
SUBSTITUTE SENATE BILL 6044

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Natural Resources, Ocean & Recreation
(originally sponsored by Senators Rockefeller and Swecker)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to derelict vessels; amending RCW 79.100.010,
2 79.100.040, 79.100.100, 90.56.510, 88.02.050, and 88.02.050; adding new
3 sections to chapter 88.02 RCW; creating a new section; providing an
4 effective date; and providing an expiration date.

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

6 **Sec. 1.** RCW 79.100.010 and 2006 c 153 s 2 are each amended to read
7 as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Abandoned vessel" means (~~the vessel's owner is not known or~~
11 ~~cannot be located, or if the vessel's owner is known and located but is~~
12 ~~unwilling to take control of the vessel, and the vessel has been left,~~
13 ~~moored, or anchored in the same area without the express consent, or~~
14 ~~contrary to the rules, of the owner, manager, or lessee of the aquatic~~
15 ~~lands below or on which the vessel is located for either a period of~~
16 ~~more than thirty consecutive days or for more than a total of ninety~~
17 ~~days in any three hundred sixty five day period)) a vessel that has
18 been left, moored, or anchored in the same area without the express
19 consent, or contrary to the rules of, the owner, manager, or lessee of~~

1 the aquatic lands below or on which the vessel is located for either a
2 period of more than thirty consecutive days or for more than a total of
3 ninety days in any three hundred sixty-five-day period, and the
4 vessel's owner is: (a) Not known or cannot be located; or (b) known
5 and located but is unwilling to take control of the vessel. For the
6 purposes of this subsection (1) only, "in the same area" means within
7 a radius of five miles of any location where the vessel was previously
8 moored or anchored on aquatic lands.

9 (2) "Aquatic lands" means all tidelands, shorelands, harbor areas,
10 and the beds of navigable waters, including lands owned by the state
11 and lands owned by other public or private entities.

12 (3) "Authorized public entity" includes any of the following: The
13 department of natural resources; the department of fish and wildlife;
14 the parks and recreation commission; a metropolitan park district; a
15 port district; and any city, town, or county with ownership,
16 management, or jurisdiction over the aquatic lands where an abandoned
17 or derelict vessel is located.

18 (4) "Department" means the department of natural resources.

19 (5) "Derelict vessel" means the vessel's owner is known and can be
20 located, and exerts control of a vessel that:

21 (a) Has been moored, anchored, or otherwise left in the waters of
22 the state or on public property contrary to RCW 79.02.300 or rules
23 adopted by an authorized public entity;

24 (b) Has been left on private property without authorization of the
25 owner; or

26 (c) Has been left for a period of seven consecutive days, and:

27 (i) Is sunk or in danger of sinking;

28 (ii) Is obstructing a waterway; or

29 (iii) Is endangering life or property.

30 (6) "Owner" means any natural person, firm, partnership,
31 corporation, association, government entity, or organization that has
32 a lawful right to possession of a vessel by purchase, exchange, gift,
33 lease, inheritance, or legal action whether or not the vessel is
34 subject to a security interest.

35 (7) "Vessel" (~~has the same meaning as defined in RCW 53.08.310~~)
36 means any boat or other watercraft, other than a seaplane, that does
37 not exceed two hundred feet in length and is used for navigation on the

1 water. "Vessel" includes any trailer used for the transportation of
2 watercraft and barges.

3 **Sec. 2.** RCW 79.100.040 and 2006 c 153 s 3 are each amended to read
4 as follows:

5 (1) Prior to exercising the authority granted in RCW 79.100.030,
6 the authorized public entity must first obtain custody of the vessel.
7 To do so, the authorized public entity must:

8 (a) Mail notice of its intent to obtain custody, at least twenty
9 days prior to taking custody, to the last known address of the previous
10 owner to register the vessel in any state or with the federal
11 government and to any lien holders or secured interests on record. A
12 notice need not be sent to the purported owner or any other person
13 whose interest in the vessel is not recorded with a state or federal
14 agency;

15 (b) Post notice of its intent clearly on the vessel for thirty days
16 and publish its intent at least once, more than ten days but less than
17 twenty days prior to taking custody, in a newspaper of general
18 circulation for the county in which the vessel is located; and

19 (c) Post notice of its intent on the department's internet web site
20 on a page specifically designated for such notices. If the authorized
21 public entity is not the department, the department must facilitate the
22 internet posting.

