
HOUSE BILL 2457

State of Washington

63rd Legislature

2014 Regular Session

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 01/17/14. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to derelict and abandoned vessels; amending RCW
2 53.08.320, 88.26.020, 79.100.050, 79.100.150, 79.100.130, 53.08.310,
3 82.49.010, 79.100.060, 79.100.120, 79.100.100, 43.21B.110, and
4 43.21B.110; amending 2013 c 291 s 39 (uncodified); adding a new section
5 to chapter 79.100 RCW; adding a new section to chapter 43.24 RCW;
6 adding a new section to chapter 88.26 RCW; adding a new section to
7 chapter 53.08 RCW; adding a new section to chapter 82.08 RCW; adding a
8 new section to chapter 88.02 RCW; adding a new section to chapter 82.49
9 RCW; adding a new section to chapter 79.105 RCW; adding a new section
10 to chapter 44.28 RCW; adding a new chapter to Title 82 RCW; creating
11 new sections; prescribing penalties; providing effective dates; and
12 providing expiration dates.

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

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

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

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

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

18 **Part One--Vessel Owner Responsibility**

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

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

26 (a) The transferor of the vessel upon purchase;

27 (b) If applicable, the department of licensing upon registration or
28 the department of revenue upon the payment of any taxes; and

29 (c) The department within seven days of taking ownership.

30 (2) The transferor of a vessel greater than sixty-five feet in
31 length and more than forty years old has an affirmative duty to ensure
32 that any potential transferee has secured a marine insurance policy
33 consistent with this section prior to or concurrent with the
34 finalization of any sale. Nothing in this section prohibits the sale
35 or other transfer of a vessel greater than sixty-five feet in length
36 and more than forty years old to a transferee that fails to secure a

1 marine insurance policy. However, a transferor that chooses to
2 finalize a sale or other transfer with a transferee not in possession
3 of a marine insurance policy assumes secondary liability for the vessel
4 consistent with RCW 79.100.060 if the vessel is later abandoned by the
5 transferee or becomes derelict prior to a subsequent ownership
6 transfer.

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

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

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

17 (c) Provide, unless otherwise provided by the department by rule,
18 coverage for the removal and disposal of the vessel if it should become
19 derelict.

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

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

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

33 NEW SECTION. **Sec. 102.** A new section is added to chapter 43.24
34 RCW to read as follows:

35 (1) The department of licensing must, with the assistance of the
36 department of natural resources, create and maintain a database of
37 individuals and companies that have, within the past ten years, been:

1 (a) Convicted of any criminal violation of:
2 (i) RCW 79.100.110 (vessel abandoned or derelict upon aquatic
3 lands);
4 (ii) RCW 70.105.085 (hazardous waste management act
5 violations--criminal penalties);
6 (iii) RCW 77.105.090 (hazardous waste management act
7 violations--gross misdemeanor);
8 (iv) RCW 90.56.300 (oil and hazardous substance spill prevention
9 and response act violations);
10 (v) RCW 90.48.140 (water pollution control act violations);
11 (vi) RCW 70.95.240 (solid waste management act violations);
12 (vii) RCW 90.58.220 (shoreline management act violations);
13 (viii) RCW 90.03.400, 90.03.410, and 90.03.420 (water code
14 violations); or
15 (ix) RCW 70.94.430 (Washington clean air act violations); or
16 (b) Found liable for the dereliction or abandonment of a vessel in
17 Washington or another jurisdiction.
18 (2) The database must be made available on the department of
19 licensing's internet web site.
20 (3) A person or company included on the database may not purchase
21 a vessel longer than thirty feet.
22 (4)(a) The department of licensing must notify any individual or
23 company prior to, or concurrent with, that individual or company's name
24 appearing on the database.
25 (b) Any individual or company whose name appears on the database
26 may have the name removed from the database by either:
27 (i) Posting a form of financial responsibility or securing a marine
28 insurance policy deemed suitable by the department of natural resources
29 that would fully protect the state in the event of future vessel
30 abandonment; or
31 (ii) For those included on the database for reasons identified
32 under subsection (1)(b) of this section only, fully reimbursing the
33 state for the costs of any past vessel abandonment or dereliction.
34 (c) Inclusion on the database may be appealed to the pollution
35 control hearings board.
36 (5) If any person or company included on the database purchases a
37 vessel longer than thirty feet after the person or company is notified

1 of being included on the database, then the department may seize
2 possession of the vessel using the same administrative process for
3 obtaining custody of an abandoned vessel under RCW 79.100.040.

4 **Sec. 103.** RCW 53.08.320 and 2011 c 247 s 3 are each amended to
5 read as follows:

6 A moorage facility operator may adopt all rules necessary for
7 rental and use of moorage facilities and for the expeditious collection
8 of port charges. The rules may also establish procedures for the
9 enforcement of these rules by port district, city, county, metropolitan
10 park district or town personnel. The rules shall include the
11 following:

12 (1) Procedures authorizing moorage facility personnel to take
13 reasonable measures, including the use of chains, ropes, and locks, or
14 removal from the water, to secure vessels within the moorage facility
15 so that the vessels are in the possession and control of the moorage
16 facility operator and cannot be removed from the moorage facility.
17 These procedures may be used if an owner mooring or storing a vessel at
18 the moorage facility fails, after being notified that charges are owing
19 and of the owner's right to commence legal proceedings to contest that
20 such charges are owing, to pay the port charges owed or to commence
21 legal proceedings. Notification shall be by registered mail to the
22 owner at his or her last known address. In the case of a transient
23 vessel, or where no address was furnished by the owner, the moorage
24 facility operator need not give such notice prior to securing the
25 vessel. At the time of securing the vessel, an authorized moorage
26 facility employee shall attach to the vessel a readily visible notice.
27 The notice shall be of a reasonable size and shall contain the
28 following information:

29 (a) The date and time the notice was attached;

30 (b) A statement that if the account is not paid in full within
31 ninety days from the time the notice is attached, the vessel may be
32 sold at public auction to satisfy the port charges; and

33 (c) The address and telephone number where additional information
34 may be obtained concerning release of the vessel.

