

Bill No. CS for SB 2128

Barcode 191400

CHAMBER ACTION

Senate

House

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The Committee on Environmental Preservation (Baker)
recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (b) of subsection (1) of section
206.606, Florida Statutes, is amended to read:

206.606 Distribution of certain proceeds.--

(1) Moneys collected pursuant to ss. 206.41(1)(g) and
206.87(1)(e) shall be deposited in the Fuel Tax Collection
Trust Fund. Such moneys, after deducting the service charges
imposed by s. 215.20, the refunds granted pursuant to s.
206.41, and the administrative costs incurred by the
department in collecting, administering, enforcing, and
distributing the tax, which administrative costs may not
exceed 2 percent of collections, shall be distributed monthly
to the State Transportation Trust Fund, except that:

(b) \$2.5 million shall be transferred to the State
Game Trust Fund in the Fish and Wildlife Conservation

Bill No. CS for SB 2128

Barcode 191400

1 Commission in each fiscal year and used for recreational
 2 boating activities, and freshwater fisheries management and
 3 research. The transfers must be made in equal monthly amounts
 4 beginning on July 1 of each fiscal year. The commission shall
 5 annually determine where unmet needs exist for boating-related
 6 activities, and may fund such activities in counties where,
 7 due to the number of vessel registrations, sufficient
 8 financial resources are unavailable.

9 1. A minimum of \$1.25 million shall be used to fund
 10 local projects to provide recreational channel marking and
 11 other uniform waterway markers, public boat ramps, lifts, and
 12 hoists, marine railways, and other public launching
 13 facilities, derelict vessel removal ~~aquatic plant control~~, and
 14 other local boating related activities. In funding the
 15 projects, the commission shall give priority consideration as
 16 follows:

17 a. Unmet needs in counties with populations of 100,000
 18 or less.

19 b. Unmet needs in coastal counties with a high level
 20 of boating related activities from individuals residing in
 21 other counties.

22 2. The remaining \$1.25 million may be used for
 23 recreational boating activities and freshwater fisheries
 24 management and research.

25 3. The commission is authorized to adopt rules
 26 pursuant to ss. 120.536(1) and 120.54 to implement a Florida
 27 Boating Improvement Program ~~similar to the program~~
 28 ~~administered by the Department of Environmental Protection and~~
 29 ~~established in rules 62D-5.031 -- 62D-5.036, Florida~~
 30 ~~Administrative Code, to determine projects eligible for~~
 31 ~~funding under this subsection.~~

Bill No. CS for SB 2128

Barcode 191400

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On February 1 of each year, the commission shall file an annual report with the President of the Senate and the Speaker of the House of Representatives outlining the status of its Florida Boating Improvement Program, including the projects funded, and a list of counties whose needs are unmet due to insufficient financial resources from vessel registration fees.

Section 2. Section 327.59, Florida Statutes, is amended to read:

327.59 Marina evacuations.--

(1) After June 1, 1994, marinas may not adopt, maintain, or enforce policies pertaining to evacuation of vessels which require vessels to be removed from marinas following the issuance of a hurricane watch or warning, in order to ensure that protecting the lives and safety of vessel owners is placed before interests of protecting property.

(2) Nothing in this section may be construed to restrict the ability of an owner of a vessel or the owner's authorized representative to remove a vessel voluntarily from a marina at any time or to restrict a marina owner from dictating the kind of cleats, ropes, fenders, and other measures that must be used on vessels as a condition of use of a marina. After a tropical storm or hurricane watch has been issued, a marina owner or operator, or an employee or agent of such owner or operator, may take reasonable actions to further secure any vessel within the marina to minimize damage to a vessel and to protect marina property, private property, and the environment and may charge a reasonable fee for such services.

(3) Notwithstanding any other provisions of this

Bill No. CS for SB 2128

Barcode 191400

1 section, in order to minimize damage to a vessel and to
 2 protect marina property, private property, and the
 3 environment, a marina owner may provide by contract that in
 4 the event a vessel owner fails to promptly remove a vessel
 5 from a marina after a tropical storm or hurricane watch has
 6 been issued, the marina owner, operator, employee, or agent
 7 may remove the vessel, if reasonable, from its slip or take
 8 whatever reasonable actions are deemed necessary to properly
 9 secure a vessel to minimize damage to a vessel and to protect
 10 marina property, private property, and the environment and may
 11 charge the vessel owner a reasonable fee for any such services
 12 rendered. In order to add such a provision to a contract, the
 13 marina owner must provide notice to the vessel owner in any
 14 such contract in a font size of at least 10 points and in
 15 substantially the following form:

NOTICE TO VESSEL OWNER

19 The undersigned hereby informs you that in the event you fail
 20 to remove your vessel from the marina promptly (timeframe to
 21 be determined between the marina owner or operator and the
 22 vessel owner) after the issuance of a tropical storm or
 23 hurricane watch for (insert geographic area), Florida, under
 24 Florida law, the undersigned or his or her employees or agents
 25 are authorized to remove your vessel, if reasonable, from its
 26 slip or take any and all other reasonable actions deemed
 27 appropriate by the undersigned or his or her employees or
 28 agents in order to better secure your vessel and to protect
 29 marina property, private property, and the environment. You
 30 are further notified that you may be charged a reasonable fee
 31 for any such action.

Bill No. CS for SB 2128

Barcode 191400

1 (4) A marina owner, operator, employee, or agent shall
2 not be held liable for any damage incurred to a vessel from
3 storms or hurricanes and is held harmless as a result of such
4 actions. Nothing in this section may be construed to provide
5 immunity to a marina operator, employee, or agent for any
6 damage caused by intentional acts or negligence when removing
7 or securing a vessel as permitted under this section.

8 Section 3. Subsection (2) of section 327.60, Florida
9 Statutes, is amended to read:

10 327.60 Local regulations; limitations.--

11 (2) Nothing contained in the provisions of this
12 section shall be construed to prohibit local governmental
13 authorities from the enactment or enforcement of regulations
14 which prohibit or restrict the mooring or anchoring of
15 floating structures or live-aboard vessels within their
16 jurisdictions or of any vessels within the marked boundaries
17 of mooring fields permitted as provided in s. 327.40. However,
18 local governmental authorities are prohibited from regulating
19 the anchoring outside of such mooring fields ~~anchorage~~ of
20 non-live-aboard vessels ~~engaged in the exercise of rights of~~
21 navigation.

22 Section 4. Section 328.64, Florida Statutes, is
23 amended to read:

24 328.64 Change of interest and address.--

25 (1) The owner shall furnish the Department of Highway
26 Safety and Motor Vehicles notice of the transfer of all or any
27 part of his or her interest in a vessel registered or titled
28 in this state pursuant to this chapter or chapter 328 or of
29 the destruction or abandonment of such vessel, within 30 days
30 thereof, on a form prescribed by the department. Such
31 transfer, destruction, or abandonment shall terminate the

Bill No. CS for SB 2128

Barcode 191400

1 certificate for such vessel, except that in the case of a
 2 transfer of a part interest which does not affect the owner's
 3 right to operate such vessel, such transfer shall not
 4 terminate the certificate. The department shall provide the
 5 form for such notice and shall attach the form to every vessel
 6 title issued or reissued.

7 (2) Any holder of a certificate of registration shall
 8 notify the Department of Highway Safety and Motor Vehicles or
 9 the county tax collector within 30 days, if his or her address
 10 no longer conforms to the address appearing on the certificate
 11 and shall, as a part of such notification, furnish the
 12 department or such county tax collector with the new address.
 13 The department shall ~~may~~ provide in its rules and regulations
 14 for the surrender of the certificate bearing the former
 15 address and its replacement with a certificate bearing the new
 16 address or for the alteration of an outstanding certificate to
 17 show the new address of the holder.

18 Section 5. Subsection (15) of section 328.72, Florida
 19 Statutes, is amended to read:

20 328.72 Classification; registration; fees and charges;
 21 surcharge; disposition of fees; fines; marine turtle
 22 stickers.--

23 (15) DISTRIBUTION OF FEES.--Except for the first \$2,
 24 \$1 of which shall be remitted to the state for deposit into
 25 the Save the Manatee Trust Fund created within the Fish and
 26 Wildlife Conservation Commission and \$1 of which shall be
 27 remitted to the state for deposit into the Marine Resources
 28 Conservation Trust Fund to fund a grant program for public
 29 launching facilities, pursuant to s. 206.606 ~~327.47~~, giving
 30 priority consideration to counties with more than 35,000
 31 registered vessels, moneys designated for the use of the

