

1 governments for the removal of certain vessels;
2 amending s. 376.15, F.S.; revising provisions
3 relating to the removal of abandoned and
4 derelict vessels; specifying officers
5 authorized to remove such vessels; providing
6 that certain costs are recoverable; requiring
7 the Department of Legal Affairs to represent
8 the Fish and Wildlife Conservation Commission
9 in certain actions; expanding eligibility for
10 disbursement of grant funds for the removal of
11 certain vessels; amending s. 403.813, F.S.;
12 providing exemptions from permitting,
13 registration, and regulation of floating vessel
14 platforms or floating boat lifts by a local
15 government; authorizing local governments to
16 require certain permits or registration for
17 floating vessel platforms or floating boat
18 lifts under certain circumstances; amending s.
19 705.101, F.S.; revising the definition of
20 "abandoned property" to include certain
21 vessels; amending s. 705.103, F.S.; revising
22 the terminology relating to abandoned or lost
23 property to conform; amending s. 823.11, F.S.;
24 revising provisions relating to abandoned and
25 derelict vessels and the removal of such
26 vessels; providing a definition of "derelict
27 vessel"; specifying which officers may remove
28 such vessels; directing the Fish and Wildlife
29 Conservation Commission to implement a plan for
30 the procurement of federal disaster funds for
31 the removal of derelict vessels; requiring the

1 Department of Legal Affairs to represent the
2 commission in certain actions; deleting a
3 provision authorizing the commission to
4 delegate certain authority to local governments
5 under certain circumstances; authorizing
6 private property owners to remove certain
7 vessels with required notice; providing that
8 cost of such removal is recoverable;
9 prohibiting private property owners from
10 hindering the removal of certain vessels by
11 vessel owners or agents; providing for
12 jurisdictional imposition of civil penalties
13 for violations relating to certain vessels;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Paragraph (b) of subsection (1) of section
19 206.606, Florida Statutes, is amended to read:

20 206.606 Distribution of certain proceeds.--

21 (1) Moneys collected pursuant to ss. 206.41(1)(g) and
22 206.87(1)(e) shall be deposited in the Fuel Tax Collection
23 Trust Fund. Such moneys, after deducting the service charges
24 imposed by s. 215.20, the refunds granted pursuant to s.
25 206.41, and the administrative costs incurred by the
26 department in collecting, administering, enforcing, and
27 distributing the tax, which administrative costs may not
28 exceed 2 percent of collections, shall be distributed monthly
29 to the State Transportation Trust Fund, except that:

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

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.~~

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

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

11 327.59 Marina evacuations.--

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

18 (2) Nothing in this section may be construed to
19 restrict the ability of an owner of a vessel or the owner's
20 authorized representative to remove a vessel voluntarily from
21 a marina at any time or to restrict a marina owner from
22 dictating the kind of cleats, ropes, fenders, and other
23 measures that must be used on vessels as a condition of use of
24 a marina. After a tropical storm or hurricane watch has been
25 issued, a marina owner or operator, or an employee or agent of
26 such owner or operator, may take reasonable actions to further
27 secure any vessel within the marina to minimize damage to a
28 vessel and to protect marina property, private property, and
29 the environment and may charge a reasonable fee for such
30 services.
31

1 agents in order to better secure your vessel
2 and to protect marina property, private
3 property, and the environment. You are further
4 notified that you may be charged a reasonable
5 fee for any such action.

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

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

16 327.60 Local regulations; limitations.--

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

28 Section 4. Section 328.64, Florida Statutes, is
29 amended to read:

30 328.64 Change of interest and address.--

31

1 (1) The owner shall furnish the Department of Highway
2 Safety and Motor Vehicles notice of the transfer of all or any
3 part of his or her interest in a vessel registered or titled
4 in this state pursuant to this chapter or chapter 328 or of
5 the destruction or abandonment of such vessel, within 30 days
6 thereof, on a form prescribed by the department. Such
7 transfer, destruction, or abandonment shall terminate the
8 certificate for such vessel, except that in the case of a
9 transfer of a part interest which does not affect the owner's
10 right to operate such vessel, such transfer shall not
11 terminate the certificate. The department shall provide the
12 form for such notice and shall attach the form to every vessel
13 title issued or reissued.

