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**SUBSTITUTE HOUSE BILL 1378**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Agriculture and Natural Resources (originally sponsored by Representatives Reeves, Dent, Berry, Ramel, Gregerson, and Leavitt; by request of Department of Natural Resources)

1 AN ACT Relating to derelict aquatic structures; and adding a new  
2 chapter to Title 79 RCW.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that nearshore  
5 habitat is amongst the most important for threatened and endangered  
6 species of salmon, yet nearshore habitat in populated areas is often  
7 negatively impacted by man-made structures. There is a growing  
8 problem where aquatic or overwater structures become derelict or fall  
9 into disrepair. These derelict aquatic structures are public  
10 nuisances and safety hazards as they can pose risks to navigation,  
11 harm nearshore habitat for threatened and endangered species, detract  
12 from the aesthetics of Washington's waterfronts, and threaten the  
13 environment with the potential release of hazardous materials.

14 (2) The legislature further finds that the costs associated with  
15 the proper removal or repair of derelict aquatic structures are  
16 substantial and that in many cases owners of these structures lack  
17 the financial means to address the safety and environmental hazards  
18 the structures pose. As a result, the costs associated with the  
19 removal or repair of derelict structures becomes a burden on public  
20 entities and the taxpaying public.

1 (3) The legislature also finds that removal of derelict aquatic  
2 structures and restoration of surrounding habitat improves nearshore  
3 habitat quality.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply  
5 throughout this chapter unless the context clearly requires  
6 otherwise.

7 (1) "Aquatic lands" means all tidelands, shorelands, harbor  
8 areas, and the beds of navigable waters, including lands owned by the  
9 state and lands owned by other public or private entities.

10 (2) "Department" means the department of natural resources.

11 (3) "Derelict aquatic structure" means overwater and in-water  
12 structures where, as a result of catastrophic damage or disuse or  
13 neglect, conditions exist that make the structure unsafe for use,  
14 pose a hazard, or pose risks to public health or safety or the  
15 surrounding environment. Factors that indicate an aquatic structure  
16 is derelict include, but are not limited to, structures that:

17 (a) Are unsecured;

18 (b) Are abandoned and partially constructed;

19 (c) Are at risk of partial or full collapse;

20 (d) Are dilapidated by being in a state of disrepair due to  
21 catastrophic damage or disuse or neglect;

22 (e) Have received a notice from a building or safety authority  
23 with jurisdiction that identified structural defects that prohibit  
24 the structure from being used;

25 (f) Increase the risk of fire, accident, or environmental harm;  
26 or

27 (g) Otherwise represent a risk to public or environmental health  
28 or safety.

29 (4) "Owner" means any natural person, firm, partnership,  
30 corporation, association, government entity, or organization that has  
31 a lawful right to possession of a structure by purchase, exchange,  
32 gift, lease, inheritance, or legal action whether or not the  
33 structure is subject to a security interest.

34 NEW SECTION. **Sec. 3.** (1) To the extent not granted under other  
35 statutes, the department is granted authority to purchase, or acquire  
36 through gift, exchange, or other transfer, lands and facilities to  
37 carry out the purposes of this title. Following purchase or  
38 acquisition, the department also has the authority, subject to the

1 processes and limitations of this chapter, to remove, salvage, scrap,  
2 dispose of, refurbish, or repurpose a derelict aquatic structure  
3 found on or above aquatic lands within the jurisdiction of the  
4 department. Any removal and disposal must be done in an  
5 environmentally sound manner and in accordance with all federal,  
6 state, and local laws, including the state solid waste disposal  
7 provisions provided for in chapter 70A.205 RCW.

8 (2) The primary responsibility to remove a derelict aquatic  
9 structure belongs to the owner or lessee of the structure, and  
10 secondarily to the department when it has jurisdiction over the  
11 aquatic lands on which the structure lies.

12 NEW SECTION. **Sec. 4.** (1) Derelict aquatic structures will be  
13 disposed of by the department or an approved contractor in any  
14 appropriate and environmentally sound manner.