Bill No. CS for SB 2128

Barcode 191400

1 counties, as specified in subsection (1), shall be distributed
2 by the tax collector to the board of county commissioners for
3 use only as provided in this section. Such moneys to be
4 returned to the counties are for the sole purposes of
5 providing recreational channel marking and other uniform
6 waterway markers, public boat ramps, lifts, and hoists, marine
7 railways, and other public launching facilities, derelict
8 vessel removal, and ~~other boating-related activities,~~ for
9 removal of vessels and floating structures deemed a hazard to
10 public safety and health for failure to comply with s. 327.53,
11 ~~and for manatee and marine mammal protection and recovery.~~
12 Counties shall ~~that~~ demonstrate through an annual detailed
13 accounting report of vessel registration revenues that ~~at~~
14 ~~least \$1 of the registration fees were spent as provided in~~
15 this subsection ~~on boating infrastructure shall only be~~
16 ~~required to transfer the first \$1 of the fees to the Save the~~
17 ~~Manatee Trust Fund.~~ This report shall be provided to the Fish
18 and Wildlife Conservation Commission no later than November 1
19 of each year. If, prior to January 1 of each calendar year,
20 the annual detailed accounting report meeting the prescribed
21 criteria has still not been provided to the commission, the
22 tax collector of that county shall not distribute the moneys
23 designated for the use of counties, as specified in subsection
24 (1), to the board of county commissioners but shall, instead,
25 for the next calendar year, remit such moneys to the state for
26 deposit into the Marine Resources Conservation Trust Fund. The
27 commission shall return those moneys to the county if the
28 county fully complies with this section within that calendar
29 year. If the county does not fully comply with this section
30 within that calendar year, the moneys shall remain within the
31 Marine Resources Trust Fund and may be appropriated for the

Bill No. CS for SB 2128

Barcode 191400

1 purposes specified in this subsection ~~The commission shall~~
2 ~~provide an exemption letter to the department by December 15~~
3 ~~of each year for qualifying counties.~~

4 Section 6. Paragraph (g) of subsection (4) of section
5 376.11, Florida Statutes, is amended to read:

6 376.11 Florida Coastal Protection Trust Fund.--

7 (4) Moneys in the Florida Coastal Protection Trust
8 Fund shall be disbursed for the following purposes and no
9 others:

10 (g) The funding of a grant program to ~~coastal~~ local
11 governments, pursuant to s. 376.15(2)(b) and (c), for the
12 removal of derelict vessels from the public waters of the
13 state.

14 Section 7. Section 376.15, Florida Statutes, is
15 amended to read:

16 376.15 Derelict vessels; removal from public waters.--

17 (1) It is unlawful for any person, firm, or
18 corporation to store, leave, or abandon any derelict vessel as
19 defined in s. 823.11(1) in this state ~~or leave any vessel in a~~
20 ~~wrecked, junked, or substantially dismantled condition or~~
21 ~~abandoned upon any public waters or at any port in this state~~
22 ~~without the consent of the agency having jurisdiction thereof~~
23 ~~or docked at any private property without the consent of the~~
24 ~~owner of the private property.~~

25 (2)(a) The Fish and Wildlife Conservation Commission
26 and its officers and all law enforcement officers as specified
27 in s. 327.70 are ~~is hereby designated as the agency of the~~
28 ~~state~~ authorized and empowered to remove any derelict vessel
29 as defined in s. 823.11(1) ~~described in subsection (1)~~ from
30 public waters. All costs incurred by the commission or other
31 law enforcement agency in the removal of any abandoned or

Bill No. CS for SB 2128

Barcode 191400

1 derelict vessel shall be recoverable against the owner of the
2 vessel. The Department of Legal Affairs shall represent the
3 commission in such actions.

4 (b) The commission may establish a program to provide
5 grants to ~~coastal~~ local governments for the removal of
6 derelict vessels from the public waters of the state. The
7 program shall be funded from the Florida Coastal Protection
8 Trust Fund. Notwithstanding the provisions in s. 216.181(11),
9 funds available for grants may only be authorized by
10 appropriations acts of the Legislature.

11 (c) The commission shall adopt by rule procedures for
12 submitting a grant application and criteria for allocating
13 available funds. Such criteria shall include, but not be
14 limited to, the following:

15 1. The number of derelict vessels within the
16 jurisdiction of the applicant.

17 2. The threat posed by such vessels to public health
18 or safety, the environment, navigation, or the aesthetic
19 condition of the general vicinity.

20 3. The degree of commitment of the local government to
21 maintain waters free of abandoned and derelict vessels and to
22 seek legal action against those who abandon vessels in the
23 waters of the state.

24 (d) This section shall constitute the authority ~~of the~~
25 ~~commission~~ for such removal, but is not intended to be in
26 contravention of any applicable federal act.

