

ALASKA STATE LEGISLATURE
SENATE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 9, 2013

4:02 p.m.

MEMBERS PRESENT

Senator Peter Micciche, Chair
Senator Cathy Giessel, Vice Chair
Senator Dennis Egan

MEMBERS ABSENT

Senator Click Bishop
Senator Lyman Hoffman

OTHER LEGISLATORS PRESENT

Representative Paul Seaton

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 RPT 4DP
03/14/13	(H)	DP: REINBOLD, OLSON, NAGEAK, LEDOUX
03/14/13	(H)	CRA AT 8:00 AM BARNES 124
03/14/13	(H)	Moved Out of Committee
03/14/13	(H)	MINUTE(CRA)
03/21/13	(H)	TRA AT 1:00 PM BARNES 124
03/21/13	(H)	Moved Out of Committee
03/21/13	(H)	MINUTE(TRA)
03/22/13	(H)	TRA RPT 6DP
03/22/13	(H)	DP: LYNN, FEIGE, ISAACSON, GATTIS, KREISS-TOMKINS, P.WILSON
04/05/13	(H)	TRANSMITTED TO (S)

04/05/13 (H) VERSION: HB 131
04/06/13 (S) READ THE FIRST TIME - REFERRALS
04/06/13 (S) CRA
04/09/13 (S) CRA AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

REPRESENTATIVE PAUL SEATON
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of HB 131.

JOY BAKER, Harbormaster
City of Nome Port Facility
Nome, Alaska
POSITION STATEMENT: Supports HB 131.

CARL UKATEL, Port Director
Docks and Harbors-City and Borough of Juneau, and
Vice President
Alaska Association of Harbormasters and Port Administrators
Juneau, Alaska
POSITION STATEMENT: Supports HB 131.

MICHAEL LUKSHIN, State Ports & Harbors Engineer
Alaska Department of Transportation & Public Facilities
Juneau, Alaska
POSITION STATEMENT: Supports HB 131

RACHEL LORD, Outreach & Monitoring Coordinator
Cook Inletkeeper, and
Statewide Coordinator
Alaska Clean Harbors Program
Homer, Alaska
POSITION STATEMENT: Supports HB 131.

BRYAN HAWKINS, Port Director/Harbormaster
Port & Harbor-City of Homer
Homer, Alaska
POSITION STATEMENT: Supports HB 131.

ACTION NARRATIVE

[4:02:42 PM](#)

CHAIR PETER MICCICHE called the Senate Community and Regional Affairs Standing Committee meeting to order at 4:02 p.m. Present

at the call to order were Senators Egan, Vice-Chair Giessel, and Chair Micciche.

HB 131-ABANDONED AND DERELICT VESSELS

[4:03:16 PM](#)

CHAIR MICCICHE announced that the order of business was a hearing on HB 131, an Act related to abandoned and derelict vessels, sponsored by Representative Paul Seaton.

[4:03:30 PM](#)

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, sponsor of HB 131, explained that the bill was primarily based on a resolution that was passed by the Alaska Association of Harbormasters and Port Administrators (AAHPA). He explained that AAHPA was an organization of port directors from around the state that encompassed most of the municipal harbors. He said he would show the committee the problems associated with abandoned and derelict vessels with a slide show.

REPRESENTATIVE SEATON addressed slides of various derelict vessels as follows:

- Cordova Harbor, 117' landing craft that sank, it was two years before all the logistics and legal impediments could be contained and it cost over \$1.2 million by the time it was over.
- Valdez Harbor, noted the difficulties involved with recoveries due to oil onboard.
- Wintertime sinking, typical in many coves throughout Alaska where people have a boat that had gotten old and was abandoned.
- Bethel area, an abandoned barge on a river.
- Interior Alaska river, a converted vessel from commercial to houseboat. He noted that typically when a boat is converted to a houseboat, the resident does not have the resources for upkeep and pretty soon it becomes a derelict vessel.
- Bethel area, multiple abandoned barges that were old and abandoned. He said the abandoned barges become not only a problem for eye-sores, but one vessel's fuel contaminated a village's water supply.
- Kachemak Bay, right across from Homer, two vessels sank with \$250,000 spent to pull the vessels out during the

winter. He explained that fuel had to be recovered and the vessels hauled ashore for disposal.

- Abandoned vessel that had become a navigational hazard. He noted that with just one buoy, the vessel could be missed at night.
- Abandoned vessel with an aircraft on top, he called it an "Alaska aircraft carrier."

