

# HOUSE BILL REPORT

## SSB 5271

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### As Passed House - Amended:

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:

Judiciary: 3/9/11, 3/17/11 [DPA].

#### Floor Activity:

Passed House - Amended: 4/1/11, 93-0.

### Brief Summary of Substitute Bill (As Amended by House)

- Makes it a misdemeanor for a person to intentionally, without authorization, cause a vessel to sink, break up, or block navigational channels.
- Limits civil liability for authorized public entities exercising their authority under the Derelict Vessel Removal Program.
- Makes other changes to the statutes governing the removal of derelict vessels.

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## HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended. Signed by 12 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Frockt, Kirby, Klippert, Nealey, Orwall and Roberts.

**Staff:** Trudes Tango (786-7384).

### Background:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The Department of Natural Resources (DNR) administers the Derelict Vessel Removal Program (DVRP) and the Derelict Vessel Removal Account (Account).

Authorized Public Entities.

An authorized public entity (APE), which includes the DNR and most public agencies that own or manage aquatic lands, may take custody and dispose of abandoned or derelict vessels on aquatic lands within its jurisdiction. The DNR has an oversight and rule-making role in the removal and disposal process. If an APE is unable or unwilling to remove a derelict or abandoned vessel in its jurisdiction, it may ask the DNR to assume responsibility. An APE does not have a duty to exercise its authority, and an APE is not liable for choosing not to exercise its authority.

A marina may contract with an APE to remove a derelict vessel. However, the authorizing statute for such contracts does not include the removal of abandoned vessels.

Reimbursement for Vessel Removals.

The owner of an abandoned or derelict vessel is responsible for the cost of removal and disposal. If the owner is unknown or unable to pay the cost, the APE may seek reimbursement of up to 90 percent of the costs. Port districts are also APEs and have the authority to remove a vessel from its moorage facilities. The statutes governing port districts allow ports to seek reimbursement for 75 percent of the costs from the Account.

Funds in the Account come 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 upon aquatic lands.

**Summary of Amended Bill:**

Criminal Liability.

In addition to the existing criminal liability, it is a misdemeanor for a person who intentionally, through action or inaction, without the appropriate state, local, or federal authorization, causes a vessel to sink, break up, or block navigational channels upon aquatic lands.

Marina Participation in the DVRP.

Marinas may contract with an APE for the removal of abandoned vessels, not just derelict vessels.

Reimbursement Rate for Ports.

The statute governing port districts is amended to specify that port districts may seek reimbursement for up to 90 percent of the cost of removal of a vessel.

Limited Liability for APEs.

An APE, or entity contracting with an APE, is not civilly liable for any act or omission under its DVRP authority unless that act or omission constitutes gross negligence or willful or wanton misconduct.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This program has a 10 year history and has worked well over the years. This bill is just a tune-up of the law that will improve the overall efficiency of the program. It is request legislation by the Commissioner of Public Lands. It is almost identical to the House bill. Common law already recognizes and makes provisions for when a captain must scuttle a vessel to avoid a greater harm. Imbedding that common law provision in the code is not necessary and may have unintended consequences, as stated in a letter from the Attorney General's office. This bill makes changes within the limits of the state's derelict vessel act and cannot change maritime law.

(Opposed) None.

**Persons Testifying:** Kristin Swenddel and Melissa Ferris, Department of Natural Resources.

**Persons Signed In To Testify But Not Testifying:** None.