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**Agriculture & Natural Resources  
Committee**

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**HB 1245**

**Brief Description:** Regarding derelict and abandoned vessels in state waters.

**Sponsors:** Representatives Hansen, Smith, Ryu, Wilcox, Maxwell, Warnick, Blake, Upthegrove, MacEwen, Lytton, Van De Wege, Takko, Walsh, Jinkins, Fitzgibbon, Hunt, Haigh, Morrell, Seaquist, Tharinger, Hudgins, Stanford and Hayes; by request of Department of Natural Resources.

**Brief Summary of Bill**

- Creates future requirements for the owners of certain vessels to obtain proof of financial responsibility over the vessel and conduct a marine survey prior to sale of the vessel.
- Removes the expiration date on the \$1 vessel registration derelict vessel removal surcharge.
- Allows marina owners to scrap certain vessels instead of sending them to auction.
- Requires public entities to survey the seaworthiness of vessels prior to sale.
- Consolidates related appeals at the Pollution Controls Hearing Board.
- Decriminalizes the failure to register a vessel.

**Hearing Date:** 1/29/13

**Staff:** Jason Callahan (786-7117).

**Background:**

Removal of derelict or abandoned vessels

An authorized public entity (APE), which includes most state and local owners of aquatic lands and shorelines, has the discretionary authority to remove and destroy a vessel within its

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jurisdiction that has become abandoned or derelict. The Department of Natural Resources (DNR) has an oversight and rulemaking role in the removal and disposal process. The DNR also has authority to remove any vessel within the jurisdiction of an APE that asks the DNR to act in its place. Likewise, an APE may request the DNR to allow it to remove a vessel within the DNR's jurisdiction.

The owner of a private marina may participate in the derelict vessel removal program by contracting with a local government APE. The contract between the marina and the APE must be approved by the DNR and require the marina to be responsible for the share of vessel removal not covered by the Derelict Vessel Removal Account.

#### Taking possession of derelict vessels

Prior to taking action on a vessel, an APE must attempt to notify the vessel's owner of its intent to remove the vessel. All notices must include specified information, including: the procedures that must be followed to reclaim possession of the vessel; possible financial liabilities; and the rights of the authorized public entity after custody of the vessel is claimed.

Once the APE takes custody of a vessel, the APE may use or dispose of the vessel in any environmentally sound manner. However, the APE must first attempt to derive some value from the vessel either in whole or scrap. If a value can be derived, then that amount will be subtracted from the financial liabilities of the owner. If the vessel has no salvageable value, then the APE must utilize the least costly disposal method.

The owner of a derelict or abandoned vessel is responsible for reimbursing the APE for all costs associated with the removal and disposal of the derelict or abandoned vessel. These costs include administrative costs and costs associated with any environmental damage caused by the vessel.

#### Appeals

A vessel owner appealing a local jurisdiction's possession of his or her vessel, or assessment of reimbursement owed, is required to appeal to the Pollution Controls Hearing Board (PCHB) if the APE assuming custody is a State agency. Appeals to local jurisdictions must follow any locally-adopted appeals procedure. If the local jurisdiction has not established their own proceedings, then local appeals follow a procedure established for public ports related to abandoned vessels.

#### The Derelict Vessel Removal Account

Monies in the Derelict Vessel Removal Account (Account) is used to reimburse APEs, other than the State Parks and Recreation Commission (State Parks) for 90 percent of the costs associated with removing and disposing of abandoned or derelict vessels when the owner of the vessel is unknown or unable to pay (State Parks is reimbursed up to 70 percent). The APE may contribute its 10 percent of removal costs through in-kind services. Priority for use of the Account's funds must be given to the removal of vessels that are in danger of breaking up, sinking, presenting environmental risks, or blocking navigation channels. Prioritization guidelines are developed informally by the DNR.

#### Funding vessel removals

Most vessel owners in the State are required to annually register their vessel. The vessel registration program requires the payment of a \$2 derelict vessel removal fee. In addition, there is a \$1 derelict vessel surcharge dedicated to removing larger boats. This surcharge is set to expire on January 1, 2014.

