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AMENDED IN SENATE MARCH 3, 1997

**SENATE BILL**

**No. 172**

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**Introduced by Senator Rainey**

**(Principal coauthor: Senator Johnston)**

(Principal coauthors: Assembly Members Leach and  
Torlakson)

**(Coauthor: Senator O'Connell)**

(Coauthor: Assembly Member Lempert)

January 21, 1997

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An act to amend Sections 513, 514, 518, 522, 523, 524, and 525 of, and to add Sections 526 and 527 to, the Harbors and Navigation Code, relating to vessels, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

SB 172, as amended, Rainey. Vessels: wrecks and wrecked property.

(1) Under existing law relating generally to vessels, if wrecked property is in a perishable state, the county sheriff is required to apply to the judge of the superior court for an order authorizing the sheriff to sell the property. Existing law requires the proceeds to be paid to the county treasurer, and if it remains in the treasurer's hands more than one year, to the State Treasury.

This bill would require the proceeds to be transmitted to the Treasurer for deposit in the General Fund.

(2) Existing law provides that if any person claims wrecked property within one year after it is found, the judge is required to make an order directing the officer in whose possession the property or its proceeds may be, to deliver it to the claimant, as specified.

This bill would reduce that period to 90 days.

(3) Existing law requires the sale of wrecked property if, within one year after saving the wrecked property, no claimant appears, or in other specified circumstances. Under existing law, the proceeds of the sale, after deducting court-approved salvage and expenses, are required to be paid into the State Treasury.

This bill would reduce that period to 90 days. The bill would also require the deduction of storage, property tax liens, other liens, and other expenses from the proceeds of the sale and would require the proceeds of the sale to be transmitted to the Treasurer for deposit in the General Fund.

(4) Existing law authorizes the sale of any hulk, derelict, wreck, or parts of any ship, vessel, or other watercraft sunk, beached, or allowed to remain in an unseaworthy or dilapidated condition upon publicly owned submerged lands, salt marsh, or tidelands within corporate limits of any municipal corporation or other public corporation or entity having jurisdiction or control over those lands, for a period longer than 30 days without a watchman or other person in charge of the property. Existing law specifies that the proceeds of the sale are the property of the municipal corporation or other public corporation or entity.



This bill, instead, would require the proceeds to be transmitted to the Treasurer for deposit in the General Fund.

(5) Existing law authorizes specified peace officers and other persons to remove vessels from public waterways and private property under certain circumstances.

This bill also would authorize the storage of vessels removed under prescribed circumstances, including when it poses a threat to adjacent wetlands, levies, sensitive habitat, any protected wildlife species, or water quality.

The bill would authorize the sale or other disposal of property of less than \$300 value by the public agency that removed it under specified conditions, and would require the proceeds to be deposited into the Abandoned Watercraft Abatement Fund, which would be created by the bill, for grants to local agencies, as specified.

(6) Existing law prohibits any person from abandoning a vessel upon a public waterway or public or private property without the express or implied consent of the owner or person in lawful possession or control of the property. Under existing law, a violation of this prohibition is an infraction and is punishable by a fine of not less than \$50.

This bill would increase that fine to not less than \$500 nor more than \$1,500. The bill would prescribe a formula for the allocation of fines imposed and collected pursuant to this provision. The bill would prescribe the purposes for which moneys in the Abandoned Watercraft Abatement Fund may be used upon appropriation.

(7) The requirements imposed upon judges and peace officers by the bill would impose a state-mandated local program.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by



the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(9) The bill would require the Controller to transfer \$500,000 from the Harbors and Watercraft Revolving Fund to the Abandoned Watercraft Abatement Fund and would appropriate that amount to the Department of Boating and Waterways for prescribed purposes. In addition, the bill would appropriate \$500,000 from the Harbors and Watercraft Revolving Fund to the City of Redwood City for cleanup of abandoned, wrecked, and dismantled vessels, as specified.

The bill would also declare the intent of the Legislature to appropriate not more than \$1,000,000 annually from the Harbors and Watercraft Revolving Fund and that grants from the fund be matched by not less than a 10% contribution from local agency grantees.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 513 of the Harbors and  
2 Navigation Code is amended to read:

3 513. If wrecked property is in a perishable state, the  
4 sheriff shall apply to the judge of the superior court, upon  
5 a verified petition, for an order authorizing the sheriff to  
6 sell it. If the judge is satisfied that a sale of the property  
7 would be beneficial to the persons interested, he or she  
8 shall make the order applied for, and the property shall  
9 then be sold at public auction, as specified in the order.  
10 The proceeds, deducting the expenses of salvage, storage,  
11 and sale as settled and allowed by the judge, shall be  
12 transmitted to the Treasurer for deposit in the General  
13 Fund.

