

HOUSE BILL REPORT

HB 1322

As Reported by House Committee On:
Judiciary

Title: An act relating to abandoned or derelict vessels.

Brief Description: Regarding abandoned or derelict vessels.

Sponsors: Representatives Fitzgibbon, Hinkle, Tharinger, Appleton, Van De Wege, Green, Sells, Jinkins, Rolfes, Lytton, Blake, Upthegrove, Warnick, Ryu, Moscoso, Hunt, Stanford and Kenney; by request of Commissioner of Public Lands.

Brief History:

Committee Activity:

Judiciary: 2/3/11, 2/10/11 [DPS].

Brief Summary of Substitute Bill

- Makes it a misdemeanor for a person to intentionally, without authorization, cause a vessel to sink, break up, or block navigational channels.
- Changes the reimbursement rate in the statutes applicable to port districts seeking reimbursement from the Derelict Vessel Removal Program.
- Limits civil liability for authorized public entities exercising their authority under the Derelict Vessel Removal Program.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Eddy, Frockt, Kirby, Klippert, Orwall, Rivers and Roberts.

Minority Report: Do not pass. Signed by 4 members: Representatives Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler and Nealey.

Staff: Trudes Tango (786-7384).

Background:

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.

The Department of Natural Resources (DNR) administers the Derelict Vessel Removal Program (DVRP) and the Derelict Vessel Removal Account (Account).

Authorized Public Entities.

An authorized public entity (APE), which includes the DNR and most public agencies that own or manage aquatic lands, may take custody and dispose of abandoned or derelict vessels on aquatic lands within its jurisdiction. The DNR has an oversight and rule-making role in the removal and disposal process. If an APE is unable or unwilling to remove a derelict or abandoned vessel in its jurisdiction, it may ask the DNR to assume responsibility. No APE has a duty to exercise its authority, and an APE is not liable for choosing not to exercise its authority.

A marina may contract with a local government to serve as the APE to remove a derelict vessel. The authorizing statute for such contracts does not include the removal of abandoned vessels.

Reimbursement for Vessel Removals.

The owner of an abandoned or derelict vessel is responsible for the cost of removal and disposal. If the owner is unknown or unable to pay the cost, the APE may seek reimbursement of up to 90 percent of the costs. Monies in the Account are used to reimburse APEs.

Port districts are also APEs and have the authority to remove a vessel from its moorage facilities if the vessel is a nuisance, in danger of sinking or creating other damage, or the owner owes port charges. The port may seek reimbursement for 75 percent of the costs from the Account.

Funds in the Account come primarily from a \$2 surcharge on vessel registrations, as well as a temporary additional \$1 surcharge on vessel registrations imposed until 2014.

Criminal Liability.

It is a misdemeanor to cause a vessel to become abandoned or derelict upon aquatic lands.

Summary of Substitute Bill:

Criminal Liability.

In addition to the existing criminal liability, it is a misdemeanor for a person who intentionally, through action or inaction, without authorization, causes a vessel to sink, break up, or block navigational channels upon aquatic lands.

Marina Participation in the DVRP.

Marinas may contract with a local government APE for the removal of abandoned vessels, not just derelict vessels.

Reimbursement Rate for Ports.

The statute governing port districts is amended to specify that port districts may seek reimbursement for up to 90 percent of the cost of removal of a vessel.

Limited Liability for APEs.

An APE, or entity contracting with an APE, is not civilly liable for any act or omission under its DVRP authority unless that act or omission constitutes gross negligence or willful or wanton misconduct.

Substitute Bill Compared to Original Bill:

The original bill made it a misdemeanor to knowingly cause a vessel to become abandoned or derelict or to knowingly cause a vessel to sink, break up, block navigation channels, or contaminate the environment.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is requested by the DNR and makes it easier for the DNR and other entities to address derelict vessels that pose a public safety concern. Authorized public entities acting in good faith should not be liable. At least one county stated that its reason for not participating in the program was because of the concern over liability. The bill helps to relieve local entities of liability. The amendment addresses concerns from some stakeholders about the bill impacting the ability of entities that have authority to sink a vessel for authorized purposes. Washington's DVRP is the most successful of its kind in the country. The program is currently reimbursing port districts at 90 percent because the program statutes allow it. The bill just cleans up the port district statute to make it consistent. If the APE can identify the vessel's owner, it will go after the owner for the costs of removing the vessel.

(Opposed) None.

Persons Testifying: Representative Fitzgibbon, prime sponsor; and Kristin Swenddal and Melissa Ferris, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying: None.