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**SUBSTITUTE HOUSE BILL 2769**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** House Rural Development, Agriculture, & Natural Resources (originally sponsored by Representatives Lekanoff, Blake, Lovick, Shewmake, Ramel, Fitzgibbon, Cody, and Tharinger; by request of Department of Natural Resources)

AN ACT Relating to the prevention of derelict vessels; amending RCW 79.100.160, 79.100.150, 79.100.170, 88.02.380, and 79.10.130; creating new sections; making appropriations; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature finds that the derelict vessel removal program has been an extremely effective and successful tool since its inception in 2003, but recognizes that derelict vessels continue to be a critical problem for the waters of the state. Derelict vessels generate costs to taxpayers, impede the recreational enjoyment of waters, pose navigational safety hazards, and contaminate the environment, thereby impacting the health of Puget Sound and the habitat of imperiled species such as salmon and orcas. Every year, more vessels are reported to the derelict vessel removal program than can be removed. The legislature finds that improvements to the derelict vessel removal program statutes are needed to help address this problem.

Therefore, in order to increase the effectiveness of the derelict vessel removal program, the legislature proposes a suite of prevention and enforcement measures intended to decrease the number of vessels that become derelict and to provide the derelict vessel removal program with more tools to manage those that are currently derelict. These measures are intended to decrease costs to taxpayers and protect the environment by removing high risk boats from the waters of the state before they become derelict, and by expanding enforcement of existing aquatic regulations as they relate to enforcement of the derelict vessel statutes.

**Sec.**  RCW 79.100.160 and 2013 c 291 s 42 are each amended to read as follows:

(1) The department may develop and administer a voluntary vessel turn-in program.

(2) The purpose of the vessel turn-in program is to allow the department to dismantle and dispose of vessels that pose a high risk of becoming a derelict vessel or abandoned vessel, but that do not yet meet the definition of those terms. The department shall design the program with the goal of dismantling and disposing of as many vessels as available resources allow, particularly those vessels posing the greatest risk of becoming abandoned or derelict in the future.

(3) The department shall disseminate information about the vessel turn-in program, including information about the application process, on its internet site and through appropriate agency publications and information sources as determined by the department. The department shall disseminate this information for a reasonable time as determined by the department prior to accepting applications.

(4) The department shall accept and review vessel turn-in program applications from eligible vessel owners, including private marinas that have gained legal title to a vessel in an advanced state of disrepair, during the time period or periods identified by the department. In order to be eligible for the vessel turn-in program, an applicant must demonstrate to the department's satisfaction that the applicant:

(a) Is a Washington resident or business;

(b) Owns a vessel that is in an advanced state of disrepair, has minimal or no value, and has a high likelihood of becoming an abandoned or derelict vessel; and

(c) Has insufficient resources to properly dispose of the vessel outside of the vessel turn-in program.

(5) Decisions regarding program eligibility and whether to accept a vessel for dismantling and disposal under the turn-in program are within the sole discretion of the department.

(6) The department may take other actions not inconsistent with this section in order to develop and administer the vessel turn-in program.

((~~(7) The department may not spend more than two hundred thousand dollars in any one biennium on the program established in this section.~~))

**Sec.**  RCW 79.100.150 and 2014 c 195 s 102 are each amended to read as follows:

(1) A vessel owner must obtain a vessel inspection under this section prior to transferring a vessel that is:

(a) More than ((~~sixty-five~~)) thirty-five feet in length and more than forty years old; and

(b) Either:

(i) Is registered or required to be registered under chapter 88.02 RCW; or

(ii) Is listed or required to be listed under chapter 84.40 RCW.

(2) If the vessel inspection determines the vessel is not seaworthy, as defined by agency rule, and the value of the vessel is less than the anticipated costs required to return the vessel to seaworthiness, then the vessel owner may not sell or transfer ownership of the vessel unless:

(a) The vessel is repaired to a seaworthy state prior to the transfer of ownership; or

(b) The vessel is sold for scrap, restoration, salvage, or another use that will remove the vessel from state waters to a person displaying a business license issued under RCW 19.02.070 that a reasonable person in the seller's position would believe has the capability and intent to do based on factors that may include the buyer's facilities, resources, documented intent, and relevant history.

(3) Where required under subsection (1) of this section, a vessel owner must provide a copy of the vessel inspection documentation to the transferee and, if the department did not conduct the inspection, to the department prior to the transfer.

