
HOUSE BILL 2376

State of Washington

57th Legislature

2002 Regular Session

By Representatives Rockefeller, Doumit, Eickmeyer, Dickerson, Hunt, Lantz, Edwards, Romero, Haigh, McDermott and Jackley

Read first time 01/16/2002. Referred to Committee on Natural Resources.

1 AN ACT Relating to abandoned and derelict vessels; amending RCW
2 88.02.030, 88.02.050, 79A.65.010, 79A.65.020, 79A.65.030, and
3 53.08.320; adding a new section to chapter 35.21 RCW; adding a new
4 section to chapter 35A.21 RCW; adding a new section to chapter 36.32
5 RCW; adding a new section to chapter 53.08 RCW; adding a new section to
6 chapter 77.12 RCW; adding a new chapter to Title 79 RCW; and
7 prescribing penalties.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that there has been an
10 increase in the number of derelict and abandoned vessels that are
11 either grounded or anchored upon publicly or privately owned submerged
12 lands. These vessels are public nuisances and safety hazards as they
13 often pose hazards to navigation, detract from the aesthetics of
14 Washington's waterways, and threaten the environment with the potential
15 release of hazardous materials. The legislature further finds that the
16 costs associated with the disposal of derelict and abandoned vessels
17 are substantial, and that in many cases there is no way to track down
18 the current vessel owners in order to seek compensation. As a result,

1 the costs associated with the removal of derelict vessels becomes a
2 burden on public entities and the taxpaying public.

3 NEW SECTION. **Sec. 2.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires otherwise.

5 (1) "Abandoned vessel" means the vessel's owner is not known or
6 cannot be located, or if the vessel's owner is known and located but is
7 unwilling to take control of the vessel, and the vessel has been left,
8 moored, or anchored in the same area without the express consent of the
9 owner or lessee of the aquatic lands below or on which the vessel is
10 located for either a period of more than thirty consecutive days or for
11 more than a total of ninety days in any three hundred sixty-five day
12 period. For the purposes of this subsection (1) only:

13 (a) "In the same area" means within a radius of five miles of any
14 location where the vessel was previously moored or anchored on aquatic
15 lands; and

16 (b) "Abandoned vessel" does not include a vessel left unattended at
17 a moorage facility, as that term is defined in RCW 53.08.310.

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

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

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

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

30 (a) Has been moored, anchored, or otherwise left in the waters of
31 the state or on public property contrary to RCW 79.01.760 or rules
32 adopted by the department;

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

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

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

37 (ii) Is obstructing a waterway; or

38 (iii) Is endangering life or property.

1 "Derelict vessel" does not include a vessel left unattended at a
2 moorage facility, as that term is defined in RCW 53.08.310.

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

8 (7) "Vessel" means every watercraft, barge, or part thereof
9 constructed, used, or capable of being used as a means of
10 transportation on the water.

11 NEW SECTION. **Sec. 3.** It is unlawful for a person, firm,
12 corporation, or public entity to leave an abandoned or derelict vessel
13 upon aquatic lands in this state. If the owner or operator of a vessel
14 previously thought to be abandoned is located, the owner or operator of
15 the vessel must be given a reasonable opportunity to obtain proper
16 authorization to relocate the vessel onto publicly owned aquatic lands,
17 either through relocation to a marina or in accordance with RCW
18 79.90.105.

19 NEW SECTION. **Sec. 4.** (1) An authorized public entity has the
20 authority, subject to the processes and limitations of this chapter, to
21 store, strip, use, auction, sell, salvage, scrap, or dispose of an
22 abandoned or derelict vessel existing on or above aquatic lands within
23 the jurisdiction of the authorized public entity. A vessel disposal
24 must be done in an environmentally sound manner and in accordance with
25 all federal, state, and local laws. Scuttling or sinking of a vessel
26 is only permissible after obtaining the express permission of the owner
27 or owners of the aquatic lands below where the scuttling or sinking
28 would occur.

29 (2) If an authorized public entity is unwilling or unable to
30 exercise the authority granted by this section within a reasonable
31 period of time, the department may at its discretion assume the
32 authorized public entity's authority for a particular vessel.

33 (3) The authority granted by this chapter is permissive, and no
34 authorized public entity has a duty or responsibility to exercise the
35 authority.

1 (4) The department may adopt rules that are consistent with this
2 chapter and necessary to administer the authority granted by this
3 section.

4 NEW SECTION. **Sec. 5.** (1) Prior to exercising the authority
5 granted in section 4 of this act, the authorized public entity must
6 first obtain custody of the vessel. To do so, the authorized public
7 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; and

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.

