
A BILL FOR AN ACT

RELATING TO VESSELS.

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

1 SECTION 1. The legislature finds that vessel ownership and
2 operation come with many responsibilities and that vessels
3 likewise pose significant threats to natural resources and to
4 public health and safety if abandoned, neglected, or left in
5 disrepair. The legislature recognizes that unauthorized,
6 abandoned, grounded, and derelict vessels on state property and
7 in waters of the State must be removed as soon as possible to
8 minimize the hazards they pose to the public while balancing the
9 vessel owner's right to due process.

10 Since 2002, the department of land and natural resources,
11 division of boating and ocean recreation has expended in excess
12 of \$2,340,000 from the boating special fund to address vessels
13 unauthorized, abandoned, grounded, and derelict vessel on state
14 property or in the waters of the State. However, under existing
15 law, in many instances, by the time the department of land and
16 natural resources can begin removing an unauthorized, abandoned,
17 grounded, or derelict vessel, the condition of the vessel has



1 deteriorated, further complicating removal efforts and
2 increasing the potential to create health, safety, and natural
3 resource threats.

4 The purpose of this Act is to amend provisions regarding
5 designation, impoundment, and disposal of unauthorized,
6 abandoned, grounded, and derelict vessels on state property or
7 in the waters of the State to facilitate faster responses for
8 these types of incidents.

9 SECTION 2. Section 200-16, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "§200-16 ~~[Mooring of unauthorized vessel in state small~~
12 ~~boat harbors and offshore mooring areas,]~~ Unauthorized vessels;
13 impoundment and disposal proceedings. (a) ~~[No person shall~~
14 ~~moor a vessel in a state small boat harbor or offshore mooring~~
15 ~~area without obtaining a use permit, nor shall a person~~
16 ~~continue to moor a vessel in any state small boat harbor or~~
17 ~~offshore mooring area if the use permit authorizing the vessel~~
18 ~~to moor has expired or otherwise been terminated.]~~ A vessel
19 moored without a valid use permit ~~[or]~~, moored with a use permit
20 that has expired or been terminated ~~[is]~~, or moored, anchored,
21 or stored in waters of the State in violation of any law or rule



1 of the department, shall be deemed an unauthorized vessel [and
2 is subject to] in violation of this section[-] and shall be
3 subject to impoundment and disposal.

4 (b) The department shall [~~cause to be placed~~] place upon,
5 or as near to [~~the~~] an unauthorized vessel as possible, a notice
6 to remove the vessel, which shall, at a minimum, indicate that
7 the vessel is in violation of this section, the date and time
8 the notice was posted, and that the vessel must be removed
9 within seventy-two hours from the time the notice was posted[-];
10 provided that if the vessel is in imminent danger of breaking up
11 or poses a hazard to public health or safety, the notice shall
12 indicate that the vessel must be removed within twenty-four
13 hours from the time the notice was posted.

14 (c) An unauthorized vessel may be impounded by the
15 department at the sole risk and expense of the owner of the
16 vessel, if the vessel is not removed after the [~~seventy-two-~~
17 ~~hour~~] period [~~or~~] specified in subsection (b). Calculation of
18 the time period shall not restart if, during that period, the
19 vessel is [~~removed and remoored in the harbor or mooring or~~
20 ~~anchorage area or any other state harbor or mooring or anchorage~~
21 ~~area without a use permit.] moved anywhere in the waters of the~~



1 State or to any public property and remains in violation of this
2 section. The owner of the vessel shall be solely responsible
3 for all costs of the impoundment and the disposal of the
4 unauthorized vessel. All owners of unauthorized vessels that
5 are impounded by the department shall be responsible for paying
6 impound storage fees to the department while the vessel remains
7 impounded and until the time that the vessel is returned to the
8 custody of a person entitled to possession. Impound storage
9 fees shall be equal to the rate set by the department for
10 vessels moored without a valid permit. Any proceeds [~~resulting~~
11 ~~from~~] collected by the department in relation to the impoundment
12 and the disposal of the unauthorized vessel shall be used first
13 to pay for the costs of impoundment and disposal [~~and~~], then to
14 pay for any additional costs related to the impoundment and
15 disposal, then to pay for any outstanding mooring fees due[-] to
16 the department by the owner, then to the general fund. If the
17 proceeds resulting from the impoundment and the disposal are
18 inadequate to pay for all costs and mooring fees due, the owner
19 of the unauthorized vessel shall remain liable for [the] paying
20 the department any and all outstanding costs and mooring fees[-]
21 due.