(4) Unless rules adopted by the department provide otherwise, the vessel inspection required under this section must be contained in a formal marine survey conducted by a third party to the transaction. The survey must include, at a minimum, a conclusion relating to the seaworthiness of the vessel, an estimate of the vessel's fair market value, and, if applicable, an estimate as to the anticipated cost of repairs necessary to return the vessel to seaworthiness.

(5) The department may, by rule, allow other forms of vessel condition determinations, such as United States coast guard certificates of inspection, to replace the requirements for a formal marine survey under this section.

(6) Failure to comply with the requirements of this section will result in the transferor having secondary liability under RCW 79.100.060 if the vessel is later abandoned by the transferee or becomes derelict prior to a subsequent ownership transfer.

(7) Nothing in this section prevents a vessel owner from removing, dismantling, and lawfully disposing of any vessel lawfully under the vessel owner's control.

**Sec.**  RCW 79.100.170 and 2014 c 195 s 101 are each amended to read as follows:

(1) Any individual or company that purchases or otherwise receives a used vessel greater than ((~~sixty-five~~)) thirty-five feet in length and more than forty years old must, prior to or concurrent with the transfer of ownership, secure a marine insurance policy consistent with this section. Proof of the marine insurance policy must be provided to:

(a) The transferor of the vessel upon purchase or other transfer; and

(b) If applicable, the department of licensing upon first time registration or after the transfer of ownership, or the department of revenue upon the payment of any taxes.

(2) The transferor of a vessel greater than ((~~sixty-five~~)) thirty-five feet in length and more than forty years old has an affirmative duty to ensure that any potential transferee has secured a marine insurance policy consistent with this section prior to or concurrent with the finalization of any sale or transfer. Nothing in this section prohibits the sale or other transfer of a vessel greater than ((~~sixty-five~~)) thirty-five feet in length and more than forty years old to a transferee that fails to secure a marine insurance policy. However, a transferor that chooses to finalize a sale or other transfer with a transferee not in possession of a marine insurance policy assumes secondary liability for the vessel consistent with RCW 79.100.060 if the vessel is later abandoned by the transferee or becomes derelict prior to a subsequent ownership transfer.

(3) The marine insurance policy required under this section must be secured by the transferee prior to, or concurrent with, assuming ownership of a vessel greater than ((~~sixty-five~~)) thirty-five feet in length and more than forty years old. The marine insurance policy must satisfy the following conditions:

(a) Have a term of at least twelve months following the transferee's assumption of vessel ownership;

(b) Provide coverage of an amount that is, unless otherwise provided by the department by rule, at least three hundred thousand dollars;

(c) Provide, unless otherwise provided by the department by rule, coverage for the removal of the vessel if it should sink and coverage should it cause a pollution event.

(4) The purchaser of marine insurance under this section may satisfy the requirements of this section through the purchase of multiple policies as necessary.

(5) The department may, by rule, provide for a purchaser of a vessel to also satisfy the insurance requirements of this section through the posting of adequate security with a financial institution.

(6) A person required to secure marine insurance or show proof of marine insurance under this section who either: (a) Fails to secure a marine insurance policy consistent with this section prior to or concurrent with the transfer of ownership, unless the vessel was sold consistent with RCW 79.100.150(2)(b); or (b) cancels a marine insurance policy consistent with this section prior to the end of the twelfth month of vessel ownership or to a subsequent transfer of ownership, whichever occurs first, without securing another marine insurance policy consistent with this section in its place, is guilty of a misdemeanor. The department may contact any vessel owner required by this section to have a marine insurance policy to ensure compliance with this section.

**Sec.**  RCW 88.02.380 and 2013 c 291 s 29 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, and, in part, in order to prevent the future potential dereliction or abandonment of a vessel, a violation of this chapter and the rules adopted by the department is a class 2 civil infraction.

(2) A civil infraction issued under this chapter must be processed under chapter 7.80 RCW.

(3) After the subtraction of court costs and administrative collection fees, moneys collected under this section must be credited to the ticketing jurisdiction and used only for the support of the enforcement agency, department, division, or program that issued the violation.

(4) All law enforcement officers may enforce this chapter and the rules adopted by the department within their respective jurisdictions. A city, town, or county may contract with a fire protection district for enforcement of this chapter, and fire protection districts may engage in enforcement activities.

(5) In order to prevent the future potential dereliction or abandonment of a vessel, derelict vessel removal program staff of the department of natural resources have authority to issue tickets by mail for the purpose of enforcing vessel registration requirements.

