
HOUSE BILL 1245

State of Washington

63rd Legislature

2013 Regular Session

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 01/21/13. Referred to Committee on Agriculture & Natural Resources.

1 AN ACT Relating to derelict and abandoned vessels in state waters;
2 amending RCW 88.02.640, 79.100.100, 88.26.020, 53.08.320, 79A.65.020,
3 79A.65.030, 79.100.130, 43.19.1919, 88.02.380, 88.02.340, 88.02.550,
4 79.100.120, and 79.100.110; reenacting and amending RCW 43.21B.110 and
5 43.21B.110; adding new sections to chapter 79.100 RCW; adding new
6 sections to chapter 77.12 RCW; adding new sections to chapter 79A.05
7 RCW; adding new sections to chapter 47.01 RCW; adding new sections to
8 chapter 35.21 RCW; adding new sections to chapter 35A.21 RCW; adding
9 new sections to chapter 36.32 RCW; adding new sections to chapter 53.08
10 RCW; creating new sections; prescribing penalties; providing an
11 effective date; and providing expiration dates.

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

13 **INTENT**

14 NEW SECTION. **Sec. 1.** The legislature finds that the prevention of
15 derelict or abandoned vessels in state waters and the increased number
16 of derelict or abandoned vessels requiring removal constitutes an
17 objective of great importance.

1 The legislature further finds that derelict and abandoned vessels
2 present substantial economic, environmental, recreational, and other
3 risks to the state. These vessels cause oil and hazardous substance
4 pollution, pose safety and navigational hazards to other boaters,
5 damage aquatic habitats and wildlife including commercial shellfish
6 beds, and decrease the aesthetic value of Washington waters.

7 The legislature further finds that the department of natural
8 resources' derelict vessel removal program has successfully removed
9 more than four hundred derelict or abandoned vessels since 2003.
10 However, both the public and private sectors have been unable to reduce
11 the increasing rate at which vessels become derelict or abandoned. The
12 current backlog of vessels stands at more than two hundred twenty and
13 the backlog continues to grow.

14 The legislature further finds that the derelict vessel removal
15 program is constrained by the availability of resources. For example,
16 the removal and disposal of only one large derelict or abandoned vessel
17 would meet or exceed the derelict vessel removal program's existing
18 annual budget.

19 The legislature further finds that prevention is the most efficient
20 and effective way to address the issues stemming from abandoned and
21 derelict vessels. In addition, where prevention is not achieved,
22 proactive removal of existing derelict or abandoned vessels will avoid
23 the increased costs and environmental and other risks associated with
24 dealing with a vessel that has already sunk.

25 The legislature further finds that legitimate disposal options are
26 limited, costly, and time consuming.

27 Therefore, it is the intent of the legislature to develop tools to
28 maintain funding, increase prevention, increase owner accountability,
29 provide for early action, and facilitate enforcement of existing rules.

30 FUNDING

31 **Sec. 2.** RCW 88.02.640 and 2012 c 74 s 16 are each amended to read
32 as follows:

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

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

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

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

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

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

1 (iii) Fifty cents must be deposited into the aquatic invasive
2 species enforcement account created in RCW 43.43.400; and

3 (iv) Two dollars must be deposited in the derelict vessel removal
4 account created in RCW 79.100.100.

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

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

17 (a) Is to address the significant backlog of derelict vessels
18 accumulated in Washington state waters that pose a threat to the health
19 and safety of the people and to the environment;

20 (b) Is to be used only for the removal of vessels that are less
21 than seventy-five feet in length; and

22 (c) Must be deposited into the derelict vessel removal account
23 created in RCW 79.100.100.

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

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

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

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

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

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

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

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

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

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

15 **VESSEL TURN-IN PROGRAM**

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

18 (1) The department shall develop and administer a vessel turn-in
19 program.

20 (2) The purpose of the vessel turn-in program is to allow the
21 department to dismantle and dispose of vessels that pose a high risk of
22 becoming a derelict vessel or abandoned vessel, but that do not yet
23 meet the definition of those terms. The department shall design the
24 program with the goal of dismantling and disposing of as many vessels
25 as available resources allow, particularly those vessels posing the
26 greatest risk of becoming abandoned or derelict in the future.

27 (3) The department shall disseminate information about the vessel
28 turn-in program, including information about the application process,
29 on its internet site and through appropriate agency publications and
30 information sources as determined by the department. The department
31 shall disseminate this information for a reasonable time as determined
32 by the department prior to accepting applications.

33 (4) The department shall accept and review vessel turn-in program
34 applications from eligible vessel owners, including private marinas
35 that have gained title to a vessel in an advanced state of disrepair
36 according to the provisions in chapter 88.26 RCW, during the period or

1 periods identified by the department. In order to be eligible for the
2 vessel turn-in program, an applicant must demonstrate to the
3 department's satisfaction that the applicant:

4 (a) Is a Washington state resident or business;

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

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

10 (5) Decisions regarding program eligibility and whether to accept
11 a vessel for dismantling and disposal under the turn-in program are
12 within the discretion of the department.

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

16 (7) In compliance with RCW 43.01.036, the department must provide
17 a brief summary of the vessel turn-in program to the appropriate
18 committees of the senate and house of representatives by September 1,
19 2014, including information about applications for the program, the
20 vessels disposed of, and any recommendations for modification of the
21 program.

