

1 A bill to be entitled

2 An act relating to vessel safety; amending s. 327.44,
3 F.S.; authorizing the Fish and Wildlife Conservation
4 Commission and certain law enforcement agencies or
5 officers to relocate or remove vessels that
6 unreasonably or unnecessarily constitute a navigation
7 hazard or interfere with another vessel; exempting the
8 commission or a law enforcement agency or officer from
9 liability for damages to a derelict vessel caused by
10 the relocation or removal of such a vessel under
11 certain circumstances; providing definitions;
12 providing that the commission or a law enforcement
13 agency may recover from the vessel owner its costs for
14 the relocation or removal of such a vessel; requiring
15 the Department of Legal Affairs to represent the
16 commission in actions to recover such costs; amending
17 s. 823.11, F.S.; providing definitions; authorizing
18 the commission and certain law enforcement agencies
19 and officers to relocate or remove a derelict vessel
20 from public waters if such vessel poses a danger to
21 property or persons; exempting the commission or a law
22 enforcement agency or officer from liability for
23 damages caused by its relocation or removal of such a
24 vessel under certain circumstances; expanding costs
25 recoverable by the commission or a law enforcement
26 agency against the owner of a derelict vessel for the

27 relocation or removal of such vessel; abrogating the
 28 power of the commission to remove certain abandoned
 29 vessels and recover its costs therefor; providing
 30 definitions; amending s. 376.15, F.S.; providing a
 31 definition; authorizing relocation of derelict
 32 vessels; exempting the commission or a law enforcement
 33 agency or officer from liability for damages caused by
 34 its relocation or removal of such a vessel under
 35 certain circumstances; defining the terms "gross
 36 negligence" and "willful misconduct"; providing an
 37 effective date.

38

39 Be It Enacted by the Legislature of the State of Florida:

40

41 Section 1. Section 327.44, Florida Statutes, is amended to
 42 read:

43 327.44 Interference with navigation; relocation or
 44 removal; recovery of costs.-

45 (1) No person shall anchor, operate, or permit to be
 46 anchored, except in case of emergency, or operated a vessel or
 47 carry on any prohibited activity in a manner which shall
 48 unreasonably or unnecessarily constitute a navigational hazard
 49 or interfere with another vessel. Anchoring under bridges or in
 50 or adjacent to heavily traveled channels shall constitute
 51 interference if unreasonable under the prevailing circumstances.

52 (2) The commission, an officer of the commission, and any

53 law enforcement agency or officer specified in s. 327.70 is
54 authorized and empowered to relocate, remove, or cause to be
55 relocated or removed a vessel that unreasonably or unnecessarily
56 constitutes a navigational hazard or interferes with another
57 vessel. The commission or any other law enforcement agency or
58 officer acting under this subsection to relocate, remove, or
59 cause to be relocated or removed a vessel that unreasonably or
60 unnecessarily constitutes a navigational hazard or interferes
61 with another vessel shall be held harmless for all damages to
62 the vessel resulting from such relocation or removal, unless the
63 damage results from gross negligence or willful misconduct. As
64 used in this subsection, the term:

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

69 (b) "Willful misconduct" means conduct evidencing
70 carelessness or negligence of such a degree or recurrence as to
71 manifest culpability, wrongful intent, or evil design or to show
72 an intentional and substantial disregard of the interests of the
73 vessel owner.

74 (3) All costs, including costs owed to a third party,
75 incurred by the commission or other law enforcement agency in
76 the relocation or removal of a vessel that unreasonably or
77 unnecessarily constitutes a navigational hazard or interferes
78 with another vessel are recoverable against the vessel owner.

79 The Department of Legal Affairs shall represent the commission
 80 in actions to recover such costs.

81 Section 2. Section 823.11, Florida Statutes, is amended to
 82 read:

83 823.11 ~~Abandoned and~~ Derelict vessels; relocation or
 84 removal; penalty.—

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

86 (a) "Derelict vessel" means a ~~any~~ vessel, as defined in s.
 87 327.02, that is left, stored, or abandoned:

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

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

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

94 (b) "Commission" means the Fish and Wildlife Conservation
 95 Commission.

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

99 (3)(a) ~~The Fish and Wildlife Conservation commission,~~ an
 100 officer of the commission, ~~and its officers~~ and any ~~all~~ law
 101 enforcement agency or officer ~~officers~~ as specified in s. 327.70
 102 is ~~are~~ authorized and empowered to relocate, remove, or cause to
 103 be relocated or removed ~~a~~ ~~any~~ ~~abandoned~~ ~~or~~ derelict vessel from
 104 public waters if the derelict vessel ~~in any instance when the~~

105 ~~same~~ obstructs or threatens to obstruct navigation or in any way
 106 constitutes a danger to the environment, property, or persons.
 107 The commission or any other law enforcement agency or officer
 108 acting under this subsection to relocate, remove, or cause to be
 109 relocated or removed a derelict vessel from public waters shall
 110 be held harmless for all damages to the derelict vessel
 111 resulting from such relocation or removal, unless the damage
 112 results from gross negligence or willful misconduct.

