

**2SHB 2457** - S COMM AMD

By Committee on Natural Resources & Parks

**NOT ADOPTED 03/07/2014**

1       Strike everything after the enacting clause and insert the  
2 following:

3       "NEW SECTION.   **Sec. 1.** (1) The legislature finds that section 45,  
4 chapter 291, Laws of 2013 required the department of natural resources,  
5 in consultation with the department of ecology, to evaluate potential  
6 changes to laws and rules related to derelict and abandoned vessels  
7 that increase vessel owner responsibility and address challenges  
8 associated with the economics of removing vessels from the water.

9       (2) The legislature further finds that, during the 2013 legislative  
10 interim, the two responsible agencies engaged in a thorough process to  
11 satisfy their legislative charge. This process involved exhausting in-  
12 state expertise on various topics and reaching out to experts in vessel  
13 deconstruction, surety bonding, letters of credit, marine insurance,  
14 taxation, federal regulation, similar programs in other states, and  
15 more. The process also involved two open invitation public meetings.

16       (3) The legislature further finds that a significant number of  
17 various and competing options were discussed, analyzed, and ultimately  
18 dismissed during the process undertaken by the two agencies. It is the  
19 intent of the legislature to capture the recommendations for meeting  
20 the goals of increased vessel owner responsibility and addressing the  
21 challenges associated with the economics of removing vessels from the  
22 water that rose to the top from the process undertaken by the agencies.

23       (4) It is the further intent of the legislature that this act serve  
24 as the final report due by the department of natural resources under  
25 section 45, chapter 291, Laws of 2013.

26                                   **Part One--Vessel Owner Responsibility**

27       NEW SECTION.   **Sec. 101.** A new section is added to chapter 79.100  
28 RCW to read as follows:

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

6 (a) The transferor of the vessel upon purchase; and

7 (b) If applicable, the department of licensing upon registration or  
8 the department of revenue upon the payment of any taxes.

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

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

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

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

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

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

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

4 (6) A person required to secure marine insurance or show proof of  
5 marine insurance under this section who either: (a) Fails to secure a  
6 marine insurance policy consistent with this section prior to or  
7 concurrent with the transfer of ownership; or (b) cancels a marine  
8 insurance policy consistent with this section prior to the end of the  
9 twelfth month of vessel ownership or to a subsequent transfer of  
10 ownership, whichever occurs first, without securing another marine  
11 insurance policy consistent with this section in its place, is guilty  
12 of a misdemeanor. The department may contact any vessel owner required  
13 by this section to have a marine insurance policy to ensure compliance  
14 with this section.

15 **Sec. 102.** RCW 79.100.150 and 2013 c 291 s 38 are each amended to  
16 read as follows:

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

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

21 (b) Either:

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

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

25 (2) If the vessel inspection determines the vessel is not seaworthy  
26 and the value of the vessel is less than the anticipated costs required  
27 to return the vessel to seaworthiness, then the vessel owner may not  
28 sell or transfer ownership of the vessel unless:

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

31 (b) The vessel is sold for scrap, salvage, restoration to a  
32 seaworthy state, or another use that will remove the vessel from state  
33 waters.

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

1        ~~((3))~~ (4) Unless rules adopted by the department provide  
2 otherwise, the vessel inspection required under this section must be  
3 contained in a formal marine survey conducted by a third party to the  
4 transaction. The survey must include, at a minimum, a conclusion  
5 relating to the seaworthiness of the vessel, an estimate of the  
6 vessel's fair market value, and, if applicable, an estimate as to the  
7 anticipated cost of repairs necessary to return the vessel to  
8 seaworthiness.

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

13        (6) Failure to comply with the requirements of ~~((subsections (1)~~  
14 ~~and (2) of))~~ this section will result in the transferor having  
15 secondary liability under RCW 79.100.060 if the vessel is later  
16 abandoned by the transferee or becomes derelict prior to a subsequent  
17 ownership transfer.

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

## 21        **Part Two--Authorities and Requirements Applicable to Marinas**

22        **Sec. 201.** RCW 79.100.130 and 2013 c 291 s 4 are each amended to  
23 read as follows:

24        (1) A private moorage facility owner, as those terms are defined in  
25 RCW 88.26.010, may contract with the department or a local government  
26 for the purpose of participating in the derelict vessel removal  
27 program.

28        (2) If a contract is completed under this section, the department  
29 or local government shall serve as the authorized public entity for the  
30 removal of a derelict or abandoned vessel from the property of the  
31 private moorage facility owner. The contract must provide for the  
32 private moorage facility owner to be financially responsible for the  
33 removal and disposal costs that are not reimbursed by the department as  
34 provided under RCW 79.100.100, and any additional reasonable  
35 administrative costs incurred by the department or local government  
36 during the removal of the derelict or abandoned vessel.