22 **Sec. 4.** RCW 79.100.100 and 2010 c 161 s 1161 are each amended to
23 read as follows:

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

1 department: (a) To reimburse authorized public entities for up to
2 ninety percent of the total reasonable and auditable administrative,
3 removal, disposal, and environmental damage costs of abandoned or
4 derelict vessels when the previous owner is either unknown after a
5 reasonable search effort or insolvent; and (b) subject to the
6 availability of amounts appropriated for this specific purpose, for the
7 vessel turn-in program authorized under section 3 of this act.
8 Reimbursement may not be made unless the department determines that the
9 public entity has made reasonable efforts to identify and locate the
10 party responsible for the vessel, regardless of the title of owner of
11 the vessel. Funds in the account resulting from transfers from the
12 general fund or from the deposit of funds from the watercraft excise
13 tax as provided for under RCW 82.49.030 must be used to reimburse one
14 hundred percent of these costs and should be prioritized for the
15 removal of large vessels. Costs associated with removal and disposal
16 of an abandoned or derelict vessel under the authority granted in RCW
17 53.08.320 also qualify for reimbursement from the derelict vessel
18 removal account. In each biennium, up to twenty percent of the
19 expenditures from the account may be used for administrative expenses
20 of the department of licensing and department of natural resources in
21 implementing this chapter.

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

1 (4) The department must keep all authorized public entities
2 (~~apprized~~) 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) must be satisfied by
6 utilizing the least costly method, including maintaining the
7 information on the department's internet web site, or any other cost-
8 effective method.

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

13 (6) This chapter does not guarantee reimbursement for an authorized
14 public entity. Authorized public entities seeking certainty in
15 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. 5.** 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 dispose of the vessel under subsection (6)
12 of this section or authorize the public sale of the vessel by
13 authorized personnel to the highest and best bidder for cash as
14 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 (6) If a private moorage facility operator determines that a vessel
15 is in a state of advanced deterioration or poses a reasonably imminent
16 threat to human health or safety, including a threat of environmental
17 contamination, the operator may permanently dispose of the vessel by
18 landfill, deconstruction, or other related method.

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

23 **Sec. 6.** RCW 53.08.320 and 2011 c 247 s 3 are each amended to read
24 as follows:

25 A moorage facility operator may adopt all rules necessary for
26 rental and use of moorage facilities and for the expeditious collection
27 of port charges. The rules may also establish procedures for the
28 enforcement of these rules by port district, city, county, metropolitan
29 park district or town personnel. The rules shall include the
30 following:

31 (1) Procedures authorizing moorage facility personnel to take
32 reasonable measures, including the use of chains, ropes, and locks, or
33 removal from the water, to secure vessels within the moorage facility
34 so that the vessels are in the possession and control of the moorage
35 facility operator and cannot be removed from the moorage facility.
36 These procedures may be used if an owner mooring or storing a vessel at
37 the moorage facility fails, after being notified that charges are owing

1 and of the owner's right to commence legal proceedings to contest that
2 such charges are owing, to pay the port charges owed or to commence
3 legal proceedings. Notification shall be by registered mail to the
4 owner at his or her last known address. In the case of a transient
5 vessel, or where no address was furnished by the owner, the moorage
6 facility operator need not give such notice prior to securing the
7 vessel. At the time of securing the vessel, an authorized moorage
8 facility employee shall attach to the vessel a readily visible notice.
9 The notice shall be of a reasonable size and shall contain the
10 following information:

- 11 (a) The date and time the notice was attached;
- 12 (b) A statement that if the account is not paid in full within
13 ninety days from the time the notice is attached, the vessel may be
14 sold at public auction to satisfy the port charges; and
- 15 (c) The address and telephone number where additional information
16 may be obtained concerning release of the vessel.

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

20 (2) Procedures authorizing moorage facility personnel at their
21 discretion to move moored vessels ashore for storage within properties
22 under the operator's control or for storage with private persons under
23 their control as bailees of the moorage facility, if the vessel is, in
24 the opinion of port personnel a nuisance, if the vessel is in danger of
25 sinking or creating other damage, or is owing port charges. Costs of
26 any such procedure shall be paid by the vessel's owner. If the owner
27 is not known, or unable to reimburse the moorage facility operator for
28 the costs of these procedures, the mooring facility operators may seek
29 reimbursement of ninety percent of all reasonable and auditable costs,
30 including costs from permanent disposal under subsection (6) of this
31 section, from the derelict vessel removal account established in RCW
32 79.100.100. The moorage facility operator or the department of natural
33 resources may pursue reimbursement from the owner for the costs
34 associated with execution of this section.

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

1 (a) Making arrangements satisfactory with the moorage facility
2 operator for the immediate removal of the vessel from the moorage
3 facility or for authorized moorage; and

4 (b) Making payment to the moorage facility operator of all port
5 charges, or by posting with the moorage facility operator a sufficient
6 cash bond or other acceptable security, to be held in trust by the
7 moorage facility operator pending written agreement of the parties with
8 respect to payment by the vessel owner of the amount owing, or pending
9 resolution of the matter of the charges in a civil action in a court of
10 competent jurisdiction. After entry of judgment, including any
11 appeals, in a court of competent jurisdiction, or after the parties
12 reach agreement with respect to payment, the trust shall terminate and
13 the moorage facility operator shall receive so much of the bond or
14 other security as is agreed, or as is necessary to satisfy any
15 judgment, costs, and interest as may be awarded to the moorage facility
16 operator. The balance shall be refunded immediately to the owner at
17 his or her last known address.

18 (4) If a vessel has been secured by the moorage facility operator
19 under subsection (1) of this section and is not released to the owner
20 under the bonding provisions of this section within ninety days after
21 notifying or attempting to notify the owner under subsection (1) of
22 this section, the vessel shall be conclusively presumed to have been
23 abandoned by the owner.