35 After a vessel is secured, the operator shall make a reasonable
36 effort to notify the owner by registered mail in order to give the
37 owner the information contained in the notice.

1 (2) Procedures authorizing moorage facility personnel at their
2 discretion to move moored vessels ashore for storage within properties
3 under the operator's control or for storage with private persons under
4 their control as bailees of the moorage facility, if the vessel is, in
5 the opinion of port personnel a nuisance, if the vessel is in danger of
6 sinking or creating other damage, or is owing port charges. Costs of
7 any such procedure shall be paid by the vessel's owner. If the owner
8 is not known, or unable to reimburse the moorage facility operator for
9 the costs of these procedures, the mooring facility operators may seek
10 reimbursement of ninety percent of all reasonable and auditable costs
11 from the derelict vessel removal account established in RCW 79.100.100.

12 (3) If a vessel is secured under subsection (1) of this section or
13 moved ashore under subsection (2) of this section, the owner who is
14 obligated to the moorage facility operator for port charges may regain
15 possession of the vessel by:

16 (a) Making arrangements satisfactory with the moorage facility
17 operator for the immediate removal of the vessel from the moorage
18 facility or for authorized moorage; and

19 (b) Making payment to the moorage facility operator of all port
20 charges, or by posting with the moorage facility operator a sufficient
21 cash bond or other acceptable security, to be held in trust by the
22 moorage facility operator pending written agreement of the parties with
23 respect to payment by the vessel owner of the amount owing, or pending
24 resolution of the matter of the charges in a civil action in a court of
25 competent jurisdiction. After entry of judgment, including any
26 appeals, in a court of competent jurisdiction, or after the parties
27 reach agreement with respect to payment, the trust shall terminate and
28 the moorage facility operator shall receive so much of the bond or
29 other security as is agreed, or as is necessary to satisfy any
30 judgment, costs, and interest as may be awarded to the moorage facility
31 operator. The balance shall be refunded immediately to the owner at
32 his or her last known address.

33 (4) If a vessel has been secured by the moorage facility operator
34 under subsection (1) of this section and is not released to the owner
35 under the bonding provisions of this section within ninety days after
36 notifying or attempting to notify the owner under subsection (1) of
37 this section, the vessel shall be conclusively presumed to have been
38 abandoned by the owner.

1 (5) If a vessel moored or stored at a moorage facility is
2 abandoned, the moorage facility operator may, by resolution of its
3 legislative authority, authorize the public sale of the vessel by
4 authorized personnel to the highest and best bidder for cash as
5 prescribed by this subsection (5). However, the moorage facility
6 operator does not have to sell the vessel to a person or company
7 included on the database maintained by the department of licensing
8 under section 102 of this act even if that person or company is the
9 highest and best bidder. Either a minimum bid may be established or a
10 letter of credit may be required, or both, to discourage the future
11 reabandonment of the vessel.

12 (a) Before the vessel is sold, the owner of the vessel shall be
13 given at least twenty days' notice of the sale in the manner set forth
14 in subsection (1) of this section if the name and address of the owner
15 is known. The notice shall contain the time and place of the sale, a
16 reasonable description of the vessel to be sold, and the amount of port
17 charges owed with respect to the vessel. The notice of sale shall be
18 published at least once, more than ten but not more than twenty days
19 before the sale, in a newspaper of general circulation in the county in
20 which the moorage facility is located. Such notice shall include the
21 name of the vessel, if any, the last known owner and address, and a
22 reasonable description of the vessel to be sold. The moorage facility
23 operator may bid all or part of its port charges at the sale and may
24 become a purchaser at the sale.

25 (b) Before the vessel is sold, any person seeking to redeem an
26 impounded vessel under this section may commence a lawsuit in the
27 superior court for the county in which the vessel was impounded to
28 contest the validity of the impoundment or the amount of the port
29 charges owing. Such lawsuit must be commenced within ten days of the
30 date the notification was provided pursuant to subsection (1) of this
31 section, or the right to a hearing shall be deemed waived and the owner
32 shall be liable for any port charges owing the moorage facility
33 operator. In the event of litigation, the prevailing party shall be
34 entitled to reasonable attorneys' fees and costs.

35 (c) The proceeds of a sale under this section shall first be
36 applied to the payment of port charges. The balance, if any, shall be
37 paid to the owner. If the owner cannot in the exercise of due
38 diligence be located by the moorage facility operator within one year

1 of the date of the sale, the excess funds from the sale shall revert to
2 the derelict vessel removal account established in RCW 79.100.100. If
3 the sale is for a sum less than the applicable port charges, the
4 moorage facility operator is entitled to assert a claim for a
5 deficiency.

