
SENATE BILL 6044

State of Washington

60th Legislature

2007 Regular Session

By Senators Rockefeller and Swecker

Read first time 02/15/2007. Referred to Committee on Natural Resources, Ocean & Recreation.

1 AN ACT Relating to derelict vessels; amending RCW 79.100.010,
2 79.100.040, 79.100.100, 90.56.510, 88.02.050, and 88.02.050; adding new
3 sections to chapter 88.02 RCW; creating a new section; providing an
4 effective date; and providing an expiration date.

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

6 **Sec. 1.** RCW 79.100.010 and 2006 c 153 s 2 are each amended to read
7 as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Abandoned vessel" means the vessel's owner is not known or
11 cannot be located, or if the vessel's owner is known and located but is
12 unwilling to take control of the vessel, and the vessel has been left,
13 moored, or anchored in the same area without the express consent, or
14 contrary to the rules, of the owner, manager, or lessee of the aquatic
15 lands below or on which the vessel is located for either a period of
16 more than thirty consecutive days or for more than a total of ninety
17 days in any three hundred sixty-five day period. For the purposes of
18 this subsection (1) only, "in the same area" means within a radius of

1 five miles of any location where the vessel was previously moored or
2 anchored on aquatic lands.

3 (2) "Aquatic lands" means all tidelands, shorelands, harbor areas,
4 and the beds of navigable waters, including lands owned by the state
5 and lands owned by other public or private entities.

6 (3) "Authorized public entity" includes any of the following: The
7 department of natural resources; the department of fish and wildlife;
8 the parks and recreation commission; a metropolitan park district; a
9 port district; and any city, town, or county with ownership,
10 management, or jurisdiction over the aquatic lands where an abandoned
11 or derelict vessel is located.

12 (4) "Department" means the department of natural resources.

13 (5) "Derelict vessel" means the vessel's owner is known and can be
14 located, and exerts control of a vessel that:

15 (a) Has been moored, anchored, or otherwise left in the waters of
16 the state or on public property contrary to RCW 79.02.300 or rules
17 adopted by an authorized public entity;

18 (b) Has been left on private property without authorization of the
19 owner; or

20 (c) Has been left for a period of seven consecutive days, and:

21 (i) Is sunk or in danger of sinking;

22 (ii) Is obstructing a waterway; or

23 (iii) Is endangering life or property.

24 (6) "Owner" means any natural person, firm, partnership,
25 corporation, association, government entity, or organization that has
26 a lawful right to possession of a vessel by purchase, exchange, gift,
27 lease, inheritance, or legal action whether or not the vessel is
28 subject to a security interest.

29 (7) "Vessel" (~~has the same meaning as defined in RCW 53.08.310~~)
30 means any boat or other watercraft, other than a seaplane, that does
31 not exceed two hundred feet in length and is used for navigation on the
32 water. "Vessel" includes any trailer used for the transportation of
33 watercraft and barges.

34 **Sec. 2.** RCW 79.100.040 and 2006 c 153 s 3 are each amended to read
35 as follows:

36 (1) Prior to exercising the authority granted in RCW 79.100.030,

1 the authorized public entity must first obtain custody of the vessel.
2 To do so, the authorized public entity must:

3 (a) Mail notice of its intent to obtain custody, at least twenty
4 days prior to taking custody, to the last known address of the previous
5 owner to register the vessel in any state or with the federal
6 government and to any lien holders or secured interests on record. A
7 notice need not be sent to the purported owner or any other person
8 whose interest in the vessel is not recorded with a state or federal
9 agency;

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

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

18 (2) All notices sent, posted, or published in accordance with this
19 section must, at a minimum, explain the intent of the authorized public
20 entity to take custody of the vessel, the rights of the authorized
21 public entity after taking custody of the vessel as provided in RCW
22 79.100.030, the procedures the owner must follow in order to avoid
23 custody being taken by the authorized public entity, the procedures the
24 owner must follow in order to reclaim possession after custody is taken
25 by the authorized public entity, and the financial liabilities that the
26 owner may incur as provided for in RCW 79.100.060.

