

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
 ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
 ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
 FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
 WITHDRAWN \_\_\_\_\_ (Y/N)  
 OTHER \_\_\_\_\_

1 Committee/Subcommittee hearing bill: State Affairs Committee  
 2 Representative Van Zant offered the following:

**Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 327.44, Florida Statutes, is amended to  
 7 read:

8 327.44 Interference with navigation; relocation or  
 9 removal; recovery of costs.-

10 (1) As used in this section, the term:

11 (a) "Gross negligence" means conduct so reckless or  
 12 wanting in care that it constitutes a conscious disregard or  
 13 indifference to the safety of the property exposed to such  
 14 conduct.

15 (b) "Willful misconduct" means conduct evidencing  
 16 carelessness or negligence of such a degree or recurrence as to  
 17 manifest culpability, wrongful intent, or evil design or to show

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18 an intentional and substantial disregard of the interests of the  
19 vessel owner.

20 (2) No person shall anchor, operate, or permit to be  
21 anchored, except in case of emergency, or operated a vessel or  
22 carry on any prohibited activity in a manner which shall  
23 unreasonably or unnecessarily constitute a navigational hazard  
24 or interfere with another vessel. Anchoring under bridges or in  
25 or adjacent to heavily traveled channels shall constitute  
26 interference if unreasonable under the prevailing circumstances.

27 (3) The commission, officers of the commission, and any  
28 law enforcement agency or officer specified in s. 327.70 are  
29 authorized and empowered to relocate, remove, or cause to be  
30 relocated or removed a vessel that unreasonably or unnecessarily  
31 constitutes a navigational hazard or interferes with another  
32 vessel. The commission, officers of the commission, or any other  
33 law enforcement agency or officer acting under this subsection  
34 to relocate, remove, or cause to be relocated or removed a  
35 vessel that unreasonably or unnecessarily constitutes a  
36 navigational hazard or interferes with another vessel shall be  
37 held harmless for all damages to the vessel resulting from such  
38 relocation or removal unless the damage results from gross  
39 negligence or willful misconduct.

40 (4) A contractor performing relocation or removal  
41 activities at the direction of the commission, officers of the  
42 commission, or a law enforcement agency or officer pursuant to  
43 this section must be licensed in accordance with applicable

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44 United States Coast Guard regulations where required; obtain and  
45 carry in full force and effect a policy from a licensed  
46 insurance carrier in this state to insure against any accident,  
47 loss, injury, property damage, or other casualty caused by or  
48 resulting from the contractor's actions; and be properly  
49 equipped to perform the services to be provided.

50 (5) All costs, including costs owed to a third party,  
51 incurred by the commission or other law enforcement agency in  
52 the relocation or removal of a vessel that unreasonably or  
53 unnecessarily constitutes a navigational hazard or interferes  
54 with another vessel are recoverable against the vessel owner.  
55 The Department of Legal Affairs shall represent the commission  
56 in actions to recover such costs.

57 Section 2. Section 376.15, Florida Statutes, is amended to  
58 read:

59 376.15 Derelict vessels; relocation or removal from public  
60 waters.-

61 (1) As used in this section, the term:

62 (a) "Commission" means the Fish and Wildlife Conservation  
63 Commission.

64 (b) "Gross negligence" means conduct so reckless or  
65 wanting in care that it constitutes a conscious disregard or  
66 indifference to the safety of the property exposed to such  
67 conduct.

68 (c) "Willful misconduct" means conduct evidencing  
69 carelessness or negligence of such a degree or recurrence as to

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70 manifest culpability, wrongful intent, or evil design or to show  
71 an intentional and substantial disregard of the interests of the  
72 vessel owner.

73 (2)(1) It is unlawful for any person, firm, or corporation  
74 to store, leave, or abandon any derelict vessel as defined in s.  
75 823.11 ~~823.11(1)~~ in this state.

76 (3)(2)(a) The ~~Fish and Wildlife Conservation~~ commission,  
77 ~~and its~~ officers of the commission, and any all law enforcement  
78 agency or officer ~~officers as~~ specified in s. 327.70 are  
79 authorized and empowered to relocate, remove, or cause to be  
80 relocated or removed any derelict vessel as defined in s. 823.11  
81 ~~823.11(1)~~ from public waters. All costs, including costs owed to  
82 a third party, incurred by the commission or other law  
83 enforcement agency in the relocation or removal of any abandoned  
84 or derelict vessel are ~~shall be~~ recoverable against the owner of  
85 the vessel. The Department of Legal Affairs shall represent the  
86 commission in ~~such~~ actions to recover such costs.

87 (b) The commission, officers of the commission, and any  
88 other law enforcement agency or officer specified in s. 327.70  
89 acting under this section to relocate, remove, or cause to be  
90 relocated or removed a derelict vessel from public waters shall  
91 be held harmless for all damages to the derelict vessel  
92 resulting from such relocation or removal unless the damage  
93 results from gross negligence or willful misconduct.