23 (2) All notices sent, posted, or published in accordance with this
24 section must, at a minimum, explain the intent of the authorized public
25 entity to take custody of the vessel, the rights of the authorized
26 public entity after taking custody of the vessel as provided in RCW
27 79.100.030, the procedures the owner must follow in order to avoid
28 custody being taken by the authorized public entity, the procedures the
29 owner must follow in order to reclaim possession after custody is taken
30 by the authorized public entity, and the financial liabilities that the
31 owner may incur as provided for in RCW 79.100.060.

32 (3)(a) If a vessel is: (i) In immediate danger of sinking,
33 breaking up, or blocking navigational channels((τ)); or (ii) poses a
34 reasonably imminent threat to human health or safety, including a
35 threat of environmental contamination; and (iii) the owner of the
36 vessel cannot be located or is unwilling or unable to assume immediate

1 responsibility for the vessel, any authorized public entity may tow,
2 beach, or otherwise take temporary possession of the vessel.

3 (b) Before taking temporary possession of the vessel, the
4 authorized public entity must make reasonable attempts to consult with
5 the department or the United States coast guard to ensure that other
6 remedies are not available. The basis for taking temporary possession
7 of the vessel must be set out in writing by the authorized public
8 entity within seven days of taking action and be submitted to the
9 owner, if known, as soon thereafter as is reasonable. If the
10 authorized public entity has not already provided the required notice,
11 immediately after taking possession of the vessel, the authorized
12 public entity must initiate the notice provisions in subsection (1) of
13 this section. The authorized public entity must complete the notice
14 requirements of subsection (1) of this section before using or
15 disposing of the vessel as authorized in RCW 79.100.050.

16 **Sec. 3.** RCW 79.100.100 and 2006 c 153 s 6 are each amended to read
17 as follows:

18 (1) The derelict vessel removal account is created in the state
19 treasury. All receipts from RCW 79.100.050 and 79.100.060 and those
20 moneys specified in RCW 88.02.030 and 88.02.050 must be deposited into
21 the account. The account is authorized to receive fund transfers from
22 the general fund or the state oil spill prevention account created in
23 RCW 90.56.510 as well as gifts, grants, and endowments from public or
24 private sources as may be made from time to time, in trust or
25 otherwise, for the use and benefit of the purposes of this chapter and
26 expend the same or any income according to the terms of the gifts,
27 grants, or endowments provided those terms do not conflict with any
28 provisions of this section or any guidelines developed to prioritize
29 reimbursement of removal projects associated with this chapter. Moneys
30 in the account may only be spent after appropriation. Expenditures
31 from the account shall be used by the department to reimburse
32 authorized public entities for up to ninety percent of the total
33 reasonable and auditable administrative, removal, disposal, and
34 environmental damage costs of abandoned or derelict vessels when the
35 previous owner is either unknown after a reasonable search effort or
36 insolvent. Funds in the account resulting from transfers from the
37 general fund, the state oil spill prevention account, or from the

1 surcharge created under section 8 of this act shall be used to
2 reimburse one hundred percent of these costs and should be prioritized
3 for the removal of large vessels. Costs associated with removal and
4 disposal of an abandoned or derelict vessel under the authority granted
5 in RCW 53.08.320 also qualify for reimbursement from the derelict
6 vessel removal account. In each biennium, up to twenty percent of the
7 expenditures from the account may be used for administrative expenses
8 of the department of licensing and department of natural resources in
9 implementing this chapter.

10 (2) If the balance of the account reaches one million dollars as of
11 March 1st of any year, exclusive of any fund transfers from the general
12 fund or the state oil spill prevention account or any deposits in the
13 account from the surcharge created under section 8 of this act, the
14 department must notify the department of licensing and the collection
15 of any fees associated with this account must be suspended for the
16 following fiscal year.

17 (3) Priority for use of this account is for the removal of derelict
18 and abandoned vessels that are in danger of sinking, breaking up, or
19 blocking navigation channels, or that present environmental risks such
20 as leaking fuel or other hazardous substances. The department must
21 develop criteria, in the form of informal guidelines, to prioritize
22 removal projects associated with this chapter, but may not consider
23 whether the applicant is a state or local entity when prioritizing.
24 The guidelines must also include guidance to the authorized public
25 entities as to what removal activities and associated costs are
26 reasonable and eligible for reimbursement.

27 (4) The department must keep all authorized public entities
28 apprized of the balance of the derelict vessel removal account and the
29 funds available for reimbursement. The guidelines developed by the
30 department must also be made available to the other authorized public
31 entities. This subsection (4) must be satisfied by utilizing the least
32 costly method, including maintaining the information on the
33 department's internet web site, or any other cost-effective method.

