



State of Florida

Abandoned and Derelict Vessel (ADV) Legislative and Administrative Review - 2015

NOAA Marine Debris Region:
Southeast and
Gulf of Mexico



Definition of a Vessel

The State of Florida defines a “vessel” under Fla. Stat. § 327.02(46) in the following manner:

Vessel: includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

This definition is synonymous with “boat” as referenced in section 1(b), of Article 7 of the Florida’s Constitution.

Definition of an Abandoned and/or Derelict Vessel

Florida law uses the term “derelict”, which is defined under Fla. Stat. § 823.11, but does not provide a definition for abandoned vessel.

Derelict Vessel: means a vessel, as defined in Fla. Stat. § 327.02, that is left, stored, or abandoned:

- 1) In a wrecked, junked, or substantially dismantled condition upon any public waters of this state.
- 2) At a port in this state without the consent of the agency having jurisdiction thereof.
- 3) Docked, grounded, or beached upon the property of another without the consent of the owner of the property.

Abandoned vessels are considered to be abandoned property, as defined and addressed under Fla. Stat. § 705.101(3), which also includes derelict vessels.

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 Fla. Stat. § 823.11.

Formal State Program for Abandoned/Derelict Vessels

Florida has legislation and a statewide program which addresses derelict vessels (Fla. Stat. § 823.11 and § 376.15). The Florida Fish and Wildlife Conservation Commission maintains a database of all derelict vessels identified in Florida waters. It provides coordination for the removal of derelict vessels that pose a hazard to navigation or a threat to the environment. The Commission also manages a grant program, under Fla. Stat. § 376.15(3)(d), for local and county governments to assist with the removal of derelict vessels from Florida waters.

The Division of Law Enforcement of the Florida Fish and Wildlife Commission addresses Derelict and At-Risk Vessels under General Order 21, which became effective in February of 2011. Under General Order 21, Law enforcement officers are authorized to remove any derelict vessel,



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as defined in Fla. Stat. § 823.11, from public waters when that vessel is a hazard to navigation or a threat to the environment. The Division is also committed to preventing derelict vessels through a focus on vessels deemed to be at risk of becoming derelict.

The Florida Fish and Wildlife Conservation Commission started a Florida At-Risk Vessel Program in 2010. The purpose of this state program is to reduce the number of abandoned/derelict vessels that can cause both environmental and navigational hazards in Florida's waterways. The program is conducted by law enforcement personnel who attempt to communicate with the vessel owners when they see a vessel displaying deteriorating conditions that can lead to a derelict vessel designation.

According to Fla. Stat. § 327.4107(2), an officer of the commission or of a law enforcement agency specified in Fla. Stat. § 327.70, may determine that a vessel is at risk of becoming derelict if any of the following conditions exist:

- (a) The vessel is taking on or has taken on water without an effective means to dewater.
- (b) 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.
- (c) The vessel has broken loose or is in danger of breaking loose from its anchor.
- (d) The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, is listing due to water intrusion, or is sunk or partially sunk.
- (e) The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice, stating such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair.

The State of Florida defines “effective means for propulsion for safe navigation” under Fla. Stat. § 327.02(13) in the following manner:

Effective means of propulsion for safe navigation: means a vessel, other than a barge, that is equipped with:

- (a) A functioning motor, controls, and steering system; or
- (b) Rigging and sails that are present and in good working order, and a functioning steering system

Designation of Abandoned and/or Derelict Vessels

In the State of Florida, under Fla. Stat. § 823.11(2) and Fla. Stat. § 376.15(2), it is unlawful for any person, firm, or corporation to store, leave, or abandon any derelict vessel in the state of Florida. Any person, firm or corporation caught in violation of this law can be charged with a misdemeanor under Florida law (Fla. Stat. § 823.11(5)). According to Florida law a misdemeanor conviction under this section does not bar the assessment and collection of the civil penalty provided in Fla. Stat. § 376.16 for a violation under Fla. Stat. § 376.15.



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Under Florida State Statute § 823.11(3), the Florida Fish and Wildlife Conservation Commission, its officers, or any other law enforcement officers specified under Fla. Stat. § 327.70 are authorized and empowered to remove or relocate derelict vessels, or cause them to be removed or relocated, from public waters if the vessel obstructs or threatens navigation or is a public hazard to people, property or the environment. This authority to remove or relocate derelict vessels is also given under Fla. Stat. § 376.15 but does not include the requirements that the vessel must pose a public safety or environmental hazard risk, just that the vessel has been designated as derelict.

