

HOUSE BILL NO. 131

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE SEATON

Introduced: 2/20/13

Referred: Community and Regional Affairs, Transportation

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to abandoned and derelict vessels."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 30.30.010(a) is amended to read:

4 (a) A person may not store or leave a vessel in a wrecked, junked, or
5 substantially dismantled condition or abandoned

6 **(1) on the waters of the state** [UPON ANY PUBLIC WATER,] or at
7 a port or harbor [,] of the state **or a municipality** [,] without the consent of the **state**
8 agency **or municipality** having jurisdiction **over** [OF] the water, port, or harbor; [,] or

9 **(2)** docked at any private property without the consent of the owner of
10 the property.

11 * **Sec. 2.** AS 30.30.010(b) is amended to read:

12 (b) **A state agency, municipality,** [THE DEPARTMENT] or a peace officer
13 may remove a derelict vessel from **waters of the state** [PUBLIC WATER IN ANY
14 INSTANCE] when the vessel obstructs or threatens to obstruct navigation, contributes
15 to air or water pollution, or in any other way constitutes a danger or potential danger to

1 the environment.

2 * **Sec. 3.** AS 30.30.010 is amended by adding a new subsection to read:

3 (e) A vessel that has been denied entrance to a harbor by a state agency or
4 municipality may not be stored on waters of the state for more than 14 consecutive
5 days unless all hazardous materials and petroleum products have been removed.

6 * **Sec. 4.** AS 30.30.020 is amended to read:

7 **Sec. 30.30.020. Disposition of certain abandoned vessels.** A vessel that has
8 been left unattended for [A CONTINUOUS PERIOD OF] more than 30 consecutive
9 days [AND IS] in the waters of the state or on public property [,] or [IS] on private
10 property without authorization of the owner or occupant of the property [,] may be
11 taken into custody by a state agency, municipality, [THE DEPARTMENT] or a
12 peace officer and disposed of by the state agency or municipality [DEPARTMENT]
13 under this chapter.

14 * **Sec. 5.** AS 30.30.030 is amended to read:

15 **Sec. 30.30.030. Limitation on applicability.** Wherever outside of an
16 organized municipality in the state it is, or has become, the custom, common or
17 accepted practice to anchor, moor, or otherwise leave a vessel in a port or harbor [,] or
18 in the [PUBLIC] waters [,] of the state in such a manner that it does not threaten or
19 obstruct navigation, or to store or otherwise leave a vessel without permission on
20 public or private property, unattended for [A PERIOD OF] more than 30 days, where
21 climatic conditions make use of the vessel impracticable [,] or applicable provisions of
22 law preclude use of the vessel during that period of time, the unattended anchoring,
23 mooring, storing, or leaving of the vessel does not constitute abandonment of the
24 vessel as that term is used in AS 30.30.010 - 30.30.100 [AS 30.30.010 - 30.30.020].

25 * **Sec. 6.** AS 30.30.040 is amended to read:

26 **Sec. 30.30.040. Notice to owner.** On taking custody of an abandoned vessel, a
27 written notice immediately shall be posted on the vessel and a duplicate of that notice
28 sent by registered or certified mail, with a return receipt, to the registered owner of the
29 vessel at the registered owner's last known address and to all lienholders shown on the
30 records of a state or federal agency. The notice must contain a brief description of the
31 vessel, the location of custody, and the intended disposition of the vessel if not

repossessed within 20 days after the mailing of the notice. A notice need not be sent to the purported owner or any other person whose interest in the vessel is not recorded with a state agency [DEPARTMENT] or a federal agency.

* **Sec. 7.** AS 30.30.060 is amended to read:

Sec. 30.30.060. Possession by interested party. A person having an interest in an abandoned vessel may take possession of it before the date of the public auction upon payment to the state agency or municipality [DEPARTMENT] of all port or harbor use fees, towing, handling, storage, appraisal, advertising, and any other expenses incurred by the state agency or municipality [DEPARTMENT] in connection with the vessel. If the person taking possession of the vessel is not the registered owner, the person shall, before taking possession of the vessel, pay the expenses incurred by the state agency or municipality [DEPARTMENT] and post adequate security, which may not exceed the appraised value of the vessel. The security, if not forfeited, shall be returned to the person one year after receipt.

* **Sec. 8.** AS 30.30.070 is amended to read:

Sec. 30.30.070. When public auction not required. Public auction is not required when the appraised value of an abandoned vessel, as determined by an independent appraiser, is less than \$100. The appraiser must have at least one year of experience in the sale, purchase, or appraisal of vessels. Upon that determination and after public advertisement has been made once in a newspaper of general circulation, the state agency or municipality [DEPARTMENT] may sell the vessel by negotiation, dispose of it as junk, donate the vessel to a governmental agency, or destroy it.