19 (2) All notices sent, posted, or published in accordance with this
20 section must, at a minimum, explain the intent of the authorized public
21 entity to take custody of the vessel, the rights of the authorized
22 public entity after taking custody of the vessel as provided in section
23 4 of this act, the procedures the owner must follow in order to avoid
24 custody being taken by the authorized public entity, the procedures the
25 owner must follow in order to reclaim possession after custody is taken
26 by the authorized public entity, and the financial liabilities that the
27 owner may incur as provided for in section 8 of this act.

28 NEW SECTION. **Sec. 6.** Custody of the vessel may be taken with no
29 reimbursement to a previously or subsequently identified owner if the
30 vessel is not purposefully moved from the authorized public entity's
31 property and relocated to a permissible location within the prescribed
32 times of the notification efforts established in section 5 of this act.
33 The authorized public entity must be held harmless for any liability
34 that may arise by merely taking possession or ownership of the vessel,
35 including, but not limited to, liability under chapter 70.105D RCW.

1 NEW SECTION. **Sec. 7.** (1) After taking custody of a vessel, the
2 authorized public entity may use or dispose of the vessel in any
3 appropriate and environmentally sound manner without further notice to
4 any owners, but must give preference to uses that derive some monetary
5 benefit from the vessel, either in whole or in scrap. If no value can
6 be derived from the vessel, the authorized public entity must give
7 preference to the least costly, environmentally sound, reasonable
8 disposal option.

9 (2) If the authorized public entity chooses to offer the vessel at
10 a public auction, either a minimum bid may be set or a letter of credit
11 may be required, or both, to discourage future reabandonment of the
12 vessel.

13 (3) Proceeds derived from the sale of the vessel must first be
14 applied to any administrative costs that are incurred by the authorized
15 public entity during the notification procedures set forth in section
16 5 of this act, removal and disposal costs, and costs associated with
17 environmental damages directly or indirectly caused by the vessel. If
18 the proceeds derived from the vessel exceed all administrative costs,
19 removal and disposal costs, and costs associated with environmental
20 damages directly or indirectly caused by the vessel, the remaining
21 moneys must first be applied to satisfying any liens registered against
22 the vessel, with the remainder, if any, to be credited to amounts owed
23 for reimbursement of costs to the authorized public entity by the
24 previous owner as described in section 8 of this act.

25 (4) Previous owners of the vessel may not be credited with more
26 money than they owe. Any value derived from a vessel greater than all
27 liens and costs incurred reverts to the derelict vessel removal account
28 established in section 14 of this act.

29 NEW SECTION. **Sec. 8.** (1) The owner of an abandoned or derelict
30 vessel is responsible for reimbursing an authorized public entity for
31 all costs associated with the removal or disposal of the owner's vessel
32 under this chapter. These costs include, but are not limited to, costs
33 incurred exercising the authority granted in section 4 of this act, all
34 administrative costs incurred by the authorized public entity during
35 the procedure set forth in section 5 of this act, removal and disposal
36 costs, and costs associated with environmental damages directly or
37 indirectly caused by the vessel.

1 (2) In addition to the reimbursement of costs due under subsection
2 (1) of this section, the current owner must be assessed a fine by the
3 department that is equal to the removal and disposal costs incurred by
4 the authorized public entity that removes the vessel. Moneys collected
5 under this subsection (2) must be deposited in the derelict vessel
6 removal account established in section 14 of this act.

7 (3) Reimbursement for cost and collections of the fine may be
8 sought from an owner who is identified subsequent to the vessel's
9 removal and disposal.

10 (4) If the full amount of all costs and fines due to the authorized
11 public entity under this chapter is not paid to the authorized public
12 entity within thirty days after first notifying the responsible parties
13 of the amounts owed, the authorized public entity or the department may
14 bring an action in any court of competent jurisdiction to recover the
15 costs and fines, plus reasonable attorneys' fees and costs incurred by
16 the authorized public entity.

17 NEW SECTION. **Sec. 9.** Either prior to or after taking custody of
18 a vessel, an authorized public entity may take any necessary actions in
19 compliance with state and federal law to reduce, control, abate, or
20 eliminate water pollution, contamination, or debris originating from
21 the vessel, or remove any hazards to navigation caused by the vessel.
22 This includes, but is not limited to, requesting any available
23 assistance from federal agencies.

24 NEW SECTION. **Sec. 10.** (1) An authorized public entity seeking to
25 exert the authority provided in this chapter must provide a salvage and
26 disposal plan to the department. The plan must include an estimate of
27 costs for removal and describe why the vessel needs to be removed. The
28 plan must be approved by the department before the authorized public
29 entity may begin a removal operation on a derelict or abandoned vessel.