94 (c) A contractor performing relocation or removal  
95 activities at the direction of the commission, officers of the

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96 commission, or a law enforcement agency or officer pursuant to  
97 this section must be licensed in accordance with applicable  
98 United States Coast Guard regulations where required; obtain and  
99 carry in full force and effect a policy from a licensed  
100 insurance carrier in this state to insure against any accident,  
101 loss, injury, property damage, or other casualty caused by or  
102 resulting from the contractor's actions; and be properly  
103 equipped to perform the services to be provided.

104 (d)~~(b)~~ The commission may establish a program to provide  
105 grants to local governments for the removal of derelict vessels  
106 from the public waters of the state. The program shall be funded  
107 from the Florida Coastal Protection Trust Fund. Notwithstanding  
108 the provisions in s. 216.181(11), funds available for grants may  
109 only be authorized by appropriations acts of the Legislature.

110 (e)~~(e)~~ The commission shall adopt by rule procedures for  
111 submitting a grant application and criteria for allocating  
112 available funds. Such criteria shall include, but not be limited  
113 to, the following:

114 1. The number of derelict vessels within the jurisdiction  
115 of the applicant.

116 2. The threat posed by such vessels to public health or  
117 safety, the environment, navigation, or the aesthetic condition  
118 of the general vicinity.

119 3. The degree of commitment of the local government to  
120 maintain waters free of abandoned and derelict vessels and to  
121 seek legal action against those who abandon vessels in the

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122 waters of the state.

123 ~~(f)-(d)~~ This section constitutes ~~shall constitute~~ the  
124 authority for such removal but is not intended to be in  
125 contravention of any applicable federal act.

126 Section 3. Section 823.11, Florida Statutes, is amended to  
127 read:

128 823.11 ~~Abandoned and~~ Derelict vessels; relocation or  
129 removal; penalty.—

130 (1) As used in this section, the term:

131 (a) "Commission" means the Fish and Wildlife Conservation  
132 Commission.

133 (b) "Derelict vessel" means a any vessel, as defined in s.  
134 327.02, that is left, stored, or abandoned:

135 1.-(a) In a wrecked, junked, or substantially dismantled  
136 condition upon any public waters of this state.

137 2.-(b) At a ~~any~~ port in this state without the consent of  
138 the agency having jurisdiction thereof.

139 3.-(c) Docked, ~~or~~ grounded, ~~at~~ or beached upon the property  
140 of another without the consent of the owner of the property.

141 (c) "Gross negligence" means conduct so reckless or  
142 wanting in care that it constitutes a conscious disregard or  
143 indifference to the safety of the property exposed to such  
144 conduct.

145 (d) "Willful misconduct" means conduct evidencing  
146 carelessness or negligence of such a degree or recurrence as to  
147 manifest culpability, wrongful intent, or evil design or to show

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148 an intentional and substantial disregard of the interests of the  
149 vessel owner.

150 (2) It is unlawful for a ~~any~~ person, firm, or corporation  
151 to store, leave, or abandon any derelict vessel ~~as defined in~~  
152 ~~this section~~ in this state.

153 (3) ~~(a)~~ The ~~Fish and Wildlife Conservation~~ commission, and  
154 ~~its~~ officers of the commission, and any all law enforcement  
155 agency or officer ~~officers as~~ specified in s. 327.70 are  
156 authorized and empowered to relocate, remove, or cause to be  
157 relocated or removed ~~a any abandoned or~~ derelict vessel from  
158 public waters if the derelict vessel ~~in any instance when the~~  
159 ~~same~~ obstructs or threatens to obstruct navigation or in any way  
160 constitutes a danger to the environment, property, or persons.  
161 The commission, officers of the commission, or any other law  
162 enforcement agency or officer acting under this subsection to  
163 relocate, remove, or cause to be relocated or removed a derelict  
164 vessel from public waters shall be held harmless for all damages  
165 to the derelict vessel resulting from such relocation or removal  
166 unless the damage results from gross negligence or willful  
167 misconduct.

168 (a) Removal of derelict vessels under ~~pursuant to~~ this  
169 subsection ~~section~~ may be funded by grants provided in ss.  
170 206.606 and 376.15. The ~~Fish and Wildlife Conservation~~  
171 commission shall ~~is directed to~~ implement a plan for the  
172 procurement of any available federal disaster funds and ~~to~~ use  
173 such funds for the removal of derelict vessels.

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174 (b) All costs, including costs owed to a third party,  
175 incurred by the commission or other law enforcement agency in  
176 the relocation or removal of a ~~any abandoned or~~ derelict vessel  
177 are as set out above shall be recoverable against the vessel  
178 owner thereof. The Department of Legal Affairs shall represent  
179 the commission in ~~such~~ actions to recover such costs. As  
180 provided in s. 705.103(4), a ~~any~~ person who neglects or refuses  
181 to pay such costs may ~~amount is not entitled to~~ be issued a  
182 certificate of registration for such vessel or for any other  
183 vessel or motor vehicle until such ~~the~~ costs have been paid.

