
SENATE BILL 5663

State of Washington

63rd Legislature

2013 Regular Session

By Senators Pearson, Ranker, Tom, Rolfes, Hewitt, Sheldon, Hatfield, Bailey, Parlette, Kline, and Roach; by request of Department of Natural Resources

Read first time 02/07/13.

1 AN ACT Relating to derelict and abandoned vessels in state waters;
2 amending RCW 88.02.640, 79.100.100, 79A.65.020, 79.100.130, 43.19.1919,
3 28B.10.029, 88.02.380, 88.02.340, 88.02.550, 79.100.120, 90.56.410,
4 79.100.040, 79.100.060, 88.26.020, 53.08.320, 53.08.310, 79A.65.030,
5 79.100.030, and 43.21B.305; reenacting and amending RCW 43.21B.110 and
6 43.21B.110; adding a new section to chapter 43.19 RCW; adding new
7 sections to chapter 43.30 RCW; adding new sections to chapter 77.12
8 RCW; adding new sections to chapter 79A.05 RCW; adding new sections to
9 chapter 47.01 RCW; adding new sections to chapter 35.21 RCW; adding new
10 sections to chapter 35A.21 RCW; adding new sections to chapter 36.32
11 RCW; adding new sections to chapter 53.08 RCW; adding new sections to
12 chapter 43.21A RCW; adding new sections to chapter 28B.10 RCW; adding
13 new sections to chapter 79.100 RCW; creating new sections; prescribing
14 penalties; providing an effective date; and providing expiration dates.

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

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

18 (1) In addition to any other fees and taxes required by law, the

1 department, county auditor or other agent, or subagent appointed by the
2 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (b) Moneys in the account may only be spent after appropriation.
33 Expenditures from the account must be used by the department for
34 developing and administering the vessel turn-in program created in
35 section 46 of this act and to reimburse authorized public entities for
36 up to ninety percent of the total reasonable and auditable
37 administrative, removal, disposal, and environmental damage costs of

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

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

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

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

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

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

36 ~~((4))~~ (3) The department must keep all authorized public entities
37 ~~((apprized))~~ apprized of the balance of the derelict vessel removal
38 account and the funds available for reimbursement. The guidelines

1 developed by the department must also be made available to the other
2 authorized public entities. This subsection ~~((+4))~~ (3) must be
3 satisfied by utilizing the least costly method, including maintaining
4 the information on the department's internet web site, or any other
5 cost-effective method.

6 ~~((+5))~~ (4) An authorized public entity may contribute its ten
7 percent of costs that are not eligible for reimbursement by using in-
8 kind services, including the use of existing staff, equipment, and
9 volunteers.

10 ~~((+6))~~ (5) This chapter does not guarantee reimbursement for an
11 authorized public entity. Authorized public entities seeking certainty
12 in reimbursement prior to taking action under this chapter may first
13 notify the department of their proposed action and the estimated total
14 costs. Upon notification by an authorized public entity, the
15 department must make the authorized public entity aware of the status
16 of the fund and the likelihood of reimbursement being available. The
17 department may offer technical assistance and assure reimbursement for
18 up to two years following the removal action if an assurance is
19 appropriate given the balance of the fund and the details of the
20 proposed action.

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

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

32 (2) The commission may take reasonable measures, including but not
33 limited to the use of anchors, chains, ropes, locks, or removal from
34 the water, to secure any vessel if the vessel, in the opinion of the
35 commission, is a nuisance, is in danger of sinking or creating other
36 damage to a commission facility, or is otherwise a threat to the

1 health, safety, or welfare of the public or environment at a commission
2 facility. The costs of any such procedure shall be paid by the
3 vessel's owner.

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

10 (a) The date and time the notice was attached or posted;

11 (b) A statement that the vessel has been secured by the commission
12 and that if the commission's charges, if any, are not paid and the
13 vessel is not removed by (the thirty-fifth consecutive day
14 following the date of attachment or posting of the notice), the vessel
15 will be considered abandoned and will be sold at public auction to
16 satisfy the charges;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (1) The department shall sell or exchange personal property
34 belonging to the state for which the agency, office, department, or
35 educational institution having custody thereof has no further use, at
36 public or private sale, and cause the moneys realized from the sale of

1 any such property to be paid into the fund from which such property was
2 purchased or, if such fund no longer exists, into the state general
3 fund. This requirement is subject to the following exceptions and
4 limitations:

5 ~~((1))~~ (a) This section does not apply to property under RCW
6 27.53.045, 28A.335.180, or 43.19.1920;

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

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

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

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

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

34 (b) If the department determines that the vessel satisfies the
35 definition of derelict vessel as provided in RCW 79.100.010, the
36 department may: (i) Not transfer the vessel until the conditions
37 identified under this subsection have been corrected; or (ii)

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

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

5 (1) Following the inspection required under section 5 of this act
6 and prior to transferring ownership of a department-owned vessel, the
7 department 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 department.

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

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

16 (i) Those containers or materials described under (a) of this
17 subsection where the transferee demonstrates to the department'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 department,
21 based on factors including the vessel's size, condition, and
22 anticipated use of the vessel, including initial destination following
23 transfer.