1 (d) Custody of an unauthorized vessel shall be returned to
2 the person entitled to possession only upon payment [~~to the~~
3 ~~department~~] in full of all fees and costs due[~~to the~~
4 department and any and all fines levied by the department or a
5 court[~~to~~] of competent jurisdiction. In addition, the
6 department, within seventy-two hours of impoundment, shall send
7 by certified mail, return receipt requested, a notice of
8 impoundment to the registered or documented owner or any lien
9 holder or operator of the impounded vessel on record with the
10 department or the United States Coast Guard. The owner, lien
11 holder, or operator of the impounded vessel shall have [~~ten~~
12 five working days after receipt of notice of impoundment of the
13 vessel to request [~~in writing~~] an administrative hearing.
14 [~~This~~] A request for administrative hearing [is] shall be made
15 in writing to the department, shall not be deemed delivered
16 until the time that the department received the written request,
17 and shall be solely for the purpose of allowing the owner, lien
18 holder, or operator of an impounded vessel to contest the basis
19 given by the department for the impoundment of the vessel. The
20 administrative hearing must be held within [~~five~~] ten working
21 days of [~~the department's receipt~~] delivery of the written



1 request. The department [~~shall~~] may adopt rules pursuant to
2 chapter 91 to implement the requirement for this post-seizure
3 administrative hearing process.

4 (e) Any unauthorized vessel impounded under this section,
5 which remains unclaimed for more than [~~thirty~~] ten working days
6 by the registered or documented owner, a lien holder, or
7 operator of record, may be sold by the department at public
8 auction. If the department does not or is unable to sell the
9 vessel at public auction, [~~or if its appraised value is less~~
10 ~~than \$5,000 as determined by an independent appraiser with at~~
11 ~~least one year of experience in the sale and purchase of~~
12 ~~vessels,~~] the department, after giving public notice of intended
13 disposition, if that notice was not previously included in a
14 public auction notice, may sell the vessel by negotiation,
15 retain and use the vessel, donate it to any other government
16 agency, or dispose of it as junk."

17 SECTION 3. Section 200-41, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§200-41 [~~Disposition of certain abandoned~~] Abandonment of
20 vessels. (a) No person shall abandon any vessel upon the
21 waters of the State or upon any property, other than the



1 property of the vessel owner, without the consent of the
2 property owner.

3 ~~[(a) Any]~~ (b) A vessel [may be deemed] shall be presumed
4 abandoned if [the]:

5 (1) The vessel has been moored, anchored, or otherwise
6 left in the waters of the State or on public property
7 [contrary to law or rules having the force and effect
8 of law, or left] unattended for more than seventy-two
9 hours;

10 (2) The vessel has been left unattended on private
11 property without authorization of the owner or
12 occupant of the property [if:

13 ~~(1) The vessel's registration certificate or marine~~
14 ~~document has expired and the registered owner no~~
15 ~~longer resides at the address listed in the vessel~~
16 ~~registration or marine document records of the~~
17 ~~department or the United States Coast Guard;] for more~~
18 than seventy-two hours;

19 ~~[(2)]~~ (3) The last registered owner of record disclaims
20 ownership and the current owner's name or address
21 cannot be determined;



