

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2457

63rd Legislature
2014 Regular Session

Passed by the House January 1, 0001
Yeas 0 Nays 0

Speaker of the House of Representatives

Passed by the Senate January 1, 0001
Yeas 0 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2457** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 2457

AS AMENDED BY THE SENATE

Passed Legislature - 2014 Regular Session

State of Washington

63rd Legislature

2014 Regular Session

By House Appropriations (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 02/11/14.

1 AN ACT Relating to derelict and abandoned vessels; amending RCW
2 79.100.150, 79.100.130, 88.26.010, 53.08.310, 84.56.440, 82.49.010,
3 79.100.060, 79.100.120, 79.100.100, and 79.100.010; amending 2013 c 291
4 s 39 (uncodified); adding new sections to chapter 79.100 RCW; adding a
5 new section to chapter 88.26 RCW; adding a new section to chapter 53.08
6 RCW; adding a new section to chapter 82.08 RCW; adding a new section to
7 chapter 82.12 RCW; adding a new section to chapter 88.02 RCW; adding a
8 new section to chapter 82.49 RCW; creating new sections; prescribing
9 penalties; providing effective dates; and providing expiration dates.

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

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

17 (2) The legislature further finds that, during the 2013 legislative
18 interim, the two responsible agencies engaged in a thorough process to
19 satisfy their legislative charge. This process involved exhausting in-

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

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

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

15 **Part One--Vessel Owner Responsibility**

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

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

23 (a) The transferor of the vessel upon purchase or other transfer;
24 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 or transfer. Nothing in this section
32 prohibits the sale or other transfer of a vessel greater than sixty-
33 five feet in length and more than forty years old to a transferee that
34 fails to secure a marine insurance policy. However, a transferor that
35 chooses to finalize a sale or other transfer with a transferee not in
36 possession of a marine insurance policy assumes secondary liability for

1 the vessel consistent with RCW 79.100.060 if the vessel is later
2 abandoned by the transferee or becomes derelict prior to a subsequent
3 ownership 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) A person required to secure marine insurance or show proof of
24 marine insurance under this section who either: (a) Fails to secure a
25 marine insurance policy consistent with this section prior to or
26 concurrent with the transfer of ownership, unless the vessel was sold
27 consistent with RCW 79.100.150(2)(b); or (b) cancels a marine insurance
28 policy consistent with this section prior to the end of the twelfth
29 month of vessel ownership or to a subsequent transfer of ownership,
30 whichever occurs first, without securing another marine insurance
31 policy consistent with this section in its place, is guilty of a
32 misdemeanor. The department may contact any vessel owner required by
33 this section to have a marine insurance policy to ensure compliance
34 with this section.

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

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

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

5 (b) Either:

6 (i) Is registered or required to be registered under chapter 88.02
7 RCW; or

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

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

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

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

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

25 ~~((+3))~~ (4) Unless rules adopted by the department provide
26 otherwise, the vessel inspection required under this section must be
27 contained in a formal marine survey conducted by a third party to the
28 transaction. The survey must include, at a minimum, a conclusion
29 relating to the seaworthiness of the vessel, an estimate of the
30 vessel's fair market value, and, if applicable, an estimate as to the
31 anticipated cost of repairs necessary to return the vessel to
32 seaworthiness.

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

37 (6) Failure to comply with the requirements of ~~((subsections (1)~~
38 ~~and (2) of))~~ this section will result in the transferor having

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

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

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

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

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

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

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

30 (4) If the private moorage facility owner has already seized the
31 vessel under chapter 88.26 RCW and title has reverted to the moorage
32 facility, the moorage facility is not considered the owner under this
33 chapter for purposes of cost recovery for actions taken under this
34 section.

35 (5)(a) The department and all local governments have discretion as

1 to whether to enter into contracts to serve as the authorized public
2 entity under this section for vessels located at a private moorage
3 facility.

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

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

11 (1) Every private moorage facility operator must:

12 (a) Obtain and maintain insurance coverage for the private moorage
13 facility;

14 (b) Require, as a condition of moorage, all vessels other than
15 transient vessels to provide proof of marine insurance to the moorage
16 facility.

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

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

22 (b) Include, at a minimum, general, legal, and pollution liability
23 coverage.

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

27 (4) The requirement under this section for private moorage facility
28 operators to require proof of marine insurance from mooring vessels
29 applies whenever a private moorage facility operator enters an initial
30 or renewal moorage agreement after the effective date of this section.
31 The private moorage facility operator is not required to verify
32 independently whether a mooring vessel's insurance policy meets the
33 requirements of this section and is not responsible for any change in
34 insurance coverage applicable to the vessel that occurs after the
35 initial agreement is entered into or in the time period between
36 agreement renewals.