27 (3)(a) If a vessel is: (i) In immediate danger of sinking,
28 breaking up, or blocking navigational channels((τ)); or (ii) poses a
29 reasonably imminent threat to human health or safety, including a
30 threat of environmental contamination; and (iii) the owner of the
31 vessel cannot be located or is unwilling or unable to assume immediate
32 responsibility for the vessel, any authorized public entity may tow,
33 beach, or otherwise take temporary possession of the vessel.

34 (b) Before taking temporary possession of the vessel, the
35 authorized public entity must make reasonable attempts to consult with
36 the department or the United States coast guard to ensure that other
37 remedies are not available. The basis for taking temporary possession
38 of the vessel must be set out in writing by the authorized public

1 entity within seven days of taking action and be submitted to the
2 owner, if known, as soon thereafter as is reasonable. If the
3 authorized public entity has not already provided the required notice,
4 immediately after taking possession of the vessel, the authorized
5 public entity must initiate the notice provisions in subsection (1) of
6 this section. The authorized public entity must complete the notice
7 requirements of subsection (1) of this section before using or
8 disposing of the vessel as authorized in RCW 79.100.050.

9 **Sec. 3.** RCW 79.100.100 and 2006 c 153 s 6 are each amended to read
10 as follows:

11 (1) The derelict vessel removal account is created in the state
12 treasury. All receipts from RCW 79.100.050 and 79.100.060 and those
13 moneys specified in RCW 88.02.030 and 88.02.050 must be deposited into
14 the account. The account is authorized to receive fund transfers from
15 the general fund or the state oil spill response account created in RCW
16 90.56.500 as well as gifts, grants, and endowments from public or
17 private sources as may be made from time to time, in trust or
18 otherwise, for the use and benefit of the purposes of this chapter and
19 expend the same or any income according to the terms of the gifts,
20 grants, or endowments provided those terms do not conflict with any
21 provisions of this section or any guidelines developed to prioritize
22 reimbursement of removal projects associated with this chapter. Moneys
23 in the account may only be spent after appropriation. Expenditures
24 from the account shall be used by the department to reimburse
25 authorized public entities for up to ninety percent of the total
26 reasonable and auditable administrative, removal, disposal, and
27 environmental damage costs of abandoned or derelict vessels when the
28 previous owner is either unknown after a reasonable search effort or
29 insolvent. Costs associated with removal and disposal of an abandoned
30 or derelict vessel under the authority granted in RCW 53.08.320 also
31 qualify for reimbursement from the derelict vessel removal account. In
32 each biennium, up to twenty percent of the expenditures from the
33 account may be used for administrative expenses of the department of
34 licensing and department of natural resources in implementing this
35 chapter.

36 (2) If the balance of the account reaches one million dollars as of
37 March 1st of any year, exclusive of any fund transfers from the general

1 fund or the state oil spill prevention account or any deposits in the
2 account from the surcharge created under section 8 of this act, the
3 department must notify the department of licensing and the collection
4 of any fees associated with this account must be suspended for the
5 following fiscal year.

6 (3) Priority for use of this account is for the removal of derelict
7 and abandoned vessels that are in danger of sinking, breaking up, or
8 blocking navigation channels, or that present environmental risks such
9 as leaking fuel or other hazardous substances. The department must
10 develop criteria, in the form of informal guidelines, to prioritize
11 removal projects associated with this chapter, but may not consider
12 whether the applicant is a state or local entity when prioritizing.
13 The guidelines must also include guidance to the authorized public
14 entities as to what removal activities and associated costs are
15 reasonable and eligible for reimbursement.

16 (4) The department must keep all authorized public entities
17 apprized of the balance of the derelict vessel removal account and the
18 funds available for reimbursement. The guidelines developed by the
19 department must also be made available to the other authorized public
20 entities. This subsection (4) must be satisfied by utilizing the least
21 costly method, including maintaining the information on the
22 department's internet web site, or any other cost-effective method.