According to the Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, General Order 21 (<http://myfwc.com/media/407584/go21.pdf>), The Commission shall provide assistance when requested by local governments and other agencies by providing investigative resources for the removal of a derelict vessel, as described in Fla. Stat. § 823.11, Florida Statutes, from public waters of the state when that vessel is a hazard to navigation or a threat to the environment.

Under General Order 21, if the vessel meets the definition of lost or abandoned property or the definition of a derelict vessel, the sworn member shall affix a Notice Sticker (FWC/DLE-073) pursuant to Fla. Stat. § 705.103(2), unless the condition of the vessel makes it impossible to affix the sticker. Photographs of the vessel displaying the completed sticker shall be taken. The sworn member shall run registration, hull identification, and engine serial numbers in an attempt to find a last known registered owner, as well as a title history to determine any lien holders. A notice letter via certified mail to the last known registered owner/lien holder shall be mailed on or before the same day as posting the vessel pursuant to Fla. Stat. § 705.103(2). A copy of the notice letter and a scanned copy of the mailed and returned receipt shall be electronically entered into the derelict vessel database. However, a law enforcement officer who has issued a citation for a violation of Fla. Stat. § 823.11, to the owner of a derelict vessel is not required to mail a copy of the notice by certified mail to the owner.

The sworn member responding to the scene shall make a reasonable attempt to determine the rightful owner of the reported derelict vessel. All efforts should be made to have the owner remove the vessel. The facts should be reviewed and, if warranted under the circumstances, criminal charges shall be filed. If all efforts have been expended to have the vessel removed from public waters by its owner, the vessel shall be marked as derelict with the letters "DV," the two-digit year, and the incident summary number. The marking of the vessel will be done in such a way that it can be easily identified by other boaters or a removal contractor.

Process for Abandoned Vessels Not Considered Derelict

The processes for the designation of abandoned vessels, which are not considered derelict and a public safety or environmental hazard, are addressed under Florida State Statute 705 for Lost and Abandoned Property. When an abandoned vessel is found the party interested in claiming or removing the property can report it to local law enforcement under Fla. Stat. § 705.102:

- 1) Whenever any person finds any lost or abandoned property, such person shall report the description and location of the property to a law enforcement officer.
- 2) The law enforcement officer taking the report shall ascertain whether the person reporting the property wishes to make a claim to it if the rightful owner cannot be identified or located. If the person does wish to make such claim, he or she shall deposit



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with the law enforcement agency a reasonable sum sufficient to cover the agency's cost for transportation, storage, and publication of notice. This sum shall be reimbursed to the finder by the rightful owner should he or she identify and reclaim the property.

Under Fla. Stat. § 705.102(3 and 4) it is illegal for any person who finds lost or abandoned property to appropriate it without following the procedures for abandoned or lost property, as put forth in Fla. Stat. § 705.103, and going through the required steps for gaining title, which is addressed under Fla. Stat. § 705.104.

Responsibility for Removal of Abandoned or Derelict Vessels

The responsibility for removal of derelict vessels rests with the Florida Fish and Wildlife Conservation Commission once it has declared the vessel as derelict; however the costs for removal or relocation become the responsibility of the vessel owner. Under Florida Fla. Stat. § 823.11(3)(b), all costs, including costs owed to a third party, incurred by the commission or law enforcement agency associated with the relocation or removal of a derelict vessel are recoverable against the vessel owner.

When a derelict vessel is found docked, grounded or beached on private property without the consent of the owner, the owner of the property may remove the vessel at the owners' expense 60 days after notification is given under Fla. Stat. § 328.17(5).

Under Florida's personal property laws, if a vessel is found to be abandoned by law enforcement officials on public property, they have the right to remove the property or notify the owner that the property is considered abandoned (Fla. Stat. § 705.103). Any cost associated with the removal and disposal of the vessel by law enforcement are recoverable against the vessel owner, if one has been identified (Fla. Stat. § 705.104(4)). Vessels that are declared as abandoned by private parties under the lost or abandoned property laws of Florida (Fla. Stat. § 705) are the responsibility of the finder, including all costs associated with the declaration and removal.

Fla. Stat § 327.60(5) authorizes local governments to enact and enforce regulations to implement the procedures for abandoned or lost property that allow the local law enforcement agency to remove a vessel affixed to a public dock within its jurisdiction that is abandoned or lost property pursuant to Fla. Stat. § 705.103(1). Any regulation must require the local law enforcement agency to post a written notice at least 24 hours before removing the vessel.

Removal and Disposal Requirements/Guidelines

The removal and disposal of derelict vessels from Florida waters are addressed under Fla. Stat. § 823.11(3). The commission, officers of the commission, and any law enforcement officer are authorized to relocate or remove a derelict vessel, or cause it to be relocated or removed, from public waters if the derelict vessel obstructs or threatens to obstruct navigation, or constitutes a danger to the environment, property, or persons. The commission or law enforcement officers that remove or relocate a vessel under this subsection shall be held harmless for all damages to the derelict vessel resulting from such actions, unless the damage results from gross negligence or a willful misconduct.



