
SUBSTITUTE HOUSE BILL 2457

State of Washington

63rd Legislature

2014 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Hansen, Smith, Fagan, Springer, Rodne, Reykdal, Magendanz, Fitzgibbon, Vick, Lytton, Wilcox, Pollet, Tharinger, Ryu, Van De Wege, Buys, and Hayes; by request of Department of Natural Resources)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to derelict and abandoned vessels; amending RCW
2 79.100.150, 79.100.130, 53.08.310, 84.56.440, 82.49.010, 79.100.060,
3 79.100.120, and 79.100.100; amending 2013 c 291 s 39 (uncodified);
4 adding new sections to chapter 79.100 RCW; adding a new section to
5 chapter 88.26 RCW; adding a new section to chapter 53.08 RCW; adding a
6 new section to chapter 82.08 RCW; adding a new section to chapter 82.12
7 RCW; adding a new section to chapter 44.28 RCW; adding a new section to
8 chapter 88.02 RCW; adding a new section to chapter 82.49 RCW; adding a
9 new section to chapter 79.105 RCW; creating new sections; prescribing
10 penalties; providing effective dates; and providing expiration dates.

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

12 NEW SECTION. **Sec. 1.** (1) The legislature finds that section 45,
13 chapter 291, Laws of 2013 required the department of natural resources,
14 in consultation with the department of ecology, to evaluate potential
15 changes to laws and rules related to derelict and abandoned vessels
16 that increase vessel owner responsibility and address challenges
17 associated with the economics of removing vessels from the water.

18 (2) The legislature further finds that, during the 2013 legislative
19 interim, the two responsible agencies engaged in a thorough process to

1 satisfy their legislative charge. This process involved exhausting in-
2 state expertise on various topics and reaching out to experts in vessel
3 deconstruction, surety bonding, letters of credit, marine insurance,
4 taxation, federal regulation, similar programs in other states, and
5 more. The process also involved two open invitation public meetings.

6 (3) The legislature further finds that a significant number of
7 various and competing options were discussed, analyzed, and ultimately
8 dismissed during the process undertaken by the two agencies. It is the
9 intent of the legislature to capture the recommendations for meeting
10 the goals of increased vessel owner responsibility and addressing the
11 challenges associated with the economics of removing vessels from the
12 water that rose to the top from the process undertaken by the agencies.

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

16 **Part One--Vessel Owner Responsibility**

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

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

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

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

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

1 consistent with RCW 79.100.060 if the vessel is later abandoned by the
2 transferee or becomes derelict prior to a subsequent ownership
3 transfer.

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

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

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

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

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

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

23 (6) It is a gross misdemeanor for a person required to show proof
24 of insurance under this section to cancel a marine insurance policy
25 obtained consistent with this section prior to the end of the twelfth
26 month of vessel ownership or to a subsequent transfer of ownership,
27 whichever occurs first, without obtaining a marine insurance policy in
28 its place that satisfies the requirements of this section. The
29 department may contact any vessel owner required by this section to
30 have a marine insurance policy to ensure compliance with this section.

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

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

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

37 (b) Either:

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

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

4 (2) If the vessel inspection determines that the vessel is not
5 seaworthy and that the value of the vessel is less than the anticipated
6 costs required to return the vessel to seaworthiness, then the vessel
7 owner may not sell or transfer ownership of the vessel unless:

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

10 (b) The vessel is being sold for scrap, salvage, or another use
11 that will remove the vessel from state waters.

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

16 ((+3)) (4) Unless rules adopted by the department provide
17 otherwise, the vessel inspection required under this section must be
18 contained in a formal marine survey conducted by a third party to the
19 transaction. The survey must include, at a minimum, a conclusion
20 relating to the seaworthiness of the vessel, an estimate of the
21 vessel's fair market value, and, if applicable, an estimate as to the
22 anticipated cost of repairs necessary to return the vessel to
23 seaworthiness.

