

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 161
PROPOSED COMMITTEE SUBSTITUTE H161-PCS40173-BR-3

Short Title: Address Abandoned and Derelict Vessels.-AB

(Public)

Sponsors:

Referred to:

March 1, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO ADDRESS ABANDONED AND DERELICT VESSELS IN THE WATERS OF
3 THE STATE.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Subdivisions (1c), (1d), (1e), and (1f) of G.S. 75A-2 are recodified
6 as subdivisions (1f), (1g), (1h), and (1i) of that section.

7 **SECTION 1.(b)** G.S. 75A-2, as amended by subsection (a) of this section, reads as
8 rewritten:

9 **"§ 75A-2. Definitions.**

10 As used in this Chapter, unless the context clearly requires a different meaning:

11 (1) "Abandoned vessel" means any of the following:

12 a. A vessel left moored, anchored, stored, or docked in one location
13 unattended for more than 30 consecutive days in public lands or waters
14 of the State or on private property without written permission of the
15 property owner.

16 b. A vessel that is aground, beached, sunk, or adrift, and while in that
17 state is unattended for more than 30 consecutive days in public lands
18 or waters of the State or on private property without written permission
19 of the property owner.

20 c. a-A vessel that has been relinquished, left, or given up by the lawful
21 owner without the intention to later resume any right or interest in the
22 vessel.

23 The term does not include a vessel that is left by an owner or agent of the
24 owner with any person or business for the purpose of storage, maintenance, or
25 repair and that is not subsequently reclaimed.

26 ...

27 (1c) "Days" means calendar days.

28 (1d) "Declared emergency" means an emergency, as defined in G.S. 166A-19.3,
29 declared by one of the authorities set out in G.S. 166A-19.20 or
30 G.S. 155A-19.22 for the area where an abandoned or derelict vessel is located.

31 (1e) "Derelict vessel" means a vessel left unattended and in a wrecked, junked,
32 sunk, or substantially damaged or dismantled condition, such that the
33 condition may affect the seaworthiness of the vessel.

34 ...

35 (4b) "Unattended" means that the owner or operator of the vessel is not aboard or
36 in the immediate vicinity of the vessel.



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1 ...
2 (5a) "Vessel emergency" means a condition, incident, or accident on a vessel that
3 requires the operators and passengers of the vessel to leave it unattended for
4 their own safety.

5"

6 **SECTION 2.** Chapter 75A of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 5.

9 "Abandoned and Derelict Vessels.

10 **"§ 75A-50. Authority.**

11 (a) Scope. – This Article shall apply to all waters of this State and to public and private
12 land within the State.

13 (b) Powers of Law Enforcement Officers. – In addition to the enforcement powers set
14 forth in G.S. 75A-17, wildlife protectors or other law enforcement officers with general
15 enforcement jurisdiction are authorized to seize, tow, remove, impound, or relocate any vessel
16 from waters of this State or from public and private land as set forth in this Article.

17 (c) Powers of Commission. – The Commission may use staff, equipment, and material
18 under its control or provided by any cooperating federal or State agency or unit of local
19 government; may authorize or contract with any private agent or contractor it deems appropriate;
20 and may authorize or contract with any federal or State agency or unit of local government for
21 the removal, relocation, storage, or disposal of an abandoned or derelict vessel and restoration of
22 the affected area.

23 (d) Compliance with Applicable Law. – The method of removal, relocation, storage,
24 impoundment, or disposal of the abandoned or derelict vessel, whether by the owner, a third
25 party, the Commission, a unit of local government, or the State, shall comply with all applicable
26 federal and State laws.

27 (e) Cost Recovery. – The Commission may recover from the vessel owner all reasonable
28 costs incurred by the Commission, including costs owed to a third party, for the towing, removal,
29 relocation, abatement, storage, impoundment, or disposal of an abandoned or derelict vessel.

30 (f) Limit on Liability. – The Commission, any law enforcement officers with general
31 enforcement jurisdiction, or any contractor or employee or agent of the Commission acting under
32 authority granted by this Article to relocate, remove, or cause to be relocated or removed, an
33 abandoned or derelict vessel from waters of the State, public land, or private land shall not be
34 held liable in any claim or action seeking damages for any damage to the abandoned or derelict
35 vessel resulting from such relocation or removal, unless the damage is a result of gross
36 negligence, recklessness, or willful misconduct.

37 (g) Relation to Existing Local Acts. – The Commission and any contractors or partners
38 working for or with the Commission shall not be subject to any requirements of existing local
39 acts pertaining to the removal of abandoned or derelict vessels to the extent those requirements
40 conflict or overlap with this Article.