30 (2) An authorized public entity may enter into a contract with a
31 private company or individual to carry out the authority granted in
32 this chapter.

33 NEW SECTION. **Sec. 11.** The department has the authority, subject
34 to the limitations and procedures outlined in this chapter, to remove
35 and dispose of abandoned or derelict vessels that are located on
36 private property. The owner or lessee of affected private property

1 may petition the department to remove the vessel. If the department
2 denies the request, or fails to respond within thirty days, the
3 sheriff's department for the county in which the vessel is located is
4 authorized to remove and dispose of the vessel following the procedures
5 set forth in this chapter.

6 NEW SECTION. **Sec. 12.** The rights granted by this chapter are in
7 addition to any other legal rights an authorized public entity may have
8 to obtain title to, remove, recover, sell, or dispose of an abandoned
9 or derelict vessel, and in no way does this chapter alter those rights,
10 or affect the priority of other liens on a vessel.

11 NEW SECTION. **Sec. 13.** A person seeking to redeem a vessel that is
12 in the custody of an authorized public entity may commence a lawsuit to
13 contest the authorized public entity's decision to take custody of the
14 vessel or to contest the amount of reimbursement or fines owed. The
15 lawsuit must be commenced in the superior court of the county in which
16 the vessel existed prior to custody being taken by the authorized
17 public entity. The lawsuit must be commenced within ten days of the
18 date the authorized public entity took custody of the vessel under
19 section 5 of this act, or the right to a hearing is deemed waived and
20 the vessel's owner is liable for any costs or fines owed the authorized
21 public entity. In the event of litigation, the prevailing party is
22 entitled to reasonable attorneys' fees and costs.

23 NEW SECTION. **Sec. 14.** (1) The derelict vessel removal account is
24 created in the custody of the state treasury. All receipts from
25 sections 7 and 8 of this act and those moneys specified in RCW
26 88.02.030 and 88.02.050 must be deposited into the account, along with
27 any other gifts, grants, reversions, or appropriations. Expenditures
28 from the account may only be used to reimburse authorized public
29 entities for the administrative, removal, disposal, and environmental
30 damage costs of abandoned or derelict vessels when the previous owner
31 is either unknown after a reasonable search effort or insolvent. Only
32 the commissioner of public lands, or the commissioner's designee, may
33 authorize expenditures from the account. The account is subject to
34 allotment procedures under chapter 43.88 RCW, but an appropriation is
35 not required for expenditures.

1 (2) If the balance of the account reaches fifteen million dollars
2 as of June 30th of any year, the collection of any fees associated with
3 this account must be suspended for the following fiscal year.

4 (3) Priority for use of this account is for the removal of derelict
5 and abandoned vessels that are in danger of sinking, breaking up, or
6 blocking navigation channels, or that present environmental risks such
7 as leaking fuel or other hazardous substances. The department must
8 develop criteria to prioritize removal projects associated with this
9 chapter.

10 (4) The department may expend from this account the amounts
11 available, and as it considers appropriate, for the complete or partial
12 payment of the removal and disposal of derelict or abandoned vessels,
13 and may transfer moneys to other authorized public entities for the
14 complete or partial removal and disposal of derelict and abandoned
15 vessels.

16 **Sec. 15.** RCW 88.02.030 and 1998 c 198 s 1 are each amended to read
17 as follows:

18 Vessel registration is required under this chapter except for the
19 following:

20 (1) Military or public vessels of the United States, except
21 recreational-type public vessels;

22 (2) Vessels owned by a state or subdivision thereof, used
23 principally for governmental purposes and clearly identifiable as such;

24 (3) Vessels either (a) registered or numbered under the laws of a
25 country other than the United States; or (b) having a valid United
26 States customs service cruising license issued pursuant to 19 C.F.R.
27 Sec. 4.94. On or before the sixty-first day of use in the state, any
28 vessel in the state under this subsection shall obtain an
29 identification document from the department of licensing, its agents,
30 or subagents indicating when the vessel first came into the state. At
31 the time of any issuance of an identification document, a (~~twenty-~~
32 ~~five~~) thirty dollar identification document fee shall be paid by the
33 vessel owner to the department of licensing for the cost of providing
34 the identification document by the department of licensing. Five
35 dollars from each such transaction must be deposited in the derelict
36 vessel removal account created in section 14 of this act. Any moneys
37 remaining from the fee after the payment of costs and the deposit to
38 the derelict vessel removal account shall be allocated to counties by

1 the state treasurer for approved boating safety programs under RCW
2 88.02.045. The department of licensing shall adopt rules to implement
3 its duties under this subsection, including issuing and displaying the
4 identification document and collecting the (~~twenty-five~~) thirty
5 dollar fee;

