
HOUSE BILL 1753

State of Washington

68th Legislature

2023 Regular Session

By Representatives Bronoske, Leavitt, and Reed

Read first time 02/03/23. Referred to Committee on Agriculture and Natural Resources.

1 AN ACT Relating to changing certain notice provisions in the
2 derelict vessel removal program; and amending RCW 79.100.040 and
3 79.100.120.

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

5 **Sec. 1.** RCW 79.100.040 and 2013 c 291 s 37 are each amended to
6 read as follows:

7 (1) Prior to exercising the authority granted in RCW 79.100.030,
8 the authorized public entity must first obtain custody of the vessel.
9 To do so, the authorized public entity must:

10 (a) Mail or email notice of its intent to obtain custody, at
11 least (~~twenty~~) 10 days prior to taking custody, to the last known
12 address of the previous owner to register the vessel in any state or
13 with the federal government and to any lienholders or secured
14 interests on record. A notice need not be sent to the purported owner
15 or any other person whose interest in the vessel is not recorded with
16 a state or federal agency;

17 (b) Post notice of its intent clearly on the vessel for
18 (~~thirty~~) 15 days (~~and publish its intent at least once, more than~~
19 ~~ten days but less than twenty days prior to taking custody, in a~~
20 ~~newspaper of general circulation for the county in which the vessel~~
21 ~~is located~~); and

1 (c) Post notice of its intent on the department's internet
2 website on a page specifically designated for such notices. If the
3 authorized public entity is not the department, the department must
4 facilitate the internet posting.

5 (2) All notices sent(~~(7)~~) or posted(~~(7—or—published)~~) in
6 accordance with this section must, at a minimum, explain the intent
7 of the authorized public entity to take custody of the vessel, the
8 rights of the authorized public entity after taking custody of the
9 vessel as provided in RCW 79.100.030, the procedures the owner must
10 follow in order to avoid custody being taken by the authorized public
11 entity, the procedures the owner must follow in order to reclaim
12 possession after custody is taken by the authorized public entity,
13 and the financial liabilities that the owner may incur as provided
14 for in RCW 79.100.060.

15 (3)(a) Any authorized public entity may tow, beach, or otherwise
16 take temporary possession of a vessel if the owner of the vessel
17 cannot be located or is unwilling or unable to assume immediate
18 responsibility for the vessel and if the vessel:

19 (i) Is in immediate danger of sinking, breaking up, or blocking
20 navigational channels; or

21 (ii) Poses a reasonably imminent threat to human health or
22 safety, including a threat of environmental contamination.

23 (b) Before taking temporary possession of the vessel, the
24 authorized public entity must make reasonable attempts to consult
25 with the department or the United States coast guard to ensure that
26 other remedies are not available. The basis for taking temporary
27 possession of the vessel must be set out in writing by the authorized
28 public entity within seven days of taking action and be submitted to
29 the owner, if known, as soon thereafter as is reasonable. If the
30 authorized public entity has not already provided the required
31 notice, immediately after taking possession of the vessel, the
32 authorized public entity must initiate the notice provisions in
33 subsection (1) of this section. The authorized public entity must
34 complete the notice requirements of subsection (1) of this section
35 before using or disposing of the vessel as authorized in RCW
36 79.100.050.

37 (4) An authorized public entity may invite the department of
38 ecology to use the authority granted to it under RCW 90.56.410 prior
39 to, or concurrently with, obtaining custody of a vessel under this

1 section. However, this is not a necessary prerequisite to an
2 authorized public entity obtaining custody.

3 **Sec. 2.** RCW 79.100.120 and 2014 c 195 s 602 are each amended to
4 read as follows:

5 (1)(a) An owner or lienholder seeking to contest an authorized
6 public entity's decision to take temporary possession or custody of a
7 vessel under this chapter, or to contest the amount of reimbursement
8 owed to an authorized public entity under this chapter, may request a
9 hearing in accordance with this section.

10 (b) A transferor or other entity with secondary liability under
11 this chapter or RCW 88.26.030 may commence a lawsuit in the superior
12 court for the county in which custody of the vessel was taken to
13 contest the transferor's or other entity's liability or the amount of
14 reimbursement owed the authorized public entity under this chapter.

15 (2)(a) If the contested decision or action was undertaken by a
16 state agency, a written request for a hearing related to the decision
17 or action must be filed with the pollution control hearings board and
18 served on the state agency in accordance with RCW 43.21B.230 (2) and
19 (3) within (~~thirty~~) 15 days of the date the authorized public
20 entity acquires custody of the vessel under RCW 79.100.040, or if the
21 vessel is redeemed before the authorized public entity acquires
22 custody, the date of redemption, or the right to a hearing is deemed
23 waived and the vessel's owner is liable for any costs owed the
24 authorized public entity. In the event of litigation, the prevailing
25 party is entitled to reasonable attorneys' fees and costs.

26 (b) Upon receipt of a timely hearing request, the pollution
27 control hearings board shall proceed to hear and determine the
28 validity of the decision to take the vessel into temporary possession
29 or custody and the reasonableness of any towing, storage, or other
30 charges permitted under this chapter. Within five business days after
31 the request for a hearing is filed, the pollution control hearings
32 board shall notify the vessel owner requesting the hearing and the
33 authorized public entity of the date, time, and location for the
34 hearing. Unless the vessel is redeemed before the request for hearing
35 is filed, the pollution control hearings board shall set the hearing
36 on a date that is within (~~ten~~) 10 business days of the filing of
37 the request for hearing. If the vessel is redeemed before the request
38 for a hearing is filed, the pollution control hearings board shall

1 set the hearing on a date that is within (~~sixty~~) 60 days of the
2 filing of the request for hearing.

3 (c) Consistent with RCW 43.21B.305, a proceeding brought under
4 this subsection may be heard by one member of the pollution control
5 hearings board, whose decision is the final decision of the board.

6 (3)(a) If the contested decision or action was undertaken by a
7 metropolitan park district, port district, city, town, or county,
8 which has adopted rules or procedures for contesting decisions or
9 actions pertaining to derelict or abandoned vessels, those rules or
10 procedures must be followed in order to contest a decision to take
11 temporary possession or custody of a vessel, or to contest the amount
12 of reimbursement owed.

13 (b) If the metropolitan park district, port district, city, town,
14 or county has not adopted rules or procedures for contesting
15 decisions or actions pertaining to derelict or abandoned vessels,
16 then an owner or lienholder requesting a hearing under this section
17 must follow the procedure established in subsection (2) of this
18 section.

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