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

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

27 328.72 Classification; registration; fees and charges;
28 surcharge; disposition of fees; fines; marine turtle
29 stickers.--

30 (15) DISTRIBUTION OF FEES.--Except for the first \$2,
31 \$1 of which shall be remitted to the state for deposit into

1 | the Save the Manatee Trust Fund created within the Fish and
2 | Wildlife Conservation Commission and \$1 of which shall be
3 | remitted to the state for deposit into the Marine Resources
4 | Conservation Trust Fund to fund a grant program for public
5 | launching facilities, pursuant to s. 206.606 327.47, giving
6 | priority consideration to counties with more than 35,000
7 | registered vessels, moneys designated for the use of the
8 | counties, as specified in subsection (1), shall be distributed
9 | by the tax collector to the board of county commissioners for
10 | use only as provided in this section. Such moneys to be
11 | returned to the counties are for the sole purposes of
12 | providing recreational channel marking and other uniform
13 | waterway markers, public boat ramps, lifts and hoists, marine
14 | railways, and other public launching facilities, derelict
15 | vessel removal, and other boating related activities, for
16 | removal of vessels and floating structures deemed a hazard to
17 | public safety and health for failure to comply with s. 327.53~~7~~
18 | ~~and for manatee and marine mammal protection and recovery.~~
19 | Counties shall ~~that~~ demonstrate through an annual detailed
20 | accounting report of vessel registration revenues that ~~at~~
21 | ~~least \$1 of the registration fees were spent~~ as provided in
22 | this subsection on boating infrastructure shall only be
23 | ~~required to transfer the first \$1 of the fees to the Save the~~
24 | ~~Manatee Trust Fund.~~ This report shall be provided to the Fish
25 | and Wildlife Conservation Commission no later than November 1
26 | of each year. If, prior to January 1 of each calendar year,
27 | the annual detailed accounting report meeting the prescribed
28 | criteria has still not been provided to the commission, the
29 | tax collector of that county shall not distribute the moneys
30 | designated for the use of counties, as specified in subsection
31 | (1), to the board of county commissioners but shall, instead,

1 for the next calendar year, remit such moneys to the state for
2 deposit into the Marine Resources Conservation Trust Fund. The
3 commission shall return those moneys to the county if the
4 county fully complies with this section within that calendar
5 year. If the county does not fully comply with this section
6 within that calendar year, the moneys shall remain within the
7 Marine Resources Trust Fund and may be appropriated for the
8 purposes specified in this subsection ~~The commission shall~~
9 ~~provide an exemption letter to the department by December 15~~
10 ~~of each year for qualifying counties.~~

11 Section 6. Paragraph (g) of subsection (4) of section
12 376.11, Florida Statutes, is amended to read:

13 376.11 Florida Coastal Protection Trust Fund.--

14 (4) Moneys in the Florida Coastal Protection Trust
15 Fund shall be disbursed for the following purposes and no
16 others:

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

21 Section 7. Section 376.15, Florida Statutes, is
22 amended to read:

23 376.15 Derelict vessels; removal from public waters.--

24 (1) It is unlawful for any person, firm, or
25 corporation to store, leave, or abandon any derelict vessel as
26 defined in s. 823.11(1) in this state ~~or leave any vessel in a~~
27 ~~wrecked, junked, or substantially dismantled condition or~~
28 ~~abandoned upon any public waters or at any port in this state~~
29 ~~without the consent of the agency having jurisdiction thereof~~
30 ~~or docked at any private property without the consent of the~~
31 ~~owner of the private property.~~

1 (2)(a) The Fish and Wildlife Conservation Commission
2 and its officers and all law enforcement officers as specified
3 in s. 327.70 are ~~is hereby designated as the agency of the~~
4 ~~state~~ authorized and empowered to remove any derelict vessel
5 as defined in s. 823.11(1) ~~described in subsection (1)~~ from
6 public waters. All costs incurred by the commission or other
7 law enforcement agency in the removal of any abandoned or
8 derelict vessel shall be recoverable against the owner of the
9 vessel. The Department of Legal Affairs shall represent the
10 commission in such actions.

11 (b) The commission may establish a program to provide
12 grants to ~~coastal~~ local governments for the removal of
13 derelict vessels from the public waters of the state. The
14 program shall be funded from the Florida Coastal Protection
15 Trust Fund. Notwithstanding the provisions in s. 216.181(11),
16 funds available for grants may only be authorized by
17 appropriations acts of the Legislature.

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

22 1. The number of derelict vessels within the
23 jurisdiction of the applicant.

24 2. The threat posed by such vessels to public health
25 or safety, the environment, navigation, or the aesthetic
26 condition of the general vicinity.

27 3. The degree of commitment of the local government to
28 maintain waters free of abandoned and derelict vessels and to
29 seek legal action against those who abandon vessels in the
30 waters of the state.