6 (4) Vessels that have been issued a valid number under federal law
7 or by an approved issuing authority of the state of principal
8 operation. However, a vessel that is validly registered in another
9 state but that is removed to this state for principal use is subject to
10 registration under this chapter. The issuing authority for this state
11 shall recognize the validity of the numbers previously issued for a
12 period of sixty days after arrival in this state;

13 (5) Vessels owned by a nonresident if the vessel is located upon
14 the waters of this state exclusively for repairs, alteration, or
15 reconstruction, or any testing related to the repair, alteration, or
16 reconstruction conducted in this state if an employee of the repair,
17 alteration, or construction facility is on board the vessel during any
18 testing(~~(:—PROVIDED, That)~~). However, any vessel owned by a
19 nonresident is located upon the waters of this state exclusively for
20 repairs, alteration, reconstruction, or testing for a period longer
21 than sixty days, that the nonresident shall file an affidavit with the
22 department of revenue verifying the vessel is located upon the waters
23 of this state for repair, alteration, reconstruction, or testing and
24 shall continue to file such affidavit every sixty days thereafter,
25 while the vessel is located upon the waters of this state exclusively
26 for repairs, alteration, reconstruction, or testing;

27 (6) Vessels equipped with propulsion machinery of less than ten
28 horsepower that:

29 (a) Are owned by the owner of a vessel for which a valid vessel
30 number has been issued;

31 (b) Display the number of that numbered vessel followed by the
32 suffix "1" in the manner prescribed by the department; and

33 (c) Are used as a tender for direct transportation between that
34 vessel and the shore and for no other purpose;

35 (7) Vessels under sixteen feet in overall length which have no
36 propulsion machinery of any type or which are not used on waters
37 subject to the jurisdiction of the United States or on the high seas
38 beyond the territorial seas for vessels owned in the United States and
39 are powered by propulsion machinery of ten or less horsepower;

1 (8) Vessels with no propulsion machinery of any type for which the
2 primary mode of propulsion is human power;

3 (9) Vessels primarily engaged in commerce which have or are
4 required to have a valid marine document as a vessel of the United
5 States. Commercial vessels which the department of revenue determines
6 have the external appearance of vessels which would otherwise be
7 required to register under this chapter, must display decals issued
8 annually by the department of revenue that indicate the vessel's exempt
9 status;

10 (10) Vessels primarily engaged in commerce which are owned by a
11 resident of a country other than the United States; and

12 (11) On and after January 1, 1998, vessels owned by a nonresident
13 individual brought into the state for his or her use or enjoyment while
14 temporarily within the state for not more than six months in any
15 continuous twelve-month period, unless the vessel is used in conducting
16 a nontransitory business activity within the state. However, the
17 vessel must have been issued a valid number under federal law or by an
18 approved issuing authority of the state of principal operation. On or
19 before the sixty-first day of use in the state, any vessel temporarily
20 in the state under this subsection shall obtain an identification
21 document from the department of licensing, its agents, or subagents
22 indicating when the vessel first came into the state. An
23 identification document shall be valid for a period of two months. At
24 the time of any issuance of an identification document, a twenty-five
25 dollar identification document fee shall be paid by the vessel owner to
26 the department of licensing for the cost of providing the
27 identification document by the department of licensing. Any moneys
28 remaining from the fee after payment of costs shall be allocated to
29 counties by the state treasurer for approved boating safety programs
30 under RCW 88.02.045. The department of licensing shall adopt rules to
31 implement its duties under this subsection, including issuing and
32 displaying the identification document and collecting the twenty-five
33 dollar fee.

34 **Sec. 16.** RCW 88.02.050 and 1993 c 244 s 38 are each amended to
35 read as follows:

36 Application for a vessel registration shall be made to the
37 department or its authorized agent in the manner and upon forms
38 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. In addition, two additional dollars must be collected annually
6 from every vessel registration application. These moneys must be
7 deposited into the derelict vessel removal account established in
8 section 14 of this act. If the department of natural resources
9 indicates that the balance of the derelict vessel removal account
10 reaches fifteen million dollars as of June 30th of any year, the
11 collection of the two-dollar fee must be suspended for the following
12 fiscal year. Any fees required for licensing agents under RCW
13 46.01.140 shall be in addition to the ten dollar and fifty cent annual
14 registration fee and the two-dollar derelict vessel fee.

