



LAWS OF ALASKA

1975

Source

SCSHB 31

Chapter No.

131

AN ACT

Relating to abandoned or derelict vessels; and providing for an effective date.

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

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

CHAPTER 30. ABANDONED AND DERELICT VESSELS.

ARTICLE 1. ABANDONED VESSELS.

Sec. 30.30.010. ABANDONMENT OF VESSEL UNLAWFUL. (a) A person may not store or leave a vessel in a wrecked, junked or substantially dismantled condition or abandoned upon any public waters, or at a port or harbor, of the state, without the consent of the agency having jurisdiction of the waters, port or harbor, or docked at any private property without the consent of the owner of the property.

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

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

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

Sec. 30.30.020. DISPOSITION OF CERTAIN ABANDONED VESSELS. A vessel which has been left unattended for a

continuous period of more than 30 days and is in the waters of the state or on public property, or is on private property without authorization of the owner or occupant of the property, may be taken into custody by the department or a peace officer and disposed of by the department under this chapter.

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

Sec. 30.30.040. NOTICE TO OWNER. On taking custody of an abandoned vessel, a written notice immediately shall be posted on the vessel and a duplicate of that notice sent by registered or certified mail, with a return receipt, to the registered owner of the vessel at his last known address and to all lienholders shown on the records of a state or federal agency. The notice shall contain a brief description of the vessel, the location of custody, and the intended disposition of the vessel if not repossessed within 20 days after the mailing of the notice. A notice need not be sent to the purported owner or any other person whose interest in the vessel is not recorded with a state department or a federal agency.

Sec. 30.30.050. PUBLIC AUCTION. If the vessel is not repossessed within 20 days after the mailing of the notice, the vessel shall be disposed of by public auction, through oral tenders, or by sealed bids, after public advertisement has been made once in a newspaper of general circulation. However, the public auction may not be held less than five days after the publication of the advertisement. If no bid is received, the vessel may be sold by negotiation, disposed of as junk, donated to a governmental agency, or destroyed.

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

Sec. 30.30.070. WHEN PUBLIC AUCTION NOT REQUIRED. Public auction is not required when the appraised value of an abandoned vessel, as determined by an independent appraiser is less than \$100. The appraiser must have at least

one year of experience in the sale, purchase or appraisal of vessels. Upon that determination and after public advertisement has been made once in a newspaper of general circulation, the department may sell the vessel by negotiation, dispose of it as junk or donate the vessel to a governmental agency, or destroy it.

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

ARTICLE 2. DERELICT VESSELS.

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

- (1) the vessel is sunk or in immediate danger of sinking, is obstructing a waterway, or is endangering life or property; or
- (2) the vessel has been moored or otherwise left in the waters of the state or on public property contrary to law, or regulations promulgated by the department, or the vessel has been left on private property without authorization of the owner or occupant of the property and if
 - (A) the vessel's certificate of number or marine document has expired and the registered owner no longer resides at the address listed in the vessel registration or marine document records of a state department or the United States Coast Guard;
 - (B) the last registered owner of record disclaims ownership and the current owner's name or address cannot be determined;
 - (C) the vessel identification numbers and other means of identification have been obliterated or removed in a manner that nullifies or precludes efforts to locate or identify the owner; or
 - (D) the vessel registration records of a state department and the marine document records of the United States Coast Guard contain no record that the vessel ever has been registered or documented and the owner's name or address cannot be determined.

Sec. 30.30.100. DISPOSITION OF DERELICT VESSEL. (a) The department may take or cause a derelict vessel to be taken into custody immediately. Upon taking custody of a derelict vessel the department shall concurrently

- (1) publish a notice of intended disposition once in a newspaper of general circulation;
- (2) when possible, post a notice of intended disposition on the vessel; and
- (3) serve a duplicate of the notice of intended

disposition by certified mail, with a return receipt, on

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

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

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

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

ARTICLE 3. VESSELS ABANDONED ON BUSINESS
PREMISES OF PERSONS ENGAGED IN REPAIR BUSINESS.

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

Sec. 30.30.120. WHEN VESSEL ABANDONED. A vessel is abandoned on the premises of a vessel repair business when all of the following conditions have been satisfied:

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

(2) no authorization is given to perform any further service with respect to the vessel, but the vessel is left on the repair business premises;

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

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

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

Sec. 30.30.140. DISPOSITION OF PROCEEDS. The authorized seller of the abandoned vessel is entitled to the proceeds of the sale to the extent that compensation is due him for services rendered with respect to the vessel, including reasonable and customary charges for towing, handling, storage, and the cost of notices and advertising required by sec. 130 of this chapter. A lienholder shall receive priority of payment from the balance of the proceeds to the extent of his lien. Any remaining balance shall be forwarded to the registered owner of the vessel, if he can be found. If he cannot be found, the balance shall be deposited with the commissioner of administration and shall be paid out to the registered owner of the vessel if a proper claim is filed for it within one year from the execution of the sale agreement. If no claim is made within that year, the money shall escheat to the state.

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

ARTICLE 4. MISCELLANEOUS.

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

Sec. 30.30.170. DEFINITIONS. In this chapter

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

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

(3) "vessel" means every description of watercraft or other artificial contrivance, other than a seaplane on the water, used or capable of being used as a means of transportation on or through the water;

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

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

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