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CS/CS/HB 1363

2014 Legislature

1
2 An act relating to vessel safety; amending s. 327.44,
3 F.S.; defining terms; authorizing the Fish and
4 Wildlife Conservation Commission and certain law
5 enforcement agencies or officers to relocate or remove
6 vessels that unreasonably or unnecessarily constitute
7 a navigational hazard or interfere with another
8 vessel; exempting the commission or a law enforcement
9 agency or officer from liability for damages to such a
10 vessel caused by the relocation or removal thereof;
11 providing an exception; specifying requirements for
12 contractors relocating or removing a vessel at the
13 direction of the commission or a law enforcement
14 agency or officer; providing that the commission or a
15 law enforcement agency may recover from the vessel
16 owner its costs for the relocation or removal of such
17 a vessel; requiring the Department of Legal Affairs to
18 represent the commission in actions to recover such
19 costs; amending ss. 376.15 and 823.11, F.S.; defining
20 terms; authorizing the commission and certain law
21 enforcement agencies and officers to relocate or
22 remove a derelict vessel from public waters; exempting
23 the commission or a law enforcement agency or officer
24 from liability for damages to such a vessel caused by
25 the relocation or removal thereof; providing an
26 exception; expanding costs recoverable by the

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27 | commission or a law enforcement agency against the
 28 | owner of a derelict vessel for the relocation or
 29 | removal thereof; specifying requirements for
 30 | contractors relocating or removing a vessel at the
 31 | direction of the commission or a law enforcement
 32 | agency or officer; abrogating the power of the
 33 | commission to remove certain abandoned vessels and
 34 | recover its costs therefor; conforming a cross-
 35 | reference; amending ss. 376.11 and 705.101, F.S.;
 36 | conforming cross-references; providing an effective
 37 | date.

38 |

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

40 |

41 | Section 1. Section 327.44, Florida Statutes, is amended to
 42 | read:

43 | 327.44 Interference with navigation; relocation or
 44 | removal; recovery of costs.-

45 | (1) As used in this section, the term:

46 | (a) "Gross negligence" means conduct so reckless or
 47 | wanting in care that it constitutes a conscious disregard or
 48 | indifference to the safety of the property exposed to such
 49 | conduct.

50 | (b) "Willful misconduct" means conduct evidencing
 51 | carelessness or negligence of such a degree or recurrence as to
 52 | manifest culpability, wrongful intent, or evil design or to show

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53 an intentional and substantial disregard of the interests of the
 54 vessel owner.

55 (2) No person shall anchor, operate, or permit to be
 56 anchored, except in case of emergency, or operated a vessel or
 57 carry on any prohibited activity in a manner which shall
 58 unreasonably or unnecessarily constitute a navigational hazard
 59 or interfere with another vessel. Anchoring under bridges or in
 60 or adjacent to heavily traveled channels shall constitute
 61 interference if unreasonable under the prevailing circumstances.

62 (3) The commission, officers of the commission, and any
 63 law enforcement agency or officer specified in s. 327.70 are
 64 authorized and empowered to relocate, remove, or cause to be
 65 relocated or removed a vessel that unreasonably or unnecessarily
 66 constitutes a navigational hazard or interferes with another
 67 vessel. The commission, officers of the commission, or any other
 68 law enforcement agency or officer acting under this subsection
 69 to relocate, remove, or cause to be relocated or removed a
 70 vessel that unreasonably or unnecessarily constitutes a
 71 navigational hazard or interferes with another vessel shall be
 72 held harmless for all damages to the vessel resulting from such
 73 relocation or removal unless the damage results from gross
 74 negligence or willful misconduct.

75 (4) A contractor performing relocation or removal
 76 activities at the direction of the commission, officers of the
 77 commission, or a law enforcement agency or officer pursuant to
 78 this section must be licensed in accordance with applicable

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79 United States Coast Guard regulations where required; obtain and
 80 carry in full force and effect a policy from a licensed
 81 insurance carrier in this state to insure against any accident,
 82 loss, injury, property damage, or other casualty caused by or
 83 resulting from the contractor's actions; and be properly
 84 equipped to perform the services to be provided.

85 (5) All costs, including costs owed to a third party,
 86 incurred by the commission or other law enforcement agency in
 87 the relocation or removal of a vessel that unreasonably or
 88 unnecessarily constitutes a navigational hazard or interferes
 89 with another vessel are recoverable against the vessel owner.
 90 The Department of Legal Affairs shall represent the commission
 91 in actions to recover such costs.

92 Section 2. Section 376.15, Florida Statutes, is amended to
 93 read:

94 376.15 Derelict vessels; relocation or removal from public
 95 waters.—

96 (1) As used in this section, the term:

97 (a) "Commission" means the Fish and Wildlife Conservation
 98 Commission.

