

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 Criminal Justice

BILL: SB 682

INTRODUCER: Senator Martin

SUBJECT: Lost or Abandoned Property

DATE: January 29, 2024

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2. <u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
3. _____	_____	<u>RC</u>	_____

I. Summary:

SB 682 revises the timeframe during which a law enforcement officer must mail a copy of the notice posted on an article of lost or abandoned property, a derelict vessel, or a public nuisance vessel, so that the notice may be mailed to the owner after the date of posting.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Lost or Abandoned Property

Lost property includes all tangible personal property that does not have an identifiable owner and that has been mislaid on public property,¹ on a public conveyance, on premises used at the time for business purposes, or in parks, places of amusement, public recreation areas, or other places open to the public in a substantially operable, functioning condition or which has an apparent intrinsic value to the rightful owner.²

Abandoned property includes all tangible personal property that does not have an identifiable owner and that has been disposed of on public property in a wrecked, inoperative, or partially dismantled condition, or has no apparent intrinsic value to the rightful owner.³ Derelict vessel and vessels declared a public nuisance are abandoned property.⁴

¹ Public property means lands and improvements owned by the Federal Government, the state, the county, or a municipality and includes sovereignty submerged lands located adjacent to the county or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way, and other similar property. Section 705.101(5), F.S.

² Section 705.101(4), F.S.

³ Section 705.101(1), F.S.

⁴ *Id.*

Derelict Vessels

A derelict vessel is a vessel that is in a wrecked,⁵ junked,⁶ or substantially dismantled⁷ condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without their consent.⁸ It is unlawful to leave any derelict vessel on waters of this state.⁹ Further, a vessel that is at risk of becoming derelict may not anchor on, moor on, or occupy the waters of this state.¹⁰

A vessel is declared 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 that 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;
- The vessel is listing due to water intrusion;
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives notice; or
- The vessel is tied to an unlawful or unpermitted structure or mooring.¹¹

Vessels Declared to be a Public Nuisance

If a vessel is declared at risk of becoming derelict under the same condition three or more times within an 18-month period, and if the determination results in dispositions other than acquittal or dismissal, the vessel is declared to be a public nuisance.¹² A vessel that is declared to be a public nuisance and threatens navigation, or is a danger to the environment, property, or persons, may be relocated, removed, stored, destroyed, or disposed of by Florida Fish and Wildlife Conservation Commission or other law enforcement.¹³

⁵ A vessel is wrecked if it is sunken or sinking; aground without the ability to extricate itself absent mechanical assistance; or remaining after a marine casualty, including, but not limited to, a boating accident, extreme weather, or a fire. Section 823.11(1)(b), F.S.

⁶ A vessel is junked if it has been substantially stripped of vessel components, if vessel components have substantially degraded or been destroyed, or if the vessel has been discarded by the owner or operator. Attaching an outboard motor to a vessel that is otherwise junked will not cause the vessel to no longer be junked if such motor is not an effective means of propulsion. Section 823.11(1)(b), F.S.

⁷ A vessel is substantially dismantled if at least two of the three following vessel systems or components are missing, compromised, incomplete, inoperable, or broken: the steering system, the propulsion system, or the exterior hull integrity. Attaching an outboard motor to a vessel that is otherwise substantially dismantled will not cause the vessel to no longer be substantially dismantled if such motor is not an effective means of propulsion. Section 823.11(1)(b), F.S.

⁸ Section 823.11(1)(b), F.S.

⁹ Section 823.11(2), F.S. The term “leave” means to allow a vessel to remain occupied or unoccupied on waters of this state for more than 24 hours.

¹⁰ Section 327.4107(1), F.S.

¹¹ Section 327.4107(2), F.S.

¹² *Id.*; Section 327.73(1)(aa), F.S.

¹³ Section 327.73(1)(aa), F.S.; s. 823.11(3), F.S.

