

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 WITHDRAWN \_\_\_\_\_ (Y/N)  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: Agriculture & Natural  
 2 Resources Subcommittee  
 3 Representative Van Zant offered the following:  
 4

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
 7 Section 1. Section 327.44, Florida Statutes, is amended to  
 8 read:

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

11 (1) No person shall anchor, operate, or permit to be  
 12 anchored, except in case of emergency, or operated a vessel or  
 13 carry on any prohibited activity in a manner which shall  
 14 unreasonably or unnecessarily constitute a navigational hazard  
 15 or interfere with another vessel. Anchoring under bridges or in  
 16 or adjacent to heavily traveled channels shall constitute  
 17 interference if unreasonable under the prevailing circumstances.

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18       (2) The commission, an officer of the commission, and any  
19 law enforcement agency or officer specified in s. 327.70 is  
20 authorized and empowered to relocate, remove, or cause to be  
21 relocated or removed a vessel that unreasonably or unnecessarily  
22 constitutes a navigational hazard or interferes with another  
23 vessel. The commission or any other law enforcement agency or  
24 officer acting under this subsection to relocate, remove, or  
25 cause to be relocated or removed a vessel that unreasonably or  
26 unnecessarily constitutes a navigational hazard or interferes  
27 with another vessel shall be held harmless for all damages to  
28 the vessel resulting from such relocation or removal, unless the  
29 damage results from gross negligence or willful misconduct. As  
30 used in this subsection:

31       (a) "Gross negligence" means that the defendant's conduct  
32 was so reckless or wanting in care that it constituted a  
33 conscious disregard or indifference to the safety of the  
34 property exposed to such conduct.

35       (b) "Willful misconduct" means conduct evidencing  
36 carelessness or negligence of such a degree or recurrence as to  
37 manifest culpability, wrongful intent, or evil design or to show  
38 an intentional and substantial disregard of the interests of the  
39 vessel owner.

40       (3) All costs, including costs owed to a third party,  
41 incurred by the commission or other law enforcement agency in  
42 the relocation or removal of a vessel that unreasonably or  
43 unnecessarily constitutes a navigational hazard or interferes

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44 with another vessel are recoverable against the vessel owner.  
45 The Department of Legal Affairs shall represent the commission  
46 in actions to recover such costs.

47 Section 2. Section 823.11, Florida Statutes, is amended to  
48 read:

49 823.11 ~~Abandoned and~~ Derelict vessels; relocation or  
50 removal; penalty.-

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

52 (a) "Derelict vessel" means a ~~any~~ vessel, as defined in s.  
53 327.02, that is left, stored, or abandoned:

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

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

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

60 (b) "Commission" means the Fish and Wildlife Conservation  
61 Commission.

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

65 (3)(a) ~~The Fish and Wildlife Conservation commission, an~~  
66 officer of the commission, and its officers and any all law  
67 enforcement agency or officer ~~officers~~ as specified in s. 327.70  
68 is ~~are~~ authorized and empowered to relocate, remove, or cause to  
69 be relocated or removed ~~a any abandoned or~~ derelict vessel from

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70 public waters if the derelict vessel ~~in any instance when the~~  
71 ~~same~~ obstructs or threatens to obstruct navigation or in any way  
72 constitutes a danger to the environment, property, or persons.  
73 The commission or any other law enforcement agency or officer  
74 acting under this subsection to relocate, remove, or cause to be  
75 relocated or removed a derelict vessel from public waters shall  
76 be held harmless for all damages to the derelict vessel  
77 resulting from such relocation or removal, unless the damage  
78 results from gross negligence or willful misconduct.

79 (a) Removal of derelict vessels under ~~pursuant to~~ this  
80 subsection ~~section~~ may be funded by grants provided in ss.  
81 206.606 and 376.15. The Fish and Wildlife Conservation  
82 Commission shall ~~is directed to~~ implement a plan for the  
83 procurement of any available federal disaster funds and ~~to~~ use  
84 such funds for the removal of derelict vessels.

85 (b) All costs, including costs owed to a third party,  
86 incurred by the commission or other law enforcement agency in  
87 the relocation or removal of a any abandoned or derelict vessel  
88 are as set out above shall be recoverable against the vessel  
89 owner ~~thereof~~. The Department of Legal Affairs shall represent  
90 the commission in ~~such~~ actions to recover such costs. As  
91 provided in s. 705.103(4), a any person who neglects or refuses  
92 to pay such costs may ~~amount is~~ not entitled to be issued a  
93 certificate of registration for such vessel or for any other  
94 vessel or motor vehicle until such ~~the~~ costs have been paid.

95 (c) As used in this subsection:

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96 1. "Gross negligence" means that the defendant's conduct  
97 was so reckless or wanting in care that it constituted a  
98 conscious disregard or indifference to the safety of the  
99 property exposed to such conduct.

100 2. "Willful misconduct" means conduct evidencing  
101 carelessness or negligence of such a degree or recurrence as to  
102 manifest culpability, wrongful intent, or evil design or to show  
103 an intentional and substantial disregard of the interests of the  
104 vessel owner.

105 (4)-(b) When a derelict vessel is docked, ~~or~~ grounded, ~~at~~  
106 or beached upon private property without the consent of the  
107 owner of the property, the owner of the property may remove the  
108 vessel at the vessel owner's expense 60 days after compliance  
109 with the notice requirements specified in s. 328.17(5). The  
110 private property owner may not hinder reasonable efforts by the  
111 vessel owner or the vessel owner's agent to remove the vessel.  
112 ~~Any~~ Notice given pursuant to this subsection is ~~paragraph shall~~  
113 ~~be~~ presumed to be delivered when it is deposited with the United  
114 States Postal Service, certified, and properly addressed with  
115 prepaid postage.