6 (d) In the event no one purchases the vessel at a sale, or a vessel
7 is not removed from the premises or other arrangements are not made
8 within ten days of sale, title to the vessel will revert to the moorage
9 facility operator.

10 (6) The rules authorized under this section shall be enforceable
11 only if the moorage facility has had its tariff containing such rules
12 conspicuously posted at its moorage facility at all times.

13 **Sec. 104.** RCW 88.26.020 and 2013 c 291 s 41 are each amended to
14 read as follows:

15 (1) Any private moorage facility operator may take reasonable
16 measures, including the use of chains, ropes, and locks, or removal
17 from the water, to secure vessels within the private moorage facility
18 so that the vessels are in the possession and control of the operator
19 and cannot be removed from the facility. These procedures may be used
20 if an owner mooring or storing a vessel at the facility fails, after
21 being notified that charges are owing and of the owner's right to
22 commence legal proceedings to contest that such charges are owing, to
23 pay charges owed or to commence legal proceedings. Notification shall
24 be by two separate letters, one sent by first-class mail and one sent
25 by registered mail to the owner and any lienholder of record at the
26 last known address. In the case of a transient vessel, or where no
27 address was furnished by the owner, the operator need not give notice
28 prior to securing the vessel. At the time of securing the vessel, an
29 operator shall attach to the vessel a readily visible notice. The
30 notice shall be of a reasonable size and shall contain the following
31 information:

32 (a) The date and time the notice was attached;

33 (b) A statement that if the account is not paid in full within
34 ninety days from the time the notice is attached the vessel may be sold
35 at public auction to satisfy the charges; and

36 (c) The address and telephone number where additional information
37 may be obtained concerning release of the vessel.

1 After a vessel is secured, the operator shall make a reasonable
2 effort to notify the owner and any lienholder of record by registered
3 mail in order to give the owner the information contained in the
4 notice.

5 (2) A private moorage facility operator, at his or her discretion,
6 may move moored vessels ashore for storage within properties under the
7 operator's control or for storage with a private person under their
8 control as bailees of the private moorage facility, if the vessel is,
9 in the opinion of the operator, a nuisance, in danger of sinking or
10 creating other damage, or is owing charges. The costs of any such
11 procedure shall be paid by the vessel's owner.

12 (3) If a vessel is secured under subsection (1) of this section or
13 moved ashore under subsection (2) of this section, the owner who is
14 obligated to the private operator for charges may regain possession of
15 the vessel by:

16 (a) Making arrangements satisfactory with the operator for the
17 immediate removal of the vessel from the facility or for authorized
18 moorage; and

19 (b) Making payment to the operator of all charges, or by posting
20 with the operator a sufficient cash bond or other acceptable security,
21 to be held in trust by the operator pending written agreement of the
22 parties with respect to payment by the vessel owner of the amount
23 owing, or pending resolution of the matter of the charges in a civil
24 action in a court of competent jurisdiction. After entry of judgment,
25 including any appeals, in a court of competent jurisdiction, or after
26 the parties reach agreement with respect to payment, the trust shall
27 terminate and the operator shall receive so much of the bond or other
28 security as agreed, or as is necessary, to satisfy any judgment, costs,
29 and interest as may be awarded to the operator. The balance shall be
30 refunded immediately to the owner at the last known address.

31 (4) If a vessel has been secured by the operator under subsection
32 (1) of this section and is not released to the owner under the bonding
33 provisions of this section within ninety days after notifying or
34 attempting to notify the owner under subsection (1) of this section,
35 the vessel is conclusively presumed to have been abandoned by the
36 owner.

37 (5) If a vessel moored or stored at a private moorage facility is
38 abandoned, the operator may authorize the public sale of the vessel by

1 authorized personnel, consistent with this section, to the highest and
2 best bidder for cash as follows. However, the operator does not have
3 to sell the vessel to a person or company included on the database
4 maintained by the department of licensing under section 102 of this act
5 even if that person or company is the highest and best bidder:

6 (a) Before the vessel is sold, the vessel owner and any lienholder
7 of record shall be given at least twenty days' notice of the sale in
8 the manner set forth in subsection (1) of this section if the name and
9 address of the owner is known. The notice shall contain the time and
10 place of the sale, a reasonable description of the vessel to be sold,
11 and the amount of charges owed with respect to the vessel. The notice
12 of sale shall be published at least once, more than ten but not more
13 than twenty days before the sale, in a newspaper of general circulation
14 in the county in which the facility is located. This notice shall
15 include the name of the vessel, if any, the last known owner and
16 address, and a reasonable description of the vessel to be sold. The
17 operator may bid all or part of its charges at the sale and may become
18 a purchaser at the sale.

19 (b) Before the vessel is sold, any person seeking to redeem an
20 impounded vessel under this section may commence a lawsuit in the
21 superior court for the county in which the vessel was impounded to
22 contest the validity of the impoundment or the amount of charges owing.
23 This lawsuit must be commenced within sixty days of the date the
24 notification was provided under subsection (1) of this section, or the
25 right to a hearing is deemed waived and the owner is liable for any
26 charges owing the operator. In the event of litigation, the prevailing
27 party is entitled to reasonable attorneys' fees and costs.