24 (5) If a vessel moored or stored at a moorage facility is
25 abandoned, the moorage facility operator may, after the review required
26 under subsection (6) of this section and by resolution of its
27 legislative authority, authorize the public sale of the vessel by
28 authorized personnel to the highest and best bidder for cash as
29 prescribed by this subsection (5). Either a minimum bid may be
30 established or a letter of credit may be required, or both, to
31 discourage the future reabandonment of the vessel.

32 (a) Before the vessel is sold, the owner of the vessel shall be
33 given at least twenty days' notice of the sale in the manner set forth
34 in subsection (1) of this section if the name and address of the owner
35 is known. The notice shall contain the time and place of the sale, a
36 reasonable description of the vessel to be sold, and the amount of port
37 charges owed with respect to the vessel. The notice of sale shall be
38 published at least once, more than ten but not more than twenty days

1 before the sale, in a newspaper of general circulation in the county in
2 which the moorage facility is located. Such notice shall include the
3 name of the vessel, if any, the last known owner and address, and a
4 reasonable description of the vessel to be sold. The moorage facility
5 operator may bid all or part of its port charges at the sale and may
6 become a purchaser at the sale.

7 (b) Before the vessel is sold, any person seeking to redeem an
8 impounded vessel under this section may commence a lawsuit in the
9 superior court for the county in which the vessel was impounded to
10 contest the validity of the impoundment or the amount of the port
11 charges owing. Such lawsuit must be commenced within ten days of the
12 date the notification was provided pursuant to subsection (1) of this
13 section, or the right to a hearing shall be deemed waived and the owner
14 shall be liable for any port charges owing the moorage facility
15 operator. In the event of litigation, the prevailing party shall be
16 entitled to reasonable attorneys' fees and costs.

17 (c) The proceeds of a sale under this section shall first be
18 applied to the payment of port charges. The balance, if any, shall be
19 paid to the owner. If the owner cannot in the exercise of due
20 diligence be located by the moorage facility operator within one year
21 of the date of the sale, the excess funds from the sale shall revert to
22 the derelict vessel removal account established in RCW 79.100.100. If
23 the sale is for a sum less than the applicable port charges, the
24 moorage facility operator is entitled to assert a claim for a
25 deficiency.

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

30 (6)(a) Prior to a public sale under subsection (5) of this section,
31 the moorage facility operator shall conduct a thorough review of the
32 physical condition of the vessel, the vessel's operating capability,
33 and any containers and other materials that are not fixed to the
34 vessel.

35 (b) If the moorage facility operator determines that the vessel is
36 in a state of advanced deterioration or poses a reasonably imminent
37 threat to human health or safety, including a threat of environmental
38 contamination, the operator may: (i) Not transfer the vessel until the

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

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

7 **Sec. 7.** RCW 79A.65.020 and 2002 c 286 s 21 are each amended to
8 read as follows:

9 (1) The commission may take reasonable measures, including but not
10 limited to the use of anchors, chains, ropes, and locks, or removal
11 from the water, to secure unauthorized vessels located at or on a
12 commission facility so that the unauthorized vessels are in the
13 possession and control of the commission. At least ten days before
14 securing any unauthorized registered vessel, the commission shall send
15 notification by registered mail to the last registered owner or
16 registered owners of the vessel at their last known address or
17 addresses.

18 (2) The commission may take reasonable measures, including but not
19 limited to the use of anchors, chains, ropes, locks, or removal from
20 the water, to secure any vessel if the vessel, in the opinion of the
21 commission, is a nuisance, is in danger of sinking or creating other
22 damage to a commission facility, or is otherwise a threat to the
23 health, safety, or welfare of the public or environment at a commission
24 facility. The costs of any such procedure shall be paid by the
25 vessel's owner.

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

- 32 (a) The date and time the notice was attached or posted;
- 33 (b) A statement that the vessel has been secured by the commission
34 and that if the commission's charges, if any, are not paid and the
35 vessel is not removed by (the thirty-fifth consecutive day
36 following the date of attachment or posting of the notice), the vessel

1 will be considered abandoned and will be sold at public auction to
2 satisfy the charges;

3 (c) The address and telephone number where additional information
4 may be obtained concerning the securing of the vessel and conditions
5 for its release; and

6 (d) A description of the owner's or secured party's rights under
7 this chapter.

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

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

15 (a) Making arrangements satisfactory to the commission for the
16 immediate removal of the vessel from the commission's control or for
17 authorized storage or moorage; and

18 (b) Making payment to the commission of all reasonable charges
19 incurred by the commission in securing the vessel under subsections (1)
20 and (2) of this section and of all moorage fees owed to the commission.

21 (6) A vessel is considered abandoned if, within the thirty-five day
22 period following the date of attachment or posting of notice in
23 subsection (3) of this section, the vessel has not been claimed under
24 subsection (5) of this section.

25 (7) If the owner or owners of a vessel are unable to reimburse the
26 commission for all reasonable charges under subsections (1) and (2) of
27 this section within a reasonable time, the commission may seek
28 reimbursement of (~~seventy-five~~) ninety percent of all reasonable and
29 auditable costs from the derelict vessel removal account established in
30 RCW 79.100.100, including the costs of permanent disposal under RCW
31 79A.65.030(6). If reimbursement is sought under this section, the
32 commission or the department of natural resources may pursue
33 reimbursement from the owner for the costs associated with execution of
34 this section.

35 **Sec. 8.** RCW 79A.65.030 and 2002 c 286 s 22 are each amended to
36 read as follows:

37 (1) The commission may, after the review required under subsection

1 (6) of this section, provide for the public sale of vessels considered
2 abandoned under RCW 79A.65.020. At such sales, the vessels shall be
3 sold for cash to the highest and best bidder. The commission may
4 establish either a minimum bid or require a letter of credit, or both,
5 to discourage the future reabandonment of the vessel.

