

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 14, 2013

8:07 a.m.

MEMBERS PRESENT

Representative Gabrielle LeDoux, Co-Chair
Representative Benjamin Nageak, Co-Chair
Representative Bob Herron
Representative Lora Reinbold

MEMBERS ABSENT

Representative Neal Foster
Representative Kurt Olson
Representative Harriet Drummond

COMMITTEE CALENDAR

HOUSE BILL NO. 131

"An Act relating to abandoned and derelict vessels."

- MOVED HB 131 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 131

SHORT TITLE: ABANDONED AND DERELICT VESSELS

SPONSOR(S): REPRESENTATIVE(S) SEATON

| | | |
|----------|-----|---------------------------------|
| 02/20/13 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/20/13 | (H) | CRA, TRA |
| 03/14/13 | (H) | CRA AT 8:00 AM BARNES 124 |

WITNESS REGISTER

REPRESENTATIVE SEATON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 131.

MICHAEL LUKSHIN, Statewide Ports and Harbors Engineer
Division of Statewide Design and Engineering Services
Department of Transportation & Public Facilities
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 131.

WYN MENEFEE, Chief of Operations
Division of Mining, Land and Water
Department of Natural Resources
Anchorage, Alaska

POSITION STATEMENT: Regarding HB 131, testified that it's good to have the extra authority.

JOY BAKER, Harbormaster
Port of Nome
City of Nome
Nome, Alaska

POSITION STATEMENT: Testified in support of HB 131.

STEVE CORPORON, Director
Ketchikan Port and Harbors
City of Ketchikan;
President, Alaska Association of Harbormasters and Port
Administrators
Ketchikan, Alaska

POSITION STATEMENT: Testified on HB 131.

RACHEL LORD, Coordinator
Alaska Clean Harbors Program;
Outreach & Monitoring Coordinator, Cook Inletkeeper
Homer, Alaska

POSITION STATEMENT: Testified in support of HB 131.

BRYAN HAWKINS, Director/Harbormaster
City of Homer
Homer, Alaska

POSITION STATEMENT: Testified in support of HB 131.

CARL UCHYTIL, Vice President
Alaska Association of Harbormasters and Port Administrators
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 131.

LARRY DIETRICK
Spill Prevention and Response
Department of Environmental Conservation (DEC)
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 131, answered questions.

ACTION NARRATIVE

8:07:29 AM

CO-CHAIR BENJAMIN NAGEAK called the House Community and Regional Affairs Standing Committee meeting to order at 8:07 a.m. Representatives Herron, Olson, LeDoux, and Nageak were present at the call to order. Representative Reinbold arrived as the meeting was in progress.

HB 131-ABANDONED AND DERELICT VESSELS

8:08:51 AM

CO-CHAIR NAGEAK announced that the only order of business would be HOUSE BILL NO. 131, "An Act relating to abandoned and derelict vessels."

8:09:10 AM

REPRESENTATIVE SEATON, Alaska State Legislature, speaking as the sponsor, explained that HB 131 addresses derelict vessels, which has long been a problem in the state. The problem has recently come to the forefront due to sinking vessels in Jakolof Bay and a costly response to remove derelict vessels anchored in state waters. The legislation is primarily based on language provided by the Alaska Association of Harbormasters and Port Administrators, which has been working for some time to solve this problem. Derelict vessels are a costly and growing problem across the state that has been accentuated by consolidation of fisheries in the 1990s, which resulted in some of the larger vessels that could no longer participate in the fisheries aging in the harbors, being sold to individuals with less financial ability, and used as house boats. There have also been a lot of smaller vessels that have been abandoned. Those vessels abandoned in harbors take up moorage space and ultimately become a problem for the municipality. For example, it took several years to get through all the paperwork to address a large vessel that sank in Cordova Harbor. Furthermore, once a vessel is abandoned, there is no entity to pay for it. He then turned to the situation in Jakolof Bay in which vessels were [evicted] from a harbor and turned down for entrance into the Homer harbor due to the condition of the vessels. Ultimately, the vessels were anchored in state waters where they sank during the winter. Due to leaking fuel, the U.S. Coast Guard launched a response to raise the vessels at a cost of \$25 million. As soon as the vessels were raised they became the concern of the Department of Transportation & Public Facilities (DOT&PF). He explained that