1 (3) Prior to the commencement of any removal (~~which~~) under this  
2 section for which a local government serves as the authorized public  
3 entity and that will seek reimbursement from the derelict vessel  
4 removal program, the contract and the proposed vessel removal shall be  
5 submitted to the department for review and approval. The local  
6 government shall use the procedure specified under RCW  
7 79.100.100(~~(+6)~~)).

8 (4) If the private moorage facility owner has already seized the  
9 vessel under chapter 88.26 RCW and title has reverted to the moorage  
10 facility, the moorage facility is not considered the owner under this  
11 chapter for purposes of cost recovery for actions taken under this  
12 section.

13 (5)(a) The department and all local governments have discretion as  
14 to whether to enter into contracts to serve as the authorized public  
15 entity under this section for vessels located at a private moorage  
16 facility.

17 (b) The department may not enter into a contract to serve as the  
18 authorized public entity under this section for vessels located at a  
19 private moorage facility if the private moorage facility is not in  
20 compliance with the mandatory insurance requirements of section 202 of  
21 this act.

22 NEW SECTION. Sec. 202. A new section is added to chapter 88.26  
23 RCW to read as follows:

24 (1) Every private moorage facility operator must:

25 (a) Obtain and maintain insurance coverage for the private moorage  
26 facility;

27 (b) Require, as a condition of moorage, all vessels other than  
28 transient vessels to provide proof of marine insurance to the moorage  
29 facility.

30 (2) Unless rules adopted by the department of natural resources  
31 require otherwise, insurance maintained by private moorage facility  
32 operators and required of moored vessels must:

33 (a) Provide coverage at liability limits of at least three hundred  
34 thousand dollars per occurrence; and

35 (b) Include, at a minimum, general, legal, and pollution liability  
36 coverage.

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

4 (4) The requirement under this section for private moorage facility  
5 operators to require proof of marine insurance from mooring vessels  
6 applies at the time a moorage agreement is entered into and at the time  
7 of any renewals of the agreement. The private moorage facility  
8 operator is not required to verify independently whether a mooring  
9 vessel's insurance policy meets the requirements of this section and is  
10 not responsible for any change in insurance coverage applicable to the  
11 vessel that occurs after the initial agreement is entered into or in  
12 the time period between agreement renewals.

13 (5) Any private moorage facility operator who fails to satisfy the  
14 requirements of this section incurs secondary liability under RCW  
15 79.100.060 for any vessel located at the private moorage facility that  
16 meets the definition of derelict vessel or abandoned vessel as those  
17 terms are defined in RCW 79.100.010.

18 NEW SECTION. **Sec. 203.** A new section is added to chapter 53.08  
19 RCW to read as follows:

20 (1) Every moorage facility operator must:

21 (a) Obtain and maintain insurance coverage for the moorage  
22 facility;

23 (b) Require, as a condition of moorage, all vessels other than  
24 transient vessels to provide proof of marine insurance to the moorage  
25 facility.

26 (2) Unless rules adopted by the department of natural resources  
27 require otherwise, insurance maintained by moorage facility operators  
28 and required of moored vessels must:

29 (a) Provide coverage at liability limits of at least three hundred  
30 thousand dollars per occurrence; and

31 (b) Include, at a minimum, general, legal, and pollution liability  
32 coverage.

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

36 (4) The requirement under this section for moorage facility  
37 operators to require proof of marine insurance from mooring vessels

1 applies at the time a moorage agreement is entered into and at the time  
2 of any renewals of the agreement. The moorage facility operator is not  
3 required to verify independently whether a mooring vessel's insurance  
4 policy meets the requirements of this section and is not responsible  
5 for any change in insurance coverage applicable to the vessel that  
6 occurs after the initial agreement is entered into or in the time  
7 period between agreement renewals.

8 (5) Any moorage facility operator who fails to satisfy the  
9 requirements of this section incurs secondary liability under RCW  
10 79.100.060 for any vessel located at the moorage facility that meets  
11 the definition of derelict vessel or abandoned vessel as those terms  
12 are defined in RCW 79.100.010.

13 **Sec. 204.** RCW 53.08.310 and 1986 c 260 s 1 are each amended to  
14 read as follows:

15 Unless the context clearly requires otherwise, the definitions in  
16 this section apply throughout this section, section 203 of this act,  
17 and RCW 53.08.320.

18 (1) "Port charges" mean charges of a moorage facility operator for  
19 moorage and storage, and all other charges owing or to become owing  
20 under a contract between a vessel owner and the moorage facility  
21 operator, or under an officially adopted tariff including, but not  
22 limited to, costs of sale and related legal expenses.

23 (2) "Vessel" means every species of watercraft or other artificial  
24 contrivance capable of being used as a means of transportation on water  
25 and which does not exceed two hundred feet in length. "Vessel"  
26 includes any trailer used for the transportation of watercraft.

