
OLR Bill Analysis

SB 1017

AN ACT CONCERNING ABANDONED BOATS.

SUMMARY:

This bill eliminates existing procedures regarding abandoned vessels and establishes a new administrative process for disposing of them.

The bill replaces current law, which (1) allows an officer to seize an abandoned vessel and deliver it to a person for storage; (2) permits that person to sell it if it is unclaimed after 60 days; and (3) specifies that sale proceeds cover storage costs and are then paid to the owner, or the state if unclaimed. The bill instead generally allows certain public or private parties to begin a process to take ownership of an abandoned vessel after 45 days if the boat is not claimed by the owner or a party with a lien or security interest.

The bill makes abandoning a vessel a violation, subjecting violators to a fine of between \$300 and \$500, unless the vessel is abandoned during, and due to conditions that caused, a declared emergency.

It also deems waste oil, fuel, antifreeze, or other hazardous materials stored on an abandoned boat to be household hazardous waste for disposal purposes if the materials are (1) incidental to the boat's operation and maintenance and (2) removed in preparation for the vessel's storage, removal, or destruction.

EFFECTIVE DATE: October 1, 2013

PRESUMPTION OF VESSEL ABANDONMENT

Abandoned Vessel

The bill generally expands the circumstances under which a vessel is considered abandoned.

By law, abandoning a vessel on state waters or on someone's property without consent is prohibited. Under current law, a vessel is presumed abandoned if it is left (1) on state waters not moored, anchored, or fastened to the shore and unattended for more than 24 hours or (2) on someone else's property without consent for more than 24 hours.

The bill retains these presumptions but gives former tenants who leave a vessel on property they rented, leased, or occupied up to 90 days before it is considered abandoned. It also adds presumptions that a vessel is abandoned if it is:

1. left at a mooring for more than 60 days since the last full payment was received;
2. left at a storage, repair, or other commercial facility for more than one year since the facility received the last full payment; or
3. found during a declared emergency either in a (a) public right-of-way hindering access to the right-of-way or public utilities or (b) location or condition that creates an imminent danger to public safety or the environment.

Vessel Owner

Current law presumes that the last owner of record when the vessel was abandoned is the person who abandoned it or caused its abandonment. The bill retains this presumption, but specifies that the owner is the person recorded with the government agency that registered the vessel. Vessels documented with the United States Coast Guard under maritime or admiralty laws are considered registered with the Coast Guard. It allows a different person to provide the DEEP commissioner with sufficient evidence of ownership.

Under the bill, the person who abandons a vessel is considered to have waived his or her privacy and confidentiality rights to the vessel's registration information, except for Social Security numbers.

ABANDONED BOAT PROCEDURE

Current Law

The bill removes existing procedures regarding abandoned vessels and establishes new ones. It eliminates current law that:

1. allows any officer authorized to enforce the state's boating laws to take an abandoned vessel into his or her custody and store it;
2. makes an officer not liable for damage to the vessel when it is in his or her custody;
3. provides a lien for (a) any charges incurred by such an officer to take custody of the vessel and (b) storage charges of the owner or keeper of a marina or other location where the vessel is stored;
4. allows the owner or keeper to sell the vessel to recoup the storage charges if such vessel is stored for at least 60 days;
5. requires notice of the sale to be (a) provided to the vessel owner and the DEEP, motor vehicles, and transportation commissioners five days before the sale or (b) published in the newspaper at least three times starting at least five days before the sale if the owner is unknown; and
6. specifies that (a) the sale proceeds, minus the amounts due to the marina owner or keeper and the officer who took the vessel for storage, must be paid to the vessel owner or his or her legal representatives if claimed within one year after the sale, and (b) unclaimed funds escheat to the state.

Party with Standing

Under the bill, a party with standing or its designated agent, as identified in writing on the notification of abandoned vessel (see below), may begin the abandoned vessel process. It establishes the following parties as those with standing:

1. the owner of property where the abandoned vessel came to rest or was fastened, except if the boat is turned over to a lienholder,

- harbormaster, police department, municipality, or agent of the state;
2. a harbormaster, police department, municipality, or agent of the state that agrees to accept or process an abandoned vessel;
 3. an emergency responder, including a responding utility or person or firm (a) contracted by the government to provide emergency services and (b) responding to a bona fide emergency during or after an emergency declared by the President or governor; and
 4. a marine salvager or licensed automobile towler employed by any of the above parties.

