

HOUSE BILL REPORT

HB 2769

As Reported by House Committee On:
Rural Development, Agriculture, & Natural Resources

Title: An act relating to the prevention of derelict vessels.

Brief Description: Concerning the prevention of derelict vessels.

Sponsors: Representatives Lekanoff, Blake, Lovick, Shewmake, Ramel, Fitzgibbon, Cody and Tharinger; by request of Department of Natural Resources.

Brief History:

Committee Activity:

Rural Development, Agriculture, & Natural Resources: 1/29/20, 2/5/20 [DPS].

Brief Summary of Substitute Bill

- Changes the minimum vessel length that triggers requirements related to inspections and marine insurance before ownership of certain vessels may be transferred.
- Provides certain Department of Natural Resources (DNR) staff with the authority to issue tickets by mail for the purpose of enforcing vessel registration requirements.
- Authorizes the DNR 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 Removal Program (DVRP).
- Authorizes the DNR to carry out a pilot project for the purpose of testing possible recycling streams for wood and fiberglass recovered from derelict vessels.
- Removes the limitation that the DNR may spend no more than \$200,000 per biennium to carry out the DVRP.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Blake, Chair; Shewmake, Vice Chair; Chandler, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Chapman, Dye, Fitzgibbon, Kretz, Lekanoff, Orcutt, Ramos, Schmick, Springer and Walsh.

Staff: Robert Hatfield (786-7117).

Background:

Derelict Vessel Removal Program.

The Department of Natural Resources (DNR) administers the Derelict Vessel Removal Program (DVRP).

Under the DVRP, an authorized public entity (APE), which includes the DNR and most public agencies that own or manage aquatic lands, may take custody and dispose of abandoned or derelict vessels on aquatic lands within its jurisdiction. The DNR has an oversight and rulemaking role in the removal and disposal process. If an APE is unable or unwilling to remove a derelict or abandoned vessel in its jurisdiction, it may ask the DNR to assume responsibility. No APE has a duty to exercise its authority, and an APE is not liable for choosing not to exercise its authority.

The owner of an abandoned or derelict vessel is responsible for the cost of removal and disposal. If the owner is unknown or unable to pay the cost, the APE may seek reimbursement of up to 90 percent of the costs. Monies in the Derelict Vessel Removal Account are used to reimburse APEs.

The DNR may spend no more than \$200,000 in any one biennium on the DVRP.

Vessel Owner Accountability.

The owner or operator of a vessel that is more than 40 years old and longer than 65 feet must obtain a vessel inspection before transferring ownership of the vessel to another party. Similarly, an individual or company that purchases or otherwise receives a used vessel greater than 65 feet in length and more than 40 years old must secure a marine insurance policy prior to or concurrent with the transfer of ownership.

A copy of the inspection report must be provided to the transferee and the DNR. Failure to do so can result in the initial owner of the vessel being secondarily liable for some of the costs should the vessel eventually become abandoned or derelict. If the vessel inspection determines that the vessel is not seaworthy, and the value of the vessel is less than the anticipated cost to return the vessel to seaworthiness, the vessel owner may not sell or transfer ownership of the vessel unless criteria are met.

Summary of Substitute Bill:

The limitation that the Department of Natural Resources (DNR) may spend no more than \$200,000 in any one biennium on the derelict Vessel Removal Program (DVRP) is removed.

The minimum length of vessel for which an owner is required to obtain an inspection before transferring a vessel more than 40 years old is changed from vessels longer than 65 feet to vessels longer than 35 feet.

The minimum length of vessel for which a prospective owner is required to obtain a marine insurance policy before purchasing or otherwise receiving a vessel more than 40 years old is changed from vessels longer than 65 feet to vessels longer than 35 feet.

The DNR is authorized to adopt rules to be used in determining whether a vessel is seaworthy.

In order to prevent the future potential dereliction or abandonment of a vessel, DVRP staff of the DNR have the authority to issue tickets by mail for the purpose of enforcing vessel registration requirements.

The DNR is authorized 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 DVRP, and to issue civil penalties. Individual grants may not exceed \$50,000. The DNR's grant-making authority is subject to the availability of funds appropriated for the grants.

