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1 IN THE HOUSE

BY THE RULES COMMITTEE

2 SENATE CS FOR HOUSE BILL NO. 31

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST 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 30. ABANDONED AND DERELICT VESSELS.

11 ARTICLE 1. ABANDONED VESSELS.

12 Sec. 30.30.010. 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 department or a peace officer may remove a derelict
19 vessel from public waters in any instance when the vessel obstructs or
20 threatens to obstruct navigation, contributes to air or water pollution,
21 or in any other way constitutes a danger or potential danger to the
22 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, upon conviction, is 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. 30.30.020. 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 in the waters of the state or on public property, or
2 is on private property without authorization of the owner or occupant of
3 the property, may be taken into custody by the department or a peace
4 officer and disposed of by the department under this chapter.

5 Sec. 30.30.030. LIMITATION ON APPLICABILITY. Wherever outside of
6 an organized municipality in the state it is, or has become, the custom,
7 common or accepted practice to anchor, moor or otherwise leave a vessel
8 in a port or harbor, or in the public waters, of the state in such a
9 manner that it does not threaten or obstruct navigation, or to store or
10 otherwise leave a vessel without permission on public or private prop-
11 erty, unattended for a period of more than 30 days, where climatic
12 conditions make use of the vessel impracticable, or applicable provi-
13 sions of law preclude use of the vessel during that period of time, the
14 unattended anchoring, mooring, storing or leaving of the vessel does not
15 constitute abandonment of the vessel as that term is used in secs. 10 -
16 20 of this chapter.

17 Sec. 30.30.040. NOTICE TO OWNER. On taking custody of an aban-
18 doned vessel, a written notice immediately shall be posted on the
19 vessel and a duplicate of that notice sent by registered or certified
20 mail, with a return receipt, to the registered owner of the vessel at
21 his last known address and to all lienholders shown on the records of
22 a state or federal agency. The notice shall contain a brief descrip-
23 tion of the vessel, the location of custody, and the intended disposi-
24 tion of the vessel if not repossessed within 20 days after the mailing
25 of the notice. A notice need not be sent to the purported owner or any
26 other person whose interest in the vessel is not recorded with a state
27 department or a federal agency.

28 Sec. 30.30.050. PUBLIC AUCTION. If the vessel is not repossessed
29 within 20 days after the mailing of the notice, the vessel shall be

1 disposed of by public auction, through oral tenders, or by sealed bids,
2 after public advertisement has been made once in a newspaper of general
3 circulation. However, the public auction may not be held less than five
4 days after the publication of the advertisement. If no bid is received,
5 the vessel may be sold by negotiation, disposed of as junk, donated to a
6 governmental agency, or destroyed.

7 Sec. 30.30.060. POSSESSION BY INTERESTED PARTY. A person having
8 an interest in an abandoned vessel may take possession of it before
9 the date of the public auction upon payment to the department of all
10 port or harbor use fees, towing, handling, storage, appraisal,
11 advertising and any other expenses incurred by the department in con-
12 nection with the vessel. If the person taking possession of the
13 vessel is not the registered owner, he shall, before taking possession
14 of the vessel, pay the expenses incurred by the department and post
15 adequate security which may not exceed the appraised value of the vessel.
16 The security, if not forfeited, shall be returned to him one year after
17 receipt.

18 Sec. 30.30.070. WHEN PUBLIC AUCTION NOT REQUIRED. Public auction
19 is not required when the appraised value of an abandoned vessel, as
20 determined by an independent appraiser is less than \$100. The apprai-
21 ser must have at least one year of experience in the sale, purchase or
22 appraisal of vessels. Upon that determination and after public adver-
23 tisement has been made once in a newspaper of general circulation, the
24 department may sell the vessel by negotiation, dispose of it as junk
25 or donate the vessel to a governmental agency, or destroy it.

26 Sec. 30.30.080. EFFECT OF SALE. The transfer of interest by sale
27 under secs. 50 - 70 of this chapter shall be evidenced by a bill of
28 sale from the department, considered a transfer by operation of law,
29 and governed by applicable provisions of law.