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

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

30 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.30 RCW
31 to read as follows:

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

1 (2) If the department determines that the vessel satisfies the
2 definition of derelict vessel as provided in RCW 79.100.010, the
3 department may: (a) Not transfer the vessel until the conditions
4 identified under this subsection have been corrected; or (b)
5 permanently dispose of the vessel by landfill, deconstruction, or other
6 related method.

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

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

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

14 (a) The purposes for which the transferee intends to use the
15 vessel; and

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

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

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

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

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

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

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

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

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

7 (2) If the department determines that the vessel satisfies the
8 definition of derelict vessel as provided in RCW 79.100.010, the
9 department may: (a) Not transfer the vessel until the conditions
10 identified under this subsection have been corrected; or (b)
11 permanently dispose of the vessel by landfill, deconstruction, or other
12 related method.

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

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

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

20 (a) The purposes for which the transferee intends to use the
21 vessel; and

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

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

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

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

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

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

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

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

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

11 (2) If the commission determines the vessel satisfies the
12 definition of derelict vessel as provided in RCW 79.100.010, that the
13 commission may: (a) Not transfer the vessel until the conditions
14 identified under this subsection have been corrected; or (b)
15 permanently dispose of the vessel by landfill, deconstruction, or other
16 related method.

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

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

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

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

26 (b) Information demonstrating proof of legal moorage following the
27 transfer, in the manner determined by the commission.

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

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

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

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

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

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

11 NEW SECTION. **Sec. 13.** A new section is added to chapter 47.01 RCW
12 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 satisfies the
18 definition of derelict vessel as provided in RCW 79.100.010, the
19 department may: (a) Not transfer the vessel until the conditions
20 identified under this subsection have been corrected; or (b)
21 permanently dispose of the vessel by landfill, deconstruction, or other
22 related method.

23 (3) Vessels taken into custody under chapter 79.100 RCW are not
24 subject to this section or section 14 of this act.

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

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

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

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

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

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

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

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

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

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

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

18 (1) Prior to transferring ownership of a city or town-owned vessel,
19 the city or town 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 city or town determines the vessel satisfies the
23 definition of derelict vessel as provided in RCW 79.100.010, the city
24 or town may: (a) Not transfer the vessel until the conditions
25 identified under this subsection have been corrected; or (b)
26 permanently dispose of the vessel by landfill, deconstruction, or other
27 related method.

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

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

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

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

1 (b) Information demonstrating proof of legal moorage following the
2 transfer, in the manner determined by the city or town.

3 (2)(a) The city or town 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 city or town may transfer a vessel with:

7 (i) Those containers or materials described under (a) of this
8 subsection where the transferee demonstrates to the city or town'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 city or town,
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 city or town may consult with the department of ecology in
16 carrying out the requirements of this subsection.

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

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

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

27 (2) If the code city determines that the vessel satisfies the
28 definition of derelict vessel as provided in RCW 79.100.010, the code
29 city may: (a) Not transfer the vessel until the conditions identified
30 under this subsection have been corrected; or (b) permanently dispose
31 of the vessel by landfill, deconstruction, or other related method.

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

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

1 (1) Following the inspection required under section 17 of this act
2 and prior to transferring ownership of a code city-owned vessel, a code
3 city 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 code city.

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

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

12 (i) Those containers or materials described under (a) of this
13 subsection where the transferee demonstrates to the code city'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 code city,
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 code city may consult with the department of ecology in
21 carrying out the requirements of this subsection.

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

26 NEW SECTION. **Sec. 19.** 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 satisfies the
33 definition of derelict vessel as provided in RCW 79.100.010, the county
34 may: (a) Not transfer the vessel until the conditions identified under
35 this subsection have been corrected; or (b) permanently dispose of the
36 vessel by landfill, deconstruction, or other related method.

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

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

5 (1) Following the inspection required under section 19 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) Prior to sale, and unless the vessel has a title or valid
26 marine document, the county is required to apply for a certificate of
27 title for the vessel under RCW 88.02.510 and register the vessel under
28 RCW 88.02.550.

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

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

1 (2) If the port district determines that the vessel satisfies the
2 definition of derelict vessel as provided in RCW 79.100.010, the port
3 district may: (a) Not transfer the vessel until the conditions
4 identified under this subsection have been corrected; or (b)
5 permanently dispose of the vessel by landfill, deconstruction, or other
6 related method.

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

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

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

14 (a) The purposes for which the transferee intends to use the
15 vessel; and

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

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

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

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

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

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

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

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

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

7 (2) If the department determines that the vessel satisfies the
8 definition of derelict vessel as provided in RCW 79.100.010, the
9 department may: (a) Not transfer the vessel until the conditions
10 identified under this subsection have been corrected; or (b)
11 permanently dispose of the vessel by landfill, deconstruction, or other
12 related method.

13 (3) Vessels taken into custody under chapter 79.100 RCW are not
14 subject to this section or section 24 of this act.

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

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

20 (a) The purposes for which the transferee intends to use the
21 vessel; and

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

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

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

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

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

36 (3) Prior to sale, and unless the vessel has a valid marine

1 document, the department is required to apply for a title or
2 certificate of title for the vessel under RCW 88.02.510 and register
3 the vessel under RCW 88.02.550.

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

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

11 (2) If the institution of higher education determines that the
12 vessel satisfies the definition of derelict vessel provided in RCW
13 79.100.010, the institution of higher education may: (a) Not transfer
14 the vessel until the conditions identified under this subsection have
15 been corrected; or (b) permanently dispose of the vessel by landfill,
16 deconstruction, or other related method.

