

E2SSB 6044 - H COMM AMD

By Committee on Agriculture & Natural Resources

NOT CONSIDERED 04/06/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 79.100.010 and 2006 c 153 s 2 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Abandoned vessel" means (~~the vessel's owner is not known or~~
8 ~~cannot be located, or if the vessel's owner is known and located but is~~
9 ~~unwilling to take control of the vessel, and the vessel has been left,~~
10 ~~moored, or anchored in the same area without the express consent, or~~
11 ~~contrary to the rules, of the owner, manager, or lessee of the aquatic~~
12 ~~lands below or on which the vessel is located for either a period of~~
13 ~~more than thirty consecutive days or for more than a total of ninety~~
14 ~~days in any three hundred sixty five day period)) a vessel that has
15 been left, moored, or anchored in the same area without the express
16 consent, or contrary to the rules of, the owner, manager, or lessee of
17 the aquatic lands below or on which the vessel is located for either a
18 period of more than thirty consecutive days or for more than a total of
19 ninety days in any three hundred sixty-five-day period, and the
20 vessel's owner is: (a) Not known or cannot be located; or (b) known
21 and located but is unwilling to take control of the vessel. For the
22 purposes of this subsection (1) only, "in the same area" means within
23 a radius of five miles of any location where the vessel was previously
24 moored or anchored on aquatic lands.~~

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

28 (3) "Authorized public entity" includes any of the following: The
29 department of natural resources; the department of fish and wildlife;
30 the parks and recreation commission; a metropolitan park district; a

1 port district; and any city, town, or county with ownership,
2 management, or jurisdiction over the aquatic lands where an abandoned
3 or derelict vessel is located.

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

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

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

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

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

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

14 (ii) Is obstructing a waterway; or

15 (iii) Is endangering life or property.

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

21 (7) "Vessel" (~~has the same meaning as defined in RCW 53.08.310~~)
22 means every species of watercraft or other mobile artificial
23 contrivance, powered or unpowered, intended to be used for transporting
24 people or goods on water or for floating marine construction or repair
25 and which does not exceed two hundred feet in length. "Vessel"
26 includes any trailer used for the transportation of watercraft, or any
27 attached floats or debris.

28 **Sec. 2.** RCW 79.100.040 and 2006 c 153 s 3 are each amended to read
29 as follows:

30 (1) Prior to exercising the authority granted in RCW 79.100.030,
31 the authorized public entity must first obtain custody of the vessel.
32 To do so, the authorized public entity must:

33 (a) Mail notice of its intent to obtain custody, at least twenty
34 days prior to taking custody, to the last known address of the previous
35 owner to register the vessel in any state or with the federal
36 government and to any lien holders or secured interests on record. A

1 notice need not be sent to the purported owner or any other person
2 whose interest in the vessel is not recorded with a state or federal
3 agency;

4 (b) Post notice of its intent clearly on the vessel for thirty days
5 and publish its intent at least once, more than ten days but less than
6 twenty days prior to taking custody, in a newspaper of general
7 circulation for the county in which the vessel is located; and

8 (c) Post notice of its intent on the department's internet web site
9 on a page specifically designated for such notices. If the authorized
10 public entity is not the department, the department must facilitate the
11 internet posting.

12 (2) All notices sent, posted, or published in accordance with this
13 section must, at a minimum, explain the intent of the authorized public
14 entity to take custody of the vessel, the rights of the authorized
15 public entity after taking custody of the vessel as provided in RCW
16 79.100.030, the procedures the owner must follow in order to avoid
17 custody being taken by the authorized public entity, the procedures the
18 owner must follow in order to reclaim possession after custody is taken
19 by the authorized public entity, and the financial liabilities that the
20 owner may incur as provided for in RCW 79.100.060.

21 (3)(a) If a vessel is: (i) In immediate danger of sinking,
22 breaking up, or blocking navigational channels((τ)); or (ii) poses a
23 reasonably imminent threat to human health or safety, including a
24 threat of environmental contamination; and (iii) the owner of the
25 vessel cannot be located or is unwilling or unable to assume immediate
26 responsibility for the vessel, any authorized public entity may tow,
27 beach, or otherwise take temporary possession of the vessel.

