
HOUSE BILL 2769

State of Washington

66th Legislature

2020 Regular Session

By Representatives Lekanoff, Blake, Lovick, Shewmake, Ramel, Fitzgibbon, Cody, and Tharinger; by request of Department of Natural Resources

Read first time 01/21/20. Referred to Committee on Rural Development, Agriculture, & Natural Resources.

1 AN ACT Relating to the prevention of derelict vessels; amending
2 RCW 79.100.160, 79.100.150, 79.100.170, 88.02.380, and 79.10.130;
3 creating new sections; making appropriations; and providing an
4 expiration date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that the derelict
7 vessel removal program has been an extremely effective and successful
8 tool since its inception in 2003, but recognizes that derelict
9 vessels continue to be a critical problem for the waters of the
10 state. Derelict vessels generate costs to taxpayers, impede the
11 recreational enjoyment of waters, pose navigational safety hazards,
12 and contaminate the environment, thereby impacting the health of
13 Puget Sound and the habitat of imperiled species such as salmon and
14 orcas. Every year, more vessels are reported to the derelict vessel
15 removal program than can be removed. The legislature finds that
16 improvements to the derelict vessel removal program statutes are
17 needed to help address this problem.

18 Therefore, in order to increase the effectiveness of the derelict
19 vessel removal program, the legislature proposes a suite of
20 prevention and enforcement measures intended to decrease the number
21 of vessels that become derelict and to provide the derelict vessel

1 removal program with more tools to manage those that are currently
2 derelict. These measures are intended to decrease costs to taxpayers
3 and protect the environment by removing high risk boats from the
4 waters of the state before they become derelict, and by expanding
5 enforcement of existing aquatic regulations as they relate to
6 enforcement of the derelict vessel statutes.

7 **Sec. 2.** RCW 79.100.160 and 2013 c 291 s 42 are each amended to
8 read as follows:

9 (1) The department may develop and administer a voluntary vessel
10 turn-in program.

11 (2) The purpose of the vessel turn-in program is to allow the
12 department to dismantle and dispose of vessels that pose a high risk
13 of becoming a derelict vessel or abandoned vessel, but that do not
14 yet meet the definition of those terms. The department shall design
15 the program with the goal of dismantling and disposing of as many
16 vessels as available resources allow, particularly those vessels
17 posing the greatest risk of becoming abandoned or derelict in the
18 future.

19 (3) The department shall disseminate information about the vessel
20 turn-in program, including information about the application process,
21 on its internet site and through appropriate agency publications and
22 information sources as determined by the department. The department
23 shall disseminate this information for a reasonable time as
24 determined by the department prior to accepting applications.

25 (4) The department shall accept and review vessel turn-in program
26 applications from eligible vessel owners, including private marinas
27 that have gained legal title to a vessel in an advanced state of
28 disrepair, during the time period or periods identified by the
29 department. In order to be eligible for the vessel turn-in program,
30 an applicant must demonstrate to the department's satisfaction that
31 the applicant:

32 (a) Is a Washington resident or business;

33 (b) Owns a vessel that is in an advanced state of disrepair, has
34 minimal or no value, and has a high likelihood of becoming an
35 abandoned or derelict vessel; and

36 (c) Has insufficient resources to properly dispose of the vessel
37 outside of the vessel turn-in program.

1 (5) Decisions regarding program eligibility and whether to accept
2 a vessel for dismantling and disposal under the turn-in program are
3 within the sole discretion of the department.

4 (6) The department may take other actions not inconsistent with
5 this section in order to develop and administer the vessel turn-in
6 program.

7 ~~((7) The department may not spend more than two hundred thousand
8 dollars in any one biennium on the program established in this
9 section.))~~

10 **Sec. 3.** RCW 79.100.150 and 2014 c 195 s 102 are each amended to
11 read as follows:

12 (1) A vessel owner must obtain a vessel inspection under this
13 section prior to transferring a vessel that is:

14 (a) More than ~~((sixty-five))~~ thirty-five feet in length and more
15 than forty years old; and

16 (b) Either:

17 (i) Is registered or required to be registered under chapter
18 88.02 RCW; or

19 (ii) Is listed or required to be listed under chapter 84.40 RCW.