although most harbors, which were originally owned by the state and operated by DOT&PF, have been transferred to municipalities. The authority for dealing with those vessels remains with DOT&PF while the Department of Natural Resources (DNR) is responsible for those vessels that sink within the three miles of state waters. Therefore, transfer of authority between agencies has been problematic. This legislation allows for a multi-agency approach to address abandoned and derelict vessels and replaces the department with a state agency, which includes a municipality. Representative Seaton specified that the abandoned and derelict vessel statute is a framework for dealing with such vessels and clearly lays out the procedures that state agencies and municipalities can utilize to address abandoned and derelict vessels.

[8:14:16 AM](#)

CO-CHAIR LEDOUX surmised that HB 131 basically adds municipalities as a place one can't abandon vessels.

REPRESENTATIVE SEATON acknowledged that is one of the things HB 131 does. The legislation also specifies that a vessel that has been turned down from entrance into a harbor because of its derelict condition can't be stored in state waters for over 14 days without removing the hazardous waste and bulk fuel on board. The latter condition of HB 131 avoids an emergency response and all it entails, such as was the case with the Jakolof Bay incident. In further response to Co-Chair LeDoux, Representative Seaton said that although the federal maritime law exists, the harbormasters don't believe that just because a vessel is documented that it limits their authority. Although current statute specifies that DOT&PF has authority over derelict vessels in state waters, DNR has the responsibility to maintain state waters and lands. Therefore, one agency has the responsibility and another agency has the authority to deal with the situation. Currently, there is no clear authority to address abandoned/derelict vessels within a municipality and it is left to DOT&PF. This legislation clarifies that those who have the responsibility also have the authority to address the problem.

[8:17:56 AM](#)

REPRESENTATIVE HERRON asked if there was consideration of expanding [the authority to address abandoned and derelict vessels] to include political subdivisions with side boards.

REPRESENTATIVE SEATON clarified that HB 131 expands the authority to municipalities, police officers, or state agencies and therefore it covers subdivisions of state agencies as well.

REPRESENTATIVE HERRON then inquired as to why it's limited to state agencies and municipalities and doesn't include other political subdivisions that want to take on the disposal of an abandoned/derelict vessel.

REPRESENTATIVE SEATON pointed out that a peace officer, for which there is a fairly broad definition, is included. He related that he hasn't been contacted by any other local authority with control over a harbor that couldn't employ a police officer or a state agency to have the authority.

[8:20:35 AM](#)

REPRESENTATIVE HERRON inquired as to what entity pays for the removal of any derelict vessel that isn't hazardous.

REPRESENTATIVE SEATON highlighted that HB 131 deals with state lands and waters. Private land owners have separate authority to deal with their property and waters. The municipal section does include a provision for disposal of a derelict vessel with an appraisal less than \$100 such that there only has to be notice to the last owner of record or if there is no known last owner of record, notice in the paper. Representative Seaton noted that no fund is created to address abandoned/derelict vessels, rather authority is being provided to the agencies with the responsibility.

[8:22:16 AM](#)

CO-CHAIR LEDOUX asked whether there are any communities that may not fall under the definition of municipality, but are entitled to revenue sharing funds and would want to have the ability to address abandoned vessels.

REPRESENTATIVE SEATON said he hasn't been contacted by anyone/entity with a harbor that isn't private land. He indicated that villages with village land have the authority and ability to address [abandoned/derelict vessels] on private land. This legislation deals with state waters and allows a peace officer, which has a broad definition, to address this issue.

