

# SENATE BILL REPORT

## SB 6044

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As Reported By Senate Committee On:  
Natural Resources, Ocean & Recreation, February 26, 2007  
Ways & Means, March 5, 2007

**Title:** An act relating to derelict vessels.

**Brief Description:** Regarding the removal of derelict vessels.

**Sponsors:** Senators Rockefeller and Swecker.

**Brief History:**

**Committee Activity:** Natural Resources, Ocean & Recreation: 2/21/07, 2/26/07 [DPS-WM, DNP, w/oRec].

Ways & Means: 3/01/07, 3/05/07 [DP2S, w/oRec].

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### SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

**Majority Report:** That Substitute Senate Bill No. 6044 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Fraser, Hargrove, Poulsen and Spanel.

**Minority Report:** Do not pass.

Signed by Senators Morton, Ranking Minority Member and Stevens.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Swecker.

**Staff:** Kim Johnson (786-7346)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 6044 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller and Tom.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Hewitt and Schoesler.

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*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.*

**Staff:** Kirstan Arestad (786-7708)

**Background:** In 2005, the Legislature created the Oil Spill Advisory Council (Council) to provide advice as to how the state can maintain its vigilance in the prevention of oil spills. The Council submitted a required report to the Legislature in 2006 that outlined proposals for long-term, sustainable funding for oil spill prevention, preparedness, and response. Technical Advisory Subcommittees of the Council examined various aspects of Washington's prevention and response programs and made several recommendations to the Council on how to improve the derelict vessel removal program which is administered by the Department of Natural Resources (DNR).

With few exceptions, no person may own or operate a vessel on the waters of this state unless the vessel has been registered and displays a registration number and a valid decal. A \$2 derelict vessel removal fee is collected at the time of registering a vessel and is deposited into the Derelict Vessel Removal Account (Derelict Vessel Account). If the Derelict Vessel Account balance reaches \$1 million as of March 1 of any year, collection of fees associated with the account must be suspended for the following fiscal year.

Under the current derelict vessel removal program, authorized public entities may take temporary possession of a vessel that is in immediate danger of sinking, breaking up, or blocking a navigational channel and the owner cannot be located or is unwilling to assume immediate responsibility of the vessel. The current program also allows authorized public entities to be reimbursed for up to 90 percent of the total reasonable and auditable administrative costs of removal and disposal where the previous owner is unknown or insolvent.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Proposed Substitute As Heard In Committee (Natural Resources, Ocean & Recreation):** Authorized public entities are given the authority to take temporary possession of a vessel when the vessel poses an imminent danger to public health and safety or to the environment.

A derelict vessel surcharge is added to certain vessels based on the vessel's length, and is deposited into the Derelict Vessel Account. The surcharge may only be used to address the current backlog of derelict vessels and is set to expire when the backlog is eliminated.

Five hundred thousand dollars is transferred from the Oil Spill Prevention Account to the Derelict Vessel Account on a quarterly basis, until September 1, 2010. Transfers to the Derelict Vessel Account and the new surcharge are exempt from the calculation of the balance of the account that triggers the suspension of the derelict vessel fees. The requirement that authorized public entities provide 10 percent of the cost of removing the vessel when the previous owner is unknown or insolvent is waived when DNR uses monies from the transfer or the surcharge to remove a large vessel.

Any marina in the state that leases permanent moorage to vessels must require proof of vessel registration or a written statement of intent to register a vessel as a condition of leasing moorage space. As an additional condition of leasing moorage space, a marina operator must obtain certain information from the lease applicant. Such information includes, among other things: the name of the legal owner of the vessel, the owner's address and phone number, the

vessel's hull identification number, and the vessel's country or state of registration and registration number. The marina operator must keep this information for at least two years, and must provide the information for DNR's review upon request.

DNR, in consultation with the Department of Revenue, must examine the costs and benefits of extending the derelict vessel fees to vessels that are not subject to the state registration requirements and report to the Legislature by November 1, 2007.

The definitions for "abandoned vessel" and "vessel" are amended.

**EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Natural Resources, Ocean & Recreation):** The definition of "abandoned vessel" is clarified.

Internal references in the bill to the Oil Spill Response Account are corrected to refer to the Oil Spill Prevention Account. The date that the transfer from the Oil Spill Prevention Account is set to begin and to expire are adjusted to begin on September 29, 2007, and expire on October 1, 2010.