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

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

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

36 **Part Two--Authorities and Requirements Applicable to Marinas**

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

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

7 (2) If a contract is completed under this section, the department
8 or local government shall serve as the authorized public entity for the
9 removal of a derelict or abandoned vessel from the property of the
10 private moorage facility owner. The contract must provide for the
11 private moorage facility owner to be financially responsible for the
12 removal and disposal costs that are not reimbursed by the department as
13 provided under RCW 79.100.100, and any additional reasonable
14 administrative costs incurred by the department or local government
15 during the removal of the derelict or abandoned vessel.

16 (3) Prior to the commencement of any removal (~~which~~) under this
17 section for which a local government serves as the authorized public
18 entity and that will seek reimbursement from the derelict vessel
19 removal program, the contract and the proposed vessel removal shall be
20 submitted to the department for review and approval. The local
21 government shall use the procedure specified under RCW
22 79.100.100(~~(+6)~~)).

23 (4) If the private moorage facility owner has already seized the
24 vessel under chapter 88.26 RCW and title has reverted to the moorage
25 facility, the moorage facility is not considered the owner under this
26 chapter for purposes of cost recovery for actions taken under this
27 section.

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

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

1 NEW SECTION. **Sec. 202.** A new section is added to chapter 88.26
2 RCW to read as follows:

3 (1) Every private moorage facility operator must:

4 (a) Obtain and maintain insurance coverage for the private moorage
5 facility;

6 (b) Require, as a condition of moorage, all vessels other than
7 transient vessels to display proof of marine insurance when a moorage
8 agreement is finalized.

9 (2) Unless rules adopted by the department require otherwise,
10 insurance maintained by private moorage facility operators and required
11 of moored vessels must:

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

14 (b) Include, at a minimum, general, legal, and pollution liability
15 coverage.

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

19 (4) The requirement under this section for private moorage facility
20 operators to require proof of marine insurance from mooring vessels
21 applies at the time a moorage agreement is entered into and at the time
22 of any renewals of the agreement. The private moorage facility
23 operator is not responsible for any change in insurance coverage
24 applicable to the vessel that occurs after the initial agreement is
25 entered into or in the time period between agreement renewals.

26 (5) Any private moorage facility operator who fails to satisfy the
27 requirements of this section incurs secondary liability under RCW
28 79.100.060 for any vessel located at the private moorage facility that
29 meets the definition of derelict vessel or abandoned vessel as those
30 terms are defined in RCW 79.100.010.

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

33 (1) Every moorage facility operator must:

34 (a) Obtain and maintain insurance coverage for the moorage
35 facility;

36 (b) Require, as a condition of moorage, all vessels other than
37 transient vessels to display proof of marine insurance.

1 (2) Unless rules adopted by the department require otherwise,
2 insurance maintained by moorage facility operators and required of
3 moored vessels must:

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

6 (b) Include, at a minimum, general, legal, and pollution liability
7 coverage.

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

11 (4) The requirement under this section for moorage facility
12 operators to require proof of marine insurance from mooring vessels
13 applies at the time a moorage agreement is entered into and at the time
14 of any renewals of the agreement. The moorage facility operator is not
15 responsible for any change in insurance coverage applicable to the
16 vessel that occurs after the initial agreement is entered into or in
17 the time period between agreement renewals.

18 (5) Any moorage facility operator who fails to satisfy the
19 requirements of this section incurs secondary liability under RCW
20 79.100.060 for any vessel located at the moorage facility that meets
21 the definition of derelict vessel or abandoned vessel as those terms
22 are defined in RCW 79.100.010.

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

25 Unless the context clearly requires otherwise, the definitions in
26 this section apply throughout this section, section 203 of this act,
27 and RCW 53.08.320.

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

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

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

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

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

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

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

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

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

21 (a) A qualified vessel deconstruction facility; or

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

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

27 (a)(i) "Vessel deconstruction" means permanently dismantling a
28 vessel, including: Abatement and removal of hazardous materials; the
29 removal of mechanical, hydraulic, or electronic components or other
30 vessel machinery and equipment; and either the cutting apart or
31 disposal, or both, of vessel infrastructure. For the purposes of this
32 subsection, "hazardous materials" includes fuel, lead, asbestos,
33 polychlorinated biphenyls, and oils.