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

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

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

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

27 (b) Information demonstrating proof of legal moorage following the
28 transfer, in the manner determined by the institution of higher
29 education.

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

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

35 (i) Those containers or materials described under (a) of this

1 subsection where the transferee demonstrates to the institution of
2 higher education's satisfaction that the container's or material's
3 presence is consistent with the anticipated use of the vessel; and

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

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

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

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

17 (1)(a) An institution of higher education may, consistent with
18 sections 25 and 26 of this act, exercise independently those powers
19 otherwise granted to the director of enterprise services in chapter
20 43.19 RCW in connection with the purchase and disposition of all
21 material, supplies, services, and equipment needed for the support,
22 maintenance, and use of the respective institution of higher education.

23 (b) Property disposition policies followed by institutions of
24 higher education shall be consistent with policies followed by the
25 department of enterprise services.

26 (c)(i) Except as provided in (c)(ii) and (iii) of this subsection,
27 purchasing policies and procedures followed by institutions of higher
28 education shall be in compliance with chapters 39.19, 39.29, and 43.03
29 RCW, and RCW (~~(43.19.1901, 43.19.1906, 43.19.1911,)~~) 43.19.1917,
30 (~~(43.19.1937,)~~) 43.19.685, (~~(43.19.700 through 43.19.704)~~) 39.26.260
31 through 39.26.271, and 43.19.560 through 43.19.637.

32 (ii) Institutions of higher education may use all appropriate means
33 for making and paying for travel arrangements including, but not
34 limited to, electronic booking and reservations, advance payment and
35 deposits for tours, lodging, and other necessary expenses, and other
36 travel transactions based on standard industry practices and federal
37 accountable plan requirements. Such arrangements shall support

1 student, faculty, staff, and other participants' travel, by groups and
2 individuals, both domestic and international, in the most cost-
3 effective and efficient manner possible, regardless of the source of
4 funds.

5 (iii) Formal sealed, electronic, or web-based competitive bidding
6 is not necessary for purchases or personal services contracts by
7 institutions of higher education for less than one hundred thousand
8 dollars. However, for purchases and personal services contracts of ten
9 thousand dollars or more and less than one hundred thousand dollars,
10 quotations must be secured from at least three vendors to assure
11 establishment of a competitive price and may be obtained by telephone,
12 electronic, or written quotations, or any combination thereof. As part
13 of securing the three vendor quotations, institutions of higher
14 education must invite at least one quotation each from a certified
15 minority and a certified woman-owned vendor that otherwise qualifies to
16 perform the work. A record of competition for all such purchases and
17 personal services contracts of ten thousand dollars or more and less
18 than one hundred thousand dollars must be documented for audit
19 purposes.

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

24 (e) The community and technical colleges shall comply with RCW
25 43.19.450.

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

28 (g) If an institution of higher education can satisfactorily
29 demonstrate to the director of the office of financial management that
30 the cost of compliance is greater than the value of benefits from any
31 of the following statutes, then it shall be exempt from them: RCW
32 43.19.685 and 43.19.637.

33 (h) Any institution of higher education that chooses to exercise
34 independent purchasing authority for a commodity or group of
35 commodities shall notify the director of enterprise services.
36 Thereafter the director of enterprise services shall not be required to
37 provide those services for that institution for the duration of the

1 enterprise services contract term for that commodity or group of
2 commodities.

3 (2) The council of presidents and the state board for community and
4 technical colleges shall convene its correctional industries business
5 development advisory committee, and work collaboratively with
6 correctional industries, to:

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

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

12 (c) Develop recommendations on ways to continue to build
13 correctional industries' business with institutions of higher
14 education.

15 (3) Higher education and correctional industries shall develop a
16 plan to build higher education business with correctional industries to
17 increase higher education purchases of correctional industries
18 products, based upon the criteria established in subsection (2) of this
19 section. The plan shall include the correctional industries'
20 production and sales goals for higher education and an approved list of
21 products from which higher education institutions shall purchase, based
22 on the criteria established in subsection (2) of this section. Higher
23 education and correctional industries shall report to the legislature
24 regarding the plan and its implementation no later than January 30,
25 2005.

26 (4)(a) Institutions of higher education shall set as a target to
27 contract, beginning not later than June 30, 2006, to purchase one
28 percent of the total goods and services required by the institutions
29 each year produced or provided in whole or in part from class II inmate
30 work programs operated by the department of corrections. Institutions
31 of higher education shall set as a target to contract, beginning not
32 later than June 30, 2008, to purchase two percent of the total goods
33 and services required by the institutions each year produced or
34 provided in whole or in part from class II inmate work programs
35 operated by the department of corrections.

36 (b) Institutions of higher education shall endeavor to assure the
37 department of corrections has notifications of bid opportunities with

1 the goal of meeting or exceeding the purchasing target in (a) of this
2 subsection.

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

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

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

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

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

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

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

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

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

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

3 (1) Any person charged with the enforcement of this chapter may
4 inspect the registration certificate of a vessel to ascertain the legal
5 and registered ownership of the vessel. A vessel owner or operator who
6 fails to provide the registration certificate for inspection upon the
7 request of any person charged with enforcement of this chapter (~~(is a~~
8 ~~class 2 civil infraction)) may be found to be in violation of this
9 chapter.~~

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

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

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

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

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

34 (1) A person seeking to contest an authorized public entity's
35 decision to take temporary possession or custody of a vessel under this

1 chapter, or to contest the amount of reimbursement owed to an
2 authorized public entity under this chapter, may request a hearing in
3 accordance with this section.

