

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

BILL: SB 1594

INTRODUCER: Senator Bradley

SUBJECT: Vessel Safety

DATE: March 12, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	Pre-meeting
2.			CJ	
3.			AP	

I. Summary:

SB 1594 authorizes the relocation or removal of a derelict vessel that interferes with another vessel, constitutes a navigational hazard, or is a danger to property or persons. The bill requires owners to pay the costs of relocation or removal. It specifies the Florida Fish and Wildlife Commission (FWC), other law enforcement agencies, and officers, under certain circumstances, are not responsible for any damages resulting from relocation or removal of a derelict vessel. Lastly, the bill directs the Department of Legal Affairs to represent the FWC in actions to recover costs.

II. Present Situation:

Section 327.70, F.S., allows the Division of Law Enforcement of the FWC, and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer as defined in s. 943.10, F.S.,¹ to remove vessels deemed to be an interference or hazard to public safety.²

Florida law does not authorize law enforcement agencies to relocate vessels that create a navigational hazard or that interfere with other vessels.³ An unoccupied vessel may break free of its anchor or mooring and either remain adrift, come to rest in a location that is unsafe for other

¹ Section 943.10, F.S., defines other law enforcement officers as, “any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.”

² Section 327.70, F.S.

³ FWC, *Senate Bill 1594 Agency Analysis*, 1 (Mar. 7, 2014) (on file with the Senate Committee on Environmental Preservation and Conservation).

vessel traffic, or cause damage to other boats or maritime infrastructure. There is no specific authorization for law enforcement agencies to act by relocating and attempting to secure the vessel in a more appropriate location. Relocating the vessel would benefit the boat owner, the operators and owners of boats in the area, and the owners of maritime infrastructure.⁴

Section 823.11, F.S., defines “derelict vessel” to mean any vessel that is left, stored, or abandoned:

- In a wrecked, junked, or substantially dismantled condition upon any public waters of this state;
- At any port in this state without the consent of the agency having jurisdiction over the port; or
- Docked or grounded at or beached upon the property of another without the consent of the property owner.

The statute provides that anyone who stores, leaves, or abandons a derelict vessel is subject to a fine of up to \$50,000 per day.⁵

Due to liability concerns, costs, and the difficulty of removing a derelict vessels, law enforcement agencies and local governments usually leave a derelict vessel where it is found until such time as the notification period has elapsed, investigation into ownership of the vessel has been completed, criminal charges (if any) have been disposed of, and transport to a disposal facility has been arranged. The FWC reports that by the time the physical removal of a derelict vessel begins, the vessel may have already sunk, leading to much greater costs for removal.⁶

According to the FWC, one of the concerns that may delay resolving problems with derelict vessels is the possibility of incurring liability for damages. In addition, the majority of derelict vessel removals in Florida are performed by local governments. The cost of removal is infrequently recovered from the owner, leaving local governments responsible for the costs of removal and potentially any liability for damages during the removal process.⁷

III. Effect of Proposed Changes:

The bill amends ss. 327.44 and 823.11, F.S., authorizing the relocation or removal of a derelict vessel that interferes with another vessel, constitutes a navigational hazard, or is a danger to property or persons. It provides for recovery of costs from the vessel owner for relocating or removing a derelict vessel and directs the Department of Legal Affairs to represent the FWC in actions to recover costs. The bill holds the FWC, any other law enforcement agency, or officer harmless for damages resulting from the relocation or removal of a derelict vessel that constitutes a navigational hazard or interferes with another vessel. It also holds the FWC and any other law enforcement agency, but not officers, harmless for damages resulting from relocating or removing a derelict vessel that obstructs or threatens to obstruct navigation or constitutes a danger to the environment, property, or persons. The bill specifies that it will take effect July 1, 2014.

⁴ *Id.*

⁵ See ss. 376.15 and 376.16, F.S.

⁶ *Supra* note 3, at 1.

⁷ *Supra* note 3, at 2.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Vessel owners will be liable for all costs associated with relocating or removing their derelict vessels.

Providing liability protection to those authorized to relocate or remove a derelict vessel will shift the costs of damages to the individual whose property is damaged.

C. Government Sector Impact:

Providing the authority to relocate vessels and providing liability protection to those authorized to relocate vessels will lead to removing some derelict vessels before they sink. This will be a financial benefit to the FWC or law enforcement agency that relocates or removes a floating derelict vessel since it is much more expensive to move a vessel that has sunk. In addition, any damages from the process of removing or relocating a derelict vessel will not be borne by any of the entities authorized to do so.

VI. Technical Deficiencies:

In the first section of the bill, the FWC and any law enforcement agency or officer is held harmless for all damages. In the second section, individual officers are not provided with the same liability protection. The intent is to provide this liability protection to officers in both sections.

VII. Related Issues:

Holding the FWC and any law enforcement agency or officer harmless for *any* damage resulting from the relocation or removal of a derelict vessel is broad liability protection. It is unclear if this

liability protection also applies to personal injury incurred by relocating or removing a vessel. If so, this would provide total immunity for any action resulting in damage to person or property.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 327.44 and 823.11.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