27 (3) "Moorage facility" means any properties or facilities owned or  
28 operated by a moorage facility operator which are capable of use for  
29 the moorage or storage of vessels.

30 (4) "Moorage facility operator" means any port district, city,  
31 town, metropolitan park district, or county which owns and/or operates  
32 a moorage facility.

33 (5) "Owner" means every natural person, firm, partnership,  
34 corporation, association, or organization, or agent thereof, with  
35 actual or apparent authority, who expressly or impliedly contracts for  
36 use of a moorage facility.

1 (6) "Transient vessel" means a vessel using a moorage facility and  
2 which belongs to an owner who does not have a moorage agreement with  
3 the moorage facility operator. Transient vessels include, but are not  
4 limited to: Vessels seeking a harbor of refuge, day use, or overnight  
5 use of a moorage facility on a space-as-available basis.

6 **Part Three--Encouraging Vessel Removal and Deconstruction**

7 NEW SECTION. **Sec. 301.** A new section is added to chapter 82.08  
8 RCW to read as follows:

9 (1) The tax levied by RCW 82.08.020 does not apply to sales of  
10 vessel deconstruction performed at:

- 11 (a) A qualified vessel deconstruction facility; or
- 12 (b) An area over water that has been permitted under section 402 of  
13 the clean water act of 1972 (33 U.S.C. Sec. 1342) for vessel  
14 deconstruction.

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

17 (a)(i) "Vessel deconstruction" means permanently dismantling a  
18 vessel, including: Abatement and removal of hazardous materials; the  
19 removal of mechanical, hydraulic, or electronic components or other  
20 vessel machinery and equipment; and either the cutting apart or  
21 disposal, or both, of vessel infrastructure. For the purposes of this  
22 subsection, "hazardous materials" includes fuel, lead, asbestos,  
23 polychlorinated biphenyls, and oils.

24 (ii) "Vessel deconstruction" does not include vessel modification  
25 or repair.

26 (b) "Qualified vessel deconstruction facility" means structures,  
27 including floating structures, that are permitted under section 402 of  
28 the clean water act of 1972 (33 U.S.C. Sec. 1342) for vessel  
29 deconstruction.

30 (3) Sellers making tax-exempt sales under this section must obtain  
31 from the purchaser an exemption certificate in a form and manner  
32 prescribed by the department. The seller must retain a copy of the  
33 certificate for the seller's files. In lieu of an exemption  
34 certificate, a seller may capture the relevant data elements as allowed  
35 under the streamlined sales and use tax agreement.



1        NEW SECTION.    **Sec. 302.**    A new section is added to chapter 82.12  
2    RCW to read as follows:

3        (1) This chapter does not apply to the use of vessel deconstruction  
4    services performed at:

5            (a) A qualified vessel deconstruction facility; or

6            (b) An area over water that has been permitted under section 402 of  
7    the federal clean water act of 1972 (33 U.S.C. Sec. 1342) for vessel  
8    deconstruction.

9        (2) The definitions in section 301(2) of this act apply to this  
10   section.

11      NEW SECTION.    **Sec. 303.**    A new section is added to chapter 44.28  
12    RCW to read as follows:

13      (1) This section is the tax preference performance statement for  
14    the tax preference contained in sections 301 and 302 of this act. This  
15    performance statement is only intended to be used for subsequent  
16    evaluation of this tax preference. It is not intended to create a  
17    private right of action by any party or be used to determine  
18    eligibility for preferential tax treatment.

19      (2) The legislature categorizes this tax preference as intended to  
20    induce certain designated behavior by taxpayers as indicated in RCW  
21    82.32.808(2)(a).

22      (3) It is the legislature's specific public policy objective to  
23    decrease the number of abandoned and derelict vessels by providing  
24    incentives to increase vessel deconstruction in Washington by lowering  
25    the cost of deconstruction. It is the legislature's intent to provide  
26    businesses engaged in vessel deconstruction a sales and use tax  
27    exemption for sales of vessel deconstruction. This incentive will  
28    lower the costs associated with vessel deconstruction and encourage  
29    businesses to make investments in vessel deconstruction facilities.  
30    Pursuant to chapter 43.136 RCW, the joint legislative audit and review  
31    committee must review the sales tax exemptions provided under sections  
32    301 and 302 of this act by December 1, 2018.

33      (4) If a review finds that the increase in available capacity to  
34    deconstruct derelict vessels or a reduction in the average cost to  
35    deconstruct vessels has resulted in an increase of the number of  
36    derelict vessels removed from Washington's waters as compared to before

1 the effective date of this section, then the legislature intends for  
2 the legislative auditor to recommend extending the expiration date of  
3 the tax preference.

4 (5) In order to obtain the data necessary to perform the review in  
5 subsection (3) of this section, the joint legislative audit and review  
6 committee should refer to data kept and maintained by the department of  
7 natural resources.

