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CS/HB 487

2024 Legislature

1
 2 An act relating to lost and abandoned property;
 3 amending s. 705.103, F.S.; revising the timeframes
 4 within which law enforcement officers must provide
 5 certain notices to owners of certain abandoned or lost
 6 properties; reenacting ss. 327.4107(7)(a),
 7 327.4108(6)(d), 327.60(5), 327.66(2)(a),
 8 327.73(1)(aa), 379.338(1), 705.104(1), 705.105(1)(a),
 9 713.585(8), and 823.11(2)(d), F.S., relating to a
 10 program to remove, relocate, or destroy vessels at
 11 risk of becoming derelict on waters of this state, the
 12 anchoring of vessels with more than three violations
 13 within a 12-month period in anchoring limitation
 14 areas, local regulations for procedures to remove
 15 abandoned or lost vessels affixed to a public dock or
 16 mooring, the removal of specified gasoline and
 17 gasoline containers on vessels and the removal of such
 18 vessels by a law enforcement agency, civil penalties
 19 for violations of specified laws relating to certain
 20 vessels, confiscation and disposition of illegally
 21 taken wildlife, freshwater fish, and saltwater fish,
 22 title to lost or abandoned property, the procedure
 23 regarding certain unclaimed evidence, the proceeds and
 24 disposition from the sale of certain motor vehicles,
 25 and the removal and destruction of specified derelict

ENROLLED

CS/HB 487

2024 Legislature

26 | vessels, respectively, to incorporate the amendment
 27 | made to s. 705.103, F.S., in references thereto;
 28 | providing an effective date.

30 | Be It Enacted by the Legislature of the State of Florida:

32 | Section 1. Paragraph (a) of subsection (2) of section
 33 | 705.103, Florida Statutes, is amended to read:

34 | 705.103 Procedure for abandoned or lost property.—

35 | (2)(a)1. Whenever a law enforcement officer ascertains
 36 | that:

37 | a. An article of lost or abandoned property other than a
 38 | derelict vessel or a vessel declared a public nuisance pursuant
 39 | to s. 327.73(1)(aa) is present on public property and is of such
 40 | nature that it cannot be easily removed, the officer shall cause
 41 | a notice to be placed upon such article in substantially the
 42 | following form:

44 | NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 45 | PROPERTY. This property, to wit: ...(setting forth brief
 46 | description)... is unlawfully upon public property known as
 47 | ...(setting forth brief description of location)... and must be
 48 | removed within 5 days; otherwise, it will be removed and
 49 | disposed of pursuant to chapter 705, Florida Statutes. The owner
 50 | will be liable for the costs of removal, storage, and

ENROLLED

CS/HB 487

2024 Legislature

51 publication of notice. Dated this: ...(setting forth the date of
 52 posting of notice)..., signed: ...(setting forth name, title,
 53 address, and telephone number of law enforcement officer)....

54
 55 b. A derelict vessel or a vessel declared a public
 56 nuisance pursuant to s. 327.73(1)(aa) is present on the waters
 57 of this state, the officer shall cause a notice to be placed
 58 upon such vessel in substantially the following form:

59
 60 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 61 VESSEL. This vessel, to wit: ...(setting forth brief description
 62 of location)... has been determined to be ...(derelict or a
 63 public nuisance)... and is unlawfully upon the waters of this
 64 state ...(setting forth brief description of location)... and
 65 must be removed within 21 days; otherwise, it will be removed
 66 and disposed of pursuant to chapter 705, Florida Statutes. The
 67 owner and other interested parties have the right to a hearing
 68 to challenge the determination that this vessel is derelict or
 69 otherwise in violation of the law. Please contact ...(contact
 70 information for person who can arrange for a hearing in
 71 accordance with this section).... The owner or the party
 72 determined to be legally responsible for the vessel being upon
 73 the waters of this state in a derelict condition or as a public
 74 nuisance will be liable for the costs of removal, destruction,
 75 and disposal if this vessel is not removed by the owner. Dated

ENROLLED

CS/HB 487

2024 Legislature

76 | this: ...(setting forth the date of posting of notice)...,
 77 | signed: ...(setting forth name, title, address, and telephone
 78 | number of law enforcement officer)....

