

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1625*
Committee Substitute Favorable 6/22/00

Short Title: Removal of Abandoned Vessels.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A PILOT PROGRAM FOR THE REMOVAL OF
3 ABANDONED VESSELS IN THE NEUSE RIVER BASIN.

4 The General Assembly of North Carolina enacts:

5 Section 1.(a) As used in this act:

6 (1) "Abandoned vessel" means a vessel that, for more than 90 consecutive
7 days, is left either unattended or in a wrecked, junked, or substantially
8 dismantled condition in coastal fishing waters, as defined in G.S. 113-
9 129, or upon submerged lands, as defined in G.S. 146-64.

10 (2) "Department" means the Department of Environment and Natural
11 Resources.

12 (3) "Vessel" means any watercraft or structure, including seaplanes, used or
13 capable of being used as a means of transportation or habitation on or
14 under the water. "Vessel" does not include any shipwreck, vessel, cargo,
15 tackle, or underwater archaeological artifact that is within the exclusive
16 dominion and control of the State pursuant to G.S. 121-22 or to artificial
17 reefs managed by the Department.

1 Section 1.(b) The Department shall implement a pilot program for the removal of
2 abandoned vessels in the Neuse River Basin, as defined in G.S. 143-215.22G, as provided
3 in this act during the period 1 July 2000 through 1 January 2003.

4 Section 1.(c) The Department may remove an abandoned vessel as provided in
5 this act. The Department shall notify the owner of record of a vessel, as provided in Rule
6 4 of the Rules of Civil Procedure, that the Department has determined that the vessel is
7 abandoned. The notice shall state that unless the owner submits a plan for the removal of
8 the abandoned vessel and for the restoration of the affected area within 15 days of the
9 date that notice is served on the owner and removes the abandoned vessel and restores the
10 affected area within 45 days of the date that notice is served, the Department may remove
11 the abandoned vessel, restore the affected area, and charge the costs of removal and
12 restoration to the owner. If the owner of the abandoned vessel cannot be determined, the
13 Department shall give notice by publication as provided in Rule 4 of the Rules of Civil
14 Procedure, G.S. 1A-1, except that, if the Department determines that the value of the
15 abandoned vessel is less than two hundred fifty dollars (\$250.00), the Department may
16 publish the notice only once.

17 Section 1.(d) If the owner of the abandoned vessel does not remove the abandoned
18 vessel and restore the affected area within 45 days of the date on which notice is served,
19 the Department may remove the abandoned vessel. The Department may use staff,
20 equipment, and material under its control or provided by any cooperating federal, State,
21 or local government or agency; may authorize or contract with any private agent or
22 contractor it deems appropriate; or may authorize or contract with any federal, State, or
23 local government or agency for the removal, storage, or disposal of an abandoned vessel
24 and restoration of the affected area. The method of removal, storage, and disposal of the
25 abandoned vessel, whether by the owner, a third party, or the State, must comply with all
26 applicable federal and State laws, regulations, and rules.

27 Section 1.(e) The owner of an abandoned vessel is liable for all costs incurred
28 by or on behalf of the State to remove, store, and dispose of the abandoned vessel and to
29 restore the affected area. The Department may request the Attorney General to institute a
30 civil action in the superior court of the county where the vessel is located, where the
31 owner of the vessel resides, or where the owner has his or her principal place of business
32 to recover the amount of these costs.

33 Section 1.(f) The Department is authorized to sell or dispose of an abandoned
34 vessel and its cargo, tackle, and equipment as provided in Article 4 of Chapter 116B of
35 the General Statutes. The net proceeds of the sale shall be used to reimburse the State for
36 costs incurred to remove, store, and dispose of the abandoned vessel and to restore the
37 affected area. Any excess proceeds shall be refunded to the owner or, if the owner cannot
38 be identified or located shall be transferred to the Escheat Fund administered under
39 Article 1 of Chapter 116B of the General Statutes.

40 Section 1.(g) This act shall not be construed to limit any other civil or criminal
41 action or remedy that may be available to the State, any other agency of government, or
42 any person.

1 Section 2. The Department shall submit an interim report on the
2 implementation of this act to the Environmental Review Commission no later than 1
3 January 2002 and shall submit a final report no later than 1 January 2003. The reports
4 shall include the number of abandoned vessels removed under the pilot program, the
5 removal process for each abandoned vessel, the cost to the State for each removal, and
6 the amount of funds recovered for each removal. The report due on 1 January 2003 shall
7 also include recommendations as to whether the pilot program should be extended,
8 expanded, modified, or made permanent.

9 Section 3. This act shall not be construed to obligate the General Assembly to
10 appropriate funds to implement the provisions of this act. The Department is authorized
11 to implement this act using funds otherwise appropriated or available to the Department.

12 Section 4. This act becomes effective 1 July 2000 and expires 1 January 2003.
13 An action to recover costs incurred pursuant to this act shall not abate due to the
14 expiration of this act.