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REPRESENTATIVE SEATON explained that part of the problem was the dual authority between the Alaska Department of Natural Resources (DNR) and the Department of Transportation & Public Facilities (DOT&PF). He explained that DNR had authority to manage the waters, but DOT&PF had harbor authority for derelict vessels.

REPRESENTATIVE SEATON said HB 131 addresses a very costly and growing problem with abandoned and derelict vessels. He noted that a large number of vessels had gone out of commercial-service from barge transportation or due to the consolidation of the fisheries in the North Pacific. He explained that a lot of boats were retired from the fisheries and sold to people as live-aboards. He declared that the problem with live-aboards is that people buy the retired boats without the financial stability and wherewithal to maintain them.

He explained that harbors were originally state-harbors. He detailed that DOT&PF received the authority to deal with abandoned and derelict vessels, but the DNR controlled the lands and waters. He disclosed that DOT&PF's responsibility and authority ultimately did not exist. He explained that over the past 20 years, most harbors were transferred to municipalities, but the authority had not been transferred from DOT&PF to the municipalities. He disclosed that the end result with harbors has placed municipalities in limbo when dealing with abandoned and derelict vessels.

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REPRESENTATIVE SEATON reviewed the sectional analysis of HB 131 as follows:

- Section 1, maintains that a person may not store a derelict vessel or abandoned vessel in the waters of the state, that is out to the three mile limit, a state or municipal port, or private property without consent.

- Section 2, hazardous derelict vessel may be removed from the state by a state agency, a municipality, or peace officer.
- Section 3, if a vessel is denied entrance into a harbor, all of the hazardous materials and petroleum products must be removed from the vessel before it is stored for over 14 days in state waters.

REPRESENTATIVE SEATON explained that Section 3 addresses what happened during the Jakolof Bay situation where two boats were denied entrance into the Homer Harbor because they were in unsound and unfit condition. He continued that the two boats ultimately were taken across [Kachemak Bay] and anchored in Jakolof Bay. He stated that if there was no fuel onboard, the owner could have returned in the spring and handled the situation, but the Coast Guard had to be involved with \$250,000 spent on the operation. He explained the situation of having the vessel in DOT&PF's hands, anchored on DNR waters, and the need for a memorandum of understanding between the agencies in order to return the boats to Homer for storage. He detailed that the DNR still has the liability for the vessels because they placed them in private ownership storage and guaranteed responsibility at the facility.

REPRESENTATIVE SEATON continued the sectional analysis as follows:

- Section 4, vessel left unattended for 30 consecutive days on state or private property without consent, may be removed and disposed of by either state agency or municipality, or peace officer.
- Section 5, outside of organized municipalities, a vessel may be left unattended for more 30 consecutive days if it is considered an acceptable local practice. We wanted to make sure that people come in with their skin-boats or boats on the river systems; they turn them upside down and store them. We wanted to make sure we did not have an unintended consequence of making something illegal which was a common practice for vessels that would be used.
- Section 6, on taking a vessel into custody, the municipality or state agency must attempt to notify the owners of record, 20 days prior to repossession of the vessel. A lot of times the problem is that the numbers are gone, the records are off, and the owner of record just cannot be found at all.

- [Section 7 was not addressed.]
- Section 8, a public auction for a repossessed vessel is not needed if the appraised value is less than \$100. The appraisal would have to be done by someone that can do appraisals. If it is less than \$100, there can be an advertisement in the paper for general circulation.

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SENATOR MICCICHE addressed Section 5 regarding the barges in Bethel and asked at what point, even if it was customary, was it determined that something had to be done when it was obvious the owner was not coming back.

REPRESENTATIVE SEATON answered that the situation in Bethel would be outside of the municipality and would be the state's obligation. He said the problem was the state really had no authority and noted a 14 day limit could be assessed, but with no penalty or real authority for taking possession and disposing of the abandoned vessels. He concluded that determination would ultimately be done by either a peace officer, state agency, or a municipality.

SENATOR MICCICHE asked if someone did not come back for a season with the vessel falling into disrepair and ultimately abandoned, at what point would the state deal with the vessel.

REPRESENTATIVE SEATON replied that the state could deal with the vessel at that point in time. He said the problem has been getting the authority to deal with it because it was not specifically laid out in statute.