Procedure for Lost or Abandoned Property

When a law enforcement officer¹⁴ ascertains that an article of lost or abandoned property, other than a derelict vessel or a vessel declared a public nuisance, is present on public property and is unable to be easily removed, the officer must place a notice on the property which states that the property must be removed within five days or it will be removed and disposed of at the expense of the owner.¹⁵

When a derelict vessel or a vessel declared to be a public nuisance is located on the waters of the state, a law enforcement officer must place a notice on the vessel which states that the vessel must be removed within 21 days or it will be removed and disposed of.¹⁶ The owner and other interested parties have the right to a hearing to challenge the determination that the vessel is derelict or a public nuisance. If the vessel is not removed by the owner, the owner or the party determined to be legally responsible for the vessel's presence on waters of the state will be liable for the costs of removal, destruction, and disposal.

In addition to posting a notice on the lost or abandoned property, the law enforcement officer must make a reasonable effort to ascertain the name and address of the owner. If it is reasonably available to the officer, he or she must mail a copy of the notice to the owner on or before the date of posting.

If the property is a motor vehicle or a vessel, the law enforcement agency must contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel. Upon receipt of the information, the law enforcement agency must mail a copy of the notice to the owner and to any lienholder.¹⁷ If the property is a derelict vessel or a vessel declared a public nuisance, the mailed notice must inform the owner or responsible party that he or she has the right to a hearing.

If, at the end of five days after posting a notice on an article of lost or abandoned property, or at the end of 21 days after posting and mailing the notice on a derelict vessel or vessel declared a public nuisance, the owner has not removed the property or shown reasonable cause for failure to do so, or has not requested a hearing if applicable, the law enforcement agency may retain or dispose of the property as directed by statute.¹⁸

¹⁴ "Law enforcement officer" means any person who is elected, appointed, or employed full-time by any sheriff, 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 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 or auxiliary law enforcement officers, but does not include support personnel employed by the employing agency. Section 705.101(2), F.S.

¹⁵ Section 705.103(2), F.S.

¹⁶ Section 705.103(2), F.S.

¹⁷ *Id.* A law enforcement officer who has issued a citation for a violation of the derelict vessel law to the owner of a derelict vessel is not required to mail a copy of the notice to the owner.

¹⁸ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 705.103, F.S., to revise the timeframe during which a law enforcement officer must mail a copy of the applicable notice posted on an article of lost or abandoned property, a derelict vessel, or a vessel declared a public nuisance if the name and address of the owner of the property or vessel is reasonably available to the officer. The revision removes the requirement that the notice must be mailed to the owner on or before the date of posting, allowing the notice to be mailed following the date of posting.

Sections 2 through 11 reenact s. 327.4107(7)(a), F.S., relating to vessels at risk of becoming derelict on waters of this state; s. 327.4108(6)(d), F.S., relating to anchoring vessels in anchoring limitation areas; s. 327.60(5), F.S., relating to local regulations; s. 327.66(2)(a), F.S., relating to carriage of gasoline on vessels; s. 327.73(1)(aa), F.S., relating to noncriminal infractions; s. 379.338(1), F.S., relating to confiscation and disposition of illegally taken wildlife, freshwater fish, and saltwater fish; s. 705.104(1), F.S., relating to the title to lost or abandoned property; s. 705.105(1)(a), F.S., relating to procedure regarding unclaimed evidence; s. 713.585(8), F.S., relating to the enforcement of a lien by sale of a motor vehicle; and s. 823.11(2)(d), F.S., relating to derelict vessels, their relocation or removal, and penalties, to incorporate the amendment made by this bill in a reference to the amended section.

Section 12 provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive fiscal impact on local governments and on the Florida Fish and Wildlife Conservation Commission by reducing the number of required trips by law enforcement to a derelict or public nuisance vessel.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 705.103 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 327.4107, 327.4108, 327.60, 327.66, 327.73, 379.338, 705.104, 705.105, 713.585, 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.

¹⁹ Florida Fish and Wildlife Conservation Commission, *2024 Agency Legislative Bill Analysis: SB 682*, 3-4 (on file with the Senate Committee on Environment and Natural Resources).