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

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

34 When the department issues either a notice to renew a vessel
35 registration or a decal for a new or renewed vessel registration, it
36 shall also provide information on the location of marine oil recycling
37 tanks and sewage holding tank pumping stations. This information will
38 be provided to the department by the state parks and recreation
39 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. 17.** A new section is added to chapter 35.21 RCW
11 to read as follows:

12 Any city or town has the authority, subject to the processes and
13 limitation outlined in chapter 79.-- RCW (sections 1 through 14 of this
14 act), to store, strip, use, auction, sell, salvage, scrap, or dispose
15 of an abandoned or derelict vessel existing on or above publicly or
16 privately owned aquatic lands within the jurisdiction of the city or
17 town.

18 NEW SECTION. **Sec. 18.** A new section is added to chapter 35A.21
19 RCW to read as follows:

20 A code city has the authority, subject to the processes and
21 limitation outlined in chapter 79.-- RCW (sections 1 through 14 of this
22 act), to store, strip, use, auction, sell, salvage, scrap, or dispose
23 of an abandoned or derelict vessel existing on or above publicly or
24 privately owned aquatic lands within the jurisdiction of the code city.

25 NEW SECTION. **Sec. 19.** A new section is added to chapter 36.32 RCW
26 to read as follows:

27 A county has the authority, subject to the processes and limitation
28 outlined in chapter 79.-- RCW (sections 1 through 14 of this act), to
29 store, strip, use, auction, sell, salvage, scrap, or dispose of an
30 abandoned or derelict vessel existing on or above publicly or privately
31 owned aquatic lands within the jurisdiction of the county.

32 NEW SECTION. **Sec. 20.** A new section is added to chapter 53.08 RCW
33 to read as follows:

34 A port district has the authority, subject to the processes and
35 limitation outlined in chapter 79.-- RCW (sections 1 through 14 of this

1 act), to store, strip, use, auction, sell, salvage, scrap, or dispose
2 of an abandoned or derelict vessel existing on or above publicly or
3 privately owned aquatic lands within the jurisdiction of the port
4 district.

5 NEW SECTION. **Sec. 21.** A new section is added to chapter 77.12 RCW
6 to read as follows:

7 The director has the authority, subject to the processes and
8 limitation outlined in chapter 79.-- RCW (sections 1 through 14 of this
9 act), to store, strip, use, auction, sell, salvage, scrap, or dispose
10 of an abandoned or derelict vessel existing on or above publicly or
11 privately owned aquatic lands within the jurisdiction of the
12 department.

13 **Sec. 22.** RCW 79A.65.010 and 2000 c 11 s 115 are each amended to
14 read as follows:

15 Unless the context clearly requires otherwise, the definitions in
16 this section apply throughout this chapter.

17 (1) "Charges" means charges of the commission for moorage and
18 storage, and all other charges related to the vessel and owing to or
19 that become owing to the commission, including but not limited to costs
20 of securing, disposing, or removing vessels, damages to any commission
21 facility, and any costs of sale and related legal expenses for
22 implementing RCW 79A.65.020 and 79A.65.030.

23 (2) "Commission" means the Washington state parks and recreation
24 commission.

25 (3) "Commission facility" means any (~~property or~~) moorage
26 facility, as that term is defined in RCW 53.08.310, owned, leased,
27 operated, managed, or otherwise controlled by the commission or by a
28 person pursuant to a contract with the commission.

29 (4) "Owner" means a person who has a lawful right to possession of
30 a vessel by purchase, exchange, gift, lease, inheritance, or legal
31 action whether or not the vessel is subject to a security interest, and
32 shall not include the holder of a bona fide security interest.

33 (5) "Person" means any natural person, firm, partnership,
34 corporation, association, organization, or any other entity.

35 (6)(a) "Registered owner" means any person that is either: (i)
36 Shown as the owner in a vessel certificate of documentation issued by
37 the secretary of the United States department of transportation under

1 46 U.S.C. Sec. 12103; or (ii) the registered owner or legal owner of a
2 vessel for which a certificate of title has been issued under chapter
3 88.02 RCW; or (iii) the owner of a vessel registered under the vessel
4 registration laws of another state under which laws the commission can
5 readily identify the ownership of vessels registered with that state.

6 (b) "Registered owner" also includes: (i) Any holder of a security
7 interest or lien recorded with the United States department of
8 transportation with respect to a vessel on which a certificate of
9 documentation has been issued; (ii) any holder of a security interest
10 identified in a certificate of title for a vessel registered under
11 chapter 88.02 RCW; or (iii) any holder of a security interest in a
12 vessel where the holder is identified in vessel registration
13 information of a state with vessel registration laws that fall within
14 (a)(iii) of this subsection and under which laws the commission can
15 readily determine the identity of the holder.