- 1 ~~[(3) The vessel identification numbers and other means of~~
2 ~~identification have been removed so as to hinder or~~
3 ~~nullify efforts to locate or identify the owner;~~
- 4 ~~(4) The vessel registration records of the department of~~
5 ~~land and natural resources and the marine document~~
6 ~~records of the United States Coast Guard contain no~~
7 ~~record that the vessel has ever been registered or~~
8 ~~documented and the owner's name or address cannot be~~
9 ~~determined; or]~~
- 10 (4) The vessel does not have a valid registration
11 certificate or United States Coast Guard documentation
12 and has been moored, anchored, or otherwise left in
13 the waters of the State or in public property
14 unattended for more than seventy-two hours; or
- 15 (5) The requirements of section 200-52 are met.
- 16 ~~[(b)]~~ (c) The determination whether a vessel is abandoned
17 on public property may be made by:
- 18 (1) The chairperson, or their authorized representative,
19 with regard to public property under the jurisdiction
20 of the department of land and natural resources; ~~[or]~~



1 (2) Any other state department or agency through its
2 director, with regard to public property within the
3 department or agency's respective jurisdiction; or
4 (3) Any county through its mayor or the mayor's designee,
5 or chief of police, with regard to public property
6 within the respective county's jurisdiction; provided
7 that the department shall provide to the respective
8 county access to the department's vessel registration
9 and marine document records or those of the United
10 States Coast Guard for the purposes of this section.
11 Once a vessel is deemed abandoned~~[7]~~ on waters of the State or
12 on public property, the appropriate official under this
13 subsection may direct and cause the vessel to be taken into
14 custody and disposed of pursuant to and in the manner provided
15 in this ~~chapter~~ part. All owners of abandoned vessels that
16 are impounded by the department shall be responsible for paying
17 impound fees to the department while the vessel remains
18 impounded and until such time that the vessel is returned to the
19 custody of a person entitled to possession. Impound storage
20 fees shall be equal to the rate set by the department for
21 vessels moored without a valid permit.



1 [~~(e)~~] (d) All vessels abandoned on private property shall
2 be the responsibility of the private property owner.

3 (e) Any person who abandons a vessel on waters of the
4 State or on public property shall be guilty of a petty
5 misdemeanor and shall be fined not more than \$1,000 or
6 imprisoned not more than thirty days, or both, for each offense.
7 Each day of each violation shall be deemed a separate offense.
8 All criminal fines collected pursuant to this subsection shall
9 be deposited in the general fund in accordance with section
10 706-643. It shall be an affirmative defense to prosecution that
11 a vessel was abandoned during a national emergency declared by
12 the president of the United States or Congress, or a state of
13 emergency declared by the governor, or as otherwise approved in
14 writing by the chairperson; provided that the defense shall be
15 valid only for the duration of the declared emergency of written
16 approval."

17 SECTION 4. Section 200-42, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§200-42 Notice to owner.** A state or county agency, upon
20 taking custody of any vessel[~~7~~] deemed abandoned pursuant to
21 section 200-41, shall immediately post a written notice on the



1 vessel and send a duplicate original by registered or certified
2 mail, with a return receipt requested, to any owner registered
3 with the department or documented by the United States Coast
4 Guard or any lien holder or operator of the vessel on record
5 with the department or the United States Coast Guard at their
6 respective last known address on record with the department or
7 the United States Coast Guard. The notice shall contain a brief
8 description of the vessel, the location of custody, and the
9 intended disposition of the vessel if not repossessed within
10 ~~[twenty]~~ ten working days after the mailing of the notice.