34 (ii) "Vessel deconstruction" does not include vessel modification
35 or repair.

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

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

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

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

15 (a) A qualified vessel deconstruction facility; or

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

19 (2) The definitions in section 301(2) of this act apply to this
20 section.

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

23 (1) This section is the tax preference performance statement for
24 the tax preference contained in sections 301 and 302 of this act. This
25 performance statement is only intended to be used for subsequent
26 evaluation of this tax preference. It is not intended to create a
27 private right of action by any party or be used to determine
28 eligibility for preferential tax treatment.

29 (2) The legislature categorizes this tax preference as intended to
30 induce certain designated behavior by taxpayers as indicated in RCW
31 82.32.808(2)(a).

32 (3) It is the legislature's specific public policy objective to
33 decrease the number of abandoned and derelict vessels by providing
34 incentives to increase vessel deconstruction in Washington by lowering
35 the cost of deconstruction. It is the legislature's intent to provide
36 businesses engaged in vessel deconstruction a sales and use tax

1 exemption for sales of vessel deconstruction. This incentive will
2 lower the costs associated with vessel deconstruction and encourage
3 businesses to make investments in vessel deconstruction facilities.
4 Pursuant to chapter 43.136 RCW, the joint legislative audit and review
5 committee must review the sales tax exemptions provided under sections
6 301 and 302 of this act by December 1, 2018.

7 (4) If a review finds that the increase in available capacity to
8 deconstruct derelict vessels or a reduction in the average cost to
9 deconstruct vessels has resulted in an increase of the number of
10 derelict vessels removed from Washington's waters as compared to before
11 the effective date of this section, then the legislature intends for
12 the legislative auditor to recommend extending the expiration date of
13 the tax preference.

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

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

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

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

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

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

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

31 (c) Derelict vessel removal fees do not apply to commercial
32 vessels. Former commercial vessels are among the most costly to remove
33 from Washington waters and to dispose of in an environmentally
34 responsible manner. The costs for removing and disposing of these

1 vessels far exceeds the funding provided by the derelict vessel removal
2 fees paid by recreational vessels;

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

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

10 (2) The legislature intends for either the owners or operators, or
11 both, of commercial vessels to pay their fair share for the removal of
12 abandoned or derelict vessels by imposing a fee for the moorage of
13 commercial vessels.

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

16 (1)(a) Except as otherwise provided in (b) of this subsection, an
17 annual derelict vessel fee is imposed upon all persons required by RCW
18 84.40.065 to list any ship or vessel with the department of revenue for
19 state property tax purposes.

20 (b) The derelict vessel fee imposed in (a) of this subsection does
21 not apply if a person required to list a ship or vessel does not owe
22 the ad valorem tax as provided in RCW 84.56.440.

23 (c) The annual derelict vessel fee is equal to three dollars per
24 vessel foot measured by extreme length of the vessel, rounded up to the
25 nearest whole foot.

26 (2)(a) Unless the current owner of a ship or vessel did not own the
27 ship or vessel as of the first day of January of the immediately
28 preceding calendar year, the department of revenue must annually
29 include the amount of the derelict vessel fee due under this section
30 for that calendar year in the tax statement required in RCW 84.40.065.

31 (b) In circumstances where the current owner of a ship or vessel
32 did not own the ship or vessel as of the first day of January of the
33 immediately preceding calendar year, or when no state property taxes
34 are due on the ship or vessel in the current calendar year, the
35 department of revenue must nevertheless send a tax statement to the
36 current owner of the ship or vessel, or the person who most recently

1 listed the ship or vessel with the department, for collection of the
2 derelict vessel fee due under this section.

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

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

8 (5) All derelict vessel fees collected under this section must be
9 deposited into the derelict vessel removal account created in RCW
10 79.100.100.

