** Section 3 of this 2013 Act is added to and made a part of ORS 830.430 to
21 830.460.

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

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

24 (2) **Safety standards for charter boats.**

25 **SECTION 4.** ORS 830.435 is amended to read:

26 830.435. (1) Except as otherwise provided in this section, a person may not engage in the busi-
27 ness of carrying **seven or more** passengers for hire for angling, sightseeing or other recreational
28 purposes [*in ocean*] **on the** waters [*within the jurisdiction*] of this state without first obtaining [*an*

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 *ocean charter vessel*] a **charter boat** license from the State Marine Board.

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

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

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

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

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

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18 **(Licensure)**

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20 **SECTION 5.** ORS 830.440 is amended to read:

21 830.440. (1) An individual who desires to obtain [*an ocean charter vessel license shall make writ-*
22 *ten application therefor*] a **charter boat license shall submit a written application** to the State
23 Marine Board. The application shall include [*such*] information regarding the [*vessel*] **charter boat**
24 and copies of [*such*] documents and licenses regarding operation of the [*vessel*] **charter boat** as
25 **required by** the board [*may require*] **by rule**. The application shall be accompanied by proof that
26 the applicant has protection against liability imposed by law covering occurrences by the operator
27 of the [*ocean charter vessel*] **charter boat**, and the employees of the operator, for the payment of
28 damages for bodily [*injuries, including death resulting therefrom,*] **injury or death** in the minimum
29 amount of [*\$300,000*] **\$500,000** per occurrence, at any time while engaged in carrying passengers for
30 hire. The applicant shall certify that the [*vessel*] **charter boat** complies with the equipment re-
31 quirements established by the board under ORS 830.450.

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

36 [(2)] (3) The annual fee for [*an ocean charter vessel*] a **charter boat** license is:

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

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

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

1 *vessel*] a **charter boat** in the state where the nonresident applicant resides.

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

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

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

14 [(4)] (5) A license issued pursuant to this section is transferable to a replacement [*vessel*]
15 **charter boat** of the license holder and is transferable to the purchaser of the [*vessel*] **charter boat**
16 when the [*vessel*] **charter boat** is sold.

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

22 **SECTION 6.** ORS 830.445 is amended to read:

23 830.445. (1) The liability protection required by ORS 830.440 shall be provided in one of the
24 following ways:

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

28 (b) By a bond or bonds, issued by a surety company or companies, authorized by ORS chapter
29 731 to transact such business in this state.

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

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

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

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(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.**

- 1 (j) Fire extinguishers.
- 2 (k) Magnetic compass.
- 3 (L) Bailing buckets or hand-operated bilge pump.
- 4 (m) Life ring.

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6 (Prohibited Conduct and Disciplinary Authority)

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8 **SECTION 8.** ORS 830.460 is amended to read:

9 830.460. (1) *[No person shall]* **A person may not** make any false statement of material fact in
10 *[making]* **submitting an** application for *[an ocean charter vessel license pursuant to]* **a charter boat**
11 **license under** ORS 830.440.

12 *[(2) No person shall operate a vessel to engage in activities for which an ocean charter vessel li-*
13 *cence is required, if it is determined upon inspection by the State Marine Board or its representative,*
14 *or upon citation by a peace officer, that the vessel fails to comply with the equipment requirements of*
15 *ORS 830.450, until all equipment requirements are met.]*

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

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

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

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

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

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

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

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

37 **(a)(A) “Costs or expenses for a trip” means the costs or expenses for food, fuel, bait or**
38 **other consumable items used during a trip.**

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

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

44 **SECTION 9.** Section 10 of this 2013 Act is added to and made a part of ORS 830.430 to
45 **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 Associ-

1 ation.

2 (h) Three public members selected by the board.

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

5 [(2)] **(3)** In addition to such other duties as the board may prescribe, the advisory committee
 6 shall provide advice and recommendations to the board regarding:

7 (a) Methods of improving communication between the board and the guiding and outfitting in-
 8 dustry.

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

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

11 (d) Adequacy of liability insurance coverage.

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

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

15
 16 **CONFORMING AMENDMENTS**

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 18 **SECTION 13.** ORS 830.705 is amended to read:

19 830.705. (1) This section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and
 20 830.830 to 830.870 do not apply to:

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

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

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

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

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

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

33 (2) This section and ORS 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to
 34 830.870 do apply to all boats other than boats described in subsection (1) of this section which are
 35 propelled by machinery, whether or not the machinery is the principal source of propulsion and to
 36 sailboats which are 12 feet or more in length.

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

40
 41 **OPERATIVE DATE**

42
 43 **SECTION 14.** (1) Sections 2, 3, 9 and 10 of this 2013 Act and the amendments to ORS
 44 704.525, 830.430, 830.435, 830.440, 830.445, 830.450, 830.460, 830.705 and 830.997 by sections 1, 4
 45 to 8 and 11 to 13 of this 2013 Act become operative on January 1, 2014.

