

ACT 154

S.B. NO. 992

A Bill for an Act Relating to Vessels Aground.

Be It Enacted by the Legislature of the State of Hawaii:

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

“§200-47.5 Vessels¹ aground [~~on state property~~]. (a) All vessels grounded on state submerged lands, shorelines, or coral reefs shall be removed immediately by the owner or operator at the owner’s or operator’s expense. [~~Vessels grounded on a sand beach, sandbar, or mudflat and not in imminent danger of breaking up shall be removed within seventy-two hours, unless otherwise agreed to by the department.~~] Damage to state or private property caused by a grounded vessel shall be the sole responsibility of the vessel’s owner or operator.

(b) Solely for the purposes of removal and with no liability to the department, the department may assume control of any vessel that:

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

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

~~The owner of the vessel may continue as the primary agent in salvaging the vessel after twenty-four hours upon providing proof of a marine insurance policy listing the State as an additional insured in the amount of at least \$1,000,000 and proof that the owner is actively and effectively initiating a salvage effort with reasonable evidence, as determined by the department, that the vessel may be saved within seventy-two hours of grounding; provided that the department may allow an extension beyond the seventy-two hour limit if it determines that no additional environmental damage exists.] cannot be removed by the owner within twenty-four hours from the time the vessel is grounded; provided that this subsection shall not apply if the owner or owner’s representative has received notice from the department and has commenced effective salvage operations.~~

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

(d) Solely for the purposes of removal and with no liability to the department, the department may immediately assume control of any vessel grounded on a sand beach, sandbar, or mudflat and not in imminent danger of breaking up that is not removed by the owner in a manner that is reasonably safe, as determined by the department, within seventy-two hours of notification to the vessel owner or the owner’s representative; provided that this subsection shall not apply if the owner or owner’s representative has received notice from the department and has commenced effective salvage operations.

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(e) Once the department assumes control over the vessel, the vessel shall be removed by conventional salvage methods if possible, and if not possible by any means necessary, to minimize damage to the natural resources and not become a hazard to navigation. ~~[All costs and expenses of removing the vessel and damage to state or private property shall be the sole responsibility of the vessel's owner or operator. This section shall apply whether the vessel is attended or deemed derelict under section 200-48.~~

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

~~(d)~~ (g) Any person who renders assistance to the department when it acts pursuant to subsection (b) or (c) and any person who, in good faith and without remuneration or expectation of remuneration, renders assistance at the scene of a vessel [grounded]:

- (1) Grounded on state submerged land, a shoreline, or a coral reef [or in];
- (2) In imminent danger of breaking up; or
- (3) Grounded on a sand beach, sandbar, or mudflat and not in imminent danger of breaking up.

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

(h) This section shall apply whether a vessel is attended or deemed derelict under section 200-48."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 4. This Act shall take effect on September 1, 2017.

(Approved July 10, 2017.)

Notes

1. Prior to amendment "vessel" appeared here.
2. So in original.