**EFFECT OF CHANGES MADE BY RECOMMENDED SECOND SUBSTITUTE AS PASSED COMMITTEE (Ways & Means):** The transfer from the Oil Spill Prevention Account is removed. Instead the a \$1 million per year of the watercraft excise tax is deposited into the Derelict Vessel Removal Account through 2013.

The surcharge is simplified to one dollar and is applied to all vessels registering with Department of Licensing. Both the surcharge and the excise tax are exempted from the calculation that would shut off the collection of the derelict vessel fee.

The definition of vessel is clarified to ensure that the dry docks are eligible for this program. Private marina owners may contract with a local government to participate in the derelict vessel program. The private marina owner must bear the cost share with DNR (which is 10 percent of the total cost of removal) and must reimburse the local government for reasonable administrative costs.

The DNR must also examine the use of alternative revenue sources, such as the watercraft excise tax, in order to more equitably distribute the financial responsibility of supporting the cost of the derelict vessel program and report back to the Legislature by November 1, 2007.

Public entities are required to make reasonable efforts to identify and locate vessel owners regardless of whose name appears on the title before they can receive reimbursement.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony (Natural Resources, Ocean & Recreation):** PRO: The derelict vessel removal program has been very successful so far, but the need has out grown the existing level of funding. Safety to the public, and prevention of damage to the

environment should be the state's priority and this bill would help to focus on these very important issues by removing more derelict vessels. Leaking and contaminated derelict vessels pose an extreme danger to the environment and the public's health and use of oil spill prevention funds are appropriate in this instance.

CON: There is no nexus between derelict vessel removal and use of the oil spill accounts. Recreational boaters should not have to wholly support the removal of vessels that are formally commercial vessels. The record keeping requirements of this bill concern us.

OTHER: We support the public policy goal of this legislation and agree that derelict vessels are a problem in this state and should be removed. It is the funding source that is a concern to the Department of Ecology. Without significant additional funds being added to the oil spill prevention account, the account will not be able to sustain a positive balance.

**Persons Testifying (Natural Resources, Ocean & Recreation):** PRO: Fran McNair, Department Natural Resources; Ray Schow, Recreational Boating; Doug Levy, City of Renton.

CON: Greg Hanon, Western States Petroleum Association; Cliff Webster, NW Marine Trade Association.

OTHER: Eric Johnson, Washington Public Ports Association; Dale Jensen, Department of Ecology.

**Staff Summary of Public Testimony (Ways & Means):** PRO: The bill will provide sufficient funds to enable the Derelict Removal Program of DNR to eliminate the backlog of over 140 derelict and abandoned vessels that pose threats to human health and safety and the environment. The larger abandoned/derelict vessels on the backlog list currently threaten the viability of the program both from an economic and environmental standpoint. Removal costs for one large vessel may exceed the program's annual budget of \$450,000. In our experience, derelict or abandoned vessels are often dumping grounds for dangerous and hazardous materials. The Recreational Boating Association of Washington (RBAW) is willing to accept the proposed fee increases, as our boaters want to contribute to the clean up of our waters. Even with the changes, RBAW recognizes the fee increases are from boaters only and still not enough money to support the Derelict Vessel Removal Account and remove the backlog of derelict vessels. We would recommend transfers into the Account for the Oil Spill Response Fund or the state General Fund.

CON: The issue is about removal of vessel hulks. Model Toxics Control Act funds are already available for removal of petroleum products from derelict and abandoned vessels. The nexus to vessels contributing to hazards and the oil spill account is not viable. Transfer of funds from the oil spill prevention and cleanup accounts is opposed.

OTHER: The Northwest Marine Trade Association (NMTA) believes a better and more appropriate funding source for the additional funds needed for the Derelict Vessel Program would be to use up to \$2 million per biennium of revenues collected from the watercraft excise tax. NMTA is willing to consider a smaller fee per vessel registration applied to a greater number of vessels. We encourage both of these funding sources to be limited to not more than six years.

**Persons Testifying (Ways & Means):** PRO: Rich Doenges, DNR; David Kutz, RBAW.

CON: Greg Hanon, Western States Petroleum Association.

OTHER: Cliff Webster, NMTA.