

ACT 113

H.B. NO. 3170

A Bill for an Act Relating to Small Boat Harbors.

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

SECTION 1. Section 200-13, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Owners of vessels that fail the marine inspection may contest the inspection before an arbitration board of three inspectors approved by the department [and the original inspector]. The inspector who performed the original inspection shall not be a member of the arbitration board.”

SECTION 2. Section 200-16, Hawaii Revised Statutes, is amended to read as follows:

“**[§200-16] Mooring of unauthorized vessel in state small boat**

**harbors and offshore mooring areas; impoundment and disposal proceedings.**

(a) No person shall moor a vessel in a state small boat harbor or offshore mooring area without obtaining a use permit; nor shall a person continue to moor a vessel in any state small boat harbor or offshore mooring area if the use permit authorizing the vessel to moor has expired or otherwise been terminated. A vessel moored without a use permit or with a use permit that has expired or been terminated is an unauthorized vessel and is subject to [subsections (b) to (d)] this section.

(b) The department shall cause to be placed upon, or as near to the unauthorized vessel as possible, a notice to remove vessel, which shall indicate that the vessel is in violation of this section, the date and time the notice was posted, and that the vessel must be removed within seventy-two hours from the time the notice was posted.

(c) An unauthorized vessel may be impounded by the department at the sole cost and risk of the owner of the vessel, if the vessel is not removed after the seventy-two hour period or if during that period the vessel is removed and removed in the harbor or mooring or anchorage area or any other state harbor or mooring or anchorage area without a use permit.

(d) Custody of an unauthorized vessel shall be returned to the person entitled to possession upon payment to the department of all fees and costs due, and fines levied by the department or a court. In addition, the department, within seventy-two hours of impoundment, shall send by certified mail, return receipt requested, a notice of impoundment to the registered owner or operator of the impounded vessel. The owner or operator of the impounded vessel shall have ten days after receipt of notice of impoundment of the vessel to request in writing an administrative hearing. This administrative hearing is solely for the purpose of allowing the owner or operator of an impounded vessel to contest the basis given by the department for the impoundment of the vessel. The hearing must be held within [seventy-two hours] five working days of the department's receipt of the written request. The chairperson shall adopt rules pursuant to chapter 91 to implement the requirement for this post-seizure administrative hearing process.

(e) Any unauthorized vessel impounded under this section, which remains unclaimed for more than thirty days by the registered owner or a lien holder, may be sold by the department at public auction. If the department is unable to sell the vessel at public auction, or if its appraised value is less than \$250 as determined by an independent appraiser with at least one year of experience in the sale and purchase of vessels, the department may sell the vessel by negotiation, retain and use the vessel, donate it to any other government agency, or dispose of it as junk."

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

SECTION 4 This Act shall take effect upon its approval.

(Approved June 8, 1994.)