34 (5) An authorized public entity may contribute its ten percent of
35 costs that are not eligible for reimbursement by using in-kind
36 services, including the use of existing staff, equipment, and
37 volunteers.

1 (6) This chapter does not guarantee reimbursement for an authorized
2 public entity. Authorized public entities seeking certainty in
3 reimbursement prior to taking action under this chapter may first
4 notify the department of their proposed action and the estimated total
5 costs. Upon notification by an authorized public entity, the
6 department must make the authorized public entity aware of the status
7 of the fund and the likelihood of reimbursement being available. The
8 department may offer technical assistance and assure reimbursement for
9 up to two years following the removal action if an assurance is
10 appropriate given the balance of the fund and the details of the
11 proposed action.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 88.02 RCW
13 to read as follows:

14 (1) A marina that leases permanent moorage to vessels must require
15 the following information from the lessee as a condition of leasing
16 moorage space: (a) The name of the legal owner of the vessel; (b) a
17 local contact person, if different than the owner; (c) the owner's
18 address and telephone number; (d) the vessel's hull identification
19 number; (e) the vessel's coast guard registration, if applicable; (f)
20 the vessel's home port; (g) the date on which the moorage lease began;
21 and (h) the vessel's country or state of registration and registration
22 number. A marina shall maintain records of this information for at
23 least two years. The marina shall permit any authorized agent of the
24 department of natural resources to inspect these records upon request.

25 (2) A marina that leases permanent moorage to vessels must require
26 proof of vessel registration or a written statement of intent to
27 register a vessel as a condition of leasing moorage space. If the
28 applicant's vessel is not registered in this state, the marina must
29 inform the moorage applicant of the state law requiring vessel
30 registration and direct the moorage applicant to the appropriate vessel
31 registration forms. Thereafter, it is the moorage applicant's
32 responsibility to register the vessel.

33 **Sec. 5.** RCW 90.56.510 and 2000 c 69 s 22 are each amended to read
34 as follows:

35 (1) The oil spill prevention account is created in the state
36 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in

1 the account. Moneys from the account may be spent only after
2 appropriation. The account is subject to allotment procedures under
3 chapter 43.88 RCW. If, on the first day of any calendar month, the
4 balance of the oil spill response account is greater than nine million
5 dollars and the balance of the oil spill prevention account exceeds the
6 unexpended appropriation for the current biennium, then the tax under
7 RCW 82.23B.020(2) shall be suspended on the first day of the next
8 calendar month until the beginning of the following biennium, provided
9 that the tax shall not be suspended during the last six months of the
10 biennium. If the tax imposed under RCW 82.23B.020(2) is suspended
11 during two consecutive biennia, the department shall by November 1st
12 after the end of the second biennium, recommend to the appropriate
13 standing committees an adjustment in the tax rate. Beginning September
14 29, 2007, and on the last day of March, June, September, and December
15 of each year thereafter until October 1, 2010, the state treasurer
16 shall transfer five hundred thousand dollars to the derelict vessel
17 removal account created under RCW 79.100.100. For the biennium ending
18 June 30, 1999, and the biennium ending June 30, 2001, the state
19 treasurer may transfer a total of up to one million dollars from the
20 oil spill response account to the oil spill prevention account to
21 support appropriations made from the oil spill prevention account in
22 the omnibus appropriations act adopted not later than June 30, 1999.

23 (2) Expenditures from the oil spill prevention account shall be
24 used exclusively for the administrative costs related to the purposes
25 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Starting
26 with the 1995-1997 biennium, the legislature shall give activities of
27 state agencies related to prevention of oil spills priority in funding
28 from the oil spill prevention account. Costs of prevention include the
29 costs of:

- 30 (a) Routine responses not covered under RCW 90.56.500;
31 (b) Management and staff development activities;
32 (c) Development of rules and policies and the statewide plan
33 provided for in RCW 90.56.060;
34 (d) Facility and vessel plan review and approval, drills,
35 inspections, investigations, enforcement, and litigation;
36 (e) Interagency coordination and public outreach and education;
37 (f) Collection and administration of the tax provided for in
38 chapter 82.23B RCW; and

1 (g) Appropriate travel, goods and services, contracts, and
2 equipment.

3 **Sec. 6.** RCW 88.02.050 and 2005 c 464 s 2 are each amended to read
4 as follows:

5 (1) Application for a vessel registration shall be made to the
6 department or its authorized agent in the manner and upon forms
7 prescribed by the department. The application shall state the name and
8 address of each owner of the vessel and such other information as may
9 be required by the department, shall be signed by at least one owner,
10 and shall be accompanied by a vessel registration fee of ten dollars
11 and fifty cents per year and the excise tax imposed under chapter 82.49
12 RCW.