28 (c) The proceeds of a sale under this section shall be applied
29 first to the payment of any liens superior to the claim for charges,
30 then to payment of the charges, then to satisfy any other liens on the
31 vessel in the order of their priority. The balance, if any, shall be
32 paid to the owner. If the owner cannot in the exercise of due
33 diligence be located by the operator within one year of the date of the
34 sale, the excess funds from the sale shall revert to the department of
35 revenue under chapter 63.29 RCW. If the sale is for a sum less than
36 the applicable charges, the operator is entitled to assert a claim for
37 deficiency, however, the deficiency judgment shall not exceed the
38 moorage fees owed for the previous six-month period.

1 (d) In the event no one purchases the vessel at a sale, or a vessel
2 is not removed from the premises or other arrangements are not made
3 within ten days of sale, title to the vessel will revert to the
4 operator.

5 (e) Either a minimum bid may be established or a letter of credit
6 may be required from the buyer, or both, to discourage the future
7 abandonment of the vessel.

8 (6) The rights granted to a private moorage facility operator under
9 this section are in addition to any other legal rights an operator may
10 have to hold and sell a vessel and in no manner does this section alter
11 those rights, or affect the priority of other liens on a vessel.

12 **Sec. 105.** RCW 79.100.050 and 2002 c 286 s 6 are each amended to
13 read as follows:

14 (1) After taking custody of a vessel, the authorized public entity
15 may use or dispose of the vessel in any appropriate and environmentally
16 sound manner without further notice to any owners, but must give
17 preference to uses that derive some monetary benefit from the vessel,
18 either in whole or in scrap. If no value can be derived from the
19 vessel, the authorized public entity must give preference to the least
20 costly, environmentally sound, reasonable disposal option. Any
21 disposal operations must be consistent with the state solid waste
22 disposal provisions provided for in chapter 70.95 RCW.

23 (2) If the authorized public entity chooses to offer the vessel at
24 a public auction, either a minimum bid may be set or a letter of credit
25 may be required, or both, to discourage future reabandonment of the
26 vessel. The authorized public entity does not have to sell the vessel
27 to a person or company included on the database maintained by the
28 department of licensing under section 102 of this act even if that
29 person or company is the highest and best bidder.

30 (3) Proceeds derived from the sale of the vessel must first be
31 applied to any administrative costs that are incurred by the authorized
32 public entity during the notification procedures set forth in RCW
33 79.100.040, removal and disposal costs, and costs associated with
34 environmental damages directly or indirectly caused by the vessel. If
35 the proceeds derived from the vessel exceed all administrative costs,
36 removal and disposal costs, and costs associated with environmental

1 damages directly or indirectly caused by the vessel, the remaining
2 moneys must be applied to satisfying any liens registered against the
3 vessel.

4 (4) Any value derived from a vessel greater than all liens and
5 costs incurred reverts to the derelict vessel removal account
6 established in RCW 79.100.100.

7 **Sec. 106.** RCW 79.100.150 and 2013 c 291 s 38 are each amended to
8 read as follows:

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

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

13 (b) Either:

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

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

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

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

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

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

29 ~~((+3))~~ (4) Unless rules adopted by the department provide
30 otherwise, the vessel inspection required under this section must be
31 contained in a formal marine survey conducted by a third party to the
32 transaction. The survey must include, at a minimum, a conclusion
33 relating to the seaworthiness of the vessel, an estimate of the
34 vessel's fair market value, and, if applicable, an estimate as to the
35 anticipated cost of repairs necessary to return the vessel to
36 seaworthiness.

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

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

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

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

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

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

20 (2) If a contract is completed under this section, the department
21 or local government shall serve as the authorized public entity for the
22 removal of a derelict or abandoned vessel from the property of the
23 private moorage facility owner. The contract must provide for the
24 private moorage facility owner to be financially responsible for the
25 removal and disposal costs that are not reimbursed by the department as
26 provided under RCW 79.100.100, and any additional reasonable
27 administrative costs incurred by the department or local government
28 during the removal of the derelict or abandoned vessel.

29 (3) Prior to the commencement of any removal (~~which~~) under this
30 section for which a local government serves as the authorized public
31 entity and that will seek reimbursement from the derelict vessel
32 removal program, the contract and the proposed vessel removal shall be
33 submitted to the department for review and approval. The local
34 government shall use the procedure specified under RCW
35 79.100.100(~~(+6)~~)).

1 (4) If the private moorage facility owner has already seized the
2 vessel under chapter 88.26 RCW and title has reverted to the moorage
3 facility, the moorage facility is not considered the owner under this
4 chapter for purposes of cost recovery for actions taken under this
5 section.

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

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

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

17 (1) Every private moorage facility operator must:

18 (a) Obtain and maintain insurance coverage for the private moorage
19 facility;

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

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

25 (a) Provide coverage of at least three hundred thousand dollars;
26 and

27 (b) Include, at a minimum, general, legal, and pollution liability
28 coverage.

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

32 (4) Any private moorage facility operator who fails to satisfy the
33 requirements of this section incurs secondary liability under RCW
34 79.100.060 for any vessel located at the private moorage facility that
35 meets the definition of derelict vessel or abandoned vessel as those
36 terms are defined in RCW 79.100.010.

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

3 (1) Every moorage facility operator must:

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

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

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

11 (a) Provide coverage of at least three hundred thousand dollars;
12 and

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

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

18 (4) 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, 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.** Section 301 of this act takes effect
12 October 1, 2014.

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

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

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

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

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

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

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

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

5 NEW SECTION. **Sec. 402.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Commercial vessel" means a vessel that is required by RCW
8 84.40.065 to be listed with the department.

