

JAN 24 2013

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A BILL FOR AN ACT

RELATING TO 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 and the disposal of the  
12 unauthorized vessel shall be used first to pay the costs of  
13 impoundment and disposal and then to pay any mooring fees due.  
14 If the proceeds resulting from the impoundment and the disposal  
15 are inadequate to pay for all costs and mooring fees due, the  
16 owner of the vessel shall remain liable for the outstanding costs  
17 and mooring fees."

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1 SECTION 2. Section 200-31, Hawaii Revised Statutes, is  
2 amended to read as follow:

3 " ~~[+]~~ §200-31 ~~[+]~~ **Vessels required to be registered and**  
4 **numbered.** (a) Every undocumented vessel shall be registered  
5 and numbered before its use or operation on or in the waters of  
6 the State on an annual basis in accordance with the rules of the  
7 department except:

8 (1) Foreign vessels temporarily using the waters of this  
9 State;

10 (2) Public vessels of the United States;

11 (3) Ships' life boats; and

12 (4) Other vessels exempted by the department, if federal  
13 laws and requirements permit the department to exempt  
14 the vessels.

15 (b) No vessel registration shall be renewed or transferred  
16 if:

17 (1) The registered owner is delinquent in payment of any  
18 moneys due and payable to the department;

19 (2) The registered owner has pending a citation for  
20 violation of any of the department's rules; or

21 (3) The registered owner's vessel is an abandoned vessel,  
22 grounded vessels, derelict vessel, unauthorized

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1 vessel, or vessel impounded under section 200-16. All  
2 fees and charges relating to the vessel impound as  
3 well as any other fees associated with the vessel  
4 shall be paid in full prior to the vessel registration  
5 being transferred."

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 Statutory material to be repealed is bracketed  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

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

9  
10 INTRODUCED BY: *Anna Mercado Ki*

11 BY REQUEST

S.B. NO. 1161

**Report Title:**

Impounded Vessels; Vessel Registration

**Description:**

Clarifies that all costs and expenses associated with the impoundment and disposal of an unauthorized vessel by the Department of Land and Natural Resources shall be borne by the vessel owner and clarifies circumstances when no vessel registration shall be renewed or transferred.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO VESSELS.

PURPOSE: To clarify that all costs and expenses associated with the impoundment of an unauthorized vessel by the Department shall be borne by the vessel owner; and to clarify circumstances when no vessel registration shall be renewed or transferred.

MEANS: Amend sections 200-16(c) and 200-31, 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 impoundment and disposal of all 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, 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 impoundment and disposition of an unauthorized vessel within state small boat harbors and offshore mooring areas and for all mooring fees incurred prior to impoundment.

The bill also clarifies that vessel registrations shall not be renewed or transferred unless the registered owner of the vessel is current on all fees owed to the Department that include citations, fines, mooring, as well as fees associated with the impoundment of a vessel.

Impact on the public: This bill will allow funds paid by boaters, which are currently used to cover the cost of impounding and disposing of an unauthorized vessel, to be spent on other beneficial needs.

Impact on the department and other agencies: This bill will relieve the Department from having to bear the costs and expenses of impounding and disposing of an 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.