4 (2)(a) If the contested decision or action was undertaken by a
5 state agency, a written request for a hearing related to the decision
6 or action must be filed with the pollution control hearings board and
7 served on the ((state)) agency taking the action in accordance with RCW
8 43.21B.230 (2) and (3) within thirty days of the date the authorized
9 public entity acquires custody of the vessel under RCW 79.100.040, or
10 if the vessel is redeemed before the authorized public entity acquires
11 custody, the date of redemption, or the right to a hearing is deemed
12 waived and the vessel's owner is liable for any costs owed the
13 authorized public entity. In the event of litigation, the prevailing
14 party is entitled to reasonable attorneys' fees and costs.

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

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

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

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

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

9 (1) The hearings board shall only have jurisdiction to hear and
10 decide appeals from the following decisions of the department, the
11 director, local conservation districts, the air pollution control
12 boards or authorities as established pursuant to chapter 70.94 RCW,
13 local health departments, the department of natural resources, the
14 department of fish and wildlife, (~~and~~) the parks and recreation
15 commission, and authorized public entities described in chapter 79.100
16 RCW:

17 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
18 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
19 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

20 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
21 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
22 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

25 (d) Except as provided in RCW 90.03.210(2), the issuance,
26 modification, or termination of any permit, certificate, or license by
27 the department or any air authority in the exercise of its
28 jurisdiction, including the issuance or termination of a waste disposal
29 permit, the denial of an application for a waste disposal permit, the
30 modification of the conditions or the terms of a waste disposal permit,
31 or a decision to approve or deny an application for a solid waste
32 permit exemption under RCW 70.95.300.

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

35 (f) Decisions of local health departments regarding the issuance
36 and enforcement of permits to use or dispose of biosolids under RCW
37 70.95J.080.

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

4 (h) Decisions of local conservation districts related to the denial
5 of approval or denial of certification of a dairy nutrient management
6 plan; conditions contained in a plan; application of any dairy nutrient
7 management practices, standards, methods, and technologies to a
8 particular dairy farm; and failure to adhere to the plan review and
9 approval timelines in RCW 90.64.026.

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

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

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

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

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

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

28 (2) The following hearings shall not be conducted by the hearings
29 board:

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

32 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
33 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

34 (c) Appeals of decisions by the department under RCW 90.03.110 and
35 90.44.220.

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

1 (~~(e) Appeals of decisions by the department as provided in chapter~~
2 ~~43.21B RCW.~~)

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

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

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

16 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
17 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
18 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

19 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
20 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
21 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

32 (e) Decisions of local health departments regarding the issuance
33 and enforcement of permits to use or dispose of biosolids under RCW
34 70.95J.080.

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

1 (g) Decisions of local conservation districts related to the denial
2 of approval or denial of certification of a dairy nutrient management
3 plan; conditions contained in a plan; application of any dairy nutrient
4 management practices, standards, methods, and technologies to a
5 particular dairy farm; and failure to adhere to the plan review and
6 approval timelines in RCW 90.64.026.

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

10 (i) Decisions of the department of natural resources, the
11 department of fish and wildlife, and the department that are reviewable
12 under chapter 76.09 RCW, and the department of natural resources'
13 appeals of county, city, or town objections under RCW 76.09.050(7).

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

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

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

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

25 (2) The following hearings shall not be conducted by the hearings
26 board:

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

29 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
30 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

31 (c) Appeals of decisions by the department under RCW 90.03.110 and
32 90.44.220.

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

35 (~~(e) Appeals of decisions by the department as provided in chapter~~
36 ~~43.211 RCW.~~)

37 (3) Review of rules and regulations adopted by the hearings board

1 shall be subject to review in accordance with the provisions of the
2 administrative procedure act, chapter 34.05 RCW.

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

5 (1) The department, through its duly authorized representatives,
6 shall have the power to enter upon any private or public property,
7 including the boarding of any ship, at any reasonable time, and the
8 owner, managing agent, master, or occupant of such property shall
9 permit such entry for the purpose of investigating conditions relating
10 to violations or possible violations of this chapter, and to have
11 access to any pertinent records relating to such property, including
12 but not limited to operation and maintenance records and logs. The
13 authority granted (~~herein~~) in this section shall not be construed to
14 require any person to divulge trade secrets or secret processes. The
15 director may issue subpoenas for the production of any books, records,
16 documents, or witnesses in any hearing conducted pursuant to this
17 chapter.

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

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

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

28 (a) Mail notice of its intent to obtain custody, at least twenty
29 days prior to taking custody, to the last known address of the previous
30 owner to register the vessel in any state or with the federal
31 government and to any lien holders or secured interests on record. A
32 notice need not be sent to the purported owner or any other person
33 whose interest in the vessel is not recorded with a state or federal
34 agency;

35 (b) Post notice of its intent clearly on the vessel for thirty days

1 and publish its intent at least once, more than ten days but less than
2 twenty days prior to taking custody, in a newspaper of general
3 circulation for the county in which the vessel is located; and

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

8 (2) All notices sent, posted, or published in accordance with this
9 section must, at a minimum, explain the intent of the authorized public
10 entity to take custody of the vessel, the rights of the authorized
11 public entity after taking custody of the vessel as provided in RCW
12 79.100.030, the procedures the owner must follow in order to avoid
13 custody being taken by the authorized public entity, the procedures the
14 owner must follow in order to reclaim possession after custody is taken
15 by the authorized public entity, and the financial liabilities that the
16 owner may incur as provided for in RCW 79.100.060.