8 (6) This section expires January 1, 2019.

9 NEW SECTION. **Sec. 304.** Sections 301 and 302 of this act take  
10 effect October 1, 2014.

11 **Part Four--Revenue to Support the Derelict Vessel Removal Program**

12 NEW SECTION. **Sec. 401.** (1) The legislature finds that:

13 (a) Derelict and abandoned vessels are a threat to the safety of  
14 the public waterways, an environmental hazard for humans and marine  
15 life, and an occupational danger for persons that make their living on  
16 the waters of this state;

17 (b) Derelict vessel removal fees are imposed when recreational  
18 vessels are registered with the department of licensing. The  
19 accumulation of these fees is sufficient for the removal and disposal  
20 of recreational vessels that become derelict or abandoned;

21 (c) Derelict vessel removal fees do not apply to commercial  
22 vessels. Former commercial vessels are among the most costly to remove  
23 from Washington waters and to dispose of in an environmentally  
24 responsible manner. The costs for removing and disposing of these  
25 vessels far exceeds the funding provided by the derelict vessel removal  
26 fees paid by recreational vessels;

27 (d) According to the department of natural resources, as of the  
28 effective date of this section, there is a significant backlog of  
29 abandoned or derelict vessels that are former commercial vessels; and

30 (e) The use of general fund revenue to pay for the removal and  
31 disposal of derelict or abandoned vessels places an undue burden on the  
32 nonboating public and reduces the revenue available to pay for  
33 necessary governmental services.

34 (2) The legislature intends for either the owners or operators, or

1 both, of commercial vessels to pay their fair share for the removal of  
2 abandoned or derelict vessels by imposing a fee for the moorage of  
3 commercial vessels.

4 NEW SECTION. **Sec. 402.** A new section is added to chapter 79.100  
5 RCW to read as follows:

6 (1)(a) Except as otherwise provided in (b) of this subsection, an  
7 annual derelict vessel removal fee is imposed upon all persons required  
8 by RCW 84.40.065 to list any ship or vessel with the department of  
9 revenue for state property tax purposes.

10 (b) The derelict vessel removal fee imposed in (a) of this  
11 subsection does not apply in any year that a person required to list a  
12 ship or vessel does not owe the state property tax levied for  
13 collection in that year with respect to that ship or vessel.

14 (c) The annual derelict vessel removal fee is equal to one dollar  
15 per vessel foot measured by extreme length of the vessel, rounded up to  
16 the nearest whole foot.

17 (2) Each year, the department of revenue must include the amount of  
18 the derelict vessel removal fee due under this section for that  
19 calendar year in the tax statement required in RCW 84.40.065.

20 (3) The person listing a ship or vessel and the owner of the ship  
21 or vessel, if not the same person, are jointly and severally liable for  
22 the fee imposed in this section.

23 (4) The department of revenue must collect the derelict vessel  
24 removal fee imposed in this section as provided in RCW 84.56.440.

25 (5) All derelict vessel removal fees collected under this section  
26 must be deposited into the derelict vessel removal account created in  
27 RCW 79.100.100.

28 **Sec. 403.** RCW 84.56.440 and 2008 c 181 s 511 are each amended to  
29 read as follows:

30 (1) The department of revenue shall collect the derelict vessel  
31 removal fee imposed under section 402 of this act and all ad valorem  
32 taxes upon ships and vessels listed with the department in accordance  
33 with RCW 84.40.065, and all applicable interest and penalties on such  
34 taxes and fees. The taxes and derelict vessel removal fee shall be due  
35 and payable to the department on or before the thirtieth day of April  
36 and shall be delinquent after that date.

1 (2) If payment of the tax, derelict vessel removal fee, or both, is  
2 not received by the department by the due date, there shall be imposed  
3 a penalty of five percent of the amount of the unpaid tax and fee; and  
4 if the tax (~~(is)~~) and fee are not received within thirty days after the  
5 due date, there shall be imposed a total penalty of ten percent of the  
6 amount of the unpaid tax and fee; and if the tax (~~(is)~~) and fee are not  
7 received within sixty days after the due date, there shall be imposed  
8 a total penalty of twenty percent of the amount of the unpaid tax and  
9 fee. No penalty so added shall be less than five dollars.

10 (3) Delinquent taxes under this section are subject to interest at  
11 the rate set forth in RCW 82.32.050 from the date of delinquency until  
12 paid. Delinquent derelict vessel removal fees are also subject to  
13 interest at the same rate and in the same manner as provided for  
14 delinquent taxes under RCW 82.32.050. Interest or penalties collected  
15 on delinquent taxes and derelict vessel removal fees under this section  
16 shall be paid by the department into the general fund of the state  
17 treasury.