79 |
 80 | 2. The notices required under subparagraph 1. may not be
 81 | less than 8 inches by 10 inches and must be sufficiently
 82 | weatherproof to withstand normal exposure to the elements. In
 83 | addition to posting, the law enforcement officer shall make a
 84 | reasonable effort to ascertain the name and address of the
 85 | owner. If such is reasonably available to the officer, she or he
 86 | shall mail a copy of such notice to the owner on ~~or before~~ the
 87 | date of posting or as soon thereafter as is practical. If the
 88 | property is a motor vehicle as defined in s. 320.01(1) or a
 89 | vessel as defined in s. 327.02, the law enforcement agency shall
 90 | contact the Department of Highway Safety and Motor Vehicles in
 91 | order to determine the name and address of the owner and any
 92 | person who has filed a lien on the vehicle or vessel as provided
 93 | in s. 319.27(2) or (3) or s. 328.15. On receipt of this
 94 | information, the law enforcement agency shall mail a copy of the
 95 | notice by certified mail, return receipt requested, to the owner
 96 | and to the lienholder, if any, except that a law enforcement
 97 | officer who has issued a citation for a violation of s. 823.11
 98 | to the owner of a derelict vessel is not required to mail a copy
 99 | of the notice by certified mail, return receipt requested, to
 100 | the owner. For a derelict vessel or a vessel declared a public

ENROLLED

CS/HB 487

2024 Legislature

101 nuisance pursuant to s. 327.73(1) (aa), the mailed notice must
 102 inform the owner or responsible party that he or she has a right
 103 to a hearing to dispute the determination that the vessel is
 104 derelict or otherwise in violation of the law. If a request for
 105 a hearing is made, a state agency shall follow the processes as
 106 set forth in s. 120.569. Local governmental entities shall
 107 follow the processes set forth in s. 120.569, except that a
 108 local judge, magistrate, or code enforcement officer may be
 109 designated to conduct such a hearing. If, at the end of 5 days
 110 after posting the notice in sub-subparagraph 1.a., or at the end
 111 of 21 days after posting the notice in sub-subparagraph 1.b.,
 112 and mailing such notice, if required, the owner or any person
 113 interested in the lost or abandoned article or articles
 114 described has not removed the article or articles from public
 115 property or shown reasonable cause for failure to do so, and, in
 116 the case of a derelict vessel or a vessel declared a public
 117 nuisance pursuant to s. 327.73(1) (aa), has not requested a
 118 hearing in accordance with this section, the following shall
 119 apply:

120 a. For abandoned property other than a derelict vessel or
 121 a vessel declared a public nuisance pursuant to s.
 122 327.73(1) (aa), the law enforcement agency may retain any or all
 123 of the property for its own use or for use by the state or unit
 124 of local government, trade such property to another unit of
 125 local government or state agency, donate the property to a

ENROLLED

CS/HB 487

2024 Legislature

126 | charitable organization, sell the property, or notify the
 127 | appropriate refuse removal service.

128 | b. For a derelict vessel or a vessel declared a public
 129 | nuisance pursuant to s. 327.73(1)(aa), the law enforcement
 130 | agency or its designee may:

131 | (I) Remove the vessel from the waters of this state and
 132 | destroy and dispose of the vessel or authorize another
 133 | governmental entity or its designee to do so; or

134 | (II) Authorize the vessel's use as an artificial reef in
 135 | accordance with s. 379.249 if all necessary federal, state, and
 136 | local authorizations are received.

137 |
 138 | A law enforcement agency or its designee may also take action as
 139 | described in this sub-subparagraph if, following a hearing
 140 | pursuant to this section, the judge, magistrate, administrative
 141 | law judge, or hearing officer has determined the vessel to be
 142 | derelict as provided in s. 823.11 or otherwise in violation of
 143 | the law in accordance with s. 327.73(1)(aa) and a final order
 144 | has been entered or the case is otherwise closed.