184 (c) A contractor performing relocation or removal  
185 activities at the direction of the commission, officers of the  
186 commission, or a law enforcement agency or officer pursuant to  
187 this section must be licensed in accordance with applicable  
188 United States Coast Guard regulations where required; obtain and  
189 carry in full force and effect a policy from a licensed  
190 insurance carrier in this state to insure against any accident,  
191 loss, injury, property damage, or other casualty caused by or  
192 resulting from the contractor's actions; and be properly  
193 equipped to perform the services to be provided.

194 (4) ~~(b)~~ When a derelict vessel is docked, ~~or~~ grounded, ~~at~~  
195 or beached upon private property without the consent of the  
196 owner of the property, the owner of the property may remove the  
197 vessel at the vessel owner's expense 60 days after compliance  
198 with the notice requirements specified in s. 328.17(5). The  
199 private property owner may not hinder reasonable efforts by the

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200 vessel owner or the vessel owner's agent to remove the vessel.  
201 ~~Any~~ Notice given pursuant to this subsection is ~~paragraph shall~~  
202 ~~be~~ presumed to be delivered when it is deposited with the United  
203 States Postal Service, certified, and properly addressed with  
204 prepaid postage.

205 ~~(5)(4)~~ A ~~Any~~ person, firm, or corporation violating this  
206 section ~~act~~ commits a misdemeanor of the first degree and shall  
207 be punished as provided by law. A conviction under this section  
208 does ~~shall~~ not bar the assessment and collection of the civil  
209 penalty provided in s. 376.16 for violation of s. 376.15. The  
210 court having jurisdiction over the criminal offense,  
211 notwithstanding any jurisdictional limitations on the amount in  
212 controversy, may order the imposition of such civil penalty in  
213 addition to any sentence imposed for the first criminal offense.

214 Section 4. Paragraph (g) of subsection (4) of section  
215 376.11, Florida Statutes, is amended to read:

216 376.11 Florida Coastal Protection Trust Fund.—

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

219 (g) The funding of a grant program to local governments,  
220 pursuant to s. 376.15(3)(d) and (e) ~~376.15(2)(b) and (c)~~, for  
221 the removal of derelict vessels from the public waters of the  
222 state.

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

225 705.101 Definitions.—As used in this chapter:

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226 (3) "Abandoned property" means all tangible personal  
227 property that does not have an identifiable owner and that has  
228 been disposed on public property in a wrecked, inoperative, or  
229 partially dismantled condition or has no apparent intrinsic  
230 value to the rightful owner. The term includes derelict vessels  
231 as defined in s. 823.11 ~~823.11(1)~~.

232 Section 6. This act shall take effect July 1, 2014.  
233

234 -----  
235 **T I T L E A M E N D M E N T**

236 Remove everything before the enacting clause and insert:

237 A bill to be entitled

238 An act relating to vessel safety; amending s. 327.44,  
239 F.S.; defining terms; authorizing the Fish and  
240 Wildlife Conservation Commission and certain law  
241 enforcement agencies or officers to relocate or remove  
242 vessels that unreasonably or unnecessarily constitute  
243 a navigational hazard or interfere with another  
244 vessel; exempting the commission or a law enforcement  
245 agency or officer from liability for damages to such a  
246 vessel caused by the relocation or removal thereof;  
247 providing an exception; specifying requirements for  
248 contractors relocating or removing a vessel at the  
249 direction of the commission or a law enforcement  
250 agency or officer; providing that the commission or a  
251 law enforcement agency may recover from the vessel

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1363 (2014)

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252 owner its costs for the relocation or removal of such  
253 a vessel; requiring the Department of Legal Affairs to  
254 represent the commission in actions to recover such  
255 costs; amending ss. 376.15 and 823.11, F.S.; defining  
256 terms; authorizing the commission and certain law  
257 enforcement agencies and officers to relocate or  
258 remove a derelict vessel from public waters; exempting  
259 the commission or a law enforcement agency or officer  
260 from liability for damages to such a vessel caused by  
261 the relocation or removal thereof; providing an  
262 exception; expanding costs recoverable by the  
263 commission or a law enforcement agency against the  
264 owner of a derelict vessel for the relocation or  
265 removal thereof; specifying requirements for  
266 contractors relocating or removing a vessel at the  
267 direction of the commission or a law enforcement  
268 agency or officer; abrogating the power of the  
269 commission to remove certain abandoned vessels and  
270 recover its costs therefor; conforming a cross-  
271 reference; amending ss. 376.11 and 705.101, F.S.;  
272 conforming cross-references; providing an effective  
273 date.