

CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE SENATE BILL 6528

Chapter 324, Laws of 2020

(partial veto)

66th Legislature
2020 Regular Session

DERELICT VESSELS--VARIOUS PROVISIONS

EFFECTIVE DATE: June 11, 2020

Passed by the Senate February 18,
2020

Yeas 48 Nays 0

CYRUS HABIB

President of the Senate

Passed by the House March 5, 2020

Yeas 97 Nays 0

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved April 2, 2020 3:11 PM with
the exception of sections 6 and 7,
which are vetoed.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **SECOND SUBSTITUTE
SENATE BILL 6528** as passed by the
Senate and the House of
Representatives on the dates hereon
set forth.

BRAD HENDRICKSON

Secretary

FILED

April 3, 2020

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 6528

Passed Legislature - 2020 Regular Session

State of Washington

66th Legislature

2020 Regular Session

By Senate Ways & Means (originally sponsored by Senators Lovelett, McCoy, Takko, Das, Hasegawa, Rolfes, Van De Wege, and Wilson, C.; by request of Department of Natural Resources)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to the prevention of derelict vessels; amending
2 RCW 79.100.160, 79.100.150, 79.100.170, 88.02.380, and 79.10.130;
3 creating new sections; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the derelict
6 vessel removal program has been an extremely effective and successful
7 tool since its inception in 2003, but recognizes that derelict
8 vessels continue to be a critical problem for the waters of the
9 state. Derelict vessels generate costs to taxpayers, impede the
10 recreational enjoyment of waters, pose navigational safety hazards,
11 and contaminate the environment, thereby impacting the health of
12 Puget Sound and the habitat of imperiled species such as salmon and
13 orcas. Every year, more vessels are reported to the derelict vessel
14 removal program than can be removed. The legislature finds that
15 improvements to the derelict vessel removal program statutes are
16 needed to help address this problem.

17 Therefore, in order to increase the effectiveness of the derelict
18 vessel removal program, the legislature proposes a suite of
19 prevention and enforcement measures intended to decrease the number
20 of vessels that become derelict and to provide the derelict vessel
21 removal program with more tools to manage those that are currently

1 derelict. These measures are intended to decrease costs to taxpayers
2 and protect the environment by removing high risk boats from the
3 waters of the state before they become derelict, and by expanding
4 enforcement of existing aquatic regulations as they relate to
5 enforcement of the derelict vessel statutes.

6 **Sec. 2.** RCW 79.100.160 and 2013 c 291 s 42 are each amended to
7 read as follows:

8 (1) The department may develop and administer a voluntary vessel
9 turn-in program.

10 (2) The purpose of the vessel turn-in program is to allow the
11 department to dismantle and dispose of vessels that pose a high risk
12 of becoming a derelict vessel or abandoned vessel, but that do not
13 yet meet the definition of those terms. The department shall design
14 the program with the goal of dismantling and disposing of as many
15 vessels as available resources allow, particularly those vessels
16 posing the greatest risk of becoming abandoned or derelict in the
17 future.

18 (3) The department shall disseminate information about the vessel
19 turn-in program, including information about the application process,
20 on its internet site and through appropriate agency publications and
21 information sources as determined by the department. The department
22 shall disseminate this information for a reasonable time as
23 determined by the department prior to accepting applications.

24 (4) The department shall accept and review vessel turn-in program
25 applications from eligible vessel owners, including private marinas
26 that have gained legal title to a vessel in an advanced state of
27 disrepair, during the time period or periods identified by the
28 department. In order to be eligible for the vessel turn-in program,
29 an applicant must demonstrate to the department's satisfaction that
30 the applicant:

31 (a) Is a Washington resident or business;

32 (b) Owns a vessel that is in an advanced state of disrepair, has
33 minimal or no value, and has a high likelihood of becoming an
34 abandoned or derelict vessel; and

35 (c) Has insufficient resources to properly dispose of the vessel
36 outside of the vessel turn-in program.

37 (5) Decisions regarding program eligibility and whether to accept
38 a vessel for dismantling and disposal under the turn-in program are
39 within the sole discretion of the department.

1 (6) The department may take other actions not inconsistent with
2 this section in order to develop and administer the vessel turn-in
3 program.

4 ~~((7) The department may not spend more than two hundred thousand
5 dollars in any one biennium on the program established in this
6 section.))~~

7 **Sec. 3.** RCW 79.100.150 and 2014 c 195 s 102 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))~~ thirty-five feet in length and more
12 than forty years old; and

13 (b) Either:

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

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

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

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

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

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

35 (4) Unless rules adopted by the department provide otherwise, the
36 vessel inspection required under this section must be contained in a
37 formal marine survey conducted by a third party to the transaction.
38 The survey must include, at a minimum, a conclusion relating to the
39 seaworthiness of the vessel, an estimate of the vessel's fair market

1 value, and, if applicable, an estimate as to the anticipated cost of
2 repairs necessary to return the vessel to seaworthiness.

