

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5433

Chapter 227, Laws of 2023

68th Legislature
2023 Regular Session

DERELICT AQUATIC STRUCTURES

EFFECTIVE DATE: July 23, 2023

Passed by the Senate March 6, 2023
Yeas 48 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 11, 2023
Yeas 97 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Approved May 1, 2023 3:34 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5433** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 2, 2023

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5433

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By Senate Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Muzzall, Shewmake, Lias, Lovelett, MacEwen, Nguyen, and Salomon; by request of Department of Natural Resources)

READ FIRST TIME 02/17/23.

1 AN ACT Relating to derelict aquatic structures; and adding a new
2 chapter to Title 79 RCW.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that nearshore
5 habitat is amongst the most important for threatened and endangered
6 species of salmon, yet nearshore habitat in populated areas is often
7 negatively impacted by man-made structures. There is a growing
8 problem where aquatic or overwater structures become derelict or fall
9 into disrepair. These derelict aquatic structures are public
10 nuisances and safety hazards as they can pose risks to navigation,
11 harm nearshore habitat for threatened and endangered species, detract
12 from the aesthetics of Washington's waterfronts, and threaten the
13 environment with the potential release of hazardous materials.

14 (2) The legislature further finds that the costs associated with
15 the proper removal or repair of derelict aquatic structures are
16 substantial and that in many cases owners of these structures lack
17 the financial means to address the safety and environmental hazards
18 the structures pose. As a result, the costs associated with the
19 removal or repair of derelict structures becomes a burden on public
20 entities and the taxpaying public.

1 (3) The legislature also finds that removal of derelict aquatic
2 structures and restoration of surrounding habitat improves nearshore
3 habitat quality.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires
6 otherwise.

7 (1) "Aquatic lands" means all tidelands, shorelands, harbor
8 areas, and the beds of navigable waters, including lands owned by the
9 state and lands owned by other public or private entities.

10 (2) "Department" means the department of natural resources.

11 (3) "Derelict aquatic structure" means overwater and in-water
12 structures where, as a result of catastrophic damage or disuse or
13 neglect, conditions exist that make the structure unsafe for use,
14 pose a hazard, or pose risks to public health or safety or the
15 surrounding environment. Factors that indicate an aquatic structure
16 is derelict include, but are not limited to, structures that:

17 (a) Are unsecured;

18 (b) Are abandoned and partially constructed;

19 (c) Are at risk of partial or full collapse;

20 (d) Are dilapidated by being in a state of disrepair due to
21 catastrophic damage or disuse or neglect;

22 (e) Have received a notice from a building or safety authority
23 with jurisdiction that identified structural defects that prohibit
24 the structure from being used;

25 (f) Increase the risk of fire, accident, or environmental harm;
26 or

27 (g) Otherwise represent a risk to public or environmental health
28 or safety.

29 (4) "Owner" means any natural person, firm, partnership,
30 corporation, association, government entity, or organization that has
31 a lawful right to possession of a structure by purchase, exchange,
32 gift, lease, inheritance, or legal action whether or not the
33 structure is subject to a security interest.

34 NEW SECTION. **Sec. 3.** (1) To the extent not granted under other
35 statutes, the department is granted authority to purchase, or acquire
36 through gift, exchange, or other transfer, lands and facilities to
37 carry out the purposes of this title. Following purchase or
38 acquisition, the department also has the authority, subject to the

1 processes and limitations of this chapter, to remove, salvage, scrap,
2 dispose of, refurbish, or repurpose a derelict aquatic structure
3 found on or above aquatic lands within the jurisdiction of the
4 department. Any removal and disposal must be done in an
5 environmentally sound manner and in accordance with all federal,
6 state, and local laws, including the state solid waste disposal
7 provisions provided for in chapter 70A.205 RCW.

8 (2) The primary responsibility to remove a derelict aquatic
9 structure belongs to the owner or lessee of the structure, and
10 secondarily to the department when it has jurisdiction over the
11 aquatic lands on which the structure lies.

