

HOUSE BILL REPORT

E2SSB 6044

As Reported by House Committee On:
Agriculture & Natural Resources
Appropriations

Title: An act relating to derelict vessels.

Brief Description: Regarding the removal of derelict vessels.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Rockefeller and Swecker).

Brief History:

Committee Activity:

Agriculture & Natural Resources: 3/26/07, 3/28/07 [DPA];

Appropriations: 3/31/07 [DPA(APP w/o AGNR)s].

Brief Summary of Engrossed Second Substitute Bill (As Amended by House Committee)

- Amends the definition of "vessel" as used in the derelict vessel laws.
- Expands the instances when a public entity can take emergency action to tow a vessel.
- Requires recipients of Derelict Vessel Removal Account funding to try to find the responsible party for a derelict vessel.
- Allows marinas to participate in the derelict vessel removal program.
- Creates a temporary \$1 surcharge on all vessel registrations to fund derelict vessel removals.
- Requires studies and reports regarding derelict vessels.

HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

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.

Majority Report: Do pass as amended. Signed by 12 members: Representatives B. Sullivan, Chair; Blake, Vice Chair; Kretz, Ranking Minority Member; Dickerson, Eickmeyer, Grant, Hailey, Kagi, McCoy, Newhouse, Strow and VanDeWege.

Minority Report: Do not pass. Signed by 2 members: Representatives Warnick, Assistant Ranking Minority Member and Orcutt.

Staff: Jason Callahan (786-7117).

Background:

Removal of Derelict or Abandoned Vessels

An authorized public entity (APE), which includes most public owners of aquatic lands and shorelines, has the discretionary authority to remove and destroy a vessel within its jurisdiction that has become abandoned or derelict. The Department of Natural Resources (Department) has an oversight and rule-making role in the removal and disposal process. The Department also has authority to remove any vessel within the jurisdiction of an APE that asks the Department to act in its place. Likewise, an APE may request the Department to allow it to remove a vessel within the Department's jurisdiction.

Taking Possession of Derelict Vessels

Prior to taking action on a vessel, an APE 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 specified information, including the procedures that must be followed to reclaim possession of the vessel, possible financial liabilities, and the rights of the APE after custody of the vessel is claimed.

Once the APE takes custody of a vessel, the APE may use or dispose of the vessel in any environmentally-sound manner. However, the APE 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 APE must utilize the least costly, environmentally-sound disposal method.

The owner of a derelict or abandoned vessel is responsible for reimbursing the APE for all costs associated with the removal and disposal of the derelict or abandoned vessel. These costs include administrative costs and costs associated with any environmental damage caused by the vessel.

The Derelict Vessel Removal Account

Monies in the Derelict Vessel Removal Account (Account) are used to reimburse APEs for 90 percent of the costs associated with removing and disposing of abandoned or derelict vessels when the owner of the vessel is unknown or unable to pay. The APE may contribute its 10 percent of removal costs through in-kind services. 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. Prioritization guidelines must be developed informally by the Department.

Funding Vessel Removals

Most vessel owners in the state are required to annually register their vessel. Vessel registration requires the payment of a Watercraft Excise Tax, a \$10.50 annual registration fee, and a \$2 derelict vessel removal fee. If the balance of the Account exceeds \$1 million, then the collection of the \$2 derelict vessel removal fee is suspended.

Summary of Amended Bill:

Policy Changes to the Derelict Vessel Removal Program

The definition of a vessel is changed to specify that the definition includes both powered and unpowered vessels, all crafts intended to transport people or goods, and floating marine construction or repair equipment.

The authority for an APE to take possession and tow a vessel that is in immediate danger of sinking without employing the standard procedure for taking possession of a vessel is expanded to include instances when a vessel is posing a reasonably imminent threat to human health or safety or contamination of the environment.

Reimbursement for an APE from the Account for the removal of derelict vessels is conditioned on the APE making a reasonable effort to identify and locate the party responsible for the vessel. The determination of reasonableness in the effort exerted by the APE belongs to the Department.

Revenue Changes to the Derelict Vessel Removal Program

The available inputs into the Account are expanded to include fund transfers from the General Fund, dedicated portions of the Watercraft Excise Tax, and a new surcharge on vessel registrations. Revenue deposited into the Account from these sources do not count towards calculating whether collection of the \$2 vessel registration fee is suspended.

From 2007 until 2012, \$1 million collected from the Watercraft Excise Tax is redirected from the General Fund into the Account. The APEs that are reimbursed for removed vessels with money from the Watercraft Excise Tax are not required to contribute 10 percent of the cost of the removal.

In addition to the \$2 derelict vessel removal fee, the Department of Licensing must collect a \$1 Derelict Vessel Removal Surcharge on each vessel registration from 2008 until the end of 2013. Revenue collected under the Derelict Vessel Removal Surcharge must be deposited into the Account and used to remove vessels that are less than 75 feet in length.

