
SUBSTITUTE SENATE BILL 5663

State of Washington

63rd Legislature

2013 Regular Session

By Senate Natural Resources & Parks (originally sponsored by Senators Pearson, Ranker, Tom, Rolfes, Hewitt, Sheldon, Hatfield, Bailey, Parlette, Kline, and Roach; by request of Department of Natural Resources)

READ FIRST TIME 02/22/13.

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, 79.100.040,
4 79.100.060, 88.26.020, 53.08.320, 53.08.310, 79A.65.030, and
5 43.21B.305; reenacting and amending RCW 43.21B.110 and 43.21B.110;
6 adding a new section to chapter 43.19 RCW; adding new sections to
7 chapter 43.30 RCW; adding new sections to chapter 77.12 RCW; adding new
8 sections to chapter 79A.05 RCW; adding new sections to chapter 47.01
9 RCW; adding new sections to chapter 35.21 RCW; adding new sections to
10 chapter 35A.21 RCW; adding new sections to chapter 36.32 RCW; adding
11 new sections to chapter 53.08 RCW; adding new sections to chapter
12 43.21A RCW; adding new sections to chapter 28B.10 RCW; adding new
13 sections to chapter 79.100 RCW; 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:

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

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

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

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

5 ~~((+iv+))~~ (d) Two dollars must be deposited in the derelict vessel
6 removal 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
21 health 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 ~~((+e+))~~ 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~~) may only be used by the
34 department for developing and administering the vessel turn-in program
35 created in section 44 of this act and to reimburse authorized public
36 entities for 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 36 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~~) apprised 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 is in a state of
35 advanced deterioration or poses a reasonably imminent threat to human
36 health or safety, including a threat of environmental contamination,
37 the department may: (i) Not transfer the vessel until the conditions

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

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

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

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

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

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

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

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

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

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

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

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

34 (1) Prior to transferring ownership of a department-owned vessel,
35 the department shall conduct a thorough review of the physical

1 condition of the vessel, the vessel's operating capability, and any
2 containers and other materials that are not fixed to the vessel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (2) If the department determines that the vessel is in a state of
11 advanced deterioration or poses a reasonably imminent threat to human
12 health or safety, including a threat of environmental contamination,
13 the department 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 10 of this act.

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

21 (1) Following the inspection required under section 9 of this act
22 and prior to transferring ownership of a department-owned vessel, the
23 department 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 the prospective owner's intent to
27 obtain legal moorage following the transfer, in the manner determined
28 by the department.

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

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

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

1 (ii) A reasonable amount of fuel as determined by the department,
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 department 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 department 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. 11.** A new section is added to chapter 79A.05
12 RCW to read as follows:

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

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

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

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

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

33 (b) Information demonstrating the prospective owner's intent to
34 obtain legal moorage following the transfer, in the manner determined
35 by the commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (1) Following the inspection required under section 15 of this act
6 and prior to transferring ownership of a city or town-owned vessel, a
7 city or town 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 the prospective owner's intent to
11 obtain legal moorage following the transfer, in the manner determined
12 by the city or town.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (1) Prior to transferring ownership of a vessel owned by a port
10 district and used primarily to conduct port business, the port district
11 shall conduct a thorough review of the physical condition of the
12 vessel, the vessel's operating capability, and any containers and other
13 materials that are not fixed to the vessel.

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

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

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

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

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

30 (b) Information demonstrating the prospective owner's intent to
31 obtain legal moorage following the transfer, in the manner determined
32 by the port district.

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

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

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

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

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

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

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

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

21 (2) If the department determines that the vessel is in a state of
22 advanced deterioration or poses a reasonably imminent threat to human
23 health or safety, including a threat of environmental contamination,
24 the department 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 NEW SECTION. **Sec. 24.** A new section is added to chapter 43.21A
29 RCW to read as follows:

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

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

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

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

3 (2)(a) The department 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 department may transfer a vessel with:

7 (i) Those containers or materials described under (a) of this
8 subsection where the transferee demonstrates to the department'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 department,
12 based on factors including the vessel's size, condition, and
13 anticipated use of the vessel including initial destination following
14 transfer.

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

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

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

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

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

35 (1) Following the inspection required under section 25 of this act

1 and prior to transferring ownership of an institution-owned vessel, the
2 institution of higher education shall obtain the following from the
3 transferee:

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

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

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

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

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

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

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

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

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

31 (1)(a) An institution of higher education may, consistent with
32 sections 25 and 26 of this act, exercise independently those powers
33 otherwise granted to the director of enterprise services in chapter
34 43.19 RCW in connection with the purchase and disposition of all
35 material, supplies, services, and equipment needed for the support,
36 maintenance, and use of the respective institution of higher education.