27 ~~(e) The Department of Legal Affairs shall represent~~
28 ~~the Fish and Wildlife Conservation Commission in such actions.~~

29 Section 8. Subsection (3) of section 705.101, Florida
30 Statutes, is amended to read:

31 705.101 Definitions.--As used in this chapter:

Bill No. CS for SB 2128

Barcode 191400

1 (3) "Abandoned property" means all tangible personal
2 property that does not have an identifiable owner and that has
3 been disposed on public property in a wrecked, inoperative, or
4 partially dismantled condition or has no apparent intrinsic
5 value to the rightful owner. The term includes derelict
6 vessels as defined in s. 823.11(1) ~~Vessels determined to be~~
7 ~~derelict by the Fish and Wildlife Conservation Commission or a~~
8 ~~county or municipality in accordance with the provisions of s.~~
9 ~~823.11 are included within this definition.~~

10 Section 9. Subsection (4) of section 705.103, Florida
11 Statutes, is amended to read:

12 705.103 Procedure for abandoned or lost property.--

13 (4) The owner of any abandoned or lost property who,
14 after notice as provided in this section, does not remove such
15 property within the specified period shall be liable to the
16 law enforcement agency for all costs of removal, storage, and
17 destruction of such property, less any salvage value obtained
18 by disposal of the property. Upon final disposition of the
19 property, the law enforcement officer shall notify the owner,
20 if known, of the amount owed. In the case of an abandoned
21 vessel ~~boat~~ or motor vehicle, any person who neglects or
22 refuses to pay such amount is not entitled to be issued a
23 certificate of registration for such vessel ~~boat~~ or motor
24 vehicle, or any other vessel ~~boat~~ or motor vehicle, until such
25 costs have been paid. The law enforcement officer shall supply
26 the Department of Highway Safety and Motor Vehicles with a
27 list of persons whose vessel ~~boat~~ registration privileges or
28 whose motor vehicle privileges have been revoked under this
29 subsection. Neither the department nor any other person acting
30 as agent thereof shall issue a certificate of registration to
31 a person whose vessel ~~boat~~ or motor vehicle registration

Bill No. CS for SB 2128

Barcode 191400

1 | privileges have been revoked, as provided by this subsection,
2 | until such costs have been paid.

3 | Section 10. Section 823.11, Florida Statutes, is
4 | amended to read:

5 | 823.11 Abandoned and derelict vessels; removal;
6 | penalty.--

7 | (1) "Derelict vessel" means any vessel, as defined in
8 | s. 327.02, that is left, stored or abandoned:

9 | (a) In a wrecked, junked, or substantially dismantled
10 | condition upon any public waters of this state.

11 | (b) At any port in this state without the consent of
12 | the agency having jurisdiction thereof.

13 | (c) Docked or grounded at or beached upon the property
14 | of another without the consent of the owner of the property.

15 | (2) It is unlawful for any person, firm, or
16 | corporation to store, leave, or abandon any derelict vessel as
17 | defined in this section in this state ~~or leave any vessel as~~
18 | ~~defined by maritime law in a wrecked, junked, or substantially~~
19 | ~~dismantled condition or abandoned upon or in any public water~~
20 | ~~or at any port in this state without the consent of the agency~~
21 | ~~having jurisdiction thereof, or docked at any private property~~
22 | ~~without the consent of the owner of such property.~~

23 | ~~(3)(a)(2)~~ The Fish and Wildlife Conservation
24 | Commission and its officers and all law enforcement officers
25 | as specified in s. 327.70 are ~~is designated as the agency of~~
26 | ~~the state~~ authorized and empowered to remove or cause to be
27 | removed any abandoned or derelict vessel from public waters in
28 | any instance when the same obstructs or threatens to obstruct
29 | navigation or in any way constitutes a danger to the
30 | environment. Removal of vessels pursuant to this section may
31 | be funded by grants provided in ss. 206.606 and 376.15. The

Bill No. CS for SB 2128

Barcode 191400

1 Fish and Wildlife Conservation Commission is directed to
 2 implement a plan for the procurement of any available federal
 3 disaster funds and to use such funds for the removal of
 4 derelict vessels. All costs incurred by the commission or
 5 other law enforcement agency in the removal of any abandoned
 6 or derelict vessel as set out above shall be recoverable
 7 against the owner thereof. The Department of Legal Affairs
 8 shall represent the commission in such actions. As provided in
 9 s. 705.103(4), any person who neglects or refuses to pay such
 10 amount is not entitled to be issued a certificate of
 11 registration for such vessel or for any other vessel or motor
 12 vehicle until the costs have been paid.