The bill allows these parties to recover from the person who abandoned the vessel the expenses they incur due to the vessel's abandonment. It also relieves any person from civil liability for damage to an abandoned vessel if such person acts in good faith and without malice in processing, storing, or moving the vessel according to the bill's provisions (but the bill subjects lienholders to certain liability when removing abandoned vessels, see below).

Determining Interested Parties of Abandoned Vessels

Vessels Registered in Connecticut. The bill requires the DEEP commissioner to notify the secretary of the state by electronic mail when he receives a notice of an abandoned vessel (see below) that is or was registered in Connecticut. He must (1) describe the vessel and (2) identify the name, if known, of the vessel's owner as recorded with the Department of Motor Vehicles (DMV).

The secretary of the state must, within 10 business days after receiving notice, (1) inform the DEEP commissioner of any security interest or commercial lien against the abandoned vessel and (2) notify all such lienholders (presumably referring to parties with a security interest as well as commercial lienholders) that the vessel is deemed abandoned.

Under the bill, if an abandoned vessel is documented according to federal maritime or admiralty law, the DEEP commissioner must determine if liens exist against the vessel and make reasonable attempts to notify all lienholders (presumably parties with security interests or commercial liens) of the vessel's status and location.

Vessels Registered in Other States. If an abandoned vessel is registered in another state, the bill requires the DEEP commissioner to (1) notify the other state's registering agency by electronic mail and (2) provide such registering agency with 15 business days to (a) return information on the vessel's owner of record or (b) intervene in the abandoned vessel procedure. The bill specifies that if the other state's registering agency fails to provide the owner of record's contact information or intervene within 15 business days after receiving notice from DEEP, there is no further obligation to identify or contact the last owner of record. Unlike with Connecticut-registered vessels, the bill does not impose on DEEP any obligation to identify lienholders and secured parties.

For vessels documented under federal maritime or admiralty laws, the commissioner may use information from such documentation to identify the last owner of record.

Process for Disposing of Abandoned Vessels

The bill establishes a new eight-step procedure (described below) for processing abandoned vessels. Abandoned vessels documented under federal maritime or admiralty laws, or with such an expired or cancelled documentation are not subject to the processes' abandoned boat period and transfer of ownership provisions. Federal law generally governs these vessels.

Notice of Abandoned Vessel. The bill requires a party with standing to file a "notice of abandoned vessel" with the DEEP commissioner to begin the abandonment process. The notice must be notarized and filed on forms the commissioner prescribes. It may be filed in person, by mail, or by paid delivery service, and the filing fee is \$20. But for filings occurring within 45 days after the end of an

emergency declared by the governor that results in widespread vessel displacement, there is no filing fee and notarization is not required.

The bill requires that a notice of abandoned vessel be prepared and submitted to the commissioner for each abandoned vessel. It includes vessels (1) documented with the U.S. Coast Guard under federal maritime or admiralty laws or (2) relocated to an abandoned boat holding area by people or agents acting in a relief or emergency capacity.

Stolen or Missing Vessels. Under the bill, when the commissioner receives the filing, he must determine if the vessel is reported as stolen or missing. If so, the police department with which the report was filed must take custody of the vessel at the expense of the person who abandoned it.

Internet Notice. The bill requires the DEEP commissioner to post information about the report of the abandoned vessel (presumably the notice) online on a publicly-accessible abandoned vessel website. The information must be sufficient to identify the abandoned vessel and include, if known, (1) the vessel's registration number, make, model, length, and color; (2) the town and water body nearest to where the vessel was abandoned; and (3) instructions for contacting the commissioner.

Certified Letter. The DEEP commissioner must send a certified letter to the person who abandoned the vessel, who is presumed to be the owner (see above), if such person can be identified. In the letter, he must (1) identify the abandoned vessel, (2) notify the recipient of the law's consequences for abandonment, and (3) provide instructions for retrieving the vessel.

The bill allows the commissioner to waive the certified mail requirement if he establishes contact with such person by electronic mail or some other communication method he determines suitable.

