
SUBSTITUTE HOUSE BILL 1245

State of Washington

63rd Legislature

2013 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Hansen, Smith, Ryu, Wilcox, Maxwell, Warnick, Blake, Upthegrove, MacEwen, Lytton, Van De Wege, Takko, Walsh, Jinkins, Fitzgibbon, Hunt, Haigh, Morrell, Seaquist, Tharinger, Hudgins, Stanford, and Hayes; by request of Department of Natural Resources)

READ FIRST TIME 02/19/13.

1 AN ACT Relating to derelict and abandoned vessels in state waters;
2 amending RCW 88.02.640, 79.100.100, 79A.65.020, 79.100.130, 43.19.1919,
3 28B.10.029, 88.02.380, 88.02.340, 88.02.550, 79.100.120, 90.56.410,
4 79.100.040, 79.100.060, 88.26.020, 53.08.320, 53.08.310, 79A.65.030,
5 and 43.21B.305; reenacting and amending RCW 43.21B.110 and 43.21B.110;
6 adding a new section to chapter 43.19 RCW; adding new sections to
7 chapter 43.30 RCW; adding new sections to chapter 77.12 RCW; adding new
8 sections to chapter 79A.05 RCW; adding new sections to chapter 47.01
9 RCW; adding new sections to chapter 35.21 RCW; adding new sections to
10 chapter 35A.21 RCW; adding new sections to chapter 36.32 RCW; adding
11 new sections to chapter 53.08 RCW; adding new sections to chapter
12 43.21A RCW; adding new sections to chapter 28B.10 RCW; adding new
13 sections to chapter 79.100 RCW; adding a new section to chapter 88.26
14 RCW; creating new sections; prescribing penalties; providing an
15 effective date; and providing expiration dates.

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

17 **Sec. 1.** RCW 88.02.640 and 2012 c 74 s 16 are each amended to read
18 as follows:

1 (1) In addition to any other fees and taxes required by law, the
 2 department, county auditor or other agent, or subagent appointed by the
 3 director shall charge the following vessel fees and surcharge:

4	FEE	AMOUNT	AUTHORITY	DISTRIBUTION
5	(a) Dealer temporary permit	\$5.00	RCW 88.02.800(2)	General fund
6	(b) Derelict vessel and	Subsection (3) of this	Subsection (3) of this	Subsection (3) of this
7	invasive species	section	section	section
8	removal			
9	(c) Derelict vessel removal	\$1.00	Subsection (4) of this	Subsection (4) of this
10	surcharge		section	section
11	(d) Duplicate certificate of	\$1.25	RCW 88.02.530(1)(c)	General fund
12	title			
13	(e) Duplicate registration	\$1.25	RCW 88.02.590(1)(c)	General fund
14	(f) Filing	RCW 46.17.005	RCW 88.02.560(2)	RCW 46.68.400
15	(g) License plate	RCW 46.17.015	RCW 88.02.560(2)	RCW 46.68.370
16	technology			
17	(h) License service	RCW 46.17.025	RCW 88.02.560(2)	RCW 46.68.220
18	(i) Nonresident vessel	\$25.00	RCW 88.02.620(3)	Subsection (5) of this
19	permit			section
20	(j) Quick title service	\$50.00	RCW 88.02.540(3)	Subsection (7) of this
21				section
22	(k) Registration	\$10.50	RCW 88.02.560(2)	RCW 88.02.650
23	(l) Replacement decal	\$1.25	RCW 88.02.595(1)(c)	General fund
24	(m) Title application	\$5.00	RCW 88.02.515	General fund
25	(n) Transfer	\$1.00	RCW 88.02.560(7)	General fund
26	(o) Vessel visitor permit	\$30.00	RCW 88.02.610(3)	Subsection (6) of this
27				section
28				

29 (2) The five dollar dealer temporary permit fee required in
 30 subsection (1) of this section must be credited to the payment of
 31 registration fees at the time application for registration is made.

32 (3)((~~a~~)) The derelict vessel and invasive species removal fee
 33 required in subsection (1) of this section is five dollars and must be
 34 distributed as follows:

1 ~~((i))~~ (a) One dollar and fifty cents must be deposited in the
2 aquatic invasive species prevention account created in RCW 77.12.879;

3 ~~((ii))~~ (b) One dollar must be deposited into the aquatic algae
4 control account created in RCW 43.21A.667;

5 ~~((iii))~~ (c) Fifty cents must be deposited into the aquatic
6 invasive species enforcement account created in RCW 43.43.400; and

7 ~~((iv))~~ (d) Two dollars must be deposited in the derelict vessel
8 removal account created in RCW 79.100.100.

9 ~~((b) If the department of natural resources indicates that the
10 balance of the derelict vessel removal account, not including any
11 transfer or appropriation of funds into the account or funds deposited
12 into the account collected under subsection (5) of this section reaches
13 one million dollars as of March 1st of any year, the collection of the
14 two dollars of the derelict vessel and invasive species removal fee
15 that is deposited into the derelict vessel removal account as
16 authorized in (a)(iv) of this subsection must be suspended for the
17 following fiscal year.))~~

18 (4) ~~((Until January 1, 2014))~~ In addition to other fees required in
19 this section, an annual derelict vessel removal surcharge of one dollar
20 must be charged with each vessel registration. The surcharge(~~(+~~

21 ~~(a))~~ is to address the significant backlog of derelict vessels
22 accumulated in Washington (~~(state))~~) waters that pose a threat to the
23 health and safety of the people and to the environment(~~(+~~

24 ~~(b) Is to be used only for the removal of vessels that are less~~
25 ~~than seventy five feet in length~~)) and

26 ~~((c))~~ must be deposited into the derelict vessel removal account
27 created in RCW 79.100.100.

28 (5) The twenty-five dollar nonresident vessel permit fee must be
29 paid by the vessel owner to the department for the cost of providing
30 the identification document by the department. Any moneys remaining
31 from the fee after the payment of costs must be allocated to counties
32 by the state treasurer for approved boating safety programs under RCW
33 88.02.650.

34 (6) The thirty dollar vessel visitor permit fee must be distributed
35 as follows:

36 (a) Five dollars must be deposited in the derelict vessel removal
37 account created in RCW 79.100.100;

1 (b) The department may keep an amount to cover costs for providing
2 the vessel visitor permit;

3 (c) Any moneys remaining must be allocated to counties by the state
4 treasurer for approved boating safety programs under RCW 88.02.650; and

5 (d) Any fees required for licensing agents under RCW 46.17.005 are
6 in addition to any other fee or tax due for the titling and
7 registration of vessels.

8 (7)(a) The fifty dollar quick title service fee must be distributed
9 as follows:

10 (i) If the fee is paid to the director, the fee must be deposited
11 to the general fund.

12 (ii) If the fee is paid to the participating county auditor or
13 other agent or subagent appointed by the director, twenty-five dollars
14 must be deposited to the general fund. The remainder must be retained
15 by the county treasurer in the same manner as other fees collected by
16 the county auditor.

17 (b) For the purposes of this subsection, "quick title" has the same
18 meaning as in RCW 88.02.540.

19 **Sec. 2.** RCW 79.100.100 and 2010 c 161 s 1161 are each amended to
20 read as follows:

21 (1)(a) The derelict vessel removal account is created in the state
22 treasury. All receipts from RCW 79.100.050 and 79.100.060 and those
23 moneys specified in RCW 88.02.640 must be deposited into the account.
24 The account is authorized to receive fund transfers and appropriations
25 from the general fund, deposits from the derelict vessel removal
26 surcharge under RCW 88.02.640(4), as well as gifts, grants, and
27 endowments from public or private sources as may be made from time to
28 time, in trust or otherwise, for the use and benefit of the purposes of
29 this chapter and expend the same or any income according to the terms
30 of the gifts, grants, or endowments provided those terms do not
31 conflict with any provisions of this section or any guidelines
32 developed to prioritize reimbursement of removal projects associated
33 with this chapter.

34 (b) Moneys in the account may only be spent after appropriation.
35 Expenditures from the account (~~must~~) may only be used by the
36 department for developing and administering the vessel turn-in program
37 created in section 46 of this act and to reimburse authorized public

1 entities for up to ninety percent of the total reasonable and auditable
2 administrative, removal, disposal, and environmental damage costs of
3 abandoned or derelict vessels when the previous owner is either unknown
4 after a reasonable search effort or insolvent. Reimbursement may not
5 be made unless the department determines that the public entity has
6 made reasonable efforts to identify and locate the party responsible
7 for the vessel, or any other person or entity that has incurred
8 secondary liability under section 37 of this act, regardless of the
9 title of owner of the vessel.

10 (c) Funds in the account resulting from transfers from the general
11 fund or from the deposit of funds from the watercraft excise tax as
12 provided for under RCW 82.49.030 must be used to reimburse one hundred
13 percent of ((these)) costs and should be prioritized for the removal of
14 large vessels.

15 (d) Costs associated with the removal and disposal of an abandoned
16 or derelict vessel under the authority granted in RCW 53.08.320 also
17 qualify for reimbursement from the derelict vessel removal account.

18 (e) In each biennium, up to twenty percent of the expenditures from
19 the derelict vessel removal account may be used for administrative
20 expenses of the department of licensing and department of natural
21 resources in implementing this chapter.

22 ~~(2) ((If the balance of the account reaches one million dollars as~~
23 ~~of March 1st of any year, exclusive of any transfer or appropriation of~~
24 ~~funds into the account or funds deposited into the account collected~~
25 ~~under RCW 88.02.640(5), the department must notify the department of~~
26 ~~licensing and the collection of any fees associated with this account~~
27 ~~must be suspended for the following fiscal year.~~

28 ~~(3))~~ Priority for use of this account is for the removal of
29 derelict and abandoned vessels that are in danger of sinking, breaking
30 up, or blocking navigation channels, or that present environmental
31 risks such as leaking fuel or other hazardous substances. The
32 department must develop criteria, in the form of informal guidelines,
33 to prioritize removal projects associated with this chapter, but may
34 not consider whether the applicant is a state or local entity when
35 prioritizing. The guidelines must also include guidance to the
36 authorized public entities as to what removal activities and associated
37 costs are reasonable and eligible for reimbursement.

1 ((+4)) (3) The department must keep all authorized public entities
2 ((+4)) apprised of the balance of the derelict vessel removal
3 account and the funds available for reimbursement. The guidelines
4 developed by the department must also be made available to the other
5 authorized public entities. This subsection ((+4)) (3) must be
6 satisfied by utilizing the least costly method, including maintaining
7 the information on the department's internet web site, or any other
8 cost-effective method.

9 ((+5)) (4) An authorized public entity may contribute its ten
10 percent of costs that are not eligible for reimbursement by using in-
11 kind services, including the use of existing staff, equipment, and
12 volunteers.