14 SEC. 2. Section 514 of the Harbors and Navigation  
15 Code is amended to read:

16 514. If, within 90 days after wrecked property is  
17 found, any person claims the property, or its proceeds,  
18 and establishes his or her claim by evidence satisfactory  
19 to the judge of the superior court, the judge shall make an  
20 order directing the officer in whose possession the



1 property or its proceeds may be, to deliver it to the  
2 claimant, upon the payment of a reasonable salvage and  
3 the necessary expenses of preservation.

4 SEC. 3. Section 518 of the Harbors and Navigation  
5 Code is amended to read:

6 518. If, within 90 days after saving wrecked property,  
7 no claimant of the property appears, or, if within 60 days  
8 after a claim, the salvage and expenses are not paid, or a  
9 suit for the recovery of the property is not commenced,  
10 the officer who has custody of the property may sell it at  
11 public auction and transmit the proceeds of the sale, after  
12 deducting salvage, storage, property tax liens, other liens,  
13 and other expenses, to the Treasurer for deposit in the  
14 General Fund. Deduction of salvage, storage, and other  
15 expenses shall not be made, unless the amount has been  
16 determined by the superior court of the county. A copy  
17 of the order, and the evidence in its support, shall be  
18 transmitted by the judge to the Controller.

19 SEC. 4. Section 522 of the Harbors and Navigation  
20 Code is amended to read:

21 522. (a) Any hulk, derelict, wreck, or parts of any  
22 ship, vessel, or other watercraft sunk, beached, or allowed  
23 to remain in an unseaworthy or dilapidated condition  
24 upon publicly owned submerged lands, salt marsh, or  
25 tidelands within the corporate limits of any municipal  
26 corporation or other public corporation or entity having  
27 jurisdiction or control over those lands, without its  
28 consent expressed by resolution of its legislative body, for  
29 a period longer than 30 days without a watchman or other  
30 person being maintained upon or near and in charge of  
31 the property, is abandoned property.

32 Thereafter, that municipal corporation or other public  
33 corporation or entity may, notwithstanding any other  
34 provision of law, take title to the abandoned property for  
35 purposes of abatement without satisfying any property  
36 tax lien on that property, and also may cause the property  
37 to be sold, destroyed, or otherwise disposed of in any  
38 manner it determines is expedient or convenient. Any  
39 property tax lien on the abandoned property shall be  
40 satisfied within 30 days following the sale of the



1 abandoned property by a municipal corporation or public  
2 entity. Any sale in accordance with this section shall vest  
3 complete title in the purchaser who shall forthwith take  
4 steps to remove the property. Any proceeds derived from  
5 the sale shall be transmitted to the Treasurer for deposit  
6 in the General Fund.

7 (b) However, if the owner of the property securely  
8 affixes to the property a notice in plain view setting forth  
9 the owner's name and address and claim of ownership,  
10 together with the name and address of an agent or  
11 representative whom the owner may designate to act  
12 within the State of California if the owner does not reside  
13 in the state, and files a copy of the notice with the  
14 secretary of the municipal corporation or other public  
15 corporation or entity having jurisdiction or control over  
16 the lands at least 10 days prior to the removal, the  
17 municipal corporation or other public corporation or  
18 entity may not sell, destroy, or otherwise dispose of the  
19 property until the corporation or entity has first given the  
20 owner or the owner's agent, at the address specified in the  
21 claim of ownership, 15 days' notice to remove or cause the  
22 property to be removed, and then only if the property is  
23 not removed by the owner or the owner's agent within  
24 that time or reasonable extensions of time as the  
25 corporation or entity may grant by resolution. If a  
26 registration number appears on the watercraft, the  
27 municipal corporation or other public corporation or  
28 entity shall send the notice to the last registered owner  
29 and the disposition shall be handled as a lien sale under  
30 Section 504.

