

S.B. NO. 2736

JAN 25 2010

A BILL FOR AN ACT

RELATING TO IMPOUNDED VESSELS.

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

1 SECTION 1. Section 200-16, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) An unauthorized vessel may be impounded by the
4 department at the sole [~~cost and~~] risk of the owner of the
5 vessel, if the vessel is not removed after the seventy-two-hour
6 period or if during that period the vessel is removed and
7 remoored in the harbor or mooring or anchorage area or any other
8 state harbor or mooring or anchorage area without a use permit.
9 The owner of the vessel shall be solely responsible for all costs
10 of the impoundment and the disposal of the vessel. Any proceeds
11 resulting from the impoundment of the unauthorized vessel shall
12 be used first to pay the costs of impoundment and disposal then
13 any mooring fees due. If the proceeds resulting from the
14 impoundment are inadequate to pay for all costs and mooring fees
15 due, the owner of the vessel shall remain liable for those costs
16 and fees."

17 SECTION 2. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

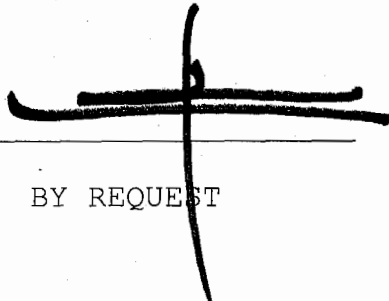
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1 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

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4

BY REQUEST

Report Title:

Impounded Vessels; State Small Boat Harbors

Description:

Clarifies that all costs and expenses associated with the disposal of an impounded unauthorized vessel by the Department of Land and Natural Resources shall be borne by the vessel owner.

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

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

PURPOSE: To clarify that all costs and expenses, associated with the disposal of an impounded unauthorized vessel by the Department shall be borne by the vessel owner.

MEANS: Amend section 200-16(c), Hawaii Revised Statutes (HRS).

JUSTIFICATION: Currently, section 200-16, HRS, as interpreted by *Brown v. Thompson*, 91 Haw. 1, 979 P.2d 586 (1999), places the burden, along with the costs and expenses of disposal of all impounded unauthorized vessels, on the Department where the vessel owner does not repossess the impounded vessel prior to disposition. The process is both costly and time-consuming for the Department. Under *Brown v. Thompson*, 91 Haw. 1, 979 P.2d 586 (1999), the State is also not entitled to recover mooring fees incurred by the vessel owner prior to impoundment. The Department feels that in the case of a vessel owner who is in violation of mooring within a state small boat harbor or offshore mooring area without a use permit, the vessel owner should have continuing obligation to pay for the consequences.

This bill clarifies that the vessel owner shall be responsible for absorbing the costs and expenses related to the disposition of impounded unauthorized vessels within state small boat harbors and offshore mooring areas and for all mooring fees incurred prior to impoundment.

Impact on the public: Would allow funds paid by boaters, which are currently used to

cover the cost of disposing on an impounded unauthorized vessel, to be spent on other beneficial needs.

Impact on the department and other agencies:
Would relieve the Department from having to bear the costs and expenses of disposing of an impounded unauthorized vessel within state small boat harbors and offshore mooring areas.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 801.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.