13 ((+6)) (5) This chapter does not guarantee reimbursement for an
14 authorized public entity. Authorized public entities seeking certainty
15 in reimbursement prior to taking action under this chapter may first
16 notify the department of their proposed action and the estimated total
17 costs. Upon notification by an authorized public entity, the
18 department must make the authorized public entity aware of the status
19 of the fund and the likelihood of reimbursement being available. The
20 department may offer technical assistance and assure reimbursement for
21 up to two years following the removal action if an assurance is
22 appropriate given the balance of the fund and the details of the
23 proposed action.

24 **Sec. 3.** RCW 79A.65.020 and 2002 c 286 s 21 are each amended to
25 read as follows:

26 (1) The commission may take reasonable measures, including but not
27 limited to the use of anchors, chains, ropes, and locks, or removal
28 from the water, to secure unauthorized vessels located at or on a
29 commission facility so that the unauthorized vessels are in the
30 possession and control of the commission. At least ten days before
31 securing any unauthorized registered vessel, the commission shall send
32 notification by registered mail to the last registered owner or
33 registered owners of the vessel at their last known address or
34 addresses.

35 (2) The commission may take reasonable measures, including but not
36 limited to the use of anchors, chains, ropes, locks, or removal from
37 the water, to secure any vessel if the vessel, in the opinion of the

1 commission, is a nuisance, is in danger of sinking or creating other
2 damage to a commission facility, or is otherwise a threat to the
3 health, safety, or welfare of the public or environment at a commission
4 facility. The costs of any such procedure shall be paid by the
5 vessel's owner.

6 (3) At the time of securing any vessel under subsection (1) or (2)
7 of this section, the commission shall attach to the vessel a readily
8 visible notice or, when practicable, shall post such notice in a
9 conspicuous location at the commission facility in the event the vessel
10 is removed from the premises. The notice shall be of a reasonable size
11 and shall contain the following information:

- 12 (a) The date and time the notice was attached or posted;
- 13 (b) A statement that the vessel has been secured by the commission
14 and that if the commission's charges, if any, are not paid and the
15 vessel is not removed by (the thirty-fifth consecutive day
16 following the date of attachment or posting of the notice), the vessel
17 will be considered abandoned and will be sold at public auction to
18 satisfy the charges;
- 19 (c) The address and telephone number where additional information
20 may be obtained concerning the securing of the vessel and conditions
21 for its release; and
- 22 (d) A description of the owner's or secured party's rights under
23 this chapter.

24 (4) With respect to registered vessels: Within five days of the
25 date that notice is attached or posted under subsection (3) of this
26 section, the commission shall send such notice, by registered mail, to
27 each registered owner.

28 (5) If a vessel is secured under subsection (1) or (2) of this
29 section, the owner, or any person with a legal right to possess the
30 vessel, may claim the vessel by:

- 31 (a) Making arrangements satisfactory to the commission for the
32 immediate removal of the vessel from the commission's control or for
33 authorized storage or moorage; and
- 34 (b) Making payment to the commission of all reasonable charges
35 incurred by the commission in securing the vessel under subsections (1)
36 and (2) of this section and of all moorage fees owed to the commission.
- 37 (6) A vessel is considered abandoned if, within the thirty-five day

1 period following the date of attachment or posting of notice in
2 subsection (3) of this section, the vessel has not been claimed under
3 subsection (5) of this section.

4 (7) If the owner or owners of a vessel are unable to reimburse the
5 commission for all reasonable charges under subsections (1) and (2) of
6 this section within a reasonable time, the commission may seek
7 reimbursement of (~~seventy-five~~) ninety percent of all reasonable and
8 auditable costs from the derelict vessel removal account established in
9 RCW 79.100.100.

10 **Sec. 4.** RCW 79.100.130 and 2011 c 247 s 2 are each amended to read
11 as follows:

12 (1) A (~~marina~~) private moorage facility owner, as those terms are
13 defined in RCW 88.26.010, may contract with a local government for the
14 purpose of participating in the derelict vessel removal program.

15 (2) If a contract is completed under this section, the local
16 government shall serve as the authorized public entity for the removal
17 of (~~the~~) a derelict or abandoned vessel from the (~~marina owner's~~)
18 property of the private moorage facility owner. The contract must
19 provide for the (~~marina owner~~) private moorage facility owner to be
20 financially responsible for the removal and disposal costs that are not
21 reimbursed by the department as provided under RCW 79.100.100, and any
22 additional reasonable administrative costs incurred by the local
23 government during the removal of the derelict or abandoned vessel.

24 (3) Prior to the commencement of any removal which will seek
25 reimbursement from the derelict vessel removal program, the contract
26 and the proposed vessel removal shall be submitted to the department
27 for review and approval. The local government shall use the procedure
28 specified under RCW 79.100.100(6).

29 (4) If the private moorage facility owner has already seized the
30 vessel under chapter 88.26 RCW and title has reverted to the moorage
31 facility, the moorage facility is not considered the owner under this
32 chapter for purposes of cost recovery for actions taken under this
33 section.

34 **Sec. 5.** RCW 43.19.1919 and 2011 1st sp.s. c 43 s 215 are each
35 amended to read as follows:

36 (1) The department shall sell or exchange personal property

1 belonging to the state for which the agency, office, department, or
2 educational institution having custody thereof has no further use, at
3 public or private sale, and cause the moneys realized from the sale of
4 any such property to be paid into the fund from which such property was
5 purchased or, if such fund no longer exists, into the state general
6 fund. This requirement is subject to the following exceptions and
7 limitations:

8 ~~((1))~~ (a) This section does not apply to property under RCW
9 27.53.045, 28A.335.180, or 43.19.1920;

10 ~~((2))~~ (b) Sales of capital assets may be made by the department
11 and a credit established for future purchases of capital items as
12 provided for in RCW 43.19.190 through 43.19.1939;

13 ~~((3))~~ (c) Personal property, excess to a state agency, including
14 educational institutions, shall not be sold or disposed of prior to
15 reasonable efforts by the department to determine if other state
16 agencies have a requirement for such personal property. Such
17 determination shall follow sufficient notice to all state agencies to
18 allow adequate time for them to make their needs known. Surplus items
19 may be disposed of without prior notification to state agencies if it
20 is determined by the director to be in the best interest of the state.
21 The department shall maintain a record of disposed surplus property,
22 including date and method of disposal, identity of any recipient, and
23 approximate value of the property;

24 ~~((4))~~ (d) This section does not apply to personal property
25 acquired by a state organization under federal grants and contracts if
26 in conflict with special title provisions contained in such grants or
27 contracts;

28 ~~((5))~~ (e) A state agency having a surplus personal property asset
29 with a fair market value of less than five hundred dollars may transfer
30 the asset to another state agency without charging fair market value.
31 A state agency conducting this action must maintain adequate records to
32 comply with agency inventory procedures and state audit requirements.

33 (2)(a) Prior to transferring ownership of a department-owned
34 vessel, the department shall conduct a thorough review of the physical
35 condition of the vessel, the vessel's operating capability, and any
36 containers and other materials that are not fixed to the vessel.

37 (b) If the department determines that the vessel is in a state of
38 advanced deterioration or poses a reasonably imminent threat to human

1 health or safety, including a threat of environmental contamination,
2 the department may: (i) Not transfer the vessel until the conditions
3 identified under this subsection have been corrected; or (ii)
4 permanently dispose of the vessel by landfill, deconstruction, or other
5 related method.

6 NEW SECTION. Sec. 6. A new section is added to chapter 43.19 RCW
7 to read as follows:

8 (1) Following the inspection required under section 5 of this act
9 and prior to transferring ownership of a department-owned vessel, the
10 department shall obtain the following from the transferee:

11 (a) The purposes for which the transferee intends to use the
12 vessel; and

13 (b) Information demonstrating the prospective owner's intent to
14 obtain legal moorage following the transfer, in the manner determined
15 by the department.

16 (2)(a) The department shall remove any containers or other
17 materials that are not fixed to the vessel and contain hazardous
18 substances, as defined under RCW 70.105D.020.

19 (b) However, the department may transfer a vessel with:

20 (i) Those containers or materials described under (a) of this
21 subsection where the transferee demonstrates to the department's
22 satisfaction that the container's or material's presence is consistent
23 with the anticipated use of the vessel; and

24 (ii) A reasonable amount of fuel as determined by the department,
25 based on factors including the vessel's size, condition, and
26 anticipated use of the vessel, including initial destination following
27 transfer.

28 (c) The department may consult with the department of ecology in
29 carrying out the requirements of this subsection (2).

30 (3) Prior to sale, and unless the vessel has a title or valid
31 marine document, the department is required to apply for a certificate
32 of title for the vessel under RCW 88.02.510 and register the vessel
33 under RCW 88.02.550.

34 NEW SECTION. Sec. 7. A new section is added to chapter 43.30 RCW
35 to read as follows:

36 (1) Prior to transferring ownership of a department-owned vessel,

1 the department shall conduct a thorough review of the physical
2 condition of the vessel, the vessel's operating capability, and any
3 containers and other materials that are not fixed to the vessel.

4 (2) If the department determines that the vessel is in a state of
5 advanced deterioration or poses a reasonably imminent threat to human
6 health or safety, including a threat of environmental contamination,
7 the department may: (a) Not transfer the vessel until the conditions
8 identified under this subsection have been corrected; or (b)
9 permanently dispose of the vessel by landfill, deconstruction, or other
10 related method.

11 (3) Vessels taken into custody under chapter 79.100 RCW are not
12 subject to this section or section 8 of this act.

13 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.30 RCW
14 to read as follows:

15 (1) Following the inspection required under section 7 of this act
16 and prior to transferring ownership of a department-owned vessel, the
17 department shall obtain the following from the transferee:

18 (a) The purposes for which the transferee intends to use the
19 vessel; and

20 (b) Information demonstrating the prospective owner's intent to
21 obtain legal moorage following the transfer, in the manner determined
22 by the department.

23 (2)(a) The department shall remove any containers or other
24 materials that are not fixed to the vessel and contain hazardous
25 substances, as defined under RCW 70.105D.020.

26 (b) However, the department may transfer a vessel with:

27 (i) Those containers or materials described under (a) of this
28 subsection where the transferee demonstrates to the department's
29 satisfaction that the container's or material's presence is consistent
30 with the anticipated use of the vessel; and

31 (ii) A reasonable amount of fuel as determined by the department,
32 based on factors including the vessel's size, condition, and
33 anticipated use of the vessel, including initial destination following
34 transfer.

35 (c) The department may consult with the department of ecology in
36 carrying out the requirements of this subsection.

1 (3) Prior to sale, and unless the vessel has a title or valid
2 marine document, the department is required to apply for a certificate
3 of title for the vessel under RCW 88.02.510 and register the vessel
4 under RCW 88.02.550.

5 NEW SECTION. **Sec. 9.** A new section is added to chapter 77.12 RCW
6 to read as follows:

7 (1) Prior to transferring ownership of a department-owned vessel,
8 the department shall conduct a thorough review of the physical
9 condition of the vessel, the vessel's operating capability, and any
10 containers and other materials that are not fixed to the vessel.