**Sec.**  RCW 79.10.130 and 2014 c 114 s 5 are each amended to read as follows:

(1) The department is hereby authorized to carry out all activities necessary to achieve the purposes of this section and RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120, 79.10.200 through 79.10.330, 79.44.003, and 79.105.050 including, but not limited to:

(a) Planning, construction, and operation of conservation, recreational sites, areas, roads, and trails developed or maintained consistent with RCW 79.10.500, by itself or in conjunction with any public agency, nonprofit organization, volunteer, or volunteer organization, including entering cooperative agreements for these purposes;

(b) Planning, construction, and operation of special facilities for educational, scientific, conservation, or experimental purposes by itself or in conjunction with any other public or private agency, including entering cooperative agreements for these purposes;

(c) Improvement of any lands to achieve the purposes of this section and RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120, 79.10.200 through 79.10.330, 79.44.003, and 79.105.050, including entering cooperative agreements with public agencies, nonprofit organizations, volunteers, and volunteer organizations for these purposes;

(d) Entering cooperative agreements with public agencies, nonprofit organizations, volunteers, and volunteer organizations regarding the use of lands managed by the department for the purpose of providing a benefit to lands managed by the department, including but not limited to the following benefits: The utilization of such lands for watershed purposes; carrying out restoration and enhancement projects on such lands, such as improving, restoring, or enhancing habitat that provides for plant or animal species protection; improving, restoring, or enhancing watershed conditions; removing nonnative vegetation and providing vegetation management to restore, enhance, or maintain properly functioning conditions of the local ecosystem; and other similar projects on these lands that provide long-term environmental and other land management benefits, provided that the cooperative agreements are consistent with land management obligations;

(e) Authorizing individual volunteers and volunteer organizations to conduct restoration and enhancement projects on lands managed by the department through cooperative agreements authorized in this section or other arrangements that are consistent with land management obligations and that do not require the volunteers to pay a fee for the cooperative agreement purpose;

(f) Authorizing the receipt of gifts of personal property, services, and other items of value for the purposes of this section, as well as the exchange of consideration in cooperative agreements authorized under this section;

(g) The authority to make such leases, contracts, agreements, or other arrangements as are necessary to accomplish the purposes of this section and RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120, 79.10.200 through 79.10.330, 79.44.003, and 79.105.050. However, nothing in this section shall affect any existing requirements for public bidding or auction with private agencies or parties, except that agreements or other arrangements may be made with public schools, colleges, universities, governmental agencies, nonprofit organizations, volunteers, and volunteer organizations. In addition, nothing in this section is intended to conflict with the department's trust obligations;

(h) Subject to the availability of amounts appropriated for this specific purpose, the authority to issue grants to local law enforcement agencies to compensate them for time and equipment needed to enforce vessel registration and aquatic laws as related to the derelict vessel program, and to issue civil penalties. Individual grants may not exceed fifty thousand dollars.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Nonprofit organization" means: (i) Any organization described in section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) and exempt from tax under section 501(a) of the internal revenue code; or (ii) any not-for-profit organization that is organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(b) "Volunteer" or "volunteer organization" means an individual or entity performing services for a nonprofit organization or a governmental entity who does not receive compensation, other than reasonable reimbursement or allowances for expenses actually incurred, or any other thing of value, in excess of five hundred dollars per year. "Volunteer" includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

NEW SECTION. **Sec.**  (1)(a) There is created within the department of natural resources a pilot project for the creation of a derelict vessel recycling waste stream. The purpose of the pilot project is to discover environmentally responsible methods of waste disposal by testing possible recycling streams for wood and fiberglass recovered from derelict vessels.

(b) The department of natural resources shall collaborate with appropriate state and federal agencies, local governments, and tribes in order to safely and effectively remove, transport, and recycle the derelict vessel waste.

(c) The department of natural resources shall initiate the pilot project beginning July 1, 2020, and provide an annual report to the legislature regarding progress and outcomes of the pilot project.

(d) If the pilot project is successful, the department of natural resources may replicate the program in several locations around the state in partnership with other authorized public entities and rural communities.

(2) This section expires July 1, 2023.

NEW SECTION. **Sec.**  (1) The sum of one hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2021, from the general fund to the department of natural resources for the purposes of section 6 of this act.

(2) The sum of one hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2021, from the general fund to the department of natural resources for the purposes of section 7 of this act.

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