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

27 (6) This chapter does not guarantee reimbursement for an authorized
28 public entity. Authorized public entities seeking certainty in
29 reimbursement prior to taking action under this chapter may first
30 notify the department of their proposed action and the estimated total
31 costs. Upon notification by an authorized public entity, the
32 department must make the authorized public entity aware of the status
33 of the fund and the likelihood of reimbursement being available. The
34 department may offer technical assistance and assure reimbursement for
35 up to two years following the removal action if an assurance is
36 appropriate given the balance of the fund and the details of the
37 proposed action.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 88.02 RCW
2 to read as follows:

3 (1) A marina that leases permanent moorage to vessels must require
4 the following information from the lessee as a condition of leasing
5 moorage space: (a) The name of the legal owner of the vessel; (b) a
6 local contact person, if different than the owner; (c) the owner's
7 address and telephone number; (d) the vessel's hull identification
8 number; (e) the vessel's coast guard registration, if applicable; (f)
9 the vessel's home port; (g) the date on which the moorage lease began;
10 and (h) the vessel's country or state of registration and registration
11 number. A marina shall maintain records of this information for at
12 least two years. The marina shall permit any authorized agent of the
13 department of natural resources to inspect these records upon request.

14 (2) A marina that leases permanent moorage to vessels must require
15 proof of vessel registration or a written statement of intent to
16 register a vessel as a condition of leasing moorage space. If the
17 applicant's vessel is not registered in this state, the marina must
18 inform the moorage applicant of the state law requiring vessel
19 registration and direct the moorage applicant to the appropriate vessel
20 registration forms. Thereafter, it is the moorage applicant's
21 responsibility to register the vessel.

22 **Sec. 5.** RCW 90.56.510 and 2000 c 69 s 22 are each amended to read
23 as follows:

24 (1) The oil spill prevention account is created in the state
25 treasury. All receipts from RCW 82.23B.020(2) shall be deposited in
26 the account. Moneys from the account may be spent only after
27 appropriation. The account is subject to allotment procedures under
28 chapter 43.88 RCW. If, on the first day of any calendar month, the
29 balance of the oil spill response account is greater than nine million
30 dollars and the balance of the oil spill prevention account exceeds the
31 unexpended appropriation for the current biennium, then the tax under
32 RCW 82.23B.020(2) shall be suspended on the first day of the next
33 calendar month until the beginning of the following biennium, provided
34 that the tax shall not be suspended during the last six months of the
35 biennium. If the tax imposed under RCW 82.23B.020(2) is suspended
36 during two consecutive biennia, the department shall by November 1st
37 after the end of the second biennium, recommend to the appropriate

1 standing committees an adjustment in the tax rate. Beginning June 30,
2 2007, and on the last day of March, June, September, and December of
3 each year thereafter until July 1, 2010, the state treasurer shall
4 transfer five hundred thousand dollars to the derelict vessel removal
5 account created under RCW 79.100.100. For the biennium ending June 30,
6 1999, and the biennium ending June 30, 2001, the state treasurer may
7 transfer a total of up to one million dollars from the oil spill
8 response account to the oil spill prevention account to support
9 appropriations made from the oil spill prevention account in the
10 omnibus appropriations act adopted not later than June 30, 1999.

11 (2) Expenditures from the oil spill prevention account shall be
12 used exclusively for the administrative costs related to the purposes
13 of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Starting
14 with the 1995-1997 biennium, the legislature shall give activities of
15 state agencies related to prevention of oil spills priority in funding
16 from the oil spill prevention account. Costs of prevention include the
17 costs of:

- 18 (a) Routine responses not covered under RCW 90.56.500;
- 19 (b) Management and staff development activities;
- 20 (c) Development of rules and policies and the statewide plan
21 provided for in RCW 90.56.060;
- 22 (d) Facility and vessel plan review and approval, drills,
23 inspections, investigations, enforcement, and litigation;
- 24 (e) Interagency coordination and public outreach and education;
- 25 (f) Collection and administration of the tax provided for in
26 chapter 82.23B RCW; and
- 27 (g) Appropriate travel, goods and services, contracts, and
28 equipment.

29 **Sec. 6.** RCW 88.02.050 and 2005 c 464 s 2 are each amended to read
30 as follows:

31 (1) Application for a vessel registration shall be made to the
32 department or its authorized agent in the manner and upon forms
33 prescribed by the department. The application shall state the name and
34 address of each owner of the vessel and such other information as may
35 be required by the department, shall be signed by at least one owner,
36 and shall be accompanied by a vessel registration fee of ten dollars

1 and fifty cents per year and the excise tax imposed under chapter 82.49
2 RCW.