11 (2) If the department determines that the vessel is in a state of
12 advanced deterioration or poses a reasonably imminent threat to human
13 health or safety, including a threat of environmental contamination,
14 the department may: (a) Not transfer the vessel until the conditions
15 identified under this subsection have been corrected; or (b)
16 permanently dispose of the vessel by landfill, deconstruction, or other
17 related method.

18 (3) Vessels taken into custody under chapter 79.100 RCW are not
19 subject to this section or section 10 of this act.

20 NEW SECTION. **Sec. 10.** A new section is added to chapter 77.12 RCW
21 to read as follows:

22 (1) Following the inspection required under section 9 of this act
23 and prior to transferring ownership of a department-owned vessel, the
24 department shall obtain the following from the transferee:

25 (a) The purposes for which the transferee intends to use the
26 vessel; and

27 (b) Information demonstrating the prospective owner's intent to
28 obtain legal moorage following the transfer, in the manner determined
29 by the department.

30 (2)(a) The department shall remove any containers or other
31 materials that are not fixed to the vessel and contain hazardous
32 substances, as defined under RCW 70.105D.020.

33 (b) However, the department may transfer a vessel with:

34 (i) Those containers or materials described under (a) of this
35 subsection where the transferee demonstrates to the department's

1 satisfaction that the container's or material's presence is consistent
2 with the anticipated use of the vessel; and

3 (ii) A reasonable amount of fuel as determined by the department,
4 based on factors including the vessel's size, condition, and
5 anticipated use of the vessel, including initial destination following
6 transfer.

7 (c) The department may consult with the department of ecology in
8 carrying out the requirements of this subsection.

9 (3) Prior to sale, and unless the vessel has a title or valid
10 marine document, the department is required to apply for a certificate
11 of title for the vessel under RCW 88.02.510 and register the vessel
12 under RCW 88.02.550.

13 NEW SECTION. **Sec. 11.** A new section is added to chapter 79A.05
14 RCW to read as follows:

15 (1) Prior to transferring ownership of a commission-owned vessel,
16 the commission shall conduct a thorough review of the physical
17 condition of the vessel, the vessel's operating capability, and any
18 containers and other materials that are not fixed to the vessel.

19 (2) If the commission determines the vessel is in a state of
20 advanced deterioration or poses a reasonably imminent threat to human
21 health or safety, including a threat of environmental contamination,
22 that the commission may: (a) Not transfer the vessel until the
23 conditions identified under this subsection have been corrected; or (b)
24 permanently dispose of the vessel by landfill, deconstruction, or other
25 related method.

26 (3) Vessels taken into custody under chapter 79.100 RCW are not
27 subject to this section or section 12 of this act.

28 NEW SECTION. **Sec. 12.** A new section is added to chapter 79A.05
29 RCW to read as follows:

30 (1) Following the inspection required under section 11 of this act
31 and prior to transferring ownership of a commission-owned vessel, the
32 commission shall obtain the following from the transferee:

33 (a) The purposes for which the transferee intends to use the
34 vessel; and

35 (b) Information demonstrating the prospective owner's intent to

1 obtain legal moorage following the transfer, in the manner determined
2 by the commission.

3 (2)(a) The commission shall remove any containers or other
4 materials that are not fixed to the vessel and contain hazardous
5 substances, as defined under RCW 70.105D.020.

6 (b) However, the commission may transfer a vessel with:

7 (i) Those containers or materials described under (a) of this
8 subsection where the transferee demonstrates to the commission's
9 satisfaction that the container's or material's presence is consistent
10 with the anticipated use of the vessel; and

11 (ii) A reasonable amount of fuel as determined by the commission,
12 based on factors including the vessel's size, condition, and
13 anticipated use of the vessel, including initial destination following
14 transfer.

15 (c) The commission may consult with the department of ecology in
16 carrying out the requirements of this subsection.

17 (3) Prior to sale, and unless the vessel has a title or valid
18 marine document, the commission is required to apply for a certificate
19 of title for the vessel under RCW 88.02.510 and register the vessel
20 under RCW 88.02.550.

21 NEW SECTION. **Sec. 13.** A new section is added to chapter 47.01 RCW
22 to read as follows:

23 (1) Prior to transferring ownership of a department-owned vessel,
24 the department shall conduct a thorough review of the physical
25 condition of the vessel, the vessel's operating capability, and any
26 containers and other materials that are not fixed to the vessel.

27 (2) If the department determines that the vessel is in a state of
28 advanced deterioration or poses a reasonably imminent threat to human
29 health or safety, including a threat of environmental contamination,
30 the department may: (a) Not transfer the vessel until the conditions
31 identified under this subsection have been corrected; or (b)
32 permanently dispose of the vessel by landfill, deconstruction, or other
33 related method.

34 NEW SECTION. **Sec. 14.** A new section is added to chapter 47.01 RCW
35 to read as follows:

1 (1) Following the inspection required under section 13 of this act
2 and prior to transferring ownership of a department-owned vessel, the
3 department shall obtain the following from the transferee:

4 (a) The purposes for which the transferee intends to use the
5 vessel; and

6 (b) Information demonstrating the prospective owner's intent to
7 obtain legal moorage following the transfer, in the manner determined
8 by the department.

9 (2)(a) The department shall remove any containers or other
10 materials that are not fixed to the vessel and contain hazardous
11 substances, as defined under RCW 70.105D.020.

12 (b) However, the department may transfer a vessel with:

13 (i) Those containers or materials described under (a) of this
14 subsection where the transferee demonstrates to the department's
15 satisfaction that the container's or material's presence is consistent
16 with the anticipated use of the vessel; and

17 (ii) A reasonable amount of fuel as determined by the department,
18 based on factors including the vessel's size, condition, and
19 anticipated use of the vessel, including initial destination following
20 transfer.

21 (c) The department may consult with the department of ecology in
22 carrying out the requirements of this subsection.

23 (3) Prior to sale, and unless the vessel has a title or valid
24 marine document, the department is required to apply for a certificate
25 of title for the vessel under RCW 88.02.510 and register the vessel
26 under RCW 88.02.550.

27 NEW SECTION. **Sec. 15.** A new section is added to chapter 35.21 RCW
28 to read as follows:

29 (1) Prior to transferring ownership of a city or town-owned vessel,
30 the city or town shall conduct a thorough review of the physical
31 condition of the vessel, the vessel's operating capability, and any
32 containers and other materials that are not fixed to the vessel.

33 (2) If the city or town determines the vessel is in a state of
34 advanced deterioration or poses a reasonably imminent threat to human
35 health or safety, including a threat of environmental contamination,
36 the city or town may: (a) Not transfer the vessel until the conditions

1 identified under this subsection have been corrected; or (b)
2 permanently dispose of the vessel by landfill, deconstruction, or other
3 related method.

4 (3) Vessels taken into custody under chapter 79.100 RCW are not
5 subject to this section or section 16 of this act.

6 NEW SECTION. **Sec. 16.** A new section is added to chapter 35.21 RCW
7 to read as follows:

8 (1) Following the inspection required under section 15 of this act
9 and prior to transferring ownership of a city or town-owned vessel, a
10 city or town shall obtain the following from the transferee:

11 (a) The purposes for which the transferee intends to use the
12 vessel; and

13 (b) Information demonstrating the prospective owner's intent to
14 obtain legal moorage following the transfer, in the manner determined
15 by the city or town.

16 (2)(a) The city or town shall remove any containers or other
17 materials that are not fixed to the vessel and contain hazardous
18 substances, as defined under RCW 70.105D.020.

19 (b) However, the city or town may transfer a vessel with:

20 (i) Those containers or materials described under (a) of this
21 subsection where the transferee demonstrates to the city or town's
22 satisfaction that the container's or material's presence is consistent
23 with the anticipated use of the vessel; and

24 (ii) A reasonable amount of fuel as determined by the city or town,
25 based on factors including the vessel's size, condition, and
26 anticipated use of the vessel, including initial destination following
27 transfer.

28 (c) The city or town may consult with the department of ecology in
29 carrying out the requirements of this subsection.

30 (3) Prior to sale, and unless the vessel has a title or valid
31 marine document, the city or town is required to apply for a
32 certificate of title for the vessel under RCW 88.02.510 and register
33 the vessel under RCW 88.02.550.

34 NEW SECTION. **Sec. 17.** A new section is added to chapter 35A.21
35 RCW to read as follows:

36 (1) Prior to transferring ownership of a code city-owned vessel,

1 the code city shall conduct a thorough review of the physical condition
2 of the vessel, the vessel's operating capability, and any containers
3 and other materials that are not fixed to the vessel.

4 (2) If the code city determines that the vessel is in a state of
5 advanced deterioration or poses a reasonably imminent threat to human
6 health or safety, including a threat of environmental contamination,
7 the code city may: (a) Not transfer the vessel until the conditions
8 identified under this subsection have been corrected; or (b)
9 permanently dispose of the vessel by landfill, deconstruction, or other
10 related method.

11 (3) Vessels taken into custody under chapter 79.100 RCW are not
12 subject to this section or section 18 of this act.

13 NEW SECTION. **Sec. 18.** A new section is added to chapter 35A.21
14 RCW to read as follows:

15 (1) Following the inspection required under section 17 of this act
16 and prior to transferring ownership of a code city-owned vessel, a code
17 city shall obtain the following from the transferee:

18 (a) The purposes for which the transferee intends to use the
19 vessel; and

20 (b) Information demonstrating the prospective owner's intent to
21 obtain legal moorage following the transfer, in the manner determined
22 by the code city.

23 (2)(a) The code city shall remove any containers or other materials
24 that are not fixed to the vessel and contain hazardous substances, as
25 defined under RCW 70.105D.020.

26 (b) However, the code city may transfer a vessel with:

27 (i) Those containers or materials described under (a) of this
28 subsection where the transferee demonstrates to the code city's
29 satisfaction that the container's or material's presence is consistent
30 with the anticipated use of the vessel; and

31 (ii) A reasonable amount of fuel as determined by the code city,
32 based on factors including the vessel's size, condition, and
33 anticipated use of the vessel, including initial destination following
34 transfer.

35 (c) The code city may consult with the department of ecology in
36 carrying out the requirements of this subsection.

1 (3) Prior to sale, and unless the vessel has a title or valid
2 marine document, the code city is required to apply for a certificate
3 of title for the vessel under RCW 88.02.510 and register the vessel
4 under RCW 88.02.550.

5 NEW SECTION. **Sec. 19.** A new section is added to chapter 36.32 RCW
6 to read as follows:

7 (1) Prior to transferring ownership of a county-owned vessel, the
8 county shall conduct a thorough review of the physical condition of the
9 vessel, the vessel's operating capability, and any containers and other
10 materials that are not fixed to the vessel.

11 (2) If the county determines that the vessel is in a state of
12 advanced deterioration or poses a reasonably imminent threat to human
13 health or safety, including a threat of environmental contamination,
14 the county may: (a) Not transfer the vessel until the conditions
15 identified under this subsection have been corrected; or (b)
16 permanently dispose of the vessel by landfill, deconstruction, or other
17 related method.

18 (3) Vessels taken into custody under chapter 79.100 RCW are not
19 subject to this section or section 20 of this act.

