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## Natural Resources Committee

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### HB 2376

**Brief Description:** Concerning abandoned and derelict waterborne vessels.

**Sponsors:** Representatives Rockefeller, Doumit, Eickmeyer, Dickerson, Hunt, Lantz, Edwards, Romero, Haigh, McDermott and Jackley.

#### Brief Summary of Bill

- Provides authority and processes for state entities to remove and dispose of derelict and abandoned vessels.
- Requires the owner of abandoned or derelict vessels to reimburse the public entity that removes and disposes of the vessel.
- Assigns a fine to the owner of an abandoned or derelict vessel.
- Creates the derelict vessel removal account.
- Increases the annual boater registration fee and the vessel identification fee and earmarks the new revenue for the removal of derelict and abandoned vessels.
- Specifies that public auctions for boats abandoned at a marina may require a minimum bid or a letter of credit to discourage future abandonment of the vessel.

**Hearing Date:** 1/25/02

**Staff:** Jason Callahan (786-7117).

#### Background:

The Department of Natural Resources (department) is charged with the responsibility of managing the state's aquatic lands; however, Washington does not have a comprehensive mechanism for addressing the problem of derelict or abandoned vessels in its waterways. As a result, the department must rely on cooperation by the vessel owners, unproven common law approaches such as trespass and nuisance actions, and unreliable federal actions.

Both the United States Coast Guard (USCG) and the Army Corps of Engineers (Corps) have federal authority to address derelict and abandoned vessels; however, that authority is often constrained. The USCG is charged with addressing vessels that pose a substantial threat to

the environment or navigation channels. These problems are usually mitigated without removing and disposing of the vessel, and the USCG does not have the authority to remove and dispose of a vessel once the immediate threat has been removed. Likewise, the Corps have the authority to remove floating or sunken debris, but only if that debris is a hazard to navigation. This authority is usually only used in federal, not state waters.

The 2001 Washington Legislature passed SHB 1349 (Chapter 27, Laws of 2001), which addressed derelict vessels. This legislation authorized the use of money in the state toxics account to be used to cleanup and dispose of hazardous substances on abandoned and derelict vessels. This legislation did not authorize expenditures from the state toxics account for the removal and disposal of the actual vessel.

### **Summary of Bill:**

An authorized public entity, which includes most public owners of aquatic lands and shorelines, has the discretionary authority to remove and destroy a vessel within their jurisdiction that has become abandoned or derelict somewhere other than in a moorage facility. There are numerous authorized public entities in the state, but the Department of Natural Resources (the DNR) has an oversight and rulemaking role in the removal and disposal process. The DNR also has the authority to remove any vessel within the jurisdiction of an authorized public entity that chooses not to act.

Prior to taking action on a vessel, an authorized public entity must attempt to notify the vessel's owner of its intent to remove the vessel. Notice must be mailed to the last known address of any identifiable owners, posted clearly on the vessel, and printed in a newspaper in the county in which the vessel is located. All notices must include set information, including the procedures that must be followed in order to reclaim possession of the vessel, possible financial liabilities, and the rights of the authorized public entity after custody of the vessel is claimed.

Once custody of a vessel is taken, the authorized public entity may use or dispose of the vessel in any environmentally sound manner. However, the authorized public entity must first attempt to derive some value from the vessel either in whole or scrap. 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 authorized public entity must utilize the least costly disposal method.

The owner of a derelict or abandoned vessel is responsible for reimbursing the authorized public entity for all costs associated with the removal and disposal of the vessel. These costs include administrative costs and costs associated from any environmental damage caused by the vessel. In addition to reimbursement, an identified owner must also pay a fine equal to the costs of removal and disposal. Revenue from this fine is to be used for the removal of vessels with unidentifiable owners.

If a vessel is abandoned or left derelict on private property, the DNR may remove that vessel at the request of the landowner. If the DNR fails to respond to the landowner's request within thirty days, the authority to remove the vessel will lapse to the local sheriff's department.

Any owner seeking to redeem a vessel that is in the custody of an authorized public entity, or wishes to contest the amount of liability owed, must bring an action within 10 days of custody of the vessel being taken. If a lawsuit is not commenced within 10 days, the right to a hearing will be deemed waived.

The derelict vessel removal account is created in the custody of the state treasury. Expenditures from this account may only be used to reimburse authorized public entities for the costs associated with removing and disposing of abandoned or derelict vessels when the owner of the vessel is unknown or unable to pay. Priority for use of the account's funds must be given to the removal of vessels that are in danger of breaking up, sinking, presenting environmental risks, or blocking navigation channels.

The identification document required for a foreign vessel or a vessel with a United States customs service cruising license is raised from \$25 to \$30. The annual vessel registration fee is raised from \$10.50 to \$12.50. The additional revenue collected by these increases are specifically earmarked to be deposited into the derelict vessel removal account. If the balance of the derelict vessel removal account reaches \$15 million, the additional fees collected for the derelict vessel removal account will be suspended for at least one year.

Moorage facilities with abandoned vessels may still follow their existing procedures for removal. However, any profits from the sale of a vessel will lapse into the derelict vessel removal account, and the costs of removal of a vessel with an unidentified owner may be reimbursed out of the derelict vessel removal account. Also, any auctions of abandoned vessels may require a minimum bid or a letter of credit to assure that the future reabandonment of the vessel is avoided.

**Appropriation:** None.

**Fiscal Note:** Requested on January 15, 2002.

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