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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)

READ FIRST TIME 02/07/20.

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

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the derelict  
7 vessel removal program has been an extremely effective and successful  
8 tool since its inception in 2003, but recognizes that derelict  
9 vessels continue to be a critical problem for the waters of the  
10 state. Derelict vessels generate costs to taxpayers, impede the  
11 recreational enjoyment of waters, pose navigational safety hazards,  
12 and contaminate the environment, thereby impacting the health of  
13 Puget Sound and the habitat of imperiled species such as salmon and  
14 orcas. Every year, more vessels are reported to the derelict vessel  
15 removal program than can be removed. The legislature finds that  
16 improvements to the derelict vessel removal program statutes are  
17 needed to help address this problem.

18 Therefore, in order to increase the effectiveness of the derelict  
19 vessel removal program, the legislature proposes a suite of  
20 prevention and enforcement measures intended to decrease the number  
21 of vessels that become derelict and to provide the derelict vessel

1 removal program with more tools to manage those that are currently  
2 derelict. These measures are intended to decrease costs to taxpayers  
3 and protect the environment by removing high risk boats from the  
4 waters of the state before they become derelict, and by expanding  
5 enforcement of existing aquatic regulations as they relate to  
6 enforcement of the derelict vessel statutes.

7 **Sec. 2.** RCW 79.100.160 and 2013 c 291 s 42 are each amended to  
8 read as follows:

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

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

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

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

32 (a) Is a Washington resident or business;

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

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

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

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

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

10 **Sec. 3.** RCW 79.100.150 and 2014 c 195 s 102 are each amended to  
11 read as follows:

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

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

16 (b) Either:

17 (i) Is registered or required to be registered under chapter  
18 88.02 RCW; or

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

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

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

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

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

38 (4) Unless rules adopted by the department provide otherwise, the  
39 vessel inspection required under this section must be contained in a

1 formal marine survey conducted by a third party to the transaction.  
2 The survey must include, at a minimum, a conclusion relating to the  
3 seaworthiness of the vessel, an estimate of the vessel's fair market  
4 value, and, if applicable, an estimate as to the anticipated cost of  
5 repairs necessary to return the vessel to seaworthiness.

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

10 (6) Failure to comply with the requirements of this section will  
11 result in the transferor having secondary liability under RCW  
12 79.100.060 if the vessel is later abandoned by the transferee or  
13 becomes derelict prior to a subsequent ownership transfer.

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

17 **Sec. 4.** RCW 79.100.170 and 2014 c 195 s 101 are each amended to  
18 read as follows:

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

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

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

30 (2) The transferor of a vessel greater than (~~sixty-five~~)  
31 thirty-five feet in length and more than forty years old has an  
32 affirmative duty to ensure that any potential transferee has secured  
33 a marine insurance policy consistent with this section prior to or  
34 concurrent with the finalization of any sale or transfer. Nothing in  
35 this section prohibits the sale or other transfer of a vessel greater  
36 than (~~sixty-five~~) thirty-five feet in length and more than forty  
37 years old to a transferee that fails to secure a marine insurance  
38 policy. However, a transferor that chooses to finalize a sale or  
39 other transfer with a transferee not in possession of a marine

1 insurance policy assumes secondary liability for the vessel  
2 consistent with RCW 79.100.060 if the vessel is later abandoned by  
3 the transferee or becomes derelict prior to a subsequent ownership  
4 transfer.

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

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

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

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

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

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

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

37 **Sec. 5.** RCW 88.02.380 and 2013 c 291 s 29 are each amended to  
38 read as follows:

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

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

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

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

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

21 **Sec. 6.** RCW 79.10.130 and 2014 c 114 s 5 are each amended to  
22 read as follows:

23 (1) The department is hereby authorized to carry out all  
24 activities necessary to achieve the purposes of this section and RCW  
25 79.10.060, 79.10.070, 79.10.100 through 79.10.120, 79.10.200 through  
26 79.10.330, 79.44.003, and 79.105.050 including, but not limited to:

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

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

37 (c) Improvement of any lands to achieve the purposes of this  
38 section and RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120,  
39 79.10.200 through 79.10.330, 79.44.003, and 79.105.050, including

1 entering cooperative agreements with public agencies, nonprofit  
2 organizations, volunteers, and volunteer organizations for these  
3 purposes;

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

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

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

29 (g) The authority to make such leases, contracts, agreements, or  
30 other arrangements as are necessary to accomplish the purposes of  
31 this section and RCW 79.10.060, 79.10.070, 79.10.100 through  
32 79.10.120, 79.10.200 through 79.10.330, 79.44.003, and 79.105.050.  
33 However, nothing in this section shall affect any existing  
34 requirements for public bidding or auction with private agencies or  
35 parties, except that agreements or other arrangements may be made  
36 with public schools, colleges, universities, governmental agencies,  
37 nonprofit organizations, volunteers, and volunteer organizations. In  
38 addition, nothing in this section is intended to conflict with the  
39 department's trust obligations;

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

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

9 (a) "Nonprofit organization" means: (i) Any organization  
10 described in section 501(c)(3) of the internal revenue code of 1986  
11 (26 U.S.C. Sec. 501(c)(3)) and exempt from tax under section 501(a)  
12 of the internal revenue code; or (ii) any not-for-profit organization  
13 that is organized and conducted for public benefit and operated  
14 primarily for charitable, civic, educational, religious, welfare, or  
15 health purposes.

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

23 NEW SECTION. Sec. 7. (1)(a) There is created within the  
24 department of natural resources a pilot project for the creation of a  
25 derelict vessel recycling waste stream. The purpose of the pilot  
26 project is to discover environmentally responsible methods of waste  
27 disposal by testing possible recycling streams for wood and  
28 fiberglass recovered from derelict vessels.

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

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

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



1 (2) This section expires July 1, 2023.

2 NEW SECTION. **Sec. 8.** (1) The sum of one hundred fifty thousand  
3 dollars, or as much thereof as may be necessary, is appropriated for  
4 the fiscal year ending June 30, 2021, from the general fund to the  
5 department of natural resources for the purposes of section 6 of this  
6 act.

7 (2) The sum of one hundred thousand dollars, or as much thereof  
8 as may be necessary, is appropriated for the fiscal year ending June  
9 30, 2021, from the general fund to the department of natural  
10 resources for the purposes of section 7 of this act.

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