145 | Section 2. For the purpose of incorporating the amendment
 146 | made by this act to section 705.103, Florida Statutes, in a
 147 | reference thereto, paragraph (a) of subsection (7) of section
 148 | 327.4107, Florida Statutes, is reenacted to read:

149 | 327.4107 Vessels at risk of becoming derelict on waters of
 150 | this state.-

ENROLLED

CS/HB 487

2024 Legislature

151 (7) The commission may establish a derelict vessel
 152 prevention program to address vessels at risk of becoming
 153 derelict. Such program may, but is not required to, include:

154 (a) Removal, relocation, and destruction of vessels
 155 declared a public nuisance, derelict or at risk of becoming
 156 derelict, or lost or abandoned in accordance with s. 327.53(7),
 157 s. 327.73(1)(aa), s. 705.103(2) and (4), or s. 823.11(3).
 158

159 The commission may adopt rules to implement this subsection.
 160 Implementation of the derelict vessel prevention program shall
 161 be subject to appropriation by the Legislature and shall be
 162 funded by the Marine Resources Conservation Trust Fund or the
 163 Florida Coastal Protection Trust Fund.

164 Section 3. For the purpose of incorporating the amendment
 165 made by this act to section 705.103, Florida Statutes, in a
 166 reference thereto, paragraph (d) of subsection (6) of section
 167 327.4108, Florida Statutes, is reenacted to read:

168 327.4108 Anchoring of vessels in anchoring limitation
 169 areas.—

170 (6)

171 (d) A vessel that is the subject of more than three
 172 violations within 12 months which result in dispositions other
 173 than acquittal or dismissal shall be declared to be a public
 174 nuisance and subject to s. 705.103 or, for a derelict vessel,
 175 subject to s. 823.11.

ENROLLED

CS/HB 487

2024 Legislature

176 Section 4. For the purpose of incorporating the amendment
 177 made by this act to section 705.103, Florida Statutes, in a
 178 reference thereto, subsection (5) of section 327.60, Florida
 179 Statutes, is reenacted to read:

180 327.60 Local regulations; limitations.—

181 (5) A local government may enact and enforce regulations
 182 to implement the procedures for abandoned or lost property that
 183 allow the local law enforcement agency to remove a vessel
 184 affixed to a public dock or mooring within its jurisdiction that
 185 is abandoned or lost property pursuant to s. 705.103(1). Such
 186 regulation must require the local law enforcement agency to post
 187 a written notice at least 24 hours before removing the vessel.

188 Section 5. For the purpose of incorporating the amendment
 189 made by this act to section 705.103, Florida Statutes, in a
 190 reference thereto, paragraph (a) of subsection (2) of section
 191 327.66, Florida Statutes, is reenacted to read:

192 327.66 Carriage of gasoline on vessels.—

193 (2)(a) Gasoline possessed or transported in violation of
 194 this section and all containers holding such gasoline are
 195 declared to be a public nuisance. A law enforcement agency
 196 discovering gasoline possessed or transported in violation of
 197 paragraph (1)(a) shall abate the nuisance by removing the
 198 gasoline and containers from the vessel and from the waters of
 199 this state. A law enforcement agency that removes gasoline or
 200 containers pursuant to this subsection may elect to:

ENROLLED

CS/HB 487

2024 Legislature

- 201 1. Retain the property for the agency's own use;
 202 2. Transfer the property to another unit of state or local
 203 government;
 204 3. Donate the property to a charitable organization; or
 205 4. Sell the property at public sale pursuant to s.
 206 705.103.

207 Section 6. For the purpose of incorporating the amendment
 208 made by this act to section 705.103, Florida Statutes, in a
 209 reference thereto, paragraph (aa) of subsection (1) of section
 210 327.73, Florida Statutes, is reenacted to read:

211 327.73 Noncriminal infractions.—

212 (1) Violations of the following provisions of the vessel
 213 laws of this state are noncriminal infractions:

214 (aa) Section 327.4107, relating to vessels at risk of
 215 becoming derelict on waters of this state, for which the civil
 216 penalty is:

- 217 1. For a first offense, \$100.
 218 2. For a second offense occurring 30 days or more after a
 219 first offense, \$250.
 220 3. For a third or subsequent offense occurring 30 days or
 221 more after a previous offense, \$500.

