

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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HOUSE BILL 161

Short Title: Address Abandoned and Derelict Vessels.-AB (Public)

Sponsors: Representatives Hanig, McElraft, Iler, and Shepard (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Marine Resources and Aqua Culture, if favorable, Rules, Calendar, and Operations of the House

March 1, 2021

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

The General Assembly of North Carolina enacts:

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

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

"§ 75A-2. Definitions.

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

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

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

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

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

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

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(1c) "Days" means calendar days.

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

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

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

4 **"§ 75A-51. Waterway Safety and Access Fund.**

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

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

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

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

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

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

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

22 (3) Waterway maintenance.

23 (4) Navigational hazard mitigation and abatement.

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

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

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

38 **"§ 75A-52. Abandoned vessels.**

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

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

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

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

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

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

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

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

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

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

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

28 (g) Costs Recoverable. – All costs incurred by the Commission or other agency for the
29 towing, relocation, removal, abatement, impoundment, or storage of a vessel, including costs
30 owed to a third party, shall be recoverable against the vessel owner. Any vessel towed, removed,
31 relocated, or impounded shall be subject to a lien pursuant to Chapter 44A of the General Statutes.
32 "§ 75A-53. Derelict vessels.

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

37 (1) The date the vessel was identified.

38 (2) A description of the vessel.

39 (3) The current location of the vessel.

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

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

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

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

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

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

11 **"§ 75A-54. Disposition and disposal.**

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

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

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

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