18 (4) If upon information obtained by the department it appears that  
19 any ship or vessel required to be listed according to the provisions of  
20 RCW 84.40.065 is not so listed, the department shall value the ship or  
21 vessel and assess against the owner of the vessel the taxes and  
22 derelict vessel removal fees found to be due and shall add thereto  
23 interest at the rate set forth in RCW 82.32.050 from the original due  
24 date of the tax and fee until the date of payment. The department  
25 shall notify the vessel owner by mail of the amount and the same shall  
26 become due and shall be paid by the vessel owner within thirty days of  
27 the date of the notice. If payment is not received by the department  
28 by the due date specified in the notice, the department shall add a  
29 penalty of ten percent of the tax and fee found due. A person who  
30 willfully gives a false listing or willfully fails to list a ship or  
31 vessel as required by RCW 84.40.065 shall be subject to the penalty  
32 imposed by RCW 84.40.130(2), which shall be assessed and collected by  
33 the department.

34 (5) Delinquent taxes and fees under this section, along with all  
35 penalties and interest thereon, shall be collected by the department  
36 according to the procedures set forth in chapter 82.32 RCW for the  
37 filing and execution of tax warrants, including the imposition of  
38 warrant interest. In the event a warrant is issued by the department

1 for the collection of taxes, derelict vessel removal fees, or both,  
2 under this section, the department shall add a penalty of five percent  
3 of the amount of the delinquent tax and fee, but not less than ten  
4 dollars.

5 ~~(6) ((The department shall also collect all delinquent taxes~~  
6 ~~pertaining to ships and vessels appearing on the records of the county~~  
7 ~~treasurers for each of the counties of this state as of December 31,~~  
8 ~~1993, including any applicable interest or penalties. The provisions~~  
9 ~~of subsection (5) of this section shall apply to the collection of such~~  
10 ~~delinquent taxes.~~

11 ~~(7))~~ During a state of emergency declared under RCW 43.06.010(12),  
12 the department, on its own motion or at the request of any taxpayer  
13 affected by the emergency, may grant extensions of the due date of any  
14 taxes and fees payable under this section as the department deems  
15 proper.

16 (7) The department of revenue must withhold the decals required  
17 under RCW 88.02.570(10) for failure to pay the state property tax or  
18 derelict vessel removal fee collectible under this section.

19 NEW SECTION. Sec. 404. Sections 401 through 403 of this act take  
20 effect January 1, 2015.

21 **Part Five--Incentivizing the Registration of Moored Vessels**

22 NEW SECTION. Sec. 501. A new section is added to chapter 88.02  
23 RCW to read as follows:

24 (1) A moorage provider that provides long-term moorage must obtain  
25 the following information and documentation from persons entering into  
26 long-term moorage agreements with the moorage provider:

- 27 (a) The name of the legal owner of the vessel;
- 28 (b) A local contact person and that person's address and telephone  
29 number, if different than the owner;
- 30 (c) The owner's address and telephone number;
- 31 (d) The vessel's hull identification number;
- 32 (e) If applicable, the vessel's coast guard registration;
- 33 (f) The vessel's home port;
- 34 (g) The date on which the moorage began;

1 (h) The vessel's country or state of registration and registration  
2 number; and

3 (i) Proof of vessel registration, a written statement of the  
4 lessee's intent to register a vessel, or an affidavit in a form and  
5 manner approved by the department certifying that the vessel is exempt  
6 from state vessel registration requirements as provided by RCW  
7 88.02.570.

8 (2) For moorage agreements entered into effective on or after July  
9 1, 2014, a long-term moorage agreement for vessels not registered in  
10 this state must include, in a form and manner approved by the  
11 department and the department of revenue, notice of state vessel  
12 registration requirements as provided by this chapter and tax  
13 requirements as provided by chapters 82.08, 82.12, and 82.49 RCW and  
14 listing requirements as provided by RCW 84.40.065.

15 (3) A moorage provider must maintain records of the information and  
16 documents required under this section for at least two years. Upon  
17 request, a moorage provider must:

18 (a) Permit any authorized agent of a requesting agency to:

19 (i) Inspect the moorage facility for vessels that are not  
20 registered as required by this chapter or listed as required under RCW  
21 84.40.065; and

22 (ii) Inspect and copy records identified in subsection (1) of this  
23 section for vessels that the requesting agency determines are not  
24 properly registered or listed as required by law; or

25 (b) Provide to the requesting agency:

26 (i) Information as provided in subsection (1)(a), (c), (d), and (e)  
27 of this section; and

28 (ii) Information as provided in subsection (1)(b), (f), (g), (h),  
29 and (i) of this section for those vessels that the requesting agency  
30 subsequently determines are not registered as required by this chapter  
31 or listed as required under RCW 84.40.065.

