

# SENATE BILL REPORT

## ESHB 2376

---

---

As Reported By Senate Committee On:  
Natural Resources, Parks & Shorelines, February 27, 2002  
Ways & Means, March 4, 2002

**Title:** An act relating to abandoned and derelict vessels.

**Brief Description:** Concerning abandoned and derelict waterborne vessels.

**Sponsors:** House Committee on Natural Resources (originally sponsored by Representatives Rockefeller, Doumit, Eickmeyer, Dickerson, Hunt, Lantz, Edwards, Romero, Haigh, McDermott and Jackley).

**Brief History:**

**Committee Activity:** Natural Resources, Parks & Shorelines: 2/25/02, 2/27/02 [DPA-WM].

Ways & Means: 3/4/02 [DPA].

---

### SENATE COMMITTEE ON NATURAL RESOURCES, PARKS & SHORELINES

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Poulsen, Vice Chair; McDonald, Morton, Oke, Snyder, Spanel and Stevens.

**Staff:** Kari Guy (786-7437)

---

### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended.

Signed by Senators Brown, Chair; Regala, Vice Chair; Fairley, Vice Chair; Fraser, Hewitt, Honeyford, Kline, Kohl-Welles, Long, Parlette, Poulsen, Rasmussen, Roach, Rossi, Sheahan, B. Sheldon, Snyder, Spanel, Thibaudeau, Winsley and Zarelli.

**Staff:** Richard Ramsey (786-7412)

**Background:** The Department of Natural Resources is charged with the responsibility of managing the state's aquatic lands; however, Washington does not have a comprehensive mechanism for addressing the problem of derelict or abandoned vessels in its waterways. As a result, the department must rely on cooperation by the vessel owners, and unproven common law approaches such as trespass and nuisance actions.

Both the United States Coast Guard and the U.S. Army Corps of Engineers have limited federal authority to address derelict and abandoned vessels. The Coast Guard is charged with responding to vessels that pose a threat to the environment or navigation channels. These threats are usually resolved without removing and disposing of the vessel, such as by

pumping remaining fuel off the boat. The Army Corps has the authority to remove floating or sunken debris, but only if the debris is a hazard to navigation.

Public moorage facility operators, including port districts, cities, counties and the State Parks and Recreation Commission, may move moored vessels ashore if the vessel is in danger of sinking or creating other damage. Costs of moving the vessel must be paid by the vessel's owner. If the owner does not make payment, the vessel is considered abandoned and may be sold at public auction.

**Summary of Amended Bill: Definitions.** A vessel is considered "abandoned" if the owner is not known, and the vessel is left for more than 30 days without the consent of the owner or lessee of the aquatic lands on which the vessel is located. A vessel is "derelict" if the owner is known, but the vessel has been left without permission of the landowner, or has been left for a period of more than seven days and is in danger of sinking, is a threat to life or property, or is obstructing a waterway.

Vessel Removal. A process is established for an authorized public entity to take possession of an abandoned or derelict vessel. The authorized public entity with the primary responsibility is the owner or operator of the moorage facility or aquatic lands where the vessel is located. If the authorized public entity with primary responsibility is unwilling to take possession of the vessel, it may request the Department of Natural Resources to assume the authority. A city or county may request to assume responsibility for a vessel within its jurisdiction.

To take possession of a vessel, the authorized public entity must mail notice to the address of the last known owner of the vessel at least 20 days prior to taking possession; post notice of its intent clearly on the vessel for 30 days prior to taking possession; publish its intent in a local newspaper; and post notice on the Department of Natural Resources web site.

If a vessel is in immediate danger of sinking, an authorized public entity may take temporary possession of the vessel, and then begin notice procedures.