12 NEW SECTION. **Sec. 4.** (1) Derelict aquatic structures will be
13 disposed of by the department or an approved contractor in any
14 appropriate and environmentally sound manner.

15 (2) Preference must be given to the least costly, environmentally
16 sound, reasonable disposal option. Any disposal operations must be
17 consistent with the requirements of all permitting authorities and
18 state solid waste disposal provisions provided for in chapter 70A.205
19 RCW.

20 NEW SECTION. **Sec. 5.** (1) The department shall submit all
21 qualifying derelict aquatic structure removal projects or project
22 elements on aquatic lands not managed by a port district under RCW
23 79.105.420 to the Puget Sound partnership nearshore credits program
24 or other similar mitigation credit programs to generate conservation
25 credits to help federal permit applicants meet obligations to offset
26 impacts from their aquatic projects.

27 (2) Any payments or revenues the department receives from the
28 sale of credits in the nearshore credits program or other similar
29 mitigation credit program must be directed to the derelict structure
30 removal account.

31 NEW SECTION. **Sec. 6.** (1)(a) The derelict structure removal
32 account is created in the state treasury. All receipts from
33 mitigation credit programs and those moneys specified must be
34 deposited into the account. The account is authorized to receive fund
35 transfers and appropriations from the general fund, as well as gifts,
36 grants, and endowments from public or private sources as may be made
37 from time to time, in trust or otherwise, for the use and benefit of

1 the purposes of this chapter and expend the same or any income
2 according to the terms of the gifts, grants, or endowments provided
3 those terms do not conflict with any provisions of this section or
4 any guidelines developed to prioritize reimbursement of projects
5 associated with this chapter.

6 (b) Funds in the account resulting from transfers from the
7 general fund should be prioritized for the removal of large
8 structures.

9 (c) Moneys in the account may only be spent after appropriation.

10 (2) Priority for use of this account is for the removal,
11 remediation, and revitalization of derelict aquatic structures that
12 are in danger of collapsing, breaking up, or blocking navigation
13 channels, or that present environmental risks or significant habitat
14 impacts. The department must develop criteria, in the form of
15 informal guidelines, to prioritize removal projects associated with
16 this chapter, but may not consider whether the applicant is a state
17 or local entity when prioritizing by January 1, 2024.

18 NEW SECTION. **Sec. 7.** The department may enter into a contract
19 with a private company, individuals, tribal nation, or state and
20 local government agencies to carry out the authority granted in this
21 chapter.

22 NEW SECTION. **Sec. 8.** The department shall establish a grant
23 program for lessees of state-owned aquatic land who need financial
24 assistance to comply with the department's habitat stewardship
25 measures for the protection of nearshore habitat. The department
26 shall establish grant eligibility criteria and amounts by July 1,
27 2024.

28 NEW SECTION. **Sec. 9.** The department may also acquire aquatic
29 structures and facilities that do not meet the definition of derelict
30 aquatic structures, but which could provide habitat benefits or
31 amenities for the local community if either refurbished or
32 repurposed, or both. The department may partner with a local
33 government, government agency, tribal nation or corporation, or
34 nonprofit group to refurbish or repurpose an aquatic structure or
35 facility.

1 NEW SECTION. **Sec. 10.** (1) This chapter is not intended to limit
2 or constrain the ability and authority of any entity to enact and
3 enforce ordinances or other regulations relating to derelict aquatic
4 structures, or to take any actions authorized by federal or state law
5 in responding to derelict or abandoned structures. This chapter is
6 also not intended to be the sole remedy available to the department
7 against the owners of derelict aquatic structures.

8 (2) The rights granted by this chapter are in addition to any
9 other legal rights the department may have to obtain title to,
10 remove, recover, sell, or dispose of a derelict aquatic structure,
11 and in no way does this chapter alter those rights, or affect the
12 priority of other liens on a structure.

13 NEW SECTION. **Sec. 11.** Sections 1 through 10 of this act
14 constitute a new chapter in Title 79 RCW.

Passed by the Senate March 6, 2023.
Passed by the House April 11, 2023.
Approved by the Governor May 1, 2023.
Filed in Office of Secretary of State May 2, 2023.

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