13 (2) Five additional dollars must be collected annually from every
14 vessel registration application. These moneys must be distributed in
15 the following manner:

16 (a) Two dollars must be deposited into the derelict vessel removal
17 account established in RCW 79.100.100. If the department of natural
18 resources indicates that the balance of the derelict vessel removal
19 account, not including any transfer of funds into the account or funds
20 deposited into the account collected under section 8 of this act,
21 reaches one million dollars as of March 1st of any year, the collection
22 of the two-dollar fee must be suspended for the following fiscal year.

23 (b) One dollar and fifty cents must be deposited in the aquatic
24 invasive species prevention account created in RCW 77.12.879.

25 (c) One dollar must be deposited into the freshwater aquatic algae
26 control account created in RCW 43.21A.667.

27 (d) Fifty cents must be deposited into the aquatic invasive species
28 enforcement account created in RCW 43.43.400.

29 (3) Any fees required for licensing agents under RCW 46.01.140
30 shall be in addition to the ten dollar and fifty cent annual
31 registration fee and the five-dollar fee created in subsection (2) of
32 this section.

33 (4) Upon receipt of the application and the registration fee, the
34 department shall assign a registration number and issue a decal for
35 each vessel. The registration number and decal shall be issued and
36 affixed to the vessel in a manner prescribed by the department
37 consistent with the standard numbering system for vessels set forth in

1 volume 33, part 174, of the code of federal regulations. A valid decal
2 affixed as prescribed shall indicate compliance with the annual
3 registration requirements of this chapter.

4 (5) The vessel registrations and decals are valid for a period of
5 one year, except that the director of licensing may extend or diminish
6 vessel registration periods, and the decals therefor, for the purpose
7 of staggered renewal periods. For registration periods of more or less
8 than one year, the department may collect prorated annual registration
9 fees and excise taxes based upon the number of months in the
10 registration period. Vessel registrations are renewable every year in
11 a manner prescribed by the department upon payment of the vessel
12 registration fee, excise tax, and the derelict vessel fee. Upon
13 renewing a vessel registration, the department shall issue a new decal
14 to be affixed as prescribed by the department.

15 (6) When the department issues either a notice to renew a vessel
16 registration or a decal for a new or renewed vessel registration, it
17 shall also provide information on the location of marine oil recycling
18 tanks and sewage holding tank pumping stations. This information will
19 be provided to the department by the state parks and recreation
20 commission in a form ready for distribution. The form will be
21 developed and prepared by the state parks and recreation commission
22 with the cooperation of the department of ecology. The department, the
23 state parks and recreation commission, and the department of ecology
24 shall enter into a memorandum of agreement to implement this process.

25 (7) A person acquiring a vessel from a dealer or a vessel already
26 validly registered under this chapter shall, within fifteen days of the
27 acquisition or purchase of the vessel, apply to the department or its
28 authorized agent for transfer of the vessel registration, and the
29 application shall be accompanied by a transfer fee of one dollar.

30 **Sec. 7.** RCW 88.02.050 and 2002 c 286 s 13 are each amended to read
31 as follows:

32 Application for a vessel registration shall be made to the
33 department or its authorized agent in the manner and upon forms
34 prescribed by the department. The application shall state the name and
35 address of each owner of the vessel and such other information as may
36 be required by the department, shall be signed by at least one owner,
37 and shall be accompanied by a vessel registration fee of ten dollars

1 and fifty cents per year and the excise tax imposed under chapter 82.49
2 RCW. In addition, two additional dollars must be collected annually
3 from every vessel registration application. These moneys must be
4 deposited into the derelict vessel removal account established in RCW
5 79.100.100. If the department of natural resources indicates that the
6 balance of the derelict vessel removal account, not including any
7 transfer of funds into the account or funds deposited into the account
8 collected under section 8 of this act, reaches one million dollars as
9 of March 1st of any year, the collection of the two-dollar fee must be
10 suspended for the following fiscal year. Any fees required for
11 licensing agents under RCW 46.01.140 shall be in addition to the ten
12 dollar and fifty cent annual registration fee and the two-dollar
13 derelict vessel fee.