31

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

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

6 Section 8. Paragraph (s) of subsection (2) of section
7 403.813, Florida Statutes, is amended to read:

8 403.813 Permits issued at district centers;
9 exceptions.--

10 (2) A permit is not required under this chapter,
11 chapter 373, chapter 61-691, Laws of Florida, or chapter 25214
12 or chapter 25270, 1949, Laws of Florida, for activities
13 associated with the following types of projects; however,
14 except as otherwise provided in this subsection, nothing in
15 this subsection relieves an applicant from any requirement to
16 obtain permission to use or occupy lands owned by the Board of
17 Trustees of the Internal Improvement Trust Fund or any water
18 management district in its governmental or proprietary
19 capacity or from complying with applicable local pollution
20 control programs authorized under this chapter or other
21 requirements of county and municipal governments:

22 (s) The construction, installation, operation, or
23 maintenance of floating vessel platforms or floating boat
24 lifts, provided that such structures:

25 1. Float at all times in the water for the sole
26 purpose of supporting a vessel so that the vessel is out of
27 the water when not in use;

28 2. Are wholly contained within a boat slip previously
29 permitted under ss. 403.91-403.929, 1984 Supplement to the
30 Florida Statutes 1983, as amended, or part IV of chapter 373,
31 or do not exceed a combined total of 500 square feet, or 200

1 square feet in an Outstanding Florida Water, when associated
2 with a dock that is exempt under this subsection or associated
3 with a permitted dock with no defined boat slip or attached to
4 a bulkhead on a parcel of land where there is no other docking
5 structure, ~~do not exceed a combined total of 500 square feet,~~
6 ~~or 200 square feet in an Outstanding Florida Water;~~

7 3. Are not used for any commercial purpose or for
8 mooring vessels that remain in the water when not in use, and
9 do not substantially impede the flow of water, create a
10 navigational hazard, or unreasonably infringe upon the
11 riparian rights of adjacent property owners, as defined in s.
12 253.141;

13 4. Are constructed and used so as to minimize adverse
14 impacts to submerged lands, wetlands, shellfish areas, aquatic
15 plant and animal species, and other biological communities,
16 including locating such structures in areas where ~~no~~
17 seagrasses are least dense ~~exist if such areas are present~~
18 adjacent to the dock or bulkhead; and

19 5. Are not constructed in areas specifically
20 prohibited for boat mooring under conditions of a permit
21 issued in accordance with ss. 403.91-403.929, 1984 Supplement
22 to the Florida Statutes 1983, as amended, or part IV of
23 chapter 373, or other form of authorization issued by a local
24 government.

25
26 Structures that qualify for this exemption are relieved from
27 any requirement to obtain permission to use or occupy lands
28 owned by the Board of Trustees of the Internal Improvement
29 Trust Fund and shall not be subject to any more stringent
30 permitting requirements, registration requirements, or other
31 regulation by any local government. Local governments may

1 require either permitting or one-time registration of floating
2 vessel platforms as necessary to ensure compliance with the
3 exemption criteria in this section; to ensure compliance with
4 local ordinances, codes, or regulations relating to building
5 or zoning, which are no more stringent than the exemption
6 criteria in this section; and to ensure proper installation
7 and maintenance of a floating vessel platform or floating boat
8 lift that is proposed to be attached to a bulkhead or parcel
9 of land where there is no other docking structure. The
10 exemption provided in this paragraph shall be in addition to
11 the exemption provided in paragraph (b). ~~By January 1, 2003,~~
12 The department shall adopt a general permit by rule for the
13 construction, installation, operation, or maintenance of those
14 floating vessel platforms or floating boat lifts that do not
15 qualify for the exemption provided in this paragraph but do
16 not cause significant adverse impacts to occur individually or
17 cumulatively. The issuance of such general permit shall also
18 constitute permission to use or occupy lands owned by the
19 Board of Trustees of the Internal Improvement Trust Fund. ~~Upon~~
20 ~~the adoption of the rule creating such general permit,~~ No
21 local government shall impose a more stringent regulation,
22 permitting requirement, registration requirement, or other
23 regulation covered by such general permit. Local governments
24 may require either permitting or one-time registration of
25 floating vessel platforms as necessary to ensure compliance
26 with the general permit in this section; to ensure compliance
27 with local ordinances, codes, or regulations relating to
28 building or zoning that are no more stringent than the general
29 permit in this section; and to ensure proper installation and
30 maintenance of a floating vessel platform or floating boat
31 lift that is proposed to be attached to a bulkhead or parcel

1 ~~of land where there is no other docking structure on floating~~
2 ~~vessel platforms or floating boat lifts covered by such~~
3 ~~general permit.~~

4 Section 9. Subsection (3) of section 705.101, Florida
5 Statutes, is amended to read:

6 705.101 Definitions.--As used in this chapter:

7 (3) "Abandoned property" means all tangible personal
8 property that does not have an identifiable owner and that has
9 been disposed on public property in a wrecked, inoperative, or
10 partially dismantled condition or has no apparent intrinsic
11 value to the rightful owner. The term includes derelict
12 ~~vessels as defined in s. 823.11(1) Vessels determined to be~~
13 ~~derelict by the Fish and Wildlife Conservation Commission or a~~
14 ~~county or municipality in accordance with the provisions of s.~~
15 ~~823.11 are included within this definition.~~