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

13 (1) The department of revenue shall collect the derelict vessel fee
14 imposed under section 402 of this act and all ad valorem taxes upon
15 ships and vessels listed with the department in accordance with RCW
16 84.40.065, and all applicable interest and penalties on such taxes and
17 fees. The taxes and derelict vessel fee shall be due and payable to
18 the department on or before the thirtieth day of April and shall be
19 delinquent after that date.

20 (2) If payment of the tax, derelict vessel fee, or both, is not
21 received by the department by the due date, there shall be imposed a
22 penalty of five percent of the amount of the unpaid tax and fee; and if
23 the tax (~~is~~) and fee are not received within thirty days after the
24 due date, there shall be imposed a total penalty of ten percent of the
25 amount of the unpaid tax and fee; and if the tax (~~is~~) and fee are not
26 received within sixty days after the due date, there shall be imposed
27 a total penalty of twenty percent of the amount of the unpaid tax and
28 fee. No penalty so added shall be less than five dollars.

29 (3) Delinquent taxes under this section are subject to interest at
30 the rate set forth in RCW 82.32.050 from the date of delinquency until
31 paid. Delinquent derelict vessel fees are also subject to interest at
32 the same rate and in the same manner as provided for delinquent taxes
33 under RCW 82.32.050. Interest or penalties collected on delinquent
34 taxes and derelict vessel fees under this section shall be paid by the
35 department into the general fund of the state treasury.

36 (4) If upon information obtained by the department it appears that
37 any ship or vessel required to be listed according to the provisions of

1 RCW 84.40.065 is not so listed, the department shall value the ship or
2 vessel and assess against the owner of the vessel the taxes and
3 derelict vessel fees found to be due and shall add thereto interest at
4 the rate set forth in RCW 82.32.050 from the original due date of the
5 tax and fee until the date of payment. The department shall notify the
6 vessel owner by mail of the amount and the same shall become due and
7 shall be paid by the vessel owner within thirty days of the date of the
8 notice. If payment is not received by the department by the due date
9 specified in the notice, the department shall add a penalty of ten
10 percent of the tax and fee found due. A person who willfully gives a
11 false listing or willfully fails to list a ship or vessel as required
12 by RCW 84.40.065 shall be subject to the penalty imposed by RCW
13 84.40.130(2), which shall be assessed and collected by the department.

14 (5) Delinquent taxes and fees under this section, along with all
15 penalties and interest thereon, shall be collected by the department
16 according to the procedures set forth in chapter 82.32 RCW for the
17 filing and execution of tax warrants, including the imposition of
18 warrant interest. In the event a warrant is issued by the department
19 for the collection of taxes, derelict vessel fees, or both, under this
20 section, the department shall add a penalty of five percent of the
21 amount of the delinquent tax and fee, but not less than ten dollars.

22 ~~(6) ((The department shall also collect all delinquent taxes~~
23 ~~pertaining to ships and vessels appearing on the records of the county~~
24 ~~treasurers for each of the counties of this state as of December 31,~~
25 ~~1993, including any applicable interest or penalties. The provisions~~
26 ~~of subsection (5) of this section shall apply to the collection of such~~
27 ~~delinquent taxes.~~

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

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

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

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

2 NEW SECTION. **Sec. 501.** A new section is added to chapter 88.02
3 RCW to read as follows:

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

7 (a) The name of the legal owner of the vessel;

8 (b) A local contact person and that person's address and telephone
9 number, if different than the owner;

10 (c) The owner's address and telephone number;

11 (d) The vessel's hull identification number;

12 (e) If applicable, the vessel's coast guard registration;

13 (f) The vessel's home port;

14 (g) The date on which the moorage began;

15 (h) The vessel's country or state of registration and registration
16 number; and

17 (i) Proof of vessel registration, a written statement of the
18 lessee's intent to register a vessel, or an affidavit in a form and
19 manner approved by the department certifying that the vessel is exempt
20 from state vessel registration requirements as provided by RCW
21 88.02.570.

22 (2) For moorage agreements entered into effective on or after July
23 1, 2014, a long-term moorage agreement for vessels not registered in
24 this state must include, in a form and manner approved by the
25 department and the department of revenue, notice of state vessel
26 registration requirements as provided by this chapter and tax
27 requirements as provided by chapters 82.08, 82.12, and 82.49 RCW and
28 listing requirements as provided by RCW 84.40.065.

