

# SENATE BILL REPORT

## SSB 5271

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As Amended by House, April 1, 2011

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

**Brief Description:** Regarding abandoned or derelict vessels.

**Sponsors:** Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Rockefeller, Swecker, Ranker, Morton, Sheldon, Delvin, Schoesler, Regala, Nelson, Fraser, Kilmer, Shin and Kline; by request of Commissioner of Public Lands).

**Brief History:**

**Committee Activity:** Natural Resources & Marine Waters: 1/24/11, 2/07/11 [DPS].

Passed Senate: 2/28/11, 47-0.

Passed House: 4/01/11, 93-0.

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### SENATE COMMITTEE ON NATURAL RESOURCES & MARINE WATERS

**Majority Report:** That Substitute Senate Bill No. 5271 be substituted therefor, and the substitute bill do pass.

Signed by Senators Ranker, Chair; Regala, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Stevens and Swecker.

**Staff:** Curt Gavigan (786-7437)

**Background:** In 2002 the Legislature established what has become known as the Derelict Vessel Removal Program (DVRP), which is administrated by the Department of Natural Resources (DNR).

Authorized Public Entities. Certain state agencies and local governments, including DNR, may take custody and dispose of abandoned or derelict vessels on or above aquatic lands within their jurisdiction. Such agencies are known as authorized public entities (APEs). A marina may contract with a local government to serve as the APE for derelict vessel removal, but current law does not specifically authorize such actions to cover abandoned vessels.

Reimbursement for Vessel Removals. An abandoned or derelict vessel owner must generally reimburse an APE for reasonable removal and disposal costs. An APE may, however, seek reimbursement of up to 90 percent of such costs from DNR if the owner is unknown or

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insolvent. Although ports are APEs, a separate provision of law covering ports references the reimbursement rate as 75 percent of removal and disposal costs.

DVRP reimbursement funding comes 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.

**Summary of Substitute Bill:** Criminal Liability. In addition to the current prohibition against a person causing a vessel to become abandoned or derelict, a person who intentionally and without authorization causes a vessel to sink, break up, or block a navigation channel is subject to a misdemeanor.

Marina Participation in the DVRP. Marinas may contract with a local government for the removal of an abandoned as well as a derelict vessel.

Reimbursement Rate for Ports. A provision referencing the reimbursement rate for abandoned and derelict vessels removals by ports is increased from 75 to 90 percent, which is consistent with the rate provided for APEs generally.

Limited Liability for APEs. An APE, or entity contracting with an APE, is not civilly liable when taking an action under DVRP authority unless that action constitutes gross negligence or willful or wanton misconduct.

**Appropriation:** None.

**Fiscal Note:** Available.

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

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

**Staff Summary of Public Testimony on Original Bill:** PRO: The bill is aimed at trying to facilitate the smooth functioning of the very successful DVRP including clarifying several pieces of language and limiting liability for entities involved in the program. The language relating to misdemeanors is also amended to specify a standard of intent, and apply emergency situations that can impact navigation and the environment.

OTHER: While supportive of the concepts behind the bill, there is concern that the change broadening the misdemeanor language is overly broad.

**Persons Testifying:** PRO: Senator Rockefeller, prime sponsor; Martha Henderson, Master of Environmental Studies student; Daniel Fallstrom, Port of Manchester; Kristin Swenddal, Melissa Ferris, Department of Natural Resources.

OTHER: Brad Tower, Schnitzer Steel Industries.

**House Amendment(s):** The House amendment specifies that: for the purposes of criminal liability for intentionally causing a vessel to sink, break up, or block navigational channels upon aquatic lands, "without authorization" means without the appropriate state, local, or federal authorization; and the new crime of intentionally and without authorization causing a vessel to sink, break up, or block channels, must be "upon aquatic lands."