6 (2) Before a vessel is sold, the commission shall make a reasonable
7 effort to provide notice of sale, at least twenty days before the day
8 of the sale, to each registered owner of a registered vessel and each
9 owner of an unregistered vessel. The notice shall contain the time and
10 place of the sale, a reasonable description of the vessel to be sold,
11 and the amount of charges then owing with respect to the vessel, and a
12 summary of the rights and procedures under this chapter. A notice of
13 sale shall be published at least once, more than ten but not more than
14 twenty days before the sale, in a newspaper of general circulation in
15 the county in which the commission facility is located. This notice
16 shall include: (a) If known, the name of the vessel and the last owner
17 and the owner's address; and (b) a reasonable description of the
18 vessel. The commission may bid all or part of its charges at the sale
19 and may become a purchaser at the sale.

20 (3) Before a vessel is sold, any person seeking to redeem a secured
21 vessel may commence a lawsuit in the superior court for the county in
22 which the vessel was secured to contest the commission's decision to
23 secure the vessel or the amount of charges owing. This lawsuit shall
24 be commenced within fifteen days of the date the notification was
25 posted under RCW 79A.65.020(3), or the right to a hearing is deemed
26 waived and the owner is liable for any charges owing the commission.
27 In the event of litigation, the prevailing party is entitled to
28 reasonable attorneys' fees and costs.

29 (4) The proceeds of a sale under this section shall be applied
30 first to the payment of the amount of the reasonable charges incurred
31 by the commission and moorage fees owed to the commission, then to the
32 owner or to satisfy any liens of record or security interests of record
33 on the vessel in the order of their priority. If an owner cannot in
34 the exercise of due diligence be located by the commission within one
35 year of the date of the sale, any excess funds from the sale, following
36 the satisfaction of any bona fide security interest, shall revert to
37 the derelict vessel removal account established in RCW 79.100.100. If
38 the sale is for a sum less than the applicable charges, the commission

1 is entitled to assert a claim for the deficiency against the vessel
2 owner. Nothing in this section prevents any lien holder or secured
3 party from asserting a claim for any deficiency owed the lien holder or
4 secured party.

5 (5) If no one purchases the vessel at a sale, the commission may
6 proceed to properly dispose of the vessel in any way the commission
7 considers appropriate, including, but not limited to, destruction of
8 the vessel or by negotiated sale. The commission may assert a claim
9 against the owner for any charges incurred thereby. If the vessel, or
10 any part of the vessel, or any rights to the vessel, are sold under
11 this subsection, any proceeds from the sale shall be distributed in the
12 manner provided in subsection (4) of this section.

13 (6)(a) Prior to a public sale under this section, the commission
14 shall conduct a thorough review of the physical condition of the
15 vessel, the vessel's operating capability, and any containers and other
16 materials that are not fixed to the vessel.

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

24 **Sec. 9.** RCW 79.100.130 and 2011 c 247 s 2 are each amended to read
25 as follows:

26 A marina owner may contract with a local government for the purpose
27 of participating in the derelict vessel removal program. The local
28 government shall serve as the authorized public entity for the removal
29 of the derelict or abandoned vessel from the marina owner's property.
30 The contract must provide for the marina owner to be financially
31 responsible for the removal and disposal costs that are not reimbursed
32 by the department as provided under RCW 79.100.100, and any additional
33 reasonable administrative costs incurred by the local government during
34 the removal of the derelict or abandoned vessel. Prior to the
35 commencement of any removal which will seek reimbursement from the
36 derelict vessel removal program, the contract and the proposed vessel
37 removal shall be submitted to the department for review and approval.

1 The local government shall use the procedure specified under RCW
2 79.100.100(6). If the marina owner has already seized the vessel under
3 chapter 88.26 RCW and title has reverted to the moorage facility, the
4 moorage facility will not be considered the owner under this chapter
5 for purposes of cost recovery for actions taken under this section.

6 **TRANSFER OF PUBLICLY OWNED VESSELS**

7 **Sec. 10.** RCW 43.19.1919 and 2011 1st sp.s. c 43 s 215 are each
8 amended to read as follows:

9 The department shall sell or exchange personal property belonging
10 to the state for which the agency, office, department, or educational
11 institution having custody thereof has no further use, at public or
12 private sale, and cause the moneys realized from the sale of any such
13 property to be paid into the fund from which such property was
14 purchased or, if such fund no longer exists, into the state general
15 fund. This requirement is subject to the following exceptions and
16 limitations:

17 (1) This section does not apply to property under RCW 27.53.045,
18 28A.335.180, or 43.19.1920;

19 (2) Sales of capital assets may be made by the department and a
20 credit established for future purchases of capital items as provided
21 for in RCW 43.19.190 through 43.19.1939;

22 (3) Personal property, excess to a state agency, including
23 educational institutions, shall not be sold or disposed of prior to
24 reasonable efforts by the department to determine if other state
25 agencies have a requirement for such personal property. Such
26 determination shall follow sufficient notice to all state agencies to
27 allow adequate time for them to make their needs known. Surplus items
28 may be disposed of without prior notification to state agencies if it
29 is determined by the director to be in the best interest of the state.
30 The department shall maintain a record of disposed surplus property,
31 including date and method of disposal, identity of any recipient, and
32 approximate value of the property;

33 (4) This section does not apply to personal property acquired by a
34 state organization under federal grants and contracts if in conflict
35 with special title provisions contained in such grants or contracts;

1 (5) A state agency having a surplus personal property asset with a
2 fair market value of less than five hundred dollars may transfer the
3 asset to another state agency without charging fair market value. A
4 state agency conducting this action must maintain adequate records to
5 comply with agency inventory procedures and state audit requirements;

6 (6) This section does not apply to a vessel in a state of advanced
7 deterioration or that poses a reasonably imminent threat to human
8 health or safety, including a threat of environmental contamination,
9 and that is disposed of by landfill, deconstruction, or other means
10 under this act.