17 (3)(a) ~~((If a))~~ Any authorized public entity may tow, beach, or
18 otherwise take temporary possession of a vessel if the owner of the
19 vessel cannot be located or is unwilling or unable to assume immediate
20 responsibility for the vessel and if the vessel ((is)):

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

23 (ii) Poses a reasonably imminent threat to human health or safety,
24 including a threat of environmental contamination~~((; and (iii) the~~
25 ~~owner of the vessel cannot be located or is unwilling or unable to~~
26 ~~assume immediate responsibility for the vessel, any authorized public~~
27 ~~entity may tow, beach, or otherwise take temporary possession of the~~
28 ~~vessel)).~~

29 (b) Before taking temporary possession of the vessel, the
30 authorized public entity must make reasonable attempts to consult with
31 the department or the United States coast guard to ensure that other
32 remedies are not available. The basis for taking temporary possession
33 of the vessel must be set out in writing by the authorized public
34 entity within seven days of taking action and be submitted to the
35 owner, if known, as soon thereafter as is reasonable. If the
36 authorized public entity has not already provided the required notice,
37 immediately after taking possession of the vessel, the authorized
38 public entity must initiate the notice provisions in subsection (1) of

1 this section. The authorized public entity must complete the notice
2 requirements of subsection (1) of this section before using or
3 disposing of the vessel as authorized in RCW 79.100.050.

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

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

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

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

14 (b) Either:

15 (i) Is registered or required to be registered under chapter 88.02
16 RCW; or

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

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

22 (3) Failure to comply with the requirements of subsections (1) and
23 (2) of this section will result in the transferor having secondary
24 liability under RCW 79.100.060 if the vessel is later abandoned by the
25 transferee.

26 NEW SECTION. Sec. 38. (1) By December 31, 2013, the department
27 shall adopt by rule procedures and standards for the vessel inspections
28 required under section 37 of this act. The procedures and standards
29 must identify the public or private entities authorized to conduct
30 inspections, the required elements of an inspection, and the manner in
31 which inspection results must be documented. The vessel inspection
32 required under this section must be designed to:

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

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

5 (c) Discourage the future abandonment or dereliction of the vessel;
6 and

7 (d) Maximize the efficiency and effectiveness of the inspection
8 process, including with respect to the time and resources of the
9 transferor, transferee, and the state.

10 (2) The department shall work with appropriate government agencies
11 and stakeholders in designing the inspection process and standards
12 under this section.

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

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

16 (1) The owner of an abandoned or derelict vessel, or any person or
17 entity that has incurred secondary liability under section 37 of this
18 act, is responsible for reimbursing an authorized public entity for all
19 reasonable and auditable costs associated with the removal or disposal
20 of the owner's vessel under this chapter. These costs include, but are
21 not limited to, costs incurred exercising the authority granted in RCW
22 79.100.030, all administrative costs incurred by the authorized public
23 entity during the procedure set forth in RCW 79.100.040, removal and
24 disposal costs, and costs associated with environmental damages
25 directly or indirectly caused by the vessel. An authorized public
26 entity that has taken temporary possession of a vessel may require that
27 all reasonable and auditable costs associated with the removal of the
28 vessel be paid before the vessel is released to the owner.

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

33 (3) If the full amount of all costs due to the authorized public
34 entity under this chapter is not paid to the authorized public entity
35 within thirty days after first notifying the responsible parties of the
36 amounts owed, the authorized public entity or the department may bring

1 an action in any court of competent jurisdiction to recover the costs,
2 plus reasonable attorneys' fees and costs incurred by the authorized
3 public entity.

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

6 (1) Any private moorage facility operator may take reasonable
7 measures, including the use of chains, ropes, and locks, or removal
8 from the water, to secure vessels within the private moorage facility
9 so that the vessels are in the possession and control of the operator
10 and cannot be removed from the facility. These procedures may be used
11 if an owner mooring or storing a vessel at the facility fails, after
12 being notified that charges are owing and of the owner's right to
13 commence legal proceedings to contest that such charges are owing, to
14 pay charges owed or to commence legal proceedings. Notification shall
15 be by two separate letters, one sent by first-class mail and one sent
16 by registered mail to the owner and any lienholder of record at the
17 last known address. In the case of a transient vessel, or where no
18 address was furnished by the owner, the operator need not give notice
19 prior to securing the vessel. At the time of securing the vessel, an
20 operator shall attach to the vessel a readily visible notice. The
21 notice shall be of a reasonable size and shall contain the following
22 information:

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

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

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

29 After a vessel is secured, the operator shall make a reasonable
30 effort to notify the owner and any lienholder of record by registered
31 mail in order to give the owner the information contained in the
32 notice.

