

BILL ANALYSIS

Senate Research Center
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H.B. 1625
By: Bonnen, Greg; Bonnen, Dennis (Hinojosa)
Natural Resources & Economic Development
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that there is a growing problem with vessels being abandoned on the Texas coast and contend that the process by which the General Land Office (GLO) currently removes these vessels is unduly burdensome and time consuming.

H.B. 1625 amends the Natural Resources Code to update the notice and hearing requirements, streamlining the methods by which GLO locates and informs the owner of an abandoned vessel or structure of the agency intent to remove and dispose of it. In the event that such an owner cannot be located, the GLO will be authorized to post notice on the vessel itself, and on the agency's website for ten (10) consecutive days. Direct notice to the owner may be delivered after the vessel's removal in circumstances constituting an immediate threat to health, safety, or navigation. In any instance, the owners are reserved the opportunity to either consent to or challenge the vessel's removal under administrative procedure.

H.B. 1625 amends current law relating to the procedures for the enforcement by the General Land Office of the Oil Spill Prevention and Response Act of 1991.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 40.108(c), Natural Resources Code, as follows:

(c) Requires the commissioner (commissioner) of the Texas General Land Office (GLO), to comply with the requirements of Section 40.254 (Orders and Hearings) before removing or disposing of a vessel or structure described in Subsection (a) (relating to the disposition of certain derelict vessels and structures), except that the commissioner is authorized to remove a vessel or structure without first providing notice and an opportunity for a hearing if the vessel or structure:

- (1) is involved in an actual or threatened unauthorized discharge of oil;
- (2) creates an imminent and significant threat to life or property; or
- (3) creates a significant navigation hazard. Deletes existing text authorizing the commissioner to remove a vessel or structure involved in an actual or threatened unauthorized discharge of oil without a hearing.

SECTION 2. Amends Section 40.254, Natural Resources Code, by amending Subsections (b-1), (c-1), (c-2), and (d) and adding Subsections (c-3), (c-4), and (d-1), as follows:

(b-1) Requires that the preliminary report, in the case of a derelict vessel or structure, determine whether the vessel or structure is considered a vessel or structure described by Section 40.108(c)(1), (2), or (3), and recommend that a derelict vessel or structure be

removed or disposed of because it is a vessel or structure described by Section 40.108(c)(1), (2), or (3). Makes nonsubstantive changes.

(c-1) Requires that the notice required by Subsection (c) (relating to requiring the commissioner to serve written notice of the preliminary report to the person charged with the violation on a certain date), except as provided by Subsection (c-3), be given in a certain manner.

(c-2) Authorizes the person charged with the violation or a person claiming ownership of the facility, vessel, or structure, if notice is given in the manner provided by Subsection (c-1), not later than the 20th day after the date on which the notice is served or mailed, or not later than the 20th day after the later of the date on which the notice was posted or the last date the notice was published, as applicable, to consent in writing to the report, including the commissioner's recommendations, or make a written request for a hearing.

(c-3) Requires that the notice required by Subsection (c) (relating to requiring the commissioner to serve notice within a certain time period) be given by posting a copy of the notice on a derelict vessel or structure or by publishing notice on the Internet website of GLO for 10 consecutive days if the derelict vessel or structure has been determined to have no intrinsic value under Subsection (b-1) and:

(1) the vessel or structure is not a numbered vessel or structure;

(2) there are no identifiable markings on the vessel or structure for which the current owner can be reasonably identified for service; or

(3) the address of the person charged with the violation is unknown.

(c-4) Authorizes the person charged with the violation or a person claiming ownership of the vessel or structure, if notice is given in the manner provided by Subsection (c-3), not later than the 10th day after the date on which the notice was posted or the last date the notice was published, to consent in writing to the report, including the commissioner's recommendations, or make a written request for a hearing. Deletes existing text authorizing the person charged with the violation or a person claiming ownership of a vessel or structure for which notice is posted under Subsection (c-2), not later than the 20th day after the date on which the notice is served, to consent in writing to the report, including the commissioner's recommendations, or make a written request for a hearing.

(d) Requires the commissioner, if a vessel or structure is removed without notice as authorized by Section 40.108(c), to serve written notice of the removal to the person charged with the violation not later than the 10th day after the date on which the removal occurs. Sets forth the requirements of the removal notice.

(d-1) Authorizes the person charged with the violation or a person claiming ownership of the vessel or structure, if notice is given in the manner provided by Subsection (d), not later than the 20th day after the date on which the notice is served or mailed, or not later than the 20th day after the last date the notice was published, as applicable, to consent in writing to the report, including the commissioner's recommendations, or make a written request for a hearing.

SECTION 3. Amends Section 40.254(e), Natural Resources Code, by amending Subdivision (1) and adding Subdivision (3), as follows:

(1) Requires the commissioner, by order, if the person charged with the violation or a person claiming ownership of a facility, vessel, or structure, for which notice is provided under Subsection (c-1), (c-3), or (d), rather than posted under Subsection (c-2), consents to the commissioner's recommendations or does not timely respond to the notice, to take the recommended action or order a hearing to be held on the findings and recommendations in the report.

(3) Provides that the commissioner is not required to provide notice under Subdivision (2) (relating to requiring the commissioner to serve a certain written notice) of this subsection if notice was provided under Subsection (c-1)(2), (c-3), or (d) and the subject of the notice is a vessel or structure that was removed in the manner provided by Section 40.108 (Derelict Vessels and Structures).

SECTION 4. Amends Section 40.254(f)(1), Natural Resources Code, as follows:

(1) Requires the commissioner, if the person charged with the violation or a person claiming ownership of a facility, vessel, or structure, for which notice is provided under Subsection (c-1), (c-3), or (d), rather than posted under Subsection (c-2), requests a hearing, to order a hearing and to give written notice of that hearing.

SECTION 5. Amends Section 40.254(g)(1), Natural Resources Code, as follows:

(1) Requires the person charged with the violation or a person claiming ownership of the facility, vessel, or structure, rather than ownership of the vessel for which notice is posted under Subsection (c-2), to comply with the order or file a petition for judicial review. Makes a nonsubstantive change.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2017.