31 (c) Any municipal corporation or other public  
32 corporation may charge a fee to any person who is  
33 determined by that municipal or other public  
34 corporation to have caused property of a type described  
35 in subdivision (a) to become abandoned as described in  
36 that subdivision within its corporate limits, in an amount  
37 not to exceed the amount of that municipal or other  
38 public corporation's actual and reasonable costs incurred  
39 pursuant to this section with respect to the abandoned  
40 property.



1 SEC. 5. Section 523 of the Harbors and Navigation  
2 Code is amended to read:

3 523. (a) Any peace officer, as described in Section  
4 663, any employee or officer of the State Lands  
5 Commission designated by the State Lands Commission,  
6 or any lifeguard or marine safety officer employed by a  
7 county, city, or district while engaged in the performance  
8 of official duties, may remove, and, if necessary, store a  
9 vessel removed from a public waterway under any of the  
10 following circumstances:

11 (1) When the vessel is left unattended and is moored,  
12 docked, beached, or made fast to land in such a position  
13 as to obstruct the normal movement of traffic or in such  
14 a condition as to create a hazard to other vessels using the  
15 waterway, to public safety, or to the property of another.

16 (2) When the vessel is found upon a waterway and a  
17 report has previously been made that the vessel has been  
18 stolen or a complaint has been filed and a warrant thereon  
19 issued charging that the vessel has been embezzled.

20 (3) When the person or persons in charge of the vessel  
21 are by reason of physical injuries or illness incapacitated  
22 to such an extent as to be unable to provide for its custody  
23 or removal.

24 (4) When an officer arrests any person operating or in  
25 control of the vessel for an alleged offense, and the officer  
26 is, by any provision of this code or other statute, required  
27 or permitted to take, and does take, the person arrested  
28 before a magistrate without unnecessary delay.

29 (5) When the vessel interferes with, or otherwise poses  
30 a danger to, navigation or to the public health, safety, or  
31 welfare.

32 (6) When the vessel poses a threat to adjacent  
33 wetlands, levies, sensitive habitat, any protected wildlife  
34 species, or water quality.

35 (b) Costs incurred by a public entity pursuant to  
36 removal of vessels under subdivision (a) may be  
37 recovered through appropriate action in the courts of this  
38 state.

39 SEC. 6. Section 524 of the Harbors and Navigation  
40 Code is amended to read:



1 524. (a) Any peace officer, as described in Section  
2 663, may store any vessel removed from private property  
3 when the vessel is found on, or attached to, private  
4 property and a report has previously been made that the  
5 vessel has been stolen or a complaint has been filed and  
6 a warrant thereon issued charging that the vessel has  
7 been embezzled.

8 (b) Any peace officer, as described in Section 663,  
9 may, after a reasonable period of time, remove a vessel  
10 from private property if the vessel has been involved in,  
11 and left at, the scene of a boating accident and no owner  
12 is available to grant permission to remove the vessel. This  
13 subdivision does not authorize the removal of a vessel if  
14 the owner has been contacted and has refused to grant  
15 permission to remove the vessel.

16 (c) Nothing in this section is intended to expand the  
17 territorial jurisdiction of peace officers beyond the  
18 provisions of Sections 830.1 and 830.2 of the Penal Code.

19 SEC. 7. Section 525 of the Harbors and Navigation  
20 Code is amended to read:

21 525. (a) Except for urgent and immediate concern  
22 for the safety of those aboard a vessel, no person shall  
23 abandon a vessel upon a public waterway or public or  
24 private property without the express or implied consent  
25 of the owner or person in lawful possession or control of  
26 the property.

27 (b) The abandonment of any vessel in a manner as  
28 provided in subdivision (a) is prima facie evidence that  
29 the last registered owner of record, not having notified  
30 the appropriate registration or documenting agency of  
31 any relinquishment of title or interest therein, is  
32 responsible for the abandonment and is thereby liable for  
33 the cost of removal and disposition of the vessel.

34 (c) Violation of this section is an infraction and shall be  
35 punished by a fine of not less than five hundred dollars  
36 (\$500), nor more than one thousand five hundred dollars  
37 (\$1,500).

38 (d) All fines imposed and collected pursuant to this  
39 section shall be allocated as follows:



1 (1) (A) Eighty percent of the moneys shall be  
2 deposited in the Abandoned Watercraft Abatement  
3 Fund, which is hereby created as a special fund. Moneys  
4 in the fund shall be used exclusively, upon appropriation  
5 by the Legislature, for grants to be awarded by the  
6 department to local agencies for the abatement, removal,  
7 storage, and disposal as public nuisances of any  
8 abandoned, wrecked, or dismantled vessels ~~less than 65~~  
9 ~~feet in length~~, or parts thereof, or any other partially  
10 submerged objects which pose a substantial hazard to  
11 navigation, from navigable waterways or adjacent public  
12 property, or private property with the landowner's  
13 consent. These grants shall not be utilized for abatement,  
14 removal, storage, or disposal of commercial vessels.