9 (2) "Department" means the department of revenue.

10 (3) "Moorage facility" means a property or facility located in this
11 state that is used for the moorage of commercial vessels and is owned
12 or operated by a moorage provider. The term does not include
13 residential dock owners who do not charge a fee for mooring a vessel.

14 (4) "Moorage facility operator" has the same meaning as in RCW
15 53.08.310.

16 (5) "Person" has the same meaning as in RCW 82.04.030 and also
17 includes the state of Washington.

18 (6) "Moorage provider" means any public or private entity that owns
19 or operates any moorage facility, including a moorage facility
20 operator, private moorage facility operator, the state of Washington,
21 or any other person.

22 (7) "Owner" means every natural person, firm, partnership,
23 corporation, association, or organization, or their agent, with actual
24 or apparent authority, who expressly or impliedly contracts for use of
25 a moorage facility.

26 (8) "Private moorage facility" has the same meaning as in RCW
27 88.26.010.

28 (9) "Private moorage facility operator" has the same meaning as in
29 RCW 88.26.010.

30 (10) "Vessel" has the same meaning as in RCW 88.02.310.

31 NEW SECTION. **Sec. 403.** (1) A fee is imposed for the moorage of
32 commercial vessels at a moorage facility. The fee is equal to twenty
33 cents per vessel foot as measured by extreme length of the vessel,
34 rounded up to the nearest whole foot, for each calendar month or
35 portion of a calendar month, that an owner has secured authorized
36 moorage for a commercial vessel at a moorage facility.

1 (2) The fee imposed in this section must be paid by the owner of a
2 commercial vessel to the moorage provider.

3 (3)(a) A moorage provider must:

4 (i) Collect the full amount of the fee from the owner of a
5 commercial vessel; and

6 (ii) Remit the fee to the department in accordance with RCW
7 82.32.045.

8 (b) If a person who owns a moorage facility is not also the
9 operator of the moorage facility, the owner of the moorage facility
10 need not collect the fee imposed by this section. Nothing in this
11 subsection (3)(b) may be construed to relieve the operator of the
12 moorage facility from the obligation to collect the fee imposed by this
13 section.

14 (c) A moorage provider is relieved of the responsibility to collect
15 the fee imposed by this section if the owner has previously paid the
16 fee to another moorage provider during the same calendar month and:

17 (i) The owner provides proof in a form and manner prescribed by the
18 department that the fee has been paid; and

19 (ii) The moorage provider maintains documentation in a form and
20 manner prescribed by the department to verify that the moorage provider
21 was not responsible for collecting the fee.

22 (4) All moneys collected under this section must be deposited into
23 the derelict vessel removal account created in RCW 79.100.100.

24 (5) The fee imposed in this section must be construed to be a tax
25 only for the purpose of applying the provisions of chapter 82.32 RCW to
26 the fee imposed in this section.

27 NEW SECTION. **Sec. 404.** (1) The fee required by this chapter, to
28 be collected by a moorage provider, is deemed to be held in trust by
29 that person until paid to the department. Any person who appropriates
30 or converts the fee collected to the person's own use or to any use
31 other than the payment of the fee to the extent that the money required
32 to be collected is not available for payment on the due date as
33 prescribed in this chapter is guilty of a gross misdemeanor.

34 (2) In case any person fails to collect the fee imposed in this
35 chapter or, having collected the fee, fails to pay it to the department
36 in the manner prescribed by this chapter, whether the failure is the

1 result of the person's own acts or the result of acts or conditions
2 beyond the person's control, the person will, nevertheless, be
3 personally liable to the state for the amount of the fee.

4 (3)(a) If the department has issued a warrant under the authority
5 of RCW 82.32.210 for unpaid fees imposed by this chapter and collected
6 by a limited liability business entity, and that entity has been
7 terminated, dissolved, or abandoned, or is insolvent, then the
8 department may pursue collection of the unpaid fees, including
9 penalties and interest on those unpaid fees, against any or all of the
10 responsible individuals to the same extent and in the same manner as
11 provided in RCW 82.32.145.

12 (b) For purposes of this subsection:

13 (i) "Limited liability business entity" has the same meaning as
14 defined in RCW 82.32.145; and

15 (ii) "Responsible individual" has the same meaning as defined in
16 RCW 82.32.145, except that references to "trust fund tax liability" and
17 "tax warrant" in the RCW 82.32.145 definition of "responsible
18 individual" must be construed as referring respectively to unpaid fees
19 collected by a moorage provider and to a warrant issued under the
20 authority of RCW 82.32.210 for the unpaid fees.

21 (4) The amount of the fee, until paid by the owner of the
22 commercial vessel to either the moorage provider or to the department,
23 constitutes a debt from the owner to the moorage provider. Any moorage
24 provider who fails or refuses to collect the fee as required by this
25 chapter with intent to violate the provisions of this chapter or to
26 gain some advantage or benefit, either direct or indirect, and any
27 owner who refuses to pay any fee due under this chapter, is guilty of
28 a misdemeanor.

29 NEW SECTION. **Sec. 405.** The fee imposed in section 403 of this act
30 does not apply to moorage for a term of less than one day.

31 NEW SECTION. **Sec. 406.** The fee imposed in section 403 of this act
32 applies to the moorage of commercial vessels occurring on or after the
33 effective date of section 403 of this act, regardless of whether the
34 moorage commenced before the effective date of section 403 of this act.