20 (2) If the vessel inspection determines the vessel is not
21 seaworthy, as defined by agency rule, and the value of the vessel is
22 less than the anticipated costs required to return the vessel to
23 seaworthiness, then the vessel owner may not sell or transfer
24 ownership of the vessel unless:

25 (a) The vessel is repaired to a seaworthy state prior to the
26 transfer of ownership; or

27 (b) The vessel is sold for scrap, restoration, salvage, or
28 another use that will remove the vessel from state waters to a person
29 displaying a business license issued under RCW 19.02.070 that a
30 reasonable person in the seller's position would believe has the
31 capability and intent to do based on factors that may include the
32 buyer's facilities, resources, documented intent, and relevant
33 history.

34 (3) Where required under subsection (1) of this section, a vessel
35 owner must provide a copy of the vessel inspection documentation to
36 the transferee and, if the department did not conduct the inspection,
37 to the department prior to the transfer.

38 (4) Unless rules adopted by the department provide otherwise, the
39 vessel inspection required under this section must be contained in a

1 formal marine survey conducted by a third party to the transaction.
2 The survey must include, at a minimum, a conclusion relating to the
3 seaworthiness of the vessel, an estimate of the vessel's fair market
4 value, and, if applicable, an estimate as to the anticipated cost of
5 repairs necessary to return the vessel to seaworthiness.

6 (5) The department may, by rule, allow other forms of vessel
7 condition determinations, such as United States coast guard
8 certificates of inspection, to replace the requirements for a formal
9 marine survey under this section.

10 (6) Failure to comply with the requirements of this section will
11 result in the transferor having secondary liability under RCW
12 79.100.060 if the vessel is later abandoned by the transferee or
13 becomes derelict prior to a subsequent ownership transfer.

14 (7) Nothing in this section prevents a vessel owner from
15 removing, dismantling, and lawfully disposing of any vessel lawfully
16 under the vessel owner's control.

17 **Sec. 4.** RCW 79.100.170 and 2014 c 195 s 101 are each amended to
18 read as follows:

19 (1) Any individual or company that purchases or otherwise
20 receives a used vessel greater than (~~sixty-five~~) thirty-five feet
21 in length and more than forty years old must, prior to or concurrent
22 with the transfer of ownership, secure a marine insurance policy
23 consistent with this section. Proof of the marine insurance policy
24 must be provided to:

25 (a) The transferor of the vessel upon purchase or other transfer;
26 and

27 (b) If applicable, the department of licensing upon first time
28 registration or after the transfer of ownership, or the department of
29 revenue upon the payment of any taxes.

30 (2) The transferor of a vessel greater than (~~sixty-five~~)
31 thirty-five feet in length and more than forty years old has an
32 affirmative duty to ensure that any potential transferee has secured
33 a marine insurance policy consistent with this section prior to or
34 concurrent with the finalization of any sale or transfer. Nothing in
35 this section prohibits the sale or other transfer of a vessel greater
36 than (~~sixty-five~~) thirty-five feet in length and more than forty
37 years old to a transferee that fails to secure a marine insurance
38 policy. However, a transferor that chooses to finalize a sale or
39 other transfer with a transferee not in possession of a marine

1 insurance policy assumes secondary liability for the vessel
2 consistent with RCW 79.100.060 if the vessel is later abandoned by
3 the transferee or becomes derelict prior to a subsequent ownership
4 transfer.

5 (3) The marine insurance policy required under this section must
6 be secured by the transferee prior to, or concurrent with, assuming
7 ownership of a vessel greater than (~~sixty-five~~) thirty-five feet in
8 length and more than forty years old. The marine insurance policy
9 must satisfy the following conditions:

10 (a) Have a term of at least twelve months following the
11 transferee's assumption of vessel ownership;

12 (b) Provide coverage of an amount that is, unless otherwise
13 provided by the department by rule, at least three hundred thousand
14 dollars;

15 (c) Provide, unless otherwise provided by the department by rule,
16 coverage for the removal of the vessel if it should sink and coverage
17 should it cause a pollution event.