Label. The bill requires the DEEP commissioner to provide the party with standing with a water resistant adhesive label to be

immediately affixed on the abandoned vessel. The label must (1) advise that the vessel is being processed according to the abandoned vessel procedure and (2) provide instructions for contacting the DEEP commissioner to obtain more information or intervene. It must be placed in a prominent location in a manner that is visible to an approaching party. The bill requires placing such a label on a federally-documented abandoned boat, although these boats are exempt from the transfer of ownership provisions under the abandonment process.

45-Day Abandoned Boat Period. Under the bill, a 45-day abandoned boat period begins when the first attempt to deliver the certified letter to the person who abandoned the vessel is made. For unregistered vessels, the 45-day period begins when the DEEP commissioner posts information about the abandoned vessel on the publicly-accessible abandoned vessel website.

The commissioner may suspend the period for up to six months for cause if he states in writing on the abandoned vessel website the (1) reason for the suspension and (2) elements needed to resume the 45-day period.

Notice of Assumed Ownership. The bill requires the DEEP commissioner to issue a “notice of assumed ownership” to the party with standing on the day after the abandoned boat period ends if (1) he is not contacted by the person who abandoned the vessel or (2) the person who abandoned the vessel fails to remove it. (A lienholder may also obtain custody before the period ends, see below.) Once this notice is issued, the party with standing is considered the abandoned vessel’s owner and the original notice of assumed ownership is prima facie evidence of such ownership. The bill requires the notice to be sent to the party with standing by certified mail with a copy sent by electronic mail to the DMV commissioner.

The bill requires the DMV commissioner to then cancel the vessel’s existing registration and note the ownership transfer to the party with standing in the vessel’s registration record, if it exists. For vessels

registered by some other registering agency, the DMV commissioner must notify such agency by electronic mail of the ownership transfer.

Under the bill, if an abandoned vessel is subject to a commercial lien filed with the secretary of the state, the DEEP commissioner must send a copy of the notice by electronic mail to the secretary. The bill requires her to consider the notice of assumed ownership to (1) be a termination of all liens against the vessel and (2) satisfy the law's notice requirements for lien removal (presumably these provisions also apply to parties with security interests).

Retrieval by Person Who Abandoned Vessel. The bill gives a person who abandoned a vessel until the last day of the abandoned boat period to remove the abandoned vessel from the property or possession of the party with standing, if he or she contacts the DEEP commissioner. The bill also makes such a person liable for any property damage caused by the vessel's removal. If the person who abandoned the boat fails to remove it, the commissioner must (1) cause the vessel's registration to be cancelled and (2) issue a notice of assumed ownership to the party with standing.

The bill specifies that someone who abandons a vessel may request a suspension of the 45-day abandoned boat period for just cause.

Lienholder Obligations

The bill requires any party with a lien (presumably both those with a security interest or a commercial lien) against an abandoned vessel that is filed with the secretary of the state to seek a writ of attachment from the Superior Court. This must be done (1) at the party's expense and (2) before the issuance of a notice of assumed ownership to such party from DEEP (but the commissioner issues the notice to the party with standing—not the lienholder). Not all lienholders or secured parties file with the secretary, and the bill would not allow them to obtain a writ. Under the bill, a party is deemed to have discharged its lien if it fails to seek the writ.

The bill allows any lienholder (presumably one with a security

interest or a commercial lien) to ask the DEEP commissioner to suspend the abandoned boat procedure described above to arrange for the removal, transport, or storage of an abandoned vessel. It subjects lienholders who take custody of abandoned vessels to liability to the parties with standing for any damage to the vessels incurred during the vessels' removal. The bill provides that an abandoned vessel in a lienholder's or its agent's custody is no longer considered abandoned and can be sold according to existing law regarding liens.

The bill also allows a party with a lien against an abandoned vessel that is filed with a federal agency to take custody of the vessel.

BACKGROUND

Related Bill

HB 6341, File 285, favorably reported by the Judiciary Committee, creates a certificate of title system for certain vessels that are principally used on Connecticut waters. Among other things, the bill makes a certificate of title prima facie evidence of ownership, sets rules for perfecting security interests on certificates and indicating transfers of interests in vessels, and requires DMV to maintain certain information in indexed files for public searches.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 44 Nay 0 (04/19/2013)