
SENATE BILL 5192

State of Washington

68th Legislature

2023 Regular Session

By Senators Shewmake, Hunt, Nguyen, and Wellman; by request of Environmental and Land Use Hearings Office

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1 AN ACT Relating to authorizing administrative law judges to
2 substitute for pollution control hearings board members in deciding
3 derelict vessel appeals; and amending RCW 79.100.120.

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

5 **Sec. 1.** RCW 79.100.120 and 2014 c 195 s 602 are each amended to
6 read as follows:

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

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

17 (2)(a) If the contested decision or action was undertaken by a
18 state agency, a written request for a hearing related to the decision
19 or action must be filed with the pollution control hearings board and
20 served on the state agency in accordance with RCW 43.21B.230 (2) and
21 (3) within (~~thirty~~) 30 days of the date the authorized public

1 entity acquires custody of the vessel under RCW 79.100.040, or if the
2 vessel is redeemed before the authorized public entity acquires
3 custody, the date of redemption, or the right to a hearing is deemed
4 waived and the vessel's owner is liable for any costs owed the
5 authorized public entity. In the event of litigation, the prevailing
6 party is entitled to reasonable attorneys' fees and costs.

7 (b) Upon receipt of a timely hearing request, the pollution
8 control hearings board shall proceed to hear and determine the
9 validity of the decision to take the vessel into temporary possession
10 or custody and the reasonableness of any towing, storage, or other
11 charges permitted under this chapter. Within five business days after
12 the request for a hearing is filed, the pollution control hearings
13 board shall notify the vessel owner requesting the hearing and the
14 authorized public entity of the date, time, and location for the
15 hearing. Unless the vessel is redeemed before the request for hearing
16 is filed, the pollution control hearings board shall set the hearing
17 on a date that is within (~~ten~~) 10 business days of the filing of
18 the request for hearing. If the vessel is redeemed before the request
19 for a hearing is filed, the pollution control hearings board shall
20 set the hearing on a date that is within (~~sixty~~) 60 days of the
21 filing of the request for hearing.

22 (c) Consistent with RCW 43.21B.305, a proceeding brought under
23 this subsection may be heard by one member of the pollution control
24 hearings board, whose decision is the final decision of the board. An
25 administrative law judge employed by the pollution control hearings
26 board may be substituted for a board member under this section.

27 (3) (a) If the contested decision or action was undertaken by a
28 metropolitan park district, port district, city, town, or county,
29 which has adopted rules or procedures for contesting decisions or
30 actions pertaining to derelict or abandoned vessels, those rules or
31 procedures must be followed in order to contest a decision to take
32 temporary possession or custody of a vessel, or to contest the amount
33 of reimbursement owed.

34 (b) If the metropolitan park district, port district, city, town,
35 or county has not adopted rules or procedures for contesting
36 decisions or actions pertaining to derelict or abandoned vessels,
37 then an owner or lienholder requesting a hearing under this section

1 must follow the procedure established in subsection (2) of this
2 section.

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