

1 A bill to be entitled

2 An act relating to vessel safety; amending s. 327.44,  
3 F.S.; defining terms; authorizing the Fish and  
4 Wildlife Conservation Commission and certain law  
5 enforcement agencies or officers to relocate or remove  
6 vessels that unreasonably or unnecessarily constitute  
7 a navigational hazard or interfere with another  
8 vessel; exempting the commission or a law enforcement  
9 agency or officer from liability for damages to such a  
10 vessel caused by the relocation or removal thereof;  
11 providing an exception; specifying requirements for  
12 contractors relocating or removing a vessel at the  
13 direction of the commission or a law enforcement  
14 agency or officer; providing that the commission or a  
15 law enforcement agency may recover from the vessel  
16 owner its costs for the relocation or removal of such  
17 a vessel; requiring the Department of Legal Affairs to  
18 represent the commission in actions to recover such  
19 costs; amending ss. 376.15 and 823.11, F.S.; defining  
20 terms; authorizing the commission and certain law  
21 enforcement agencies and officers to relocate or  
22 remove a derelict vessel from public waters; exempting  
23 the commission or a law enforcement agency or officer  
24 from liability for damages to such a vessel caused by  
25 the relocation or removal thereof; providing an  
26 exception; expanding costs recoverable by the

27 | commission or a law enforcement agency against the  
 28 | owner of a derelict vessel for the relocation or  
 29 | removal thereof; specifying requirements for  
 30 | contractors relocating or removing a vessel at the  
 31 | direction of the commission or a law enforcement  
 32 | agency or officer; abrogating the power of the  
 33 | commission to remove certain abandoned vessels and  
 34 | recover its costs therefor; conforming a cross-  
 35 | reference; amending ss. 376.11 and 705.101, F.S.;  
 36 | conforming cross-references; providing an effective  
 37 | 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) As used in this section, the term:

46 | (a) "Gross negligence" means conduct so reckless or  
 47 | wanting in care that it constitutes a conscious disregard or  
 48 | indifference to the safety of the property exposed to such  
 49 | conduct.

50 | (b) "Willful misconduct" means conduct evidencing  
 51 | carelessness or negligence of such a degree or recurrence as to  
 52 | manifest culpability, wrongful intent, or evil design or to show

53 an intentional and substantial disregard of the interests of the  
54 vessel owner.

55 (2) No person shall anchor, operate, or permit to be  
56 anchored, except in case of emergency, or operated a vessel or  
57 carry on any prohibited activity in a manner which shall  
58 unreasonably or unnecessarily constitute a navigational hazard  
59 or interfere with another vessel. Anchoring under bridges or in  
60 or adjacent to heavily traveled channels shall constitute  
61 interference if unreasonable under the prevailing circumstances.

62 (3) The commission, officers of the commission, and any  
63 law enforcement agency or officer specified in s. 327.70 are  
64 authorized and empowered to relocate, remove, or cause to be  
65 relocated or removed a vessel that unreasonably or unnecessarily  
66 constitutes a navigational hazard or interferes with another  
67 vessel. The commission, officers of the commission, or any other  
68 law enforcement agency or officer acting under this subsection  
69 to relocate, remove, or cause to be relocated or removed a  
70 vessel that unreasonably or unnecessarily constitutes a  
71 navigational hazard or interferes with another vessel shall be  
72 held harmless for all damages to the vessel resulting from such  
73 relocation or removal unless the damage results from gross  
74 negligence or willful misconduct.

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

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

85 (5) 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 vessel that unreasonably or  
 88 unnecessarily constitutes a navigational hazard or interferes  
 89 with another vessel are recoverable against the vessel owner.  
 90 The Department of Legal Affairs shall represent the commission  
 91 in actions to recover such costs.

92 Section 2. Section 376.15, Florida Statutes, is amended to  
 93 read:

94 376.15 Derelict vessels; relocation or removal from public  
 95 waters.-

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

97 (a) "Commission" means the Fish and Wildlife Conservation  
 98 Commission.

99 (b) "Gross negligence" means conduct so reckless or  
 100 wanting in care that it constitutes a conscious disregard or  
 101 indifference to the safety of the property exposed to such  
 102 conduct.

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

105 manifest culpability, wrongful intent, or evil design or to show  
 106 an intentional and substantial disregard of the interests of the  
 107 vessel owner.

108 (2)(1) It is unlawful for any person, firm, or corporation  
 109 to store, leave, or abandon any derelict vessel as defined in s.  
 110 823.11 ~~823.11(1)~~ in this state.

111 (3)(2)(a) The ~~Fish and Wildlife Conservation~~ commission,  
 112 ~~and its officers~~ of the commission, and any all law enforcement  
 113 agency or officer ~~officers as~~ specified in s. 327.70 are  
 114 authorized and empowered to relocate, remove, or cause to be  
 115 relocated or removed any derelict vessel as defined in s. 823.11  
 116 ~~823.11(1)~~ from public waters. All costs, including costs owed to  
 117 a third party, incurred by the commission or other law  
 118 enforcement agency in the relocation or removal of any abandoned  
 119 or derelict vessel are ~~shall be~~ recoverable against the owner of  
 120 the vessel. The Department of Legal Affairs shall represent the  
 121 commission in ~~such~~ actions to recover such costs.

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

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

131 commission, or a law enforcement agency or officer pursuant to  
132 this section must be licensed in accordance with applicable  
133 United States Coast Guard regulations where required; obtain and  
134 carry in full force and effect a policy from a licensed  
135 insurance carrier in this state to insure against any accident,  
136 loss, injury, property damage, or other casualty caused by or  
137 resulting from the contractor's actions; and be properly  
138 equipped to perform the services to be provided.