3 (2) Five additional dollars must be collected annually from every
4 vessel registration application. These moneys must be distributed in
5 the following manner:

6 (a) Two dollars must be deposited into the derelict vessel removal
7 account established in RCW 79.100.100. If the department of natural
8 resources indicates that the balance of the derelict vessel removal
9 account, not including any transfer of funds into the account or funds
10 deposited into the account collected under section 8 of this act,
11 reaches one million dollars as of March 1st of any year, the collection
12 of the two-dollar fee must be suspended for the following fiscal year.

13 (b) One dollar and fifty cents must be deposited in the aquatic
14 invasive species prevention account created in RCW 77.12.879.

15 (c) One dollar must be deposited into the freshwater aquatic algae
16 control account created in RCW 43.21A.667.

17 (d) Fifty cents must be deposited into the aquatic invasive species
18 enforcement account created in RCW 43.43.400.

19 (3) Any fees required for licensing agents under RCW 46.01.140
20 shall be in addition to the ten dollar and fifty cent annual
21 registration fee and the five-dollar fee created in subsection (2) of
22 this section.

23 (4) Upon receipt of the application and the registration fee, the
24 department shall assign a registration number and issue a decal for
25 each vessel. The registration number and decal shall be issued and
26 affixed to the vessel in a manner prescribed by the department
27 consistent with the standard numbering system for vessels set forth in
28 volume 33, part 174, of the code of federal regulations. A valid decal
29 affixed as prescribed shall indicate compliance with the annual
30 registration requirements of this chapter.

31 (5) The vessel registrations and decals are valid for a period of
32 one year, except that the director of licensing may extend or diminish
33 vessel registration periods, and the decals therefor, for the purpose
34 of staggered renewal periods. For registration periods of more or less
35 than one year, the department may collect prorated annual registration
36 fees and excise taxes based upon the number of months in the
37 registration period. Vessel registrations are renewable every year in
38 a manner prescribed by the department upon payment of the vessel

1 registration fee, excise tax, and the derelict vessel fee. Upon
2 renewing a vessel registration, the department shall issue a new decal
3 to be affixed as prescribed by the department.

4 (6) When the department issues either a notice to renew a vessel
5 registration or a decal for a new or renewed vessel registration, it
6 shall also provide information on the location of marine oil recycling
7 tanks and sewage holding tank pumping stations. This information will
8 be provided to the department by the state parks and recreation
9 commission in a form ready for distribution. The form will be
10 developed and prepared by the state parks and recreation commission
11 with the cooperation of the department of ecology. The department, the
12 state parks and recreation commission, and the department of ecology
13 shall enter into a memorandum of agreement to implement this process.

14 (7) A person acquiring a vessel from a dealer or a vessel already
15 validly registered under this chapter shall, within fifteen days of the
16 acquisition or purchase of the vessel, apply to the department or its
17 authorized agent for transfer of the vessel registration, and the
18 application shall be accompanied by a transfer fee of one dollar.

19 **Sec. 7.** RCW 88.02.050 and 2002 c 286 s 13 are each amended to read
20 as follows:

21 Application for a vessel registration shall be made to the
22 department or its authorized agent in the manner and upon forms
23 prescribed by the department. The application shall state the name and
24 address of each owner of the vessel and such other information as may
25 be required by the department, shall be signed by at least one owner,
26 and shall be accompanied by a vessel registration fee of ten dollars
27 and fifty cents per year and the excise tax imposed under chapter 82.49
28 RCW. In addition, two additional dollars must be collected annually
29 from every vessel registration application. These moneys must be
30 deposited into the derelict vessel removal account established in RCW
31 79.100.100. If the department of natural resources indicates that the
32 balance of the derelict vessel removal account, not including any
33 transfer of funds into the account or funds deposited into the account
34 collected under section 8 of this act, reaches one million dollars as
35 of March 1st of any year, the collection of the two-dollar fee must be
36 suspended for the following fiscal year. Any fees required for

1 licensing agents under RCW 46.01.140 shall be in addition to the ten
2 dollar and fifty cent annual registration fee and the two-dollar
3 derelict vessel fee.

4 Upon receipt of the application and the registration fee, the
5 department shall assign a registration number and issue a decal for
6 each vessel. The registration number and decal shall be issued and
7 affixed to the vessel in a manner prescribed by the department
8 consistent with the standard numbering system for vessels set forth in
9 volume 33, part 174, of the code of federal regulations. A valid decal
10 affixed as prescribed shall indicate compliance with the annual
11 registration requirements of this chapter.