REPRESENTATIVE SEATON continued to review Sections 9-14 as follows:

- Section 9, a bill of sale is required for any transfers, so if someone wants to sell one of these vessels at auction, there has to be a bill of sale. You cannot just say you are giving it to "John" and he is now responsible for it.
- Section 10, 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 state waters illegally with no current registration and the owner cannot be determined. I think that goes to some of your questions Mr. Chairman.

- Section 11, when a municipality or state agency or peace officer takes possession of the derelict they must publish a notice of the intended disposition, post notice, and serve the registered owners if they are known, or the financiers with notice if there is financial backers.
- Section 12, a vessel at a repair business is considered abandoned if the following conditions have been met: the vessel has been towed or requested repairs have been performed and no authorization has been given for further services, the state agency or municipality and owner are notified and the vessel is not claimed 30 days after the notice. There have been a real problem, also not only in state, but there has not been authority well established for what is a repair yard do and somebody brings something in, has some minor repair, and then leaves the vessel, so this establishes that ability.
- Section 13, defines municipal state agency vessel in waters of the state.
- Section 14, is the repeal of the DOT&PF regulation authority to implement the abandoned statute as the authority is now being transferred to any of the state agencies as well as municipalities.

[4:17:00 PM](#)

SENATOR MICCICHE explained that the bill has a zero fiscal note because it's just an authorization, but separate funding would be required if DEC chooses to assist.

REPRESENTATIVE SEATON agreed. He said HB 131 would establish the legal authority by the different agencies and municipalities to deal with abandoned and derelict vessels, not to establish or transfer money to perform the task.

SENATOR MICCICHE opened public testimony.

[4:17:58 PM](#)

JOY BAKER, Harbor Master, City and Port of Nome, announced that Nome supported the passage of HB 131 regarding the abandoned and derelict vessels. She said Nome would consider the bill as a great mechanism or tool for extending the same authority on the municipalities and boroughs that were currently held by the state for handling abandoned and derelict vessels. She noted that Nome had dealt with abandoned and derelict vessels in the past. She said municipalities and boroughs, with limited means of authority, often became the facilitator in the removal and

the disposal of the majority of abandoned and derelict vessels. She said abandoned and derelict vessels were primarily located in and around municipal facilities, often forcing a municipality to work around them. She explained that municipalities were faced with limited authority and limited access to the funding sources. She divulged that it could take several years to fully dispose of a derelict vessel. She said Nome thought the bill would be a great modification to the existing law and Nome supported the changes purposed in HB 131.

4:19:28 PM

CARL UKATEL, Port Director, Docks and Harbors-City and Borough of Juneau, and Vice President, Alaska Association of Harbormasters and Port Administrators, said AAHPA's Resolution 2012-12 set forth strong support to the proposed changes in Alaska Statute: AS 30.30 for abandoned and derelict vessels. He said AAHPA believed delegation of authority under state statute to local municipalities was a step in the right direction in turning the tide of abandoned and derelict vessels in the state. He said the condition of vessels operating in the state waters of Alaska was diverse, from modern yachts and well maintained 80 year old wooden trawlers, to decrepit live-aboards and turn of the century abandoned tug boats. He said harbormasters were consistently looking for tools to help best manage their harbor facilities while keeping a virulent eye on vessels which encroached on tidelands, an action that they may or may not have authority to act upon. He said the proposed authority was necessary throughout the state, but especially in smaller coastal and riverine communities where legal and enforcement resources were not readily available to deal with the liabilities and hazards of abandoned and derelict vessels. He said the construction and operations of harbors, by DOT&PF shortly after statehood, resulted in regulations which empowered only DOT&PF to effectively deal with troublesome vessels. He said expanding the language to not only DOT&PF, but other state, local, and municipal agencies would appear to be sound legislation. He said the proposed delegation of authority to the local municipalities would help refine the relationship between the state and city/borough responsibilities. He said the bill would enable harbormasters and communities with limited legal resources or limited ordinances to act with confidence in prosecuting derelict and abandoned vessels. He said the modifications to check AS 30.30 appeared to have in place sufficient authority which encouraged the state or municipality to act in a timely manner before a vessel was an extremis. He said acting in a timely manner was important because the disposal cost associated with a vessel that was afloat was a

small fraction of what it would cost for a vessel that takes on water, was submerged, or discharged fuel or oil.

