

By Senator Martin

18-00753-24

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1                   A bill to be entitled  
2       An act relating to lost or abandoned property;  
3       amending s. 705.103, F.S.; revising the timeframe  
4       after which a law enforcement agency may take certain  
5       actions relating to abandoned property or specified  
6       vessels if the owner has not taken specified actions;  
7       making technical changes; reenacting ss.  
8       327.4107(7) (a), 327.4108(6) (d), 327.60(5),  
9       327.66(2) (a), 327.73(1) (aa), 379.338(1), 705.104(1),  
10       705.105(1) (a), 713.585(8), and 823.11(2) (d), F.S.,  
11       relating to a program to remove, relocate, or destroy  
12       vessels at risk of becoming derelict on waters of this  
13       state, the anchoring of vessels with more than three  
14       violations within a 12-month period in anchoring  
15       limitation areas, local regulations for procedures to  
16       remove abandoned or lost vessels affixed to a public  
17       dock or mooring, the removal of specified gasoline and  
18       gasoline containers on vessels and the removal of such  
19       vessels by a law enforcement agency, civil penalties  
20       for violations of specified laws relating to certain  
21       vessels, confiscation and disposition of illegally  
22       taken wildlife, freshwater fish, and saltwater fish,  
23       title to lost or abandoned property, the procedure  
24       regarding certain unclaimed evidence, the proceeds and  
25       disposition from the sale of certain motor vehicles,  
26       and the removal and destruction of specified derelict  
27       vessels, respectively, to incorporate the amendment  
28       made to s. 705.103, F.S., in references thereto;  
29       providing an effective date.

18-00753-24

2024682\_\_

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

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

705.103 Procedure for abandoned or lost property.—

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

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

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to wit: ...(setting forth brief description)... is unlawfully upon public property known as ...(setting forth brief description of location)... and must be removed within 5 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage, and publication of notice. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer)....

b. A derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1) (aa) is present on the waters of this state, the officer shall cause a notice to be placed upon such

18-00753-24

2024682\_\_

59 vessel in substantially the following form:  
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61 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED  
62 VESSEL. This vessel, to wit: ...(setting forth brief description  
63 of location)... has been determined to be ...(derelict or a  
64 public nuisance)... and is unlawfully upon the waters of this  
65 state ...(setting forth brief description of location)... and  
66 must be removed within 21 days; otherwise, it will be removed  
67 and disposed of pursuant to chapter 705, Florida Statutes. The  
68 owner and other interested parties have the right to a hearing  
69 to challenge the determination that this vessel is derelict or  
70 otherwise in violation of the law. Please contact ...(contact  
71 information for person who can arrange for a hearing in  
72 accordance with this section).... The owner or the party  
73 determined to be legally responsible for the vessel being upon  
74 the waters of this state in a derelict condition or as a public  
75 nuisance will be liable for the costs of removal, destruction,  
76 and disposal if this vessel is not removed by the owner. Dated  
77 this: ...(setting forth the date of posting of notice)...,  
78 signed: ...(setting forth name, title, address, and telephone  
79 number of law enforcement officer)....  
80

81 2. The notices required under subparagraph 1. may not be  
82 less than 8 inches by 10 inches and must be sufficiently  
83 weatherproof to withstand normal exposure to the elements. In  
84 addition to posting, the law enforcement officer shall make a  
85 reasonable effort to ascertain the name and address of the  
86 owner, and, if. ~~If~~ such is reasonably available to the officer,  
87 ~~she or he or she must shall~~ mail a copy of the applicable ~~such~~

