

**Introduced by Senator Wolk**February 26, 2009

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An act to amend Section 6302.1 of, and to add Section 6302.2 to, the Public Resources Code, relating to tidelands and submerged lands, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

SB 459, as introduced, Wolk. Tidelands and submerged lands: removal of vessels.

Existing law authorizes the State Lands Commission to remove from areas under its jurisdiction any vessel, boat, raft, or other similar watercraft that is left unattended and is moored, docked, or beached as to obstruct traffic or to create a hazard to other vessels or property, that poses critical and immediate danger to navigation or the public health, safety, or welfare, or that hinders navigation or creates a public nuisance.

This bill would revise those provisions to authorize the commission to remove those watercraft in those and similar conditions immediately and without notice. The bill would authorize the commission to remove from areas under its jurisdiction those watercraft that have been placed on state lands without its permission if prior to removal the commission gives a 30-day notice by posting notice on the watercraft and notifying the owner, if known.

Existing law authorizes the commission, through appropriate action in the courts, to remove or destroy a vessel, boat, watercraft, or other similar obstruction that hinders navigation or otherwise creates a public nuisance in areas under the commission's jurisdiction.

This bill would, instead, provide that a hulk, derelict, wreck, or parts of a ship, vessel, or other watercraft sunk, beached, grounded, or floating and allowed to remain in an unseaworthy or dilapidated condition in

areas under the commission’s jurisdiction for a period longer than 30 days without its consent is abandoned property. The bill would establish procedures for the commission to sell, destroy, or otherwise dispose of this abandoned property.

By requiring that any proceeds from the sale of abandoned property less the commission’s costs shall be deposited into the Land Bank Fund, a continuously appropriated fund, the bill would make an appropriation.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6302.1 of the Public Resources Code is  
2 amended to read:

3 6302.1. (a) The commission may *take immediate action,*  
4 *without notice,* to remove from areas under its jurisdiction ~~any a~~  
5 vessel, boat, raft, or other similar watercraft ~~which that~~ is left  
6 unattended and is moored, docked, beached, or made fast to land  
7 in a position as to obstruct the normal movement of traffic or in a  
8 condition as to create a hazard to *navigation,* other vessels using  
9 a waterway, ~~to public safety, or to~~ the property of another.

10 (b) The commission may *take immediate action, without notice,*  
11 *to remove from areas under its jurisdiction* ~~any a vessel, boat,~~  
12 ~~watercraft, raft, or other similar obstruction which seriously~~  
13 ~~interferes with, or otherwise watercraft that poses a significant~~  
14 ~~threat critical and immediate danger to navigation or to the public~~  
15 ~~health, safety, or welfare or to sensitive habitat, wildlife, or water~~  
16 ~~quality, or that constitutes a public nuisance.~~

17 ~~(c) Through appropriate action in the courts of this state, the~~  
18 ~~commission may remove or destroy any vessel, boat, watercraft,~~  
19 ~~raft, or other similar obstruction which hinders navigation or~~  
20 ~~otherwise creates a public nuisance in areas under the commission’s~~  
21 ~~jurisdiction.~~

22 (c) *The commission may remove from areas under its*  
23 *jurisdiction a vessel, boat, raft, or other similar watercraft or a*  
24 *buoy, anchor, mooring, or other ground tackle used to secure a*  
25 *vessel, boat, raft, or other similar watercraft that has been placed*  
26 *on state lands without its permission. Prior to removal of the vessel,*  
27 *boat, raft, or other similar watercraft or buoy, anchor, mooring,*  
28 *or other ground tackle, the commission shall give a 30-day notice*

1 *by attaching it to the vessel, boat, raft, or other similar watercraft*  
2 *or to the buoy, anchor, mooring, or other ground tackle. If the*  
3 *owner is known, the commission shall also mail notice to the*  
4 *owner.*

5 *(d) Upon request of the owner and after payment of the costs*  
6 *of removal and storage, the commission shall return a vessel, boat,*  
7 *raft, or other similar watercraft or a buoy, anchor, mooring, or*  
8 *other ground tackle removed under this section.*