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MICHAEL LUKSHIN, State Ports & Harbors Engineer, Alaska Department of Transportation & Public Facilities, said he was in attendance to speak in support of HB 131. He explained that AS 30.30 was originally created in 1975, under the old Department of Public Works, an agency that owned 100 public harbors throughout the state. He said as a steward of those public harbors, it was important for the former Department of Public Works to have an effective means to deal with abandoned and derelict vessels. He said when the Department of Public Works merged with the Department of Highways to form the present DOT&PF in 1977, the new department inherited harbor responsibilities and AS 30.30 to the present day. He revealed that since the mid-1980s, DOT&PF had been under direction from the legislature and the administration to transfer Alaska's public harbors back in the hands of local governments under AS 35.10.120. He noted that DOT&PF had transferred 75 percent of those public harbors back in the hands of local government. He explained that while it was good to have Alaska's public harbors under local control, the state had not fully delegated all of its powers to the municipalities that owned, maintained, and managed their harbors. He said AS 30.30 was a good law, but it was too narrow and required to be broadened to include the municipalities. He said DOT&PF did not have funding or personnel for an abandoned and derelict vessel problem and that was part of the problem that was presently being dealt with. He said DOT&PF also had a related problem with other state agencies when authority delegation was required. He said state agencies outside of DOT&PF required their authorization to address abandoned or derelict boats, a cumbersome process. He referred to the recent case when two boats sank in Jakolof Bay; the F/V Kuperonoff and the F/V Leading Lady near Seldovia. He said the Coast Guard, DNR and DEC responded to the incident, but neither DNR nor DEC was in a position to utilize AS 30.30 without DOT&PF's permission. He said DNR had to wait for DOT&PF's delegation, which came several days after the sunken vessels were raised. He explained that the oil and other environmental pollutants had to be removed with the vessels ultimately moved to Homer for disposal. He summarized that DOT&PF supported the proposed changes in HB 131.

[4:25:46 PM](#)

RACHEL LORD, Outreach & Monitoring Coordinator, Cook Inletkeeper, Statewide Coordinator for the Alaska Clean Harbors

Program (ACHP), said ACHP was a voluntary state-wide program that worked with harbor masters on improving resources and tools for waste management, pollution prevention, and customer service activity. She said HB 131 was a strong step to improve the ability of Alaska's municipalities and state agencies to deal effectively with abandoned and derelict vessels along Alaska's vast coast line. She continued that many coastal municipalities lacked the legal framework within their municipal codes to navigate the seas of maritime laws to effectively deal with abandoned and derelict vessels. She stated that no longer the owner of the majority of Alaska harbors, DOT&PF does not have the staffing or mandate to solely manage abandoned and derelict vessels in harbors in state waters as specified in Alaska's current statutes. She recommended looking to states like Washington where millions of dollars was spent to deal with abandoned and derelict vessels on their coasts and rivers. She explained that the high cost associated with abandoned and derelict vessels had [cutoff] legislative action to coordinate efforts and provide a structure to address real environmental and financial concerns. She said HB 131 would help to begin moving in a common sense direction with immediate changes to an outdated state statute. She explained that Alaska had enjoyed a relatively young fleet of actively working vessels. She asserted that as the Alaska fleet continued to age, the not too distant future would likely have the state drowning in derelicts. She said in addition to municipal harbors, derelict and abandoned vessels were increasingly littering Alaska's coastline, while sharing the waters with commercial, subsistence, and shellfish bed fisheries. She said ACHP strongly supported and encouraged the passing of HB 131.

[4:27:44 PM](#)

BRYAN HAWKINS, Harbor Master and Port Director, City of Homer, said the City of Homer passed Resolution 13-026 in support of HB 131. He said derelict and abandoned vessels were a growing problem in Alaska and HB 131 was a step in the right direction. He said HB 131 was a good conversation starter that would act as a good communications tool between city harbors, DNR, and DOT&PF. He emphasized that the bill would provide an effective tool towards taking early action to deal with derelict and abandoned vessels before owners had a chance to get out of town.

SENATOR MICCICHE closed public testimony.

[4:29:31 PM](#)

SENATOR GIESSEL moved to report HB 131, version 28-LS0519\A, from committee with individual recommendations and attached zero fiscal notes.

4:29:46 PM

SENATOR MICCICHE remarked that [coastal] committee members in attendance represented Seward, Homer, and Juneau. He said with no objection, HB 131 passed from the Senate Community and Regional Affairs Committee with individual recommendations [and attached zero fiscal notes].

4:30:28 PM

There being no further business to come before the Senate Community & Regional Affairs Committee, Chair Micciche adjourned the hearing at 4:30 p.m.