116 (5)-(4) ~~A~~ ~~Any~~ person, firm, or corporation violating this  
117 section ~~act~~ commits a misdemeanor of the first degree and shall  
118 be punished as provided by law. A conviction under this section  
119 does ~~shall~~ not bar the assessment and collection of the civil  
120 penalty provided in s. 376.16 for violation of s. 376.15. The  
121 court having jurisdiction over the criminal offense,

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122 notwithstanding any jurisdictional limitations on the amount in  
123 controversy, may order the imposition of such civil penalty in  
124 addition to any sentence imposed for the first criminal offense.

125 Section 3. Section 376.15, Florida Statutes, is amended to  
126 read

127 376.15 Derelict vessels; relocation or removal from public  
128 waters.-

129 (1) As used in this section, the term "commission" means  
130 the Fish and Wildlife Conservation Commission.

131 (2)-(1) It is unlawful for any person, firm, or corporation  
132 to store, leave, or abandon any derelict vessel as defined in s.  
133 823.11(1) in this state.

134 (3)-(2)(a) The ~~Fish and Wildlife Conservation~~ commission  
135 and its officers and all law enforcement officers as specified  
136 in s. 327.70 are authorized and empowered to relocate or remove  
137 any derelict vessel as defined in s. 823.11(1) from public  
138 waters. All costs, including costs owed to a third party,  
139 incurred by the commission or other law enforcement agency in  
140 the relocation or removal of any abandoned or derelict vessel  
141 shall be recoverable against the owner of the vessel. The  
142 Department of Legal Affairs shall represent the commission in  
143 such actions.

144 (b) The commission and any other law enforcement agency or  
145 officer as specified in s. 327.70 acting under this section to  
146 relocate, remove, or cause to be relocated or removed a derelict  
147 vessel from public waters shall be held harmless for all damages

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148 to the derelict vessel resulting from such relocation or  
149 removal, unless the damage results from gross negligence or  
150 willful misconduct. As used in this paragraph:

151 1. "Gross negligence" means that the defendant's conduct  
152 was so reckless or wanting in care that it constituted a  
153 conscious disregard or indifference to the safety of the  
154 property exposed to such conduct.

155 2. "Willful misconduct" means conduct evidencing  
156 carelessness or negligence of such a degree or recurrence as to  
157 manifest culpability, wrongful intent, or evil design or to show  
158 an intentional and substantial disregard of the interests of the  
159 vessel owner.

160 (c)~~(b)~~ The commission may establish a program to provide  
161 grants to local governments for the removal of derelict vessels  
162 from the public waters of the state. The program shall be funded  
163 from the Florida Coastal Protection Trust Fund. Notwithstanding  
164 the provisions in s. 216.181(11), funds available for grants may  
165 only be authorized by appropriations acts of the Legislature.

166 (d)~~(e)~~ The commission shall adopt by rule procedures for  
167 submitting a grant application and criteria for allocating  
168 available funds. Such criteria shall include, but not be limited  
169 to, the following:

170 1. The number of derelict vessels within the jurisdiction  
171 of the applicant.

172 2. The threat posed by such vessels to public health or  
173 safety, the environment, navigation, or the aesthetic condition

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174 of the general vicinity.

175 3. The degree of commitment of the local government to  
176 maintain waters free of abandoned and derelict vessels and to  
177 seek legal action against those who abandon vessels in the  
178 waters of the state.

179 (e)~~(d)~~ This section shall constitute the authority for  
180 such removal but is not intended to be in contravention of any  
181 applicable federal act.

182 Section 4. This act shall take effect July 1, 2014.

183

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185 **T I T L E A M E N D M E N T**

186 Remove everything before the enacting clause and insert:

187 A bill to be entitled

188 An act relating to vessel safety; amending s. 327.44,  
189 F.S.; authorizing the Fish and Wildlife Conservation  
190 Commission and certain law enforcement agencies or  
191 officers to relocate or remove vessels that  
192 unreasonably or unnecessarily constitute a navigation  
193 hazard or interfere with another vessel; exempting the  
194 commission or a law enforcement agency or officer from  
195 liability for damages to a derelict vessel caused by  
196 the relocation or removal of such a vessel under  
197 certain circumstances; providing definitions;  
198 providing that the commission or a law enforcement  
199 agency may recover from the vessel owner its costs for



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200 the relocation or removal of such a vessel; requiring  
201 the Department of Legal Affairs to represent the  
202 commission in actions to recover such costs; amending  
203 s. 823.11, F.S.; providing definitions; authorizing  
204 the commission and certain law enforcement agencies  
205 and officers to relocate or remove a derelict vessel  
206 from public waters if such vessel poses a danger to  
207 property or persons; exempting the commission or a law  
208 enforcement agency or officer from liability for  
209 damages caused by its relocation or removal of such a  
210 vessel under certain circumstances; expanding costs  
211 recoverable by the commission or a law enforcement  
212 agency against the owner of a derelict vessel for the  
213 relocation or removal of such vessel; abrogating the  
214 power of the commission to remove certain abandoned  
215 vessels and recover its costs therefor; providing  
216 definitions; amending s. 376.15, F.S.; providing a  
217 definition; authorizing relocation of derelict  
218 vessels; exempting the commission or a law enforcement  
219 agency or officer from liability for damages caused by  
220 its relocation or removal of such a vessel under  
221 certain circumstances; defining the terms "gross  
222 negligence" and "willful misconduct"; providing an  
223 effective date.