18 (4) The purchaser of marine insurance under this section may
19 satisfy the requirements of this section through the purchase of
20 multiple policies as necessary.

21 (5) The department may, by rule, provide for a purchaser of a
22 vessel to also satisfy the insurance requirements of this section
23 through the posting of adequate security with a financial
24 institution.

25 (6) A person required to secure marine insurance or show proof of
26 marine insurance under this section who either: (a) Fails to secure a
27 marine insurance policy consistent with this section prior to or
28 concurrent with the transfer of ownership, unless the vessel was sold
29 consistent with RCW 79.100.150(2)(b); or (b) cancels a marine
30 insurance policy consistent with this section prior to the end of the
31 twelfth month of vessel ownership or to a subsequent transfer of
32 ownership, whichever occurs first, without securing another marine
33 insurance policy consistent with this section in its place, is guilty
34 of a misdemeanor. The department may contact any vessel owner
35 required by this section to have a marine insurance policy to ensure
36 compliance with this section.

37 **Sec. 5.** RCW 88.02.380 and 2013 c 291 s 29 are each amended to
38 read as follows:

1 (1) Except as otherwise provided in this chapter, and, in part,
2 in order to prevent the future potential dereliction or abandonment
3 of a vessel, a violation of this chapter and the rules adopted by the
4 department is a class 2 civil infraction.

5 (2) A civil infraction issued under this chapter must be
6 processed under chapter 7.80 RCW.

7 (3) After the subtraction of court costs and administrative
8 collection fees, moneys collected under this section must be credited
9 to the ticketing jurisdiction and used only for the support of the
10 enforcement agency, department, division, or program that issued the
11 violation.

12 (4) All law enforcement officers may enforce this chapter and the
13 rules adopted by the department within their respective
14 jurisdictions. A city, town, or county may contract with a fire
15 protection district for enforcement of this chapter, and fire
16 protection districts may engage in enforcement activities.

17 (5) In order to prevent the future potential dereliction or
18 abandonment of a vessel, derelict vessel removal program staff of the
19 department of natural resources have ticketing and enforcement
20 authority for the purpose of enforcing aquatic laws related to
21 derelict or abandoned vessels, registration of vessels, or trespass
22 of vessels.

23 **Sec. 6.** RCW 79.10.130 and 2014 c 114 s 5 are each amended to
24 read as follows:

25 (1) The department is hereby authorized to carry out all
26 activities necessary to achieve the purposes of this section and RCW
27 79.10.060, 79.10.070, 79.10.100 through 79.10.120, 79.10.200 through
28 79.10.330, 79.44.003, and 79.105.050 including, but not limited to:

29 (a) Planning, construction, and operation of conservation,
30 recreational sites, areas, roads, and trails developed or maintained
31 consistent with RCW 79.10.500, by itself or in conjunction with any
32 public agency, nonprofit organization, volunteer, or volunteer
33 organization, including entering cooperative agreements for these
34 purposes;

35 (b) Planning, construction, and operation of special facilities
36 for educational, scientific, conservation, or experimental purposes
37 by itself or in conjunction with any other public or private agency,
38 including entering cooperative agreements for these purposes;

1 (c) Improvement of any lands to achieve the purposes of this
2 section and RCW 79.10.060, 79.10.070, 79.10.100 through 79.10.120,
3 79.10.200 through 79.10.330, 79.44.003, and 79.105.050, including
4 entering cooperative agreements with public agencies, nonprofit
5 organizations, volunteers, and volunteer organizations for these
6 purposes;

7 (d) Entering cooperative agreements with public agencies,
8 nonprofit organizations, volunteers, and volunteer organizations
9 regarding the use of lands managed by the department for the purpose
10 of providing a benefit to lands managed by the department, including
11 but not limited to the following benefits: The utilization of such
12 lands for watershed purposes; carrying out restoration and
13 enhancement projects on such lands, such as improving, restoring, or
14 enhancing habitat that provides for plant or animal species
15 protection; improving, restoring, or enhancing watershed conditions;
16 removing nonnative vegetation and providing vegetation management to
17 restore, enhance, or maintain properly functioning conditions of the
18 local ecosystem; and other similar projects on these lands that
19 provide long-term environmental and other land management benefits,
20 provided that the cooperative agreements are consistent with land
21 management obligations;