20 NEW SECTION. **Sec. 20.** A new section is added to chapter 36.32 RCW
21 to read as follows:

22 (1) Following the inspection required under section 19 of this act
23 and prior to transferring ownership of a county-owned vessel, a county
24 shall obtain the following from the transferee:

25 (a) The purposes for which the transferee intends to use the
26 vessel; and

27 (b) Information demonstrating the prospective owner's intent to
28 obtain legal moorage following the transfer, in the manner determined
29 by the county.

30 (2)(a) The county shall remove any containers or other materials
31 that are not fixed to the vessel and contain hazardous substances, as
32 defined under RCW 70.105D.020.

33 (b) However, the county may transfer a vessel with:

34 (i) Those containers or materials described under (a) of this
35 subsection where the transferee demonstrates to the county's

1 satisfaction that the container's or material's presence is consistent
2 with the anticipated use of the vessel; and

3 (ii) A reasonable amount of fuel as determined by the county, based
4 on factors including the vessel's size, condition, and anticipated use
5 of the vessel including initial destination following transfer.

6 (c) The county may consult with the department of ecology in
7 carrying out the requirements of this subsection.

8 (3) Prior to sale, and unless the vessel has a title or valid
9 marine document, the county is required to apply for a certificate of
10 title for the vessel under RCW 88.02.510 and register the vessel under
11 RCW 88.02.550.

12 NEW SECTION. **Sec. 21.** A new section is added to chapter 53.08 RCW
13 to read as follows:

14 (1) Prior to transferring ownership of a vessel owned by a port
15 district and used primarily to conduct port business, the port district
16 shall conduct a thorough review of the physical condition of the
17 vessel, the vessel's operating capability, and any containers and other
18 materials that are not fixed to the vessel.

19 (2) If the port district determines that the vessel is in a state
20 of advanced deterioration or poses a reasonably imminent threat to
21 human health or safety, including a threat of environmental
22 contamination, the port district may: (a) Not transfer the vessel
23 until the conditions identified under this subsection have been
24 corrected; or (b) permanently dispose of the vessel by landfill,
25 deconstruction, or other related method.

26 (3) Vessels taken into custody under chapter 79.100 RCW are not
27 subject to this section or section 22 of this act.

28 NEW SECTION. **Sec. 22.** A new section is added to chapter 53.08 RCW
29 to read as follows:

30 (1) Following the inspection required under section 21 of this act
31 and prior to transferring ownership of a port district-owned vessel, a
32 port district shall obtain the following from the transferee:

33 (a) The purposes for which the transferee intends to use the
34 vessel; and

35 (b) Information demonstrating the prospective owner's intent to

1 obtain legal moorage following the transfer, in the manner determined
2 by the port district.

3 (2)(a) The port district shall remove any containers or other
4 materials that are not fixed to the vessel and contain hazardous
5 substances, as defined under RCW 70.105D.020.

6 (b) However, the port district may transfer a vessel with:

7 (i) Those containers or materials described under (a) of this
8 subsection where the transferee demonstrates to the port district's
9 satisfaction that the container's or material's presence is consistent
10 with the anticipated use of the vessel; and

11 (ii) A reasonable amount of fuel as determined by the port
12 district, based on factors including the vessel's size, condition, and
13 anticipated use of the vessel including initial destination following
14 transfer.

15 (c) The port district may consult with the department of ecology in
16 carrying out the requirements of this subsection.

17 (3) Prior to sale, and unless the vessel has a title or valid
18 marine document, the port district is required to apply for a
19 certificate of title for the vessel under RCW 88.02.510 and register
20 the vessel under RCW 88.02.550.

21 NEW SECTION. **Sec. 23.** A new section is added to chapter 43.21A
22 RCW to read as follows:

23 (1) Prior to transferring ownership of a department-owned vessel,
24 the department shall conduct a thorough review of the physical
25 condition of the vessel, the vessel's operating capability, and any
26 containers and other materials that are not fixed to the vessel.

27 (2) If the department determines that the vessel is in a state of
28 advanced deterioration or poses a reasonably imminent threat to human
29 health or safety, including a threat of environmental contamination,
30 the department may: (a) Not transfer the vessel until the conditions
31 identified under this subsection have been corrected; or (b)
32 permanently dispose of the vessel by landfill, deconstruction, or other
33 related method.

34 NEW SECTION. **Sec. 24.** A new section is added to chapter 43.21A
35 RCW to read as follows:

1 (1) Following the inspection required under section 23 of this act
2 and prior to transferring ownership of a department-owned vessel, the
3 department shall obtain the following from the transferee:

4 (a) The purposes for which the transferee intends to use the
5 vessel; and

6 (b) Information demonstrating the prospective owner's intent to
7 obtain legal moorage following the transfer, in the manner determined
8 by the department.

9 (2)(a) The department shall remove any containers or other
10 materials that are not fixed to the vessel and contain hazardous
11 substances, as defined under RCW 70.105D.020.

12 (b) However, the department may transfer a vessel with:

13 (i) Those containers or materials described under (a) of this
14 subsection where the transferee demonstrates to the department's
15 satisfaction that the container's or material's presence is consistent
16 with the anticipated use of the vessel; and

17 (ii) A reasonable amount of fuel as determined by the department,
18 based on factors including the vessel's size, condition, and
19 anticipated use of the vessel including initial destination following
20 transfer.

21 (3) Prior to sale, and unless the vessel has a valid marine
22 document, the department is required to apply for a title or
23 certificate of title for the vessel under RCW 88.02.510 and register
24 the vessel under RCW 88.02.550.

25 NEW SECTION. **Sec. 25.** A new section is added to chapter 28B.10
26 RCW to read as follows:

27 (1) Prior to transferring ownership of an institution-owned vessel,
28 an institution of higher education shall conduct a thorough review of
29 the physical condition of the vessel, the vessel's operating
30 capability, and any containers and other materials that are not fixed
31 to the vessel.

32 (2) If the institution of higher education determines that the
33 vessel is in a state of advanced deterioration or poses a reasonably
34 imminent threat to human health or safety, including a threat of
35 environmental contamination, the institution of higher education may:

36 (a) Not transfer the vessel until the conditions identified under this

1 subsection have been corrected; or (b) permanently dispose of the
2 vessel by landfill, deconstruction, or other related method.

3 NEW SECTION. **Sec. 26.** A new section is added to chapter 28B.10
4 RCW to read as follows:

5 (1) Following the inspection required under section 25 of this act
6 and prior to transferring ownership of an institution-owned vessel, the
7 institution of higher education shall obtain the following from the
8 transferee:

9 (a) The purposes for which the transferee intends to use the
10 vessel; and

11 (b) Information demonstrating the prospective owner's intent to
12 obtain legal moorage following the transfer, in the manner determined
13 by the institution of higher education.

14 (2)(a) The institution of higher education shall remove any
15 containers or other materials that are not fixed to the vessel and
16 contain hazardous substances, as defined under RCW 70.105D.020.

17 (b) However, the institution of higher education may transfer a
18 vessel with:

19 (i) Those containers or materials described under (a) of this
20 subsection where the transferee demonstrates to the institution of
21 higher education's satisfaction that the container's or material's
22 presence is consistent with the anticipated use of the vessel; and

23 (ii) A reasonable amount of fuel as determined by the institution
24 of higher education, based on factors including the vessel's size,
25 condition, and anticipated use of the vessel including initial
26 destination following transfer.

27 (c) The institution of higher education may consult with the
28 department of ecology in carrying out the requirements of this
29 subsection.

30 (3) Prior to sale, and unless the vessel has a title or valid
31 marine document, the institution of higher education is required to
32 apply for a certificate of title for the vessel under RCW 88.02.510 and
33 register the vessel under RCW 88.02.550.

34 **Sec. 27.** RCW 28B.10.029 and 2012 c 230 s 4 are each amended to
35 read as follows:

36 (1)(a) An institution of higher education may, consistent with

1 sections 25 and 26 of this act, exercise independently those powers
2 otherwise granted to the director of enterprise services in chapter
3 43.19 RCW in connection with the purchase and disposition of all
4 material, supplies, services, and equipment needed for the support,
5 maintenance, and use of the respective institution of higher education.

6 (b) Property disposition policies followed by institutions of
7 higher education shall be consistent with policies followed by the
8 department of enterprise services.

9 (c)(i) Except as provided in (c)(ii) and (iii) of this subsection,
10 purchasing policies and procedures followed by institutions of higher
11 education shall be in compliance with chapters 39.19, 39.29, and 43.03
12 RCW, and RCW (~~((43.19.1901, 43.19.1906, 43.19.1911,))~~) 43.19.1917,
13 (~~((43.19.1937,))~~) 43.19.685, (~~((43.19.700 through 43.19.704))~~) 39.26.260
14 through 39.26.271, and 43.19.560 through 43.19.637.

15 (ii) Institutions of higher education may use all appropriate means
16 for making and paying for travel arrangements including, but not
17 limited to, electronic booking and reservations, advance payment and
18 deposits for tours, lodging, and other necessary expenses, and other
19 travel transactions based on standard industry practices and federal
20 accountable plan requirements. Such arrangements shall support
21 student, faculty, staff, and other participants' travel, by groups and
22 individuals, both domestic and international, in the most cost-
23 effective and efficient manner possible, regardless of the source of
24 funds.

25 (iii) Formal sealed, electronic, or web-based competitive bidding
26 is not necessary for purchases or personal services contracts by
27 institutions of higher education for less than one hundred thousand
28 dollars. However, for purchases and personal services contracts of ten
29 thousand dollars or more and less than one hundred thousand dollars,
30 quotations must be secured from at least three vendors to assure
31 establishment of a competitive price and may be obtained by telephone,
32 electronic, or written quotations, or any combination thereof. As part
33 of securing the three vendor quotations, institutions of higher
34 education must invite at least one quotation each from a certified
35 minority and a certified woman-owned vendor that otherwise qualifies to
36 perform the work. A record of competition for all such purchases and
37 personal services contracts of ten thousand dollars or more and less

1 than one hundred thousand dollars must be documented for audit
2 purposes.

3 (d) Purchases under chapter 39.29, 43.19, or 43.105 RCW by
4 institutions of higher education may be made by using contracts for
5 materials, supplies, services, or equipment negotiated or entered into
6 by, for, or through group purchasing organizations.

7 (e) The community and technical colleges shall comply with RCW
8 43.19.450.

9 (f) Except for the University of Washington, institutions of higher
10 education shall comply with RCW 43.19.769, 43.19.763, and 43.19.781.

11 (g) If an institution of higher education can satisfactorily
12 demonstrate to the director of the office of financial management that
13 the cost of compliance is greater than the value of benefits from any
14 of the following statutes, then it shall be exempt from them: RCW
15 43.19.685 and 43.19.637.

16 (h) Any institution of higher education that chooses to exercise
17 independent purchasing authority for a commodity or group of
18 commodities shall notify the director of enterprise services.
19 Thereafter the director of enterprise services shall not be required to
20 provide those services for that institution for the duration of the
21 enterprise services contract term for that commodity or group of
22 commodities.