9 *(e) Pursuant to Section 6302.2, the commission may dispose of*  
10 *a vessel, boat, raft, or other similar watercraft or a buoy, anchor,*  
11 *mooring, or other ground tackle removed under this section that*  
12 *remains unclaimed 30 days after removal.*

13 *(f) After giving 30 days' notice as provided in subdivision (c),*  
14 *the commission may permit a vessel, boat, raft, or other similar*  
15 *watercraft or a buoy, anchor, mooring, or other ground tackle to*  
16 *remain in place for an additional 30 days and, if they have not*  
17 *been claimed or removed, then dispose of them as provided in*  
18 *Section 6302.2.*

19 ~~(g)~~

20 *(g) The commission may recover costs incurred in removal*  
21 *actions undertaken pursuant to this section through appropriate*  
22 *action in the courts of this state.*

23 ~~(h)~~

24 *(h) For purposes of this section, ~~appropriate~~ the following*  
25 *definitions apply:*

26 *(1) "Appropriate action" means any cause of action available*  
27 *at law or in equity.*

28 *(2) "Commission" includes the staff or agents of the commission*  
29 *or other federal, state, or local agencies operating in concert with*  
30 *or under the direction of the commission.*

31 SEC. 2. Section 6302.2 is added to the Public Resources Code,  
32 to read:

33 6302.2. (a) A hulk, derelict, wreck, or parts of a ship, vessel,  
34 or other watercraft, sunk, beached, grounded, or floating and  
35 allowed to remain in an unseaworthy or dilapidated condition in  
36 areas under the commission's jurisdiction for a period longer than  
37 30 days without its consent is abandoned property for purposes of  
38 this section.

39 (b) Notwithstanding any other provision of law, the commission  
40 may take title to abandoned property, without liability, for the sole

1 purpose of abatement, and without satisfying any lien on the  
2 property, may cause the property to be sold, destroyed, or otherwise  
3 disposed of in any manner it determines is expedient or convenient.  
4 Title to property transferred by the commission by sale or otherwise  
5 to third parties shall be clear of any lien or encumbrance.

6 (c) Prior to making a disposition of abandoned property, the  
7 commission shall use reasonable means to identify and locate the  
8 owner. If the owner is located, the commission shall give the owner  
9 written notice to remove the property by a date certain at least 15  
10 days from the date of the notice. Notice to the owner to remove  
11 the property shall also be posted on the property, if practicable, in  
12 a clearly visible place. If the owner cannot be located or the owner  
13 fails to respond to the mailed or posted notice or fails to remove  
14 the property within the time provided or extended, the commission  
15 may direct disposition of the property at a properly noticed  
16 commission meeting, notice of which shall be given to a known  
17 owner and at which the owner or any interested party may appear  
18 and shall be given the right to be heard prior to disposition of the  
19 property.

20 (d) At the request of the commission, an employee or agent of  
21 the commission or a peace officer of the federal or state government  
22 or a city, county, or other political subdivision of the state shall  
23 have the authority to board a vessel for the purposes of carrying  
24 out this section or Section 6302.1.

25 (e) The commission’s cost of disposing of abandoned property,  
26 including staff time and legal and attorney’s fees, may be recovered  
27 by appropriate action in any court in which an action may be  
28 properly brought or by use of any available administrative remedy.  
29 If the property is sold, the commission may recover its costs from  
30 any proceeds of the sale and any additional funds received shall  
31 be deposited into the Land Bank Fund (Division 7 (commencing  
32 with Section 8600)) and shall be used solely for additional removal  
33 actions under this section or Section 6302.1.

34 (f) An action of the commission with regard to any abandoned  
35 property removed, acquired, or disposed of under this section or  
36 Section 6302.1 are exempt from the requirements of the California  
37 Environmental Quality Act (Division 13 (commencing with Section  
38 21000)), and from any other laws or regulations that govern the  
39 acquisition, disposal, or destruction of property by a state agency.

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2 **CORRECTIONS:**  
3 **Text—Pages 1 and 3.**  
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