The DNR is authorized to carry out a pilot project for the purpose of testing possible recycling streams for wood and fiberglass recovered from derelict vessels. The DNR must initiate the pilot project beginning July 1, 2020, and must provide an annual report to the Legislature on the progress and outcomes of the pilot project. If the pilot project is successful, the DNR is authorized to replicate the pilot project in several locations around the state in partnership with other authorized public entities and rural communities. The pilot project expires July 1, 2023.

Substitute Bill Compared to Original Bill:

The scope of the Department of Natural Resources' law enforcement authority under the bill is limited to the authority to issue tickets by mail for the purpose of enforcing vessel registration requirements.

Appropriation: The sum of \$150,000 is appropriated to the Department of Natural Resources (DNR) from the State General Fund for the fiscal year ending June 30, 2021, for the purpose of issuing 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.

The sum of \$100,000 is appropriated to the DNR from the State General Fund for the fiscal year ending June 30, 2021, for the purpose of carrying out the derelict vessel recycling stream pilot project.

Fiscal Note: Preliminary fiscal note available.

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

Staff Summary of Public Testimony:

(In support) Derelict vessels pose significant challenges to shellfish farms; they leak oil and other material, which creates a real risk to the shellfish and their habitat. There has been a remarkable increase in the number of derelict vessels ending up on shellfish tidelands. One hundred percent of the derelict vessels that end up on the tidelands of one shellfish company have been shorter than 65 feet. The recycling pilot project in the bill is intriguing.

Derelict vessels cause navigational hazards, leach toxic chemicals, and harm salmon and orcas. The bill takes meaningful steps toward prevention. Over 100 vessels have been removed from the Snohomish estuary since the beginning of the Derelict Vessel Removal Program (DVRP).

The Department of Natural Resources (DNR) DVRP was created in 2002. It is regarded as one of the most successful such programs in the country. In spite of that success, there are some additional ways to reduce costs and to seek to prevent vessels from being abandoned in the first place. More than 900 vessels have been removed under the DVRP. There are more than 90 vessels on the DNR's watch list. The DNR now has a program that lets owners of derelict vessels turn in their vessels for free, which is a much more effective and cheaper way of handling derelict vessels. Derelict vessels continue to pollute state waters, and there are more than the DNR can remove. The current statute limits the DNR's prevention and enforcement measures. Part of the solution is the package of tools in the bill: removing the cap on the vessel turn-in program, adjusting the secondary liability limit, authorizing the DNR to enforce vessel registration statutes, and piloting the recycling stream program. Removing the cap will increase the number of vessels that can be processed under the program. The cost of the turn-in program is about \$4,800 per vessel. Reducing the length of vessels subject to the program will allow the DNR to be able to take in more vessels under the program. The DNR only resorts to ticketing as a last resort. The DNR tries to educate boat owners first.

There is a growing market for recycled fiberglass, including in concrete. The pilot program in the bill helps figure out the earlier parts of the recycling process, like the collection of boats and then the break-down and chipping. Each step of the fiberglass boat recycling process is difficult, but achievable. The state can be a lot more efficient in its use of public funds by taking care of boats before they sink.

Taking a look at the length of vessel that triggers the secondary liability requirements of the bill makes sense. The DNR did a good job of trying to build in some guard rails on the scope of the enforcement authority. Recreational boaters pay about 85–90 percent of the funding for the DVRP; about 92 percent of those boats are on trailers and are under 24 feet long. There needs to be a much better approach to sustainably and equitably funding the program.

Derelict vessels pose a threat to Puget Sound and all of Washington's waterways. Once a vessel spills, it is extraordinarily costly for taxpayers to address the problem. This bill zeroes in on prevention.

(Opposed) None.

Persons Testifying: Representative Lekanoff, prime sponsor; Troy Wood, Department of Natural Resources; Heidi Eisenhour, Northwest Maritime Center; Doug Levy, Recreational Boating Association of Washington; Bruce Wishart, Puget Sound Keeper Alliance; Lucas Hart, Northwest Straits Commission; and Peter Dykstra, Taylor Shellfish.

Persons Signed In To Testify But Not Testifying: None.