
SECOND SUBSTITUTE SENATE BILL 6044

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Rockefeller and Swecker)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to derelict vessels; amending RCW 79.100.010,
2 79.100.040, 79.100.100, 82.49.030, 88.02.050, and 88.02.050; adding a
3 new section to chapter 79.100 RCW; adding new sections to chapter 88.02
4 RCW; creating a new section; providing an effective date; and providing
5 expiration dates.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (ii) Is obstructing a waterway; or

30 (iii) Is endangering life or property.

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

36 (7) "Vessel" (~~has the same meaning as defined in RCW 53.08.310~~)
37 means every species of watercraft or other mobile artificial
38 contrivance, powered or unpowered, intended to be used for transporting

1 people or goods on water or for floating marine construction or repair
2 and which does not exceed two hundred feet in length. "Vessel"
3 includes any trailer used for the transportation of watercraft, or any
4 attached floats or debris.

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

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

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

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

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

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

34 (3)(a) If a vessel is: (i) In immediate danger of sinking,
35 breaking up, or blocking navigational channels((τ)); or (ii) poses a
36 reasonably imminent threat to human health or safety, including a
37 threat of environmental contamination; and (iii) the owner of the

1 vessel cannot be located or is unwilling or unable to assume immediate
2 responsibility for the vessel, any authorized public entity may tow,
3 beach, or otherwise take temporary possession of the vessel.

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

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 79.100 RCW
18 to read as follows:

19 A marina owner may contract with a local government for the purpose
20 of participating in the derelict vessel removal program. The local
21 government shall serve as the authorized public entity for the removal
22 of the derelict vessel from the marina owner's property. The contract
23 must provide for the marina owner to be financially responsible for the
24 removal costs that are not reimbursed by the department as provided
25 under RCW 79.100.100, and any additional reasonable administrative
26 costs incurred by the local government during the removal of the
27 derelict vessel. Prior to the commencement of any removal which will
28 seek reimbursement from the derelict vessel removal program, the
29 contract and the proposed vessel removal shall be submitted to the
30 department for review and approval. The local government shall use the
31 procedure specified under RCW 79.100.100(6).

32 **Sec. 4.** RCW 79.100.100 and 2006 c 153 s 6 are each amended to read
33 as follows:

34 (1) The derelict vessel removal account is created in the state
35 treasury. All receipts from RCW 79.100.050 and 79.100.060 and those
36 moneys specified in RCW 88.02.030 and 88.02.050 must be deposited into

1 the account. The account is authorized to receive fund transfers from
2 the general fund or the state oil spill prevention account created in
3 RCW 90.56.510, deposits from the watercraft excise tax under RCW
4 82.49.030, as well as gifts, grants, and endowments from public or
5 private sources as may be made from time to time, in trust or
6 otherwise, for the use and benefit of the purposes of this chapter and
7 expend the same or any income according to the terms of the gifts,
8 grants, or endowments provided those terms do not conflict with any
9 provisions of this section or any guidelines developed to prioritize
10 reimbursement of removal projects associated with this chapter. Moneys
11 in the account may only be spent after appropriation. Expenditures
12 from the account shall be used by the department to reimburse
13 authorized public entities for up to ninety percent of the total
14 reasonable and auditable administrative, removal, disposal, and
15 environmental damage costs of abandoned or derelict vessels when the
16 previous owner is either unknown after a reasonable search effort or
17 insolvent. Reimbursement shall not be made unless the department
18 determines that the public entity has made reasonable efforts to
19 identify and locate the party responsible for the vessel, regardless of
20 the title of owner of the vessel. Funds in the account resulting from
21 transfers from the general fund, the state oil spill prevention
22 account, or from the deposit of funds from the watercraft excise tax as
23 provided for under RCW 82.49.030 shall be used to reimburse one hundred
24 percent of these costs and should be prioritized for the removal of
25 large vessels. Costs associated with removal and disposal of an
26 abandoned or derelict vessel under the authority granted in RCW
27 53.08.320 also qualify for reimbursement from the derelict vessel
28 removal account. In each biennium, up to twenty percent of the
29 expenditures from the account may be used for administrative expenses
30 of the department of licensing and department of natural resources in
31 implementing this chapter.

32 (2) If the balance of the account reaches one million dollars as of
33 March 1st of any year, exclusive of any fund transfers from the general
34 fund or the state oil spill prevention account or any deposits in the
35 account from the surcharge created under RCW 82.49.030 and section 9 of
36 this act, the department must notify the department of licensing and
37 the collection of any fees associated with this account must be
38 suspended for the following fiscal year.