32 (4) Requesting agencies must coordinate their requests to ensure  
33 that a moorage provider does not receive more than two requests per  
34 calendar year. For the purpose of enforcing vessel registration and  
35 vessel listing requirements, requesting agencies may share the results  
36 of information requests with each other.

37 (5) The information required to be collected under this section  
38 must be collected at the time the long-term moorage agreement is

1 entered into and at the time of any renewals of the agreement. The  
2 moorage provider is not responsible for updating any changes in the  
3 information that occurs after the initial agreement is entered into or  
4 in the time period between agreement renewals.

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

7 (a) "Long-term moorage" means moorage provided for more than thirty  
8 consecutive days.

9 (b) "Moorage facility" means any properties or facilities located  
10 in this state that are used for the moorage of vessels and are owned or  
11 operated by a moorage provider.

12 (c) "Moorage facility operator" has the same meaning as defined in  
13 RCW 53.08.310.

14 (d) "Moorage provider" means any public or private entity that owns  
15 or operates any moorage facility, including a moorage facility  
16 operator, private moorage facility operator, the state of Washington,  
17 or any other person.

18 (e) "Private moorage facility operator" has the same meaning as  
19 defined in RCW 88.26.010.

20 (f) "Requesting agency" means the department, the department of  
21 revenue, or the department of natural resources.

22 NEW SECTION. **Sec. 502.** A new section is added to chapter 82.49  
23 RCW to read as follows:

24 (1) An owner of a vessel that is not registered as required by  
25 chapter 88.02 RCW and for which watercraft excise tax is due under this  
26 chapter is liable for a penalty in the following amount:

- 27 (a) One hundred dollars for the owner's first violation;
- 28 (b) Two hundred dollars for the owner's second violation involving  
29 the same or any other vessel; or
- 30 (c) Four hundred dollars for the owner's third and successive  
31 violations involving the same or any other vessel.

32 (2) The department of revenue may collect this penalty under the  
33 procedures established in chapter 82.32 RCW. The penalty imposed under  
34 this section is in addition to any other civil or criminal penalty  
35 imposed by law.

1           **Sec. 503.** RCW 82.49.010 and 2010 c 161 s 1044 are each amended to  
2 read as follows:

3           (1) An excise tax is imposed for the privilege of using a vessel  
4 upon the waters of this state, except vessels exempt under RCW  
5 82.49.020. The annual amount of the excise tax is one-half of one  
6 percent of fair market value, as determined under this chapter, or five  
7 dollars, whichever is greater. Violation of this subsection is a  
8 misdemeanor.

9           (2) (~~Persons who are~~) A person who is required under chapter  
10 88.02 RCW to register a vessel in this state and who fails to register  
11 the vessel in this state or registers the vessel in another state or  
12 foreign country and avoids the Washington watercraft excise tax (~~are~~)  
13 is guilty of a gross misdemeanor and (~~are~~) is liable for such unpaid  
14 excise tax. The department of revenue may assess and collect the  
15 unpaid excise tax under chapter 82.32 RCW, including the penalty  
16 imposed in section 502 of this act and penalties and interest provided  
17 in chapter 82.32 RCW.

18           (3) The excise tax upon a vessel registered for the first time in  
19 this state shall be imposed for a twelve-month period, including the  
20 month in which the vessel is registered, unless the director of  
21 licensing extends or diminishes vessel registration periods for the  
22 purpose of staggered renewal periods under RCW 88.02.560. A vessel is  
23 registered for the first time in this state when the vessel was not  
24 registered in this state for the immediately preceding registration  
25 year, or when the vessel was registered in another jurisdiction for the  
26 immediately preceding year.

27                                 **Part Six--Miscellaneous and Technical**

28           **Sec. 601.** RCW 79.100.060 and 2013 c 291 s 40 are each amended to  
29 read as follows:

30           (1) The owner of an abandoned or derelict vessel, or any person or  
31 entity that has incurred secondary liability (~~under RCW 79.100.150~~)  
32 for an abandoned or derelict vessel under this chapter or section 202  
33 or 203 of this act, is responsible for reimbursing an authorized public  
34 entity for all reasonable and auditable costs associated with the  
35 removal or disposal of the owner's vessel under this chapter. These  
36 costs include, but are not limited to, costs incurred exercising the



1 authority granted in RCW 79.100.030, all administrative costs incurred  
2 by the authorized public entity during the procedure set forth in RCW  
3 79.100.040, removal and disposal costs, and costs associated with  
4 environmental damages directly or indirectly caused by the vessel. An  
5 authorized public entity that has taken temporary possession of a  
6 vessel may require that all reasonable and auditable costs associated  
7 with the removal of the vessel be paid before the vessel is released to  
8 the owner.

9 (2) Reimbursement for costs may be sought from an owner, or any  
10 person or entity that has incurred secondary liability under ((RCW  
11 79.100.150)) this chapter or section 202 or 203 of this act, who is  
12 identified subsequent to the vessel's removal and disposal.