13 (b) When a derelict vessel is docked or grounded at or
 14 beached upon private property without the consent of the owner
 15 of the property, the owner of the property may remove the
 16 vessel at the vessel owner's expense 60 days after compliance
 17 with the notice requirements specified in s. 328.17(5). The
 18 private property owner may not hinder reasonable efforts by
 19 the vessel owner or agent to remove the vessel. Any notice
 20 given pursuant to this paragraph shall be presumed delivered
 21 when it is deposited with the United States Postal Service,
 22 certified, and properly addressed with prepaid postage.
 23 ~~Pursuant to an agreement with the governing body of a county~~
 24 ~~or municipality, and upon a finding by the commission that the~~
 25 ~~county or municipality is competent to undertake said~~
 26 ~~responsibilities, the commission may delegate to the county or~~
 27 ~~municipality its authority to remove or cause to be removed an~~
 28 ~~abandoned or derelict vessel from public waters within the~~
 29 ~~county or municipality.~~

30 (4)(3) Any person, firm, or corporation violating this
 31 act commits ~~is guilty of~~ a misdemeanor of the first degree and

Bill No. CS for SB 2128

Barcode 191400

1 shall be punished as provided by law. Conviction under this
 2 section shall not bar the assessment and collection of the
 3 civil penalty provided in s. 376.16 for violation of s.
 4 376.15. The court having jurisdiction over the criminal
 5 offense, notwithstanding any jurisdictional limitations on the
 6 amount in controversy, may order the imposition of such civil
 7 penalty in addition to any sentence imposed for the first
 8 criminal offense.

9 Section 11. This act shall take effect July 1, 2006.

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12 ===== T I T L E A M E N D M E N T =====

13 And the title is amended as follows:

14 Delete everything before the enacting clause

15

16 and insert:

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A bill to be entitled

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An act relating to vessels; amending s.

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206.606, F.S.; authorizing the use of certain

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funds for local boating related projects and

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activities; amending s. 327.59, F.S.;

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authorizing marina owners, operators,

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employees, and agents to take actions to secure

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vessels during severe weather and to charge

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fees and be held harmless for such service;

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holding marina operators, employees, and agents

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liable for damage caused by intentional acts or

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negligence while removing or securing vessels;

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authorizing contract provisions and providing

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contract notice requirements relating to

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removing or securing vessels; amending s.

Bill No. CS for SB 2128

Barcode 191400

1 327.60, F.S.; providing for local regulation of
2 anchoring in mooring fields; amending s.
3 328.64, F.S.; requiring the Department of
4 Highway Safety and Motor Vehicles to provide
5 forms for certain notification related to
6 vessels; requiring the department to provide by
7 rule for the surrender and replacement of
8 certificates of registration to reflect change
9 of address; amending s. 328.72, F.S.; requiring
10 counties to use funds for specific boating
11 related purposes; requiring counties to provide
12 reports demonstrating specified expenditure of
13 such funds; providing penalties for failure to
14 comply; amending s. 376.11, F.S.; authorizing
15 the distribution of revenues from the Florida
16 Coastal Protection Trust Fund to all local
17 governments for the removal of certain vessels;
18 amending s. 376.15, F.S.; revising provisions
19 relating to the removal of abandoned and
20 derelict vessels; specifying officers
21 authorized to remove such vessels; providing
22 that certain costs are recoverable; requiring
23 the Department of Legal Affairs to represent
24 the Fish and Wildlife Conservation Commission
25 in certain actions; expanding eligibility for
26 disbursement of grant funds for the removal of
27 certain vessels; amending s. 705.101, F.S.;
28 revising the definition of "abandoned property"
29 to include certain vessels; amending s.
30 705.103, F.S.; revising the terminology
31 relating to abandoned or lost property to

Bill No. CS for SB 2128

Barcode 191400

1 conform; amending s. 823.11, F.S.; revising
2 provisions relating to abandoned and derelict
3 vessels and the removal of such vessels;
4 providing a definition of "derelict vessel";
5 specifying which officers may remove such
6 vessels; directing the Fish and Wildlife
7 Conservation Commission to implement a plan for
8 the procurement of federal disaster funds for
9 the removal of derelict vessels; requiring the
10 Department of Legal Affairs to represent the
11 commission in certain actions; deleting a
12 provision authorizing the commission to
13 delegate certain authority to local governments
14 under certain circumstances; authorizing
15 private property owners to remove certain
16 vessels with required notice; providing that
17 cost of such removal is recoverable;
18 prohibiting private property owners from
19 hindering the removal of certain vessels by
20 vessel owners or agents; providing for
21 jurisdictional imposition of civil penalties
22 for violations relating to certain vessels;
23 providing an effective date.

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