

By the Committees on Criminal Justice; and Environmental Preservation and Conservation; and Senators Bradley, Dean, and Latvala

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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 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

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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:

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

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

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

46 (a) "Gross negligence" means conduct so reckless or wanting
47 in care that it constituted 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

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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 law
63 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

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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 wanting
100 in care that it constituted 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

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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

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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

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175 of another without the consent of the owner of the property.

176 (c) "Gross negligence" means conduct so reckless or wanting
177 in care that it constituted 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

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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~~ or
230 beached upon private property without the consent of the owner
231 of the property, the owner of the property may remove the vessel
232 at the vessel owner's expense 60 days after compliance with the

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233 notice requirements specified in s. 328.17(5). The private
234 property owner may not hinder reasonable efforts by the vessel
235 owner or the vessel owner's agent to remove the vessel. ~~Any~~
236 Notice given pursuant to this subsection ~~is paragraph shall be~~
237 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:

261 (3) "Abandoned property" means all tangible personal

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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.