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

20 **Sec. 602.** RCW 79.100.120 and 2013 c 291 s 32 are each amended to  
21 read as follows:

22 (1) ((A person)) (a) An owner or lien holder seeking to contest an  
23 authorized public entity's decision to take temporary possession or  
24 custody of a vessel under this chapter, or to contest the amount of  
25 reimbursement owed to an authorized public entity under this chapter,  
26 may request a hearing in accordance with this section.

27 (b) A transferor with secondary liability under this chapter or  
28 section 202 or 203 of this act may commence a lawsuit in the superior  
29 court for the county in which custody of the vessel was taken to  
30 contest the transferor's liability or the amount of reimbursement owed  
31 the authorized public entity under this chapter.

32 (2)(a) If the contested decision or action was undertaken by a  
33 state agency, a written request for a hearing related to the decision  
34 or action must be filed with the pollution control hearings board and  
35 served on the state agency in accordance with RCW 43.21B.230 (2) and  
36 (3) within thirty days of the date the authorized public entity  
37 acquires custody of the vessel under RCW 79.100.040, or if the vessel

1 is redeemed before the authorized public entity acquires custody, the  
2 date of redemption, or the right to a hearing is deemed waived and the  
3 vessel's owner is liable for any costs owed the authorized public  
4 entity. In the event of litigation, the prevailing party is entitled  
5 to reasonable attorneys' fees and costs.

6 (b) Upon receipt of a timely hearing request, the pollution control  
7 hearings board shall proceed to hear and determine the validity of the  
8 decision to take the vessel into temporary possession or custody and  
9 the reasonableness of any towing, storage, or other charges permitted  
10 under this chapter. Within five business days after the request for a  
11 hearing is filed, the pollution control hearings board shall notify the  
12 vessel owner requesting the hearing and the authorized public entity of  
13 the date, time, and location for the hearing. Unless the vessel is  
14 redeemed before the request for hearing is filed, the pollution control  
15 hearings board shall set the hearing on a date that is within ten  
16 business days of the filing of the request for hearing. If the vessel  
17 is redeemed before the request for a hearing is filed, the pollution  
18 control hearings board shall set the hearing on a date that is within  
19 sixty days of the filing of the request for hearing.

20 (c) Consistent with RCW 43.21B.305, a proceeding brought under this  
21 subsection may be heard by one member of the pollution control hearings  
22 board, whose decision is the final decision of the board.

23 (3)(a) If the contested decision or action was undertaken by a  
24 metropolitan park district, port district, city, town, or county, which  
25 has adopted rules or procedures for contesting decisions or actions  
26 pertaining to derelict or abandoned vessels, those rules or procedures  
27 must be followed in order to contest a decision to take temporary  
28 possession or custody of a vessel, or to contest the amount of  
29 reimbursement owed.

30 (b) If the metropolitan park district, port district, city, town,  
31 or county has not adopted rules or procedures for contesting decisions  
32 or actions pertaining to derelict or abandoned vessels, then ((~~a~~  
33 ~~person~~)) an owner or lien holder requesting a hearing under this  
34 section must follow the procedure established in subsection (2) of this  
35 section.

36 **Sec. 603.** RCW 79.100.100 and 2013 c 291 s 2 are each amended to  
37 read as follows:

1 (1)(a) The derelict vessel removal account is created in the state  
2 treasury. All receipts from RCW 79.100.050 and 79.100.060 and those  
3 moneys specified in RCW 88.02.640 must be deposited into the account.  
4 The account is authorized to receive fund transfers and appropriations  
5 from the general fund, deposits from the derelict vessel removal  
6 surcharge under RCW 88.02.640(4), deposits under section 402 of this  
7 act, as well as gifts, grants, and endowments from public or private  
8 sources as may be made from time to time, in trust or otherwise, for  
9 the use and benefit of the purposes of this chapter and expend the same  
10 or any income according to the terms of the gifts, grants, or  
11 endowments provided those terms do not conflict with any provisions of  
12 this section or any guidelines developed to prioritize reimbursement of  
13 removal projects associated with this chapter.

14 (b) Moneys in the account may only be spent after appropriation.  
15 Expenditures from the account may only be used by the department for  
16 developing and administering the vessel turn-in program created in RCW  
17 79.100.160 and to reimburse authorized public entities for up to ninety  
18 percent of the total reasonable and auditable administrative, removal,  
19 disposal, and environmental damage costs of abandoned or derelict  
20 vessels when the previous owner is either unknown after a reasonable  
21 search effort or insolvent. Reimbursement may not be made unless the  
22 department determines that the public entity has made reasonable  
23 efforts to identify and locate the party responsible for the vessel, or  
24 any other person or entity that has incurred secondary liability  
25 (~~(under RCW 79.100.150)~~) for the vessel under this chapter or section  
26 202 or 203 of this act, regardless of the title of owner of the vessel.