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

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

33 (i) Inspect the moorage facility for vessels that are not
34 registered as required by this chapter or listed as required under RCW
35 84.40.065; and

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

1 (b) Provide to the requesting agency:

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

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

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

13 (5) The information required to be collected under this section
14 must be collected at the time the long-term moorage agreement is
15 entered into and at the time of any renewals of the agreement. The
16 moorage provider is not responsible for updating any changes in the
17 information that occurs after the initial agreement is entered into or
18 in the time period between agreement renewals.

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

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

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

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

28 (d) "Moorage provider" means any public or private entity that owns
29 or operates any moorage facility, including a moorage facility
30 operator, private moorage facility operator, the state of Washington,
31 or any other person.

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

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

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

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

4 (a) One hundred dollars for the owner's first violation;

5 (b) Two hundred dollars for the owner's second violation involving
6 the same or any other vessel; or

7 (c) Four hundred dollars for the owner's third and successive
8 violations involving the same or any other vessel.

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

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

15 (1) An excise tax is imposed for the privilege of using a vessel
16 upon the waters of this state, except vessels exempt under RCW
17 82.49.020. The annual amount of the excise tax is one-half of one
18 percent of fair market value, as determined under this chapter, or five
19 dollars, whichever is greater. Violation of this subsection is a
20 misdemeanor.

21 (2) (~~Persons who are~~) A person who is required under chapter
22 88.02 RCW to register a vessel in this state and who fails to register
23 the vessel in this state or registers the vessel in another state or
24 foreign country and avoids the Washington watercraft excise tax (~~are~~)
25 is guilty of a gross misdemeanor and (~~are~~) is liable for such unpaid
26 excise tax. The department of revenue may assess and collect the
27 unpaid excise tax under chapter 82.32 RCW, including the penalty
28 imposed in section 502 of this act and penalties and interest provided
29 in chapter 82.32 RCW.

30 (3) The excise tax upon a vessel registered for the first time in
31 this state shall be imposed for a twelve-month period, including the
32 month in which the vessel is registered, unless the director of
33 licensing extends or diminishes vessel registration periods for the
34 purpose of staggered renewal periods under RCW 88.02.560. A vessel is
35 registered for the first time in this state when the vessel was not
36 registered in this state for the immediately preceding registration

1 year, or when the vessel was registered in another jurisdiction for the
2 immediately preceding year.

3 **Part Six--Miscellaneous and Technical**

4 NEW SECTION. **Sec. 601.** A new section is added to chapter 79.105
5 RCW to read as follows:

6 (1) A person may moor, anchor, or otherwise leave a vessel in the
7 same area on state-owned aquatic lands for a period of up to thirty
8 consecutive days, and up to a total of ninety days in any three hundred
9 sixty-five day period, as long as the vessel's presence is not for
10 commercial purposes or the vessel's presence is allowable under
11 subsection (2)(a)(i), (ii), or (iii) of this section. A vessel moored,
12 anchored, or otherwise left for longer than the allowable time periods
13 provided in this section may only remain in place if:

14 (a) The department or lessee of the state-owned aquatic lands has
15 given express consent for the vessel that is moored, anchored, or
16 otherwise left to exceed this time period and the anchoring, mooring,
17 or leaving the vessel is not otherwise unlawful; or

18 (b) The department, the federal government, or a state agency,
19 local government, or port district with authority has posted or adopted
20 different time period restrictions.

21 (2)(a) A person may not moor, anchor, or otherwise leave a vessel
22 in any location on state-owned aquatic lands for commercial purposes
23 without the express consent of the department unless the mooring,
24 anchoring, or leaving of the vessel on state-owned aquatic lands is:

25 (i) Incidental to the act of navigation;

26 (ii) Required due to an emergency; or

27 (iii) Directed by an entity with jurisdiction and authority.