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

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

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

14 **Sec. 4.** RCW 79.100.170 and 2014 c 195 s 101 are each amended to
15 read as follows:

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

22 (a) The transferor of the vessel upon purchase or other transfer;
23 and

24 (b) If applicable, the department of licensing upon first time
25 registration or after the transfer of ownership, or the department of
26 revenue upon the payment of any taxes.

27 (2) The transferor of a vessel greater than (~~sixty-five~~)
28 thirty-five feet in length and more than forty years old has an
29 affirmative duty to ensure that any potential transferee has secured
30 a marine insurance policy consistent with this section prior to or
31 concurrent with the finalization of any sale or transfer. Nothing in
32 this section prohibits the sale or other transfer of a vessel greater
33 than (~~sixty-five~~) thirty-five feet in length and more than forty
34 years old to a transferee that fails to secure a marine insurance
35 policy. However, a transferor that chooses to finalize a sale or
36 other transfer with a transferee not in possession of a marine
37 insurance policy assumes secondary liability for the vessel
38 consistent with RCW 79.100.060 if the vessel is later abandoned by

1 the transferee or becomes derelict prior to a subsequent ownership
2 transfer.

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

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

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

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

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

19 (5) The department may, by rule, provide for a purchaser of a
20 vessel to also satisfy the insurance requirements of this section
21 through the posting of adequate security with a financial
22 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
28 insurance policy consistent with this section prior to the end of the
29 twelfth month of vessel ownership or to a subsequent transfer of
30 ownership, whichever occurs first, without securing another marine
31 insurance policy consistent with this section in its place, is guilty
32 of a misdemeanor. The department may contact any vessel owner
33 required by this section to have a marine insurance policy to ensure
34 compliance with this section.

35 **Sec. 5.** RCW 88.02.380 and 2013 c 291 s 29 are each amended to
36 read as follows:

37 (1) Except as otherwise provided in this chapter, and, in part,
38 in order to prevent the future potential dereliction or abandonment

1 of a vessel, a violation of this chapter and the rules adopted by the
2 department is a class 2 civil infraction.

3 (2) A civil infraction issued under this chapter must be
4 processed under chapter 7.80 RCW.

5 (3) After the subtraction of court costs and administrative
6 collection fees, moneys collected under this section must be credited
7 to the ticketing jurisdiction and used only for the support of the
8 enforcement agency, department, division, or program that issued the
9 violation.

10 (4) All law enforcement officers may enforce this chapter and the
11 rules adopted by the department within their respective
12 jurisdictions. A city, town, or county may contract with a fire
13 protection district for enforcement of this chapter, and fire
14 protection districts may engage in enforcement activities.

15 (5) In order to prevent the future potential dereliction or
16 abandonment of a vessel, derelict vessel removal program staff of the
17 department of natural resources have authority to issue tickets by
18 mail for the purpose of enforcing vessel registration requirements.

19 ***Sec. 6. RCW 79.10.130 and 2014 c 114 s 5 are each amended to**
20 **read as follows:**

21 **(1) The department is hereby authorized to carry out all**
22 **activities necessary to achieve the purposes of this section and RCW**
23 **79.10.060, 79.10.070, 79.10.100 through 79.10.120, 79.10.200 through**
24 **79.10.330, 79.44.003, and 79.105.050 including, but not limited to:**

25 **(a) Planning, construction, and operation of conservation,**
26 **recreational sites, areas, roads, and trails developed or maintained**
27 **consistent with RCW 79.10.500, by itself or in conjunction with any**
28 **public agency, nonprofit organization, volunteer, or volunteer**
29 **organization, including entering cooperative agreements for these**
30 **purposes;**

31 **(b) Planning, construction, and operation of special facilities**
32 **for educational, scientific, conservation, or experimental purposes**
33 **by itself or in conjunction with any other public or private agency,**
34 **including entering cooperative agreements for these purposes;**

35 **(c) Improvement of any lands to achieve the purposes of this**
36 **section and RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120,**
37 **79.10.200 through 79.10.330, 79.44.003, and 79.105.050, including**
38 **entering cooperative agreements with public agencies, nonprofit**

1 organizations, volunteers, and volunteer organizations for these
2 purposes;

3 (d) Entering cooperative agreements with public agencies,
4 nonprofit organizations, volunteers, and volunteer organizations
5 regarding the use of lands managed by the department for the purpose
6 of providing a benefit to lands managed by the department, including
7 but not limited to the following benefits: The utilization of such
8 lands for watershed purposes; carrying out restoration and
9 enhancement projects on such lands, such as improving, restoring, or
10 enhancing habitat that provides for plant or animal species
11 protection; improving, restoring, or enhancing watershed conditions;
12 removing nonnative vegetation and providing vegetation management to
13 restore, enhance, or maintain properly functioning conditions of the
14 local ecosystem; and other similar projects on these lands that
15 provide long-term environmental and other land management benefits,
16 provided that the cooperative agreements are consistent with land
17 management obligations;