28 (b) Before taking temporary possession of the vessel, the
29 authorized public entity must make reasonable attempts to consult with
30 the department or the United States coast guard to ensure that other
31 remedies are not available. The basis for taking temporary possession
32 of the vessel must be set out in writing by the authorized public
33 entity within seven days of taking action and be submitted to the
34 owner, if known, as soon thereafter as is reasonable. If the
35 authorized public entity has not already provided the required notice,
36 immediately after taking possession of the vessel, the authorized
37 public entity must initiate the notice provisions in subsection (1) of

1 this section. The authorized public entity must complete the notice
2 requirements of subsection (1) of this section before using or
3 disposing of the vessel as authorized in RCW 79.100.050.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 79.100 RCW
5 to read as follows:

6 A marina owner may contract with a local government for the purpose
7 of participating in the derelict vessel removal program. The local
8 government shall serve as the authorized public entity for the removal
9 of the derelict vessel from the marina owner's property. The contract
10 must provide for the marina owner to be financially responsible for the
11 removal costs that are not reimbursed by the department as provided
12 under RCW 79.100.100, and any additional reasonable administrative
13 costs incurred by the local government during the removal of the
14 derelict vessel. Prior to the commencement of any removal which will
15 seek reimbursement from the derelict vessel removal program, the
16 contract and the proposed vessel removal shall be submitted to the
17 department for review and approval. The local government shall use the
18 procedure specified under RCW 79.100.100(6).

19 **Sec. 4.** RCW 79.100.100 and 2006 c 153 s 6 are each amended to read
20 as follows:

21 (1) The derelict vessel removal account is created in the state
22 treasury. All receipts from RCW 79.100.050 and 79.100.060 and those
23 moneys specified in RCW 88.02.030 and 88.02.050 must be deposited into
24 the account. The account is authorized to receive fund transfers from
25 the general fund, deposits from the watercraft excise tax under RCW
26 82.49.030, deposits from the derelict vessel removal surcharge under
27 section 9 of this act, as well as gifts, grants, and endowments from
28 public or private sources as may be made from time to time, in trust or
29 otherwise, for the use and benefit of the purposes of this chapter and
30 expend the same or any income according to the terms of the gifts,
31 grants, or endowments provided those terms do not conflict with any
32 provisions of this section or any guidelines developed to prioritize
33 reimbursement of removal projects associated with this chapter. Moneys
34 in the account may only be spent after appropriation. Expenditures
35 from the account shall be used by the department to reimburse
36 authorized public entities for up to ninety percent of the total

1 reasonable and auditable administrative, removal, disposal, and
2 environmental damage costs of abandoned or derelict vessels when the
3 previous owner is either unknown after a reasonable search effort or
4 insolvent. Reimbursement shall not be made unless the department
5 determines that the public entity has made reasonable efforts to
6 identify and locate the party responsible for the vessel, regardless of
7 the title of owner of the vessel. Funds in the account resulting from
8 transfers from the general fund or from the deposit of funds from the
9 watercraft excise tax as provided for under RCW 82.49.030 shall be used
10 to reimburse one hundred percent of these costs and should be
11 prioritized for the removal of large vessels. Costs associated with
12 removal and disposal of an abandoned or derelict vessel under the
13 authority granted in RCW 53.08.320 also qualify for reimbursement from
14 the derelict vessel removal account. In each biennium, up to twenty
15 percent of the expenditures from the account may be used for
16 administrative expenses of the department of licensing and department
17 of natural resources in implementing this chapter.

18 (2) If the balance of the account reaches one million dollars as of
19 March 1st of any year, exclusive of any fund transfers from the general
20 fund or any funds deposited into the account collected under RCW
21 82.49.030 and section 9 of this act, the department must notify the
22 department of licensing and the collection of any fees associated with
23 this account must be suspended for the following fiscal year.

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

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

1 entities. This subsection (4) 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 (5) 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 (6) 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 NEW SECTION. **Sec. 5.** A new section is added to chapter 88.02 RCW
20 to read as follows:

21 (1) A marina that leases permanent moorage to vessels must require
22 the following information from the lessee as a condition of leasing
23 moorage space: (a) The name of the legal owner of the vessel; (b) a
24 local contact person, if different than the owner; (c) the owner's
25 address and telephone number; (d) the vessel's hull identification
26 number; (e) the vessel's coast guard registration, if applicable; (f)
27 the vessel's home port; (g) the date on which the moorage lease began;
28 and (h) the vessel's country or state of registration and registration
29 number. A marina shall maintain records of this information for at
30 least two years. The marina shall permit any authorized agent of the
31 department of natural resources to inspect these records upon request.

32 (2) A marina that leases permanent moorage to vessels must require
33 proof of vessel registration or a written statement of intent to
34 register a vessel as a condition of leasing moorage space. If the
35 applicant's vessel is not registered in this state, the marina must
36 inform the moorage applicant of the state law requiring vessel

1 registration and direct the moorage applicant to the appropriate vessel
2 registration forms. Thereafter, it is the moorage applicant's
3 responsibility to register the vessel.

4 **Sec. 6.** RCW 82.49.030 and 2000 c 103 s 18 are each amended to read
5 as follows:

6 (1) The excise tax imposed under this chapter is due and payable to
7 the department of licensing or its agents at the time of registration
8 of a vessel. The department of licensing shall not issue or renew a
9 registration for a vessel until the tax is paid in full.