113 (a) Removal of derelict vessels under ~~pursuant to~~ this
 114 subsection ~~section~~ may be funded by grants provided in ss.
 115 206.606 and 376.15. The Fish and Wildlife Conservation
 116 Commission shall ~~is directed to~~ implement a plan for the
 117 procurement of any available federal disaster funds and ~~to~~ use
 118 such funds for the removal of derelict vessels.

119 (b) All costs, including costs owed to a third party,
 120 incurred by the commission or other law enforcement agency in
 121 the relocation or removal of a ~~any abandoned or~~ derelict vessel
 122 are as set out above shall be recoverable against the vessel
 123 owner ~~thereof~~. The Department of Legal Affairs shall represent
 124 the commission in ~~such~~ actions to recover such costs. As
 125 provided in s. 705.103(4), a ~~any~~ person who neglects or refuses
 126 to pay such costs may ~~amount~~ ~~is not entitled to~~ be issued a
 127 certificate of registration for such vessel or for any other
 128 vessel or motor vehicle until such ~~the~~ costs have been paid.

129 (c) As used in this subsection, the term:

130 1. "Gross negligence" means that the defendant's conduct

131 was so reckless or wanting in care that it constituted a
 132 conscious disregard or indifference to the safety of the
 133 property exposed to such conduct.

134 2. "Willful misconduct" means conduct evidencing
 135 carelessness or negligence of such a degree or recurrence as to
 136 manifest culpability, wrongful intent, or evil design or to show
 137 an intentional and substantial disregard of the interests of the
 138 vessel owner.

139 (4)(b) When a derelict vessel is docked, ~~or~~ grounded, ~~at~~
 140 or beached upon private property without the consent of the
 141 owner of the property, the owner of the property may remove the
 142 vessel at the vessel owner's expense 60 days after compliance
 143 with the notice requirements specified in s. 328.17(5). The
 144 private property owner may not hinder reasonable efforts by the
 145 vessel owner or the vessel owner's agent to remove the vessel.
 146 ~~Any~~ Notice given pursuant to this subsection ~~is paragraph~~ shall
 147 ~~be~~ presumed to be delivered when it is deposited with the United
 148 States Postal Service, certified, and properly addressed with
 149 prepaid postage.

150 (5)(4) ~~A~~ ~~Any~~ person, firm, or corporation violating this
 151 section ~~act~~ commits a misdemeanor of the first degree and shall
 152 be punished as provided by law. A conviction under this section
 153 does ~~shall~~ not bar the assessment and collection of the civil
 154 penalty provided in s. 376.16 for violation of s. 376.15. The
 155 court having jurisdiction over the criminal offense,
 156 notwithstanding any jurisdictional limitations on the amount in

157 | controversy, may order the imposition of such civil penalty in
 158 | addition to any sentence imposed for the first criminal offense.

159 | Section 3. Section 376.15, Florida Statutes, is amended to
 160 | read

161 | 376.15 Derelict vessels; relocation or removal from public
 162 | waters.-

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

165 | (2)~~(1)~~ It is unlawful for any person, firm, or corporation
 166 | to store, leave, or abandon any derelict vessel as defined in s.
 167 | 823.11(1) in this state.

168 | (3)~~(2)~~(a) The ~~Fish and Wildlife Conservation~~ commission
 169 | and its officers and all law enforcement officers as specified
 170 | in s. 327.70 are authorized and empowered to relocate or remove
 171 | any derelict vessel as defined in s. 823.11(1) from public
 172 | waters. All costs, including costs owed to a third party,
 173 | incurred by the commission or other law enforcement agency in
 174 | the relocation or removal of any abandoned or derelict vessel
 175 | shall be recoverable against the owner of the vessel. The
 176 | Department of Legal Affairs shall represent the commission in
 177 | such actions.

178 | (b) The commission and any other law enforcement agency or
 179 | officer as specified in s. 327.70 acting under this section to
 180 | relocate, remove, or cause to be relocated or removed a derelict
 181 | vessel from public waters shall be held harmless for all damages
 182 | to the derelict vessel resulting from such relocation or

183 removal, unless the damage results from gross negligence or
184 willful misconduct. As used in this paragraph, the term:

185 1. "Gross negligence" means that the defendant's conduct
186 was so reckless or wanting in care that it constituted a
187 conscious disregard or indifference to the safety of the
188 property exposed to such conduct.

189 2. "Willful misconduct" means conduct evidencing
190 carelessness or negligence of such a degree or recurrence as to
191 manifest culpability, wrongful intent, or evil design or to show
192 an intentional and substantial disregard of the interests of the
193 vessel owner.

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

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

204 1. The number of derelict vessels within the jurisdiction
205 of the applicant.

206 2. The threat posed by such vessels to public health or
207 safety, the environment, navigation, or the aesthetic condition
208 of the general vicinity.

209 3. The degree of commitment of the local government to
210 maintain waters free of abandoned and derelict vessels and to
211 seek legal action against those who abandon vessels in the
212 waters of the state.

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

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