28 (b) If a vessel is moored, anchored, or left in a manner as
29 described in (a)(i), (ii), or (iii) of this subsection, the limitations
30 of subsection (1) of this section apply.

31 (3) A violation of this section is a natural resource infraction
32 under chapter 7.84 RCW.

33 (4) Any law enforcement officer of the state or its political
34 subdivisions may enforce this section and any rules adopted by the
35 department under this section within the officer's jurisdiction.

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

3 (a) "Commercial purposes" means that a vessel is moored, anchored,
4 or otherwise left on aquatic lands in connection with an activity or
5 operation involving the buying, selling, or bartering of goods or
6 services, regardless of whether the use or activity is intended to
7 produce a profit.

8 (b) "In the same area" means within a radius of five miles of any
9 location where the vessel was previously moored, anchored, or otherwise
10 left on aquatic lands.

11 **Sec. 602.** RCW 79.100.060 and 2013 c 291 s 40 are each amended to
12 read as follows:

13 (1) The owner of an abandoned or derelict vessel, or any person or
14 entity that has incurred secondary liability (~~under RCW 79.100.150~~)
15 for an abandoned or derelict vessel under this chapter or section 202
16 or 203 of this act, is responsible for reimbursing an authorized public
17 entity for all reasonable and auditable costs associated with the
18 removal or disposal of the owner's vessel under this chapter. These
19 costs include, but are not limited to, costs incurred exercising the
20 authority granted in RCW 79.100.030, all administrative costs incurred
21 by the authorized public entity during the procedure set forth in RCW
22 79.100.040, removal and disposal costs, and costs associated with
23 environmental damages directly or indirectly caused by the vessel. An
24 authorized public entity that has taken temporary possession of a
25 vessel may require that all reasonable and auditable costs associated
26 with the removal of the vessel be paid before the vessel is released to
27 the owner.

28 (2) Reimbursement for costs may be sought from an owner, or any
29 person or entity that has incurred secondary liability under (~~RCW~~
30 ~~79.100.150~~) this chapter or section 202 or 203 of this act, who is
31 identified subsequent to the vessel's removal and disposal.

32 (3) If the full amount of all costs due to the authorized public
33 entity under this chapter is not paid to the authorized public entity
34 within thirty days after first notifying the responsible parties of the
35 amounts owed, the authorized public entity or the department may bring
36 an action in any court of competent jurisdiction to recover the costs,

1 plus reasonable attorneys' fees and costs incurred by the authorized
2 public entity.

3 **Sec. 603.** RCW 79.100.120 and 2013 c 291 s 32 are each amended to
4 read as follows:

5 (1) (~~(A person)~~) (a) An owner or lien holder seeking to contest an
6 authorized public entity's decision to take temporary possession or
7 custody of a vessel under this chapter, or to contest the amount of
8 reimbursement owed to an authorized public entity under this chapter,
9 may request a hearing in accordance with this section.

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

15 (2)(a) If the contested decision or action was undertaken by a
16 state agency, a written request for a hearing related to the decision
17 or action must be filed with the pollution control hearings board and
18 served on the state agency in accordance with RCW 43.21B.230 (2) and
19 (3) within thirty days of the date the authorized public entity
20 acquires custody of the vessel under RCW 79.100.040, or if the vessel
21 is redeemed before the authorized public entity acquires custody, the
22 date of redemption, or the right to a hearing is deemed waived and the
23 vessel's owner is liable for any costs owed the authorized public
24 entity. In the event of litigation, the prevailing party is entitled
25 to reasonable attorneys' fees and costs.

26 (b) Upon receipt of a timely hearing request, the pollution control
27 hearings board shall proceed to hear and determine the validity of the
28 decision to take the vessel into temporary possession or custody and
29 the reasonableness of any towing, storage, or other charges permitted
30 under this chapter. Within five business days after the request for a
31 hearing is filed, the pollution control hearings board shall notify the
32 vessel owner requesting the hearing and the authorized public entity of
33 the date, time, and location for the hearing. Unless the vessel is
34 redeemed before the request for hearing is filed, the pollution control
35 hearings board shall set the hearing on a date that is within ten
36 business days of the filing of the request for hearing. If the vessel

1 is redeemed before the request for a hearing is filed, the pollution
2 control hearings board shall set the hearing on a date that is within
3 sixty days of the filing of the request for hearing.