27 (c) Funds in the account resulting from transfers from the general  
28 fund or from the deposit of funds from the watercraft excise tax as  
29 provided for under RCW 82.49.030 must be used to reimburse one hundred  
30 percent of costs and should be prioritized for the removal of large  
31 vessels.

32 (d) Costs associated with the removal and disposal of an abandoned  
33 or derelict vessel under the authority granted in RCW 53.08.320 also  
34 qualify for reimbursement from the derelict vessel removal account.

35 (e) In each biennium, up to twenty percent of the expenditures from  
36 the derelict vessel removal account may be used for administrative  
37 expenses of the department of licensing and department of natural  
38 resources in implementing this chapter.

1 (2) Priority for use of this account is for the removal of derelict  
2 and abandoned vessels that are in danger of sinking, breaking up, or  
3 blocking navigation channels, or that present environmental risks such  
4 as leaking fuel or other hazardous substances. The department must  
5 develop criteria, in the form of informal guidelines, to prioritize  
6 removal projects associated with this chapter, but may not consider  
7 whether the applicant is a state or local entity when prioritizing.  
8 The guidelines must also include guidance to the authorized public  
9 entities as to what removal activities and associated costs are  
10 reasonable and eligible for reimbursement.

11 (3) The department must keep all authorized public entities  
12 apprised of the balance of the derelict vessel removal account and the  
13 funds available for reimbursement. The guidelines developed by the  
14 department must also be made available to the other authorized public  
15 entities. This subsection (3) must be satisfied by utilizing the least  
16 costly method, including maintaining the information on the  
17 department's internet web site, or any other cost-effective method.

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

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

33 **Sec. 604.** 2013 c 291 s 39 (uncodified) is amended to read as  
34 follows:

35 (1) By December 31, (~~2013~~) 2014, the department of natural  
36 resources shall adopt by rule initial procedures and standards for the  
37 vessel inspections required under (~~section 38 of this act~~) RCW

1 79.100.150. The procedures and standards must identify the public or  
2 private entities authorized to conduct inspections, the required  
3 elements of an inspection, and the manner in which inspection results  
4 must be documented. The vessel inspection required under this section  
5 must be designed to:

6 (a) Provide the transferee with current information about the  
7 condition of the vessel, including the condition of its hull and key  
8 operating systems, prior to the transfer;

9 (b) Provide the department of natural resources with information  
10 under (a) of this subsection for each applicable vessel and, more  
11 broadly, to improve the department's understanding of the condition of  
12 the larger, older boats in the state's waters;

13 (c) Discourage the future abandonment or dereliction of the vessel;  
14 and

15 (d) Maximize the efficiency and effectiveness of the inspection  
16 process, including with respect to the time and resources of the  
17 transferor, transferee, and the state.

18 (2) The department of natural resources shall work with appropriate  
19 government agencies and stakeholders in designing the inspection  
20 process and standards under this section.

21 (3) This section expires July 31, (~~(2014)~~) 2015.

22 NEW SECTION. **Sec. 605.** If any provision of this act or its  
23 application to any person or circumstance is held invalid, the  
24 remainder of the act or the application of the provision to other  
25 persons or circumstances is not affected."

**2SHB 2457** - S COMM AMD  
By Committee on Natural Resources & Parks

**NOT ADOPTED 03/07/2014**

26 On page 1, line 1 of the title, after "vessels;" strike the  
27 remainder of the title and insert "amending RCW 79.100.150, 79.100.130,  
28 53.08.310, 84.56.440, 82.49.010, 79.100.060, 79.100.120, and  
29 79.100.100; amending 2013 c 291 s 39 (uncodified); adding new sections

1 to chapter 79.100 RCW; adding a new section to chapter 88.26 RCW;  
2 adding a new section to chapter 53.08 RCW; adding a new section to  
3 chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a  
4 new section to chapter 44.28 RCW; adding a new section to chapter 88.02  
5 RCW; adding a new section to chapter 82.49 RCW; creating new sections;  
6 prescribing penalties; providing effective dates; and providing  
7 expiration dates."

EFFECT: Changes the penalty for purchaser's of vessels older than 40 years and longer than 65ft. who cancel marine insurance policies before the end of a 12-month term or a subsequent transfer from a gross misdemeanor to a misdemeanor; adds as a misdemeanor a purchaser's failure to secure marine insurance as required by the act; adds that sellers may transfer ownership of unseaworthy vessels for the purpose of restoration; changes a requirement that vessels "display" proof of insurance as a condition of moorage to a requirement they "provide" a marina with proof of insurance; clarifies that marinas are not required to verify liability coverage for mooring vessels; reduces the new derelict vessel removal fee for commercial vessels from \$3 to \$1 per vessel foot; makes technical corrections.

--- END ---