23 (2) The council of presidents and the state board for community and
24 technical colleges shall convene its correctional industries business
25 development advisory committee, and work collaboratively with
26 correctional industries, to:

27 (a) Reaffirm purchasing criteria and ensure that quality, service,
28 and timely delivery result in the best value for expenditure of state
29 dollars;

30 (b) Update the approved list of correctional industries products
31 from which higher education shall purchase; and

32 (c) Develop recommendations on ways to continue to build
33 correctional industries' business with institutions of higher
34 education.

35 (3) Higher education and correctional industries shall develop a
36 plan to build higher education business with correctional industries to
37 increase higher education purchases of correctional industries
38 products, based upon the criteria established in subsection (2) of this

1 section. The plan shall include the correctional industries'
2 production and sales goals for higher education and an approved list of
3 products from which higher education institutions shall purchase, based
4 on the criteria established in subsection (2) of this section. Higher
5 education and correctional industries shall report to the legislature
6 regarding the plan and its implementation no later than January 30,
7 2005.

8 (4)(a) Institutions of higher education shall set as a target to
9 contract, beginning not later than June 30, 2006, to purchase one
10 percent of the total goods and services required by the institutions
11 each year produced or provided in whole or in part from class II inmate
12 work programs operated by the department of corrections. Institutions
13 of higher education shall set as a target to contract, beginning not
14 later than June 30, 2008, to purchase two percent of the total goods
15 and services required by the institutions each year produced or
16 provided in whole or in part from class II inmate work programs
17 operated by the department of corrections.

18 (b) Institutions of higher education shall endeavor to assure the
19 department of corrections has notifications of bid opportunities with
20 the goal of meeting or exceeding the purchasing target in (a) of this
21 subsection.

22 NEW SECTION. **Sec. 28.** (1) The department of natural resource must
23 reevaluate the criteria developed under RCW 79.100.100 regarding the
24 prioritization of vessel removals funded by the derelict vessel removal
25 account. This reprioritization process must occur by January 30, 2014,
26 and consider how vessels located in the vicinity of aquaculture
27 operations and other sensitive areas should be prioritized.

28 (2) This section expires July 31, 2015.

29 **Sec. 29.** RCW 88.02.380 and 2010 c 161 s 1006 are each amended to
30 read as follows:

31 (1) Except as otherwise provided in this chapter, and, in part, in
32 order to prevent the future potential dereliction or abandonment of a
33 vessel, a violation of this chapter and the rules adopted by the
34 department is a ~~((misdemeanor punishable only by a fine not to exceed~~
35 ~~one hundred dollars per vessel for the first violation. Subsequent~~
36 ~~violations in the same year are subject to the following fines:~~

1 ~~(a) For the second violation, a fine of two hundred dollars per~~
2 ~~vessel;~~

3 ~~(b) For the third and successive violations, a fine of four hundred~~
4 ~~dollars per vessel)) class 2 civil infraction.~~

5 (2) A ~~((violation designated in this chapter as a))~~ civil
6 infraction issued under this chapter must be ~~((punished accordingly~~
7 ~~pursuant to))~~ processed under chapter 7.80 RCW.

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

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

18 **Sec. 30.** RCW 88.02.340 and 2010 c 161 s 1004 are each amended to
19 read as follows:

20 (1) Any person charged with the enforcement of this chapter may
21 inspect the registration certificate of a vessel to ascertain the legal
22 and registered ownership of the vessel. A vessel owner or operator who
23 fails to provide the registration certificate for inspection upon the
24 request of any person charged with enforcement of this chapter ~~((is a~~
25 ~~class 2 civil infraction))~~ may be found to be in violation of this
26 chapter.

27 (2) The department may require the inspection of vessels that are
28 brought into this state from another state and for which a certificate
29 of title has not been issued and for any other vessel if the department
30 determines that inspection of the vessel will help to verify the
31 accuracy of the information set forth on the application.

32 **Sec. 31.** RCW 88.02.550 and 2010 c 161 s 1017 are each amended to
33 read as follows:

34 (1) Except as provided in this chapter, a person may not own or
35 operate any vessel, including a rented vessel, on the waters of this
36 state unless the vessel has been registered and displays a registration

1 number and a valid decal in accordance with this chapter. A vessel
2 that has or is required to have a valid marine document as a vessel of
3 the United States is only required to display a valid decal. ((A
4 violation of this section is a class 2 civil infraction.))

5 (2) A vessel numbered in this state under the federal boat safety
6 act of 1971 (85 Stat. 213, 46 U.S.C. 4301 et seq.) is not required to
7 be registered under this chapter until the certificate of number issued
8 for the vessel under the federal boat safety act expires. When
9 registering under this chapter, this type of vessel is subject to the
10 amount of excise tax due under chapter 82.49 RCW that would have been
11 due under chapter 82.49 RCW if the vessel had been registered at the
12 time otherwise required under this chapter.

13 **Sec. 32.** RCW 79.100.120 and 2010 c 210 s 34 are each amended to
14 read as follows:

15 (1) A person seeking to contest an authorized public entity's
16 decision to take temporary possession or custody of a vessel under this
17 chapter, or to contest the amount of reimbursement owed to an
18 authorized public entity under this chapter, may request a hearing in
19 accordance with this section.

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

31 (b) Upon receipt of a timely hearing request, the pollution control
32 hearings board shall proceed to hear and determine the validity of the
33 decision to take the vessel into temporary possession or custody and
34 the reasonableness of any towing, storage, or other charges permitted
35 under this chapter. Within five business days after the request for a
36 hearing is filed, the pollution control hearings board shall notify the
37 vessel owner requesting the hearing and the authorized public entity of

1 the date, time, and location for the hearing. Unless the vessel is
2 redeemed before the request for hearing is filed, the pollution control
3 hearings board shall set the hearing on a date that is within ten
4 business days of the filing of the request for hearing. If the vessel
5 is redeemed before the request for a hearing is filed, the pollution
6 control hearings board shall set the hearing on a date that is within
7 sixty days of the filing of the request for hearing.

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

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

18 (b) If the metropolitan park district, port district, city, town,
19 or county has not adopted rules or procedures for contesting decisions
20 or actions pertaining to derelict or abandoned vessels, then a person
21 requesting a hearing under this section must follow the procedure
22 established in ~~((RCW 53.08.320(5) for contesting the decisions or~~
23 ~~actions of moorage facility operators))~~ subsection (2) of this section.

24 **Sec. 33.** RCW 43.21B.110 and 2010 c 210 s 7 and 2010 c 84 s 2 are
25 each reenacted and amended to read as follows:

26 (1) The hearings board shall only have jurisdiction to hear and
27 decide appeals from the following decisions of the department, the
28 director, local conservation districts, the air pollution control
29 boards or authorities as established pursuant to chapter 70.94 RCW,
30 local health departments, the department of natural resources, the
31 department of fish and wildlife, ~~((and))~~ the parks and recreation
32 commission, and authorized public entities described in chapter 79.100
33 RCW:

34 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
35 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
36 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

1 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
2 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
3 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

4 (c) A final decision by the department or director made under
5 chapter 183, Laws of 2009.

6 (d) Except as provided in RCW 90.03.210(2), the issuance,
7 modification, or termination of any permit, certificate, or license by
8 the department or any air authority in the exercise of its
9 jurisdiction, including the issuance or termination of a waste disposal
10 permit, the denial of an application for a waste disposal permit, the
11 modification of the conditions or the terms of a waste disposal permit,
12 or a decision to approve or deny an application for a solid waste
13 permit exemption under RCW 70.95.300.

14 (e) Decisions of local health departments regarding the grant or
15 denial of solid waste permits pursuant to chapter 70.95 RCW.

16 (f) Decisions of local health departments regarding the issuance
17 and enforcement of permits to use or dispose of biosolids under RCW
18 70.95J.080.

19 (g) Decisions of the department regarding waste-derived fertilizer
20 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
21 department regarding waste-derived soil amendments under RCW 70.95.205.

22 (h) Decisions of local conservation districts related to the denial
23 of approval or denial of certification of a dairy nutrient management
24 plan; conditions contained in a plan; application of any dairy nutrient
25 management practices, standards, methods, and technologies to a
26 particular dairy farm; and failure to adhere to the plan review and
27 approval timelines in RCW 90.64.026.

28 (i) Any other decision by the department or an air authority which
29 pursuant to law must be decided as an adjudicative proceeding under
30 chapter 34.05 RCW.

31 (j) Decisions of the department of natural resources, the
32 department of fish and wildlife, and the department that are reviewable
33 under chapter 76.09 RCW, and the department of natural resources'
34 appeals of county, city, or town objections under RCW 76.09.050(7).

35 (k) Forest health hazard orders issued by the commissioner of
36 public lands under RCW 76.06.180.

37 (l) Decisions of the department of fish and wildlife to issue,

1 deny, condition, or modify a hydraulic project approval permit under
2 chapter 77.55 RCW.

3 (m) Decisions of the department of natural resources that are
4 reviewable under RCW 78.44.270.

5 (n) Decisions of (~~a state agency that is~~) an authorized public
6 entity under RCW 79.100.010 to take temporary possession or custody of
7 a vessel or to contest the amount of reimbursement owed that are
8 reviewable by the hearings board under RCW 79.100.120.

9 (2) The following hearings shall not be conducted by the hearings
10 board:

11 (a) Hearings required by law to be conducted by the shorelines
12 hearings board pursuant to chapter 90.58 RCW.

13 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
14 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

15 (c) Appeals of decisions by the department under RCW 90.03.110 and
16 90.44.220.

17 (d) Hearings conducted by the department to adopt, modify, or
18 repeal rules.

19 (~~(e) Appeals of decisions by the department as provided in chapter~~
20 ~~43.21B RCW.~~)

21 (3) Review of rules and regulations adopted by the hearings board
22 shall be subject to review in accordance with the provisions of the
23 administrative procedure act, chapter 34.05 RCW.

24 **Sec. 34.** RCW 43.21B.110 and 2010 c 210 s 8 and 2010 c 84 s 3 are
25 each reenacted and amended to read as follows:

26 (1) The hearings board shall only have jurisdiction to hear and
27 decide appeals from the following decisions of the department, the
28 director, local conservation districts, the air pollution control
29 boards or authorities as established pursuant to chapter 70.94 RCW,
30 local health departments, the department of natural resources, the
31 department of fish and wildlife, (~~and~~) the parks and recreation
32 commission, and authorized public entities described in chapter 79.100
33 RCW:

34 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
35 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
36 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

1 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
2 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
3 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

4 (c) Except as provided in RCW 90.03.210(2), the issuance,
5 modification, or termination of any permit, certificate, or license by
6 the department or any air authority in the exercise of its
7 jurisdiction, including the issuance or termination of a waste disposal
8 permit, the denial of an application for a waste disposal permit, the
9 modification of the conditions or the terms of a waste disposal permit,
10 or a decision to approve or deny an application for a solid waste
11 permit exemption under RCW 70.95.300.