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

7 (3)(a) If the contested decision or action was undertaken by a
8 metropolitan park district, port district, city, town, or county, which
9 has adopted rules or procedures for contesting decisions or actions
10 pertaining to derelict or abandoned vessels, those rules or procedures
11 must be followed in order to contest a decision to take temporary
12 possession or custody of a vessel, or to contest the amount of
13 reimbursement owed.

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

20 **Sec. 604.** RCW 79.100.100 and 2013 c 291 s 2 are each amended to
21 read as follows:

22 (1)(a) The derelict vessel removal account is created in the state
23 treasury. All receipts from RCW 79.100.050 and 79.100.060 and those
24 moneys specified in RCW 88.02.640 must be deposited into the account.
25 The account is authorized to receive fund transfers and appropriations
26 from the general fund, deposits from the derelict vessel removal
27 surcharge under RCW 88.02.640(4), deposits under section 402 of this
28 act, as well as gifts, grants, and endowments from public or private
29 sources as may be made from time to time, in trust or otherwise, for
30 the use and benefit of the purposes of this chapter and expend the same
31 or any income according to the terms of the gifts, grants, or
32 endowments provided those terms do not conflict with any provisions of
33 this section or any guidelines developed to prioritize reimbursement of
34 removal projects associated with this chapter.

35 (b) Moneys in the account may only be spent after appropriation.
36 Expenditures from the account may only be used by the department for
37 developing and administering the vessel turn-in program created in RCW

1 79.100.160 and to reimburse authorized public entities for up to ninety
2 percent of the total reasonable and auditable administrative, removal,
3 disposal, and environmental damage costs of abandoned or derelict
4 vessels when the previous owner is either unknown after a reasonable
5 search effort or insolvent. Reimbursement may not be made unless the
6 department determines that the public entity has made reasonable
7 efforts to identify and locate the party responsible for the vessel, or
8 any other person or entity that has incurred secondary liability
9 (~~under RCW 79.100.150~~) for the vessel under this chapter or section
10 202 or 203 of this act, regardless of the title of owner of the vessel.

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

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

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

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

33 (3) The department must keep all authorized public entities
34 apprised of the balance of the derelict vessel removal account and the
35 funds available for reimbursement. The guidelines developed by the
36 department must also be made available to the other authorized public
37 entities. This subsection (3) must be satisfied by utilizing the least

1 costly method, including maintaining the information on the
2 department's internet web site, or any other cost-effective method.

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

7 (5) This chapter does not guarantee reimbursement for an authorized
8 public entity. Authorized public entities seeking certainty in
9 reimbursement prior to taking action under this chapter may first
10 notify the department of their proposed action and the estimated total
11 costs. Upon notification by an authorized public entity, the
12 department must make the authorized public entity aware of the status
13 of the fund and the likelihood of reimbursement being available. The
14 department may offer technical assistance and assure reimbursement for
15 up to two years following the removal action if an assurance is
16 appropriate given the balance of the fund and the details of the
17 proposed action.

18 **Sec. 605.** 2013 c 291 s 39 (uncodified) is amended to read as
19 follows:

20 (1) By December 31, ((2013)) 2014, the department of natural
21 resources shall adopt by rule initial procedures and standards for the
22 vessel inspections required under ((~~section 38 of this act~~)) RCW
23 79.100.150. The procedures and standards must identify the public or
24 private entities authorized to conduct inspections, the required
25 elements of an inspection, and the manner in which inspection results
26 must be documented. The vessel inspection required under this section
27 must be designed to:

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

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

35 (c) Discourage the future abandonment or dereliction of the vessel;
36 and

1 (d) Maximize the efficiency and effectiveness of the inspection
2 process, including with respect to the time and resources of the
3 transferor, transferee, and the state.

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

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

8 NEW SECTION. **Sec. 606.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

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