1 (b) Property disposition policies followed by institutions of
2 higher education shall be consistent with policies followed by the
3 department of enterprise services.

4 (c)(i) Except as provided in (c)(ii) and (iii) of this subsection,
5 purchasing policies and procedures followed by institutions of higher
6 education shall be in compliance with chapters 39.19, 39.29, and 43.03
7 RCW, and RCW (~~((43.19.1901, 43.19.1906, 43.19.1911,))~~) 43.19.1917,
8 (~~((43.19.1937,))~~) 43.19.685, (~~((43.19.700 through 43.19.704))~~) 39.26.260
9 through 39.26.271, and 43.19.560 through 43.19.637.

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

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

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

1 (e) The community and technical colleges shall comply with RCW
2 43.19.450.

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

5 (g) If an institution of higher education can satisfactorily
6 demonstrate to the director of the office of financial management that
7 the cost of compliance is greater than the value of benefits from any
8 of the following statutes, then it shall be exempt from them: RCW
9 43.19.685 and 43.19.637.

10 (h) Any institution of higher education that chooses to exercise
11 independent purchasing authority for a commodity or group of
12 commodities shall notify the director of enterprise services.
13 Thereafter the director of enterprise services shall not be required to
14 provide those services for that institution for the duration of the
15 enterprise services contract term for that commodity or group of
16 commodities.

17 (2) The council of presidents and the state board for community and
18 technical colleges shall convene its correctional industries business
19 development advisory committee, and work collaboratively with
20 correctional industries, to:

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

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

26 (c) Develop recommendations on ways to continue to build
27 correctional industries' business with institutions of higher
28 education.

29 (3) Higher education and correctional industries shall develop a
30 plan to build higher education business with correctional industries to
31 increase higher education purchases of correctional industries
32 products, based upon the criteria established in subsection (2) of this
33 section. The plan shall include the correctional industries'
34 production and sales goals for higher education and an approved list of
35 products from which higher education institutions shall purchase, based
36 on the criteria established in subsection (2) of this section. Higher
37 education and correctional industries shall report to the legislature

1 regarding the plan and its implementation no later than January 30,
2 2005.

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

13 (b) Institutions of higher education shall endeavor to assure the
14 department of corrections has notifications of bid opportunities with
15 the goal of meeting or exceeding the purchasing target in (a) of this
16 subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (b) Upon receipt of a timely hearing request, the pollution control
28 hearings board shall proceed to hear and determine the validity of the
29 decision to take the vessel into temporary possession or custody and
30 the reasonableness of any towing, storage, or other charges permitted
31 under this chapter. Within five business days after the request for a
32 hearing is filed, the pollution control hearings board shall notify the
33 vessel owner requesting the hearing and the authorized public entity of
34 the date, time, and location for the hearing. Unless the vessel is
35 redeemed before the request for hearing is filed, the pollution control
36 hearings board shall set the hearing on a date that is within ten
37 business days of the filing of the request for hearing. If the vessel

1 is redeemed before the request for a hearing is filed, the pollution
2 control hearings board shall set the hearing on a date that is within
3 sixty days of the filing of the request for hearing.

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

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

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

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

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

30 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
31 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
32 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

33 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
34 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
35 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

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

11 (f) Decisions of local health departments regarding the issuance
12 and enforcement of permits to use or dispose of biosolids under RCW
13 70.95J.080.

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

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

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

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

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

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

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

37 (n) Decisions of (~~a state agency that is~~) an authorized public

1 entity under RCW 79.100.010 to take temporary possession or custody of
2 a vessel or to contest the amount of reimbursement owed that are
3 reviewable by the hearings board under RCW 79.100.120.

4 (2) The following hearings shall not be conducted by the hearings
5 board:

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

8 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
9 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

10 (c) Appeals of decisions by the department under RCW 90.03.110 and
11 90.44.220.

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

14 (~~(e) Appeals of decisions by the department as provided in chapter~~
15 ~~43.21B RCW.~~)

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

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

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

29 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
30 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
31 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

32 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
33 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
34 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

35 (c) Except as provided in RCW 90.03.210(2), the issuance,
36 modification, or termination of any permit, certificate, or license by
37 the department or any air authority in the exercise of its

1 jurisdiction, including the issuance or termination of a waste disposal
2 permit, the denial of an application for a waste disposal permit, the
3 modification of the conditions or the terms of a waste disposal permit,
4 or a decision to approve or deny an application for a solid waste
5 permit exemption under RCW 70.95.300.