12 (d) Decisions of local health departments regarding the grant or
13 denial of solid waste permits pursuant to chapter 70.95 RCW.

14 (e) Decisions of local health departments regarding the issuance
15 and enforcement of permits to use or dispose of biosolids under RCW
16 70.95J.080.

17 (f) Decisions of the department regarding waste-derived fertilizer
18 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
19 department regarding waste-derived soil amendments under RCW 70.95.205.

20 (g) Decisions of local conservation districts related to the denial
21 of approval or denial of certification of a dairy nutrient management
22 plan; conditions contained in a plan; application of any dairy nutrient
23 management practices, standards, methods, and technologies to a
24 particular dairy farm; and failure to adhere to the plan review and
25 approval timelines in RCW 90.64.026.

26 (h) Any other decision by the department or an air authority which
27 pursuant to law must be decided as an adjudicative proceeding under
28 chapter 34.05 RCW.

29 (i) Decisions of the department of natural resources, the
30 department of fish and wildlife, and the department that are reviewable
31 under chapter 76.09 RCW, and the department of natural resources'
32 appeals of county, city, or town objections under RCW 76.09.050(7).

33 (j) Forest health hazard orders issued by the commissioner of
34 public lands under RCW 76.06.180.

35 (k) Decisions of the department of fish and wildlife to issue,
36 deny, condition, or modify a hydraulic project approval permit under
37 chapter 77.55 RCW.

1 (1) Decisions of the department of natural resources that are
2 reviewable under RCW 78.44.270.

3 (m) Decisions of (~~a state agency that is~~) an authorized public
4 entity under RCW 79.100.010 to take temporary possession or custody of
5 a vessel or to contest the amount of reimbursement owed that are
6 reviewable by the hearings board under RCW 79.100.120.

7 (2) The following hearings shall not be conducted by the hearings
8 board:

9 (a) Hearings required by law to be conducted by the shorelines
10 hearings board pursuant to chapter 90.58 RCW.

11 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
12 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

13 (c) Appeals of decisions by the department under RCW 90.03.110 and
14 90.44.220.

15 (d) Hearings conducted by the department to adopt, modify, or
16 repeal rules.

17 (~~(e) Appeals of decisions by the department as provided in chapter~~
18 ~~43.211 RCW.~~)

19 (3) Review of rules and regulations adopted by the hearings board
20 shall be subject to review in accordance with the provisions of the
21 administrative procedure act, chapter 34.05 RCW.

22 **Sec. 35.** RCW 90.56.410 and 1990 c 116 s 23 are each amended to
23 read as follows:

24 (1) The department, through its duly authorized representatives,
25 shall have the power to enter upon any private or public property,
26 including the boarding of any ship, at any reasonable time, and the
27 owner, managing agent, master, or occupant of such property shall
28 permit such entry for the purpose of investigating conditions relating
29 to violations or possible violations of this chapter, and to have
30 access to any pertinent records relating to such property, including
31 but not limited to operation and maintenance records and logs. The
32 authority granted (~~herein~~) in this section shall not be construed to
33 require any person to divulge trade secrets or secret processes. The
34 director may issue subpoenas for the production of any books, records,
35 documents, or witnesses in any hearing conducted pursuant to this
36 chapter.

1 (2) For the purpose of assessing and mitigating the threat to
2 health, safety, and the environment and identifying ownership, the
3 department may board any vessel, at any reasonable time, that meets the
4 definition of "abandoned vessel" or "derelict vessel" as provided in
5 RCW 79.100.010.

6 **Sec. 36.** RCW 79.100.040 and 2007 c 342 s 2 are each amended to
7 read as follows:

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

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

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

22 (c) Post notice of its intent on the department's internet web site
23 on a page specifically designated for such notices. If the authorized
24 public entity is not the department, the department must facilitate the
25 internet posting.

26 (2) All notices sent, posted, or published in accordance with this
27 section must, at a minimum, explain the intent of the authorized public
28 entity to take custody of the vessel, the rights of the authorized
29 public entity after taking custody of the vessel as provided in RCW
30 79.100.030, the procedures the owner must follow in order to avoid
31 custody being taken by the authorized public entity, the procedures the
32 owner must follow in order to reclaim possession after custody is taken
33 by the authorized public entity, and the financial liabilities that the
34 owner may incur as provided for in RCW 79.100.060.

35 (3)(a) ~~((If a))~~ Any authorized public entity may tow, beach, or
36 otherwise take temporary possession of a vessel if the owner of the

1 vessel cannot be located or is unwilling or unable to assume immediate
2 responsibility for the vessel and if the vessel ((is)):

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

5 (ii) Poses a reasonably imminent threat to human health or safety,
6 including a threat of environmental contamination(~~(; and (iii) the~~
7 ~~owner of the vessel cannot be located or is unwilling or unable to~~
8 ~~assume immediate responsibility for the vessel, any authorized public~~
9 ~~entity may tow, beach, or otherwise take temporary possession of the~~
10 ~~vessel)).~~

11 (b) Before taking temporary possession of the vessel, the
12 authorized public entity must make reasonable attempts to consult with
13 the department or the United States coast guard to ensure that other
14 remedies are not available. The basis for taking temporary possession
15 of the vessel must be set out in writing by the authorized public
16 entity within seven days of taking action and be submitted to the
17 owner, if known, as soon thereafter as is reasonable. If the
18 authorized public entity has not already provided the required notice,
19 immediately after taking possession of the vessel, the authorized
20 public entity must initiate the notice provisions in subsection (1) of
21 this section. The authorized public entity must complete the notice
22 requirements of subsection (1) of this section before using or
23 disposing of the vessel as authorized in RCW 79.100.050.

24 (4) An authorized public entity may invite the department of
25 ecology to use the authority granted to it under RCW 90.56.410 prior
26 to, or concurrently with, obtaining custody of a vessel under this
27 section. However, this is not a necessary prerequisite to an
28 authorized public entity obtaining custody.

29 NEW SECTION. Sec. 37. A new section is added to chapter 79.100
30 RCW to read as follows:

31 (1) Beginning July 1, 2014, a vessel owner must obtain a vessel
32 inspection under this section prior to transferring a vessel that is:

33 (a) More than sixty-five feet in length and more than forty years
34 old; and

35 (b) Either:

36 (i) Is registered or required to be registered under chapter 88.02
37 RCW; or

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

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

6 (3) Failure to comply with the requirements of subsections (1) and
7 (2) of this section will result in the transferor having secondary
8 liability under RCW 79.100.060 if the vessel is later abandoned by the
9 transferee or becomes derelict prior to a subsequent ownership
10 transfer.

11 NEW SECTION. **Sec. 38.** (1) By December 31, 2013, the department
12 shall adopt by rule procedures and standards for the vessel inspections
13 required under section 37 of this act. The procedures and standards
14 must identify the public or private entities authorized to conduct
15 inspections, the required elements of an inspection, and the manner in
16 which inspection results must be documented. The vessel inspection
17 required under this section must be designed to:

18 (a) Provide the transferee with current information about the
19 condition of the vessel, including the condition of its hull and key
20 operating systems, prior to the transfer;

21 (b) Provide the department with information under (a) of this
22 subsection for each applicable vessel and, more broadly, to improve the
23 department's understanding of the condition of the larger, older boats
24 in the state's waters;

25 (c) Discourage the future abandonment or dereliction of the vessel;
26 and

27 (d) Maximize the efficiency and effectiveness of the inspection
28 process, including with respect to the time and resources of the
29 transferor, transferee, and the state.

30 (2) The department shall work with appropriate government agencies
31 and stakeholders in designing the inspection process and standards
32 under this section.

33 (3) This section expires July 31, 2014.

34 **Sec. 39.** RCW 79.100.060 and 2006 c 153 s 4 are each amended to
35 read as follows:

36 (1) The owner of an abandoned or derelict vessel, or any person or

1 entity that has incurred secondary liability under section 37 of this
2 act, is responsible for reimbursing an authorized public entity for all
3 reasonable and auditable costs associated with the removal or disposal
4 of the owner's vessel under this chapter. These costs include, but are
5 not limited to, costs incurred exercising the authority granted in RCW
6 79.100.030, all administrative costs incurred by the authorized public
7 entity during the procedure set forth in RCW 79.100.040, removal and
8 disposal costs, and costs associated with environmental damages
9 directly or indirectly caused by the vessel. An authorized public
10 entity that has taken temporary possession of a vessel may require that
11 all reasonable and auditable costs associated with the removal of the
12 vessel be paid before the vessel is released to the owner.

13 (2) Reimbursement for costs may be sought from an owner, or any
14 person or entity that has incurred secondary liability under section 37
15 of this act, who is identified subsequent to the vessel's removal and
16 disposal.

17 (3) If the full amount of all costs due to the authorized public
18 entity under this chapter is not paid to the authorized public entity
19 within thirty days after first notifying the responsible parties of the
20 amounts owed, the authorized public entity or the department may bring
21 an action in any court of competent jurisdiction to recover the costs,
22 plus reasonable attorneys' fees and costs incurred by the authorized
23 public entity.

24 **Sec. 40.** RCW 88.26.020 and 1993 c 474 s 2 are each amended to read
25 as follows:

26 (1) Any private moorage facility operator may take reasonable
27 measures, including the use of chains, ropes, and locks, or removal
28 from the water, to secure vessels within the private moorage facility
29 so that the vessels are in the possession and control of the operator
30 and cannot be removed from the facility. These procedures may be used
31 if an owner mooring or storing a vessel at the facility fails, after
32 being notified that charges are owing and of the owner's right to
33 commence legal proceedings to contest that such charges are owing, to
34 pay charges owed or to commence legal proceedings. Notification shall
35 be by two separate letters, one sent by first-class mail and one sent
36 by registered mail to the owner and any lienholder of record at the
37 last known address. In the case of a transient vessel, or where no

1 address was furnished by the owner, the operator need not give notice
2 prior to securing the vessel. At the time of securing the vessel, an
3 operator shall attach to the vessel a readily visible notice. The
4 notice shall be of a reasonable size and shall contain the following
5 information:

6 (a) The date and time the notice was attached;

7 (b) A statement that if the account is not paid in full within
8 ninety days from the time the notice is attached the vessel may be sold
9 at public auction to satisfy the charges; and

10 (c) The address and telephone number where additional information
11 may be obtained concerning release of the vessel.

12 After a vessel is secured, the operator shall make a reasonable
13 effort to notify the owner and any lienholder of record by registered
14 mail in order to give the owner the information contained in the
15 notice.

16 (2) A private moorage facility operator, at his or her discretion,
17 may move moored vessels ashore for storage within properties under the
18 operator's control or for storage with a private person under their
19 control as bailees of the private moorage facility, if the vessel is,
20 in the opinion of the operator, a nuisance, in danger of sinking or
21 creating other damage, or is owing charges. The costs of any such
22 procedure shall be paid by the vessel's owner.