12 The vessel registrations and decals are valid for a period of one
13 year, except that the director of licensing may extend or diminish
14 vessel registration periods, and the decals therefor, for the purpose
15 of staggered renewal periods. For registration periods of more or less
16 than one year, the department may collect prorated annual registration
17 fees and excise taxes based upon the number of months in the
18 registration period. Vessel registrations are renewable every year in
19 a manner prescribed by the department upon payment of the vessel
20 registration fee, excise tax, and the derelict vessel fee. Upon
21 renewing a vessel registration, the department shall issue a new decal
22 to be affixed as prescribed by the department.

23 When the department issues either a notice to renew a vessel
24 registration or a decal for a new or renewed vessel registration, it
25 shall also provide information on the location of marine oil recycling
26 tanks and sewage holding tank pumping stations. This information will
27 be provided to the department by the state parks and recreation
28 commission in a form ready for distribution. The form will be
29 developed and prepared by the state parks and recreation commission
30 with the cooperation of the department of ecology. The department, the
31 state parks and recreation commission, and the department of ecology
32 shall enter into a memorandum of agreement to implement this process.

33 A person acquiring a vessel from a dealer or a vessel already
34 validly registered under this chapter shall, within fifteen days of the
35 acquisition or purchase of the vessel, apply to the department or its
36 authorized agent for transfer of the vessel registration, and the
37 application shall be accompanied by a transfer fee of one dollar.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 88.02 RCW
2 to read as follows:

3 (1) In order to address the significant backlog of derelict vessels
4 that have accumulated in our state's waters that pose a threat to the
5 health and safety of the people and to our environment, the legislature
6 intends to collect a derelict vessel removal surcharge, until the
7 backlog as it exists on the effective date of this section has been
8 eliminated.

9 (2) In addition to the fees collected under RCW 88.02.050, the
10 department shall collect an annual derelict vessel removal surcharge
11 based on the vessel's length from every vessel registration applicant
12 as follows: (a) Two dollars for each vessel with a length greater than
13 twenty-five feet but not longer than fifty feet; (b) four dollars for
14 each vessel with a length greater than fifty feet but not longer than
15 seventy-five feet; (c) six dollars for each vessel with a length
16 greater than seventy-five feet but not longer than one hundred feet;
17 (d) eight dollars for each vessel with a length greater than one
18 hundred feet but not longer than one hundred twenty-five feet; (e) ten
19 dollars for each vessel with a length greater than one hundred twenty-
20 five feet but not longer than one hundred fifty feet; (f) twelve
21 dollars for each vessel with a length greater than one hundred fifty
22 feet but not longer than one hundred seventy-five feet; (g) fourteen
23 dollars for each vessel greater than one hundred seventy-five feet but
24 not longer than two hundred feet; and (h) sixteen dollars for vessels
25 longer than two hundred feet in length. The revenue generated from the
26 derelict vessel surcharge must be deposited into the derelict vessel
27 removal account established under RCW 79.100.100.

28 (3) The department of natural resources shall submit a list that
29 identifies the backlog of derelict vessels as of the effective date of
30 this section to the appropriate policy and fiscal committees of the
31 legislature. Upon completion of the elimination of the backlog, the
32 department of natural resources shall notify the appropriate policy and
33 fiscal committees of the legislature and the department of licensing,
34 in writing, to suspend collection of the surcharge at the end of the
35 fiscal year in which the backlog has been eliminated. Upon receipt of
36 the notice to suspend collection of the surcharge, the department of
37 licensing shall cease collection at the end of the fiscal year in which
38 the notice is received.

1 NEW SECTION. **Sec. 9.** The department of natural resources and the
2 department of revenue shall examine the costs and benefits of extending
3 the derelict vessel removal fees and surcharges to the vessels that are
4 not subject to RCW 88.02.050 in order to provide for more equity in the
5 derelict vessel removal program and the fees that support the program.
6 The departments shall submit a report of the findings to the
7 appropriate policy and fiscal committees of the legislature by November
8 1, 2007.

9 NEW SECTION. **Sec. 10.** Section 6 of this act expires June 30,
10 2012.

11 NEW SECTION. **Sec. 11.** Section 7 of this act takes effect June 30,
12 2012.

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