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

11 (4) The department must keep all authorized public entities
12 apprized of the balance of the derelict vessel removal account and the
13 funds available for reimbursement. The guidelines developed by the
14 department must also be made available to the other authorized public
15 entities. This subsection (4) must be satisfied by utilizing the least
16 costly method, including maintaining the information on the
17 department's internet web site, or any other cost-effective method.

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

22 (6) This chapter does not guarantee reimbursement for an authorized
23 public entity. Authorized public entities seeking certainty in
24 reimbursement prior to taking action under this chapter may first
25 notify the department of their proposed action and the estimated total
26 costs. Upon notification by an authorized public entity, the
27 department must make the authorized public entity aware of the status
28 of the fund and the likelihood of reimbursement being available. The
29 department may offer technical assistance and assure reimbursement for
30 up to two years following the removal action if an assurance is
31 appropriate given the balance of the fund and the details of the
32 proposed action.

33 NEW SECTION. **Sec. 5.** A new section is added to chapter 88.02 RCW
34 to read as follows:

35 (1) A marina that leases permanent moorage to vessels must require
36 the following information from the lessee as a condition of leasing
37 moorage space: (a) The name of the legal owner of the vessel; (b) a

1 local contact person, if different than the owner; (c) the owner's
2 address and telephone number; (d) the vessel's hull identification
3 number; (e) the vessel's coast guard registration, if applicable; (f)
4 the vessel's home port; (g) the date on which the moorage lease began;
5 and (h) the vessel's country or state of registration and registration
6 number. A marina shall maintain records of this information for at
7 least two years. The marina shall permit any authorized agent of the
8 department of natural resources to inspect these records upon request.

9 (2) A marina that leases permanent moorage to vessels must require
10 proof of vessel registration or a written statement of intent to
11 register a vessel as a condition of leasing moorage space. If the
12 applicant's vessel is not registered in this state, the marina must
13 inform the moorage applicant of the state law requiring vessel
14 registration and direct the moorage applicant to the appropriate vessel
15 registration forms. Thereafter, it is the moorage applicant's
16 responsibility to register the vessel.

17 **Sec. 6.** RCW 82.49.030 and 2000 c 103 s 18 are each amended to read
18 as follows:

19 (1) The excise tax imposed under this chapter is due and payable to
20 the department of licensing or its agents at the time of registration
21 of a vessel. The department of licensing shall not issue or renew a
22 registration for a vessel until the tax is paid in full.

23 (2) ~~((The))~~ Beginning in 2007 and each year thereafter, the first
24 one million dollars of watercraft excise tax collected under this
25 chapter shall be deposited in the derelict vessel removal account under
26 RCW 79.100.100. Once one million dollars has been deposited into the
27 derelict vessel removal account the excise tax collected under this
28 chapter shall be deposited into the general fund. This subsection
29 shall expire on August 1, 2013.

30 (3) Beginning August 2, 2013, the excise tax collected under this
31 chapter shall be deposited in the general fund.

32 **Sec. 7.** RCW 88.02.050 and 2005 c 464 s 2 are each amended to read
33 as follows:

34 (1) Application for a vessel registration shall be made to the
35 department or its authorized agent in the manner and upon forms
36 prescribed by the department. The application shall state the name and

1 address of each owner of the vessel and such other information as may
2 be required by the department, shall be signed by at least one owner,
3 and shall be accompanied by a vessel registration fee of ten dollars
4 and fifty cents per year and the excise tax imposed under chapter 82.49
5 RCW.

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

9 (a) Two dollars must be deposited into the derelict vessel removal
10 account established in RCW 79.100.100. If the department of natural
11 resources indicates that the balance of the derelict vessel removal
12 account, not including any transfer of funds into the account or funds
13 deposited into the account collected under RCW 82.49.030 and section 9
14 of this act, reaches one million dollars as of March 1st of any year,
15 the collection of the two-dollar fee must be suspended for the
16 following fiscal year.

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

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

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

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

27 (4) Upon receipt of the application and the registration fee, the
28 department shall assign a registration number and issue a decal for
29 each vessel. The registration number and decal shall be issued and
30 affixed to the vessel in a manner prescribed by the department
31 consistent with the standard numbering system for vessels set forth in
32 volume 33, part 174, of the code of federal regulations. A valid decal
33 affixed as prescribed shall indicate compliance with the annual
34 registration requirements of this chapter.