11 ~~[Such owner, lien holder, or operator, of the vessel shall have
12 ten days after receipt of the mailed notice to request in
13 writing an administrative hearing pursuant to chapter 91 from
14 the state or county agency that took custody of the vessel.~~

15 ~~This administrative hearing is solely for the purpose of
16 allowing the owner, lien holder, or operator of an impounded
17 vessel to contest the basis given for the impoundment of the
18 vessel. The hearing shall be held within five working days of
19 the state or county agency's receipt of the written request.]~~

20 The owner, lien holder, or operator of the vessel shall have
21 five working days after receipt of notice of impoundment of the



1 vessel to request administrative hearing from the state or
2 county agency that took custody of the vessel. A request for
3 administrative hearing shall be made in writing to the state or
4 county agency that took custody of the vessel, shall not be
5 deemed delivered until the time that the agency receives the
6 written request, and shall be solely for the purpose of allowing
7 the owner, lien holder, or operator of an impounded vessel to
8 contest the basis given by the agency for the impoundment of the
9 vessel. The administrative hearing shall be held within ten
10 working days of delivery of the written request."

11 SECTION 5. Section 200-43, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§200-43 Public auction[-]; disposition of abandoned
14 vessels. [If the vessel is not repossessed within twenty days
15 after the mailing of the notice, the vessel shall be disposed of
16 by public auction, through oral tenders, or by sealed bids,
17 after public notice has been given at least once; provided that
18 the public auction shall not be held less than five days after
19 the notice is given. Where no bid is received, the vessel may
20 be sold by negotiation, disposed of as junk, or donated to any
21 governmental agency.] Any abandoned vessel impounded under this



1 part, which remains unclaimed by the registered or documented
 2 owner, lien holder, or operator of record, for more than ten
 3 working days after mailing of the notice required by section
 4 200-42 may be sold at public auction by the state or county
 5 agency that took custody of the vessel. If the agency does not
 6 or is unable to sell the vessel at public auction, the agency,
 7 after giving public notice of intended disposition, if the
 8 notice was not previously included in a public auction notice,
 9 may sell the vessel by negotiation, retain and use the vessel,
 10 donate the vessel to any other government agency, or dispose of
 11 the vessel as junk."

12 SECTION 6. Section 200-47.5, Hawaii Revised Statutes, is
 13 amended by amending subsections (b), (c), (d), (e), (f), and (g)
 14 to read as follows:

15 "(b) Solely for the purposes of removal and with no
 16 liability to the department, the department may immediately
 17 assume control of any vessel that is grounded on state submerged
 18 land, a shoreline, or a coral reef [~~or~~] that is in imminent
 19 danger of breaking up and cannot be removed by the owner within
 20 twenty-four hours from the time the vessel is grounded; provided
 21 that this subsection shall not apply [~~if~~]:



- 1 (1) During a national emergency declared by the president
2 of the United States or Congress;
- 3 (2) During a state of emergency declared by the governor;
- 4 (3) If the owner or owner's representative has received
5 notice from the department and has commenced effective
6 salvage operations[-]; or
- 7 (4) If otherwise approved by the chairperson.
- 8 (c) [Vessels] Except during a national emergency declared
9 by the president of the United States or Congress, or a state of
10 emergency declared by the governor, or as otherwise approved in
11 writing by the chairperson, vessels grounded on a sand beach,
12 sandbar, or mudflat [~~and not in imminent danger of breaking up~~]
13 shall be removed by the owner or operator within seventy-two
14 hours [~~, unless otherwise agreed to by the department~~].
- 15 (d) Solely for the purposes of removal and with no
16 liability to the department, the department may immediately
17 assume control of any vessel grounded on a sand beach, sandbar,
18 or mudflat and not in imminent danger of breaking up that is not
19 removed by the owner in a manner that is reasonably safe, as
20 determined by the department, within seventy-two hours of



1 notification to the vessel owner or the owner's representative;
2 provided that this subsection shall not apply [~~if~~]:

3 (1) During a national emergency declared by the president
4 of the United States or Congress;

5 (2) During a state of emergency declared by the governor;

6 (3) If the owner or owner's representative has received
7 notice from the department and has commenced effective
8 salvage operations[]; or

9 (4) If otherwise approved by the chairperson.

10 (e) Once the department assumes control [~~over the~~] of a
11 vessel[] pursuant to this section, the vessel shall be removed
12 by conventional salvage methods if possible, and if not possible
13 then by any means necessary[] to minimize damage to the natural
14 resources and not become a hazard to navigation.