222
 223 A vessel that is the subject of three or more violations issued
 224 pursuant to the same paragraph of s. 327.4107(2) within an 18-
 225 month period which result in dispositions other than acquittal

ENROLLED

CS/HB 487

2024 Legislature

226 or dismissal shall be declared to be a public nuisance and
 227 subject to ss. 705.103(2) and (4) and 823.11(3). The commission,
 228 an officer of the commission, or a law enforcement agency or
 229 officer specified in s. 327.70 may relocate, remove, or cause to
 230 be relocated or removed such public nuisance vessels from waters
 231 of this state. The commission, an officer of the commission, or
 232 a law enforcement agency or officer acting pursuant to this
 233 paragraph upon waters of this state shall be held harmless for
 234 all damages to the vessel resulting from such relocation or
 235 removal unless the damage results from gross negligence or
 236 willful misconduct as these terms are defined in s. 823.11.

237
 238 Any person cited for a violation of this subsection shall be
 239 deemed to be charged with a noncriminal infraction, shall be
 240 cited for such an infraction, and shall be cited to appear
 241 before the county court. The civil penalty for any such
 242 infraction is \$100, except as otherwise provided in this
 243 section. Any person who fails to appear or otherwise properly
 244 respond to a uniform boating citation, in addition to the charge
 245 relating to the violation of the boating laws of this state,
 246 must be charged with the offense of failing to respond to such
 247 citation and, upon conviction, be guilty of a misdemeanor of the
 248 second degree, punishable as provided in s. 775.082 or s.
 249 775.083. A written warning to this effect shall be provided at
 250 the time such uniform boating citation is issued.

ENROLLED

CS/HB 487

2024 Legislature

251 Section 7. For the purpose of incorporating the amendment
 252 made by this act to section 705.103, Florida Statutes, in a
 253 reference thereto, subsection (1) of section 379.338, Florida
 254 Statutes, is reenacted to read:

255 379.338 Confiscation and disposition of illegally taken
 256 wildlife, freshwater fish, and saltwater fish.—

257 (1) All wildlife, freshwater fish, and saltwater fish
 258 seized under the authority of this chapter, any other chapter,
 259 or rules of the commission shall, upon conviction of the
 260 offender or sooner in accordance with a court order if the court
 261 so orders, be forfeited to the investigating law enforcement
 262 agency. The law enforcement agency may elect to retain the
 263 wildlife, freshwater fish, or saltwater fish for the agency's
 264 official use; transfer it to another unit of state or local
 265 government for official use; donate it to a charitable
 266 organization; sell it at a public sale pursuant to s. 705.103;
 267 or destroy the wildlife, freshwater fish, or saltwater fish if
 268 none of the other options is practicable or if the wildlife,
 269 freshwater fish, or saltwater fish is unwholesome or otherwise
 270 not of appreciable value. All illegally possessed live wildlife,
 271 freshwater fish, and saltwater fish that are properly documented
 272 as evidence as provided in s. 379.3381 may be returned to the
 273 habitat unharmed. Any unclaimed wildlife, freshwater fish, or
 274 saltwater fish shall be retained by the investigating law
 275 enforcement agency and disposed of in accordance with this

ENROLLED

CS/HB 487

2024 Legislature

276 subsection.

277 Section 8. For the purpose of incorporating the amendment
 278 made by this act to section 705.103, Florida Statutes, in
 279 references thereto, subsection (1) of section 705.104, Florida
 280 Statutes, is reenacted to read:

281 705.104 Title to lost or abandoned property.—

282 (1) Title to lost or abandoned property is hereby vested
 283 in the finder upon the expiration of the 90-day custodial time
 284 period specified in s. 705.103(2)(b), provided the notice
 285 requirements of s. 705.103 have been met, unless the rightful
 286 owner or a lienholder claims the property within that time.