99 (b) "Gross negligence" means conduct so reckless or
 100 wanting in care that it constitutes a conscious disregard or
 101 indifference to the safety of the property exposed to such
 102 conduct.

103 (c) "Willful misconduct" means conduct evidencing
 104 carelessness or negligence of such a degree or recurrence as to

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105 manifest culpability, wrongful intent, or evil design or to show
 106 an intentional and substantial disregard of the interests of the
 107 vessel owner.

108 (2)(1) It is unlawful for any person, firm, or corporation
 109 to store, leave, or abandon any derelict vessel as defined in s.
 110 823.11 ~~823.11(1)~~ in this state.

111 (3)(2)(a) The ~~Fish and Wildlife Conservation~~ commission,
 112 ~~and its officers~~ of the commission, and any all law enforcement
 113 agency or officer ~~officers as~~ specified in s. 327.70 are
 114 authorized and empowered to relocate, remove, or cause to be
 115 relocated or removed any derelict vessel as defined in s. 823.11
 116 ~~823.11(1)~~ from public waters. All costs, including costs owed to
 117 a third party, incurred by the commission or other law
 118 enforcement agency in the relocation or removal of any abandoned
 119 or derelict vessel are ~~shall be~~ recoverable against the owner of
 120 the vessel. The Department of Legal Affairs shall represent the
 121 commission in ~~such~~ actions to recover such costs.

122 (b) The commission, officers of the commission, and any
 123 other law enforcement agency or officer specified in s. 327.70
 124 acting under this section to relocate, remove, or cause to be
 125 relocated or removed a derelict vessel from public waters shall
 126 be held harmless for all damages to the derelict vessel
 127 resulting from such relocation or removal unless the damage
 128 results from gross negligence or willful misconduct.

129 (c) A contractor performing relocation or removal
 130 activities at the direction of the commission, officers of the

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131 commission, or a law enforcement agency or officer pursuant to
 132 this section must be licensed in accordance with applicable
 133 United States Coast Guard regulations where required; obtain and
 134 carry in full force and effect a policy from a licensed
 135 insurance carrier in this state to insure against any accident,
 136 loss, injury, property damage, or other casualty caused by or
 137 resulting from the contractor's actions; and be properly
 138 equipped to perform the services to be provided.

139 (d)-(b) The commission may establish a program to provide
 140 grants to local governments for the removal of derelict vessels
 141 from the public waters of the state. The program shall be funded
 142 from the Florida Coastal Protection Trust Fund. Notwithstanding
 143 the provisions in s. 216.181(11), funds available for grants may
 144 only be authorized by appropriations acts of the Legislature.

145 (e)-(e) The commission shall adopt by rule procedures for
 146 submitting a grant application and criteria for allocating
 147 available funds. Such criteria shall include, but not be limited
 148 to, the following:

149 1. The number of derelict vessels within the jurisdiction
 150 of the applicant.

151 2. The threat posed by such vessels to public health or
 152 safety, the environment, navigation, or the aesthetic condition
 153 of the general vicinity.

154 3. The degree of commitment of the local government to
 155 maintain waters free of abandoned and derelict vessels and to
 156 seek legal action against those who abandon vessels in the

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157 waters of the state.

158 (f)~~(d)~~ This section constitutes ~~shall constitute~~ the
 159 authority for such removal but is not intended to be in
 160 contravention of any applicable federal act.

161 Section 3. Section 823.11, Florida Statutes, is amended to
 162 read:

163 823.11 ~~Abandoned and~~ Derelict vessels; relocation or
 164 removal; penalty.—

165 (1) As used in this section, the term:

166 (a) "Commission" means the Fish and Wildlife Conservation
 167 Commission.

168 (b) "Derelict vessel" means a any vessel, as defined in s.
 169 327.02, that is left, stored, or abandoned:

170 1.~~(a)~~ In a wrecked, junked, or substantially dismantled
 171 condition upon any public waters of this state.

172 2.~~(b)~~ At a any port in this state without the consent of
 173 the agency having jurisdiction thereof.

174 3.~~(c)~~ Docked, ~~or~~ grounded, ~~at~~ or beached upon the property
 175 of another without the consent of the owner of the property.

176 (c) "Gross negligence" means conduct so reckless or
 177 wanting in care that it constitutes a conscious disregard or
 178 indifference to the safety of the property exposed to such
 179 conduct.

180 (d) "Willful misconduct" means conduct evidencing
 181 carelessness or negligence of such a degree or recurrence as to
 182 manifest culpability, wrongful intent, or evil design or to show

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183 an intentional and substantial disregard of the interests of the
 184 vessel owner.

185 (2) It is unlawful for a ~~any~~ person, firm, or corporation
 186 to store, leave, or abandon any derelict vessel ~~as defined in~~
 187 ~~this section~~ in this state.

