



Derelict Vessels: Accountability in Alaska

Senate Bill 92: Overview & Briefing



Overview

In March 2017, Senator Peter Micciche introduced Senate Bill 92, which holds people accountable for abandoning boats on public waters and streamlines the state's ability to prevent and manage derelict vessels. As a boat ages, the costs to keep it running increase – sometimes dramatically. Too often, the easiest thing to do is to walk away and leave the problem in someone else's hands. There are hundreds of abandoned boats around Alaska. They are navigational, environmental, safety, and economic hazards. Under current law, the state and our local communities too often end up with the huge economic burden of these boats on the water, tied up at the dock, or abandoned along the shore. With aging boats, and increasingly tight laws in neighboring states, the number of derelict vessels in Alaska is going to increase dramatically in the coming years. Alaska's current derelict vessel laws are outdated and leave an open door to becoming an even bigger dumping ground for old boats. The current law is unclear and incomplete, and makes it too easy for boat owners to deny responsibility when they abandon a boat – **we now have an opportunity for commonsense protections in Alaska.**

Solutions in SB92

Increased clarity for defining a derelict vessel and an owner and for the impoundment process including clarified hearing and notice requirements.

Increased penalties and enforcement authority for agencies and municipalities working to hold owners accountable and prevent derelict vessels from sinking on public waters.

Clarified liability section that is straightforward in stating that the owner of a vessel is liable for all costs associated with impoundment, storage, and removal of a derelict vessel.

Streamlined capacity for prevention and management of derelict vessels through the establishment of a derelict vessel prevention program at the Department of Natural Resources. Numerous staff throughout ADNRR are currently doing this work, and by concentrating those efforts into a single position other states have seen dramatic improvements and reduced costs for dealing with derelict vessels.

Sets the stage for vessel disposal, scrap, and salvage solutions. There is no denying that boats, at some point, reach the end of their life. Through the derelict vessel prevention program the state will have some capacity to begin looking at local and regional options for vessel disposal, scrap, and salvage solutions that can benefit the private sector and be a reasonable alternative to vessel abandonment.

Required insurance for certain vessels. Vessels over 30' that are engaged in commercial activity and operating in Alaska for more than 90 days would be required to have a marine insurance policy that covers the cost of removal if the vessel becomes derelict. Most commercial mariners will already have P&I coverage in place. If someone is considering a long-

term commercial venture on the water, an insurance policy will protect them, their assets and investments, and the public in the event the commercial endeavor does not work out as planned.

Increased accountability of ownership through state registration and titling. SB92 would require all vessels operating in Alaska, including those documented with the USCG and barges, be registered with the state Department of Motor Vehicles. It also requires the DMV to establish a titling system for vessels, similar to the titling system in place for motor vehicles. The state and municipalities have found establishing ownership to be one of the major hurdles in holding owners responsible for derelict vessels. This is a commonsense solution to improve accountability.

Please take a minute to send a letter of support for SB92 to Sen. Micciche
(Senator.Peter.Micciche@akleg.gov) and to Senate Resources Chair Sen. Cathy Giessel
(Senator.Cathy.Giessel@akleg.gov).

The Problem.

Alaska has over 60,000 vessels along our coast and rivers. Ranging from small skiffs to commercial vessels well over 100', Alaska has diverse fleets of vessels that are integral to life in many communities. Unfortunately, boats of all sizes have a finite usable life and they generally get more expensive to upkeep as they age. With federal and state fishing rationalization programs, economic downturns, and the inevitable aging and increased maintenance costs, many boats have become uneconomical to operate as intended and are increasingly being left moored in a public harbor or anchored over public tidelands. There are over 20 large barges abandoned along fishing grounds and a busy navigational channel outside of Bethel, and the State is currently in criminal court over one of them. Twelve large old boats line the shores of Port Graham Bay in Cook Inlet. Two ex-Navy tugs, one of which has sunk, are anchored on state tideland just outside of Adak. A massive floating facility is breaking into pieces and littering the shores of Saginaw Bay outside of Kake. The U.S. Coast Guard just oversaw the removal of the 71-year-old tugboat Challenger from Gastineau Channel outside of Juneau. The USCG estimated the final cost at \$2 million. In 2011 the US Coast Guard helped the City of Cordova remove the Sound Developer – a 117' landing craft – which had sunk in their harbor. That removal took over two years and cost nearly \$1.2 million, also paid for by the federal oil spill liability trust fund.