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

8 (e) Decisions of local health departments regarding the issuance
9 and enforcement of permits to use or dispose of biosolids under RCW
10 70.95J.080.

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

14 (g) Decisions of local conservation districts related to the denial
15 of approval or denial of certification of a dairy nutrient management
16 plan; conditions contained in a plan; application of any dairy nutrient
17 management practices, standards, methods, and technologies to a
18 particular dairy farm; and failure to adhere to the plan review and
19 approval timelines in RCW 90.64.026.

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

23 (i) Decisions of the department of natural resources, the
24 department of fish and wildlife, and the department that are reviewable
25 under chapter 76.09 RCW, and the department of natural resources'
26 appeals of county, city, or town objections under RCW 76.09.050(7).

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

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

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

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

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

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

5 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
6 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

7 (c) Appeals of decisions by the department under RCW 90.03.110 and
8 90.44.220.

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

11 ~~((e) Appeals of decisions by the department as provided in chapter
12 43.211 RCW.))~~

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

16 **Sec. 35.** RCW 79.100.040 and 2007 c 342 s 2 are each amended to
17 read as follows:

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

21 (a) Mail notice of its intent to obtain custody, at least twenty
22 days prior to taking custody, to the last known address of the previous
23 owner to register the vessel in any state or with the federal
24 government and to any lien holders or secured interests on record. A
25 notice need not be sent to the purported owner or any other person
26 whose interest in the vessel is not recorded with a state or federal
27 agency;

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

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

36 (2) All notices sent, posted, or published in accordance with this
37 section must, at a minimum, explain the intent of the authorized public

1 entity to take custody of the vessel, the rights of the authorized
2 public entity after taking custody of the vessel as provided in RCW
3 79.100.030, the procedures the owner must follow in order to avoid
4 custody being taken by the authorized public entity, the procedures the
5 owner must follow in order to reclaim possession after custody is taken
6 by the authorized public entity, and the financial liabilities that the
7 owner may incur as provided for in RCW 79.100.060.

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

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

14 (ii) Poses a reasonably imminent threat to human health or safety,
15 including a threat of environmental contamination(~~;~~ ~~and~~ ~~(iii)~~ ~~the~~
16 ~~owner of the vessel cannot be located or is unwilling or unable to~~
17 ~~assume immediate responsibility for the vessel, any authorized public~~
18 ~~entity may tow, beach, or otherwise take temporary possession of the~~
19 ~~vessel)).~~

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

33
34 NEW SECTION. Sec. 36. A new section is added to chapter 79.100
35 RCW to read as follows:

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

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

3 (b) Either:

4 (i) Is registered or required to be registered under chapter 88.02
5 RCW; or

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

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

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

16 NEW SECTION. **Sec. 37.** (1) By December 31, 2013, the department
17 shall adopt by rule procedures and standards for the vessel inspections
18 required under section 36 of this act. The procedures and standards
19 must identify the public or private entities authorized to conduct
20 inspections, the required elements of an inspection, and the manner in
21 which inspection results must be documented. The vessel inspection
22 required under this section must be designed to:

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

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

30 (c) Discourage the future abandonment or dereliction of the vessel;
31 and

32 (d) Maximize the efficiency and effectiveness of the inspection
33 process, including with respect to the time and resources of the
34 transferor, transferee, and the state.

35 (2) The department shall work with appropriate government agencies
36 and stakeholders in designing the inspection process and standards
37 under this section.

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

2 **Sec. 38.** RCW 79.100.060 and 2006 c 153 s 4 are each amended to
3 read as follows:

4 (1) The owner of an abandoned or derelict vessel, or any person or
5 entity that has incurred secondary liability under section 36 of this
6 act, is responsible for reimbursing an authorized public entity for all
7 reasonable and auditable costs associated with the removal or disposal
8 of the owner's vessel under this chapter. These costs include, but are
9 not limited to, costs incurred exercising the authority granted in RCW
10 79.100.030, all administrative costs incurred by the authorized public
11 entity during the procedure set forth in RCW 79.100.040, removal and
12 disposal costs, and costs associated with environmental damages
13 directly or indirectly caused by the vessel. An authorized public
14 entity that has taken temporary possession of a vessel may require that
15 all reasonable and auditable costs associated with the removal of the
16 vessel be paid before the vessel is released to the owner.