10 (2) ((The)) In calendar year 2007, one million dollars of the
11 watercraft excise tax collected under this chapter shall be deposited
12 into the derelict vessel removal account under RCW 79.100.100. For
13 each calendar year beginning January 1, 2008, through December 31,
14 2012, the first one million dollars of watercraft excise tax collected
15 under this chapter shall be deposited in the derelict vessel removal
16 account under RCW 79.100.100. Once one million dollars has been
17 deposited into the derelict vessel removal account each calendar year
18 from January 1, 2008, through December 31, 2012, the excise tax
19 collected under this chapter shall be deposited into the general fund.

20 (3) Beginning January 1, 2013, all of the excise tax collected
21 under this chapter shall be deposited in the general fund.

22 **Sec. 7.** RCW 88.02.050 and 2005 c 464 s 2 are each amended to read
23 as follows:

24 (1) Application for a vessel registration shall be made to the
25 department or its authorized agent in the manner and upon forms
26 prescribed by the department. The application shall state the name and
27 address of each owner of the vessel and such other information as may
28 be required by the department, shall be signed by at least one owner,
29 and shall be accompanied by a vessel registration fee of ten dollars
30 and fifty cents per year and the excise tax imposed under chapter 82.49
31 RCW.

32 (2) Five additional dollars must be collected annually from every
33 vessel registration application. These moneys must be distributed in
34 the following manner:

35 (a) Two dollars must be deposited into the derelict vessel removal
36 account established in RCW 79.100.100. If the department of natural

1 resources indicates that the balance of the derelict vessel removal
2 account, not including any transfer of funds into the account or funds
3 deposited into the account collected under RCW 82.49.030 and section 9
4 of this act, reaches one million dollars as of March 1st of any year,
5 the collection of the two-dollar fee must be suspended for the
6 following fiscal year.

7 (b) One dollar and fifty cents must be deposited in the aquatic
8 invasive species prevention account created in RCW 77.12.879.

9 (c) One dollar must be deposited into the freshwater aquatic algae
10 control account created in RCW 43.21A.667.

11 (d) Fifty cents must be deposited into the aquatic invasive species
12 enforcement account created in RCW 43.43.400.

13 (3) Any fees required for licensing agents under RCW 46.01.140
14 shall be in addition to the ten dollar and fifty cent annual
15 registration fee and the five-dollar fee created in subsection (2) of
16 this section.

17 (4) Upon receipt of the application and the registration fee, the
18 department shall assign a registration number and issue a decal for
19 each vessel. The registration number and decal shall be issued and
20 affixed to the vessel in a manner prescribed by the department
21 consistent with the standard numbering system for vessels set forth in
22 volume 33, part 174, of the code of federal regulations. A valid decal
23 affixed as prescribed shall indicate compliance with the annual
24 registration requirements of this chapter.

25 (5) The vessel registrations and decals are valid for a period of
26 one year, except that the director of licensing may extend or diminish
27 vessel registration periods, and the decals therefor, for the purpose
28 of staggered renewal periods. For registration periods of more or less
29 than one year, the department may collect prorated annual registration
30 fees and excise taxes based upon the number of months in the
31 registration period. Vessel registrations are renewable every year in
32 a manner prescribed by the department upon payment of the vessel
33 registration fee, excise tax, and the derelict vessel fee. Upon
34 renewing a vessel registration, the department shall issue a new decal
35 to be affixed as prescribed by the department.

36 (6) When the department issues either a notice to renew a vessel
37 registration or a decal for a new or renewed vessel registration, it
38 shall also provide information on the location of marine oil recycling

1 tanks and sewage holding tank pumping stations. This information will
2 be provided to the department by the state parks and recreation
3 commission in a form ready for distribution. The form will be
4 developed and prepared by the state parks and recreation commission
5 with the cooperation of the department of ecology. The department, the
6 state parks and recreation commission, and the department of ecology
7 shall enter into a memorandum of agreement to implement this process.

8 (7) A person acquiring a vessel from a dealer or a vessel already
9 validly registered under this chapter shall, within fifteen days of the
10 acquisition or purchase of the vessel, apply to the department or its
11 authorized agent for transfer of the vessel registration, and the
12 application shall be accompanied by a transfer fee of one dollar.