11 NEW SECTION. Sec. 11. A new section is added to chapter 79.100
12 RCW to read as follows:

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

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

24 NEW SECTION. Sec. 12. A new section is added to chapter 79.100
25 RCW to read as follows:

26 (1) Following the inspection required under section 11 of this act
27 and prior to transferring ownership of a department-owned vessel, the
28 department shall obtain the following from the transferee:

29 (a) The purposes for which the transferee intends to use the
30 vessel; and

31 (b) Information demonstrating proof of legal moorage following the
32 transfer, in the manner determined by the department.

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

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

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

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

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

11 (3) The department shall provide notice of the vessel transfer to
12 the departments of licensing and revenue.

13 NEW SECTION. **Sec. 13.** A new section is added to chapter 77.12 RCW
14 to read as follows:

15 (1) Prior to transferring ownership of a department-owned vessel,
16 the department 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 department determines that 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 the department may: (a) Not transfer the vessel until the conditions
23 identified under this subsection have been corrected; or (b)
24 permanently dispose of the vessel by landfill, deconstruction, or other
25 related method.

26 NEW SECTION. **Sec. 14.** A new section is added to chapter 77.12 RCW
27 to read as follows:

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

31 (a) The purposes for which the transferee intends to use the
32 vessel; and

33 (b) Information demonstrating proof of legal moorage following the
34 transfer, in the manner determined by the department.

35 (2)(a) The department shall remove any containers or other

1 materials that are not fixed to the vessel and contain hazardous
2 substances, as defined under RCW 70.105D.020.

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

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

8 (ii) A reasonable amount of fuel as determined by the department,
9 based on factors including the vessel's size, condition, and
10 anticipated use of the vessel, including initial destination following
11 transfer.

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

14 (3) The department shall provide notice of the vessel transfer to
15 the departments of natural resources, licensing, and revenue.

16 NEW SECTION. **Sec. 15.** A new section is added to chapter 79A.05
17 RCW to read as follows:

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

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

29 NEW SECTION. **Sec. 16.** A new section is added to chapter 79A.05
30 RCW to read as follows:

31 (1) Following the inspection required under section 15 of this act
32 and prior to transferring ownership of a commission-owned vessel, the
33 commission shall obtain the following from the transferee:

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

1 (b) Information demonstrating proof of legal moorage following the
2 transfer, in the manner determined 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) The commission shall provide notice of the vessel transfer to
18 the departments of natural resources, licensing, and revenue.

19 NEW SECTION. **Sec. 17.** A new section is added to chapter 47.01 RCW
20 to read as follows:

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

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

32 NEW SECTION. **Sec. 18.** A new section is added to chapter 47.01 RCW
33 to read as follows:

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

1 (a) The purposes for which the transferee intends to use the
2 vessel; and

3 (b) Information demonstrating proof of legal moorage following the
4 transfer, in the manner determined by the department.

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

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

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

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

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

19 (3) The department shall provide notice of the vessel transfer to
20 the departments of natural resources, licensing, and revenue.

21 NEW SECTION. **Sec. 19.** A new section is added to chapter 35.21 RCW
22 to read as follows:

23 (1) Prior to transferring ownership of a city or town-owned vessel,
24 the city or town 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 city or town 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 city or town 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. 20.** A new section is added to chapter 35.21 RCW
35 to read as follows:

1 (1) Following the inspection required under section 19 of this act
2 and prior to transferring ownership of a city or town-owned vessel, a
3 city or town 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 proof of legal moorage following the
7 transfer, in the manner determined by the city or town.

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

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

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

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

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

22 (3) The city or town shall provide notice of the vessel transfer to
23 the departments of natural resources, licensing, and revenue.

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

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

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

1 NEW SECTION. **Sec. 22.** A new section is added to chapter 35A.21
2 RCW to read as follows:

3 (1) Following the inspection required under section 21 of this act
4 and prior to transferring ownership of a code city-owned vessel, a code
5 city shall obtain the following from the transferee:

6 (a) The purposes for which the transferee intends to use the
7 vessel; and

8 (b) Information demonstrating proof of legal moorage following the
9 transfer, in the manner determined by the code city.

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

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

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

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

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

24 (3) The code city shall provide notice of the vessel transfer to
25 the departments of natural resources, licensing, and revenue.

26 NEW SECTION. **Sec. 23.** A new section is added to chapter 36.32 RCW
27 to read as follows:

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

32 (2) If the county determines that the vessel is in a state of
33 advanced deterioration or poses a reasonably imminent threat to human
34 health or safety, including a threat of environmental contamination,
35 the county may: (a) Not transfer the vessel until the conditions
36 identified under this subsection have been corrected; or (b)

1 permanently dispose of the vessel by landfill, deconstruction, or other
2 related method.

3 NEW SECTION. **Sec. 24.** A new section is added to chapter 36.32 RCW
4 to read as follows:

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

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

10 (b) Information demonstrating proof of legal moorage following the
11 transfer, in the manner determined by the county.

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

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

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

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

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

25 (3) The county shall provide notice of the vessel transfer to the
26 departments of natural resources, licensing, and revenue.