17 (2) Reimbursement for costs may be sought from an owner, or any
18 person or entity that has incurred secondary liability under section 36
19 of this act, who is identified subsequent to the vessel's removal and
20 disposal.

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

28 **Sec. 39.** RCW 88.26.020 and 1993 c 474 s 2 are each amended to read
29 as follows:

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

1 commence legal proceedings to contest that such charges are owing, to
2 pay charges owed or to commence legal proceedings. Notification shall
3 be by two separate letters, one sent by first-class mail and one sent
4 by registered mail to the owner and any lienholder of record at the
5 last known address. In the case of a transient vessel, or where no
6 address was furnished by the owner, the operator need not give notice
7 prior to securing the vessel. At the time of securing the vessel, an
8 operator shall attach to the vessel a readily visible notice. The
9 notice shall be of a reasonable size and shall contain the following
10 information:

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

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

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

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

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

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

32 (a) Making arrangements satisfactory with the operator for the
33 immediate removal of the vessel from the facility or for authorized
34 moorage; and

35 (b) Making payment to the operator of all charges, or by posting
36 with the operator a sufficient cash bond or other acceptable security,
37 to be held in trust by the operator pending written agreement of the
38 parties with respect to payment by the vessel owner of the amount

1 owing, or pending resolution of the matter of the charges in a civil
2 action in a court of competent jurisdiction. After entry of judgment,
3 including any appeals, in a court of competent jurisdiction, or after
4 the parties reach agreement with respect to payment, the trust shall
5 terminate and the operator shall receive so much of the bond or other
6 security as agreed, or as is necessary, to satisfy any judgment, costs,
7 and interest as may be awarded to the operator. The balance shall be
8 refunded immediately to the owner at the last known address.

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

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

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

32 (b) Before the vessel is sold, any person seeking to redeem an
33 impounded vessel under this section may commence a lawsuit in the
34 superior court for the county in which the vessel was impounded to
35 contest the validity of the impoundment or the amount of charges owing.
36 This lawsuit must be commenced within sixty days of the date the
37 notification was provided under subsection (1) of this section, or the

1 right to a hearing is deemed waived and the owner is liable for any
2 charges owing the operator. In the event of litigation, the prevailing
3 party is entitled to reasonable attorneys' fees and costs.

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

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

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

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

26 **Sec. 40.** RCW 53.08.320 and 2011 c 247 s 3 are each amended to read
27 as follows:

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

34 (1) Procedures authorizing moorage facility personnel to take
35 reasonable measures, including the use of chains, ropes, and locks, or
36 removal from the water, to secure vessels within the moorage facility
37 so that the vessels are in the possession and control of the moorage

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

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

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

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

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

23 (2) Procedures authorizing moorage facility personnel at their
24 discretion to move moored vessels ashore for storage within properties
25 under the operator's control or for storage with private persons under
26 their control as bailees of the moorage facility, if the vessel is, in
27 the opinion of port personnel a nuisance, if the vessel is in danger of
28 sinking or creating other damage, or is owing port charges. Costs of
29 any such procedure shall be paid by the vessel's owner. If the owner
30 is not known, or unable to reimburse the moorage facility operator for
31 the costs of these procedures, the mooring facility operators may seek
32 reimbursement of ninety percent of all reasonable and auditable costs,
33 including costs from permanent disposal under section 41 of this act,
34 from the derelict vessel removal account established in RCW 79.100.100.

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

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

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

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

24 (5) If a vessel moored or stored at a moorage facility is
25 abandoned, the moorage facility operator may, consistent with section
26 41 of this act, by resolution of its legislative authority, authorize
27 the public sale of the vessel by authorized personnel to the highest
28 and best bidder for cash as prescribed by this subsection (5). Either
29 a minimum bid may be established or a letter of credit may be required,
30 or both, to discourage the future reabandonment of the vessel.

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

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

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

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

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

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

32 NEW SECTION. **Sec. 41.** A new section is added to chapter 53.08 RCW
33 to read as follows:

34 (1) Prior to selling or otherwise transferring ownership of a
35 vessel greater than sixty-five feet in length and more than forty years
36 old lawfully under its control, a moorage facility operator must

1 conduct a review of the physical condition of the vessel and the
2 vessel's operating capability.

3 (2)(a) If the moorage facility operator determines that the vessel
4 satisfies the specific element of the definition of derelict vessel as
5 provided in RCW 79.100.010(5)(c), then the moorage facility operator
6 may not sell or transfer ownership of the vessel unless the vessel is
7 being sold for scrap, salvage, or another use that will remove the
8 vessel from state waters. The moorage facility operator must, prior to
9 sale, require the submittal of a business plan from the buyer
10 confirming the buyer's intent to use the vessel for scrap, salvage, or
11 another use that will remove the vessel from state waters.