1 NEW SECTION. **Sec. 407.** Sections 402 through 406 of this act
2 constitute a new chapter in Title 82 RCW.

3 NEW SECTION. **Sec. 408.** Sections 401 through 406 of this act take
4 effect January 1, 2015.

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

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

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

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

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

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

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

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

17 (f) The vessel's home port;

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

19 (h) The vessel's country or state of registration and registration
20 number; and

21 (i) Proof of vessel registration, a written statement of the
22 lessee's intent to register a vessel, or an affidavit in a form and
23 manner approved by the department certifying that the vessel is exempt
24 from state vessel registration requirements as provided by RCW
25 88.02.570.

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

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

1 (a) Permit any authorized agent of a requesting agency to:
2 (i) Inspect the moorage facility for vessels that are not
3 registered as required by this chapter or listed as required under RCW
4 84.40.065; and
5 (ii) Inspect and copy records identified in subsection (1) of this
6 section for vessels that the requesting agency determines are not
7 properly registered or listed as required by law; or
8 (b) Provide to the requesting agency:
9 (i) Information as provided in subsection (1)(a), (c), (d), and (e)
10 of this section; and
11 (ii) Information as provided in subsection (1)(b), (f), (g), (h),
12 and (i) of this section for those vessels that the requesting agency
13 subsequently determines are not registered as required by this chapter,
14 listed as required under RCW 84.40.065.
15 (4) Requesting agencies must coordinate their requests to ensure
16 that a moorage provider does not receive more than two requests per
17 calendar year. For the purpose of enforcing vessel registration and
18 vessel listing requirements, requesting agencies may share the results
19 of information requests with each other.
20 (5) The definitions in this subsection apply throughout this
21 section unless the context clearly requires otherwise.
22 (a) "Long-term moorage" means moorage provided for more than thirty
23 consecutive days.
24 (b) "Moorage facility" means any properties or facilities located
25 in this state that are used for the moorage of vessels and are owned or
26 operated by a moorage provider.
27 (c) "Moorage facility operator" has the same meaning as defined in
28 RCW 53.08.310.
29 (d) "Moorage provider" means any public or private entity that owns
30 or operates any moorage facility, including a moorage facility
31 operator, private moorage facility operator, the state of Washington,
32 or any other person.
33 (e) "Private moorage facility operator" has the same meaning as
34 defined in RCW 88.26.010.
35 (f) "Requesting agency" means the department, the department of
36 revenue, or the department of natural resources.

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

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

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

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

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

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

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

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

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

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

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

4 **Part Six--Miscellaneous and Technical**

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

7 (1) Except as provided in subsection (2) of this section, a person
8 may not moor, anchor, or otherwise leave a vessel in the same area on
9 state-owned aquatic lands for a period of more than thirty consecutive
10 days or for more than a total of ninety days in any three hundred
11 sixty-five-day period unless:

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

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

19 (2) A person may not moor, anchor, or otherwise leave a vessel in
20 any location on state-owned aquatic lands for commercial purposes
21 without the express consent of the department unless the mooring,
22 anchoring, or leaving of a nonrecreational vessel on state-owned
23 aquatic lands is incidental to the act of navigation, is required due
24 to an emergency, or is directed by an entity with jurisdiction and
25 authority.

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

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

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

33 (a) "Commercial purposes" means that a vessel is moored, anchored,
34 or otherwise left on aquatic lands in connection with an activity or
35 operation involving the buying, selling, or bartering of goods or

1 services, regardless of whether the use or activity is intended to
2 produce a profit.

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

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

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

23 (2) Reimbursement for costs may be sought from an owner, or any
24 person or entity that has incurred secondary liability under (~~RCW~~
25 ~~79.100.150~~) this chapter or section 202 or 203 of this act, who is
26 identified subsequent to the vessel's removal and disposal.

27 (3) If the full amount of all costs due to the authorized public
28 entity under this chapter is not paid to the authorized public entity
29 within thirty days after first notifying the responsible parties of the
30 amounts owed, the authorized public entity or the department may bring
31 an action in any court of competent jurisdiction to recover the costs,
32 plus reasonable attorneys' fees and costs incurred by the authorized
33 public entity.

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

36 (1) (~~(A person)~~) (a) An owner or lien holder seeking to contest an

1 authorized public entity's decision to take temporary possession or
2 custody of a vessel under this chapter, or to contest the amount of
3 reimbursement owed to an authorized public entity under this chapter,
4 may request a hearing in accordance with this section.

5 (b) A transferor with secondary liability under this chapter may
6 commence a lawsuit in the superior court for the county in which
7 custody of the vessel was taken to contest the transferor's liability
8 or the amount of reimbursement owed the authorized public entity under
9 this chapter.

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

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

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

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

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

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

16 (1)(a) The derelict vessel removal account is created in the state
17 treasury. All receipts from RCW 79.100.050 and 79.100.060 and those
18 moneys specified in RCW 88.02.640 must be deposited into the account.
19 The account is authorized to receive fund transfers and appropriations
20 from the general fund, deposits from the derelict vessel removal
21 surcharge under RCW 88.02.640(4), deposits under section 403 of this
22 act, as well as gifts, grants, and endowments from public or private
23 sources as may be made from time to time, in trust or otherwise, for
24 the use and benefit of the purposes of this chapter and expend the same
25 or any income according to the terms of the gifts, grants, or
26 endowments provided those terms do not conflict with any provisions of
27 this section or any guidelines developed to prioritize reimbursement of
28 removal projects associated with this chapter.