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

18 705.103 Procedure for abandoned or lost property.--

19 (4) The owner of any abandoned or lost property who,
20 after notice as provided in this section, does not remove such
21 property within the specified period shall be liable to the
22 law enforcement agency for all costs of removal, storage, and
23 destruction of such property, less any salvage value obtained
24 by disposal of the property. Upon final disposition of the
25 property, the law enforcement officer shall notify the owner,
26 if known, of the amount owed. In the case of an abandoned
27 vessel ~~boat~~ or motor vehicle, any person who neglects or
28 refuses to pay such amount is not entitled to be issued a
29 certificate of registration for such vessel ~~boat~~ or motor
30 vehicle, or any other vessel ~~boat~~ or motor vehicle, until such
31 costs have been paid. The law enforcement officer shall supply

1 the Department of Highway Safety and Motor Vehicles with a
2 list of persons whose vessel ~~boat~~ registration privileges or
3 whose motor vehicle privileges have been revoked under this
4 subsection. Neither the department nor any other person acting
5 as agent thereof shall issue a certificate of registration to
6 a person whose vessel ~~boat~~ or motor vehicle registration
7 privileges have been revoked, as provided by this subsection,
8 until such costs have been paid.

9 Section 11. Section 823.11, Florida Statutes, is
10 amended to read:

11 823.11 Abandoned and derelict vessels; removal;
12 penalty.--

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

15 (a) In a wrecked, junked, or substantially dismantled
16 condition upon any public waters of this state.

17 (b) At any port in this state without the consent of
18 the agency having jurisdiction thereof.

19 (c) Docked or grounded at or beached upon the property
20 of another without the consent of the owner of the property.

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

29 (3)(a)(2) The Fish and Wildlife Conservation
30 Commission and its officers and all law enforcement officers
31 as specified in s. 327.70 are is designated as the agency of

1 ~~the state~~ authorized and empowered to remove or cause to be
2 removed any abandoned or derelict vessel from public waters in
3 any instance when the same obstructs or threatens to obstruct
4 navigation or in any way constitutes a danger to the
5 environment. Removal of vessels pursuant to this section may
6 be funded by grants provided in ss. 206.606 and 376.15. The
7 Fish and Wildlife Conservation Commission is directed to
8 implement a plan for the procurement of any available federal
9 disaster funds and to use such funds for the removal of
10 derelict vessels. All costs incurred by the commission or
11 other law enforcement agency in the removal of any abandoned
12 or derelict vessel as set out above shall be recoverable
13 against the owner thereof. The Department of Legal Affairs
14 shall represent the commission in such actions. As provided in
15 s. 705.103(4), any person who neglects or refuses to pay such
16 amount is not entitled to be issued a certificate of
17 registration for such vessel or for any other vessel or motor
18 vehicle until the costs have been paid.

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

1 ~~responsibilities, the commission may delegate to the county or~~
2 ~~municipality its authority to remove or cause to be removed an~~
3 ~~abandoned or derelict vessel from public waters within the~~
4 ~~county or municipality.~~

5 ~~(4)(3)~~ Any person, firm, or corporation violating this
6 act commits ~~is guilty of~~ a misdemeanor of the first degree and
7 shall be punished as provided by law. Conviction under this
8 section shall not bar the assessment and collection of the
9 civil penalty provided in s. 376.16 for violation of s.
10 376.15. The court having jurisdiction over the criminal
11 offense, notwithstanding any jurisdictional limitations on the
12 amount in controversy, may order the imposition of such civil
13 penalty in addition to any sentence imposed for the first
14 criminal offense.

15 Section 12. This act shall take effect July 1, 2006.

16
17 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
18 COMMITTEE SUBSTITUTE FOR
19 CS for Senate Bill 2128

20 The committee substitute for the committee substitute
21 clarifies that marina employees who secure a vessel after a
22 tropical storm or hurricane watch or warning has been issued
23 may do so to protect marina property, private property, and
24 the environment. Provisions relating to floating vessel
25 platforms and floating boat lifts are clarified to provide
26 that local governments may require a permit or a one-time
27 registration of floating vessel platforms as necessary to
28 ensure compliance with local ordinances, codes, or regulations
29 relating to building or zoning, and to ensure proper
30 installation and maintenance of floating vessel platforms and
31 floating boat lifts. Local ordinances, codes, or regulations
may not be any more stringent than the requirements for the
state exemption criteria or general permit criteria.
Provisions authorizing private property owners to remove
abandoned or derelict vessels from their property are amended
to provide that private property owners may not hinder
reasonable efforts by a vessel owner or agent to remove the
vessel.