15 (f) All costs and expenses [~~of~~] related to removing the
16 vessel and damage to state or private property shall be the sole
17 responsibility of the vessel's owner or operator. The
18 department may take legal action to collect any costs or
19 expenses incurred by the department for any removal under this
20 section. All moneys collected shall be deposited in the boating
21 special fund.



1 (g) Any person who renders assistance to the department
2 when it acts pursuant to subsection (b) or (c) and any person
3 who, in good faith and without remuneration or expectation of
4 remuneration, renders assistance at the scene of a vessel:

5 (1) Grounded on state submerged land, a shoreline, or a
6 coral reef;

7 (2) In imminent danger of breaking up; or

8 (3) Grounded on a sand beach, sandbar, or mudflat [~~and not~~
9 ~~in imminent danger of breaking up~~],

10 shall not be liable for any civil damages resulting from the
11 person's acts or omissions in providing or arranging towage or
12 other assistance, except for damages caused by the person's
13 gross negligence or wanton acts or omissions."

14 SECTION 7. Section 200-49, Hawaii Revised Statutes, is
15 amended by amending subsections (b) and (c) to read as follows:

16 "(b) The owner, lien holder, or operator of the vessel
17 shall have [~~ten~~] five working days after the date of the public
18 notice or receipt of the mailed notice, whichever occurs later,
19 to request [~~in writing~~] an administrative hearing. [~~This~~] A
20 request for an administrative hearing [is] shall be made in
21 writing to the department, shall not be deem delivered until the



1 time that the department receives the writing request, and shall
2 be solely for the purpose of allowing the owner, lien holder, or
3 operator of [~~an~~] the impounded vessel to contest the basis given
4 by the department for the impoundment of the vessel. The
5 administrative hearing must be held within [~~five~~] ten working
6 days of [~~the department's receipt~~] delivery of the written
7 request.

8 (c) If the vessel is not repossessed within [~~twenty~~] ten
9 days after the date of the public notice or mailing of the
10 notice, whichever occurs later, the vessel may be disposed of by
11 negotiated sale except that, when two or more purchasers
12 indicate an interest in purchasing the vessel, the vessel will
13 be sold at public auction to the highest bidder [~~, unless the~~
14 ~~vessel is exempt from public auction under section 200-45~~]. If
15 no purchaser expresses a desire to purchase the vessel, the
16 vessel may be destroyed or donated to any governmental agency."

17 SECTION 8. Section 200-45, Hawaii Revised Statutes, is
18 repealed.

19 [~~"§200-45 When public auction not required. Public~~
20 ~~auction shall not be required when the appraised value of any~~
21 ~~vessel is less than \$5,000, as determined by an independent~~



1 ~~appraiser who has at least one year of experience in the sale or~~
2 ~~purchase of vessels. Upon that determination, after public~~
3 ~~notice of intended disposition has been given at least once, the~~
4 ~~state or county agency that took custody of the vessel may sell~~
5 ~~the vessel by negotiation, dispose of it as junk, or donate the~~
6 ~~vessel to any governmental agency."]~~

7 SECTION 9. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 10. This Act shall take effect upon its approval.



Report Title:

Unauthorized Vessels; Grounded Vessels; Abandoned Vessels;
Derelict Vessels; Vessel Impoundment; Vessel Auctions; Vessel
Disposal; DLNR

Description:

Makes clarifications regarding removal of unauthorized vessels on state property. Makes clarifications regarding the definition of an abandoned vessel. Changes the time limit to claim an unauthorized vessel that is impounded by the department of land and natural resources from thirty days to ten working days. Changes the time limit to claim an abandoned vessel that is impounded by a state or county agency from twenty days to ten working days. Makes abandonment of a vessel on waters of the State or public property a petty misdemeanor. Makes clarifications to auction requirements regarding abandoned vessels. Allows DLNR to charge an impound storage fee. (SD2)

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