Without a clear and pro-active response strategy and program for dealing with and preventing derelict vessels in Alaska's public waters, the number of abandoned and derelict vessels will continue to increase and will leave the public to pay the consequences—including vessel salvage and clean-up and disposal of fuel, oil and other hazardous materials. Without stronger laws, the state is incredibly vulnerable to irresponsible owners walking away from their problem boats.



Top: An out-of-state owner with dreams of a floating lodge has essentially walked away from this floating facility in Saginaw Bay, outside of Kake.

Bottom: Two ex-Navy tugboats (one is sunken) are left on state tidelands outside of Adak.



Top: The F/V Leading Lady and F/V Kupreanof sank in Jakolof Bay on Christmas Eve 2012. Commercial oyster farms had to conduct testing throughout that summer because of pollution concerns from this incident.
Bottom: There are dozens of derelict barges along sloughs of the Kuskowim River near Bethel, including Shenk's Arc pictured above.

The Alaska Legislature knew this in 1990, and passed HCR 53: Relating to abandoned vessels on the beaches of Alaska. This resolution recognized the scope of the problem and, "...the state does not currently have statutory authority to impose liability on the owners of abandoned vessels for the cost of salvaging or demolishing abandoned vessels..." It concludes by requesting the governor "...study the problems posed by abandoned vessels and to make appropriate recommendations...for legislation necessary to remedy existing problems and prevent future problems." (a copy of HCR 53 is on the next page).

In 2013, the Alaska Legislature passed HB131. Despite the requests in HCR53, this was the first update to our derelict vessel laws since originally enacted in the 1970s. HB131 allowed all agencies and municipalities' the authority to act on derelict vessels under state statutes. This right had been reserved in the original statutes to the Department of Transportation, since the state originally built and operated all of our public harbors. Since that time, ADOT has divested itself of all but an estimated 25 facilities, and lacking both funding and a mandate they do not wade into derelict vessel cases.

The Alaska Department of Natural Resources, however, is the manager and steward of our state lands, including public tidelands. Under our current statutes in AS30.30, ADNRS is nearly impotent when it comes to enforcing the law. They are able to write trespass and warning letters, to deny permits, and to threaten criminal action. In practice, the costs and burden of court have been a

major barrier to actual enforcement of any derelict vessel cases, with a few notable exceptions. After years of attempts to encourage action from the owner of a sunken barge in Steamboat Slough (Bethel), the state is currently in court and suing Bethel-based Faulkner Wash Constructors for damages resulting from negligent and intentional trespass on state lands (['In a first, state sues company over an abandoned barge in a slough near Bethel', ADN Nov. 24, 2016](#)).

In 2014, the ad-hoc Abandoned & Derelict Vessel Task Force formed as a group of state, local, federal and private stakeholders concerned about the increasing costs and damages of derelict boats throughout Alaska. Over the course of nine full-day meetings, the group examined Alaskan case studies, looked at success stories from other states, and discussed current authorities and tools available for preventing derelict vessels. In the end, Task Force members agreed that a full revision of our state statutes was necessary for any progress on derelict vessels. With the help of the law firm Birch, Horton, Bittner & Cherot the Task Force drafted a full re-write of AS 30.30. The Task Force received comments on the draft over a five-month period, and the Alaska Association of Harbormasters and Port Administrators presented the final version to Senator Micciche for his consideration in February 2017. On March 10, 2017 Senate Bill 92 was introduced and referred to Resources and Finance.

