

ASSEMBLY BILL

No. 1323

Introduced by Assembly Member Frazier

February 27, 2015

An act to add Section 6302.5 to the Public Resources Code, relating to marine debris.

LEGISLATIVE COUNSEL'S DIGEST

AB 1323, as introduced, Frazier. Marine debris: removal and disposal.

Existing law authorizes a public agency that removes or causes the removal of wrecked property that is an unseaworthy derelict or hulk, specified abandoned property, or other specified property from a navigable waterway to sell or otherwise dispose of the property if, among other things, within 48 hours after the removal, the public agency has sent notice of the removal to the registered and legal owners and persons known to have an interest in the property and provided the opportunity for a poststorage hearing. Existing law requires the public agency, if it is unable to locate those persons, to publish, or cause to be published, the notice of removal for at least 2 weeks in succession in one or more daily newspapers circulated in the county. Within 15 days of the date of notice of removal, the property may be claimed and recovered by its registered and legal owners, or by any other person known to have an interest in the property. Existing law makes abandoning a vessel on a public waterway an infraction.

This bill would apply those and related provisions, except for the newspaper notice requirement, to marine debris, defined as a vessel, as defined, or part of a vessel that is unseaworthy and not reasonably fit or capable of being made fit to be used as a means of transportation by water. The bill would exempt from this provision marine debris that

constitutes a public nuisance or a danger to navigation, health, safety, or the environment, and would authorize such marine debris to be removed immediately and sold, destroyed, or otherwise disposed of after 10 days. The bill would prohibit a state or local agency from requiring a permit for removal activities by any state or local government entity if the removal activities conform to the best management practices and requirements for salvage adopted by the State Lands Commission, as specified. The bill would make depositing marine debris in a public waterway, or on state tidelands or submerged lands an infraction, thereby imposing a state-mandated local program.

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.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 6302.5 is added to the Public Resources
2 Code, to read:

3 6302.5. (a) For purposes of this section, “vessel” includes
4 every description of watercraft or other artificial contrivance used,
5 or capable of being used, as a means of transportation by water.
6 A vessel or part of a vessel, including a derelict, wreck, hulk or
7 part of any ship or other watercraft or dilapidated vessel, that is
8 unseaworthy and not reasonably fit or capable of being made fit
9 to be used as a means of transportation by water is “marine debris.”

10 (b) Notwithstanding any other law, marine debris that is floating,
11 sunk, partially sunk or beached upon a public waterway, public
12 beach, or on state tidelands or submerged lands may be removed
13 and sold, destroyed, or otherwise disposed of by any state, county,
14 city or other public entity having jurisdiction over its location or
15 having authority to remove marine debris or solid waste, subject
16 to the following conditions:

17 (1) The marine debris has been appraised by disinterested
18 persons and has an estimated value of less than two thousand
19 dollars (\$2,000).

1 (2) There is no discernable registration, license, hull
2 identification number, or other identifying insignia on the marine
3 debris, or the Department of Motor Vehicles is unable to produce
4 any record of the registered or legal owners or lienholders.

5 (3) Not less than 72 hours before the marine debris was removed,
6 a peace officer or authorized public employee securely attached
7 to the marine debris a distinctive notice stating that the marine
8 debris would be removed by the public agency.

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

17 (c) Notwithstanding subdivision (b), marine debris that
18 constitutes a public nuisance or a danger to navigation, health,
19 safety, or the environment may be removed immediately and sold,
20 destroyed, or otherwise disposed of after 10 days.

21 (d) The notice of removal required by paragraphs (3) and (4)
22 of subdivision (b) shall state all of the following:

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

25 (2) A description of the marine debris removed.

26 (3) The location from which the marine debris is to be or was
27 removed.

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

29 (5) The authority and purpose for removal of the marine debris.

30 (6) A statement that the marine debris may be claimed and
31 recovered within 15 days of the date the notice of removal was
32 issued pursuant to paragraph (4) of subdivision (b) after payment
33 of any costs incurred by the public agency related to salvage and
34 storage of the marine debris, and that following the expiration of
35 the 15-day period, the marine debris will be sold or otherwise
36 disposed of by the public agency.

37 (7) A statement that a registered or legal owner or any other
38 person known to have an interest in the marine debris has the
39 opportunity for a poststorage hearing before the public agency that
40 removed, or caused the removal of, the marine debris to determine

1 the validity of the removal and storage if a request for a hearing
2 is made in person or in writing to that public agency within 10
3 days from the date of notice; that if a registered or legal owner or
4 any other person known to have an interest in the marine debris
5 disagrees with the decision of the public agency, the decision may
6 be reviewed pursuant to Section 11523 of the Government Code;
7 and that during the time of the initial hearing, or during the time
8 the decision is being reviewed pursuant to Section 11523 of the
9 Government Code, the marine debris in question shall not be sold
10 or otherwise disposed of.

11 (e) (1) Any requested hearing shall be conducted within 48
12 hours of the time the request for a hearing is received by the public
13 agency, excluding weekends and holidays. The public agency that
14 removed the marine debris may authorize its own officers or
15 employees to conduct the hearing, but the hearing officer shall not
16 be the same person who directed the removal and storage of the
17 marine debris.

18 (2) The failure of either a registered or legal owner or any other
19 person known to have an interest in the marine debris to request
20 or attend a scheduled hearing shall not affect the validity of the
21 hearing.

22 (f) The marine debris may be claimed and recovered by its
23 registered or legal owner or by any other person known to have
24 an interest in the marine debris within 15 days of the date the notice
25 of removal was issued pursuant to paragraph (4) of subdivision
26 (b) after payment of any costs incurred by the public agency related
27 to salvage and storage of the marine debris.

28 (g) The marine debris may be sold or otherwise disposed of by
29 the public agency not less than 15 days from the date the notice
30 of removal was issued pursuant to paragraph (4) of subdivision
31 (b) or the date of actual removal, whichever is later.

32 (h) (1) Costs incurred by a state or local entity for removal and
33 disposal of marine debris may be recovered from a registered or
34 legal owner or any person or entity who placed the marine debris
35 in the public waterway or on state tidelands or submerged lands
36 through any appropriate legal action in the courts of this state or
37 by administrative action.

38 (2) The proceeds from the sale of the marine debris, after
39 deducting expenses for salvage, storage, sales costs, and any
40 property tax liens, shall be deposited in the Abandoned Watercraft

1 Abatement Fund for grants to local agencies, as specified in
2 paragraph (1) of subdivision (d) of Section 525 of the Harbors and
3 Navigation Code.

4 (i) A state or local agency shall not require a permit for removal
5 activities conducted under this section by any state or local
6 government entity if the removal activities conform to the best
7 management practices and requirements for salvage adopted by
8 the commission at a public meeting after consultation with
9 interested state and local agencies. These best management practice
10 standards shall be published by the commission on its Internet
11 Web site. The commission may amend the best management
12 practice standards from time to time by the same process, as the
13 commission deems necessary.

14 (j) Except for the urgent and immediate concern for the safety
15 of those aboard, a person who knowingly and willfully deposits
16 or sinks marine debris in a public waterway, or on state tidelands
17 or submerged lands, is guilty of an infraction.

18 SEC. 2. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.