22 (e) Authorizing individual volunteers and volunteer organizations
23 to conduct restoration and enhancement projects on lands managed by
24 the department through cooperative agreements authorized in this
25 section or other arrangements that are consistent with land
26 management obligations and that do not require the volunteers to pay
27 a fee for the cooperative agreement purpose;

28 (f) Authorizing the receipt of gifts of personal property,
29 services, and other items of value for the purposes of this section,
30 as well as the exchange of consideration in cooperative agreements
31 authorized under this section;

32 (g) The authority to make such leases, contracts, agreements, or
33 other arrangements as are necessary to accomplish the purposes of
34 this section and RCW 79.10.060, 79.10.070, 79.10.100 through
35 79.10.120, 79.10.200 through 79.10.330, 79.44.003, and 79.105.050.
36 However, nothing in this section shall affect any existing
37 requirements for public bidding or auction with private agencies or
38 parties, except that agreements or other arrangements may be made
39 with public schools, colleges, universities, governmental agencies,
40 nonprofit organizations, volunteers, and volunteer organizations. In

1 addition, nothing in this section is intended to conflict with the
2 department's trust obligations;

3 (h) Subject to the availability of amounts appropriated for this
4 specific purpose, the authority to issue grants to local law
5 enforcement agencies to compensate them for time and equipment needed
6 to enforce vessel registration and aquatic laws as related to the
7 derelict vessel program, and to issue civil penalties. Individual
8 grants may not exceed fifty thousand dollars.

9 (2) The definitions in this subsection apply throughout this
10 section unless the context clearly requires otherwise.

11 (a) "Nonprofit organization" means: (i) Any organization
12 described in section 501(c)(3) of the internal revenue code of 1986
13 (26 U.S.C. Sec. 501(c)(3)) and exempt from tax under section 501(a)
14 of the internal revenue code; or (ii) any not-for-profit organization
15 that is organized and conducted for public benefit and operated
16 primarily for charitable, civic, educational, religious, welfare, or
17 health purposes.

18 (b) "Volunteer" or "volunteer organization" means an individual
19 or entity performing services for a nonprofit organization or a
20 governmental entity who does not receive compensation, other than
21 reasonable reimbursement or allowances for expenses actually
22 incurred, or any other thing of value, in excess of five hundred
23 dollars per year. "Volunteer" includes a volunteer serving as a
24 director, officer, trustee, or direct service volunteer.

25 NEW SECTION. Sec. 7. (1)(a) There is created within the
26 department of natural resources a pilot project for the creation of a
27 derelict vessel recycling waste stream. The purpose of the pilot
28 project is to discover environmentally responsible methods of waste
29 disposal by testing possible recycling streams for wood and
30 fiberglass recovered from derelict vessels.

31 (b) The department of natural resources shall collaborate with
32 appropriate state and federal agencies, local governments, and tribes
33 in order to safely and effectively remove, transport, and recycle the
34 derelict vessel waste.

35 (c) The department of natural resources shall initiate the pilot
36 project beginning July 1, 2020, and provide an annual report to the
37 legislature regarding progress and outcomes of the pilot project.

38 (d) If the pilot project is successful, the department of natural
39 resources may replicate the program in several locations around the

1 state in partnership with other authorized public entities and rural
2 communities.

3 (2) This section expires July 1, 2023.

4 NEW SECTION. **Sec. 8.** (1) The sum of one hundred fifty thousand
5 dollars, or as much thereof as may be necessary, is appropriated for
6 the fiscal year ending June 30, 2021, from the general fund to the
7 department of natural resources for the purposes of section 6 of this
8 act.

9 (2) The sum of one hundred thousand dollars, or as much thereof
10 as may be necessary, is appropriated for the fiscal year ending June
11 30, 2021, from the general fund to the department of natural
12 resources for the purposes of section 7 of this act.

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