1 (5) Any private moorage facility operator who fails to satisfy the
2 requirements of this section incurs secondary liability under RCW
3 79.100.060 for any vessel located at the private moorage facility that
4 meets the definition of derelict vessel or abandoned vessel as those
5 terms are defined in RCW 79.100.010.

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

8 (1) Every moorage facility operator must:

9 (a) Obtain and maintain insurance coverage for the moorage
10 facility;

11 (b) Require, as a condition of moorage, all vessels other than
12 transient vessels to provide proof of marine insurance to the moorage
13 facility.

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

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

19 (b) Include, at a minimum, general, legal, and pollution liability
20 coverage.

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

24 (4) The requirement under this section for moorage facility
25 operators to require proof of marine insurance from mooring vessels
26 applies whenever a moorage facility operator enters an initial or
27 renewal moorage agreement after the effective date of this section.
28 The moorage facility operator is not required to verify independently
29 whether a mooring vessel's insurance policy meets the requirements of
30 this section and is not responsible for any change in insurance
31 coverage applicable to the vessel that occurs after the initial
32 agreement is entered into or in the time period between agreement
33 renewals.

34 (5) Any moorage facility operator that the department has
35 determined has failed to satisfy the requirements of this section is
36 not eligible for reimbursement from the derelict vessel removal account
37 under RCW 79.100.100.

1 **Sec. 204.** RCW 88.26.010 and 1993 c 474 s 1 are each amended to
2 read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Charges" means charges of a private moorage facility operator
6 for moorage and storage, all other charges owing to or that become
7 owing under a contract between a vessel owner and the private moorage
8 facility operator, or any costs of sale and related legal expenses for
9 implementing RCW 88.26.020.

10 (2) "Vessel" means every watercraft used or capable of being used
11 as a means of transportation on the water. "Vessel" includes any
12 trailer used for the transportation of watercraft.

13 (3) "Private moorage facility" means any properties or facilities
14 owned or operated by a private moorage facility operator that are
15 capable of use for the moorage or storage of vessels.

16 (4) "Private moorage facility operator" means every natural person,
17 firm, partnership, corporation, association, organization, or any other
18 legal entity, employee, or their agent, that owns or operates a private
19 moorage facility. Private moorage facility operation does not include
20 a "moorage facility operator" as defined in RCW 53.08.310.

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

25 (6) "Transient vessel" means a vessel using a private moorage
26 facility and that belongs to an owner who does not have a moorage
27 agreement with the private moorage facility operator. Transient
28 vessels include, but are not limited to, vessels seeking a harbor or
29 refuge, day use, or overnight use of a private moorage facility on a
30 space-as-available basis. Transient vessels may also include vessels
31 taken into custody under RCW 79.100.040.

32 **Sec. 205.** RCW 53.08.310 and 1986 c 260 s 1 are each amended to
33 read as follows:

34 Unless the context clearly requires otherwise, the definitions in
35 this section apply throughout this section, section 203 of this act,
36 and RCW 53.08.320.

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

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

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

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

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

20 (6) "Transient vessel" means a vessel using a moorage facility and
21 which belongs to an owner who does not have a moorage agreement with
22 the moorage facility operator. Transient vessels include, but are not
23 limited to: Vessels seeking a harbor of refuge, day use, or overnight
24 use of a moorage facility on a space-as-available basis. Transient
25 vessels may also include vessels taken into custody under RCW
26 79.100.040.

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

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

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

32 (a) A qualified vessel deconstruction facility; or

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

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

3 (a)(i) "Vessel deconstruction" means permanently dismantling a
4 vessel, including: Abatement and removal of hazardous materials; the
5 removal of mechanical, hydraulic, or electronic components or other
6 vessel machinery and equipment; and either the cutting apart or
7 disposal, or both, of vessel infrastructure. For the purposes of this
8 subsection, "hazardous materials" includes fuel, lead, asbestos,
9 polychlorinated biphenyls, and oils.

10 (ii) "Vessel deconstruction" does not include vessel modification
11 or repair.

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

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

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

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

26 (a) A qualified vessel deconstruction facility; or

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

30 (2) The definitions in section 301(2) of this act apply to this
31 section.

32 NEW SECTION. **Sec. 303.** (1) This section is the tax preference
33 performance statement for the tax preference contained in sections 301
34 and 302 of this act. This performance statement is only intended to be
35 used for subsequent evaluation of this tax preference. It is not

1 intended to create a private right of action by any party or be used to
2 determine eligibility for preferential tax treatment.

3 (2) The legislature categorizes this tax preference as intended to
4 induce certain designated behavior by taxpayers as indicated in RCW
5 82.32.808(2)(a).