27 NEW SECTION. **Sec. 25.** A new section is added to chapter 53.08 RCW
28 to read as follows:

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

34 (2) If the port district determines that the vessel is in a state
35 of advanced deterioration or poses a reasonably imminent threat to
36 human health or safety, including a threat of environmental

1 contamination, the port district may: (a) Not transfer the vessel
2 until the conditions identified under this subsection have been
3 corrected; or (b) permanently dispose of the vessel by landfill,
4 deconstruction, or other related method.

5 NEW SECTION. **Sec. 26.** A new section is added to chapter 53.08 RCW
6 to read as follows:

7 (1) Following the inspection required under section 25 of this act
8 and prior to transferring ownership of a port district-owned vessel, a
9 port district shall obtain the following from the transferee:

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

12 (b) Information demonstrating proof of legal moorage following the
13 transfer, in the manner determined by the port district.

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

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

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

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

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

28 (3) The port district shall provide notice of the vessel transfer
29 to the departments of natural resources, licensing, and revenue.

30 **DERELICT VESSEL REMOVAL ACCOUNT PRIORITIES**

31 NEW SECTION. **Sec. 27.** (1) The department of natural resource must
32 reevaluate the criteria developed under RCW 79.100.100 regarding the
33 prioritization of vessel removals funded by the derelict vessel removal
34 account. This reprioritization process must occur by January 30, 2014,

1 and consider how vessels located in sensitive areas should be
2 prioritized.

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

4 **ENFORCEMENT**

5 **Sec. 28.** RCW 88.02.380 and 2010 c 161 s 1006 are each amended to
6 read as follows:

7 (1) Except as otherwise provided in this chapter, a violation of
8 this chapter and the rules adopted by the department is a ~~((misdemeanor~~
9 ~~punishable only by a fine not to exceed one hundred dollars per vessel~~
10 ~~for the first violation. Subsequent violations in the same year are~~
11 ~~subject to the following fines:~~

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

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

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

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

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

29 **Sec. 29.** RCW 88.02.340 and 2010 c 161 s 1004 are each amended to
30 read as follows:

31 (1) Any person charged with the enforcement of this chapter may
32 inspect the registration certificate of a vessel to ascertain the legal
33 and registered ownership of the vessel. ~~((A vessel owner or operator~~
34 ~~who fails to provide the registration certificate for inspection upon~~

1 ~~the request of any person charged with enforcement of this chapter is~~
2 ~~a class 2 civil infraction.))~~

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

8 **Sec. 30.** RCW 88.02.550 and 2010 c 161 s 1017 are each amended to
9 read as follows:

10 (1) Except as provided in this chapter, a person may not own or
11 operate any vessel, including a rented vessel, on the waters of this
12 state unless the vessel has been registered and displays a registration
13 number and a valid decal in accordance with this chapter. A vessel
14 that has or is required to have a valid marine document as a vessel of
15 the United States is only required to display a valid decal. (~~A~~
16 ~~violation of this section is a class 2 civil infraction.))~~

17 (2) A vessel numbered in this state under the federal boat safety
18 act of 1971 (85 Stat. 213, 46 U.S.C. 4301 et seq.) is not required to
19 be registered under this chapter until the certificate of number issued
20 for the vessel under the federal boat safety act expires. When
21 registering under this chapter, this type of vessel is subject to the
22 amount of excise tax due under chapter 82.49 RCW that would have been
23 due under chapter 82.49 RCW if the vessel had been registered at the
24 time otherwise required under this chapter.

25 **Sec. 31.** RCW 79.100.120 and 2010 c 210 s 34 are each amended to
26 read as follows:

27 (1) A person seeking to contest an authorized public entity's
28 decision to take temporary possession or custody of a vessel under this
29 chapter, or to contest the amount of reimbursement owed to an
30 authorized public entity under this chapter, may request a hearing in
31 accordance with this section.

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

1 ~~acquires custody of the vessel under RCW 79.100.040, or if the vessel~~
2 ~~is redeemed before the authorized public entity acquires custody, the~~
3 ~~date of redemption, or the right to a hearing is deemed waived and the~~
4 ~~vessel's owner is liable for any costs owed the authorized public~~
5 ~~entity. In the event of litigation, the prevailing party is entitled~~
6 ~~to reasonable attorneys' fees and costs)) metropolitan park district,~~
7 ~~port district, city, town, or county, which has adopted rules or~~
8 ~~procedures for contesting decisions or actions pertaining to derelict~~
9 ~~or abandoned vessels, those rules or procedures must be followed in~~
10 ~~order to contest a decision to take temporary possession or custody of~~
11 ~~a vessel or to contest the amount of reimbursement owed.~~

12 (b) (~~Upon receipt of a timely hearing request, the pollution~~
13 ~~control hearings board shall proceed to hear and determine the validity~~
14 ~~of the decision to take the vessel into temporary possession or custody~~
15 ~~and the reasonableness of any towing, storage, or other charges~~
16 ~~permitted under this chapter. Within five business days after the~~
17 ~~request for a hearing is filed, the pollution control hearings board~~
18 ~~shall notify the vessel owner requesting the hearing and the authorized~~
19 ~~public entity of the date, time, and location for the hearing. Unless~~
20 ~~the vessel is redeemed before the request for hearing is filed, the~~
21 ~~pollution control hearings board shall set the hearing on a date that~~
22 ~~is within ten business days of the filing of the request for hearing.~~
23 ~~If the vessel is redeemed before the request for a hearing is filed,~~
24 ~~the pollution control hearings board shall set the hearing on a date~~
25 ~~that is within sixty days of the filing of the request for hearing. A~~
26 ~~proceeding brought under this subsection may be heard by one member of~~
27 ~~the pollution control hearings board, whose decision is the final~~
28 ~~decision of the board.)) If the metropolitan park district, port~~
29 ~~district, city, town, or county has not adopted rules or procedures for~~
30 ~~contesting decisions or actions pertaining to derelict or abandoned~~
31 ~~vessels, then a person requesting a hearing under this section must~~
32 ~~follow the procedure established in subsection (3) of this section.~~