Role of Marinas

The owner of a marina may participate in the derelict vessel removal program by contracting with a local government APE. The contract between the marina and the APE must be approved by the Department and require the marina to be responsible for the share of vessel removal not covered by the Account. The marina operator must also reimburse the local government for reasonable administrative costs.

Any marina operator leasing permanent moorage is required to collect certain information about the vessel being moored. This information includes the name and contact information of the owner, the vessel's hull identification number, and the vessel's home port. The information collected must be retained for two years and made open for Department inspection. If a vessel is not registered in Washington, then a marina operator must, as a condition of the lease, secure a written statement of intent from the vessel owner that he or she plans to register the vessel. If the vessel is registered out of state, then the marina operator must direct the vessel to the proper forms for a Washington registration.

Studies

There are two studies required. In the first, the Department must work with other state agencies and stakeholders to examine alternative revenue sources to fund derelict vessel removals that are more equitable than the current formula. The report is due by November 1, 2007.

The second study involves the Department, the Department of Ecology, the environmental community, and the ship demolition industry. This group is to discuss operations and permitting requirements surrounding the demolition and disposal of large vessels. The findings of this group are to be considered whenever the Department updates the guidelines for the derelict vessel program.

Amended Bill Compared to Engrossed Second Substitute Bill:

The amendment clarifies that the \$1 million transfer of the Watercraft Excise Tax to the Derelict Vessel Removal Account is an annual event and not a one-time transfer.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except section 8, which, because of prior double amendments, takes effect June 30, 2012.

Staff Summary of Public Testimony:

(In support) This bill further strengthens a successful program that has not yet been scaled up to meet actual demands. The derelict vessel removal program is an important part of the boating experience and the cleaning of Puget Sound. The program not only has removed approximately 250 derelict vessels to date, but it allows the Department to pressure other

vessel owners into taking responsibility for their vessels before the state does it for them. The derelict vessel removal program operated with a small budget, and it needs greater investment.

Large vessels, although technically covered under the existing derelict vessel removal program, are very costly to remove. Just removing one large derelict vessel could cost more than the entire biennial budget for the derelict vessel removal program, threatening the economic viability of the program. These large vessels, however, also pose a greater risk to human health, navigation, and the environment than the small, less costly vessels. Derelict vessels become attractive nuisances, and a dumping area for garbage and hazardous materials. The extra revenue in the bill will allow the Department to remove derelict dry docks in Lake Washington and Lake Union, and at least eight other large derelict vessels.

The Watercraft Excise Tax has been paid by boaters for many years, but the money is sent to the General Fund. The revenue should, instead, be recycled into programs that benefit the boaters who pay the tax. Boaters are willing to pay more to see derelict vessels removed from the state's waterways, but even the amount of the proposed registration fee surcharge in the bill will be insufficient without additional support from the Watercraft Excise Tax.

The study on best disposal practices for large vessels will allow responsible citizens to do the right thing in terms of derelict vessel salvage and disposal.

(With concerns) Marinas should not be made to collect information from their tenants. The utility of the benefits gained from this effort does not give an adequate return on the investment in time and expense that the marinas would incur.

Persons Testifying: Senator Rockefeller, prime sponsor; Fran McNair, Department of Natural Resources; David Byers, Department of Ecology; Doug Levy, City of Renton; and David Kutz, Recreational Boating Association of Washington.

(With concerns) Michael Campbell, Northwest Marine Trade Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Agriculture & Natural Resources. Signed by 30 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Cody, Conway, Darneille, Ericks, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDermott, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist and P. Sullivan.

Minority Report: Without recommendation. Signed by 1 member: Representative Dunn.

Staff: Alicia Dunkin (786-7178).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Agriculture & Natural Resources:

The annual redirection of \$1 million collected under the watercraft excise tax from the General Fund to the Derelict Vessel Removal Account is removed. The requirement that marinas collect and share with the Department of Natural Resources identifying information about the vessels being moored at the marina is removed.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except section 6, which, because of prior double amendments, takes effect June 30, 2012.

Staff Summary of Public Testimony:

(In support) We are in strong support because this bill provides sufficient funds to eliminate the backlog and stay ahead of new vessels that need to be removed. So far we have removed 250 vessels. We support the increased fee and don't think that it will be enough to eliminate the backlog. The transfer from the watercraft excise tax, which boaters already pay for, should be done in order to support the removal of derelict vessels.

(With concerns) We support the \$1 surcharge but we would like to remove the requirements that marinas report certain information about vessels because this creates a burden that is not justified and we would like to remove this administrative burden.

(Opposed) None.

Persons Testifying: (In support) Fran McNair, Department of Natural Resources; and David Kutz, Recreational Boating Association of Washington.

(With concerns) Cliff Webster, Northwest Marine Trade Association.

Persons Signed In To Testify But Not Testifying: None.