287 Section 9. For the purpose of incorporating the amendment
 288 made by this act to section 705.103, Florida Statutes, in a
 289 reference thereto, paragraph (a) of subsection (1) of section
 290 705.105, Florida Statutes, is reenacted to read:

291 705.105 Procedure regarding unclaimed evidence.—

292 (1) Title to unclaimed evidence or unclaimed tangible
 293 personal property lawfully seized pursuant to a lawful
 294 investigation in the custody of the court or clerk of the court
 295 from a criminal proceeding or seized as evidence by and in the
 296 custody of a law enforcement agency shall vest permanently in
 297 the law enforcement agency 60 days after the conclusion of the
 298 proceeding.

299 (a) If the property is of appreciable value, the agency
 300 may elect to:

ENROLLED

CS/HB 487

2024 Legislature

- 301 1. Retain the property for the agency's own use;
 302 2. Transfer the property to another unit of state or local
 303 government;
 304 3. Donate the property to a charitable organization;
 305 4. Sell the property at public sale, pursuant to the
 306 provisions of s. 705.103.

307 Section 10. For the purpose of incorporating the amendment
 308 made by this act to section 705.103, Florida Statutes, in a
 309 reference thereto, subsection (8) of section 713.585, Florida
 310 Statutes, is reenacted to read:

311 713.585 Enforcement of lien by sale of motor vehicle.—A
 312 person claiming a lien under s. 713.58 for performing labor or
 313 services on a motor vehicle may enforce such lien by sale of the
 314 vehicle in accordance with the following procedures:

315 (8) A vehicle subject to lien enforcement pursuant to this
 316 section must be sold by the lienor at public sale. Immediately
 317 upon the sale of the vehicle and payment in cash of the purchase
 318 price, the lienor shall deposit with the clerk of the circuit
 319 court the proceeds of the sale less the amount claimed by the
 320 lienor for work done and storage, if any, and all reasonable
 321 costs and expenses incurred in conducting the sale, including
 322 any attorney's fees and costs ordered by the court.

323 Simultaneously with depositing the proceeds of sale remaining
 324 after payment to the lienor, the lienor shall file with the
 325 clerk a verified report of the sale stating a description of the

ENROLLED

CS/HB 487

2024 Legislature

326 vehicle sold, including the vehicle identification number; the
 327 name and address of the purchaser; the date of the sale; and the
 328 selling price. The report shall also itemize the amount retained
 329 by the lienor pursuant to this section and shall indicate
 330 whether a hearing was demanded and held. All proceeds held by
 331 the court shall be held for the benefit of the owner of the
 332 vehicle or any lienholder whose lien is discharged by the sale
 333 and shall be disbursed only upon order of the court. Unless a
 334 proceeding is initiated to validate a claim to such proceeds
 335 within 1 year and a day from the date of the sale, the proceeds
 336 shall be deemed abandoned property and disposition thereof shall
 337 be governed by s. 705.103. The clerk shall receive 5 percent of
 338 the proceeds deposited with her or him, not to exceed \$25, for
 339 her or his services under this section.

340 Section 11. For the purpose of incorporating the amendment
 341 made by this act to section 705.103, Florida Statutes, in a
 342 reference thereto, paragraph (d) of subsection (2) of section
 343 823.11, Florida Statutes, is reenacted to read:

344 823.11 Derelict vessels; relocation or removal; penalty.—

345 (2)

346 (d) Notwithstanding the additional 45 days provided in
 347 sub-subparagraph (b)2.b. during which an owner or a responsible
 348 party may not be charged for a violation of this section, the
 349 commission, an officer of the commission, a law enforcement
 350 agency or officer specified in s. 327.70, or, during a state of

ENROLLED

CS/HB 487

2024 Legislature

351 emergency declared by the Governor, the Division of Emergency
352 Management or its designee, may immediately begin the process
353 set forth in s. 705.103(2)(a) and, once that process has been
354 completed and the 45 days provided herein have passed, any
355 vessel that has not been removed or repaired such that it is no
356 longer derelict upon the waters of this state may be removed and
357 destroyed as provided therein.

358 Section 12. This act shall take effect July 1, 2024.