[8:24:29 AM](#)

REPRESENTATIVE SEATON then paraphrased from the sectional analysis, which read [original punctuation provided]:

Section 1. AS 30.30.010(a)

A person may not store a derelict vessel, or abandon a vessel in:

- The waters of the state
- A state or municipal port
- Private property without consent

Sec. 2. AS 30.30.010(b)

A hazardous derelict vessel may be removed from state waters by:

- A state agency
- A municipality
- A peace officer

Sec. 3. AS 30.30.010(e)

If a vessel is denied entrance to a harbor, all of the following materials must be removed before it is stored in state waters for more than 14 consecutive days:

- Hazardous materials
- Petroleum products

Sec. 4. AS 30.30.020

A vessel left unattended for more than 30 consecutive days on state or private property without consent may be removed and disposed of by:

- A state agency
- A municipality
- A peace officer

Sec. 5. AS 30.30.030

Outside of organized municipalities, a vessel may be left unattended for more than 30 consecutive days if it is considered an accepted local practice.

Sec. 6. AS 30.30.040

Upon taking a vessel into custody, the municipality, or state agency must attempt to notify the owners on record of their custody 20 days prior to repossession of the vessel.

Sec. 7. AS 30.30.060

A person or interested party may take possession of the boat before the public auction date if they pay all the fees associated with the vessel.

If they are not the registered owner, they must post adequate security.

Sec. 8. AS 30.30.070

A public auction for a repossessed vessel is not needed if it is appraised at less than \$100. Upon determination that the value of the vessel is less than \$100 and following advertisement in a newspaper of general circulation the state agency or municipality may sell the vessel by negotiation, dispose of it, or donate it to a government agency.

Sec. 9. AS 30.30.080

A bill of sale is required for any transfers under this legislation.

[8:28:50 AM](#)

CO-CHAIR LEDOUX related her understanding that a documented vessel required a federal document other than a bill of sale.

REPRESENTATIVE SEATON clarified that it's a marine bill of sale for a federal documented vessel.

[8:29:32 AM](#)

REPRESENTATIVE SEATON continued paraphrasing from the sectional analysis, which read [original punctuation provided]:

Sec. 10. AS 30.30.090

A vessel is considered derelict if it is left unattended for 24 consecutive hours under the following conditions:

- Is sunk, sinking, or posing a threat, or has been moored or left in the waters of the state illegally with no current registration and the owner cannot be determined.

Sec. 11. AS 30.30.100(a)

When a municipality, state agency, or peace officer takes possession of a derelict, they must:

- Publish notice of intended disposition
- Post notice of intended disposition

- Serve the registered owners, if known, and financiers with the notice

Sec. 12. AS 30.30.120

A vessel at a repair business is considered abandoned if the following conditions have been met:

- The vessel has been towed and requested repairs have been preformed
- No authorization for further service is given
- The state agency or municipality and the owner are notified
- The vessel is not claimed 30 days after the notice

Sec. 13. AS 30.30.170

Definitions:

- Municipality – as currently defined
- State Agency – executive branch department or agency
- Vessel – water transportation device that is not a float plane
- Waters of the state – navigable waters within three mile limit

Sec. 14. AS 30.30.160

Repeal of specific DOT&PF regulation authority to implement the abandoned and derelict vessel statute as the bill broadens the authority for abandoned and derelict vessels to include the other state agencies.

[8:32:32 AM](#)

REPRESENTATIVE REINBOLD thanked the sponsor for introducing HB 131 as it's important legislation.

[8:32:59 AM](#)

CO-CHAIR NAGEAK opened public testimony for HB 131.

[8:33:06 AM](#)

MICHAEL LUKSHIN, Statewide Ports and Harbors Engineer, Division of Statewide Design and Engineering Services, Department of Transportation & Public Facilities, related support for HB 131. He explained that existing statute, AS 30.30, was created in 1975 when the Department of Public Works built harbors for the state. At one point, 100 harbors were owned by the Department of Public Works. In 1980, the Department of Public Works merged with the Department of Public Highways to form and transfer

authorities to DOT&PF. Since the 1980s DOT&PF has been asked to divest and transfer as many harbors as possible to local control. At this point, about 76 harbors have been transferred to municipalities under AS 35.10.120, which allows transfer of harbors only to municipalities. The aforementioned may be why AS 30.30 was originally crafted to only [provide oversight from DOT&PF]. Therefore, passage of HB 131 would broaden the authority that is currently limited to DOT&PF, which doesn't have funds or personnel to respond to derelict and abandoned vessels. With Alaska's 33,000 miles of coastline, it's very challenging for those public waters and harbors that may be in local control.