33 (3)(a) (~~If the contested decision or action was undertaken by a~~
34 ~~metropolitan park district, port district, city, town, or county, which~~
35 ~~has adopted rules or procedures for contesting decisions or actions~~
36 ~~pertaining to derelict or abandoned vessels, those rules or procedures~~
37 ~~must be followed in order to contest a decision to take temporary~~
38 ~~possession or custody of a vessel, or to contest the amount of~~

1 ~~reimbursement owed.~~) If the contested decision or action was
2 undertaken by a state agency or an agency described in subsection
3 (2)(b) of this section, a written request for a hearing related to the
4 decision or action must be filed with the pollution control hearings
5 board and served on the agency in accordance with RCW 43.21B.230 (2)
6 and (3) within thirty days of the date: (i) The authorized public
7 entity acquires custody of the vessel under RCW 79.100.040, if the
8 vessel has not been redeemed; or (ii) of redemption, if the vessel is
9 redeemed before the authorized public entity acquires custody. If no
10 request is filed within thirty days, the right to a hearing is deemed
11 waived and the vessel's owner is liable for any costs owed the
12 authorized public entity. In the event of litigation, the prevailing
13 party is entitled to reasonable attorneys' fees and costs.

14 (b) ~~((If the metropolitan park district, port district, city, town,~~
15 ~~or county has not adopted rules or procedures for contesting decisions~~
16 ~~or actions pertaining to derelict or abandoned vessels, then a person~~
17 ~~requesting a hearing under this section must follow the procedure~~
18 ~~established in RCW 53.08.320(5) for contesting the decisions or actions~~
19 ~~of moorage facility operators.)) Upon receipt of a timely hearing
20 request, the pollution control hearings board shall proceed to hear and
21 determine the validity of the decision to take the vessel into
22 temporary possession or custody, and the reasonableness of any towing,
23 storage, or other charges permitted under this chapter. Within five
24 business days after the request for a hearing is filed, the pollution
25 control hearings board shall notify the vessel owner requesting the
26 hearing and the authorized public entity of the date, time, and
27 location for the hearing. Unless the vessel is redeemed before the
28 request for hearing is filed, the pollution control hearings board
29 shall set the hearing on a date that is within ten business days of the
30 filing of the request for hearing. If the vessel is redeemed before
31 the request for a hearing is filed, the pollution control hearings
32 board shall set the hearing on a date that is within sixty days of the
33 filing of the request for hearing. A proceeding brought under this
34 subsection may be heard by one member of the pollution control hearings
35 board, whose decision is the final decision of the board.~~

36 **Sec. 32.** RCW 43.21B.110 and 2010 c 210 s 7 and 2010 c 84 s 2 are
37 each reenacted and amended to read as follows:

1 (1) The hearings board shall only have jurisdiction to hear and
2 decide appeals from the following decisions of the department, the
3 director, local conservation districts, the air pollution control
4 boards or authorities as established pursuant to chapter 70.94 RCW,
5 local health departments, the department of natural resources, the
6 department of fish and wildlife, ~~((and))~~ the parks and recreation
7 commission, and authorized public entities described in chapter 79.100
8 RCW:

9 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
10 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
11 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

12 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
13 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
14 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

17 (d) Except as provided in RCW 90.03.210(2), the issuance,
18 modification, or termination of any permit, certificate, or license by
19 the department or any air authority in the exercise of its
20 jurisdiction, including the issuance or termination of a waste disposal
21 permit, the denial of an application for a waste disposal permit, the
22 modification of the conditions or the terms of a waste disposal permit,
23 or a decision to approve or deny an application for a solid waste
24 permit exemption under RCW 70.95.300.

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

27 (f) Decisions of local health departments regarding the issuance
28 and enforcement of permits to use or dispose of biosolids under RCW
29 70.95J.080.

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

33 (h) Decisions of local conservation districts related to the denial
34 of approval or denial of certification of a dairy nutrient management
35 plan; conditions contained in a plan; application of any dairy nutrient
36 management practices, standards, methods, and technologies to a
37 particular dairy farm; and failure to adhere to the plan review and
38 approval timelines in RCW 90.64.026.

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

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

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

10 (l) Decisions of the department of fish and wildlife to issue,
11 deny, condition, or modify a hydraulic project approval permit under
12 chapter 77.55 RCW.

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

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

19 (2) The following hearings shall not be conducted by the hearings
20 board:

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

23 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
24 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

25 (c) Appeals of decisions by the department under RCW 90.03.110 and
26 90.44.220.

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

29 (~~(e) Appeals of decisions by the department as provided in chapter~~
30 ~~43.21B RCW.~~)

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

34 **Sec. 33.** RCW 43.21B.110 and 2010 c 210 s 8 and 2010 c 84 s 3 are
35 each reenacted and amended to read as follows:

36 (1) The hearings board shall only have jurisdiction to hear and
37 decide appeals from the following decisions of the department, the

1 director, local conservation districts, the air pollution control
2 boards or authorities as established pursuant to chapter 70.94 RCW,
3 local health departments, the department of natural resources, the
4 department of fish and wildlife, (~~and~~) the parks and recreation
5 commission, and authorized public entities described in chapter 79.100
6 RCW:

7 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
8 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
9 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

10 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
11 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
12 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

13 (c) Except as provided in RCW 90.03.210(2), the issuance,
14 modification, or termination of any permit, certificate, or license by
15 the department or any air authority in the exercise of its
16 jurisdiction, including the issuance or termination of a waste disposal
17 permit, the denial of an application for a waste disposal permit, the
18 modification of the conditions or the terms of a waste disposal permit,
19 or a decision to approve or deny an application for a solid waste
20 permit exemption under RCW 70.95.300.

