

CHAPTER 152

NATURAL RESOURCES

HOUSE BILL 96-1077

BY REPRESENTATIVES Salaz, Schwarz, and Sullivant;
also SENATOR Martinez.

AN ACT

**CONCERNING THE CONTINUED AUTHORITY OF THE DIVISION OF PARKS AND OUTDOOR RECREATION
TO REGULATE VESSELS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 33-13-105, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

33-13-105. Seizure of vessels by officers. (1) (a) (I) Every parks and recreation officer and other peace officer of this state ~~is authorized to take~~ **MAY SEIZE** and hold possession of any vessel ~~if its hull identification number has been altered, changed, or obliterated or~~ if such officer has ~~good and sufficient reason~~ **PROBABLE CAUSE** to believe that the vessel is not in the lawful possession of the operator or person in charge thereof.

(b) It is the duty of any ~~such officer so taking possession of~~ **SEIZING** any vessel, on being informed of any such vessel, to immediately notify the appropriate law enforcement agencies and the owner if known. Such notification shall contain a description of such vessel and any other helpful facts that may assist in locating or establishing the ownership thereof or in prosecuting any person for a violation of article 4 of title 18, C.R.S., or other state laws.

(2) "Hull identification number" means any identifying number, serial number, engine number, or other distinguishing number or mark, including letters, if any, placed on a vessel or engine by its manufacturer or by authority of the division or in accordance with the laws of another state or country, excluding the vessel registration number.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(3) (a) Whenever a vessel ~~comes into the custody of an officer~~ IS SEIZED PURSUANT TO SUBSECTION (1) OF THIS SECTION, the law enforcement agency or a governmental entity may commence an action in a court ~~having~~ OF COMPETENT jurisdiction to determine whether said vessel shall be destroyed, sold, converted to the use of the seizing agency, or otherwise disposed of by an order of said court.

(b) (I) ANY FORFEITURE PROCEEDING INITIATED PURSUANT TO THIS SECTION SHALL BE CONDUCTED IN CONFORMANCE WITH SECTION 16-13-505, C.R.S.

(II) FOR PURPOSES OF APPLYING SECTION 16-13-505, C.R.S., TO A SEIZURE HEARING CONDUCTED PURSUANT TO THIS SECTION, "CONTRABAND" INCLUDES ANY VESSEL SEIZED IN ACCORDANCE WITH THIS SECTION.

(4) ~~No court order providing for disposition shall be issued unless the person from whom the vessel was seized, as determined by the registration records of the division, is provided a postseizure hearing by the court having jurisdiction within a reasonable period of time after the seizure. This subsection (4) shall not apply with respect to such vessel used as evidence in any action or proceeding. Nothing in this section shall preclude the return of such~~ THE SEIZED vessel to the owner by the seizing agency following presentation of satisfactory evidence of ownership and, if determined necessary, requiring the owner to obtain an assignment of a hull identification number for the vessel from the division.

(5) ~~Notice of said postseizure hearing shall be in the form of a registered letter mailed to the person from whom the property was seized as determined by the registration records of the division. Such notice shall be mailed within sixty days after seizure of such vessel and shall contain the following information:~~

~~(a) The name and address of the person from whom the vessel was seized;~~

~~(b) A statement that the vessel has been seized for investigation as provided in this section and that the vessel will be released upon a determination that the hull identification number has not been altered, changed, or obliterated or upon presentation of satisfactory evidence of the ownership of such vessel if no other person claims an interest in said vessel within sixty days of the date the notice is mailed; otherwise, a hearing regarding the disposition of such vessel shall take place in a court having jurisdiction;~~

~~(c) A statement that the person from whom the vessel was seized, as determined by the registration records of the division, will receive notification of the commencement of any action seeking to determine the disposition of said vessel within ten days after the filing of said action;~~

~~(d) The name and address of the law enforcement agency where the evidence of ownership of such vessel may be presented; and~~

~~(e) A statement of the text contained in this section.~~

(6) (a) ~~At a hearing held pursuant to any action filed by the seizing agency or the governmental entity to determine the disposition of any vessel seized pursuant to this section, the court shall consider the following:~~

~~(I) If the evidence reveals either that the vessel hull identification number has not been altered, changed, or obliterated or that the hull identification number has been altered, changed, or obliterated but satisfactory evidence of ownership has been presented, the vessel shall be returned to the person entitled thereto. If ownership cannot be established, nothing in this section shall preclude the return of said vessel to a good faith purchaser following the presentation of satisfactory evidence of ownership thereof and, if necessary, upon the good faith purchaser's obtaining an assignment of a hull identification number from the division.~~

~~(II) If the evidence reveals that the vessel hull identification number has been altered, changed, or obliterated and satisfactory evidence of ownership has not been presented, the vessel shall be destroyed, sold, converted to the use of the seizing agency, or otherwise disposed of, as provided for by order of the court.~~

~~(b) At the hearing, the seizing agency shall have the burden of establishing, by a preponderance of the evidence, that the vessel hull identification number has been altered, changed, or obliterated.~~

~~(c) At the hearing, any claimant to the vessel shall have the burden of providing satisfactory evidence of ownership.~~

(7) If the court having jurisdiction orders the vessel sold by the division, the proceeds of the sale shall be applied as provided for in section 33-15-104 FORWARDED TO THE TREASURER, WHO SHALL CREDIT SUCH PROCEEDS TO THE GENERAL FUND.

SECTION 2. 33-13-112 (1), Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

33-13-112. Enforcement - applicability. (1) Every parks and recreation officer and other peace officer of this state has the authority to enforce the provisions of this article and, in the exercise thereof, has the authority to stop and board any vessel; EXCEPT THAT, THE OFFICER SHALL HAVE REASONABLE SUSPICION PRIOR TO STOPPING AND BOARDING ANY VESSEL.

SECTION 3. 33-13-115, Colorado Revised Statutes, 1995 Repl. Vol., is repealed as follows:

33-13-115. Termination of functions. ~~The functions of registration and numbering of vessels by the division as set forth in this article are terminated on July 1, 1996. Prior to such termination, these functions shall be reviewed as provided for in section 24-34-104, C.R.S.~~

SECTION 4. 33-13-116, Colorado Revised Statutes, 1995 Repl. Vol., is amended to read:

33-13-116. Repeal of sections. Sections 33-13-103, 33-13-104, 33-13-105, and 33-13-107 are repealed, effective ~~July 1, 1996~~ JULY 1, 2011. Prior to such repeal, the function of registration and numbering of vessels shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 5. 24-34-104 (25.1) (d), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (25.1) The following functions of the specified agencies shall terminate on July 1, 1996:

(d) ~~The registration and numbering of vessels through the division of parks and outdoor recreation in accordance with article 13 of title 33, C.R.S.;~~

SECTION 6. 24-34-104, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (42) THE FOLLOWING AGENCIES AND FUNCTIONS OF THE SPECIFIED AGENCIES SHALL TERMINATE JULY 1, 2011: THE REGISTRATION AND REGULATION OF VESSELS BY THE DEPARTMENT OF NATURAL RESOURCES THROUGH THE DIVISION OF PARKS AND OUTDOOR RECREATION IN ACCORDANCE WITH ARTICLE 13 OF TITLE 33, C.R.S.

SECTION 7. Effective date. This act shall take effect January 1, 1997.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 22, 1996