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

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

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

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

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

23 **Sec. 42.** RCW 53.08.310 and 1986 c 260 s 1 are each amended to read
24 as follows:

25 Unless the context clearly requires otherwise, the definitions in
26 this section apply throughout this section (~~and~~), RCW 53.08.320 and
27 section 41 of this act.

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

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

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

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

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

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

16 **Sec. 43.** RCW 79A.65.030 and 2002 c 286 s 22 are each amended to
17 read as follows:

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

26 (b)(i) Vessels that satisfy the specific element of the definition
27 of derelict vessel provided in RCW 79.100.010(5)(c) must be disposed of
28 consistent with the authority granted to the commission in chapter
29 79.100 RCW or sold for scrap, salvage, or another use that will remove
30 the vessel from state waters. If the vessel is sold for sale, the
31 commission must require the submittal of a business plan from the buyer
32 confirming the buyer's intent to use the vessel for scrap, salvage, or
33 another use that will remove the vessel from state waters. The
34 business plan must include the following elements:

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

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

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

5 (ii) The commission may use the authority granted under RCW
6 79.100.100 regardless of whether or not the vessel has been found to be
7 abandoned under RCW 79A.65.020.

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

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

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

1 the derelict vessel removal account established in RCW 79.100.100. If
2 the sale is for a sum less than the applicable charges, the commission
3 is entitled to assert a claim for the deficiency against the vessel
4 owner. Nothing in this section prevents any lien holder or secured
5 party from asserting a claim for any deficiency owed the lien holder or
6 secured party.

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

15 NEW SECTION. **Sec. 44.** A new section is added to chapter 79.100
16 RCW to read as follows:

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

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

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

32 (4) The department shall accept and review vessel turn-in program
33 applications from eligible vessel owners, including private marinas
34 that have gained legal title to a vessel in an advanced state of
35 disrepair, during the time period or periods identified by the
36 department. In order to be eligible for the vessel turn-in program, an

1 applicant must demonstrate to the department's satisfaction that the
2 applicant:

3 (a) Is a Washington resident or business;

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

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

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

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

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

17 NEW SECTION. **Sec. 45.** (1) In compliance with RCW 43.01.036, the
18 department of natural resources must provide a brief summary of the
19 vessel turn-in program authorized under section 44 of this act to the
20 legislature by September 1, 2014, including information about
21 applications for the program, the vessels disposed of, and any
22 recommendations for modification of the program.

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

24 **Sec. 46.** RCW 43.21B.305 and 2005 c 34 s 2 are each amended to read
25 as follows:

26 (1) In an appeal that involves a penalty of fifteen thousand
27 dollars or less or that involves a derelict or abandoned vessel under
28 RCW 79.100.120, the appeal may be heard by one member of the board,
29 whose decision shall be the final decision of the board. The board
30 shall define by rule alternative procedures to expedite appeals
31 involving penalties of fifteen thousand dollars or less or involving a
32 derelict or abandoned vessel. These alternatives may include:
33 Mediation, upon agreement of all parties; submission of testimony by
34 affidavit; or other forms that may lead to less formal and faster
35 resolution of appeals.

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

4 NEW SECTION. **Sec. 47.** (1) The department of natural resources
5 must, in consultation with the department of ecology and appropriate
6 stakeholders, evaluate potential changes to the derelict and abandoned
7 vessel program that increases vessel owner responsibility and addresses
8 challenges associated with the economics of removing vessels from the
9 water. This evaluation must include the development and analysis of:

10 (a) Administrative and legislative vessel owner responsibility
11 options that seek to ensure the prevention and cleanup of derelict and
12 abandoned vessels; and

13 (b) The identification of challenges and roadblocks to
14 deconstructing derelict vessels and transforming them into a viable
15 scrap metal product.

16 (2) The department of natural resources may choose which
17 appropriate stakeholders are consulted in the implementation of this
18 section. However, persons with relevant expertise on financial
19 responsibility mechanisms, such as insurance and surety bonds and
20 letters of credit, must be included. The department of natural
21 resources must also seek to ensure opportunities for interested members
22 of the senate and house of representatives to provide input into the
23 work group process and conclusions.

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

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

29 NEW SECTION. **Sec. 48.** Section 33 of this act expires June 30,
30 2019.

31 NEW SECTION. **Sec. 49.** Section 34 of this act takes effect June
32 30, 2019.

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