18 (e) Authorizing individual volunteers and volunteer organizations
19 to conduct restoration and enhancement projects on lands managed by
20 the department through cooperative agreements authorized in this
21 section or other arrangements that are consistent with land
22 management obligations and that do not require the volunteers to pay
23 a fee for the cooperative agreement purpose;

24 (f) Authorizing the receipt of gifts of personal property,
25 services, and other items of value for the purposes of this section,
26 as well as the exchange of consideration in cooperative agreements
27 authorized under this section;

28 (g) The authority to make such leases, contracts, agreements, or
29 other arrangements as are necessary to accomplish the purposes of
30 this section and RCW 79.10.060, 79.10.070, 79.10.100 through
31 79.10.120, 79.10.200 through 79.10.330, 79.44.003, and 79.105.050.
32 However, nothing in this section shall affect any existing
33 requirements for public bidding or auction with private agencies or
34 parties, except that agreements or other arrangements may be made
35 with public schools, colleges, universities, governmental agencies,
36 nonprofit organizations, volunteers, and volunteer organizations. In
37 addition, nothing in this section is intended to conflict with the
38 department's trust obligations;

39 (h) Subject to the availability of amounts appropriated for this
40 specific purpose, the authority to issue grants to local law

1 enforcement agencies to compensate them for time and equipment needed
2 to enforce vessel registration and aquatic laws as related to the
3 derelict vessel program, and to issue civil penalties. Individual
4 grants may not exceed fifty thousand dollars.

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

7 (a) "Nonprofit organization" means: (i) Any organization
8 described in section 501(c)(3) of the internal revenue code of 1986
9 (26 U.S.C. Sec. 501(c)(3)) and exempt from tax under section 501(a)
10 of the internal revenue code; or (ii) any not-for-profit organization
11 that is organized and conducted for public benefit and operated
12 primarily for charitable, civic, educational, religious, welfare, or
13 health purposes.

14 (b) "Volunteer" or "volunteer organization" means an individual
15 or entity performing services for a nonprofit organization or a
16 governmental entity who does not receive compensation, other than
17 reasonable reimbursement or allowances for expenses actually
18 incurred, or any other thing of value, in excess of five hundred
19 dollars per year. "Volunteer" includes a volunteer serving as a
20 director, officer, trustee, or direct service volunteer.

*Sec. 6 was vetoed. See message at end of chapter.

21 *NEW SECTION. Sec. 7. (1)(a) Subject to the availability of
22 amounts appropriated for this specific purpose, there is created
23 within the department of natural resources a pilot project for the
24 creation of a derelict vessel recycling waste stream. The purpose of
25 the pilot project is to discover environmentally responsible methods
26 of waste disposal by testing possible recycling streams for wood and
27 fiberglass recovered from derelict vessels.

28 (b) The department of natural resources shall collaborate with
29 appropriate state and federal agencies, local governments, and tribes
30 in order to safely and effectively remove, transport, and recycle the
31 derelict vessel waste.

32 (c) The department of natural resources shall initiate the pilot
33 project beginning July 1, 2020, and provide an annual report to the
34 legislature regarding progress and outcomes of the pilot project.

35 (d) The department of natural resources shall initiate the pilot
36 project by seeking to partner with a nonprofit maritime education
37 center that has the capacity to coordinate with a local port and
38 local businesses that can accommodate the vessel waste materials.

1 (e) *If the pilot project is successful, the department of natural*
2 *resources may replicate the program in several locations around the*
3 *state in partnership with other authorized public entities and rural*
4 *communities.*

5 (2) *This section expires July 1, 2023.*

**Sec. 7 was vetoed. See message at end of chapter.*

Passed by the Senate February 18, 2020.

Passed by the House March 5, 2020.

Approved by the Governor April 2, 2020, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 3, 2020.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 6 and 7, Second Substitute Senate Bill No. 6528 entitled:

"AN ACT Relating to the prevention of derelict vessels."

Section 6 creates a new grant program for enforcing vessel registration, and Section 7 creates a new pilot program for vessel disposal. Unfortunately, neither of these new programs are sustainable due to the rapidly changing budget outlook as a result of our state's efforts to respond to the Coronavirus outbreak.

For these reasons I have vetoed Sections 6 and 7 of Second Substitute Senate Bill No. 6528.

With the exception of Sections 6 and 7, Second Substitute Senate Bill No. 6528 is approved."

--- END ---