23 (3) If a vessel is secured under subsection (1) of this section or
24 moved ashore under subsection (2) of this section, the owner who is
25 obligated to the private operator for charges may regain possession of
26 the vessel by:

27 (a) Making arrangements satisfactory with the operator for the
28 immediate removal of the vessel from the facility or for authorized
29 moorage; and

30 (b) Making payment to the operator of all charges, or by posting
31 with the operator a sufficient cash bond or other acceptable security,
32 to be held in trust by the operator pending written agreement of the
33 parties with respect to payment by the vessel owner of the amount
34 owing, or pending resolution of the matter of the charges in a civil
35 action in a court of competent jurisdiction. After entry of judgment,
36 including any appeals, in a court of competent jurisdiction, or after
37 the parties reach agreement with respect to payment, the trust shall
38 terminate and the operator shall receive so much of the bond or other

1 security as agreed, or as is necessary, to satisfy any judgment, costs,
2 and interest as may be awarded to the operator. The balance shall be
3 refunded immediately to the owner at the last known address.

4 (4) If a vessel has been secured by the operator under subsection
5 (1) of this section and is not released to the owner under the bonding
6 provisions of this section within ninety days after notifying or
7 attempting to notify the owner under subsection (1) of this section,
8 the vessel is conclusively presumed to have been abandoned by the
9 owner.

10 (5) If a vessel moored or stored at a private moorage facility is
11 abandoned, the operator may, consistent with section 41 of this act,
12 authorize the public sale of the vessel by authorized personnel,
13 consistent with this section, to the highest and best bidder for cash
14 as follows:

15 (a) Before the vessel is sold, the vessel owner and any lienholder
16 of record shall be given at least twenty days' notice of the sale in
17 the manner set forth in subsection (1) of this section if the name and
18 address of the owner is known. The notice shall contain the time and
19 place of the sale, a reasonable description of the vessel to be sold,
20 and the amount of charges owed with respect to the vessel. The notice
21 of sale shall be published at least once, more than ten but not more
22 than twenty days before the sale, in a newspaper of general circulation
23 in the county in which the facility is located. This notice shall
24 include the name of the vessel, if any, the last known owner and
25 address, and a reasonable description of the vessel to be sold. The
26 operator may bid all or part of its charges at the sale and may become
27 a purchaser at the sale.

28 (b) Before the vessel is sold, any person seeking to redeem an
29 impounded vessel under this section may commence a lawsuit in the
30 superior court for the county in which the vessel was impounded to
31 contest the validity of the impoundment or the amount of charges owing.
32 This lawsuit must be commenced within sixty days of the date the
33 notification was provided under subsection (1) of this section, or the
34 right to a hearing is deemed waived and the owner is liable for any
35 charges owing the operator. In the event of litigation, the prevailing
36 party is entitled to reasonable attorneys' fees and costs.

37 (c) The proceeds of a sale under this section shall be applied
38 first to the payment of any liens superior to the claim for charges,

1 then to payment of the charges, then to satisfy any other liens on the
2 vessel in the order of their priority. The balance, if any, shall be
3 paid to the owner. If the owner cannot in the exercise of due
4 diligence be located by the operator within one year of the date of the
5 sale, the excess funds from the sale shall revert to the department of
6 revenue under chapter 63.29 RCW. If the sale is for a sum less than
7 the applicable charges, the operator is entitled to assert a claim for
8 deficiency, however, the deficiency judgment shall not exceed the
9 moorage fees owed for the previous six-month period.

10 (d) In the event no one purchases the vessel at a sale, or a vessel
11 is not removed from the premises or other arrangements are not made
12 within ten days of sale, title to the vessel will revert to the
13 operator.

14 (e) Either a minimum bid may be established or a letter of credit
15 may be required from the buyer, or both, to discourage the future
16 abandonment of the vessel.

17 (6) The rights granted to a private moorage facility operator under
18 this section are in addition to any other legal rights an operator may
19 have to hold and sell a vessel and in no manner does this section alter
20 those rights, or affect the priority of other liens on a vessel.

21 NEW SECTION. Sec. 41. A new section is added to chapter 88.26 RCW
22 to read as follows:

23 (1) Prior to selling or otherwise transferring ownership of a
24 vessel greater than sixty-five feet in length and more than forty years
25 old lawfully under his or her control, a private moorage facility
26 operator must conduct a review of the physical condition of the vessel
27 and the vessel's operating capability.

28 (2)(a) If the private moorage facility operator determines that the
29 vessel satisfies the specific element of the definition of derelict
30 vessel as provided in RCW 79.100.010(5)(c), then the private moorage
31 facility operator may not sell or transfer ownership of the vessel
32 unless the vessel is being sold for scrap, salvage, or another use that
33 will remove the vessel from state waters. The private moorage facility
34 operator must, prior to sale, require the submittal of a business plan
35 from the buyer confirming the buyer's intent to use the vessel for
36 scrap, salvage, or another use that will remove the vessel from state
37 waters.

1 (b) The business plan must include the following elements:

2 (i) Confirmation of the potential owner's intent to scrap, salvage,
3 or otherwise remove the vessel from state waters;

4 (ii) Information necessary to implement the plan, including how the
5 vessel will be moved, moored, or stored prior to dismantling; and

6 (iii) A description of the vessel's final destination and the
7 facilities and equipment available at that site.

8 (3) The private moorage facility operator may initiate a contract
9 under RCW 79.100.130 to invite the appropriate local government to
10 utilize its police powers to abate the public nuisance caused by a
11 vessel located at the private moorage facility.

12 (4) Nothing in this section prevents a private moorage facility
13 operator from removing, dismantling, and lawfully disposing of any
14 vessel lawfully under the operator's control.

15 **Sec. 42.** RCW 53.08.320 and 2011 c 247 s 3 are each amended to read
16 as follows:

17 A moorage facility operator may adopt all rules necessary for
18 rental and use of moorage facilities and for the expeditious collection
19 of port charges. The rules may also establish procedures for the
20 enforcement of these rules by port district, city, county, metropolitan
21 park district or town personnel. The rules shall include the
22 following:

23 (1) Procedures authorizing moorage facility personnel to take
24 reasonable measures, including the use of chains, ropes, and locks, or
25 removal from the water, to secure vessels within the moorage facility
26 so that the vessels are in the possession and control of the moorage
27 facility operator and cannot be removed from the moorage facility.
28 These procedures may be used if an owner mooring or storing a vessel at
29 the moorage facility fails, after being notified that charges are owing
30 and of the owner's right to commence legal proceedings to contest that
31 such charges are owing, to pay the port charges owed or to commence
32 legal proceedings. Notification shall be by registered mail to the
33 owner at his or her last known address. In the case of a transient
34 vessel, or where no address was furnished by the owner, the moorage
35 facility operator need not give such notice prior to securing the
36 vessel. At the time of securing the vessel, an authorized moorage

1 facility employee shall attach to the vessel a readily visible notice.
2 The notice shall be of a reasonable size and shall contain the
3 following information:

4 (a) The date and time the notice was attached;

5 (b) A statement that if the account is not paid in full within
6 ninety days from the time the notice is attached, the vessel may be
7 sold at public auction to satisfy the port charges; and

8 (c) The address and telephone number where additional information
9 may be obtained concerning release of the vessel.

10 After a vessel is secured, the operator shall make a reasonable
11 effort to notify the owner by registered mail in order to give the
12 owner the information contained in the notice.

13 (2) Procedures authorizing moorage facility personnel at their
14 discretion to move moored vessels ashore for storage within properties
15 under the operator's control or for storage with private persons under
16 their control as bailees of the moorage facility, if the vessel is, in
17 the opinion of port personnel a nuisance, if the vessel is in danger of
18 sinking or creating other damage, or is owing port charges. Costs of
19 any such procedure shall be paid by the vessel's owner. If the owner
20 is not known, or unable to reimburse the moorage facility operator for
21 the costs of these procedures, the mooring facility operators may seek
22 reimbursement of ninety percent of all reasonable and auditable costs,
23 including costs from permanent disposal under section 43 of this act,
24 from the derelict vessel removal account established in RCW 79.100.100.

25 (3) If a vessel is secured under subsection (1) of this section or
26 moved ashore under subsection (2) of this section, the owner who is
27 obligated to the moorage facility operator for port charges may regain
28 possession of the vessel by:

29 (a) Making arrangements satisfactory with the moorage facility
30 operator for the immediate removal of the vessel from the moorage
31 facility or for authorized moorage; and

32 (b) Making payment to the moorage facility operator of all port
33 charges, or by posting with the moorage facility operator a sufficient
34 cash bond or other acceptable security, to be held in trust by the
35 moorage facility operator pending written agreement of the parties with
36 respect to payment by the vessel owner of the amount owing, or pending
37 resolution of the matter of the charges in a civil action in a court of
38 competent jurisdiction. After entry of judgment, including any

1 appeals, in a court of competent jurisdiction, or after the parties
2 reach agreement with respect to payment, the trust shall terminate and
3 the moorage facility operator shall receive so much of the bond or
4 other security as is agreed, or as is necessary to satisfy any
5 judgment, costs, and interest as may be awarded to the moorage facility
6 operator. The balance shall be refunded immediately to the owner at
7 his or her last known address.

8 (4) If a vessel has been secured by the moorage facility operator
9 under subsection (1) of this section and is not released to the owner
10 under the bonding provisions of this section within ninety days after
11 notifying or attempting to notify the owner under subsection (1) of
12 this section, the vessel shall be conclusively presumed to have been
13 abandoned by the owner.

14 (5) If a vessel moored or stored at a moorage facility is
15 abandoned, the moorage facility operator may, consistent with section
16 43 of this act, by resolution of its legislative authority, authorize
17 the public sale of the vessel by authorized personnel to the highest
18 and best bidder for cash as prescribed by this subsection (5). Either
19 a minimum bid may be established or a letter of credit may be required,
20 or both, to discourage the future reabandonment of the vessel.

21 (a) Before the vessel is sold, the owner of the vessel shall be
22 given at least twenty days' notice of the sale in the manner set forth
23 in subsection (1) of this section if the name and address of the owner
24 is known. The notice shall contain the time and place of the sale, a
25 reasonable description of the vessel to be sold, and the amount of port
26 charges owed with respect to the vessel. The notice of sale shall be
27 published at least once, more than ten but not more than twenty days
28 before the sale, in a newspaper of general circulation in the county in
29 which the moorage facility is located. Such notice shall include the
30 name of the vessel, if any, the last known owner and address, and a
31 reasonable description of the vessel to be sold. The moorage facility
32 operator may bid all or part of its port charges at the sale and may
33 become a purchaser at the sale.

34 (b) Before the vessel is sold, any person seeking to redeem an
35 impounded vessel under this section may commence a lawsuit in the
36 superior court for the county in which the vessel was impounded to
37 contest the validity of the impoundment or the amount of the port
38 charges owing. Such lawsuit must be commenced within ten days of the

1 date the notification was provided pursuant to subsection (1) of this
2 section, or the right to a hearing shall be deemed waived and the owner
3 shall be liable for any port charges owing the moorage facility
4 operator. In the event of litigation, the prevailing party shall be
5 entitled to reasonable attorneys' fees and costs.