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

23 (e) Decisions of local health departments regarding the issuance
24 and enforcement of permits to use or dispose of biosolids under RCW
25 70.95J.080.

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

29 (g) Decisions of local conservation districts related to the denial
30 of approval or denial of certification of a dairy nutrient management
31 plan; conditions contained in a plan; application of any dairy nutrient
32 management practices, standards, methods, and technologies to a
33 particular dairy farm; and failure to adhere to the plan review and
34 approval timelines in RCW 90.64.026.

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

1 (i) Decisions of the department of natural resources, the
2 department of fish and wildlife, and the department that are reviewable
3 under chapter 76.09 RCW, and the department of natural resources'
4 appeals of county, city, or town objections under RCW 76.09.050(7).

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

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

10 (l) Decisions of the department of natural resources that are
11 reviewable under RCW 78.44.270.

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

16 (2) The following hearings shall not be conducted by the hearings
17 board:

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

20 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
21 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

22 (c) Appeals of decisions by the department under RCW 90.03.110 and
23 90.44.220.

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

26 (~~(e) Appeals of decisions by the department as provided in chapter
27 43.211 RCW.~~)

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

31 VESSEL OWNER ACCOUNTABILITY

32 NEW SECTION. **Sec. 34.** A new section is added to chapter 79.100
33 RCW to read as follows:

34 (1) Beginning July 1, 2015, a vessel owner or operator must be able
35 to demonstrate financial responsibility for any vessel that is:

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

1 (b) Either:
2 (i) Is registered or required to be registered under chapter 88.02
3 RCW; or
4 (ii) Is listed or required to be listed under chapter 84.40 RCW.
5 (2)(a) Where required under subsection (1) of this section, an
6 owner or operator must provide documentation demonstrating financial
7 responsibility upon verbal or written request of the department,
8 department of licensing, department of revenue, department of ecology,
9 or any law enforcement officer.
10 (b) Failure of an owner or operator to demonstrate proof of
11 financial responsibility as required under subsection (1) of this
12 section and this subsection (2) is a violation of RCW 79.100.110.
13 (3) By December 31, 2014, the department shall develop processes
14 and standards establishing:
15 (a) Methods by which a vessel owner may demonstrate financial
16 responsibility; and
17 (b) The amount of financial responsibility that must be
18 demonstrated for vessels based on factors such as vessel type and size.
19 The standards must seek to ensure the existence of sufficient resources
20 for the owner or operator to make a significant financial contribution
21 towards anticipated vessel removal and disposal costs. In determining
22 anticipated vessel removal and disposal costs, the department must
23 consider estimated income from recycled or scrapped vessel materials.
24 (4) The department shall work with the departments of licensing and
25 revenue to develop mechanisms to monitor for compliance with this
26 section through annual vessel listing and registration processes under
27 chapters 84.40 and 88.02 RCW.
28 (5) The department shall work with other appropriate government
29 agencies and stakeholders in designing the financial responsibility
30 requirements under this section.

31 NEW SECTION. **Sec. 35.** A new section is added to chapter 79.100
32 RCW to read as follows:

33 (1) Beginning July 1, 2014, a vessel owner must obtain a vessel
34 inspection under this section prior to transferring a vessel that is:
35 (a) More than sixty-five feet in length and forty years old; and
36 (b) Either:

1 (i) Is registered or required to be registered under chapter 88.02
2 RCW; or

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

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

8 (3) Failure to comply with the requirements of subsections (1) and
9 (2) of this section will result in the transferor having secondary
10 liability if the vessel is later abandoned by the transferee.

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

25 (c) Maximize the efficiency and effectiveness of the inspection
26 process, including with respect to the time and resources of the
27 transferor, transferee, and the state.

28 (5) The department shall work with appropriate government agencies
29 and stakeholders in designing the inspection process and standards
30 under this section.

31 **Sec. 36.** RCW 79.100.110 and 2011 c 247 s 1 are each amended to
32 read as follows:

33 (1) A person who causes a vessel to become abandoned or derelict
34 upon aquatic lands is guilty of a misdemeanor.

35 (2) A person who intentionally, through action or inaction and
36 without the appropriate state, local, or federal authorization, causes

1 a vessel to sink, break up, or block a navigational channel upon
2 aquatic lands is guilty of a misdemeanor.

3 (3) A person who fails to demonstrate financial responsibility for
4 a vessel as required under section 34 of this act is guilty of a
5 misdemeanor. Failure to comply with the requirements of subsections
6 (1) and (2) of this section will result in the transferor having
7 secondary liability if the vessel is later abandoned by the transferee.

8 (4) A person who fails to demonstrate financial responsibility for
9 a vessel as required under section 34 of this act is guilty of a
10 misdemeanor. Failure to comply with the requirements of subsections
11 (1) and (2) of this section will result in the transferor having
12 secondary liability if the vessel is later abandoned by the transferee.

13 NEW SECTION. Sec. 37. Section 32 of this act expires June 30,
14 2019.

15 NEW SECTION. Sec. 38. Section 33 of this act takes effect June
16 30, 2019.

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