29 (b) Moneys in the account may only be spent after appropriation.
30 Expenditures from the account may only be used by the department for
31 developing and administering the vessel turn-in program created in RCW
32 79.100.160 and to reimburse authorized public entities for up to ninety
33 percent of the total reasonable and auditable administrative, removal,
34 disposal, and environmental damage costs of abandoned or derelict
35 vessels when the previous owner is either unknown after a reasonable
36 search effort or insolvent. Reimbursement may not be made unless the
37 department determines that the public entity has made reasonable

1 efforts to identify and locate the party responsible for the vessel, or
2 any other person or entity that has incurred secondary liability
3 (~~under RCW 79.100.150~~) for the vessel under this chapter or section
4 202 or 203 of this act, regardless of the title of owner of the vessel.

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

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

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

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

27 (3) The department must keep all authorized public entities
28 apprised of the balance of the derelict vessel removal account and the
29 funds available for reimbursement. The guidelines developed by the
30 department must also be made available to the other authorized public
31 entities. This subsection (3) must be satisfied by utilizing the least
32 costly method, including maintaining the information on the
33 department's internet web site, or any other cost-effective method.

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

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

12 **Sec. 605.** RCW 43.21B.110 and 2013 c 291 s 33 are each amended to
13 read as follows:

14 (1) The hearings board shall only have jurisdiction to hear and
15 decide appeals from the following decisions of the department, the
16 director, local conservation districts, the air pollution control
17 boards or authorities as established pursuant to chapter 70.94 RCW,
18 local health departments, the department of natural resources, the
19 department of fish and wildlife, the parks and recreation commission,
20 the department of licensing, and authorized public entities described
21 in chapter 79.100 RCW:

22 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
23 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
24 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

25 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
26 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
27 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

28 (c) A final decision by the department or director made under
29 chapter 183, Laws of 2009.

30 (d) Except as provided in RCW 90.03.210(2), the issuance,
31 modification, or termination of any permit, certificate, or license by
32 the department or any air authority in the exercise of its
33 jurisdiction, including the issuance or termination of a waste disposal
34 permit, the denial of an application for a waste disposal permit, the
35 modification of the conditions or the terms of a waste disposal permit,
36 or a decision to approve or deny an application for a solid waste
37 permit exemption under RCW 70.95.300.

1 (e) Decisions of local health departments regarding the grant or
2 denial of solid waste permits pursuant to chapter 70.95 RCW.

3 (f) Decisions of local health departments regarding the issuance
4 and enforcement of permits to use or dispose of biosolids under RCW
5 70.95J.080.

6 (g) Decisions of the department regarding waste-derived fertilizer
7 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
8 department regarding waste-derived soil amendments under RCW 70.95.205.

9 (h) Decisions of local conservation districts related to the denial
10 of approval or denial of certification of a dairy nutrient management
11 plan; conditions contained in a plan; application of any dairy nutrient
12 management practices, standards, methods, and technologies to a
13 particular dairy farm; and failure to adhere to the plan review and
14 approval timelines in RCW 90.64.026.

15 (i) Any other decision by the department or an air authority which
16 pursuant to law must be decided as an adjudicative proceeding under
17 chapter 34.05 RCW.

18 (j) Decisions of the department of natural resources, the
19 department of fish and wildlife, and the department that are reviewable
20 under chapter 76.09 RCW, and the department of natural resources'
21 appeals of county, city, or town objections under RCW 76.09.050(7).

22 (k) Forest health hazard orders issued by the commissioner of
23 public lands under RCW 76.06.180.

24 (l) Decisions of the department of fish and wildlife to issue,
25 deny, condition, or modify a hydraulic project approval permit under
26 chapter 77.55 RCW.

27 (m) Decisions of the department of natural resources that are
28 reviewable under RCW 78.44.270.

29 (n) Decisions of an authorized public entity under RCW 79.100.010
30 to take temporary possession or custody of a vessel or to contest the
31 amount of reimbursement owed that are reviewable by the hearings board
32 under RCW 79.100.120.

33 (o) Inclusion on the database of individuals or companies created
34 under section 102 of this act to whom certain vessels may not be sold.

35 (2) The following hearings shall not be conducted by the hearings
36 board:

37 (a) Hearings required by law to be conducted by the shorelines
38 hearings board pursuant to chapter 90.58 RCW.

1 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
2 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

3 (c) Appeals of decisions by the department under RCW 90.03.110 and
4 90.44.220.

5 (d) Hearings conducted by the department to adopt, modify, or
6 repeal rules.

7 (3) Review of rules and regulations adopted by the hearings board
8 shall be subject to review in accordance with the provisions of the
9 administrative procedure act, chapter 34.05 RCW.

10 **Sec. 606.** RCW 43.21B.110 and 2013 c 291 s 34 are each amended to
11 read as follows:

12 (1) The hearings board shall only have jurisdiction to hear and
13 decide appeals from the following decisions of the department, the
14 director, local conservation districts, the air pollution control
15 boards or authorities as established pursuant to chapter 70.94 RCW,
16 local health departments, the department of natural resources, the
17 department of fish and wildlife, the parks and recreation commission,
18 the department of licensing, and authorized public entities described
19 in chapter 79.100 RCW:

20 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
21 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
22 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

23 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
24 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
25 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

26 (c) Except as provided in RCW 90.03.210(2), the issuance,
27 modification, or termination of any permit, certificate, or license by
28 the department or any air authority in the exercise of its
29 jurisdiction, including the issuance or termination of a waste disposal
30 permit, the denial of an application for a waste disposal permit, the
31 modification of the conditions or the terms of a waste disposal permit,
32 or a decision to approve or deny an application for a solid waste
33 permit exemption under RCW 70.95.300.