18-00753-24

2024682\_\_

88 notice to the owner ~~on or before the date of posting~~. If the  
89 property is a motor vehicle as defined in s. 320.01(1) or a  
90 vessel as defined in s. 327.02, the law enforcement agency must  
91 ~~shall~~ contact the Department of Highway Safety and Motor  
92 Vehicles in order to determine the name and address of the owner  
93 and any person who has filed a lien on the vehicle or vessel as  
94 provided in s. 319.27(2) or (3) or s. 328.15. On receipt of this  
95 information, the law enforcement agency shall mail a copy of the  
96 notice by certified mail, return receipt requested, to the owner  
97 and to the lienholder, if any, except that a law enforcement  
98 officer who has issued a citation for a violation of s. 823.11  
99 to the owner of a derelict vessel is not required to mail a copy  
100 of the notice by certified mail, return receipt requested, to  
101 the owner. For a derelict vessel or a vessel declared a public  
102 nuisance pursuant to s. 327.73(1)(aa), the mailed notice must  
103 inform the owner or responsible party that he or she has a right  
104 to a hearing to dispute the determination that the vessel is  
105 derelict or otherwise in violation of the law. If a request for  
106 a hearing is made, a state agency must ~~shall~~ follow the  
107 processes as set forth in s. 120.569. Local governmental  
108 entities shall follow the processes set forth in s. 120.569,  
109 except that a local judge, magistrate, or code enforcement  
110 officer may be designated to conduct such a hearing. If, at the  
111 end of 5 days after posting the notice in sub-subparagraph 1.a.,  
112 or at the end of 21 days after the posting or mailing of the  
113 notice, if required, whichever occurs later, ~~posting the notice~~  
114 ~~in sub-subparagraph 1.b., and mailing such notice, if required,~~  
115 the owner or any person interested in the lost or abandoned  
116 article or articles described has not removed the article or

18-00753-24

2024682\_\_

117 articles from public property or shown reasonable cause for  
118 failure to do so, and, in the case of a derelict vessel or a  
119 vessel declared a public nuisance pursuant to s. 327.73(1)(aa),  
120 has not requested a hearing in accordance with this section, the  
121 following applies ~~shall apply~~:

122 a. For abandoned property other than a derelict vessel or a  
123 vessel declared a public nuisance pursuant to s. 327.73(1)(aa),  
124 the law enforcement agency may retain any or all of the property  
125 for its own use or for use by the state or unit of local  
126 government, trade such property to another unit of local  
127 government or state agency, donate the property to a charitable  
128 organization, sell the property, or notify the appropriate  
129 refuse removal service.

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

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

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

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

18-00753-24

2024682\_\_

146 has been entered or the case is otherwise closed.

147 Section 2. For the purpose of incorporating the amendment  
148 made by this act to section 705.103, Florida Statutes, in a  
149 reference thereto, paragraph (a) of subsection (7) of section  
150 327.4107, Florida Statutes, is reenacted to read:

151 327.4107 Vessels at risk of becoming derelict on waters of  
152 this state.—

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

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

160

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

166 Section 3. For the purpose of incorporating the amendment  
167 made by this act to section 705.103, Florida Statutes, in a  
168 reference thereto, paragraph (d) of subsection (6) of section  
169 327.4108, Florida Statutes, is reenacted to read:

170 327.4108 Anchoring of vessels in anchoring limitation  
171 areas.—

172 (6)

173 (d) A vessel that is the subject of more than three  
174 violations within 12 months which result in dispositions other

18-00753-24

2024682\_\_

175 than acquittal or dismissal shall be declared to be a public  
176 nuisance and subject to s. 705.103 or, for a derelict vessel,  
177 subject to s. 823.11.

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

182 327.60 Local regulations; limitations.—

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

190 Section 5. For the purpose of incorporating the amendment  
191 made by this act to section 705.103, Florida Statutes, in a  
192 reference thereto, paragraph (a) of subsection (2) of section  
193 327.66, Florida Statutes, is reenacted to read:

194 327.66 Carriage of gasoline on vessels.—

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

203 1. Retain the property for the agency's own use;

18-00753-24

2024682\_\_

204           2. Transfer the property to another unit of state or local  
205 government;

206           3. Donate the property to a charitable organization; or  
207           4. Sell the property at public sale pursuant to s. 705.103.  
208           Section 6. For the purpose of incorporating the amendment  
209 made by this act to section 705.103, Florida Statutes, in a  
210 reference thereto, paragraph (aa) of subsection (1) of section  
211 327.73, Florida Statutes, is reenacted to read:

212           327.73 Noncriminal infractions.—

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

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

218           1. For a first offense, \$100.  
219           2. For a second offense occurring 30 days or more after a  
220 first offense, \$250.  
221           3. For a third or subsequent offense occurring 30 days or  
222 more after a previous offense, \$500.  
223

224 A vessel that is the subject of three or more violations issued  
225 pursuant to the same paragraph of s. 327.4107(2) within an 18-  
226 month period which result in dispositions other than acquittal  
227 or dismissal shall be declared to be a public nuisance and  
228 subject to ss. 705.103(2) and (4) and 823.11(3). The commission,  
229 an officer of the commission, or a law enforcement agency or  
230 officer specified in s. 327.70 may relocate, remove, or cause to  
231 be relocated or removed such public nuisance vessels from waters  
232 of this state. The commission, an officer of the commission, or



18-00753-24

2024682\_\_

233 a law enforcement agency or officer acting pursuant to this  
234 paragraph upon waters of this state shall be held harmless for  
235 all damages to the vessel resulting from such relocation or  
236 removal unless the damage results from gross negligence or  
237 willful misconduct as these terms are defined in s. 823.11.

238

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

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

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

258 (1) All wildlife, freshwater fish, and saltwater fish  
259 seized under the authority of this chapter, any other chapter,  
260 or rules of the commission shall, upon conviction of the  
261 offender or sooner in accordance with a court order if the court

18-00753-24

2024682\_\_

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

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

282 705.104 Title to lost or abandoned property.—

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

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

18-00753-24

2024682\_\_

291 705.105, Florida Statutes, is reenacted to read:

292 705.105 Procedure regarding unclaimed evidence.—

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

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

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

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

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

316 (8) A vehicle subject to lien enforcement pursuant to this  
317 section must be sold by the lienor at public sale. Immediately  
318 upon the sale of the vehicle and payment in cash of the purchase  
319 price, the lienor shall deposit with the clerk of the circuit

18-00753-24

2024682\_\_

320 court the proceeds of the sale less the amount claimed by the  
321 lienor for work done and storage, if any, and all reasonable  
322 costs and expenses incurred in conducting the sale, including  
323 any attorney's fees and costs ordered by the court.  
324 Simultaneously with depositing the proceeds of sale remaining  
325 after payment to the lienor, the lienor shall file with the  
326 clerk a verified report of the sale stating a description of the  
327 vehicle sold, including the vehicle identification number; the  
328 name and address of the purchaser; the date of the sale; and the  
329 selling price. The report shall also itemize the amount retained  
330 by the lienor pursuant to this section and shall indicate  
331 whether a hearing was demanded and held. All proceeds held by  
332 the court shall be held for the benefit of the owner of the  
333 vehicle or any lienholder whose lien is discharged by the sale  
334 and shall be disbursed only upon order of the court. Unless a  
335 proceeding is initiated to validate a claim to such proceeds  
336 within 1 year and a day from the date of the sale, the proceeds  
337 shall be deemed abandoned property and disposition thereof shall  
338 be governed by s. 705.103. The clerk shall receive 5 percent of  
339 the proceeds deposited with her or him, not to exceed \$25, for  
340 her or his services under this section.

341 Section 11. For the purpose of incorporating the amendment  
342 made by this act to section 705.103, Florida Statutes, in a  
343 reference thereto, paragraph (d) of subsection (2) of section  
344 823.11, Florida Statutes, is reenacted to read:

345 823.11 Derelict vessels; relocation or removal; penalty.—  
346 (2)

347 (d) Notwithstanding the additional 45 days provided in sub-  
348 subparagraph (b)2.b. during which an owner or a responsible

18-00753-24

2024682\_\_

349 party may not be charged for a violation of this section, the  
350 commission, an officer of the commission, a law enforcement  
351 agency or officer specified in s. 327.70, or, during a state of  
352 emergency declared by the Governor, the Division of Emergency  
353 Management or its designee, may immediately begin the process  
354 set forth in s. 705.103(2)(a) and, once that process has been  
355 completed and the 45 days provided herein have passed, any  
356 vessel that has not been removed or repaired such that it is no  
357 longer derelict upon the waters of this state may be removed and  
358 destroyed as provided therein.

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