6 (c) The proceeds of a sale under this section shall first be
7 applied to the payment of port charges. The balance, if any, shall be
8 paid to the owner. If the owner cannot in the exercise of due
9 diligence be located by the moorage facility operator within one year
10 of the date of the sale, the excess funds from the sale shall revert to
11 the derelict vessel removal account established in RCW 79.100.100. If
12 the sale is for a sum less than the applicable port charges, the
13 moorage facility operator is entitled to assert a claim for a
14 deficiency.

15 (d) In the event no one purchases the vessel at a sale, or a vessel
16 is not removed from the premises or other arrangements are not made
17 within ten days of sale, title to the vessel will revert to the moorage
18 facility operator.

19 (6) The rules authorized under this section shall be enforceable
20 only if the moorage facility has had its tariff containing such rules
21 conspicuously posted at its moorage facility at all times.

22 NEW SECTION. **Sec. 43.** A new section is added to chapter 53.08 RCW
23 to read as follows:

24 (1) Prior to selling or otherwise transferring ownership of a
25 vessel greater than sixty-five feet in length and more than forty years
26 old lawfully under its control, a moorage facility operator must
27 conduct a review of the physical condition of the vessel and the
28 vessel's operating capability.

29 (2)(a) If the moorage facility operator determines that the vessel
30 satisfies the specific element of the definition of derelict vessel as
31 provided in RCW 79.100.010(5)(c), then the moorage facility operator
32 may not sell or transfer ownership of the vessel unless the vessel is
33 being sold for scrap, salvage, or another use that will remove the
34 vessel from state waters. The moorage facility operator must, prior to
35 sale, require the submittal of a business plan from the buyer
36 confirming the buyer's intent to use the vessel for scrap, salvage, or
37 another use that will remove the vessel from state waters.

1 (b) The business plan must include the following elements:

2 (i) Confirmation of the potential owner's intent to scrap, salvage,
3 or otherwise remove the vessel from state waters;

4 (ii) Information necessary to implement the plan, including how the
5 vessel will be moved, moored, or stored prior to dismantling; and

6 (iii) A description of the vessel's final destination and the
7 facilities and equipment available at that site.

8 (3) Nothing in this section prevents a moorage facility operator
9 from removing, dismantling, and lawfully disposing of any vessel
10 lawfully under the moorage facility's control or pursuing custody of
11 derelict or abandoned vessels under chapter 79.100 RCW.

12 **Sec. 44.** RCW 53.08.310 and 1986 c 260 s 1 are each amended to read
13 as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this section (~~and~~), RCW 53.08.320 and
16 section 43 of this act.

17 (1) "Port charges" means charges of a moorage facility operator for
18 moorage and storage, and all other charges owing or to become owing
19 under a contract between a vessel owner and the moorage facility
20 operator, or under an officially adopted tariff including, but not
21 limited to, costs of sale and related legal expenses.

22 (2) "Vessel" means every species of watercraft or other artificial
23 contrivance capable of being used as a means of transportation on water
24 and which does not exceed two hundred feet in length. "Vessel"
25 includes any trailer used for the transportation of watercraft.

26 (3) "Moorage facility" means any properties or facilities owned or
27 operated by a moorage facility operator which are capable of use for
28 the moorage or storage of vessels.

29 (4) "Moorage facility operator" means any port district, city,
30 town, metropolitan park district, or county which owns and/or operates
31 a moorage facility.

32 (5) "Owner" means every natural person, firm, partnership,
33 corporation, association, or organization, or agent thereof, with
34 actual or apparent authority, who expressly or impliedly contracts for
35 use of a moorage facility.

36 (6) "Transient vessel" means a vessel using a moorage facility and
37 which belongs to an owner who does not have a moorage agreement with

1 the moorage facility operator. Transient vessels include, but are not
2 limited to: Vessels seeking a harbor of refuge, day use, or overnight
3 use of a moorage facility on a space-as-available basis.

4 **Sec. 45.** RCW 79A.65.030 and 2002 c 286 s 22 are each amended to
5 read as follows:

6 (1)(a) The commission may provide for the public sale of vessels
7 considered abandoned under RCW 79A.65.020 unless the vessel is greater
8 than sixty-five feet in length and more than forty years old and
9 satisfies the specific elements of the definition of derelict vessel
10 provided in RCW 79.100.010(5)(c). At such sales, the vessels shall be
11 sold for cash to the highest and best bidder. The commission may
12 establish either a minimum bid or require a letter of credit, or both,
13 to discourage the future reabandonment of the vessel.

14 (b)(i) Vessels that satisfy the specific element of the definition
15 of derelict vessel provided in RCW 79.100.010(5)(c) must be disposed of
16 consistent with the authority granted to the commission in chapter
17 79.100 RCW or sold for scrap, salvage, or another use that will remove
18 the vessel from state waters. If the vessel is sold for sale, the
19 commission must require the submittal of a business plan from the buyer
20 confirming the buyer's intent to use the vessel for scrap, salvage, or
21 another use that will remove the vessel from state waters. The
22 business plan must include the following elements:

23 (A) Confirmation of the potential owner's intent to scrap, salvage,
24 or otherwise remove the vessel from state waters;

25 (B) Information necessary to implement the plan, including how the
26 vessel will be moved, moored, or stored prior to dismantling; and

27 (C) A description of the vessel's final destination and the
28 facilities and equipment available at that site.

29 (ii) The commission may use the authority granted under RCW
30 79.100.100 regardless of whether or not the vessel has been found to be
31 abandoned under RCW 79A.65.020.

32 (2) Before a vessel is sold, the commission shall make a reasonable
33 effort to provide notice of sale, at least twenty days before the day
34 of the sale, to each registered owner of a registered vessel and each
35 owner of an unregistered vessel. The notice shall contain the time and
36 place of the sale, a reasonable description of the vessel to be sold,
37 and the amount of charges then owing with respect to the vessel, and a

1 summary of the rights and procedures under this chapter. A notice of
2 sale shall be published at least once, more than ten but not more than
3 twenty days before the sale, in a newspaper of general circulation in
4 the county in which the commission facility is located. This notice
5 shall include: (a) If known, the name of the vessel and the last owner
6 and the owner's address; and (b) a reasonable description of the
7 vessel. The commission may bid all or part of its charges at the sale
8 and may become a purchaser at the sale.

9 (3) Before a vessel is sold, any person seeking to redeem a secured
10 vessel may commence a lawsuit in the superior court for the county in
11 which the vessel was secured to contest the commission's decision to
12 secure the vessel or the amount of charges owing. This lawsuit shall
13 be commenced within fifteen days of the date the notification was
14 posted under RCW 79A.65.020(3), or the right to a hearing is deemed
15 waived and the owner is liable for any charges owing the commission.
16 In the event of litigation, the prevailing party is entitled to
17 reasonable attorneys' fees and costs.

18 (4) The proceeds of a sale under this section shall be applied
19 first to the payment of the amount of the reasonable charges incurred
20 by the commission and moorage fees owed to the commission, then to the
21 owner or to satisfy any liens of record or security interests of record
22 on the vessel in the order of their priority. If an owner cannot in
23 the exercise of due diligence be located by the commission within one
24 year of the date of the sale, any excess funds from the sale, following
25 the satisfaction of any bona fide security interest, shall revert to
26 the derelict vessel removal account established in RCW 79.100.100. If
27 the sale is for a sum less than the applicable charges, the commission
28 is entitled to assert a claim for the deficiency against the vessel
29 owner. Nothing in this section prevents any lien holder or secured
30 party from asserting a claim for any deficiency owed the lien holder or
31 secured party.

32 (5) If no one purchases the vessel at a sale, the commission may
33 proceed to properly dispose of the vessel in any way the commission
34 considers appropriate, including, but not limited to, destruction of
35 the vessel or by negotiated sale. The commission may assert a claim
36 against the owner for any charges incurred thereby. If the vessel, or
37 any part of the vessel, or any rights to the vessel, are sold under

1 this subsection, any proceeds from the sale shall be distributed in the
2 manner provided in subsection (4) of this section.

3 NEW SECTION. **Sec. 46.** A new section is added to chapter 79.100
4 RCW to read as follows:

5 (1) The department may develop and administer a vessel turn-in
6 program.

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

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

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

27 (a) Is a Washington resident or business;

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

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

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

36 (6) The department may take other actions not inconsistent with

1 this section in order to develop and administer the vessel turn-in
2 program.

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

5 NEW SECTION. **Sec. 47.** (1) In compliance with RCW 43.01.036, the
6 department of natural resources must provide a brief summary of the
7 vessel turn-in program authorized under section 46 of this act to the
8 legislature by September 1, 2014, including information about
9 applications for the program, the vessels disposed of, and any
10 recommendations for modification of the program.

11 (2) This section expires July 31, 2015.

12 **Sec. 48.** RCW 43.21B.305 and 2005 c 34 s 2 are each amended to read
13 as follows:

14 (1) In an appeal that involves a penalty of fifteen thousand
15 dollars or less or that involves a derelict or abandoned vessel under
16 RCW 79.100.120, the appeal may be heard by one member of the board,
17 whose decision shall be the final decision of the board. The board
18 shall define by rule alternative procedures to expedite appeals
19 involving penalties of fifteen thousand dollars or less or involving a
20 derelict or abandoned vessel. These alternatives may include:
21 Mediation, upon agreement of all parties; submission of testimony by
22 affidavit; or other forms that may lead to less formal and faster
23 resolution of appeals.

24 (2) For appeals that involve a derelict or abandoned vessel under
25 RCW 79.100.120 only, an administrative law judge employed by the board
26 may be substituted for a board member under this section.

27 NEW SECTION. **Sec. 49.** (1) The department of natural resources
28 must, in consultation with the department of ecology and appropriate
29 stakeholders, evaluate potential changes to the derelict and abandoned
30 vessel program that increases vessel owner responsibility and addresses
31 challenges associated with the economics of removing vessels from the
32 water. This evaluation must include the development and analysis of:

33 (a) Administrative and legislative vessel owner responsibility
34 options that seek to ensure the prevention and cleanup of derelict and
35 abandoned vessels; and

1 (b) The identification of challenges and roadblocks to
2 deconstructing derelict vessels and transforming them into a viable
3 scrap metal product.

4 (2) The department of natural resources may choose which
5 appropriate stakeholders are consulted in the implementation of this
6 section. However, persons with relevant expertise on financial
7 responsibility mechanisms, such as insurance and surety bonds and
8 letters of credit, must be included. The department of natural
9 resources must also seek to ensure opportunities for interested members
10 of the senate and house of representatives to provide input into the
11 work group process and conclusions.

12 (3) The department of natural resources must provide a summary of
13 the options developed by the work group, or a draft of proposed
14 legislation, to the legislature consistent with RCW 43.01.036 by
15 December 15, 2013.

16 (4) This section expires June 30, 2014.

17 NEW SECTION. **Sec. 50.** Section 33 of this act expires June 30,
18 2019.

19 NEW SECTION. **Sec. 51.** Section 34 of this act takes effect June
20 30, 2019.

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