

S.B. NO. 992

JAN 25 2017

A BILL FOR AN ACT

RELATING TO VESSELS AGROUND.

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

1 SECTION 1. Section 200-47.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§200-47.5 Vessels aground [on state property].~~ (a) All
4 vessels grounded on state submerged lands, shorelines, or coral
5 reefs shall be removed immediately by the owner or operator at
6 the owner's or operator's expense. [~~Vessels grounded on a sand
7 beach, sandbar, or mudflat and not in imminent danger of
8 breaking up shall be removed within seventy two hours, unless
9 otherwise agreed to by the department.~~] Damage to state or
10 private property caused by a grounded vessel shall be the sole
11 responsibility of the vessel's owner or operator.

12 (b) Solely for the purposes of removal and with no
13 liability to the department, the department may assume control
14 of any vessel that[+]

15 ~~(1) Is~~ is grounded on state submerged land, a shoreline,
16 or a coral reef or in imminent danger of breaking
17 up[+] and

1 ~~(2) Cannot be immediately removed by the owner within~~
2 ~~twenty four hours of actual notification to the vessel~~
3 ~~owner or the owner's representative by the department~~
4 ~~and in a manner that is reasonably safe, as determined~~
5 ~~by the department. If the department has made good~~
6 ~~faith efforts to provide actual notice to the owner or~~
7 ~~the owner's representative but such actual notice is~~
8 ~~futile, the department may assume control of the~~
9 ~~grounded vessel within twenty four hours from the time~~
10 ~~it has been determined actual notice is futile. If~~
11 ~~the owner's representative has received actual notice~~
12 ~~from the department and has commenced effective~~
13 ~~salvage operations, this section shall not apply.~~

14 ~~The owner of the vessel may continue as the primary agent~~
15 ~~in salvaging the vessel after twenty four hours upon providing~~
16 ~~proof of a marine insurance policy listing the State as an~~
17 ~~additional insured in the amount of at least \$1,000,000 and~~
18 ~~proof that the owner is actively and effectively initiating a~~
19 ~~salvage effort with reasonable evidence, as determined by the~~
20 ~~department, that the vessel may be saved within seventy two~~
21 ~~hours of grounding, provided that the department may allow an~~
22 ~~extension beyond the seventy two hour limit if it determines~~

1 ~~that no additional environmental damage exists.] cannot be~~
2 removed by the owner within twenty-four hours from the time the
3 vessel is grounded.

4 (c) Vessels grounded on a sand beach, sandbar, or mudflat
5 and not in imminent danger of breaking up shall be removed
6 within seventy-two hours, unless otherwise agreed to by the
7 department.

8 Solely for the purposes of removal with no liability to the
9 department, the department may immediately assume control of any
10 vessel grounded on a sand beach, sandbar, or mudflat and not in
11 imminent danger of breaking that is not removed by the owner
12 within seventy-two hours of notification to the vessel owner or
13 the owner's representative by the department and in a manner that
14 is reasonably safe, as determined by the department. If the
15 owner's representative has received notice from the department
16 and has commenced effective salvage operations, this subsection
17 shall not apply.

18 (d) Once the department assumes control over the vessel,
19 the vessel shall be removed by [~~conventional salvage methods~~]
20 any means necessary to minimize damage to the natural resources
21 and not become a hazard to navigation.

1 ~~[All costs and expenses of removing the vessel and damage to~~
2 ~~state or private property shall be the sole responsibility of~~
3 ~~the vessel's owner or operator.]~~ This section shall apply
4 whether the vessel is attended or deemed derelict under section
5 200-48.

6 ~~[-(e)]~~ (e) All costs and expenses of removing the vessel and
7 damage to state or private property shall be the sole
8 responsibility of the vessel's owner or operator. The
9 department may take legal action to collect any costs or
10 expenses incurred by the department for any removal under this
11 section. All moneys collected shall be deposited in the boating
12 special fund.

13 ~~[-(d)]~~ (f) Any person who renders assistance to the
14 department when it acts pursuant to subsection (b) or (c) and
15 any person who, in good faith and without remuneration or
16 expectation of remuneration, renders assistance at the scene of
17 a vessel grounded on state submerged land, a shoreline, or a
18 coral reef, or in imminent danger of breaking up, or on a sand
19 beach, sandbar, or mudflat and not in imminent danger of
20 breaking up, shall not be liable for any civil damages resulting
21 from the person's acts or omissions in providing or arranging

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1 towage or other assistance, except for damages caused by the
2 person's gross negligence or wanton acts or omissions."

3 SECTION 3. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.

9

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INTRODUCED BY: *Mark D. White*

11

BY REQUEST

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Report Title:

Vessels Aground

Description:

Clarifies that the Department of Land and Natural Resources (Department) may assume immediate control of a vessel that is grounded on state submerged lands or on a shoreline. Clarifies that the Department may assume immediate control of a vessel grounded on a sand beach, sand bar, or mudflat not in imminent danger of breaking up after the owner has been given seventy-two hours' notice to remove the vessel and has not done so.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO VESSELS
AGROUND.

PURPOSE: To clarify that the Department may assume immediate control of a vessel that is grounded on state submerged lands or a shoreline; and to clarify that the Department may assume immediate control of a vessel grounded on a sand beach, sand bar, or mudflat not in imminent danger of breaking up after the owner has been given seventy-two hours' notice to remove the vessel and has not done so.

MEANS: Amend section 200-47.5, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Currently, section 200-47.5, HRS, authorizes the Department to assume control of any vessel that is grounded on a coral reef once the owner of the vessel has been given notice and opportunity to do so. However, the statute is silent with regard to the Department's authority to assume control of any vessel grounded on state submerged lands or a shoreline, or on a sand beach, sandbar, or mudflat that is not in imminent danger of breaking up.

The proposed amendments in this measure would clarify and expand the Department's areas of control for vessels aground on state property and the manners in which to do so.

Impact on the public: This bill would ensure that a vessel aground on a coral reefs, sand beach, sandbar, or mudflat is removed immediately after the owner has been given seventy-two hours' notice to remove the vessel and has not done so.

Impact on the department and other agencies:

The bill would provide the Department with clear authority to assume control of grounded vessels a sand beach, sandbar, or mudflat after the owner has been given seventy-two hours' notice to remove the vessel and has not done so.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 801.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.