

SENATE BILL REPORT

SB 6528

As of February 12, 2020

Title: An act relating to the prevention of derelict vessels.

Brief Description: Concerning the prevention of derelict vessels.

Sponsors: Senators Lovelett, McCoy, Takko, Das, Hasegawa, Rolfes, Van De Wege and Wilson, C.; by request of Department of Natural Resources.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 2/04/20, 2/06/20 [DPS-WM].

Ways & Means: 2/11/20.

Brief Summary of First Substitute Bill

- Changes the minimum vessel length for required inspections and marine insurance before ownership of certain vessels may be transferred.
- Authorizes Derelict Vessel Removal Program (DVRP) staff to issue tickets by mail to enforce vessel registration requirements.
- Authorizes DNR to issue grants to local law enforcement agencies for enforcement of vessel registration and aquatic laws related to the DVRP.
- Authorizes DNR to carry out a pilot project for the purpose of testing possible recycling streams for wood and fiberglass recovered from derelict vessels.
- Removes the limitation that DNR may spend no more than \$200,000 per biennium on the vessel turn-in program.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 6528 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Warnick, Ranking Member; Honeyford, McCoy, Rolfes and Short.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Karen Epps (786-7424)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jed Herman (786-7346)

Background: Derelict Vessel Removal Program. DNR administers the DVRP. Under DVRP, certain state agencies and local governments, including DNR, may take custody and dispose of abandoned or derelict vessels on or above aquatic lands within their jurisdiction. These agencies are known as authorized public entities (APEs), and also include entities such as the Department of Fish and Wildlife, the State Parks and Recreation Commission, and cities, counties, and port districts with jurisdiction over aquatic lands.

Abandoned or Derelict Vessels. In order to be considered abandoned, a vessel must be impermissibly left in the same area for a period of 30 consecutive days, or 90 days in a 365-day period, where the owner is either unknown, cannot be located, or is unwilling to take control of the vessel. In order to be derelict, a vessel must have an owner who exerts control over the vessel that is impermissibly left on public waters or property, impermissibly left on private property, or is left for seven days and is in danger of sinking, obstructing a waterway, or endangering life or property.

Once the APE takes custody of a vessel, the APE may use or dispose of the vessel in any environmentally sound manner. The APE must first attempt to derive some value from the vessel either in whole or by scrap. An abandoned or derelict vessel owner must reimburse an APE for reasonable removal and disposal costs. If a value can be derived, then that amount will be subtracted from the financial liabilities of the owner. If the vessel has no salvageable value, then the APE must use the least costly disposal method. If the owner is unknown or unable to pay the cost, the APE may seek reimbursement up to 90 percent of the costs. Monies in the Derelict Vessel Removal Account are used to reimburse APEs. DNR may spend no more than \$200,000 in any one biennium on the DVRP.

Vessel Owner Accountability. The owner or operator of a vessel that is more than 40 years old and longer than 65 feet must obtain a vessel inspection before transferring ownership of the vessel to another party. Similarly, an individual or company that purchases or otherwise receives a used vessel greater than 65 feet in length and more than 40 years old must secure a marine insurance policy prior to or concurrent with the transfer of ownership.

A copy of the inspection report must be provided to the transferee and DNR. Failure to do so can result in the initial owner of the vessel being secondarily liable for some of the costs should the vessel eventually become abandoned or derelict. If the vessel inspection determines that the vessel is not seaworthy, and the value of the vessel is less than the anticipated cost to return the vessel to seaworthiness, the vessel owner may not sell or transfer ownership of the vessel unless criteria are met.

Criminal Liability. It is a misdemeanor to cause a vessel to become abandoned or derelict. A misdemeanor is punishable by imprisonment in a county jail for not more than 90 days, not more than a \$1,000 fine, or both.

Summary of Bill (First Substitute): The minimum length of a vessel for which an owner must obtain an inspection before transferring a vessel more than 40 years old is changed from vessels longer than 65 feet to vessels longer than 35 feet. The minimum length of vessel for which a prospective owner must obtain a marine insurance policy before purchasing or otherwise receiving a vessel more than 40 years old is changed from vessels longer than 65 feet to vessels longer than 35 feet. DNR is authorized to adopt rules to be used in determining whether a vessel is seaworthy. DVRP staff may issue tickets by mail to enforce vessel registration requirements.

