

CHAPTER 2014-143

Committee Substitute for Committee Substitute for House Bill No. 1363

An act relating to vessel safety; amending s. 327.44, F.S.; defining terms; authorizing the Fish and Wildlife Conservation Commission and certain law enforcement agencies or officers to relocate or remove vessels that unreasonably or unnecessarily constitute a navigational hazard or interfere with another vessel; exempting the commission or a law enforcement agency or officer from liability for damages to such a vessel caused by the relocation or removal thereof; providing an exception; specifying requirements for contractors relocating or removing a vessel at the direction of the commission or a law enforcement agency or officer; providing that the commission or a law enforcement agency may recover from the vessel owner its costs for the relocation or removal of such a vessel; requiring the Department of Legal Affairs to represent the commission in actions to recover such costs; amending ss. 376.15 and 823.11, F.S.; defining terms; authorizing the commission and certain law enforcement agencies and officers to relocate or remove a derelict vessel from public waters; exempting the commission or a law enforcement agency or officer from liability for damages to such a vessel caused by the relocation or removal thereof; providing an exception; expanding costs recoverable by the commission or a law enforcement agency against the owner of a derelict vessel for the relocation or removal thereof; specifying requirements for contractors relocating or removing a vessel at the direction of the commission or a law enforcement agency or officer; abrogating the power of the commission to remove certain abandoned vessels and recover its costs therefor; conforming a cross-reference; amending ss. 376.11 and 705.101, F.S.; conforming cross-references; providing an effective date.

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

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

327.44 Interference with navigation; relocation or removal; recovery of costs.—

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

(a) “Gross negligence” means conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the safety of the property exposed to such conduct.

(b) “Willful misconduct” means conduct evidencing carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the interests of the vessel owner.

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

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

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

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

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

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

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

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

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

(c) "Willful misconduct" means conduct evidencing carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful

intent, or evil design or to show an intentional and substantial disregard of the interests of the vessel owner.

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

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

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

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

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

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

1. The number of derelict vessels within the jurisdiction of the applicant.
2. The threat posed by such vessels to public health or safety, the environment, navigation, or the aesthetic condition of the general vicinity.
3. The degree of commitment of the local government to maintain waters free of abandoned and derelict vessels and to seek legal action against those who abandon vessels in the waters of the state.

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

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

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

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

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

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

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

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

3.(e) Docked, or grounded, at or beached upon the property of another without the consent of the owner of the property.

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

(d) "Willful misconduct" means conduct evidencing carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the interests of the vessel owner.

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

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

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

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

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

(4)(b) When a derelict vessel is docked, or grounded, at or beached upon private property without the consent of the owner of the property, the owner of the property may remove the vessel at the vessel owner's expense 60 days after compliance with the notice requirements specified in s. 328.17(5). The private property owner may not hinder reasonable efforts by the vessel owner or the vessel owner's agent to remove the vessel. Any Notice given pursuant to this subsection is paragraph shall be presumed to be delivered when it is deposited with the United States Postal Service, certified, and properly addressed with prepaid postage.

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

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

376.11 Florida Coastal Protection Trust Fund.—

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

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

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

705.101 Definitions.—As used in this chapter:

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

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

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.