

1 HB643  
2 118792-1  
3 By Representative McMillan  
4 RFD: Agriculture and Forestry  
5 First Read: 02-MAR-10

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8 SYNOPSIS: This bill would make it unlawful to store  
9 or leave a derelict vessel docked at any private  
10 property without the consent of the owner of the  
11 property or upon any public water or at a port or  
12 harbor in the state without the consent of the  
13 agency having jurisdiction of the water, or port,  
14 or harbor.

15 This bill would provide penalties and would  
16 provide procedures for seizing and selling at  
17 public auction derelict vessels under certain  
18 conditions.

19 Amendment 621 of the Constitution of Alabama  
20 of 1901, now appearing as Section 111.05 of the  
21 Official Recompilation of the Constitution of  
22 Alabama of 1901, as amended, prohibits a general  
23 law whose purpose or effect would be to require a  
24 new or increased expenditure of local funds from  
25 becoming effective with regard to a local  
26 governmental entity without enactment by a 2/3 vote  
27 unless: it comes within one of a number of

1 specified exceptions; it is approved by the  
2 affected entity; or the Legislature appropriates  
3 funds, or provides a local source of revenue, to  
4 the entity for the purpose.

5 The purpose or effect of this bill would be  
6 to require a new or increased expenditure of local  
7 funds within the meaning of the amendment. However,  
8 the bill does not require approval of a local  
9 governmental entity or enactment by a 2/3 vote to  
10 become effective because it comes within one of the  
11 specified exceptions contained in the amendment.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT  
16

17 Relating to vessels, to make it unlawful to store or  
18 leave a vessel docked at any private property without the  
19 consent of the owner of the property or upon any public water  
20 or at a port or harbor in the state without the consent of the  
21 agency having jurisdiction of the water, port, or harbor; to  
22 provide penalties; to provide procedures for seizing and  
23 selling at public auction derelict vessels under certain  
24 conditions; and in connection therewith would have as its  
25 purpose or effect the requirement of a new or increased  
26 expenditure of local funds within the meaning of Amendment 621  
27 of the Constitution of Alabama of 1901, now appearing as

1 Section 111.05 of the Official ReCompilation of the  
2 Constitution of Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. For the purposes of this act, the  
5 following terms shall have the following meanings:

6 (1) DEPARTMENT. The Department of Conservation and  
7 Natural Resources.

8 (2) DERELICT VESSEL. Any of the following:

9 a. A vessel in a wrecked, junked, or substantially  
10 dismantled condition.

11 b. A sunken vessel or a vessel in immediate danger  
12 of sinking, a vessel that is obstructing a waterway, or a  
13 vessel that is endangering life or property.

14 c. A vessel that has been moored or otherwise left  
15 in the waters of this state or on public property contrary to  
16 state law or rules adopted by the department or a vessel that  
17 has been left on private property without authorization of the  
18 owner or occupant of the property for a continuous period of  
19 more than 24 hours, along with any of the following  
20 circumstances:

21 1. The certificate of registration or marine  
22 document of the vessel has expired and the registered owner no  
23 longer resides at the address listed in the vessel  
24 registration of the department or the marine document records  
25 of the United States Coast Guard.

1           2. The last registered owner of record disclaims  
2 ownership and the name and address of the current owner cannot  
3 be determined.

4           3. The vessel identification numbers and other means  
5 of identification have been obliterated or removed in a manner  
6 that nullifies or precludes efforts to locate or identify the  
7 owner.

8           4. The vessel registration records of the department  
9 or the marine document records of the United States Coast  
10 Guard contain no record that the vessel was ever registered or  
11 documented and the name and address of the current owner  
12 cannot be determined.

13           d. A vessel that has been left unattended for a  
14 continuous period of more than 30 days and is in the waters of  
15 the state or on public property, or is on private property  
16 without authorization of the owner or occupant of the  
17 property.