1 ARTICLE 2. DERELICT VESSELS.

2 Sec. 30.30.090. DERELICT VESSEL. A vessel that has been left
3 unattended for a continuous period of more than 24 hours is a derelict
4 if:

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

7 (2) the vessel has been moored or otherwise left in the
8 waters of the state or on public property contrary to law, or regula-
9 tions promulgated by the department, or the vessel has been left on
10 private property without authorization of the owner or occupant of the
11 property and if

12 (A) the vessel's certificate of number or marine
13 document has expired and the registered owner no longer resides
14 at the address listed in the vessel registration or marine document
15 records of a state department or the United States Coast Guard;

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

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

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

26 Sec. 30.30.100. DISPOSITION OF DERELICT VESSEL. (a) The depart-
27 ment may take or cause a derelict vessel to be taken into custody
28 immediately. Upon taking custody of a derelict vessel the department
29 shall concurrently:

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

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

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

7 (A) the registered owner of the vessel, if known, at his
8 last known address or the address on record with a state department
9 or the United States Coast Guard; and

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

13 (b) If the vessel is not repossessed within 20 days after the
14 publication or mailing of the notice, whichever occurs later, the vessel
15 may be disposed of by negotiated sale except that, when two or more
16 prospective purchasers indicate an interest in purchasing the vessel,
17 the vessel will be sold at public auction to the highest bidder, in the
18 same manner prescribed under sec. 50 of this chapter.

19 (c) If no prospective purchaser indicates a desire to purchase the
20 vessel, the vessel may be disposed of as junk, donated to a governmental
21 agency, or destroyed.

22 ARTICLE 3. VESSELS ABANDONED ON BUSINESS

23 PREMISES OF PERSONS ENGAGED IN REPAIR BUSINESS.

24 Sec. 30.30.110. DISPOSITION OF VESSELS BY PERSONS IN VESSEL REPAIR
25 BUSINESS. When a person abandons a vessel on the premises of a vessel
26 repair business, the owner of the business or his authorized represen-
27 tative may sell or dispose of the vessel under secs. 110 - 150 of this
28 chapter.

29 Sec. 30.30.120. WHEN VESSEL ABANDONED. A vessel is abandoned on

1 the premises of a vessel repair business when all of the following
2 conditions have been satisfied:

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

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

10 (3) the owner of the repair business or his authorized
11 representative has given notice by registered or certified mail, with
12 a return receipt, to the registered owner of the vessel at the address
13 on record at the vessel repair business and the address on record in
14 a state department or the United States Coast Guard, and to any person
15 with a recorded interest in the vessel stating that, if the vessel is
16 not repossessed within 30 days after the mailing of the notice, it will
17 be sold or disposed of; the notice also shall contain a description of
18 the vessel and its location, and it need not be sent to an owner or
19 a person with an unrecorded interest in the vessel whose name or
20 address cannot be determined; and

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

23 Sec. 30.30.130. SALE OR DISPOSITION OF VESSEL. When a vessel
24 is abandoned, the owner of the vessel repair business, or his authorized
25 representative, after one public advertisement in a newspaper of
26 general circulation in the state, may negotiate a sale of the vessel
27 or dispose of it. However, the vessel may not be sold or disposed of
28 within less than five days after publication of the advertisement.

29 Sec. 30.30.140. DISPOSITION OF PROCEEDS. The authorized seller

1 of the abandoned vessel is entitled to the proceeds of the sale to the
2 extent that compensation is due him for services rendered with respect
3 to the vessel, including reasonable and customary charges for towing,
4 handling, storage, and the cost of notices and advertising required by
5 sec. 130 of this chapter. A lienholder shall receive priority of payment
6 from the balance of the proceeds to the extent of his lien. Any re-
7 maining balance shall be forwarded to the registered owner of the vessel,
8 if he can be found. If he cannot be found, the balance shall be deposited
9 with the commissioner of administration and shall be paid out to the
10 registered owner of the vessel, if a proper claim is filed for it within
11 one year from the execution of the sale agreement. If no claim is made
12 within that year, the money shall escheat to the state.

13 Sec. 30.30.150. EFFECT OF TRANSFER OF TITLE. The transfer of
14 title and interest by sale under sec. 140 of this chapter is a transfer
15 by operation of law. However, a bill of sale executed by an authorized
16 seller is satisfactory evidence authorizing the transfer of the title
17 or interest.

18 ARTICLE 4. MISCELLANEOUS.

19 Sec. 30.30.160. REGULATIONS. The department shall promulgate
20 regulations under the Administrative Procedure Act (AS 44.62) to carry
21 out the provisions of this chapter.

22 Sec. 30.30.170. DEFINITIONS. In this chapter

23 (1) "department" means the Department of Public Works,
24 division of waters and harbors;

25 (2) "municipality" means a home rule or general law borough
26 or city including but not limited to a unified municipality organized
27 under AS 29.68;

28 (3) "vessel" means every description of watercraft or other
29 artificial contrivance, other than a seaplane on the water, used or

1 capable of being used as a means of transportation on or through the
2 water.

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

6 Sec. 30.30.180. SHORT TITLE. This chapter may be cited as the
7 Abandoned and Derelict Vessels Act.

8 * Sec. 2. This Act takes effect January 1, 1976.
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