15 (B) In evaluating a grant request submitted by a local  
16 agency pursuant to subparagraph (A), the department  
17 shall place great weight on the following two factors:

18 (i) The existence of an active local enforcement  
19 program to control and prevent the abandonment of  
20 watercraft within the local agency's jurisdiction.

21 (ii) The existence of a submerged navigational hazard  
22 abatement plan at the local level which provides for the  
23 control or abatement of water hazards, including, but not  
24 limited to, abandoned watercraft, wrecked watercraft,  
25 hazardous floating debris, submerged vessels and objects,  
26 and abandoned piers and pilings.

27 (C) A grant awarded by the department pursuant to  
28 subparagraph (A) shall be matched by a 10-percent  
29 contribution from the local agency receiving the grant.

30 (2) Twenty percent shall be allocated as set forth in  
31 Section 1463.001 of the Penal Code.

32 SEC. 8. Section 526 is added to the Harbors and  
33 Navigation Code, to read:

34 526. (a) Notwithstanding any other provision of law,  
35 any wrecked property, or abandoned property as  
36 described in Section 522, or property removed from a  
37 navigable waterway pursuant to Section 523 or 524, may  
38 be sold or otherwise disposed of by the public agency that  
39 removed or caused the removal of the property pursuant  
40 to this section, subject to the following conditions:



1 (1) The property has been appraised by disinterested  
2 persons, and has an estimated value of less than three  
3 hundred dollars (\$300).

4 (2) There is no discernable registration, license, hull  
5 identification number, or other identifying insignia on  
6 the property, or the Department of Motor Vehicles is  
7 unable to produce any record of the registered or legal  
8 owners or lienholders.

9 (3) Not less than 72 hours before the property was  
10 removed, the peace officer or authorized public  
11 employee securely attached to the property a distinctive  
12 notice stating that the property would be removed by the  
13 public agency.

14 (4) Within 48 hours after the removal, excluding  
15 weekends and holidays, the public agency that removed  
16 or caused the removal of the property sent notice of the  
17 removal to the registered and legal owners, if known or  
18 discovered subsequent to the removal, at their addresses  
19 of record with the Department of Motor Vehicles, and to  
20 any other person known to have an interest in the  
21 property. A notice sent by the public agency shall be sent  
22 by certified or first-class mail.

23 (5) If the public agency is unable to locate the  
24 registered and legal owners of the property or persons  
25 known to have an interest in the property as provided in  
26 paragraph (4), the public agency published, or caused to  
27 be published, the notice of removal for at least two weeks  
28 in succession in one or more daily newspapers circulated  
29 in the county.

30 (b) The notice of removal required by paragraphs (3)  
31 to (5), inclusive, of subdivision (a) shall state all of the  
32 following:

33 (1) The name, address, and telephone number of the  
34 public agency providing the notice.

35 (2) A description of the property removed.

36 (3) The location from which the property is to be or  
37 was removed.

38 (4) The location of the intended or actual place of  
39 storage.



1 (5) The authority and purpose for removal of the  
2 property.

3 (6) A statement that the property may be claimed and  
4 recovered within 15 days of the date the notice of removal  
5 was issued pursuant to paragraph (4) or (5) of subdivision  
6 (a), whichever is later, after payment of any costs  
7 incurred by the public agency related to salvage and  
8 storage of the property, and that following the expiration  
9 of the 15-day period, the property will be sold or  
10 otherwise disposed of by the public agency.

11 (7) A statement that the registered or legal owners or  
12 any other person known to have an interest in the  
13 property have the opportunity for a poststorage hearing  
14 before the public agency that removed, or caused the  
15 removal of, the property to determine the validity of the  
16 removal and storage if a request for a hearing is made in  
17 person or in writing to that public agency within 10 days  
18 from the date of notice; that if the registered or legal  
19 owners or any other person known to have an interest in  
20 the property disagree with the decision of the public  
21 agency, the decision may be reviewed pursuant to  
22 Section 11523 of the Government Code; and that during  
23 the time of the initial hearing, or during the time the  
24 decision is being reviewed pursuant to Section 11523 of  
25 the Government Code, the vessel in question shall not be  
26 sold or otherwise disposed of.

