

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 Fiscal Policy

BILL: SB 1300

INTRODUCER: Senator Dean

SUBJECT: At-risk Vessels

DATE: February 16, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hinton</u>	<u>Rogers</u>	<u>EP</u>	Favorable
2.	<u>Betta</u>	<u>DeLoach</u>	<u>AGG</u>	Recommend: Favorable
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

I. Summary:

SB 1300 creates s. 327.4107, F.S., to prevent vessels in neglected or deteriorating condition from reaching a likely and foreseeable state of disrepair. The bill:

- Prohibits vessels at risk of becoming derelict anchoring on, mooring on, or occupying the waters of the state;
- Provides conditions under which a vessel may be considered at risk of becoming derelict;
- Provides that violations may be enforced by a uniform boating citation mailed to the registered owner of the vessel;
- Provides civil penalties for vessel owners whose vessels are determined to be at risk of becoming derelict; and
- Provides an exemption for vessels that are moored to a private dock or wet slip with the consent of the owner for the purpose of being repaired.

The bill has an insignificant, positive fiscal impact on state funds.

The bill is effective July 1, 2016.

II. Present Situation:

Derelict Vessels

A derelict vessel is a vessel¹ that is left, stored, or abandoned:

- In a wrecked, junked, or substantially dismantled condition upon any public waters of this state;
- At a port in the state without the consent of the agency that has jurisdiction of a port; or

¹ Section 327.02, F.S., defines vessel to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

- Docked, grounded, or beached upon the property of another without the consent of the owner of the property.²

Removal of Derelict Vessels

Section 327.70, F.S., provides chs. 327 and 328, F.S., concerning vessel safety and vessel title certificates, liens, and registration, are enforced by the Division of Law Enforcement of the Florida Fish and Wildlife Conservation Commission (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.³

Two statutes authorize the relocation or removal of a vessel:

- Section 327.44, F.S., allows for the relocation or removal of a vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel; and
- Section 823.11, F.S., allows for the relocation or removal of a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.

The costs incurred for relocating or removing a derelict vessel are recoverable against the vessel owner. A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by disposal of the vessel, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until those costs are paid.⁴

Punishment for Violations of Derelict Vessel Provisions

It is unlawful to store, leave, or abandon a derelict vessel in Florida.⁵ Those who are found in violation of this provision commit a first degree misdemeanor.⁶ Additionally, s. 376.16, F.S., provides that violation of derelict vessel laws also subjects the violator to a civil penalty of up to \$50,000 per violation per day.⁷ Each day during any portion of which the violation occurs constitutes a separate offense.⁸

Costs of Removal of Derelict Vessels

According to the FWC, removal costs for derelict vessels are approximately \$350 to \$450 per foot of vessel length. However, a floating vessel may be towed to a boat ramp or hoist and pulled

² Section 823.11(1)(b), F.S.

³ Section 943.10, F.S., defines law enforcement officer 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. The definition also 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.

⁴ Section 705.103(4), F.S.

⁵ Section 823.11(2), F.S.

⁶ A first degree misdemeanor is punishable by a term of imprisonment of no more than a year and a fine of up to \$1,000. Sections 775.082, and 775.083, F.S.

⁷ Section 376.16(1), F.S.

⁸ *Id.*

from the water at a much lower cost. Relocation may cost nothing if a law enforcement officer is able to tow it to a suitable location. Costs for professional towing services are approximately \$200 per hour.⁹

The FWC maintains a statewide database of vessels investigated by a law enforcement officer and deemed to be either derelict or at risk of becoming derelict, although the database related to at-risk vessels is largely incomplete. This is because the current effort related to at-risk vessels is a voluntary, community-oriented policing effort. A total of 166 derelict vessels were removed by local governments in 2014 at a cost of approximately \$665,500, which is an average removal cost of \$4,009 per vessel.¹⁰

