

H.B. NO. 1387

A BILL FOR AN ACT

RELATING TO DERELICT VESSELS.

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

1 SECTION 1. Section 200-48, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~+~~\$200-48~~+~~ **Derelict vessel.** A vessel which has been
4 left unattended for a continuous period of more than twenty-four
5 hours is a derelict if:

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

9 (2) The vessel has been moored or otherwise left in the
10 waters of the State ~~[or on public property contrary to~~
11 ~~law,~~ in violation of a statute or [rules] a rule
12 having the force and effect of law~~[, or the vessel has~~
13 ~~been left on private property without authorization of~~
14 ~~the owner or occupant of the property]~~ and if:

15 (A) The vessel's registration certificate or marine
16 document has expired and the registered owner no
17 longer resided at the address listed in the

- 1 vessel registration or marine document records of
2 the department or the United States Coast Guard;
- 3 (B) The last registered owner of record disclaims
4 ownership and the current owner's name or address
5 cannot be determined;
- 6 (C) The vessel identification numbers and other means
7 of identification have been removed so as to
8 hinder or nullify efforts to locate or identify
9 the owner; or
- 10 (D) The vessel registration records of the department
11 and the marine document records of the United
12 States Coast Guard contain no record that the
13 vessel has ever been registered or documented and
14 the owner's name or address cannot be
15 determined."

16 SECTION 2. Section 200-49, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) The chairperson may cause a derelict vessel moored or
19 otherwise left in the waters of the State in violation of a
20 statute or a rule having the force and effect of law to be
21 immediately taken into custody. Upon taking custody of a

1 derelict vessel, the department, as soon as reasonably possible
2 shall:

- 3 (1) Give public notice of intended disposition and
4 procedure for requesting an administrative hearing;
- 5 (2) When possible, post a notice of intended disposition
6 and procedure for requesting an administrative hearing
7 on the vessel; and
- 8 (3) Serve a duplicate original of the notice of intended
9 disposition and procedure for requesting an
10 administrative hearing by certified mail, return
11 receipt requested on:
- 12 (A) The registered or documented owner of the vessel,
13 if known, at the owner's last known address on
14 record with the department or the United States
15 Coast Guard;
- 16 (B) All lien holders who have properly filed a
17 financing statement, referencing the name of the
18 registered or documented owner, in the bureau of
19 conveyances or who are shown on the records of
20 the department or the United States Coast Guard;
21 and

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1 (C) Any operator of the vessel on record with the
2 department or the United States Coast Guard."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

6
7 INTRODUCED BY: Calvin K. Y. Auy
8 BY REQUEST

9 JAN 22 2007

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

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

PURPOSE: To clarify the Department's jurisdictional responsibility on the removal of derelict vessels.

MEANS: Amend sections 200-48 and 200-49(a), Hawaii Revised Statutes (HRS).

JUSTIFICATION: As presently written, section 200-48, HRS, could be interpreted to place the responsibility on the Department for the removal of a derelict vessel that has either been moored, left in state waters, left on public property or left on private property. While the Department accepts the responsibility for the removal of a vessel that has been moored or left in State waters, it should not be responsible for removal of a derelict vessel on properties that are not under its jurisdiction. The Department would make the analogy that the removal of an abandoned vehicle is placed upon the property owner, public or private.

This bill would clarify that the Department would be responsible for the removal of a derelict vessel only if the vessel is moored or left in the waters of the State in violation of a statute or a rule having the force and effect of law.

Impact on the public: Would allow funds paid by boaters, which are currently used to cover the cost of vessel removal by the Department outside of its jurisdiction, to be spent on other beneficial needs.

Impact on the department and other agencies: Would relieve the Department of additional

expenses relative to removing derelict
vessels on properties not under its
jurisdiction.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 801.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.