



SPONSOR: Sen. Bunting & Rep. Schwartzkopf ;  
Sen. Simpson ; Rep. Hocker  
Sen. Still

DELAWARE STATE SENATE  
144th GENERAL ASSEMBLY

SENATE BILL NO. 70

AN ACT TO AMEND TITLE 23 OF THE DELAWARE CODE RELATING TO ADRIFT OR ABANDONED VESSELS  
AND CERTAIN PROPERTY RELATING TO VESSELS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend §1303, Title 23 of the Delaware Code by striking §1303 in its entirety and by substituting in lieu  
2 thereof the following:

3 "§1303. Vessels adrift or abandoned on public property and lost, abandoned, or stolen property relating to vessels.

4 (a) A person finding or having in his or her possession a vessel that was adrift or abandoned, or any lost,  
5 abandoned, or stolen property relating to a vessel, shall turn the vessel or property over to the Department of Natural  
6 Resources and Environmental Control for disposition pursuant to subsection (b) of this section.

7 (b) (1) Notwithstanding §8026 of Title 29, whenever a vessel or property relating to a vessel comes into the  
8 custody of the Department and the person entitled to possession of the vessel or property cannot be  
9 located and fails to claim possession for a period of 6 months, the Secretary of the Department may  
10 dispose of the vessel or property at public sale at a place which is convenient and accessible to the  
11 public, provided that the time, place, and terms of the sale, together with a description of the vessel  
12 or property, are published in 1 or more daily newspapers in the State at least once each week for 2  
13 successive weeks prior to the sale. The Secretary shall, in the Secretary's discretion, fix the terms of  
14 sale and may employ an auctioneer to conduct the sale. If the vessel or property is of a kind for  
15 which a certificate of title or registration has been or should have been issued by the Department, the  
16 Secretary shall cause notice by registered mail to be sent at least 10 days before the sale to the owner  
17 and lienholder, if any, shown on the records of the Department, or to the person entitled to possession  
18 of the vessel or property, if the person's address is known or if it can be ascertained by the exercise of  
19 reasonable diligence. If an address cannot be ascertained, then notice under this paragraph is not  
20 required to be given.

21 (2) Notice pursuant to this subsection is not required when an abandoned vessel or property relating to a  
22 vessel is removed in an emergency situation which creates an actual or potential hazard to  
23 navigation.

24 (c) The proceeds from any vessel or property relating to a vessel sold pursuant to subsection (b) of this section  
25 must be placed in the General Fund, but only after any liens on the vessel or property are paid and any expenses incurred by  
26 the Department or by the person who turned over the vessel or property to the Department are paid. Reimbursable expenses  
27 include all direct expenses associated with the seizure, removal, transportation, preservation, storage, and disposal of a  
28 vessel or property relating to a vessel.

29 (d) For purposes of this chapter, unless the context otherwise requires:

30 (1) 'abandoned vessel' means (i) a vessel that has been left illegally or has remained without permission for  
31 more than 30 days on public property, including public marinas, public docks, and public boatyards; or  
32 (ii) a vessel that has been found adrift or unattended in or upon the public waters or public subaqueous  
33 land of the State, and is found in a condition of disrepair that constitutes a hazard or obstruction to the  
34 use of public waters or subaqueous land of the State or that presents a potential or actual health or  
35 environment hazard;

36 (2) 'Department' means the Department of Natural Resources and Environmental Control;

37 (3) 'vessel' means every description of watercraft, other than a seaplane, used or capable of being used as a  
38 means of transportation on water or ice.

39 (e) The Department may seize, remove, transport, preserve, store, and dispose of any abandoned vessel or  
40 property relating to a vessel. For this purpose, the Department may use its own personnel, equipment, and facilities or use  
41 other persons, equipment, and facilities. The Department may not be held liable for any damage to an abandoned vessel or  
42 property relating to a vessel which may occur during seizure, removal, transportation, preservation, storage, or disposition.

43 (f) If an abandoned vessel or property relating to a vessel is in such a condition of disrepair that the Department  
44 cannot remove it intact, the Department may dispose of it in whatever manner is reasonable without providing the notice  
45 required under subsection (b)(1) of this section.

46 (g) The Department may delegate to any local jurisdiction the Department's authority under this chapter to  
47 seize, remove, transport, preserve, store, and dispose of abandoned vessels and property relating to a vessel.

48 (h) Sections 1303 and 1304 of this chapter do not apply to archaeological resources, including shipwrecks  
49 embedded in or located on the State's subaqueous lands, which are regulated by the Department of State, Division of  
50 Historical and Cultural Affairs pursuant to Chapter 53 of Title 7."

51 Section 2. Amend Chapter 13, Title 23 of the Delaware Code by adding thereto a new section to read:

52 "§1304. Vessels and property relating to vessels adrift or abandoned on private property.

53 (a) Abandoned vessels and property relating to vessels on the strand on private property, such as private waters,  
54 private subaqueous land, private marinas, private docks, and private boatyards, may be seized, removed, transported,  
55 preserved, stored, and disposed of by the Department pursuant to the provisions of this chapter upon written request to the  
56 Department by the private property owner, if the Department receives funding to provide such a service.

57 (b) Subsection (a) of this section does not apply to:

58 (1) a vessel whose owner has not complied with the terms of a financial agreement to pay docking,  
59 mooring, storage, or similar fees at a private marina, dock, boatyard, or other nautical facility, yet  
60 allows the vessel to remain at the marina, dock, boatyard, or other facility;

61 (2) a vessel whose owner trespasses on private property by leaving his or her vessel in another person's  
62 boat slip or dockspace without the permission of the other person."

63 Section 3. Amend Chapter 13, Title 23 of the Delaware Code by adding thereto a new section to read:

64 "§1305. Penalties; jurisdiction.

65 A person who abandons a vessel or property relating to a vessel on public or private property for more than 30  
66 days or who violates any other provision of §1303 or §1304 of this chapter is subject to a civil penalty of not less than \$100  
67 nor more than \$500 for each offense. In addition, the sentencing official shall order the person to reimburse the Department  
68 for all expenses incurred by the Department in the enforcement of §1303 and §1304 of this chapter, including seizure,  
69 removal, transportation, preservation, storage, and disposal expenses of or for abandoned vessels and for property relating  
70 to a vessel. Superior Court has jurisdiction over violations of this chapter."

#### SYNOPSIS

This Act provides a mechanism by which an abandoned vessel or property relating to a vessel may be legally removed from public waters or subaqueous lands by the Department of Natural Resources and Environmental Control (DNREC). The removal by the Department of certain abandoned vessels or property relating to a vessel from private marinas, privately owned docks or slips, private waters, or private subaqueous lands may be performed by the Department, but only upon the written request of the private property owner. However, a vessel may not be removed by DNREC from private property if the vessel's owner is in arrearage for dock rent or similar fees or if the vessel's owner leaves the vessel in another person's boat slip or dock space without permission. These circumstances may be resolved through civil or criminal court proceedings.

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