139 (d)-(b) The commission may establish a program to provide  
140 grants to local governments for the removal of derelict vessels  
141 from the public waters of the state. The program shall be funded  
142 from the Florida Coastal Protection Trust Fund. Notwithstanding  
143 the provisions in s. 216.181(11), funds available for grants may  
144 only be authorized by appropriations acts of the Legislature.

145 (e)-(e) The commission shall adopt by rule procedures for  
146 submitting a grant application and criteria for allocating  
147 available funds. Such criteria shall include, but not be limited  
148 to, the following:

149 1. The number of derelict vessels within the jurisdiction  
150 of the applicant.

151 2. The threat posed by such vessels to public health or  
152 safety, the environment, navigation, or the aesthetic condition  
153 of the general vicinity.

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

157 waters of the state.

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

161 Section 3. Section 823.11, Florida Statutes, is amended to  
 162 read:

163 823.11 ~~Abandoned and~~ Derelict vessels; relocation or  
 164 removal; penalty.—

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

166 (a) "Commission" means the Fish and Wildlife Conservation  
 167 Commission.

168 (b) "Derelict vessel" means a any vessel, as defined in s.  
 169 327.02, that is left, stored, or abandoned:

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

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

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

176 (c) "Gross negligence" means conduct so reckless or  
 177 wanting in care that it constitutes a conscious disregard or  
 178 indifference to the safety of the property exposed to such  
 179 conduct.

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

183 an intentional and substantial disregard of the interests of the  
 184 vessel owner.

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

188 (3)(a) ~~The Fish and Wildlife Conservation~~ commission, and  
 189 ~~its~~ officers of the commission, and any ~~all~~ law enforcement  
 190 agency or officer ~~officers~~ as specified in s. 327.70 are  
 191 authorized and empowered to relocate, remove, or cause to be  
 192 relocated or removed a ~~any abandoned or~~ derelict vessel from  
 193 public waters if the derelict vessel ~~in any instance when the~~  
 194 ~~same~~ obstructs or threatens to obstruct navigation or in any way  
 195 constitutes a danger to the environment, property, or persons.  
 196 The commission, officers of the commission, or any other law  
 197 enforcement agency or officer acting under this subsection to  
 198 relocate, remove, or cause to be relocated or removed a derelict  
 199 vessel from public waters shall be held harmless for all damages  
 200 to the derelict vessel resulting from such relocation or removal  
 201 unless the damage results from gross negligence or willful  
 202 misconduct.

203 (a) Removal of derelict vessels under ~~pursuant to~~ this  
 204 subsection ~~section~~ may be funded by grants provided in ss.  
 205 206.606 and 376.15. ~~The Fish and Wildlife Conservation~~  
 206 commission shall ~~is directed to~~ implement a plan for the  
 207 procurement of any available federal disaster funds and ~~to~~ use  
 208 such funds for the removal of derelict vessels.



209        (b) All costs, including costs owed to a third party,  
 210 incurred by the commission or other law enforcement agency in  
 211 the relocation or removal of a ~~any abandoned or~~ derelict vessel  
 212 ~~are as set out above shall be~~ recoverable against the vessel  
 213 owner ~~thereof~~. The Department of Legal Affairs shall represent  
 214 the commission in ~~such~~ actions to recover such costs. As  
 215 provided in s. 705.103(4), a ~~any~~ person who neglects or refuses  
 216 to pay such costs may ~~amount is not entitled to~~ be issued a  
 217 certificate of registration for such vessel or for any other  
 218 vessel or motor vehicle until such ~~the~~ costs have been paid.

219        (c) A contractor performing relocation or removal  
 220 activities at the direction of the commission, officers of the  
 221 commission, or a law enforcement agency or officer pursuant to  
 222 this section must be licensed in accordance with applicable  
 223 United States Coast Guard regulations where required; obtain and  
 224 carry in full force and effect a policy from a licensed  
 225 insurance carrier in this state to insure against any accident,  
 226 loss, injury, property damage, or other casualty caused by or  
 227 resulting from the contractor's actions; and be properly  
 228 equipped to perform the services to be provided.

229        (4) ~~(b)~~ When a derelict vessel is docked, ~~or~~ grounded, ~~at~~  
 230 or beached upon private property without the consent of the  
 231 owner of the property, the owner of the property may remove the  
 232 vessel at the vessel owner's expense 60 days after compliance  
 233 with the notice requirements specified in s. 328.17(5). The  
 234 private property owner may not hinder reasonable efforts by the

235 vessel owner or the vessel owner's agent to remove the vessel.  
236 ~~Any~~ Notice given pursuant to this subsection is ~~paragraph shall~~  
237 ~~be~~ presumed to be delivered when it is deposited with the United  
238 States Postal Service, certified, and properly addressed with  
239 prepaid postage.

240 ~~(5)(4)~~ A ~~Any~~ person, firm, or corporation violating this  
241 section ~~act~~ commits a misdemeanor of the first degree and shall  
242 be punished as provided by law. A conviction under this section  
243 does ~~shall~~ not bar the assessment and collection of the civil  
244 penalty provided in s. 376.16 for violation of s. 376.15. The  
245 court having jurisdiction over the criminal offense,  
246 notwithstanding any jurisdictional limitations on the amount in  
247 controversy, may order the imposition of such civil penalty in  
248 addition to any sentence imposed for the first criminal offense.

249 Section 4. Paragraph (g) of subsection (4) of section  
250 376.11, Florida Statutes, is amended to read:

251 376.11 Florida Coastal Protection Trust Fund.—

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

254 (g) The funding of a grant program to local governments,  
255 pursuant to s. 376.15(3)(d) and (e) ~~376.15(2)(b) and (e)~~, for  
256 the removal of derelict vessels from the public waters of the  
257 state.

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

260 705.101 Definitions.—As used in this chapter:

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

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