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Offered: 3/30/90
Referred: Rules

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To <i>Mike Sullivan</i>	From <i>KQ</i>	
Co.	Co.	
Dept.	Phone #	
Fax #	Fax #	

Original sponsor(s): REP. JACKO

1 IN THE HOUSE

BY THE TRANSPORTATION COMMITTEE

2 CS FOR HOUSE CONCURRENT RESOLUTION NO. 53 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 Relating to abandoned vessels on the
6 beaches of Alaska.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS many abandoned vessels, including merchant vessels, fishing
9 vessels, and other vessels, are grounded on the coast of Alaska; and

10 WHEREAS abandoned vessels are an environmental hazard and are aesthet-
11 ically unpleasing; and

12 WHEREAS the state does not have the resources to salvage or dispose of
13 abandoned vessels; and

14 WHEREAS the state does not currently have statutory authority to
15 impose liability on the owners of abandoned vessels for the cost of salvag-
16 ing or demolishing abandoned vessels; and

17 WHEREAS communities are not compensated for the aesthetic and physical
18 trespass resulting from abandoned vessels;

19 BE IT RESOLVED by the Alaska State Legislature that the governor is
20 respectfully requested to study the problems posed by abandoned vessels and
21 to make appropriate recommendations to the First Session of the Seventeenth
22 Alaska State Legislature for legislation necessary to remedy existing
23 problems and prevent future problems.

Press Quotes and Excerpts

"By 2025, the Alaska fleet will include roughly 3,100 vessels between 28' and 59' that are more than 45 years old...the Alaska fleet also includes 75 passenger vessels, tugs, and barges over 50 years old..." - *Trends & Opportunities in the Alaska Maritime Industrial Support Sector, McDowell Group (2014)*

"Graham Wood, a program manager at DEC, said the issue of derelict vessels left on state land is "more common than you'd think." ... "There's no good solution to deal with this problem," Wood said. "Until there's some kind of legislation to deal with these kinds of vessels statewide," it will continue to be an issue." - *Frustration lingers over two derelict tugboats in Adak (ADN, May 20, 2016)*

"The mess in Steamboat Slough, just a quick boat ride from the Southwest Alaska hub of Bethel, is both menacing and ghostly...It's an enormous problem, but according to those involved, it remains frustratingly hard to fix. Weak state laws, difficulties with vessel owners, limited jurisdictions and pinched public budgets hamper the effort.

The cost of removing the hundreds of abandoned and derelict vessels littering shorelands around the state is easily in the tens of millions of dollars, say members of a task force trying to turn around the situation. - *Abandoned vessels litter Alaska's shorelines while officials work on a fix (ADN, September 28, 2016)*

"We must have liability insurance on our automobiles to drive in Alaska. It seems reasonable to require liability insurance of vessel owners, at least for those anchoring on Alaska tidelands.

I had no idea a person could sink his or her vessel in Alaskan waters and walk away leaving the state with the responsibility and great expense of raising and disposing of a derelict vessel. It appears that Alaskan laws regarding responsibility for derelict vessels are weak, and we are accumulating these junk vessels around the state. The sunken vessel creates hazards to navigation." - *My Turn: Responsibility for abandoned and derelict vessels in Alaska (Phillip Gray for the Juneau Empire, October 8, 2015)*

"Alaska has a big problem beneath the surface. For Juneau, that problem has been breaking the surface a lot recently. It's the issue of derelict and abandoned boats. Right now, there's not much anyone can do about it....The boat's owner is supposed to be liable for cleaning up the wreck, but what do you do when they don't have insurance and can't pay the bill? Unlike cars, boats don't have to carry insurance.

...It's going to be difficult for the state to even hold the Challenger's owner accountable. Recreational boats must be registered with the Department of Motor Vehicles, but the Challenger was originally a working boat. It didn't have to be registered with the DMV. It also wasn't registered with Fish and Game, since it wasn't a fishing boat....That means that even though Juneauites know it was owned by Douglas artist R.D. Robinson, it's going to be difficult for the state to find legally binding documentation that Mr. Robinson is the owner....Even if the state can tie Mr. Robinson to the Challenger, it doesn't have a way to force him to pay — barring a lengthy court case.

...The Alaska Department of Natural Resources — now overseeing the Challenger because it litters the state land at the bottom of the channel — lacks even the authority to fine Mr. Robinson for littering....we could instead simply mandate the registration of all boats — commercial and recreational alike — through the DMV. We could also mandate that boats of a certain size, like all cars, carry insurance sufficient to cover their salvage.

At the very least, we could grant the Department of Natural Resources the simple authority to levy fines on those who pollute Alaska's waters." - *Empire Editorial: Strong action needed to avoid repeat of Challenger sinking. (Juneau Empire, October 15, 2015)*