* **Sec. 9.** AS 30.30.080 is amended to read:

Sec. 30.30.080. Effect of sale. The transfer of interest by sale under AS 30.30.050 - 30.30.070 shall be evidenced by a bill of sale from the state agency or municipality [DEPARTMENT], considered a transfer by operation of law, and governed by applicable provisions of law.

* **Sec. 10.** AS 30.30.090 is amended to read:

Sec. 30.30.090. Derelict vessel. A vessel that has been left unattended for [A CONTINUOUS PERIOD OF] more than 24 consecutive hours is a derelict if

(1) the vessel is sunk or in immediate danger of sinking, is obstructing a waterway, or is endangering life or property; or

(2) the vessel has been moored or otherwise left in the waters [WATER] of the state or on public property contrary to law [,] or regulations adopted by a state agency or municipality [THE DEPARTMENT,] or the vessel has been left on private property without authorization of the owner or occupant of the property, and if

(A) the vessel's certificate of number or marine document has expired and the registered owner no longer resides at the address listed in the vessel registration or marine document records of a state agency [DEPARTMENT] or the United States Coast Guard;

(B) the last registered owner of record disclaims ownership and the current owner's name or address cannot be determined;

(C) the vessel identification numbers and other means of identification have been obliterated or removed in a manner that nullifies or precludes efforts to locate or identify the owner; or

(D) the vessel registration records of a state agency [DEPARTMENT] and the marine document records of the United States Coast Guard contain no record that the vessel ever has been registered or documented, and the owner's name or address cannot be determined.

* **Sec. 11.** AS 30.30.100(a) is amended to read:

(a) A state agency, municipality, or peace officer [THE DEPARTMENT] may take or cause a derelict vessel to be taken into custody immediately. Upon taking custody of a derelict vessel, the state agency or municipality [DEPARTMENT] shall concurrently

(1) publish a notice of intended disposition once in a newspaper of general circulation;

(2) when possible, post a notice of intended disposition on the vessel; and

(3) serve a duplicate of the notice of intended disposition by certified mail, with a return receipt, on

(A) the registered owner of the vessel, if known, at the registered owner's last known address or the address on record with a state agency [DEPARTMENT] or the United States Coast Guard; and

(B) all lienholders who have filed a financing statement indexed in the name of the registered owner [,] or who are shown on the records of a state agency [DEPARTMENT] or the United States Coast Guard.

* **Sec. 12.** AS 30.30.120 is amended to read:

Sec. 30.30.120. When vessel abandoned. A vessel is abandoned on the premises of a vessel repair business when all of the following conditions have been satisfied:

(1) the service requested or required by a person whose vessel is towed or brought to a vessel repair business, including but not limited to towing and rendering estimates of the cost of repairs, has been performed;

(2) no authorization is given to perform any further service with respect to the vessel, but the vessel is left on the repair business premises;

(3) the owner of the repair business or the business owner's authorized representative has given notice by registered or certified mail, with a return receipt, to the registered owner of the vessel at the address on record at the vessel repair business and the address on record in a state agency [DEPARTMENT] or the United States Coast Guard, and to any person with a recorded interest in the vessel, stating that, if the vessel is not repossessed within 30 days after the mailing of the notice, it will be sold or disposed of; the notice also must contain a description of the vessel and its location, and it need not be sent to an owner or a person with an unrecorded interest in the vessel whose name or address cannot be determined; and

(4) the vessel is not repossessed within the 30-day period specified in (3) of this section.

* **Sec. 13.** AS 30.30.170 is amended to read:

Sec. 30.30.170. Definitions. In this chapter,

(1) "municipality" has the meaning given in AS 29.71.800;

(2) "state agency" means a state department or agency in the executive branch; "state agency" does not include an agency of the legislative or

1 **judicial branch, the University of Alaska, or a public corporation;**

2 **(3)** ["DEPARTMENT" MEANS THE DEPARTMENT OF
3 TRANSPORTATION AND PUBLIC FACILITIES;

4 (2)] "vessel" means every description of watercraft or other artificial
5 contrivance, other than a seaplane on the water, used or capable of being used as a
6 means of transportation on or through the water;

7 **(4)** [(3)] "waters of **the** [THIS] state" means the navigable waters
8 within the territorial limits of the state, and the marginal sea adjacent to the state, as
9 defined in AS 44.03.

10 * **Sec. 14.** AS 30.30.160 is repealed.