

Introduced: 2/25/74
Referred: Commerce, Judiciary
and Finance

1 IN THE HOUSE

BY SPECKING, TILLION AND
CARROL

2 HOUSE BILL NO. 712

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to abandoned or derelict vessels; and
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 30 is amended by adding a new chapter to read:

10 CHAPTER 25. ABANDONED AND DERELICT VESSELS.

11 ARTICLE 1. ABANDONED VESSELS.

12 Sec. 30.25.010. ABANDONMENT OF VESSEL UNLAWFUL. (a) A person
13 may not store or leave a vessel in a wrecked, junked or substantially
14 dismantled condition or abandoned upon any public waters, or at a port
15 or harbor, of the state, without the consent of the agency having juris-
16 diction of the waters, port or harbor, or docked at any private property
17 without the consent of the owner of the property.

18 (b) The commission, its executive officer, or a peace officer,
19 may remove a derelict vessel from public waters in any instance when
20 the vessel obstructs or threatens to obstruct navigation, contributes
21 to air or water pollution, or in any other way constitutes a danger
22 or potential danger to the environment.

23 (c) This section may not be construed to contravene any applicable
24 federal law or regulation.

25 (d) A person who violates this section is, upon conviction, guilty
26 of a misdemeanor and is punishable by a fine of not more than \$500, or
27 by imprisonment for a period of not more than six months, or by both.

28 Sec. 30.25.020. DISPOSITION OF CERTAIN ABANDONED VESSELS. A
29 vessel which has been left unattended for a continuous period of more

1 than 30 days and is within the waters of the state or on public proper-
2 ty, or is on private property without authorization of the owner or
3 occupant of the property, may be taken into custody by the commission
4 or a peace officer and disposed of by the commission under this chapter.

5 Sec. 30.25.030. NOTICE TO OWNER. On taking custody of an aban-
6 doned vessel, a written notice immediately shall be posted on the
7 vessel and a duplicate of that notice sent by registered or certified
8 mail, with a return receipt, to the registered owner of the vessel at
9 his last known address and to all lienholders shown on the records of
10 a state or federal agency. The notice shall contain a brief descrip-
11 tion of the vessel, the location of custody, and the intended disposi-
12 tion of the vessel if not repossessed within 20 days after the mailing
13 of the notice. A notice need not be sent to the purported owner or any
14 other person whose interest in the vessel is not recorded with a state
15 department or federal agency.

16 Sec. 30.25.040. PUBLIC AUCTION. If the vessel is not repossessed
17 within 20 days after the mailing of the notice, the vessel shall be
18 disposed of by public auction, through oral tenders, or by sealed bids,
19 after public advertisement has been made once in a newspaper of general
20 circulation. However, the public auction may not be held less than five
21 days after the publication of the advertisement. Where no bid is re-
22 ceived, the vessel may be sold by negotiation, disposed of as junk,
23 donated to any governmental agency, or destroyed.

24 Sec. 30.25.050. POSSESSION BY INTERESTED PARTY. A person having
25 an interest in an abandoned vessel may take possession of it before
26 the date of the public auction upon payment to the commission of all
27 port or harbor use fees, towing, handling, storage, appraisal,
28 advertising and any other expenses incurred by the commission in
29 connection with the vessel. If the person taking possession of the

1 vessel is not the registered owner, he shall, before taking possession
2 of the vessel, pay the expenses incurred by the commission and post
3 adequate security which may not exceed the appraised value of the vessel.
4 The security, if not forfeited, shall be returned to him two years
5 after receipt.

6 Sec. 30.25.060. WHEN PUBLIC AUCTION NOT REQUIRED. Public auction
7 is not required when the appraised value of any abandoned vessel, as
8 determined by an independent appraiser is less than \$100. The apprai-
9 ser must have at least one year of experience in the sale, purchase or
10 appraisal of vessels. Upon that determination and after public adver-
11 tisement has been made once in a newspaper of general circulation, the
12 commission may sell the vessel by negotiation, dispose of it as junk
13 or donate the vessel to a governmental agency, or destroy it.

14 Sec. 30.25.070. EFFECT OF SALE. The transfer of interest by sale
15 under secs. 40 - 60 of this chapter shall be evidenced by a bill of
16 sale from the commission, considered a transfer by operation of law,
17 and governed by applicable provisions of law.

18 ARTICLE 2. DERELICT VESSELS.

19 Sec. 30.25.080. DERELICT VESSEL. A vessel that has been left
20 unattended for a continuous period of more than 24 hours is a derelict
21 if:

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

24 (2) the vessel has been moored or otherwise left in the
25 waters of the state or on public property contrary to law, or regula-
26 tions promulgated by the commission, or the vessel has been left on
27 private property without authorization of the owner or occupant of the
28 property and if

29 (A) the vessel's certificate of number or marine

1 document has expired and the registered owner no longer resides
2 at the address listed in the vessel registration or marine document
3 records of a state department or the United States Coast Guard;

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

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

10 (D) the vessel registration records of a state depart-
11 ment and the marine document records of the United States Coast
12 Guard contain no record that the vessel ever has been registered
13 or documented and the owner's name or address cannot be determined.