33 (2) A private moorage facility operator, at his or her discretion,
34 may move moored vessels ashore for storage within properties under the
35 operator's control or for storage with a private person under their
36 control as bailees of the private moorage facility, if the vessel is,

1 in the opinion of the operator, (~~(a nuisance,~~) in danger of sinking or
2 creating other damage, or is owing charges. The costs of any such
3 procedure shall be paid by the vessel's owner.

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

8 (a) Making arrangements satisfactory with the operator for the
9 immediate removal of the vessel from the facility or for authorized
10 moorage; and

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

23 (4) If a vessel has been secured by the operator under subsection
24 (1) of this section and is not released to the owner under the bonding
25 provisions of this section within ninety days after notifying or
26 attempting to notify the owner under subsection (1) of this section,
27 the vessel is conclusively presumed to have been abandoned by the
28 owner.

29 (5) If a vessel moored or stored at a private moorage facility is
30 abandoned, the operator may authorize the public sale of the vessel by
31 authorized personnel, consistent with this section, to the highest and
32 best bidder for cash as follows:

33 (a) Before the vessel is sold, the vessel owner and any lienholder
34 of record shall be given at least twenty days' notice of the sale in
35 the manner set forth in subsection (1) of this section if the name and
36 address of the owner is known. The notice shall contain the time and
37 place of the sale, a reasonable description of the vessel to be sold,
38 and the amount of charges owed with respect to the vessel. The notice

1 of sale shall be published at least once, more than ten but not more
2 than twenty days before the sale, in a newspaper of general circulation
3 in the county in which the facility is located. This notice shall
4 include the name of the vessel, if any, the last known owner and
5 address, and a reasonable description of the vessel to be sold. The
6 operator may bid all or part of its charges at the sale and may become
7 a purchaser at the sale.

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

17 (c) The proceeds of a sale under this section shall be applied
18 first to the payment of any liens superior to the claim for charges,
19 then to payment of the charges, then to satisfy any other liens on the
20 vessel in the order of their priority. The balance, if any, shall be
21 paid to the owner. If the owner cannot in the exercise of due
22 diligence be located by the operator within one year of the date of the
23 sale, the excess funds from the sale shall revert to the department of
24 revenue under chapter 63.29 RCW. If the sale is for a sum less than
25 the applicable charges, the operator is entitled to assert a claim for
26 deficiency, however, the deficiency judgment shall not exceed the
27 moorage fees owed for the previous six-month period.

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

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

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

1 **Sec. 41.** RCW 53.08.320 and 2011 c 247 s 3 are each amended to read
2 as follows:

3 A moorage facility operator may adopt all rules necessary for
4 rental and use of moorage facilities and for the expeditious collection
5 of port charges. The rules may also establish procedures for the
6 enforcement of these rules by port district, city, county, metropolitan
7 park district or town personnel. The rules shall include the
8 following:

9 (1) Procedures authorizing moorage facility personnel to take
10 reasonable measures, including the use of chains, ropes, and locks, or
11 removal from the water, to secure vessels within the moorage facility
12 so that the vessels are in the possession and control of the moorage
13 facility operator and cannot be removed from the moorage facility.
14 These procedures may be used if an owner mooring or storing a vessel at
15 the moorage facility fails, after being notified that charges are owing
16 and of the owner's right to commence legal proceedings to contest that
17 such charges are owing, to pay the port charges owed or to commence
18 legal proceedings. Notification shall be by registered mail to the
19 owner at his or her last known address. In the case of a transient
20 vessel, or where no address was furnished by the owner, the moorage
21 facility operator need not give such notice prior to securing the
22 vessel. At the time of securing the vessel, an authorized moorage
23 facility employee shall attach to the vessel a readily visible notice.
24 The notice shall be of a reasonable size and shall contain the
25 following information:

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

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

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

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

35 (2) Procedures authorizing moorage facility personnel at their
36 discretion to move moored vessels ashore for storage within properties
37 under the operator's control or for storage with private persons under
38 their control as bailees of the moorage facility, if the vessel is, in

1 the opinion of port personnel a nuisance, if the vessel is in danger of
2 sinking or creating other damage, or is owing port charges. Costs of
3 any such procedure shall be paid by the vessel's owner. If the owner
4 is not known, or unable to reimburse the moorage facility operator for
5 the costs of these procedures, the mooring facility operators may seek
6 reimbursement of ninety percent of all reasonable and auditable costs
7 from the derelict vessel removal account established in RCW 79.100.100.

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

12 (a) Making arrangements satisfactory with the moorage facility
13 operator for the immediate removal of the vessel from the moorage
14 facility or for authorized moorage; and

15 (b) Making payment to the moorage facility operator of all port
16 charges, or by posting with the moorage facility operator a sufficient
17 cash bond or other acceptable security, to be held in trust by the
18 moorage facility operator pending written agreement of the parties with
19 respect to payment by the vessel owner of the amount owing, or pending
20 resolution of the matter of the charges in a civil action in a court of
21 competent jurisdiction. After entry of judgment, including any
22 appeals, in a court of competent jurisdiction, or after the parties
23 reach agreement with respect to payment, the trust shall terminate and
24 the moorage facility operator shall receive so much of the bond or
25 other security as is agreed, or as is necessary to satisfy any
26 judgment, costs, and interest as may be awarded to the moorage facility
27 operator. The balance shall be refunded immediately to the owner at
28 his or her last known address.