All costs incurred by the state, including costs owed to a third party, in the relocation or removal of a derelict vessel are recoverable against the vessel owner, and the Department of Legal Affairs has authority to represent the commission in any actions required to recover such costs (Fla. Stat. § 823.11(3)(b)). As provided in Fla. Stat. § 705.103(4), a person who neglects or refuses to pay such costs may not be issued a certificate of registration for such vessel or for any other vessel or motor vehicle until such costs have been paid. The removal and relocation of derelict vessels is also addressed under Fla. Stat. § 376.15, which has the same basic requirements as Fla. Stat. § 823.11.

Any contractor performing the relocation or removal activities at the direction of the State, pursuant to this section must be licensed in accordance with applicable United States Coast Guard regulations where required. They are also required to obtain and carry appropriate insurance to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions (Fla. Stat. § 823.11(3)(c)).

Pursuant to Fla. Stat. § 823.11(4), when a derelict vessel is found docked, grounded or beached on private property without the consent of the owner, the owner of the property may remove the vessel at the owners' expense 60 days after notification is given under Fla. Stat. § 328.17(5). The private property owner may not hinder any reasonable efforts of the vessel owner to remove the vessel prior to the 60 day notification limit. Under Fla. Stat. § 328.17(5) the notice shall include:

- 1) An itemized statement of the marina's claim, showing the sum due at the time of the notice and the date upon which the sum became due.
- 2) A description of the vessel.
- 3) A demand for payment.
- 4) A conspicuous statement that, unless the claim is paid within the time stated in the notice, the vessel will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place.
- 5) The name, street address, and telephone number of the marina that the owner or lienholder may contact to respond to the notice.

In addition, if a vessel is found to be abandoned by law enforcement officials on public property, they have the right to remove the property or notify the owner that the property is considered abandoned under Fla. Stat. § 705.103:

- 1) Whenever a law enforcement officer ascertains that an article of lost or abandoned property is present on public property and is of such nature that it can be easily removed, the officer shall take such article into custody and shall make a reasonable attempt to ascertain the rightful owner or lienholder pursuant to the provisions of this section.
- 2) Whenever a law enforcement officer ascertains that an article of lost or abandoned property 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.



If the owner does not claim the vessel within 90 days after the report is made, title to the vessel may be transferred to the finder using Florida’s abandoned property laws. Vessels that are declared as abandoned by private parties under the lost or abandoned property laws of Florida (Fla. Stat. § 705) are the responsibility of the finder, including all costs associated with the declaration and removal, if they gain title to the abandoned property as set forth under Fla. Stat. § 705.104. These costs are recoverable against the vessel owner if one has been identified (Fla. Stat. § 705.104(4)).

Under Florida Administrative Code authorized disposal sites for derelict vessels in Florida are limited to permitted artificial reef sites and landfill locations. The Division of Law Enforcement must approve any exceptions in writing (Fla. Admin. Code r. 68-1.003). For vessels taken to local landfills, local city health ordinances guide disposal requirements. In addition, the grantee must comply with all environmental permitting requirements from the Florida Department of Environmental Protection the U.S. Army Corps of Engineers in order to dispose of the vessel.

An exemption to derelict vessel removal permitting was written into Florida’s Administrative Code in October of 2013, which makes it no longer necessary for individuals or entities to request and obtain a permit to remove a derelict vessel from state waters, as long as best management practices are observed during removal activities, and no harm comes to the environment as a result of the removal (Fla. Admin. Code r. 62-330.051(5)(g)). If damage to the environment is possible, the project must be reviewed and permitted. Any failure to comply with the “no harm” clause could result in fines and or prosecution.

It is also illegal under Fla. Stat. § 376.16 to discharge pollutants from a derelict or abandoned vessel into state waters. This does not only apply to the removal but to any spill associated with the vessel, including abandonment and dereliction.

Certificate of Title and Vessel Registration

Pursuant to Fla. Stat. § 328.09(4), the Florida Department of Highway Safety and Motor Vehicles may not issue a certificate of title to any applicant for any vessel that has been deemed derelict by a law enforcement officer under Fla. Stat. § 823.11. A law enforcement officer must inform the Florida Department of Highway Safety and Motor Vehicles in writing the vessel’s derelict status and vessel title number or vessel identification number. The Florida Department of Highway Safety and Motor Vehicles may once again issue a certificate of title once a law enforcement officer has verified in writing that the vessel is no longer a derelict vessel.