16 (c) "Registered owner" does not include any vessel owner or holder
17 of a lien or security interest in a vessel if the vessel does not have
18 visible information affixed to it (such as name and hailing port or
19 registration numbers) that will enable the commission to obtain
20 ownership information for the vessel without incurring unreasonable
21 expense.

22 (7) "Registered vessel" means a vessel having a registered owner.

23 (8) "Secured vessel" means any vessel that has been secured by the
24 commission that remains in the commission's possession and control.

25 (9) "Unauthorized vessel" means a vessel using a commission
26 facility of any type whose owner has not paid the required moorage fees
27 or has left the vessel beyond the posted time limits, or a vessel
28 otherwise present without permission of the commission.

29 (10) "Vessel" means every watercraft or part thereof constructed,
30 used, or capable of being used as a means of transportation on the
31 water. It includes any equipment or personal property on the vessel
32 that is used or capable of being used for the operation, navigation, or
33 maintenance of the vessel.

34 **Sec. 23.** RCW 79A.65.020 and 1994 c 51 s 2 are each amended to read
35 as follows:

36 (1) The commission may take reasonable measures, including but not
37 limited to the use of anchors, chains, ropes, and locks, or removal
38 from the water, to secure unauthorized vessels located at or on a

1 commission facility so that the unauthorized vessels are in the
2 possession and control of the commission. At least ten days before
3 securing any unauthorized registered vessel, the commission shall send
4 notification by registered mail to the last registered owner or
5 registered owners of the vessel at their last known address or
6 addresses.

7 (2) The commission may take reasonable measures, including but not
8 limited to the use of anchors, chains, ropes, locks, or removal from
9 the water, to secure any vessel if the vessel, in the opinion of the
10 commission, is a nuisance, is in danger of sinking or creating other
11 damage to a commission facility, or is otherwise a threat to the
12 health, safety, or welfare of the public or environment at a commission
13 facility. The costs of any such procedure shall be paid by the
14 vessel's owner.

15 (3) At the time of securing any vessel under subsection (1) or (2)
16 of this section, the commission shall attach to the vessel a readily
17 visible notice or, when practicable, shall post such notice in a
18 conspicuous location at the commission facility in the event the vessel
19 is removed from the premises. The notice shall be of a reasonable size
20 and shall contain the following information:

21 (a) The date and time the notice was attached or posted;

22 (b) A statement that the vessel has been secured by the commission
23 and that if the commission's charges, if any, are not paid and the
24 vessel is not removed by (the thirty-fifth consecutive day
25 following the date of attachment or posting of the notice), the vessel
26 will be considered abandoned and will be sold at public auction to
27 satisfy the charges;

28 (c) The address and telephone number where additional information
29 may be obtained concerning the securing of the vessel and conditions
30 for its release; and

31 (d) A description of the owner's or secured party's rights under
32 this chapter.

33 (4) With respect to registered vessels: Within five days of the
34 date that notice is attached or posted under subsection (3) of this
35 section, the commission shall send such notice, by registered mail, to
36 each registered owner.

37 (5) If a vessel is secured under subsection (1) or (2) of this
38 section, the owner, or any person with a legal right to possess the
39 vessel, may claim the vessel by:

1 (a) Making arrangements satisfactory to the commission for the
2 immediate removal of the vessel from the commission's control or for
3 authorized storage or moorage; and

4 (b) Making payment to the commission of all reasonable charges
5 incurred by the commission in securing the vessel under subsections (1)
6 and (2) of this section and of all moorage fees owed to the commission.

7 (6) A vessel is considered abandoned if, within the thirty-five day
8 period following the date of attachment or posting of notice in
9 subsection (3) of this section, the vessel has not been claimed under
10 subsection (5) of this section.

11 (7) If the owner or owners of a vessel are unable to reimburse the
12 commission for all reasonable charges under subsections (1) and (2) of
13 this section within a reasonable time, the commission may seek
14 reimbursement from the derelict vessel removal account established in
15 section 14 of this act.

16 **Sec. 24.** RCW 79A.65.030 and 2000 c 11 s 116 are each amended to
17 read as follows:

18 (1) The commission may provide for the public sale of vessels
19 considered abandoned under RCW 79A.65.020. At such sales, the vessels
20 shall be sold for cash to the highest and best bidder. The commission
21 may establish either a minimum bid or require a letter of credit, or
22 both, to discourage the future reabandonment of the vessel.