27 (c) (1) Any requested hearing shall be conducted  
28 within 48 hours of the time the request for a hearing is  
29 received by the public agency, excluding weekends and  
30 holidays. The public agency that removed the vehicle  
31 may authorize its own officers or employees to conduct  
32 the hearing but the hearing officer shall not be the same  
33 person who directed the removal and storage of the  
34 property.

35 (2) The failure of either the registered or legal owners  
36 or any other person known to have an interest in the  
37 property to request or attend a scheduled hearing shall  
38 not affect the validity of the hearing.

39 (d) The property may be claimed and recovered by its  
40 registered and legal owners, or by any other person



1 known to have an interest in the property, within 15 days  
2 of the date the notice of removal was issued pursuant to  
3 paragraph (4) or (5) of subdivision (a), whichever is  
4 later, after payment of any costs incurred by the public  
5 agency related to salvage and storage of the property.

6 (e) The property may be sold or otherwise disposed of  
7 by the public agency not less than 15 days from the date  
8 the notice of removal was issued pursuant to paragraph  
9 (4) or (5) of subdivision (a), whichever is later, or the  
10 date of actual removal, whichever is later.

11 (f) The proceeds from the sale of the property, after  
12 deducting expenses for salvage, storage, sales costs, and  
13 any property tax liens, shall be deposited in the  
14 Abandoned Watercraft Abatement Fund for grants to  
15 local agencies, as specified in paragraph (1) of subdivision  
16 (d) of Section 525.

17 (g) It is the intent of the Legislature that this section  
18 shall not be construed to authorize the lien sale or  
19 destruction of any seaworthy vessel that is currently  
20 registered and operated in accordance with local, state,  
21 and federal law.

22 SEC. 9. Section 527 is added to the Harbors and  
23 Navigation Code, to read:

24 527. It is the intent of the Legislature that a sum of not  
25 more than one million dollars (\$1,000,000) be  
26 appropriated from the Harbors and Watercraft  
27 Revolving Fund to the Abandoned Watercraft  
28 Abatement Fund for grants to local agencies pursuant to  
29 paragraph (1) of subdivision (d) of Section 525 in each  
30 fiscal year and that grants from the Abandoned  
31 Watercraft Abatement Fund be matched by not less than  
32 a 10-percent contribution from the local agency receiving  
33 the grant.

34 SEC. 10. The Controller shall transfer the sum of five  
35 hundred thousand dollars (\$500,000) from the Harbors  
36 and Watercraft Revolving Fund to the Abandoned  
37 Watercraft Abatement Fund and that sum is hereby  
38 appropriated from the Abandoned Watercraft  
39 Abatement Fund to the Department of Boating and  
40 Waterways for grants to local agencies, as specified in



1 paragraph (1) of subdivision (d) of Section 525 of the  
2 Harbors and Navigation Code.

3 SEC. 11. In addition to the appropriation made in  
4 Section 10 of this act, the following one-time  
5 appropriation is also made. The sum of five hundred  
6 thousand dollars (\$500,000) is hereby appropriated from  
7 the Harbors and Watercraft Revolving Fund to the City  
8 of Redwood City for cleanup of abandoned, wrecked, and  
9 dismantled vessels as described in paragraph (1) of  
10 subdivision (d) of Section 525 of the Harbors and  
11 Navigation Code. The Department of Boating and  
12 Waterways shall verify that the City of Redwood City has  
13 met the grant requirements specified in that paragraph.

14 SEC. 12. Notwithstanding Section 17610 of the  
15 Government Code, if the Commission on State Mandates  
16 determines that this act contains costs mandated by the  
17 state, reimbursement to local agencies and school  
18 districts for those costs shall be made pursuant to Part 7  
19 (commencing with Section 17500) of Division 4 of Title  
20 2 of the Government Code. If the statewide cost of the  
21 claim for reimbursement does not exceed one million  
22 dollars (\$1,000,000), reimbursement shall be made from  
23 the State Mandates Claims Fund.

24 Notwithstanding Section 17580 of the Government  
25 Code, unless otherwise specified, the provisions of this act  
26 shall become operative on the same date that the act  
27 takes effect pursuant to the California Constitution.