[8:36:09 AM](#)

REPRESENTATIVE REINBOLD asked whether there is any plan to clean up the debris from the disaster in Japan that is reaching Alaska's coastline.

MR. LUKSHIN replied no, but added that National Oceanic and Atmospheric Administration (NOAA) has a federal program through its marine debris removal plan that may allow them to respond.

[8:37:13 AM](#)

WYN MENEFEE, Chief of Operations, Division of Mining, Land and Water, Department of Natural Resources, opined that the proposal in HB 131 to broaden the authority to allow DNR and others to utilize it when necessary is good. As the sponsor related, the legislation doesn't mandate the removal of vessels or create a fund for doing so, rather it merely provides another tool to address abandoned and derelict vessels on state land. In response to Co-Chair Nageak, Mr. Menefee confirmed that HB 131 doesn't cause [DNR] any concern as it merely provides authority that it doesn't currently have. For instance, in the Jakolof Bay situation DNR had to obtain delegated authority from DOT&PF to deal with the two vessels that sank in Jakolof Bay. The department is still dealing with that issue as it deals with disposal of the vessels.

[8:39:17 AM](#)

REPRESENTATIVE REINBOLD asked whether there are any plans or need of authority to address the debris from Japan on Alaska's coastline.

MR. MENEFEE related that the Department of Environmental Conservation (DEC) is the lead on the cleanup efforts with the state. However, DNR is also part of the work task force and is working with NOAA. There is an increase in the amount of debris on state lands as well as others. Japan gave the federal government a certain amount of funding, which NOAA is trying to apply to this issue. The first thing NOAA did was to map where the debris comes ashore. Most of the cleanup is, rather than a matter of funding, a matter of coordination with various groups that are cleaning up specific beaches and ensuring they have the necessary authorizations for things such as the use of heavy equipment on the beaches. Mr. Menefee said that one has to be cognizant of the fact that it isn't possible to clean all the beaches, and therefore it's a matter of prioritization of sites.

[8:41:51 AM](#)

JOY BAKER, Harbormaster, Port of Nome, City of Nome, related that although the Port of Nome hasn't been transferred to the municipality, it is supportive of HB 131 as it has had to deal with many abandoned/derelict vessels. She mentioned the expense of disposal of abandoned/derelict vessels.

[8:43:42 AM](#)

STEVE CORPORON, Director, Ketchikan Port and Harbors, City of Ketchikan; President, Alaska Association of Harbormasters and Port Administrators, began by informing the committee that the City of Ketchikan has taken authority over its harbors. The city code provides impound authority and control over abandoned and derelict vessels, the issue is that authority doesn't extend very far from the harbor. Therefore, the derelict vessels tend to run away from the city and move into the borough and state waters where they become an issue. The key is to provide the authority to the other areas in order that they can take action prior to any vessel sinking because the financial and environmental impacts are higher once they sink. These vessels are much easier to deal with when they are floating.

[8:45:51 AM](#)

RACHEL LORD, Coordinator, Alaska Clean Harbors Program; Outreach & Monitoring Coordinator, Cook Inletkeeper, explained that the Alaska Clean Harbors Program is a voluntary statewide program that works with harbormasters to improve resources and tools for waste management, pollution prevention, and customer service activities. She related support from the Alaska Clean Harbors

Program for HB 131, which she characterized as a strong step to improve the ability of municipalities and state agencies to effectively deal with the abandoned/derelict vessels along the state's vast coastline. Many coastal municipalities lack the legal framework within their codes to navigate maritime law to effectively deal with these vessels. She encouraged Alaska to look to Washington State on this issue as it has spent millions dealing with abandoned/derelict vessels on its coast. Alaska has enjoyed a relatively young fleet of actively working vessels, but increasingly this isn't the case as the fleet has aged. In the not so distant future, she predicted more derelict vessels in Alaska in the state's municipal harbors as well as the state's coastline. In conclusion, Ms. Lord reiterated Alaska Clean Harbors Program's support for HB 131.

