

# FINAL BILL REPORT

## 2SHB 2457

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C 195 L 14  
Synopsis as Enacted

**Brief Description:** Concerning derelict and abandoned vessels.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Hansen, Smith, Fagan, Springer, Rodne, Reykdal, Magendanz, Fitzgibbon, Vick, Lytton, Wilcox, Pollet, Tharinger, Ryu, Van De Wege, Buys and Hayes; by request of Department of Natural Resources).

**House Committee on Agriculture & Natural Resources**  
**House Committee on Appropriations**  
**Senate Committee on Natural Resources & Parks**  
**Senate Committee on Ways & Means**

### **Background:**

#### Removal of Derelict or Abandoned Vessels.

An authorized public entity (APE), which includes most state and local owners of aquatic lands and shorelines, has the authority to remove and destroy a vessel within its jurisdiction that has become abandoned or derelict. The Department of Natural Resources (DNR) has an oversight and rulemaking role in the removal and disposal process. The DNR also has authority to remove any vessel within the jurisdiction of an APE that asks the DNR to act in its place.

The owner of a private marina may participate in the derelict vessel removal program by contracting with a local government. The contract between the marina and the local government must be approved by the DNR and require the marina to be responsible for the share of vessel removal not covered by the Derelict Vessel Removal Account (Account).

#### 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. 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

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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 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 Account are used to reimburse the 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.

#### Funding Vessel Removals.

Most recreational vessel owners in the state are required to annually register their vessels. The vessel registration program requires the payment of a \$2 derelict vessel removal fee. In addition, there is a \$1 derelict vessel surcharge dedicated to removing larger boats.

The Legislature has also appropriated money from the state's capital budget for this purpose in recent biennia.

#### Vessel Owner Accountability.

Beginning on July 1, 2014, the owner or operator of a vessel that is more than 40 years old and longer than 65 feet must obtain a vessel inspection before transferring ownership of the vessel to another party. A copy of the inspection report must be provided to the transferee and the DNR. Failure to do so can result in the initial owner of the vessel being secondarily liable for some of the costs should the vessel eventually become abandoned or derelict. The DNR is in the process of working with interested parties to develop rules related to the inspection process.

#### **Summary:**

#### Vessel Owner Responsibility.

Vessel owners who are required to conduct a pre-sale inspection as of July 1, 2014, are prohibited from selling an unseaworthy vessel if the inspection determines that the value of the vessel is less than the anticipated costs to repair it. If this is the case, the vessel may only be sold if it is returned to seaworthiness or sold for scrap, salvage, or restoration to a licensed professional. This provision only applies to vessels that are greater than 65 feet in length and more than 40 years old.

The required inspection must be conducted by a third-party marine surveyor. The DNR may also, by rule, allow other forms of vessel condition determinations to satisfy the inspection requirement. This may include certificates of inspection by the United States Coast Guard (Coast Guard).

In addition, the purchaser of a vessel greater than 65 feet in length and more than 40 years old must secure a marine insurance policy, or policies, concurrent with completing the purchase. The insurance policy must have a term of at least 12 months, provide coverage of at least \$300,000, and provide for the removal of the vessel should it become derelict and coverage should the vessel cause a pollution event. The DNR may, by rule, allow for the posting of adequate security with a financial institution to substitute for the insurance requirement.

Proof of the policy must be provided to the seller, and if applicable, to the Department of Licensing (DOL) or the Department of Revenue (DOR). It is a gross misdemeanor to purchase a vessel without first obtaining insurance or to cancel the policy before the end of its term.

A vessel owner may still choose to sell a vessel that is deemed unseaworthy in a marine survey or to a person who fails to obtain a marine insurance policy; however, in either of those cases, the seller assumes potential secondary liability should the buyer allow the vessel to become derelict or abandoned. Challenges to secondary liability may be brought directly to a county superior court.

#### Authorities and Requirements Applicable to Marinas.

The authority for private marinas to contract with local governments for the removal of derelict and abandoned vessels from their premises is expanded to include the authority to contract with the DNR. Neither local governments nor the DNR are required to enter into these contracts.

All marinas, both public and private, must obtain and maintain insurance coverage for their facilities and must require all vessels moored at their facility to display proof of insurance as a condition of moorage. Unless the DNR determines otherwise in rule, the policies covering the vessels and the marinas must offer at least \$300,000 in coverage encompassing general, legal, and pollution liability protection. If a private marina fails to maintain coverage, or allows a vessel to moor at its facility without demonstrating proof of insurance, then the marina may incur potential secondary liability for a vessel at the marina that becomes derelict or abandoned. If the same happens at a public moorage, then that facility is not eligible for reimbursement from the DNR.

#### Encouraging Vessel Removal and Deconstruction.

Beginning October 1, 2014, the retail sales and use tax is not applicable to vessel deconstruction activities. The sales tax exemption applies to permitted deconstruction facilities. Although deconstruction facilities may also engage in vessel maintenance and repair, only the deconstruction activity is exempt from the retail sales and use tax.

#### New Revenue to the Derelict Vessel Program.

A new fee is established for commercial vessels. The fee is set at \$1 per vessel foot and collected annually by the DOR at the same time, and during the same years, personal property taxes for the vessel are due. All collected revenues are directed to the Account.

The commercial vessel fee does not take effect until January 1, 2015.

Incentivizing Vessel Registration.

Any moorage facility operator that provides moorage for more than 30 days must obtain certain information from a moorage tenant. This information includes contact information for the owner, any applicable hull registration numbers, and proof of vessel registration, an affidavit that a vessel is exempt from registration, or a written statement of the owner's intent to register the vessel. The collected information must be retained for two years and shared with the DOR, DOL, or DNR upon request. The DOR, DOL, and DNR may also inspect moorage facilities for vessels that are not properly registered.

Vessels found not to be properly registered that are also required to pay the watercraft excise tax may be assessed a penalty by the DOR. The penalty is \$100 for a first violation, \$200 for a second violation, and \$400 for violations after the second violation. The existing gross misdemeanor of registering a vessel in another state to avoid Washington's watercraft excise tax is expanded to include vessel owners who fail to register the vessel in an attempt to avoid vessel registration requirements.

**Votes on Final Passage:**

House	88	9	
Senate	45	4	(Senate amended)
House	89	9	(House concurred)

**Effective:** June 12, 2014  
October 1, 2014 (Sections 301 and 302)  
January 1, 2015 (Sections 401 through 403)