15 (2) Preference must be given to the least costly, environmentally  
16 sound, reasonable disposal option. Any disposal operations must be  
17 consistent with the requirements of all permitting authorities and  
18 state solid waste disposal provisions provided for in chapter 70A.205  
19 RCW.

20 NEW SECTION. **Sec. 5.** (1) The department shall submit all  
21 qualifying derelict aquatic structure removal projects or project  
22 elements on aquatic lands not managed by a port district under RCW  
23 79.105.420 to the Puget Sound partnership nearshore credits program  
24 or other similar mitigation credit programs to generate conservation  
25 credits to help federal permit applicants meet obligations to offset  
26 impacts from their aquatic projects.

27 (2) Any payments or revenues the department receives from the  
28 sale of credits in the nearshore credits program or other similar  
29 mitigation credit program must be directed to the derelict structure  
30 removal account.

31 NEW SECTION. **Sec. 6.** (1)(a) The derelict structure removal  
32 account is created in the state treasury. All receipts from  
33 mitigation credit programs and those moneys specified must be  
34 deposited into the account. The account is authorized to receive fund  
35 transfers and appropriations from the general fund, as well as gifts,  
36 grants, and endowments from public or private sources as may be made  
37 from time to time, in trust or otherwise, for the use and benefit of

1 the purposes of this chapter and expend the same or any income  
2 according to the terms of the gifts, grants, or endowments provided  
3 those terms do not conflict with any provisions of this section or  
4 any guidelines developed to prioritize reimbursement of projects  
5 associated with this chapter.

6 (b) Funds in the account resulting from transfers from the  
7 general fund should be prioritized for the removal of large  
8 structures.

9 (c) Moneys in the account may only be spent after appropriation.

10 (2) Priority for use of this account is for the removal,  
11 remediation, and revitalization of derelict aquatic structures that  
12 are in danger of collapsing, breaking up, or blocking navigation  
13 channels, or that present environmental risks or significant habitat  
14 impacts. The department must develop criteria, in the form of  
15 informal guidelines, to prioritize removal projects associated with  
16 this chapter, but may not consider whether the applicant is a state  
17 or local entity when prioritizing by January 1, 2024.

18 NEW SECTION. **Sec. 7.** The department may enter into a contract  
19 with a private company, individuals, tribal nation, or state and  
20 local government agencies to carry out the authority granted in this  
21 chapter.

22 NEW SECTION. **Sec. 8.** The department shall establish a grant  
23 program for lessees of state-owned aquatic land who need financial  
24 assistance to comply with the department's habitat stewardship  
25 measures for the protection of nearshore habitat. The department  
26 shall establish grant eligibility criteria and amounts by July 1,  
27 2024.

28 NEW SECTION. **Sec. 9.** The department may also acquire aquatic  
29 structures and facilities that do not meet the definition of derelict  
30 aquatic structures, but which could provide habitat benefits or  
31 amenities for the local community if either refurbished or  
32 repurposed, or both. The department may partner with a local  
33 government, government agency, tribal nation or corporation, or  
34 nonprofit group to refurbish or repurpose an aquatic structure or  
35 facility.

1        NEW SECTION.    **Sec. 10.**    (1) This chapter is not intended to limit  
2 or constrain the ability and authority of any entity to enact and  
3 enforce ordinances or other regulations relating to derelict aquatic  
4 structures, or to take any actions authorized by federal or state law  
5 in responding to derelict or abandoned structures. This chapter is  
6 also not intended to be the sole remedy available to the department  
7 against the owners of derelict aquatic structures.

8        (2) The rights granted by this chapter are in addition to any  
9 other legal rights the department may have to obtain title to,  
10 remove, recover, sell, or dispose of a derelict aquatic structure,  
11 and in no way does this chapter alter those rights, or affect the  
12 priority of other liens on a structure.

13        NEW SECTION.    **Sec. 11.**    Sections 1 through 10 of this act  
14 constitute a new chapter in Title 79 RCW.

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