188 (3)(a) ~~The Fish and Wildlife Conservation~~ commission, and
 189 ~~its~~ officers of the commission, and any ~~all~~ law enforcement
 190 agency or officer ~~officers~~ as specified in s. 327.70 are
 191 authorized and empowered to relocate, remove, or cause to be
 192 relocated or removed a ~~any abandoned or~~ derelict vessel from
 193 public waters if the derelict vessel ~~in any instance when the~~
 194 ~~same~~ obstructs or threatens to obstruct navigation or in any way
 195 constitutes a danger to the environment, property, or persons.
 196 The commission, officers of the commission, or any other law
 197 enforcement agency or officer acting under this subsection to
 198 relocate, remove, or cause to be relocated or removed a derelict
 199 vessel from public waters shall be held harmless for all damages
 200 to the derelict vessel resulting from such relocation or removal
 201 unless the damage results from gross negligence or willful
 202 misconduct.

203 (a) Removal of derelict vessels under ~~pursuant to~~ this
 204 subsection ~~section~~ may be funded by grants provided in ss.
 205 206.606 and 376.15. ~~The Fish and Wildlife Conservation~~
 206 commission shall ~~is directed to~~ implement a plan for the
 207 procurement of any available federal disaster funds and ~~to~~ use
 208 such funds for the removal of derelict vessels.

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209 (b) All costs, including costs owed to a third party,
 210 incurred by the commission or other law enforcement agency in
 211 the relocation or removal of a ~~any abandoned or~~ derelict vessel
 212 ~~are as set out above shall be~~ recoverable against the vessel
 213 owner ~~thereof~~. The Department of Legal Affairs shall represent
 214 the commission in ~~such~~ actions to recover such costs. As
 215 provided in s. 705.103(4), a ~~any~~ person who neglects or refuses
 216 to pay such costs may ~~amount is not entitled to~~ be issued a
 217 certificate of registration for such vessel or for any other
 218 vessel or motor vehicle until such ~~the~~ costs have been paid.

219 (c) A contractor performing relocation or removal
 220 activities at the direction of the commission, officers of the
 221 commission, or a law enforcement agency or officer pursuant to
 222 this section must be licensed in accordance with applicable
 223 United States Coast Guard regulations where required; obtain and
 224 carry in full force and effect a policy from a licensed
 225 insurance carrier in this state to insure against any accident,
 226 loss, injury, property damage, or other casualty caused by or
 227 resulting from the contractor's actions; and be properly
 228 equipped to perform the services to be provided.

229 (4) ~~(b)~~ When a derelict vessel is docked, ~~or~~ grounded, ~~at~~
 230 or beached upon private property without the consent of the
 231 owner of the property, the owner of the property may remove the
 232 vessel at the vessel owner's expense 60 days after compliance
 233 with the notice requirements specified in s. 328.17(5). The
 234 private property owner may not hinder reasonable efforts by the

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235 vessel owner or the vessel owner's agent to remove the vessel.
 236 ~~Any~~ Notice given pursuant to this subsection is ~~paragraph shall~~
 237 ~~be~~ presumed to be delivered when it is deposited with the United
 238 States Postal Service, certified, and properly addressed with
 239 prepaid postage.

240 (5)(4) ~~A~~ Any person, firm, or corporation violating this
 241 section ~~act~~ commits a misdemeanor of the first degree and shall
 242 be punished as provided by law. A conviction under this section
 243 does ~~shall~~ not bar the assessment and collection of the civil
 244 penalty provided in s. 376.16 for violation of s. 376.15. The
 245 court having jurisdiction over the criminal offense,
 246 notwithstanding any jurisdictional limitations on the amount in
 247 controversy, may order the imposition of such civil penalty in
 248 addition to any sentence imposed for the first criminal offense.

249 Section 4. Paragraph (g) of subsection (4) of section
 250 376.11, Florida Statutes, is amended to read:

251 376.11 Florida Coastal Protection Trust Fund.—

252 (4) Moneys in the Florida Coastal Protection Trust Fund
 253 shall be disbursed for the following purposes and no others:

254 (g) The funding of a grant program to local governments,
 255 pursuant to s. 376.15(3)(d) and (e) ~~376.15(2)(b) and (e)~~, for
 256 the removal of derelict vessels from the public waters of the
 257 state.

258 Section 5. Subsection (3) of section 705.101, Florida
 259 Statutes, is amended to read:

260 705.101 Definitions.—As used in this chapter:

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261 (3) "Abandoned property" means all tangible personal
262 property that does not have an identifiable owner and that has
263 been disposed on public property in a wrecked, inoperative, or
264 partially dismantled condition or has no apparent intrinsic
265 value to the rightful owner. The term includes derelict vessels
266 as defined in s. 823.11 ~~823.11(1)~~.

267 Section 6. This act shall take effect July 1, 2014.