41 (h) Exception for Historic Shipwrecks. – This Article does not apply to shipwrecks,
42 vessels, cargoes, tackle, and underwater archaeological artifacts that have been in place on the
43 bottom of navigable waters of this State and unclaimed for more than 10 years, which are under
44 the ownership and custody of the State through the Department of Natural and Cultural Resources
45 (DNCR) pursuant to G.S. 121-22 and G.S. 121-23. Vessels under DNCR's custodial control as
46 described in this subsection shall therefore be salvaged only in accordance with Article 3 of
47 Chapter 121 of the General Statutes.

48 (i) Abandoned and Derelict Vessels on Private Land. – Prior to removing any abandoned
49 or derelict vessel from private land, the Commission shall obtain written consent from the
50 property owner in a form and manner as the Commission may specify.

51 **"§ 75A-51. Waterway Safety and Access Fund.**

1 (a) Fund Established. – The Waterway Safety and Access Fund is established as a special
2 revenue fund administered by the Wildlife Resources Commission. The Fund consists of General
3 Fund appropriations, any gifts or grants made to the Fund by non-State entities, and any other
4 revenues specifically allocated to the Fund by an act of the General Assembly. Funds credited to
5 the Fund shall not be considered as cash balance under G.S. 143-249.1.

6 (b) Uses of Fund. – Revenue in the Fund may only be used for the following purposes:

7 (1) Removal, relocation, abatement, storage, or disposal of abandoned and
8 derelict vessels in waters of the State and on public or private land.

9 (2) The State match required for any of the following:

10 a. Activities under the federal National Response Framework's
11 Emergency Support Function for Public Works and Engineering, in
12 instances where the State Emergency Response and Disaster Relief
13 Fund is unavailable or insufficiently funded.

14 b. Other grants for the removal of abandoned or derelict vessels from
15 federal, State, or local governments or from nonprofit organizations.

16 c. Any other programs funded as a result of or in response to a declared
17 natural disaster.

18 (3) Waterway maintenance.

19 (4) Navigational hazard mitigation and abatement.

20 (c) Use of Fund Supplemental to Non-State Funds. – The General Assembly finds that
21 funds for the removal of abandoned and derelict vessels should be primarily funded by the unit
22 of local government with jurisdiction over the site of the abandoned or derelict vessel. Though
23 no local match is required for disbursements from the Fund, the Commission shall prioritize
24 vessel removal projects under this Article that are matched with funds provided by a local
25 government or nonprofit organization.

26 (d) Relation to Other Commission Funds. – The balance of funds in the Waterway Safety
27 and Access Fund shall not take the place of or be used to supplant any other State appropriations,
28 program, or agency receipts providing funds or disbursements to the Wildlife Resources Fund or
29 the Boating Account.

30 (e) Report. – The Commission shall report annually no later than March 1 regarding
31 projects funded under this section to the Fiscal Research Division and the Joint Legislative
32 Oversight Committee on Agriculture and Natural and Economic Resources. The report shall
33 include project type, project location, brief project description, and amount of funding used.

34 **"§ 75A-52. Abandoned vessels.**

35 (a) Prohibition. – It shall be unlawful to cause a vessel to become abandoned in waters
36 of the State or on public, private, or submerged land without permission of the property owner.

37 (b) Exception. – The prohibition of subsection (a) of this section does not apply to persons
38 who abandon a vessel due to a vessel emergency. Persons who abandon a vessel because of a
39 vessel emergency shall immediately notify the Commission or the United States Coast Guard
40 after the abandonment and must remove the vessel within 30 days.

41 (c) Deemed Allowed 30-Day Period. – For the first 30 days that a vessel is aground,
42 beached, moored, anchored, stored, docked, or adrift in waters of the State, it shall be deemed to
43 have written permission for provisioning, repairs, tourism, or recreational use, unless such
44 permission is revoked in writing for any of the following reasons:

45 (1) The vessel has dragged anchor or is moored in an unauthorized area or in a
46 marked channel.

47 (2) The vessel displays no evidence of current and valid State, federal, or foreign
48 registration, or when asked by the Commission, the owner or operator of the
49 vessel fails to present a current and valid registration or other official
50 documentation of ownership upon which he or she is named as the owner or
51 operator.

1 (d) Notice Required. – Upon identifying an abandoned vessel, the Commission shall post
2 a notice on board the vessel and shall attempt to notify the owner by certified mail or personal
3 delivery of notice using information provided to the registering State or federal agency during
4 official vessel registration. The notice shall include all of the following:

5 (1) A description of the vessel and its current location.