13 **Sec. 8.** RCW 88.02.050 and 2002 c 286 s 13 are each amended to read
14 as follows:

15 Application for a vessel registration shall be made to the
16 department or its authorized agent in the manner and upon forms
17 prescribed by the department. The application shall state the name and
18 address of each owner of the vessel and such other information as may
19 be required by the department, shall be signed by at least one owner,
20 and shall be accompanied by a vessel registration fee of ten dollars
21 and fifty cents per year and the excise tax imposed under chapter 82.49
22 RCW. In addition, two additional dollars must be collected annually
23 from every vessel registration application. These moneys must be
24 deposited into the derelict vessel removal account established in RCW
25 79.100.100. If the department of natural resources indicates that the
26 balance of the derelict vessel removal account, not including any
27 transfer of funds into the account or funds deposited into the account
28 collected under RCW 82.49.030 and section 9 of this act, reaches one
29 million dollars as of March 1st of any year, the collection of the two-
30 dollar fee must be suspended for the following fiscal year. Any fees
31 required for licensing agents under RCW 46.01.140 shall be in addition
32 to the ten dollar and fifty cent annual registration fee and the two-
33 dollar derelict vessel fee.

34 Upon receipt of the application and the registration fee, the
35 department shall assign a registration number and issue a decal for
36 each vessel. The registration number and decal shall be issued and
37 affixed to the vessel in a manner prescribed by the department

1 consistent with the standard numbering system for vessels set forth in
2 volume 33, part 174, of the code of federal regulations. A valid decal
3 affixed as prescribed shall indicate compliance with the annual
4 registration requirements of this chapter.

5 The vessel registrations and decals are valid for a period of one
6 year, except that the director of licensing may extend or diminish
7 vessel registration periods, and the decals therefor, for the purpose
8 of staggered renewal periods. For registration periods of more or less
9 than one year, the department may collect prorated annual registration
10 fees and excise taxes based upon the number of months in the
11 registration period. Vessel registrations are renewable every year in
12 a manner prescribed by the department upon payment of the vessel
13 registration fee, excise tax, and the derelict vessel fee. Upon
14 renewing a vessel registration, the department shall issue a new decal
15 to be affixed as prescribed by the department.

16 When the department issues either a notice to renew a vessel
17 registration or a decal for a new or renewed vessel registration, it
18 shall also provide information on the location of marine oil recycling
19 tanks and sewage holding tank pumping stations. This information will
20 be provided to the department by the state parks and recreation
21 commission in a form ready for distribution. The form will be
22 developed and prepared by the state parks and recreation commission
23 with the cooperation of the department of ecology. The department, the
24 state parks and recreation commission, and the department of ecology
25 shall enter into a memorandum of agreement to implement this process.

26 A person acquiring a vessel from a dealer or a vessel already
27 validly registered under this chapter shall, within fifteen days of the
28 acquisition or purchase of the vessel, apply to the department or its
29 authorized agent for transfer of the vessel registration, and the
30 application shall be accompanied by a transfer fee of one dollar.

31 NEW SECTION. **Sec. 9.** A new section is added to chapter 88.02 RCW
32 to read as follows:

33 (1) In order to address the significant backlog of derelict vessels
34 that have accumulated in our state's waters that pose a threat to the
35 health and safety of the people and to our environment, the legislature
36 intends to collect a derelict vessel removal surcharge.

1 (2) In addition to the fees collected under RCW 88.02.050, the
2 department shall collect an annual derelict vessel removal surcharge of
3 one dollar effective with vessel registrations that are due or will
4 become due on or after January 1, 2008. The revenue generated from the
5 derelict vessel surcharge must be deposited into the derelict vessel
6 removal account established under RCW 79.100.100, and is to be used
7 only for the removal of vessels that are less than seventy-five feet in
8 length.

9 (3) This section expires January 1, 2014.

10 NEW SECTION. **Sec. 10.** (1) The department of natural resources, in
11 consultation with the department of revenue, the department of
12 licensing, and other appropriate stakeholder groups, shall examine:

13 (a) The costs and benefits of extending a derelict vessel removal
14 fee or surcharges to vessels that are not subject to RCW 88.02.050; and

15 (b) The use of alternative revenue sources, such as the watercraft
16 excise tax, in order to more equitably distribute the financial
17 responsibility of supporting the cost of the derelict vessel program.
18 The departments shall submit a report of the findings to the
19 appropriate policy and fiscal committees of the legislature by November
20 1, 2007.

21 (2) The department of natural resources, the department of ecology,
22 representatives from the ship demolition industry, and representatives
23 from the environmental community shall convene a work group to discuss
24 operations and permitting requirements surrounding the demolition and
25 disposal of large abandoned and derelict vessels. The department of
26 natural resources shall consider the findings of the work group when
27 updating the guidelines for the derelict vessel program.

28 NEW SECTION. **Sec. 11.** Section 7 of this act expires June 30,
29 2012.

30 NEW SECTION. **Sec. 12.** Section 8 of this act takes effect June 30,
31 2012."

EFFECT: Clarifies that the \$1 million transfer of watercraft

excise tax to the Derelict Vessel Removal Account is an annual event.

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