

Introduced: 1/29/86
Referred: State affairs,
Transportation and Judiciary

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 525

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

9 * Section 1. AS 30.30.010 is amended to read:

10 Sec. 30.30.010. ABANDONMENT OF VESSEL UNLAWFUL. (a) A person
11 may not store or leave a vessel in a wrecked, junked, or substantially
12 dismantled condition or abandoned upon any public water, or at a port
13 or harbor, [OF THE STATE,] without the consent of the agency having
14 jurisdiction of the water, port, or harbor, or docked or otherwise
15 left at any private property without the consent of the owner or
16 occupant of the property.

17 (b) A [THE DEPARTMENT OR A] peace officer may remove a [DERE-
18 LICT] vessel from public water, or at a port or harbor, in any in-
19 stance when the vessel obstructs or threatens to obstruct navigation,
20 contributes to air or water pollution, or in any other way constitutes
21 a danger or potential danger to the environment, to port or harbor
22 facilities, or to other vessels.

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

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

29 * Sec. 2. AS 30.30.020 is amended to read:

1 Sec. 30.30.020. CUSTODY [DISPOSITION] OF CERTAIN [ABANDONED]
2 VESSELS. A vessel that has been left unattended for a continuous
3 period of more than 30 days and is upon public water or at a port or
4 harbor without the consent of the agency having jurisdiction of the
5 water, port, or harbor, or is docked or otherwise left at any [IN THE
6 WATERS OF THE STATE OR ON PUBLIC PROPERTY, OR IS ON] private property
7 without authorization of the owner or occupant of the property, may be
8 taken into custody by [THE DEPARTMENT OR] a peace officer and disposed
9 of [BY THE DEPARTMENT] under this chapter.

10 * Sec. 3. AS 30.30 is amended by adding new sections to read:

11 Sec. 30.30.051. FORFEITURE OF VESSELS. (a) A vessel that is
12 removed from public water or a port or harbor, under AS 30.30.010(b),
13 or an unattended vessel that is taken into custody under AS 30.30.020,
14 is subject to forfeiture under AS 30.30.051 -- 30.30.057.

15 (b) Within 10 days after a vessel's removal under AS 30.30.-
16 010(b) or taking into custody under AS 30.30.020, the commissioner of
17 public safety or a municipal law enforcement agency shall make an
18 inventory of the vessel and its gear, equipment, cargo, and any other
19 property aboard, and shall estimate their value.

20 (c) Within 30 days after a vessel's removal under AS 30.30.-
21 010(b) or taking into custody under AS 30.30.020, the commissioner of
22 transportation and public facilities, or a municipality, shall give
23 notice of the seizure. The notice must be sent to the last known
24 address of any person known to have an interest in the vessel or whose
25 interest in the vessel is ascertainable from official registration
26 numbers, licenses, or other federal, state, or municipal numbers on
27 the vessel.

28 (d) No sooner than 45 days after the removal or taking into
29 custody, and no sooner than 21 days after notice has been sent under

1 (c) of this section, an action may be filed by the commissioner of
2 transportation and public facilities, or a municipality, in the supe-
3 rior court.

4 (e) Within 30 days after filing the action, the commissioner of
5 transportation and public facilities, or a municipality, shall serve
6 process in the manner provided in the rules of civil procedure.

7 (f) After service of process under (e) of this section, a person
8 claiming an interest in the vessel shall file an answer within the
9 time permitted for answering complaints under the applicable rules of
10 civil procedure. The answer must include the nature of the claimant's
11 interest in the vessel, the date that it was acquired, the considera-
12 tion paid, and the circumstances under which it was acquired. If an
13 answer is not filed within the required time the vessel is forfeited
14 by default without further proceedings or showings.

15 (g) A claimant may, at any time before the court hearing, peti-
16 tion the court for release of a vessel, and its gear, equipment,
17 cargo, and other property aboard, removed under AS 30.30.010(b) or
18 taken into custody under AS 30.30.020, if the claimant

19 (1) has filed a timely answer under this section; or

20 (2) before the initiation of a forfeiture action, files a
21 notice of claim setting out the nature of the claimant's interest in
22 the vessel, the date that it was acquired, the consideration paid, and
23 the circumstances under which it was acquired.

24 (h) The court may release the vessel, and its gear, equipment,
25 cargo, and other property aboard, if a claimant provides a bond or
26 other valid equivalent security equal to twice the estimated value of
27 the vessel, gear, equipment, cargo, and other property.

28 Sec. 30.30.054. NATURE OF PROCEEDING AGAINST VESSEL. (a) The
29 plaintiff in a proceeding filed under AS 30.30.051 may seek (1) the

1 forfeiture of a vessel, and its gear, equipment, cargo, and other
2 property aboard; (2) the recovery of any unpaid harbor user fees, and
3 compensation for damage, if any, caused by the vessel to public port
4 or harbor facilities; (3) the costs of removal under AS 30.30.010(b)
5 or taking into custody under AS 30.30.020; (4) interest on fees and
6 compensation; and (5) costs and attorney fees actually and necessarily
7 incurred in the action.

8 (b) The court, after a hearing, may order forfeiture of the
9 vessel and other property, and the payment of any amount authorized by
10 this section. However, a vessel is not forfeited until the owner or
11 other persons having an interest in the vessel have had an opportunity
12 to pay the monetary judgment under conditions specified by the court.

13 (c) If a bond or equivalent security has been provided for the
14 release of the vessel and other property under AS 30.30.051, the
15 security must be returned upon payment of any monetary judgment under
16 this section or upon the return of the vessel and other property.

17 Sec. 30.30.057. DISPOSAL OF FORFEITED VESSELS. (a) A vessel
18 and other property forfeited to the state under AS 30.30.051 --
19 30.30.057 must be disposed of by the commissioner of administration in
20 accordance with applicable law. The commissioner of administration
21 may, consistent with other applicable law,

22 (1) destroy the vessel and other property; or

23 (2) sell the vessel and other property, and use the pro-
24 ceeds for payment of all proper expenses of the proceedings for for-
25 feiture and sale, including expenses of seizure, custody, and court
26 costs, and for payment for any damage to public port or harbor facil-
27 ities.

28 (b) A vessel and other property forfeited to a municipality
29 under AS 30.30.051 -- 30.30.057 must be disposed of in accordance with

1 municipal ordinance and other applicable law. The municipality may,
2 consistent with other applicable law,

- 3 (1) destroy the vessel and other property; or
4 (2) sell the vessel and other property, and use the pro-
5 ceeds for payment of all proper expenses of the proceedings for for-
6 feiture and sale, including seizure, custody, and court costs, and for
7 payment for any damage to public port or harbor facilities.

8 * Sec. 4. AS 30.30.160 is amended to read:

9 Sec. 30.30.160. REGULATIONS. The department may [SHALL] adopt
10 regulations under the Administrative Procedure Act (AS 44.62) to
11 implement, interpret, or make more specific its powers and duties
12 under [CARRY OUT THE PROVISIONS OF] this chapter.

13 * Sec. 5. AS 30.30.040 -- 30.30.100 are repealed.

14 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).