29 (4) If a vessel has been secured by the moorage facility operator
30 under subsection (1) of this section and is not released to the owner
31 under the bonding provisions of this section within ninety days after
32 notifying or attempting to notify the owner under subsection (1) of
33 this section, the vessel shall be conclusively presumed to have been
34 abandoned by the owner.

35 (5) If a vessel moored or stored at a moorage facility is
36 abandoned, the moorage facility operator may, if not prohibited from
37 doing so under section 42 of this act, by resolution of its legislative
38 authority, authorize the public sale of the vessel by authorized

1 personnel to the highest and best bidder for cash as prescribed by this
2 subsection (5). Either a minimum bid may be established or a letter of
3 credit may be required, or both, to discourage the future reabandonment
4 of the vessel.

5 (a) Before the vessel is sold, the owner of the vessel shall be
6 given at least twenty days' notice of the sale in the manner set forth
7 in subsection (1) of this section if the name and address of the owner
8 is known. The notice shall contain the time and place of the sale, a
9 reasonable description of the vessel to be sold, and the amount of port
10 charges owed with respect to the vessel. The notice of sale shall be
11 published at least once, more than ten but not more than twenty days
12 before the sale, in a newspaper of general circulation in the county in
13 which the moorage facility is located. Such notice shall include the
14 name of the vessel, if any, the last known owner and address, and a
15 reasonable description of the vessel to be sold. The moorage facility
16 operator may bid all or part of its port charges at the sale and may
17 become a purchaser at the sale.

18 (b) Before the vessel is sold, any person seeking to redeem an
19 impounded vessel under this section may commence a lawsuit in the
20 superior court for the county in which the vessel was impounded to
21 contest the validity of the impoundment or the amount of the port
22 charges owing. Such lawsuit must be commenced within ten days of the
23 date the notification was provided pursuant to subsection (1) of this
24 section, or the right to a hearing shall be deemed waived and the owner
25 shall be liable for any port charges owing the moorage facility
26 operator. In the event of litigation, the prevailing party shall be
27 entitled to reasonable attorneys' fees and costs.

28 (c) The proceeds of a sale under this section shall first be
29 applied to the payment of port charges. The balance, if any, shall be
30 paid to the owner. If the owner cannot in the exercise of due
31 diligence be located by the moorage facility operator within one year
32 of the date of the sale, the excess funds from the sale shall revert to
33 the derelict vessel removal account established in RCW 79.100.100. If
34 the sale is for a sum less than the applicable port charges, the
35 moorage facility operator is entitled to assert a claim for a
36 deficiency.

37 (d) In the event no one purchases the vessel at a sale, or a vessel

1 is not removed from the premises or other arrangements are not made
2 within ten days of sale, title to the vessel will revert to the moorage
3 facility operator.

4 (6) 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 NEW SECTION. **Sec. 42.** A new section is added to chapter 53.08 RCW
8 to read as follows:

9 (1) Prior to selling or otherwise transferring ownership of a
10 vessel lawfully under its control, a moorage facility operator must
11 conduct a thorough review of the physical condition of the vessel and
12 the vessel's operating capability.

13 (2) If the moorage facility operator determines that the vessel is
14 a junk vessel, the vessel may not be sold and it may not be given away.

15 **Sec. 43.** RCW 53.08.310 and 1986 c 260 s 1 are each amended to read
16 as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this section (~~and~~), RCW 53.08.320 and
19 section 42 of this act.

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

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

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

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

35 (5) "Owner" means every natural person, firm, partnership,

1 corporation, association, or organization, or agent thereof, with
2 actual or apparent authority, who expressly or impliedly contracts for
3 use of a moorage facility.

4 (6) "Transient vessel" means a vessel using a moorage facility and
5 which belongs to an owner who does not have a moorage agreement with
6 the moorage facility operator. Transient vessels include, but are not
7 limited to: Vessels seeking a harbor of refuge, day use, or overnight
8 use of a moorage facility on a space-as-available basis.

9 (7) "Junk vessel" means a vessel that meets at least three of the
10 following requirements:

11 (a) Is three years old or older;

12 (b) Is extensively damaged, such damage including but not limited
13 to any of the following: Missing outdrive, motor, mast, holes in hull,
14 missing most cleats, missing portholes, partially dismantled
15 superstructure;

16 (c) Is apparently inoperable; or

17 (d) Has an approximate fair market value less than or equal to the
18 approximate value of the scrap in the vessel.

19 **Sec. 44.** RCW 79A.65.030 and 2002 c 286 s 22 are each amended to
20 read as follows:

21 (1) The commission may provide for the public sale of vessels
22 considered abandoned under RCW 79A.65.020 unless the vessel is a junk
23 vessel, as that term is defined in RCW 53.08.310. If the commission
24 determines that the vessel is a junk vessel, as that term is defined in
25 RCW 53.08.310, the vessel may not be sold and it may not be given away.
26 At such sales, the vessels shall be sold for cash to the highest and
27 best bidder. The commission may establish either a minimum bid or
28 require a letter of credit, or both, to discourage the future
29 reabandonment of the vessel.