14 Upon receipt of the application and the registration fee, the
15 department shall assign a registration number and issue a decal for
16 each vessel. The registration number and decal shall be issued and
17 affixed to the vessel in a manner prescribed by the department
18 consistent with the standard numbering system for vessels set forth in
19 volume 33, part 174, of the code of federal regulations. A valid decal
20 affixed as prescribed shall indicate compliance with the annual
21 registration requirements of this chapter.

22 The vessel registrations and decals are valid for a period of one
23 year, except that the director of licensing may extend or diminish
24 vessel registration periods, and the decals therefor, for the purpose
25 of staggered renewal periods. For registration periods of more or less
26 than one year, the department may collect prorated annual registration
27 fees and excise taxes based upon the number of months in the
28 registration period. Vessel registrations are renewable every year in
29 a manner prescribed by the department upon payment of the vessel
30 registration fee, excise tax, and the derelict vessel fee. Upon
31 renewing a vessel registration, the department shall issue a new decal
32 to be affixed as prescribed by the department.

33 When the department issues either a notice to renew a vessel
34 registration or a decal for a new or renewed vessel registration, it
35 shall also provide information on the location of marine oil recycling
36 tanks and sewage holding tank pumping stations. This information will
37 be provided to the department by the state parks and recreation
38 commission in a form ready for distribution. The form will be

1 developed and prepared by the state parks and recreation commission
2 with the cooperation of the department of ecology. The department, the
3 state parks and recreation commission, and the department of ecology
4 shall enter into a memorandum of agreement to implement this process.

5 A person acquiring a vessel from a dealer or a vessel already
6 validly registered under this chapter shall, within fifteen days of the
7 acquisition or purchase of the vessel, apply to the department or its
8 authorized agent for transfer of the vessel registration, and the
9 application shall be accompanied by a transfer fee of one dollar.

10 NEW SECTION. **Sec. 8.** A new section is added to chapter 88.02 RCW
11 to read as follows:

12 (1) In order to address the significant backlog of derelict vessels
13 that have accumulated in our state's waters that pose a threat to the
14 health and safety of the people and to our environment, the legislature
15 intends to collect a derelict vessel removal surcharge, until the
16 backlog as it exists on the effective date of this section has been
17 eliminated.

18 (2) In addition to the fees collected under RCW 88.02.050, the
19 department shall collect an annual derelict vessel removal surcharge
20 based on the vessel's length from every vessel registration applicant
21 as follows: (a) Two dollars for each vessel with a length greater than
22 twenty-five feet but not longer than fifty feet; (b) four dollars for
23 each vessel with a length greater than fifty feet but not longer than
24 seventy-five feet; (c) six dollars for each vessel with a length
25 greater than seventy-five feet but not longer than one hundred feet;
26 (d) eight dollars for each vessel with a length greater than one
27 hundred feet but not longer than one hundred twenty-five feet; (e) ten
28 dollars for each vessel with a length greater than one hundred twenty-
29 five feet but not longer than one hundred fifty feet; (f) twelve
30 dollars for each vessel with a length greater than one hundred fifty
31 feet but not longer than one hundred seventy-five feet; (g) fourteen
32 dollars for each vessel greater than one hundred seventy-five feet but
33 not longer than two hundred feet; and (h) sixteen dollars for vessels
34 longer than two hundred feet in length. The revenue generated from the
35 derelict vessel surcharge must be deposited into the derelict vessel
36 removal account established under RCW 79.100.100.

1 (3) The department of natural resources shall submit a list that
2 identifies the backlog of derelict vessels as of the effective date of
3 this section to the appropriate policy and fiscal committees of the
4 legislature. Upon completion of the elimination of the backlog, the
5 department of natural resources shall notify the appropriate policy and
6 fiscal committees of the legislature and the department of licensing,
7 in writing, to suspend collection of the surcharge at the end of the
8 fiscal year in which the backlog has been eliminated. Upon receipt of
9 the notice to suspend collection of the surcharge, the department of
10 licensing shall cease collection at the end of the fiscal year in which
11 the notice is received.

12 NEW SECTION. **Sec. 9.** The department of natural resources, in
13 consultation with the department of revenue, shall examine the costs
14 and benefits of extending the derelict vessel removal fees and
15 surcharges to the vessels that are not subject to RCW 88.02.050 in
16 order to provide for more equity in the derelict vessel removal program
17 and the fees that support the program. The departments shall submit a
18 report of the findings to the appropriate policy and fiscal committees
19 of the legislature by November 1, 2007.

20 NEW SECTION. **Sec. 10.** Section 6 of this act expires June 30,
21 2012.

22 NEW SECTION. **Sec. 11.** Section 7 of this act takes effect June 30,
23 2012.

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