

AMENDED IN SENATE APRIL 1, 2009

SENATE BILL

No. 459

Introduced by Senator Wolk

February 26, 2009

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 amended, 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: $\frac{2}{3}$. 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 a vessel,
5 boat, raft, or other similar watercraft that is left unattended and is
6 moored, docked, beached, or made fast to land in a position as to
7 obstruct the normal movement of traffic or in a condition as to
8 create a hazard to navigation, other vessels using a waterway, or
9 the property of another.
10 (b) The commission may take immediate action, without notice,
11 to remove from areas under its jurisdiction a vessel, boat, raft, or
12 other similar watercraft that poses a significant threat to the public
13 health, safety, or welfare or to sensitive habitat, wildlife, or water
14 quality, or that constitutes a public nuisance.
15 (c) The commission may remove from areas under its
16 jurisdiction a vessel, boat, raft, or other similar watercraft or a
17 buoy, anchor, mooring, or other ground tackle used to secure a
18 vessel, boat, raft, or other similar watercraft that has been placed
19 on state lands without its permission. Prior to removal of the vessel,
20 boat, raft, or other similar watercraft or buoy, anchor, mooring, or
21 other ground tackle, the commission shall give a 30-day notice by
22 attaching it to the vessel, boat, raft, or other similar watercraft or
23 to the buoy, anchor, mooring, or other ground tackle. If the owner
24 is known, the commission shall also mail a notice to the owner.

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

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

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

15 (g) The commission may recover costs incurred in removal
16 actions undertaken pursuant to this section through appropriate
17 action in the courts of this state.

18 (h) For purposes of this section, the following definitions apply:

19 (1) "Appropriate action" means any cause of action available
20 at law or in equity.

21 (2) "Commission" includes the staff or agents of the commission
22 or other federal, state, or local agencies operating in concert with
23 or under the direction of the commission.

24 SEC. 2. Section 6302.2 is added to the Public Resources Code,
25 to read:

26 6302.2. (a) A hulk, derelict, wreck, or parts of a ship, vessel,
27 or other watercraft, sunk, beached, grounded, or floating and
28 allowed to remain in an unseaworthy or dilapidated condition in
29 areas under the commission's jurisdiction for a period longer than
30 30 days without its consent is abandoned property for purposes of
31 this section.

32 (b) Notwithstanding any other provision of law, the commission
33 may take title to abandoned property, without liability, for the sole
34 purpose of abatement, and without satisfying any lien on the
35 property, may cause the property to be sold, destroyed, or otherwise
36 disposed of in any manner it determines is expedient or convenient.
37 Title to property transferred by the commission by sale or otherwise
38 to third parties shall be clear of any lien or encumbrance.

39 (c) Prior to making a disposition of abandoned property, the
40 commission shall use reasonable means to identify and locate the

1 owner. If the owner is located, the commission shall give the owner
2 written notice to remove the property by a date certain at least 15
3 days from the date of the notice. Notice to the owner to remove
4 the property shall also be posted on the property, if practicable, in
5 a clearly visible place. If the owner cannot be located or the owner
6 fails to respond to the mailed or posted notice or fails to remove
7 the property within the time provided or extended, the commission
8 may direct disposition of the property at a properly noticed
9 commission meeting, notice of which shall be given to a known
10 owner and at which the owner or any interested party may appear
11 and shall be given the right to be heard prior to disposition of the
12 property. *Any action with regard to the disposition of the property*
13 *as directed by the commission, with the exception of returning the*
14 *property to the owner, shall be delayed for 30 days after the date*
15 *of the commission determination, to permit response by the owner.*

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

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

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