

AMENDED IN SENATE MAY 6, 2009
AMENDED IN SENATE APRIL 21, 2009
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~~ Sections 6302.2, 6302.3, and 6302.4 to, the Public Resources Code, relating to tidelands and submerged lands.

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 *and dispose of those watercraft and to remove and dispose* 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 *and any lienholder*, 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. The bill would require that any proceeds from the sale of abandoned property, less the commission's costs, be deposited into the General Fund.

Vote: majority. Appropriation: no. 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) (1) 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)

11 (2) The commission may take immediate action, without notice,
12 to remove from areas under its jurisdiction a vessel, boat, raft, or
13 other similar watercraft that poses a significant threat to the public
14 health, safety, or welfare or to sensitive habitat, wildlife, or water
15 quality, or that constitutes a public nuisance.

16 (3) *After removal of the vessel, boat, raft, or other similar*
17 *watercraft pursuant to paragraph (1) or (2), the commission shall*
18 *mail a notice to the owner, if known, and any known lienholder,*
19 *that informs the owner and lienholder that the commission may*
20 *dispose of the vessel, boat, raft, or other similar watercraft*
21 *pursuant to Section 6302.3 if it remains unclaimed for 30 days.*

22 (c)

(b) (1) The commission may remove from areas under its jurisdiction a vessel, boat, raft, or other similar watercraft or a buoy, anchor, mooring, or other ground tackle used to secure a vessel, boat, raft, or other similar watercraft that has been placed on state lands without its permission. Prior to removal of the vessel, boat, raft, or other similar watercraft or buoy, anchor, mooring, or other ground tackle, the commission shall give a 30-day notice by attaching it to the vessel, boat, raft, or other similar watercraft or to the buoy, anchor, mooring, or other ground tackle. If the owner or any lienholder is known, the commission shall also mail a notice to the owner and the lienholder.

(2) After giving 30 days' notice as provided in paragraph (1), the commission may permit a vessel, boat, raft, or other similar watercraft or a buoy, anchor, mooring, or other ground tackle to remain in place for an additional 30 days and, if they have not been removed, then dispose of them as provided in Section 6302.3.

~~(d)~~

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

~~(e)~~

(d) Pursuant to Section ~~6302.2~~ 6302.3, the commission may dispose of a vessel, boat, raft, or other similar watercraft or a buoy, anchor, mooring, or other ground tackle removed under this section that remains unclaimed 30 days after removal.

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

~~(g)~~

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

~~(h)~~

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

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

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

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

6302.2. (a) 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 ~~for purposes of this section.~~

~~(b) Notwithstanding any other provision of law, the commission~~
(b) Pursuant to Section 6302.3, the commission may take title to abandoned property *described in subdivision (a)*, ~~without liability,~~ for the sole purpose of abatement, and without satisfying any lien on the property, may cause the property to be sold, destroyed, or otherwise disposed of in any manner it determines is expedient or convenient. Title to property transferred by the commission by sale or otherwise to third parties shall be clear of any lien or encumbrance.

(c) Prior to making a disposition of abandoned property *pursuant to Section 6302.3*, the commission shall use reasonable means to identify and locate the owner *and any lienholder*. If the owner is located, the commission shall give the owner written notice to remove the property by a date certain at least 15 days from the date of the notice. Notice to the owner to remove the property shall also be posted on the property, if practicable, in a clearly visible place. If the owner cannot be located or the owner fails to respond to the mailed or posted notice or fails to remove the property within the time provided or extended, the commission may direct disposition of the property ~~at a properly noticed commission meeting, notice of which shall be given to a known owner and at which the owner or any interested party may appear and shall be given the right to be heard prior to disposition of the property. Any action with regard to the disposition of the property as directed by the commission, with the exception of returning the property to the owner, shall be delayed for 30 days after the date of the commission determination, to permit response by the owner.~~

~~(d) At the request of the commission, an employee or agent of the commission or a peace officer of the federal or state government~~

1 ~~or a city, county, or other political subdivision of the state shall~~
2 ~~have the authority to board a vessel for the purposes of carrying~~
3 ~~out this section or Section 6302.1, pursuant to Section 6302.3.~~

4 (e)

5 (d) The commission's cost of disposing of abandoned property,
6 including staff time and legal and attorney's fees, may be recovered
7 by appropriate action in any court in which an action may be
8 properly brought or by use of any available administrative remedy.
9 If the property is sold, the commission may recover its costs from
10 any proceeds of the sale and any additional funds received shall
11 be deposited into the General Fund.

12 ~~(f) An action of the commission with regard to any abandoned~~
13 ~~property removed, acquired, or disposed of under this section or~~
14 ~~Section 6302.1 is exempt from the requirements of the California~~
15 ~~Environmental Quality Act (Division 13 (commencing with Section~~
16 ~~21000)), and from any other law or regulation that governs the~~
17 ~~acquisition, disposal, or destruction of property by a state agency.~~

18 SEC. 3. Section 6302.3 is added to the Public Resources Code,
19 to read:

20 6302.3. (a) The commission may direct disposition of property
21 abandoned or removed and subject to disposal pursuant to Section
22 6302.1 or 6302.2 at a properly noticed commission meeting. The
23 commission shall use reasonable means to identify and locate the
24 owner and any lienholder of property that may be disposed of at
25 that hearing.

26 (b) Notice of that meeting shall be given to a known owner and
27 known lienholder, and the known owner, lienholder, or other
28 interested party shall be given the right to appear and be heard
29 prior to disposition of the property.

30 (c) Any action with regard to the disposition of the property as
31 directed by the commission, with the exception of returning the
32 property to the owner, shall be delayed for 30 days after the date
33 of the commission determination, to permit response by the owner.

34 (d) This section shall apply only to a disposition of property
35 abandoned or removed and subject to disposal pursuant to
36 paragraph (3) of subdivision (a) of Section 6302.1, paragraph (2)
37 of subdivision (b) of Section 6302.1, subdivision (d) of Section
38 6302.1, and subdivision (b) of Section 6302.2.

39 SEC. 4. Section 6302.4 is added to the Public Resources Code,
40 to read:

1 6302.4. (a) *At the request of the commission, an employee or*
2 *agent of the commission or a peace officer of the federal or state*
3 *government or a city, county, or other political subdivision of the*
4 *state shall have the authority to board a vessel for the purposes*
5 *of carrying out Section 6302.1, 6302.2, or 6302.3.*

6 (b) *An action of the commission with regard to any abandoned*
7 *or removed property, acquired or disposed of pursuant to Section*
8 *6302.1, 6302.2, or 6302.3, is exempt from the requirements of the*
9 *California Environmental Quality Act (Division 13 (commencing*
10 *with Section 21000)), and from any other law or regulation that*
11 *governs the acquisition, disposal, or destruction of property by a*
12 *state agency.*

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15 CORRECTIONS: _____

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