The limitation that DNR may spend no more than \$200,000 in any one biennium on the DVRP is removed. DNR is authorized to issue grants to local law enforcement agencies to compensate them for time and equipment needed to enforce vessel registration and aquatic laws as related to the DVRP, and to issue civil penalties. Individual grants may not exceed \$50,000. DNR's grant-making authority is subject to the availability of funds appropriated for the grants.

DNR is authorized to carry out a pilot project for testing possible recycling streams for wood and fiberglass recovered from derelict vessels. DNR must initiate the pilot project by seeking to partner with a nonprofit maritime education center that has the capacity to coordinate with a local port and local businesses which can accommodate the vessel waste materials. DNR must initiate the pilot project beginning July 1, 2020, and provide an annual report to the Legislature on the progress and outcomes of the pilot project. If the pilot project is successful, DNR is authorized to replicate the pilot project in several locations around the state in partnership with other authorized public entities and rural communities. The pilot project expires July 1, 2023.

EFFECT OF CHANGES MADE BY AGRICULTURE, WATER, NATURAL RESOURCES & PARKS COMMITTEE (First Substitute):

- Authorizes Derelict Vessel Removal Program (DVRP) staff to issue tickets by mail to enforce vessel registration requirements.
- Removes the provisions providing DVRP staff ticketing and enforcement authority for enforcing aquatic laws related to derelict or abandoned vessels or trespass of vessels.
- Requires that the Department of Natural Resources must initiate the pilot project by seeking to partner with a nonprofit maritime education center that has the capacity to coordinate with a local port and local businesses which can accommodate the vessel waste materials.

Appropriation: The bill contains appropriations totaling \$250,000 from various accounts.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Agriculture, Water, Natural Resources & Parks): *The committee recommended a different version of the bill than what was heard.* PRO: This bill is designed to bring efficiencies to the DVRP, which has been an extremely effective and successful tool since its inception in 2002. Derelict vessels continue to pollute state waters and every year more vessels are reported to the DVRP that cannot be removed. Removing the cap on the vessel turn-in program is timely and will enable boaters to take steps to get boats off the water before they sink and go derelict, which results in a much higher cost. Derelict vessels damage marine habitat, pose significant challenges for shellfish farms, have the potential to leak fuel and other fluids, and are an obstruction. Increasing DNR's resources to deal with these vessels will significantly improve protection of habitat and reduce the potential for damage to property and businesses. The bill reduces the length limit on vessels subject to secondary liability to capture a larger number of high risk vessels. The bill establishes a grant program for local law enforcement to help encourage the enforcement of aquatic laws related to derelict vessels. The bill seeks to give the DVRP staff ticketing authority but adjusting the scope of this authority makes sense. The recycling waste stream project will develop pathways to prevent vessels and their waste from posing future threats after removal. Ports and marinas are often forced to put derelict vessels in the landfills but projects that allow the fiberglass to be chipped and used in concrete plants will keep those vessels out of the landfills.

OTHER: There is support for removing the cap on the voluntary turn-in program and looking into recycling of the various vessels that are found to be derelict. There is concern about extending enforcement to DVRP staff as it could end up being used as a tool for harassing boaters who have not renewed their tabs on time. There is concern about DVRP staff having enforcement authority in some areas of criminal law as it is not appropriate and could actually put them in danger of enforcing things like criminal trespass. An amendment is needed that narrows this language to ensure that boaters pay their tabs on time and everyone is safe.

Persons Testifying (Agriculture, Water, Natural Resources & Parks): PRO: Senator Liz Lovelett, Prime Sponsor; Bill Dewey, Taylor Shellfish Farms; Troy Wood, Department of Natural Resources; Heidi Eisenhour, Northwest Maritime Center; Doug Levy, Recreational Boating Association of Washington; Bruce Wishart, Puget Soundkeeper.

OTHER: James McMahan, Washington Association of Sheriffs and Police Chiefs; Mark Johnson, Washington Retail Association.

Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural Resources & Parks): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: We are in full support of this bill and have been working hard with the boating community on the provisions of this bill.

Persons Testifying (Ways & Means): PRO: Katrina Lassiter, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.