Vessel Disposal. After taking possession of the vessel, the authorized public entity may use or dispose of the vessel in any environmentally sound manner, but must give preference to uses that derive some monetary benefit from the vessel. If the vessel is auctioned, a minimum bid or letter of credit may be required to discourage future abandonment. Proceeds derived from the sale of a vessel must first be applied to the authorized public entity's costs for removal and disposal. Any remaining money must be applied to satisfying any liens against the vessel, with the remainder deposited in the new derelict vessel removal account.

Owner Responsibility. The owner of an abandoned or derelict vessel is responsible for reimbursing the authorized public entity for the costs of removal and disposal of the vessel. If the full costs are not paid to the authorized public entity within 30 days of notifying the owner of the amount owed, the authorized public entity may bring an action in court to recover costs and attorney's fees.

A person who wishes to redeem a vessel that is in custody of an authorized public entity may bring a lawsuit against the authorized public entity within 20 days of when the vessel was taken into custody.

Funding. The derelict vessel removal account is created. A surcharge of \$2 is applied to the existing \$10.50 annual vessel registration fee for deposit in the account. The fee required for a foreign vessel cruising in the United States is raised from \$25 to \$30, with the additional revenue deposited in the derelict vessel removal account. If the balance of the derelict vessel removal account reaches \$1 million as of March 1 of any year, the collection of fees is suspended for the following fiscal year.

Funds in the account may be spent by the Department of Natural Resources, after appropriation, to reimburse authorized public entities for 75 percent of the costs of removal, disposal, and environmental damage of abandoned or derelict vessels, when the previous owner is unknown or insolvent. The 25 percent of the costs of an authorized public entity that are not eligible for reimbursement may be provided using in-kind services. The department must develop informal guidelines that include criteria for funding of removal projects, and guidance on what removal activities and costs are eligible for reimbursement.

Public Moorage Facilities. Public moorage facility operators may follow existing procedures for removal of abandoned or derelict vessels. Moorage facility operators may seek reimbursement from the derelict vessel removal account for costs associated with removal of vessels left at public moorage facilities.

**Ways & Means Amended Bill Compared to Natural Resources, Parks & Shorelines Amended Bill:** The Ways and Means amendment adds to the authorized uses of the Derelict Vessel Removal Account to include administrative expenses of the Department of Licensing and Department of Natural Resources.

**Natural Resources, Parks & Shorelines Amended Bill Compared to Substitute Bill:** The striking amendment adds a procedure to address emergency situations, removes department rule-making authority, and changes the date to suspend the vessel registration fee to conform to the Department of Licensing vessel registration renewal schedule.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on January 1, 2003.

**Testimony For (Natural Resources, Parks & Shorelines):** This bill will provide a framework for orderly removal of derelict vessels. Derelict vessels can pose a threat to the environment, to public safety, and can be an eyesore. Existing legal authorities are unclear, and some jurisdictions are currently unable to act to remove derelict vessels. This bill will provide needed funds to remove these vessels. This will prevent further erosion of public resources.

**Testimony Against (Natural Resources, Parks & Shorelines):** The Department of Natural Resources should be mandated to remove derelict vessels. There should be an emergency clause so a jurisdiction can move a vessel before it sinks or becomes a hazard to navigation.

**Testified (Natural Resources, Parks & Shorelines):** Andrew Tucci, US Coast Guard; PRO: Representative Rockefeller, prime sponsor; John O’Loughlin, City of Tacoma; Tami Allen, David Berry, City of Bainbridge Island; Morris Barker, Dept. of Fish and Wildlife; Duane Fagergren, Puget Sound Water Quality Action Team; Loren Stern, DNR; Eric Johnson, WA Public Ports Assn.; Sharon Case, City of Olympia (pro w/concerns).

**Testimony For (Ways & Means):** The bill creates needed authority to deal with derelict and abandoned vessels. It’s important that a minimum bid be established for disposing of the vessels in order to get them out of circulation.

**Testimony Against (Ways & Means):** None.

**Testified (Ways & Means):** PRO: Eric Johnson, WA Public Ports Assn.; Phil Watkins, City of Bainbridge Island.