30 (2) Before a vessel is sold, the commission shall make a reasonable
31 effort to provide notice of sale, at least twenty days before the day
32 of the sale, to each registered owner of a registered vessel and each
33 owner of an unregistered vessel. The notice shall contain the time and
34 place of the sale, a reasonable description of the vessel to be sold,
35 and the amount of charges then owing with respect to the vessel, and a
36 summary of the rights and procedures under this chapter. A notice of
37 sale shall be published at least once, more than ten but not more than

1 twenty days before the sale, in a newspaper of general circulation in
2 the county in which the commission facility is located. This notice
3 shall include: (a) If known, the name of the vessel and the last owner
4 and the owner's address; and (b) a reasonable description of the
5 vessel. The commission may bid all or part of its charges at the sale
6 and may become a purchaser at the sale.

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

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

30 (5) If no one purchases the vessel at a sale, the commission may
31 proceed to properly dispose of the vessel in any way the commission
32 considers appropriate, including, but not limited to, destruction of
33 the vessel or by negotiated sale. The commission may assert a claim
34 against the owner for any charges incurred thereby. If the vessel, or
35 any part of the vessel, or any rights to the vessel, are sold under
36 this subsection, any proceeds from the sale shall be distributed in the
37 manner provided in subsection (4) of this section.

1 **Sec. 45.** RCW 79.100.030 and 2011 c 247 s 4 are each amended to
2 read as follows:

3 (1)(a) An authorized public entity has the authority, subject to
4 the processes and limitations of this chapter, to store, strip, use,
5 auction, sell, salvage, scrap, or dispose of an abandoned or derelict
6 vessel found on or above aquatic lands within the jurisdiction of the
7 authorized public entity, except that if an abandoned or derelict
8 vessel is a junk vessel, as that term is defined in RCW 53.08.310, an
9 authorized public entity may not sell, auction, or give away the vessel
10 unless:

11 (i) The vessel is being sold, auctioned, or given for scrap,
12 salvage, or another use that will remove the vessel from state waters;

13 (ii) The prospective purchaser submits a business plan detailing
14 prospective purchaser's intent to use the vessel for scrap, salvage, or
15 another use that will remove the vessel from state waters, including
16 proof of a legal place to take the vessel, and appropriate insurance to
17 cover the operation; and

18 (iii) After running a background check on the prospective
19 purchaser, the moorage facility operator concludes that the purchaser
20 will successfully adhere to the business plan.

21 (b) A vessel disposal must be done in an environmentally sound
22 manner and in accordance with all federal, state, and local laws,
23 including the state solid waste disposal provisions provided for in
24 chapter 70.95 RCW. Scuttling or sinking of a vessel is only
25 permissible after obtaining the express permission of the owner or
26 owners of the aquatic lands below where the scuttling or sinking would
27 occur, and obtaining all necessary state and federal permits or
28 licenses.

29 (2) The primary responsibility to remove a derelict or abandoned
30 vessel belongs to the owner, operator, or lessee of the moorage
31 facility or the aquatic lands where the vessel is located. If the
32 authorized public entity with the primary responsibility is unwilling
33 or unable to exercise the authority granted by this section, it may
34 request the department to assume the authorized public entity's
35 authority for a particular vessel. The department may at its
36 discretion assume the authorized public entity's authority for a
37 particular vessel after being requested to do so. For vessels not at
38 a moorage facility, an authorized public entity with jurisdiction over

1 the aquatic lands where the vessel is located may, at its discretion,
2 request to assume primary responsibility for that particular vessel
3 from the owner of the aquatic lands where the vessel is located.

4 (3) The authority granted by this chapter is permissive, and no
5 authorized public entity has a duty to exercise the authority. No
6 liability attaches to an authorized public entity that chooses not to
7 exercise this authority. An authorized public entity, in the good
8 faith performance of the actions authorized under this chapter, is not
9 liable for civil damages resulting from any act or omission in the
10 performance of the actions other than acts or omissions constituting
11 gross negligence or willful or wanton misconduct. Any person whose
12 assistance has been requested by an authorized public entity, who has
13 entered into a written agreement pursuant to RCW 79.100.070, and who,
14 in good faith, renders assistance or advice with respect to activities
15 conducted by an authorized public entity pursuant to this chapter, is
16 not liable for civil damages resulting from any act or omission in the
17 rendering of the assistance or advice, other than acts or omissions
18 constituting gross negligence or willful or wanton misconduct.

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

21 (1) The department may develop and administer a voluntary vessel
22 turn-in program.

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

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

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

8 (a) Is a Washington state resident or business; and

9 (b) Owns a vessel that is in an advanced state of disrepair, has
10 minimal or no value, and has a high likelihood of becoming an abandoned
11 or derelict vessel.

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

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

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

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

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

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

29 (1) In an appeal that involves a penalty of fifteen thousand
30 dollars or less or that involves a derelict or abandoned vessel under
31 RCW 79.100.120, the appeal may be heard by one member of the board,
32 whose decision shall be the final decision of the board. The board
33 shall define by rule alternative procedures to expedite appeals
34 involving penalties of fifteen thousand dollars or less or involving a
35 derelict or abandoned vessel. These alternatives may include:

1 Mediation, upon agreement of all parties; submission of testimony by
2 affidavit; or other forms that may lead to less formal and faster
3 resolution of appeals.

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

7 NEW SECTION. Sec. 49. Section 33 of this act expires June 30,
8 2019.

9 NEW SECTION. Sec. 50. Section 34 of this act takes effect June
10 30, 2019.

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