According to Fla. Stat § 327.73(1)(g), any person cited for the operation of a vessel with an expired registration shall be charged with a noncriminal infraction, sited for the infraction, and will be sited to appear before a county court. A first or subsequent offense of Fla. Stat. § 328.72(13)(a), for a vessel registration expired 6 months or less, is a penalty up to a maximum of \$50. The first offense of Fla. Stat. § 328.72(13)(b), for a vessel registration expired 6 months or more, is a penalty up to a maximum of \$250. A second or subsequent offense of Fla. Stat. § 328.72(13)(b), is a penalty up to a maximum of \$500.

Differences between Commercial and Recreational Vessel Treatment

Fla. Stat. § 327.02(8) defines a “commercial vessel” as a vessel used as a place of business or a professional or other commercial enterprise.



Vessel Size Requirements or Limits

Florida does not impose size requirements or limits on the designation of abandoned or derelict vessels.

Funding Sources

Removal of derelict vessels under Florida Statutes (§ 823.11) may be funded by state grants provided by the Derelict Vessel Removal Grant Program and Fuel Tax Collection Trust Fund. The Fish and Wildlife Conservation Commission must also implement a plan for the procurement of any available federal disaster funds and use such funds for the removal of derelict vessels.

The Derelict Vessel Removal Grant Program, established under Fla. Stat. § 376.15, provides grants to local governments for the removal of derelict vessels from Florida waters. Funding from the state for this program, which is established under Fla. Stat. § 376.15, has been sporadic. Rules governing the program are in Chapter 68-1.003 of Florida Administration Code. Pursuant to Florida Statute § 376.11, the program is funded by the Florida Coastal Protection Trust Fund.

In the event monies are appropriated by the Legislature for the funding of the Derelict Vessel Removal Grant Program, the Commission's Division of Law Enforcement shall award said grants to local governments based on these criteria:

- 1) The degree to which the designated derelict vessels pose a threat to public health or safety, the environment, navigation or the aesthetic condition of the general vicinity within the jurisdiction of the grant applicant.
- 2) The total number of derelict vessels within the jurisdiction of the grant applicant.
- 3) The degree to which the designated derelict vessels will be used in the construction of permitted artificial reef sites.
- 4) The projected cost effectiveness of the grant applicant's proposed derelict vessel removal program.
- 5) The degree of commitment of the grant applicant to maintain coastal waters free of derelict vessels and its record for seeking legal action against those owners who abandon vessels in the waters of the state.
- 6) The timeliness and completeness of the grant application received from the applicant.

Only derelict vessels as defined in Fla. Stat. § 823.11(1) are eligible for removal with grant funds and only local state governments may apply. All derelict vessels must be designated and marked by a law enforcement officer as specified under Fla. Stat. § 327.70. Such designation and marking shall be considered made when the law enforcement officer completes a Derelict or Abandoned Vessel Report.

The Fuel Tax Collection Trust Fund of Florida is also required to provide a minimum of \$1.25 million dollars to fund local projects, which include derelict vessels removal projects (Fla. Stat. § 206.606(b)(1)). The money from this fund is targeted to fund projects in counties with less than 100,000 people and those with high boat activity. In addition, the Florida Boating Improvement Program provides funding through competitive grants for boating access projects and other boating-related activities, such as derelict vessel removal on coastal and/or inland waters of Florida. Eligible program participants include county governments, municipalities and other governmental entities of the State of Florida.



Lead State Agency

The Florida Fish and Wildlife Conservation Commission manages the derelict vessel program for the State of Florida.

Email: through website

Phone: 850-488-4676

Website: <http://myfwc.com/boating/waterway/derelict-vessels/>

Insurance Requirements for Vessels

Vessel/Boat insurance is not required by law in Florida.

Specific Location Factors, Limitations and Additional Information

The Florida Fish and Wildlife Conservation Commission only have the authority to remove derelict vessels from public waters. They do not have jurisdiction over abandoned or derelict vessels found on private property.

Prioritization Scheme

Derelict vessels that are public safety and navigational hazards have removal priority. Derelict vessels that pose an environmental hazard also receive removal priority after vessels that pose a public safety risk.

Legislation and Administrative Codes

The laws and administrative codes referenced in this document can be accessed from:

Florida Statutes (2015):

<http://www.lexisnexis.com/hottopics/gacode/Default.asp>

Florida Administrative Code (2015):

<https://www.flrules.org/>

These Legislative and Administrative Reviews are intended for informational purposes only. They are summaries and not meant to be legal references, and should not be used as such. See the official state statutes and administrative codes for current state laws and rules and regulations for any legal references.