If the balance of the Derelict Vessel Removal Account exceeds \$1 million, then the DNR must contact the Department of Licensing and request that the collection of the \$2 derelict vessel removal fee be suspended.

### **Summary of Bill:**

#### Vessel owner accountability

Certain vessel owners or operators must be able to demonstrate financial responsibility beginning on July 1, 2015. This requirement applies to vessels that are required to be registered by the Department of Licensing or listed as taxable personal property and that are both over 40 years in age and longer than 65-feet in length. The failure to provide proof of financial responsibility is a criminal misdemeanor. Prior to the effective date of the requirement to obtain financial responsibly, the DNR must develop standards and processes for how a vessel owner must show financial responsibly and the amount of financial responsibly required.

Beginning on July 1, 2014, the owners or operators of the same vessel types must also obtain a vessel inspection before transferring ownership of the vessel to another party. A copy of the inspection report must be provided to the transferee and the DNR. Failure to do so can result in the initial owner of the vessel being liable for some of the costs should the vessel eventually become abandoned or derelict. The DNR must work with interested parties to develop the rules around the inspection process.

#### Vessel turn-in program

The DNR is directed to develop and administer a turn-in program for soon-to-be derelict vessels. The purpose of the program is to enable the DNR to dismantle vessels that do not yet satisfy the definition of "derelict vessel" yet still pose a threat to becoming derelict or abandoned in the near future. The DNR is responsible for developing the standards and guidelines for the program, including eligible participants. Eligible participants include private marina operators who have gained title to a vessel in an advanced state of disrepair and other Washington residents who own a vessel that is likely to soon become derelict and who does not have the needed resources to properly dispose of the vessel. Funding for the vessel turn-in program may come from the Derelict Vessel Removal Account.

#### Funding

The \$1 annual derelict vessel removal surcharge applied to each vessel registration is made permanent and will not expire in 2014. The uses of revenue from that surcharge are unchanged.

The DNR is directed to reevaluate the priority system of how Account funds are spent. The reevaluation must consider how vessels located in sensitive areas must be prioritized.

#### Moorage facility operators

Both private and public moorage facility operators are given the express authority to permanently dispose of vessels that are abandoned at a facility if the vessels are in an advanced

state of disrepair or are posing a threat of environmental contamination. This may be done in lieu of a public auction for the vessel. The difference between public and private moorage facilities is that the private facilities have the option to dispose of deteriorated vessels, while public facilities have a duty to do so.

If the moorage facility operator is the State Parks, the percentage of reimbursement from the Account is raised from 70% to 90%. If the moorage facility is a private sector venture, the scope of their access to funds in the Account is expanded from just removal costs to removal and disposal costs.

#### Transfer of publically-owned vessels

New pre-transfer requirements are placed on vessels owned by state and local entities. Before the ownership of a publically-owned vessel can be transferred, a review of the vessel's seaworthiness must be completed. Any vessel deemed to be in an advanced state of deterioration must either be repaired before sale or permanently dismantled.

If the vessel is deemed seaworthy and approved for sale, the state or local entity processing the sale must collect certain information from the buyer. This includes information as to how the buyer intends to use the vessel and proof of legal moorage. The selling entity must also remove any hazardous materials from the vessel unless the materials are consistent with the buyer's intended use of the vessel. Any vessels leaving state or local ownership must have enough fuel on board to reach the buyer's initial intended destination.

These sections affect the following entities: The DNR, State Parks, the Department of Fish and Wildlife, the Department of Transportation Commission, cities and code cities, counties, and port districts.

#### Enforcement

The current criminal enforcement mechanism for enforcing vessel registration requirements is changed to a class 2 civil infraction. The existing maximum penalty for a class 2 civil infraction of \$125 applies to these enforcement actions.

A vessel owner appealing a local jurisdiction's possession of his or her vessel, or assessment of reimbursement owed, is required to follow the default State procedure at the PCHB if the local jurisdiction has not established their own proceedings. Once at the PCHB, all appeals may be heard by a single board member.

**Appropriation:** None.

**Fiscal Note:** Requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.