23 (2) Before a vessel is sold, the commission shall make a reasonable
24 effort to provide notice of sale, at least twenty days before the day
25 of the sale, to each registered owner of a registered vessel and each
26 owner of an unregistered vessel. The notice shall contain the time and
27 place of the sale, a reasonable description of the vessel to be sold,
28 and the amount of charges then owing with respect to the vessel, and a
29 summary of the rights and procedures under this chapter. A notice of
30 sale shall be published at least once, more than ten but not more than
31 twenty days before the sale, in a newspaper of general circulation in
32 the county in which the commission facility is located. This notice
33 shall include: (a) If known, the name of the vessel and the last owner
34 and the owner's address; and (b) a reasonable description of the
35 vessel. The commission may bid all or part of its charges at the sale
36 and may become a purchaser at the sale.

37 (3) Before a vessel is sold, any person seeking to redeem a secured
38 vessel may commence a lawsuit in the superior court for the county in

1 which the vessel was secured to contest the commission's decision to
2 secure the vessel or the amount of charges owing. This lawsuit shall
3 be commenced within fifteen days of the date the notification was
4 posted under RCW 79A.65.020(3), or the right to a hearing is deemed
5 waived and the owner is liable for any charges owing the commission.
6 In the event of litigation, the prevailing party is entitled to
7 reasonable attorneys' fees and costs.

8 (4) The proceeds of a sale under this section shall be applied
9 first to the payment of the amount of the reasonable charges incurred
10 by the commission and moorage fees owed to the commission, then to the
11 owner or to satisfy any liens of record or security interests of record
12 on the vessel in the order of their priority. If an owner cannot in
13 the exercise of due diligence be located by the commission within one
14 year of the date of the sale, any excess funds from the sale, following
15 the satisfaction of any bona fide security interest, shall revert to
16 the ((department of revenue under chapter 63.29 RCW)) derelict vessel
17 removal account established in section 14 of this act. If the sale is
18 for a sum less than the applicable charges, the commission is entitled
19 to assert a claim for the deficiency against the vessel owner. Nothing
20 in this section prevents any lien holder or secured party from
21 asserting a claim for any deficiency owed the lien holder or secured
22 party.

23 (5) If no one purchases the vessel at a sale, the commission may
24 proceed to properly dispose of the vessel in any way the commission
25 considers appropriate, including, but not limited to, destruction of
26 the vessel or by negotiated sale. The commission may assert a claim
27 against the owner for any charges incurred thereby. If the vessel, or
28 any part of the vessel, or any rights to the vessel, are sold under
29 this subsection, any proceeds from the sale shall be distributed in the
30 manner provided in subsection (4) of this section.

31 **Sec. 25.** RCW 53.08.320 and 1986 c 260 s 2 are each amended to read
32 as follows:

33 A moorage facility operator may adopt all ((regulations)) rules
34 necessary for rental and use of moorage facilities and for the
35 expeditious collection of port charges. The ((regulations)) rules may
36 also establish procedures for the enforcement of these ((regulations))
37 rules by port district, city, county, metropolitan park district or
38 town personnel. The ((regulations)) rules shall include the following:

1 (1) Procedures authorizing moorage facility personnel to take
2 reasonable measures, including the use of chains, ropes, and locks, or
3 removal from the water, to secure vessels within the moorage facility
4 so that the vessels are in the possession and control of the moorage
5 facility operator and cannot be removed from the moorage facility.
6 These procedures may be used if an owner mooring or storing a vessel at
7 the moorage facility fails, after being notified that charges are owing
8 and of the owner's right to commence legal proceedings to contest that
9 such charges are owing, to pay the port charges owed or to commence
10 legal proceedings. Notification shall be by registered mail to the
11 owner at his or her last known address. In the case of a transient
12 vessel, or where no address was furnished by the owner, the moorage
13 facility operator need not give such notice prior to securing the
14 vessel. At the time of securing the vessel, an authorized moorage
15 facility employee shall attach to the vessel a readily visible notice.
16 The notice shall be of a reasonable size and shall contain the
17 following information:

18 (a) The date and time the notice was attached;

19 (b) A statement that if the account is not paid in full within
20 ninety days from the time the notice is attached, the vessel may be
21 sold at public auction to satisfy the port charges; and

22 (c) The address and telephone number where additional information
23 may be obtained concerning release of the vessel.

24 After a vessel is secured, the operator shall make a reasonable
25 effort to notify the owner by registered mail in order to give the
26 owner the information contained in the notice.

27 (2) Procedures authorizing moorage facility personnel at their
28 discretion to move moored vessels ashore for storage within properties
29 under the operator's control or for storage with private persons under
30 their control as bailees of the moorage facility, if the vessel is, in
31 the opinion of port personnel a nuisance, if the vessel is in danger of
32 sinking or creating other damage, or is owing port charges. Costs of
33 any such procedure shall be paid by the vessel's owner. If the owner
34 is not known, or unable to reimburse the moorage facility operator for
35 the costs of these procedures, the mooring facility operators may seek
36 partial reimbursement from the derelict vessel removal account
37 established in section 14 of this act.