35 (5) The vessel registrations and decals are valid for a period of
36 one year, except that the director of licensing may extend or diminish
37 vessel registration periods, and the decals therefor, for the purpose
38 of staggered renewal periods. For registration periods of more or less

1 than one year, the department may collect prorated annual registration
2 fees and excise taxes based upon the number of months in the
3 registration period. Vessel registrations are renewable every year in
4 a manner prescribed by the department upon payment of the vessel
5 registration fee, excise tax, and the derelict vessel fee. Upon
6 renewing a vessel registration, the department shall issue a new decal
7 to be affixed as prescribed by the department.

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

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

23 **Sec. 8.** RCW 88.02.050 and 2002 c 286 s 13 are each amended to read
24 as follows:

25 Application for a vessel registration shall be made to the
26 department or its authorized agent in the manner and upon forms
27 prescribed by the department. The application shall state the name and
28 address of each owner of the vessel and such other information as may
29 be required by the department, shall be signed by at least one owner,
30 and shall be accompanied by a vessel registration fee of ten dollars
31 and fifty cents per year and the excise tax imposed under chapter 82.49
32 RCW. In addition, two additional dollars must be collected annually
33 from every vessel registration application. These moneys must be
34 deposited into the derelict vessel removal account established in RCW
35 79.100.100. If the department of natural resources indicates that the
36 balance of the derelict vessel removal account, not including any
37 transfer of funds into the account or funds deposited into the account

1 collected under RCW 82.49.030 and section 9 of this act, reaches one
2 million dollars as of March 1st of any year, the collection of the two-
3 dollar fee must be suspended for the following fiscal year. Any fees
4 required for licensing agents under RCW 46.01.140 shall be in addition
5 to the ten dollar and fifty cent annual registration fee and the two-
6 dollar derelict vessel fee.

7 Upon receipt of the application and the registration fee, the
8 department shall assign a registration number and issue a decal for
9 each vessel. The registration number and decal shall be issued and
10 affixed to the vessel in a manner prescribed by the department
11 consistent with the standard numbering system for vessels set forth in
12 volume 33, part 174, of the code of federal regulations. A valid decal
13 affixed as prescribed shall indicate compliance with the annual
14 registration requirements of this chapter.

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

26 When the department issues either a notice to renew a vessel
27 registration or a decal for a new or renewed vessel registration, it
28 shall also provide information on the location of marine oil recycling
29 tanks and sewage holding tank pumping stations. This information will
30 be provided to the department by the state parks and recreation
31 commission in a form ready for distribution. The form will be
32 developed and prepared by the state parks and recreation commission
33 with the cooperation of the department of ecology. The department, the
34 state parks and recreation commission, and the department of ecology
35 shall enter into a memorandum of agreement to implement this process.

36 A person acquiring a vessel from a dealer or a vessel already
37 validly registered under this chapter shall, within fifteen days of the

1 acquisition or purchase of the vessel, apply to the department or its
2 authorized agent for transfer of the vessel registration, and the
3 application shall be accompanied by a transfer fee of one dollar.

4 NEW SECTION. **Sec. 9.** A new section is added to chapter 88.02 RCW
5 to read as follows:

6 (1) In order to address the significant backlog of derelict vessels
7 that have accumulated in our state's waters that pose a threat to the
8 health and safety of the people and to our environment, the legislature
9 intends to collect a derelict vessel removal surcharge.

10 (2) In addition to the fees collected under RCW 88.02.050, the
11 department shall collect an annual derelict vessel removal surcharge of
12 one dollar. The revenue generated from the derelict vessel surcharge
13 must be deposited into the derelict vessel removal account established
14 under RCW 79.100.100.

15 (3) This section expires August 1, 2013.

16 NEW SECTION. **Sec. 10.** The department of natural resources, in
17 consultation with the department of revenue, the department of
18 licensing, and other appropriate stakeholder groups, shall examine:

19 (1) The costs and benefits of extending a derelict vessel removal
20 fee or surcharges to vessels that are not subject to RCW 88.02.050; and

21 (2) The use of alternative revenue sources, such as the watercraft
22 excise tax, in order to more equitably distribute the financial
23 responsibility of supporting the cost of the derelict vessel program.
24 The departments shall submit a report of the findings to the
25 appropriate policy and fiscal committees of the legislature by November
26 1, 2007.

27 NEW SECTION. **Sec. 11.** Section 7 of this act expires June 30,
28 2012.

29 NEW SECTION. **Sec. 12.** Section 8 of this act takes effect June 30,
30 2012.

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