18           Section 2. (a) (1) A person who owns a vessel that is  
19 a derelict vessel, as defined by Section 1(2)c. or d., is  
20 guilty of a Class B misdemeanor and is punishable by a fine of  
21 not less than one hundred dollars (\$100) nor more than five  
22 hundred dollars (\$500) for each offense or imprisonment, or  
23 both.

24           (2) In addition, the sentencing official shall order  
25 the person to reimburse the department for all expenses  
26 incurred by the department in the enforcement of this act,  
27 including, but not limited to, seizure, removal,

1 transportation, preservation, storage, and disposal expenses  
2 of or for abandoned vessels and for property relating to the  
3 vessel.

4 (b) This section may not be construed to contravene  
5 any applicable federal laws or regulations.

6 Section 3. The department or a peace officer may  
7 take into custody a derelict vessel and may dispose of the  
8 vessel pursuant to this act.

9 Section 4. On taking custody of a derelict vessel, a  
10 written notice shall immediately be posted on the vessel and a  
11 duplicate of that notice sent by registered or certified mail,  
12 with a return receipt, to the registered owner of the vessel  
13 at the last known address of the registered owner and to all  
14 lienholders shown on the records of the department or the  
15 United States Coast Guard. The notice shall contain a brief  
16 description of the vessel, the location of custody, and the  
17 intended disposition of the vessel if not repossessed within  
18 20 days after the mailing of the notice. A notice need not be  
19 sent to the purported owner or any other person whose interest  
20 in the vessel is not recorded with the department or the  
21 United States Coast Guard.

22 Section 5. A person having an interest in an  
23 derelict vessel may take possession of the vessel before the  
24 date of the public auction upon payment to the department of  
25 all port or harbor use fees, towing, handling, storage,  
26 appraisal, advertising, and any other expenses incurred by the  
27 department in connection with the vessel. If the person taking

1 possession of the vessel is not the registered owner, the  
2 person, before taking possession of the vessel, shall pay the  
3 expenses incurred by the department and post adequate security  
4 which may not exceed the appraised value of the vessel. The  
5 security, if not forfeited, shall be returned to the person  
6 one year after receipt.

7 Section 6. (a) If a vessel taken into custody under  
8 Section 3 is not repossessed within 20 days after the mailing  
9 of the notice, the vessel shall be disposed of by public  
10 auction, through oral tenders or by sealed bids, after public  
11 advertisement has been made once in a newspaper of general  
12 circulation. The public auction may not be held less than five  
13 days after the publication of the advertisement. If no bid is  
14 received, the vessel may be sold by negotiation, disposed of  
15 as junk, donated to a governmental agency, or destroyed.

16 (b) Public auction is not required when the  
17 appraised value of an abandoned vessel, as determined by an  
18 independent appraiser, is less than one hundred dollars  
19 (\$100). The appraiser must have at least one year of  
20 experience in the sale, purchase, or appraisal of vessels.  
21 Upon that determination and after public advertisement has  
22 been made once in a newspaper of general circulation, the  
23 department may sell the vessel by negotiation, dispose of it  
24 as junk, donate the vessel to a governmental agency, or  
25 destroy it.

26 Section 7. The transfer of interest by sale under  
27 Sections 5 or 6 shall be evidenced by a bill of sale from the

1 department, considered a transfer by operation of law, and  
2 governed by applicable provisions of law.

3 Section 8. The department shall adopt rules to carry  
4 out this act.

5 Section 9. Although this bill would have as its  
6 purpose or effect the requirement of a new or increased  
7 expenditure of local funds, the bill is excluded from further  
8 requirements and application under Amendment 621, now  
9 appearing as Section 111.05 of the Official Recompilation of  
10 the Constitution of Alabama of 1901, as amended, because the  
11 bill defines a new crime or amends the definition of an  
12 existing crime.

13 Section 10. This act shall become effective on the  
14 first day of the third month following its passage and  
15 approval by the Governor, or its otherwise becoming law.