38 (3) If a vessel is secured under subsection (1) of this section or
39 moved ashore under subsection (2) of this section, the owner who is

1 obligated to the moorage facility operator for port charges may regain
2 possession of the vessel by:

3 (a) Making arrangements satisfactory with the moorage facility
4 operator for the immediate removal of the vessel from the moorage
5 facility or for authorized moorage; and

6 (b) Making payment to the moorage facility operator of all port
7 charges, or by posting with the moorage facility operator a sufficient
8 cash bond or other acceptable security, to be held in trust by the
9 moorage facility operator pending written agreement of the parties with
10 respect to payment by the vessel owner of the amount owing, or pending
11 resolution of the matter of the charges in a civil action in a court of
12 competent jurisdiction. After entry of judgment, including any
13 appeals, in a court of competent jurisdiction, or after the parties
14 reach agreement with respect to payment, the trust shall terminate and
15 the moorage facility operator shall receive so much of the bond or
16 other security as is agreed, or as is necessary to satisfy any
17 judgment, costs, and interest as may be awarded to the moorage facility
18 operator. The balance shall be refunded immediately to the owner at
19 his or her last known address.

20 (4) If a vessel has been secured by the moorage facility operator
21 under subsection (1) of this section and is not released to the owner
22 under the bonding provisions of this section within ninety days after
23 notifying or attempting to notify the owner under subsection (1) of
24 this section, the vessel shall be conclusively presumed to have been
25 abandoned by the owner.

26 (5) If a vessel moored or stored at a moorage facility is
27 abandoned, the moorage facility operator may, by resolution of its
28 legislative authority, authorize the public sale of the vessel by
29 authorized personnel to the highest and best bidder for cash as
30 ~~((follows:))~~ prescribed by this subsection (5). Either a minimum bid
31 may be established or a letter of credit may be required, or both, to
32 discourage the future reabandonment of the vessel.

33 (a) Before the vessel is sold, the owner of the vessel shall be
34 given at least twenty days' notice of the sale in the manner set forth
35 in subsection (1) of this section if the name and address of the owner
36 is known. The notice shall contain the time and place of the sale, a
37 reasonable description of the vessel to be sold, and the amount of port
38 charges owed with respect to the vessel. The notice of sale shall be
39 published at least once, more than ten but not more than twenty days

1 before the sale, in a newspaper of general circulation in the county in
2 which the moorage facility is located. Such notice shall include the
3 name of the vessel, if any, the last known owner and address, and a
4 reasonable description of the vessel to be sold. The moorage facility
5 operator may bid all or part of its port charges at the sale and may
6 become a purchaser at the sale((+)).

7 (b) Before the vessel is sold, any person seeking to redeem an
8 impounded vessel under this section may commence a lawsuit in the
9 superior court for the county in which the vessel was impounded to
10 contest the validity of the impoundment or the amount of the port
11 charges owing. Such lawsuit must be commenced within ten days of the
12 date the notification was provided pursuant to subsection (1) of this
13 section, or the right to a hearing shall be deemed waived and the owner
14 shall be liable for any port charges owing the moorage facility
15 operator. In the event of litigation, the prevailing party shall be
16 entitled to reasonable attorneys' fees and costs.

17 (c) The proceeds of a sale under this section shall first be
18 applied to the payment of port charges. The balance, if any, shall be
19 paid to the owner. If the owner cannot in the exercise of due
20 diligence be located by the moorage facility operator within one year
21 of the date of the sale, the excess funds from the sale shall revert to
22 the ((department of revenue pursuant to chapter 63.29 RCW)) derelict
23 vessel removal account established in section 14 of this act. If the
24 sale is for a sum less than the applicable port charges, the moorage
25 facility operator is entitled to assert a claim for a deficiency.

26 (d) In the event no one purchases the vessel at a sale, or a vessel
27 is not removed from the premises or other arrangements are not made
28 within ten days of sale, title to the vessel will revert to the moorage
29 facility operator.

30 (6) The ((regulations)) rules authorized under this section shall
31 be enforceable only if the moorage facility has had its tariff
32 containing such ((regulations)) rules conspicuously posted at its
33 moorage facility at all times.

34 NEW SECTION. **Sec. 26.** Sections 1 through 14 of this act
35 constitute a new chapter in Title 79 RCW.

36 NEW SECTION. **Sec. 27.** If any provision of this act or its
37 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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