The FWC held six public meetings in 2015 to engage the public on the problem of derelict vessels and possible solutions. Participants were asked to respond to a survey to indicate their levels of support for eight solutions to address the derelict vessels problem. The concept of prohibiting a vessel at risk of becoming derelict from anchoring on Florida waters received 85.2 percent support from respondents.¹¹

Local Government Authority

Local governments are only authorized to enact and enforce regulations regarding the mooring or anchoring of vessels that are located within marked boundaries of a mooring field.¹² The inability to regulate vessels outside of mooring fields has led to problems that include:

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels which are dragging anchor or not showing proper lighting;
- Vessels which are not maintained properly; and
- Vessels which become derelict.¹³

III. Effect of Proposed Changes:

Section 1 creates s. 327.4107, F.S., to prevent vessels in neglected or deteriorating condition from reaching a likely and foreseeable state of disrepair. Vessels at risk of becoming derelict may not anchor on, moor on, or occupy the waters of the state.

The bill provides that an officer of the FWC or of any other law enforcement agency specified in s. 327.70, F.S., may determine that a vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on, or has taken on, water without an effective means to dewater;
- Spaces on the vessel which are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;

⁹ Fish and Wildlife Conservation Commission, *2016 Agency Bill Analysis for HB 7025*, (Jan. 6, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁰ *Id.*

¹¹ *Id.*

¹² Section 327.60, F.S.

¹³ Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, *Anchoring and Mooring Pilot Program, Report of Findings and Recommendations* (Dec. 31, 2013), pg. 3, available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf> (last visited Feb. 16, 2016).

- The vessel has broken loose or is in danger of breaking loose from its anchor; or
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, is listing due to water intrusion, or is sunken or partially sunken.

A person who anchors or moors a vessel at risk of becoming derelict on the waters of this state or allows such a vessel to occupy such waters commits a noncriminal infraction, punishable by a civil penalty as provided in s. 327.73, F.S. (Section 3). The civil penalties are in addition to any other penalties provided for in law.

Vessels that are moored to a private dock or wet slip with the consent of the owner for the purpose of being repaired are exempt from the above described noncriminal infraction.

Section 2 amends s. 327.70, F.S., to provide that violations of s. 327.4107, F.S., relating to vessels at risk of becoming derelict may be enforced by a uniform boating citation mailed to the registered owner of the vessel.

Section 3 amends s. 327.73, F.S., to provide the following civil penalties for a violation of s. 327.4107, F.S.:

- For a first offense, \$50;
- For a second offense occurring 30 days or more after a first offense, \$100; and
- For a third or subsequent offense occurring 30 days or more after a previous offense, \$250.

A person who fails to appear before the county court or otherwise respond to a uniform boating citation will be charged, in addition to any other violations, with a second degree misdemeanor¹⁴ of failing to respond to a citation.

The civil penalties are remitted by the clerk of court to the Department of Revenue and deposited into the Marine Resources Conservation Trust fund for boating and education purposes.¹⁵

Section 4 provides the bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁴ A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not to exceed \$500. Sections 775.082, and 775.083, F.S.

¹⁵ Section 327.73(8), F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill may have a negative but indeterminate effect on boat owners due to new penalties imposed on vessel owners whose vessels are found to be in danger of becoming derelict. These effects are not anticipated to be significant.¹⁶

C. Government Sector Impact:

The bill may have a positive but indeterminate impact on local and state governments if individuals repair or move their vessels rather than allow them to become derelict.

A positive but indeterminate fiscal impact may result from the penalties imposed for violations of the provisions of the bill. According to the FWC, these effects are not anticipated to be significant.¹⁷

The proposed Senate General Appropriations Bill for the 2016-2017 fiscal year, SB 2500, includes \$1,500,000 from the General Revenue Fund for the removal of derelict vessels.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 327.70 and 327.73.

This bill creates the following section of the Florida Statutes: 327.4107.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

¹⁶ Florida Fish and Wildlife Conservation Commission, *2016 Agency Bill Analysis for HB 7025*, (Jan. 6, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁷ *Id.*

B. Amendments:

None.

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