



125370

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2014	.	
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The Committee on Criminal Justice (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

327.44 Interference with navigation; relocation or removal;
recovery of costs.—

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

(a) "Gross negligence" means conduct so reckless or wanting



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11 in care that it constituted a conscious disregard or
12 indifference to the safety of the property exposed to such
13 conduct.

14 (b) "Willful misconduct" means conduct evidencing
15 carelessness or negligence of such a degree or recurrence as to
16 manifest culpability, wrongful intent, or evil design or to show
17 an intentional and substantial disregard of the interests of the
18 vessel owner.

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

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

39 (4) A contractor performing relocation or removal



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40 activities at the direction of the commission, officers of the
41 commission, or a law enforcement agency or officer pursuant to
42 this section must be licensed in accordance with applicable
43 United States Coast Guard regulations where required; obtain and
44 carry in full force and effect a policy from a licensed
45 insurance carrier in this state to insure against any accident,
46 loss, injury, property damage, or other casualty caused by or
47 resulting from the contractor's actions; and be properly
48 equipped to perform the services to be provided.

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

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

58 376.15 Derelict vessels; relocation or removal from public
59 waters.—

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

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

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

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



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

72 (2)(1) It is unlawful for any person, firm, or corporation
73 to store, leave, or abandon any derelict vessel as defined in s.
74 823.11 ~~823.11(1)~~ in this state.

75 (3)(2)(a) The ~~Fish and Wildlife Conservation~~ commission,
76 ~~and its~~ officers of the commission, and any ~~all~~ law enforcement
77 agency or officer ~~officers as~~ specified in s. 327.70 are
78 authorized and empowered to relocate, remove, or cause to be
79 relocated or removed any derelict vessel as defined in s. 823.11
80 ~~823.11(1)~~ from public waters. All costs, including costs owed to
81 a third party, incurred by the commission or other law
82 enforcement agency in the relocation or removal of any abandoned
83 or derelict vessel are ~~shall be~~ recoverable against the owner of
84 the vessel. The Department of Legal Affairs shall represent the
85 commission in ~~such~~ actions to recover such costs.

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

93 (c) A contractor performing relocation or removal
94 activities at the direction of the commission, officers of the
95 commission, or a law enforcement agency or officer pursuant to
96 this section must be licensed in accordance with applicable
97 United States Coast Guard regulations where required; obtain and



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98 carry in full force and effect a policy from a licensed
99 insurance carrier in this state to insure against any accident,
100 loss, injury, property damage, or other casualty caused by or
101 resulting from the contractor's actions; and be properly
102 equipped to perform the services to be provided.

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

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

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

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

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

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

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



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127 823.11 ~~Abandoned and~~ Derelict vessels; relocation or
128 removal; penalty.—

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

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

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

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

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

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

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

144 (d) "Willful misconduct" means conduct evidencing
145 carelessness or negligence of such a degree or recurrence as to
146 manifest culpability, wrongful intent, or evil design or to show
147 an intentional and substantial disregard of the interests of the
148 vessel owner.

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

152 (3) ~~(a)~~ The ~~Fish and Wildlife Conservation~~ commission, ~~and~~
153 ~~its~~ officers of the commission, and any all law enforcement
154 agency or officer ~~officers~~ as specified in s. 327.70 are
155 authorized and empowered to relocate, remove, or cause to be



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

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

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

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



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

193 (4) ~~(b)~~ When a derelict vessel is docked, ~~or~~ grounded, ~~at~~ or
194 beached upon private property without the consent of the owner
195 of the property, the owner of the property may remove the vessel
196 at the vessel owner's expense 60 days after compliance with the
197 notice requirements specified in s. 328.17(5). The private
198 property owner may not hinder reasonable efforts by the vessel
199 owner or the vessel owner's agent to remove the vessel. ~~Any~~
200 Notice given pursuant to this subsection ~~is paragraph shall be~~
201 presumed to be delivered when it is deposited with the United
202 States Postal Service, certified, and properly addressed with
203 prepaid postage.

204 (5) ~~(4)~~ A ~~Any~~ person, firm, or corporation violating this
205 section ~~act~~ commits a misdemeanor of the first degree and shall
206 be punished as provided by law. A conviction under this section
207 does ~~shall~~ not bar the assessment and collection of the civil
208 penalty provided in s. 376.16 for violation of s. 376.15. The
209 court having jurisdiction over the criminal offense,
210 notwithstanding any jurisdictional limitations on the amount in
211 controversy, may order the imposition of such civil penalty in
212 addition to any sentence imposed for the first criminal offense.

213 Section 4. Paragraph (g) of subsection (4) of section



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214 376.11, Florida Statutes, is amended to read:

215 376.11 Florida Coastal Protection Trust Fund.—

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

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

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

224 705.101 Definitions.—As used in this chapter:

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

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

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233 ===== T I T L E A M E N D M E N T =====

234 And the title is amended as follows:

235 Delete everything before the enacting clause
236 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



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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
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.;



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conforming cross-references; providing an effective
date.