34 (d) Decisions of local health departments regarding the grant or
35 denial of solid waste permits pursuant to chapter 70.95 RCW.

36 (e) Decisions of local health departments regarding the issuance

1 and enforcement of permits to use or dispose of biosolids under RCW
2 70.95J.080.

3 (f) Decisions of the department regarding waste-derived fertilizer
4 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
5 department regarding waste-derived soil amendments under RCW 70.95.205.

6 (g) Decisions of local conservation districts related to the denial
7 of approval or denial of certification of a dairy nutrient management
8 plan; conditions contained in a plan; application of any dairy nutrient
9 management practices, standards, methods, and technologies to a
10 particular dairy farm; and failure to adhere to the plan review and
11 approval timelines in RCW 90.64.026.

12 (h) Any other decision by the department or an air authority which
13 pursuant to law must be decided as an adjudicative proceeding under
14 chapter 34.05 RCW.

15 (i) Decisions of the department of natural resources, the
16 department of fish and wildlife, and the department that are reviewable
17 under chapter 76.09 RCW, and the department of natural resources'
18 appeals of county, city, or town objections under RCW 76.09.050(7).

19 (j) Forest health hazard orders issued by the commissioner of
20 public lands under RCW 76.06.180.

21 (k) Decisions of the department of fish and wildlife to issue,
22 deny, condition, or modify a hydraulic project approval permit under
23 chapter 77.55 RCW.

24 (l) Decisions of the department of natural resources that are
25 reviewable under RCW 78.44.270.

26 (m) Decisions of an authorized public entity under RCW 79.100.010
27 to take temporary possession or custody of a vessel or to contest the
28 amount of reimbursement owed that are reviewable by the hearings board
29 under RCW 79.100.120.

30 (n) Inclusion on the database of individuals or companies created
31 under section 102 of this act to whom certain vessels may not be sold.

32 (2) The following hearings shall not be conducted by the hearings
33 board:

34 (a) Hearings required by law to be conducted by the shorelines
35 hearings board pursuant to chapter 90.58 RCW.

36 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
37 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

1 (c) Appeals of decisions by the department under RCW 90.03.110 and
2 90.44.220.

3 (d) Hearings conducted by the department to adopt, modify, or
4 repeal rules.

5 (3) Review of rules and regulations adopted by the hearings board
6 shall be subject to review in accordance with the provisions of the
7 administrative procedure act, chapter 34.05 RCW.

8 **Sec. 607.** 2013 c 291 s 39 (uncodified) is amended to read as
9 follows:

10 (1) By December 31, (~~2013~~) 2014, the department of natural
11 resources shall adopt by rule procedures and standards for the vessel
12 inspections required under (~~section 38 of this act~~) RCW 79.100.150.
13 The procedures and standards must identify the public or private
14 entities authorized to conduct inspections, the required elements of an
15 inspection, and the manner in which inspection results must be
16 documented. The vessel inspection required under this section must be
17 designed to:

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

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

25 (c) Discourage the future abandonment or dereliction of the vessel;
26 and

27 (d) Maximize the efficiency and effectiveness of the inspection
28 process, including with respect to the time and resources of the
29 transferor, transferee, and the state.

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

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

34 NEW SECTION. **Sec. 608.** A new section is added to chapter 44.28
35 RCW to read as follows:

36 (1) This section is the tax preference performance statement for

1 the tax preference contained in section 301 of this act. This
2 performance statement is only intended to be used for subsequent
3 evaluation of this tax preference. It is not intended to create a
4 private right of action by any party or be used to determine
5 eligibility for preferential tax treatment.

6 (2) The legislature categorizes this tax preference as intended to
7 induce certain designated behavior by taxpayers as indicated in RCW
8 83.32.808(2)(a).

9 (3) It is the legislature's specific public policy objective to
10 decrease the number of abandoned and derelict vessels by providing
11 incentives to increase vessel deconstruction in Washington by lowering
12 the cost of deconstruction. It is the legislature's intent to provide
13 businesses engaged in vessel deconstruction a sales tax exemption for
14 sales of vessel deconstruction. This incentive will lower the costs
15 associated with vessel deconstruction and encourage businesses to make
16 investments in vessel deconstruction facilities. Pursuant to chapter
17 43.136 RCW, the joint legislative audit and review committee must
18 review the sales tax exemption established under section 301 of this
19 act by December 1, 2018.

20 (4) If a review finds that the increase in available capacity to
21 deconstruct derelict vessels or a reduction in the average cost to
22 deconstruct vessels has resulted in an increase of the number of
23 derelict vessels removed from Washington's waters as compared to before
24 the effective date of this section, then the legislature intends for
25 the legislative auditor to recommend extending the expiration date of
26 the tax preference.

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

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

32 NEW SECTION. **Sec. 609.** Section 605 of this act expires June 30,
33 2019.

34 NEW SECTION. **Sec. 610.** Section 606 of this act takes effect June
35 30, 2019.

1 NEW SECTION. **Sec. 611.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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