[8:47:35 AM](#)

BRYAN HAWKINS, Director/Harbormaster, City of Homer, began by relating support for HB 131, which he characterized as a good step forward. This legislation, he opined, enables good communication between the state and cities. One of the key components of addressing this issue is recognizing the problem early and having the authority to act on it before there is a major incident. Referring to earlier questions, Mr. Hawkins informed the committee that as the City of Homer harbormaster he has police powers in [the city] code, which is the case for many other harbormasters as well.

[8:49:28 AM](#)

CARL UCHYTIL, Vice President, Alaska Association of Harbormasters and Port Administrators, began by noting that although he is the port director for the City and Borough of Juneau, he is testifying today in his capacity as the vice president of the Alaska Association of Harbormasters and Port Administrators. He provided the following testimony:

The Alaska Association of Harbormasters and Port Administrators (AAHPA) in our resolution 2012-02 strongly urges support of the proposed changes to chapter 30.30 for abandoned and derelict vessels. AAHPA believes delegation of authority under state statutes to local municipalities is a step in the right direction in turning the tide of abandoned and derelict vessels in the state. The condition of vessels operating in the state waters of Alaska is diverse, from modern yachts and well-maintained 80-

year-old wooden trawlers to relatively new but decrepit live aboards to turn of the century abandoned tug boats; we see them all. The harbormaster is consistently looking for tools to help best manage his harbor facility while keeping a vigilant eye on vessels [that] encroach on tidelands which they may or may not have authority to act upon. This proposed authority is necessary throughout the state, especially in smaller coastal communities and ... communities up the Yukon and Kuskokwim Rivers where legal enforcement resources are not readily available to deal with the liabilities and hazards of abandoned and derelict vessels. The construction and operation of harbors by the Alaska Department of Transportation [& Public Facilities] shortly after statehood resulted in regulations which empowered only [DOT&PF] to effectively deal with troublesome vessels. Expanding the language to include not only [DOT&PF] but other state agencies and municipalities would appear to be sound legislation. The proposed delegation of authority to the local municipality will help to refine the relationship between state and city/borough responsibilities and will enable harbormasters and communities with limited legal resources or limited local ordinances to act with confidence in prosecuting derelict and abandoned vessels. The modifications to chapter 30.30 appear to have in place sufficient authority, which encourages the state or municipality to act in a timely manner and before the vessel is in extremis. This is important because the disposal cost associated with a vessel that is afloat is a small fraction of what it costs once a vessel takes on water, is submerged, or discharges fuel or oil. The Alaska Association of Harbormasters and Port Administrators thank you for your consideration of this important issue to the Alaska coastal communities.

[8:53:24 AM](#)

REPRESENTATIVE REINBOLD inquired as to the plan for cleaning Alaska's shoreline from the debris from Japan's disaster.

[8:53:42 AM](#)

LARRY DIETRICK, Spill Prevention and Response, Department of Environmental Conservation (DEC), explained that the governor

issued an administrative order that created a work group within state government to oversee the cleanup. As has been mentioned, DEC was made the lead agency per the administrative order. Since the project manager for that project is in another division, he offered to arrange a detailed briefing if the committee so desires. He noted that there is quite a bit of activity going on now, including funding and prioritization of shorelines.

[8:54:41 AM](#)

CO-CHAIR LEDOUX remarked that a presentation on that would be a good idea.

[8:54:54 AM](#)

MR. DIETRICK offered to provide a briefing in the committee setting or individually, whichever is preferred.

[8:55:13 AM](#)

CO-CHAIR NAGEAK closed public testimony.

[8:55:22 AM](#)

REPRESENTATIVE SEATON, in closing, related appreciation for the hearing and for the committee's support of the legislation.

[8:56:28 AM](#)

CO-CHAIR LEDOUX moved to report HB 131 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

[8:56:56 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:56 a.m.