14 Sec. 30.25.090. DISPOSITION OF DERELICT VESSEL. (a) The com-
15 mission may take, or cause a derelict vessel to be taken into custody
16 immediately. Upon taking custody of a derelict vessel the commission
17 shall concurrently:

18 (1) publish a notice of intended disposition once in a news-
19 paper of general circulation;

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

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

24 (A) the registered owner of the vessel, if known, at
25 his last known address or the address on record with the United
26 States Coast Guard; and

27 (B) all lienholders who have filed a financing statement
28 indexed in the name of the registered owner, or who are shown on
29 the records of a state department or the United States Coast Guard.

1 (b) If the vessel is not repossessed within 20 days after the
2 publication or mailing of the notice, whichever occurs later, the
3 vessel may be disposed of by negotiated sale except that, when two or
4 more prospective purchasers indicate an interest in purchasing the
5 vessel, the vessel will be sold at public auction to the highest bidder,
6 in the same manner prescribed under sec. 40 of this chapter.

7 (c) If no prospective purchaser indicates a desire to purchase
8 the vessel, the vessel may be disposed of as junk, donated to any
9 governmental agency, or destroyed.

10 ARTICLE 3. VESSELS ABANDONED ON BUSINESS

11 PREMISES OF PERSONS ENGAGED IN REPAIR BUSINESS.

12 Sec. 30.25.100. DISPOSITION OF VESSELS BY PERSONS IN VESSEL REPAIR
13 BUSINESS. When a person abandons a vessel on the premises of a vessel
14 repair business, the owner of the business or his authorized represen-
15 tative may sell or dispose of the vessel under secs. 100 - 130 of this
16 chapter.

17 Sec. 30.25.110. WHEN VESSEL ABANDONED. A vessel is abandoned on
18 the premises of a vessel repair business when all of the following
19 conditions have been satisfied:

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

24 (2) no authorization is given to perform any further service
25 with respect to the vessel, but the vessel is left on the repair busi-
26 ness premises;

27 (3) the owner of the repair business or his authorized
28 representative has given notice by registered or certified mail, with
29 a return receipt, to the registered owner of the vessel at the address

1 on record at the vessel repair business and the address on record in
2 a state department or the United States Coast Guard, and to any person
3 with a recorded interest in the vessel stating that, if the vessel is
4 not repossessed within 30 days after the mailing of the notice, it will
5 be sold or disposed of; the notice also shall contain a description of
6 the vessel and its location, and it need not be sent to an owner or
7 a person with an unrecorded interest in the vessel whose name or
8 address cannot be determined; and

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

11 Sec. 30.25.120. SALE OR DISPOSITION OF VESSEL. When a vessel
12 is abandoned, the owner of the vessel repair business, or his authorized
13 representative, after one public advertisement in a newspaper of
14 general circulation in the state, may negotiate a sale of the vessel
15 or dispose of it. However, the vessel may not be sold or disposed of
16 within less than five days after publication of the advertisement.

17 Sec. 30.25.130. DISPOSITION OF PROCEEDS. The authorized seller
18 of the abandoned vessel is entitled to the proceeds of the sale to the
19 extent that compensation is due him for services rendered with respect
20 to the vessel, including reasonable and customary charges for towing,
21 handling, storage, and the cost of notices and advertising required
22 by sec. 120 of this chapter. A lienholder shall receive priority of
23 payment from the balance of the proceeds to the extent of his lien.
24 Any remaining balance shall be forwarded to the registered owner of the
25 vessel, if he can be found. If he cannot be found, the balance shall
26 be deposited with the commissioner of administration and shall be paid
27 out to the registered owner of the vessel, if a proper claim is filed
28 for it within one year from the execution of the sale agreement. If
29 no claim is made within that year, the money shall escheat to the state.

1 Sec. 30.25.130. EFFECT OF TRANSFER OF TITLE. The transfer of
2 title and interest by sale under sec. 130 of this chapter is a transfer
3 by operation of law. However, a bill of sale executed by an authorized
4 seller is satisfactory evidence authorizing the transfer of the title
5 or interest.

6 ARTICLE 4. MISCELLANEOUS.

7 Sec. 30.25.140. REGULATIONS. The commission shall promulgate
8 regulations under the Administrative Procedure Act (AS 44.62) to
9 carry out the provisions of this chapter.

10 Sec. 30.25.150. DEFINITIONS. In this chapter

11 (1) "commission" means the Alaska State Port Commission;

12 (2) "vessel" means every description of watercraft, other
13 than a seaplane on the water, used or capable of being used as a means
14 of transportation on water.

15 (3) "waters of this state" means the waters within the
16 territorial limits of the state, and the marginal sea adjacent to the
17 state, as defined in AS 44.03.

18 Sec. 30.25.160. SHORT TITLE. This chapter may be cited as the
19 "Abandoned and Derelict Vessels Act".

20 * Sec. 2. This Act takes effect January 1, 1975.