

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6044

Chapter 342, Laws of 2007

60th Legislature
2007 Regular Session

DERELICT VESSELS--REMOVAL

EFFECTIVE DATE: 07/22/07 - Except section 6, which becomes effective 06/30/12.

Passed by the Senate April 20, 2007
YEAS 46 NAYS 2

BRAD OWEN

President of the Senate

Passed by the House April 6, 2007
YEAS 91 NAYS 3

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 6044** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

Approved May 7, 2007, 9:54 a.m.

FILED

May 8, 2007

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6044

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

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, 88.02.050, and 88.02.050; adding a new section
3 to chapter 79.100 RCW; adding a new section to chapter 88.02 RCW;
4 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 and
2 appropriations from the general fund, deposits from the derelict vessel
3 removal surcharge under section 7 of this act, as well as gifts,
4 grants, and endowments from public or private sources as may be made
5 from time to time, in trust or otherwise, for the use and benefit of
6 the purposes of this chapter and expend the same or any income
7 according to the terms of the gifts, grants, or endowments provided
8 those terms do not conflict with any provisions of this section or any
9 guidelines developed to prioritize reimbursement of removal projects
10 associated with this chapter. Moneys in the account may only be spent
11 after appropriation. Expenditures from the account shall be used by
12 the department to reimburse authorized public entities for up to ninety
13 percent of the total reasonable and auditable administrative, removal,
14 disposal, and environmental damage costs of abandoned or derelict
15 vessels when the previous owner is either unknown after a reasonable
16 search effort or insolvent. Reimbursement shall not be made unless the
17 department determines that the public entity has made reasonable
18 efforts to identify and locate the party responsible for the vessel,
19 regardless of the title of owner of the vessel. Funds in the account
20 resulting from transfers from the general fund or from the deposit of
21 funds from the watercraft excise tax as provided for under RCW
22 82.49.030 shall be used to reimburse one hundred percent of these costs
23 and should be prioritized for the removal of large vessels. Costs
24 associated with removal and disposal of an abandoned or derelict vessel
25 under the authority granted in RCW 53.08.320 also qualify for
26 reimbursement from the derelict vessel removal account. In each
27 biennium, up to twenty percent of the expenditures from the account may
28 be used for administrative expenses of the department of licensing and
29 department of natural resources in implementing this chapter.

30 (2) If the balance of the account reaches one million dollars as of
31 March 1st of any year, exclusive of any transfer or appropriation of
32 funds into the account or funds deposited into the account collected
33 under section 7 of this act, the department must notify the department
34 of licensing and the collection of any fees associated with this
35 account must be suspended for the following fiscal year.

36 (3) Priority for use of this account is for the removal of derelict
37 and abandoned vessels that are in danger of sinking, breaking up, or
38 blocking navigation channels, or that present environmental risks such

1 as leaking fuel or other hazardous substances. The department must
2 develop criteria, in the form of informal guidelines, to prioritize
3 removal projects associated with this chapter, but may not consider
4 whether the applicant is a state or local entity when prioritizing.
5 The guidelines must also include guidance to the authorized public
6 entities as to what removal activities and associated costs are
7 reasonable and eligible for reimbursement.

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

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

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

30 **Sec. 5.** RCW 88.02.050 and 2005 c 464 s 2 are each amended to read
31 as follows:

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

1 and shall be accompanied by a vessel registration fee of ten dollars
2 and fifty cents per year and the excise tax imposed under chapter 82.49
3 RCW.

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

7 (a) Two dollars must be deposited into the derelict vessel removal
8 account established in RCW 79.100.100. If the department of natural
9 resources indicates that the balance of the derelict vessel removal
10 account, not including any transfer or appropriation of funds into the
11 account or funds deposited into the account collected under section 7
12 of this act, reaches one million dollars as of March 1st of any year,
13 the collection of the two-dollar fee must be suspended for the
14 following fiscal year.

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

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

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

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

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

33 (5) The vessel registrations and decals are valid for a period of
34 one year, except that the director of licensing may extend or diminish
35 vessel registration periods, and the decals therefor, for the purpose
36 of staggered renewal periods. For registration periods of more or less
37 than one year, the department may collect prorated annual registration
38 fees and excise taxes based upon the number of months in the

1 registration period. Vessel registrations are renewable every year in
2 a manner prescribed by the department upon payment of the vessel
3 registration fee, excise tax, and the derelict vessel fee. Upon
4 renewing a vessel registration, the department shall issue a new decal
5 to be affixed as prescribed by the department.

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

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

21 **Sec. 6.** RCW 88.02.050 and 2002 c 286 s 13 are each amended to read
22 as follows:

23 Application for a vessel registration shall be made to the
24 department or its authorized agent in the manner and upon forms
25 prescribed by the department. The application shall state the name and
26 address of each owner of the vessel and such other information as may
27 be required by the department, shall be signed by at least one owner,
28 and shall be accompanied by a vessel registration fee of ten dollars
29 and fifty cents per year and the excise tax imposed under chapter 82.49
30 RCW. In addition, two additional dollars must be collected annually
31 from every vessel registration application. These moneys must be
32 deposited into the derelict vessel removal account established in RCW
33 79.100.100. If the department of natural resources indicates that the
34 balance of the derelict vessel removal account, not including any
35 transfer or appropriation of funds into the account or funds deposited
36 into the account collected under section 7 of this act, reaches one
37 million dollars as of March 1st of any year, the collection of the two-

1 dollar fee must be suspended for the following fiscal year. Any fees
2 required for licensing agents under RCW 46.01.140 shall be in addition
3 to the ten dollar and fifty cent annual registration fee and the two-
4 dollar derelict vessel fee.

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

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

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

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

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 88.02 RCW
2 to read as follows:

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

7 (2) In addition to the fees collected under RCW 88.02.050, the
8 department shall collect an annual derelict vessel removal surcharge of
9 one dollar effective with vessel registrations that are due or will
10 become due on or after January 1, 2008. The revenue generated from the
11 derelict vessel surcharge must be deposited into the derelict vessel
12 removal account established under RCW 79.100.100, and is to be used
13 only for the removal of vessels that are less than seventy-five feet in
14 length.

15 (3) This section expires January 1, 2014.

16 NEW SECTION. **Sec. 8.** (1) 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 (a) 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 (b) 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 (2) The department of natural resources, the department of ecology,
28 representatives from the ship demolition industry, and representatives
29 from the environmental community shall convene a work group to discuss
30 operations and permitting requirements surrounding the demolition and
31 disposal of large abandoned and derelict vessels. The department of
32 natural resources shall consider the findings of the work group when
33 updating the guidelines for the derelict vessel program.

34 NEW SECTION. **Sec. 9.** Section 5 of this act expires June 30, 2012.

1 NEW SECTION. **Sec. 10.** Section 6 of this act takes effect June 30,
2 2012.

Passed by the Senate April 20, 2007.

Passed by the House April 6, 2007.

Approved by the Governor May 7, 2007.

Filed in Office of Secretary of State May 8, 2007.