6 (3) It is the legislature's specific public policy objective to
7 decrease the number of abandoned and derelict vessels by providing
8 incentives to increase vessel deconstruction in Washington by lowering
9 the cost of deconstruction. It is the legislature's intent to provide
10 businesses engaged in vessel deconstruction a sales and use tax
11 exemption for sales of vessel deconstruction. This incentive will
12 lower the costs associated with vessel deconstruction and encourage
13 businesses to make investments in vessel deconstruction facilities.
14 Pursuant to chapter 43.136 RCW, the joint legislative audit and review
15 committee must review the sales tax exemptions provided under sections
16 301 and 302 of this act by December 1, 2018.

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

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

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

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

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

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

33 (a) Derelict and abandoned vessels are a threat to the safety of
34 the public waterways, an environmental hazard for humans and marine

1 life, and an occupational danger for persons that make their living on
2 the waters of this state;

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

7 (c) Derelict vessel removal fees do not apply to commercial
8 vessels. Former commercial vessels are among the most costly to remove
9 from Washington waters and to dispose of in an environmentally
10 responsible manner. The costs for removing and disposing of these
11 vessels far exceeds the funding provided by the derelict vessel removal
12 fees paid by recreational vessels;

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

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

20 (2) The legislature intends for either the owners or operators, or
21 both, of commercial vessels to pay their fair share for the removal of
22 abandoned or derelict vessels by imposing a per foot fee on commercial
23 vessels.

24 NEW SECTION. Sec. 402. A new section is added to chapter 79.100
25 RCW to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

26 ~~(6) ((The department shall also collect all delinquent taxes~~
27 ~~pertaining to ships and vessels appearing on the records of the county~~
28 ~~treasurers for each of the counties of this state as of December 31,~~
29 ~~1993, including any applicable interest or penalties. The provisions~~
30 ~~of subsection (5) of this section shall apply to the collection of such~~
31 ~~delinquent taxes.~~

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

37 (7) The department of revenue must withhold the decals required

1 under RCW 88.02.570(10) for failure to pay the state property tax or
2 derelict vessel removal fee collectible under this section.

3 NEW SECTION. Sec. 404. Sections 401 through 403 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 or 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 information required to be collected under this section
21 must be collected at the time the long-term moorage agreement is
22 entered into and at the time of any renewals of the agreement. The
23 moorage provider is not responsible for updating any changes in the
24 information that occurs after the initial agreement is entered into or
25 in the time period between agreement renewals.

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

28 (a) "Long-term moorage" means moorage provided for more than thirty
29 consecutive days, unless the moorage is for a vessel that has been
30 taken into custody under RCW 79.100.040.

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

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

36 (d) "Moorage provider" means any public or private entity that owns
37 or operates any moorage facility, including a moorage facility

1 operator, private moorage facility operator, the state of Washington,
2 or any other person.

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

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

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

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

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

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

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

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

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

23 (1) An excise tax is imposed for the privilege of using a vessel
24 upon the waters of this state, except vessels exempt under RCW
25 82.49.020. The annual amount of the excise tax is one-half of one
26 percent of fair market value, as determined under this chapter, or five
27 dollars, whichever is greater. Violation of this subsection is a
28 misdemeanor.

29 (2) (~~Persons who are~~) A person who is required under chapter
30 88.02 RCW to register a vessel in this state and who fails to register
31 the vessel in this state or registers the vessel in another state or
32 foreign country and avoids the Washington watercraft excise tax (~~are~~)
33 is guilty of a gross misdemeanor and (~~are~~) is liable for such unpaid
34 excise tax. The department of revenue may assess and collect the
35 unpaid excise tax under chapter 82.32 RCW, including the penalty

1 imposed in section 502 of this act and penalties and interest provided
2 in chapter 82.32 RCW.

3 (3) The excise tax upon a vessel registered for the first time in
4 this state shall be imposed for a twelve-month period, including the
5 month in which the vessel is registered, unless the director of
6 licensing extends or diminishes vessel registration periods for the
7 purpose of staggered renewal periods under RCW 88.02.560. A vessel is
8 registered for the first time in this state when the vessel was not
9 registered in this state for the immediately preceding registration
10 year, or when the vessel was registered in another jurisdiction for the
11 immediately preceding year.

12 **Part Six--Miscellaneous and Technical**

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

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

30 (2) Reimbursement for costs may be sought from an owner, or any
31 person or entity that has incurred secondary liability under (~~RCW~~
32 ~~79.100.150~~) this chapter or section 202 of this act, who is identified
33 subsequent to the vessel's removal and disposal.

