

**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.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

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BILL: SB 1300

INTRODUCER: Senator Dean

SUBJECT: At-risk Vessels

DATE: February 10, 2016      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hinton</u>	<u>Rogers</u>	<u>EP</u>	<b>Favorable</b>
2.	<u>Betta</u>	<u>DeLoach</u>	<u>AGG</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 1300 addresses vessels that may become derelict. The bill:

- Makes it unlawful for a vessel owner to anchor on, moor on, or occupy the waters of the state when that vessel is at risk of becoming derelict;
- Provides conditions under which a vessel may be considered at risk of becoming derelict;
- Provides civil penalties for vessel owners whose vessels are determined to be at risk of becoming derelict;
- 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; and
- Provides that violations may be enforced by a uniform boating citation mailed to the registered owner of the vessel.

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

The effective date of the bill is July 1, 2016.

**II. Present Situation:**

**Derelict Vessels**

Derelict vessels are vessels<sup>1</sup> that are left, stored, or abandoned:

- In a wrecked, junked, or substantially dismantled condition upon any public waters of this state;

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<sup>1</sup> Section 327.02, F.S., defines vessel as synonymous with boat as referenced in FLA. CONST. art. VII, s.1(b) (1968), and includes 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. FLA. CONST. art. VII, s.1(b) (1968) provides, “motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes, as defined by law, shall be subject to a license tax for their operation in the amounts and for the purposes prescribed by law, but shall not be subject to ad valorem taxes.”

- At a port in this state without the consent of the agency having jurisdiction thereof; or
- Docked, grounded, or beached upon the property of another without the consent of the owner of the property.<sup>2</sup>

### ***Removal of Derelict Vessels***

Section 327.70, F.S., provides that enforcement of chapters 327 and 328, F.S., which concern vessel safety and vessel title certificates, liens, and registration, may be enforced by the Division of Law Enforcement of 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.<sup>3</sup> Section 327.44, F.S., provides authorization for the relocation or removal of a vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. Additionally, s. 823.11, F.S., provides authorization 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.

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.<sup>4</sup>

### ***Punishment for Violations of Derelict Vessel Provisions***

It is unlawful to store, leave, or abandon a derelict vessel in Florida.<sup>5</sup> Those who are found in violation of this provision commit a first degree misdemeanor, punishable by a term of imprisonment of no more than one year<sup>6</sup> and a fine of up to \$1,000.<sup>7</sup> Additionally, s. 376.16, F.S., provides that violations of certain provisions, including violations of derelict vessel laws, may be punishable by a civil penalty of up to \$50,000 per violation per day.<sup>8</sup> Each day during any portion of which the violation occurs constitutes a separate offense.<sup>9</sup>

Fines and fees assessed for noncriminal infractions under s. 327.73, F.S., such as operation of an unregistered or unnumbered vessel, careless operation, and violations of navigation rules are deposited into the Marine Resources Conservation Trust Fund within the FWC for boating safety

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<sup>2</sup> Section 823.11(1)(b), F.S.

<sup>3</sup> 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.

<sup>4</sup> Section 705.103(4), F.S.

<sup>5</sup> Section 823.11(2), F.S.

<sup>6</sup> Section 775.082(4)(a), F.S.

<sup>7</sup> Section 775.083(1)(d), F.S.

<sup>8</sup> Section 376.16(1), F.S.

<sup>9</sup> *Id.*

education purposes.<sup>10</sup> If a person fails to appear or otherwise properly respond to a uniform boating citation, that person will also be charged with the offense of failing to respond to the citation and, upon conviction, be found guilty of a second degree misdemeanor,<sup>11</sup> punishable by a term of imprisonment of no more than 60 days<sup>12</sup> and a fine of no more than \$500.<sup>13</sup>

### ***Costs of Removal of Derelict Vessels***

According to the FWC, removal costs of derelict vessels are approximately \$350 to \$450 per foot of vessel length.<sup>14</sup> However, a floating vessel may be towed to a boat ramp or hoist and pulled 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.<sup>15</sup> Costs for professional towing services are approximately \$200 per hour.<sup>16</sup>

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 due to the fact that the current effort related to at-risk vessels is a voluntary community-oriented policing effort.<sup>17</sup> The FWC estimates that 166 derelict vessels were removed in 2014 by local governments. Approximately \$665,500 was spent by local governments on the removal of those vessels, which is an average removal cost of \$4,006 per vessel.<sup>18</sup>

Due to the problem of derelict vessels and the costs of removing them, the FWC held six public meetings in 2015 to engage the public on various solutions. Boat owners, boating organizations, marine industries, and local governments participated in the meetings. Participants were asked to respond to a survey to indicate their levels of support for eight concepts addressing derelict vessels. The concept of prohibiting vessels deemed “at risk” of becoming derelict received the most support from those surveyed, with 85.2 percent of survey respondents indicating they either “support” or “highly support” the concept.<sup>19</sup>

### ***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.<sup>20</sup> The inability to regulate vessels outside of mooring fields has led to problems that include:

- The locations where anchored vessels accumulate;
- Unattended vessels;

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<sup>10</sup> Section 327.73(8), F.S.

<sup>11</sup> Section 327.73(1), F.S.

<sup>12</sup> Section 775.082(4)(b), F.S.

<sup>13</sup> Section 775.083(1)(e), F.S.

<sup>14</sup> FWC, *House Bill 7025 Agency Analysis* (Jan. 6, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>15</sup> *Id.* Immediate removal of a derelict vessel was a concept that received support among eight proposals for dealing with the problem of derelict vessels.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Section 327.60, F.S.

- Anchored vessels which are dragging anchor or not showing proper lighting;
- Vessels which are not maintained properly; and
- Vessels which become derelict.<sup>21</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 327.4107, F.S., to provide that 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;
- The vessel has broken loose or is in danger of breaking loose from its anchor; and
- 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.

The bill provides that 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., which is added in section 3 of the bill. The civil penalties are in addition to any other penalties provided for in law.

The bill 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.

**Section 2** amends s. 327.70, F.S., to provide that violations of s. 327.4107, F.S., 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 violations of s. 327.4107, F.S. The civil penalties are:

- 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.

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.<sup>22</sup>

**Section 4** of the bill provides an effective date of July 1, 2016.

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<sup>21</sup> FWC, *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 Jan. 21, 2016).

<sup>22</sup> Section 327.73(8), F.S.

**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:

SB 1300 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.<sup>23</sup>

## 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.<sup>24</sup>

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

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>23</sup> FWC, *House Bill 7025 Agency Analysis* (Jan. 6, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>24</sup> *Id.*

**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.

**B. Amendments:**

None.

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

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