6 (2) That the vessel shall be removed from waters or land and the affected
7 environment of the area surrounding the vessel restored within 30 days of the
8 date the notice is posted aboard the vessel.

9 (3) That failure of the owner to meet the deadline for removal will result in the
10 vessel being deemed abandoned, subject the owner to civil or criminal
11 penalties, and that all costs associated with publication of notice, removal and
12 disposition of the vessel, and environmental restoration of the affected area
13 surrounding the vessel will be the responsibility of the owner.

14 (e) Immediate Abatement Authorized. – When necessary, the Commission may act,
15 authorize, or join in action with other agencies to immediately determine and abate any unsafe
16 or environmentally hazardous conditions of unattended vessels and, after expiration of the 30-day
17 notice period set forth in subsection (d) of this section, to tow, relocate, or remove any vessel or
18 take any other action reasonably necessary at the owner's expense.

19 (f) Exception for Declared Emergency. – In declared emergencies, the notification
20 requirement of subsection (c) above may be satisfied by telephone or email communication from
21 federal, State, or local agencies, and the 30-day deadline specified in subdivision (c)(2) of this
22 section shall be 15 days.

23 (g) Costs Recoverable. – All costs incurred by the Commission or other agency for the
24 towing, relocation, removal, abatement, impoundment, or storage of a vessel, including costs
25 owed to a third party, shall be recoverable against the vessel owner. Any vessel towed, removed,
26 relocated, or impounded shall be subject to a lien pursuant to Chapter 44A of the General Statutes.
27 **§ 75A-53. Derelict vessels.**

28 (a) Notice. – Upon identifying a derelict vessel, the Commission shall post a notice on
29 board the vessel and shall attempt to notify the owner by certified mail or personal delivery of
30 notice, using information provided to the registering State or federal agency during official vessel
31 registration. The notice shall include all of the following:

32 (1) The date the vessel was identified.

33 (2) A description of the vessel.

34 (3) The current location of the vessel.

35 (4) All known issues or conditions that must be corrected to restore the
36 seaworthiness of the vessel.

37 (5) A directive that the owner (i) respond to the Commission within 30 days from
38 the date the notice is served, (ii) either correct the identified issues or
39 conditions or remove the vessel from waters of the State or from the public or
40 private land where it rests, and (iii) abate any environmental impacts in the
41 area surrounding the vessel.

42 (6) That failure to meet the 30-day deadline will result in the vessel being deemed
43 abandoned and subject the owner to criminal penalties and liability for all
44 costs associated with removal and disposition of the vessel and abatement of
45 environmental impacts in the area surrounding the vessel.

46 (b) Exception for Declared Emergencies. – In declared emergencies, when environmental
47 hazards exist, the notification requirement of subsection (a) of this section may be satisfied by
48 telephone or email communication from federal, State, or local agencies, and the 30-day deadline
49 specified in subsection (a) of this section shall be 15 days.

50 (c) Extension. – The Commission may approve one written request from the owner for
51 an extension of the 15- or 30-day deadline for no more than an additional 30 days.

1 (d) Failure to Respond to Notice. – Failure of the owner to respond to the notice provided
2 for in subsection (a) of this section and to correct the issues or conditions or remove the vessel
3 from the waters of the State, public, or private lands within the deadline specified in the notice
4 shall cause the vessel to be deemed abandoned and disposed of pursuant to G.S. 75A-54.

5 **"§ 75A-54. Disposition and disposal.**

6 (a) Forfeiture. – An abandoned or derelict vessel, together with all cargo, tackle, and
7 equipment, that remains unclaimed 30 days after the notices required by this Article shall be
8 deemed forfeited, as set forth in G.S. 14-399(g).

9 (b) Removal Costs Constitute a Lien. – Costs incurred by the State for towing, removal,
10 and storage charges; accrued civil fines; and environmental restoration costs related to the vessel
11 constitute a lien enforceable by sale of the vessel together with all cargo, tackle, and equipment
12 as set forth in Chapter 44A of the General Statutes. Proceeds remaining after satisfaction of the
13 lien, if any, shall be deposited into the Waterway Safety and Access Fund established by
14 G.S. 75A-51.

15 (c) Disposal. – Any vessel, cargo, tackle, or equipment remaining unsold after being
16 offered at public sale may be disposed of at any suitable solid waste facility permitted for such
17 waste."

18 **SECTION 3.** This act becomes effective July 1, 2021.