34 (3) If the full amount of all costs due to the authorized public
35 entity under this chapter is not paid to the authorized public entity
36 within thirty days after first notifying the responsible parties of the

1 amounts owed, the authorized public entity or the department may bring
2 an action in any court of competent jurisdiction to recover the costs,
3 plus reasonable attorneys' fees and costs incurred by the authorized
4 public entity.

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

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

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

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

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

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

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

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

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

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

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

36 (b) Moneys in the account may only be spent after appropriation.
37 Expenditures from the account may only be used by the department for

1 developing and administering the vessel turn-in program created in RCW
2 79.100.160 and to, except as provided in RCW 79.100.130 and section 203
3 of this act, reimburse authorized public entities for up to ninety
4 percent of the total reasonable and auditable administrative, removal,
5 disposal, and environmental damage costs of abandoned or derelict
6 vessels when the previous owner is either unknown after a reasonable
7 search effort or insolvent. Reimbursement may not be made unless the
8 department determines that the public entity has made reasonable
9 efforts to identify and locate the party responsible for the vessel, or
10 any other person or entity that has incurred secondary liability
11 (~~under RCW 79.100.150~~) for the vessel under this chapter or section
12 202 of this act, regardless of the title of owner of the vessel.

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

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

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

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

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

1 entities. This subsection (3) must be satisfied by utilizing the least
2 costly method, including maintaining the information on the
3 department's internet web site, or any other cost-effective method.

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

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

19 **Sec. 604.** RCW 79.100.010 and 2007 c 342 s 1 are each amended to
20 read as follows:

21 The definitions in this section apply throughout this chapter
22 unless the context clearly requires otherwise.

23 (1) "Abandoned vessel" means a vessel that has been left, moored,
24 or anchored in the same area without the express consent, or contrary
25 to the rules of, the owner, manager, or lessee of the aquatic lands
26 below or on which the vessel is located for either a period of more
27 than thirty consecutive days or for more than a total of ninety days in
28 any three hundred sixty-five-day period, and the vessel's owner is:
29 (a) Not known or cannot be located; or (b) known and located but is
30 unwilling to take control of the vessel. For the purposes of this
31 subsection (1) only, "in the same area" means within a radius of five
32 miles of any location where the vessel was previously moored or
33 anchored on aquatic lands.

34 (2) "Aquatic lands" means all tidelands, shorelands, harbor areas,
35 and the beds of navigable waters, including lands owned by the state
36 and lands owned by other public or private entities.

1 (3) "Authorized public entity" includes any of the following: The
2 department of natural resources; the department of fish and wildlife;
3 the parks and recreation commission; a metropolitan park district; a
4 port district; and any city, town, or county with ownership,
5 management, or jurisdiction over the aquatic lands where an abandoned
6 or derelict vessel is located.

7 (4) "Department" means the department of natural resources.

8 (5) "Derelict vessel" means the vessel's owner is known and can be
9 located, and exerts control of a vessel that:

10 (a) Has been moored, anchored, or otherwise left in the waters of
11 the state or on public property contrary to RCW 79.02.300 or rules
12 adopted by an authorized public entity;

13 (b) Has been left on private property without authorization of the
14 owner; or

15 (c) Has been left for a period of seven consecutive days, and:

16 (i) Is sunk or in danger of sinking;

17 (ii) Is obstructing a waterway; or

18 (iii) Is endangering life or property.

19 (6) "Owner" means any natural person, firm, partnership,
20 corporation, association, government entity, or organization that has
21 a lawful right to possession of a vessel by purchase, exchange, gift,
22 lease, inheritance, or legal action whether or not the vessel is
23 subject to a security interest.

24 (7) "Vessel" means every species of watercraft or other mobile
25 artificial contrivance, powered or unpowered, intended to be used for
26 transporting people or goods on water or for floating marine
27 construction or repair and which does not exceed two hundred feet in
28 length. "Vessel" includes any trailer used for the transportation of
29 watercraft, or any attached floats or debris.

30 (8) "Ship" means every species of watercraft or other mobile
31 artificial contrivance, powered or unpowered, intended to be used for
32 transporting people or goods on water or for floating marine
33 construction or repair and that exceeds two hundred feet in length.

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

36 (1) By December 31, (~~2013~~) 2014, the department of natural
37 resources shall adopt by rule initial procedures and standards for the

1 vessel inspections required under (~~section 38 of this act~~) RCW
2 79.100.150. The procedures and standards must identify the public or
3 private entities authorized to conduct inspections, the required
4 elements of an inspection, and the manner in which inspection results
5 must be documented. The vessel inspection required under this section
6 must be designed to:

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

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

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

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

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

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

23 NEW SECTION. **Sec. 606.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

--- END ---