



# House of Representatives

General Assembly

**File No. 45**

February Session, 2014

Substitute House Bill No. 5309

*House of Representatives, March 19, 2014*

The Committee on Environment reported through REP. GENTILE of the 104th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING ABANDONED VESSELS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 15-140c of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective January 1, 2015*):

3 (a) No person shall abandon any vessel on the waters of this state or  
4 upon property other than his own without the consent of the owner  
5 thereof. For the purposes of this section, a vessel shall be presumed to  
6 be abandoned if: [left] (1) Left on the waters of this state not moored,  
7 anchored or made fast to the shore and unattended for a period greater  
8 than twenty-four hours, [or] (2) left upon property other than his own  
9 without the consent of said property owner for a period greater than  
10 twenty-four hours, [. The last owner of record of a vessel at the time it  
11 was abandoned shall be presumed to be the person who abandoned  
12 the same or caused or procured its abandonment] except in the case  
13 where a tenant leaves a vessel behind on property such tenant  
14 formerly rented, leased or occupied, in which case such vessel shall be  
15 presumed to be abandoned ninety days after termination of occupancy

16 by such tenant, (3) left at a mooring for more than sixty days since  
17 receipt of the last full payment, (4) left at a storage facility, repair  
18 facility or other commercial facility for more than one year since  
19 receipt of the last full payment by such facility, (5) found during a  
20 declared emergency pursuant to chapter 517: (A) In a public right-of-  
21 way and that hinders access to a public right-of-way or hinders access  
22 to public utilities, or (B) in a location or condition that creates an  
23 imminent danger to public safety or to the environment, or (6) left  
24 upon the waters of the state for more than twenty-four hours and such  
25 vessel is not properly registered.

26 [(b) Any officer authorized to enforce the provisions of this chapter  
27 upon discovery of any vessel apparently abandoned, whether situated  
28 on or out of the waters of the state, may take such vessel into his  
29 custody and may cause the same to be taken to and stored in a suitable  
30 place. There shall be no liability attached to such officer for any  
31 damages to such vessel while in his custody. All charges necessarily  
32 incurred by such officer in the performance of such duty shall be a lien  
33 upon such vessel. The owner or keeper of any marina or other place  
34 where such vessel is stored shall have a lien upon the same for his  
35 storage charges and if such vessel has been stored for a period of not  
36 less than sixty days, such owner or keeper may sell the same for  
37 storage charges owed thereon, provided a notice of intent to sell shall  
38 be sent to the Commissioner of Energy and Environmental Protection,  
39 the Commissioner of Motor Vehicles, the Commissioner of  
40 Transportation and the owner of such vessel, if known, five days  
41 before the sale of such vessel. If the owner is unknown, such sale shall  
42 be advertised in a newspaper published or having a circulation in the  
43 town where such marina or other place is located three times,  
44 commencing at least five days before the sale. The proceeds of such  
45 sale, after deducting the amount due such marina owner or keeper and  
46 all expenses of the officer who placed such vessel in storage, shall be  
47 paid to the owner of such vessel or his legal representatives, if claimed  
48 by him or them at any time within one year from the date of such sale.  
49 If such balance is not claimed within said period, it shall escheat to the  
50 state.]

51 (b) The last owner of record of a vessel, as recorded with the  
52 governmental entity that issued such registration, shall be presumed to  
53 be the person who abandoned or caused the abandonment of such  
54 vessel, except where such person provides the Commissioner of  
55 Energy and Environmental Protection with sufficient evidence of the  
56 transfer of ownership of such vessel to another person prior to the  
57 abandonment of such vessel. For the purpose of this subsection, a  
58 vessel that is documented with the United States Coast Guard under  
59 maritime or admiralty law shall be considered to be registered with the  
60 United States Coast Guard.

61 (c) Only a party with standing or such party's designated agent, as  
62 identified in writing by such party with standing on a notification of  
63 abandoned vessel, may initiate the abandoned vessel procedures  
64 described in this section. For the purpose of this section, the following  
65 parties shall have standing:

66 (1) The owner of the property where the abandoned vessel came to  
67 rest or to which the abandoned vessel was made fast, unless such  
68 vessel is given over to a lienholder, person with a bona fide security  
69 interest, harbormaster, police department, municipality or agent of the  
70 state and such vessel is removed from said property;

71 (2) Any harbormaster, police department, municipality or agent of  
72 the state that agrees to accept or process an abandoned vessel;

73 (3) Any emergency responder, including a responding utility, or any  
74 person or firm contracted by a governmental agency to provide  
75 emergency services and responding to a bona fide emergency in a  
76 declared emergency pursuant to chapter 517 or the aftermath of a  
77 declared emergency; and

78 (4) Any licensed motor vehicle dealer who is authorized to tow or  
79 transport, in accordance with section 14-66, or any professional marine  
80 salvager when such dealer or salvager is engaged by any of the  
81 persons described in subdivisions (1) to (3), inclusive, of this  
82 subsection.

83 (d) Any party with standing may seek full cost recovery from the  
84 person who abandoned the vessel for any unpaid expense incurred as  
85 a result of, or incidental to, such vessel abandonment. Any person who  
86 acts in good faith and without malicious intent in the processing,  
87 storage or movement of any abandoned vessel pursuant to this section  
88 shall be immune from civil liability for damage to such vessel.

89 (e) The Commissioner of Energy and Environmental Protection shall  
90 notify the Secretary of the State by electronic mail of the receipt of any  
91 notice of abandoned vessel for any abandoned vessel currently or  
92 previously registered in this state. Such notification shall include a  
93 description of the abandoned vessel and shall identify the name of the  
94 owner of the vessel, as recorded with the Department of Motor  
95 Vehicles, if known. The Secretary of the State shall inform the  
96 Commissioner of Energy and Environmental Protection, not later than  
97 ten business days after receipt of such notification, of any security  
98 interest or commercial lien against such abandoned vessel and the  
99 Secretary shall notify all such lienholders and persons with a bona fide  
100 security interest against the vessel that such vessel is deemed  
101 abandoned. If such abandoned vessel was documented in accordance  
102 with the maritime or admiralty laws of the United States, the  
103 Commissioner of Energy and Environmental Protection shall make  
104 reasonable efforts to determine whether any lien or bona fide security  
105 interest exists against such abandoned vessel and shall make  
106 reasonable attempts to notify all lienholders and persons with a bona  
107 fide security interest of the status and location of the abandoned  
108 vessel.

109 (f) (1) Any party with a lien or person with a bona fide security  
110 interest against an abandoned vessel, as filed with the Secretary of the  
111 State, may seek a writ of attachment, in accordance with the provisions  
112 of section 49-55d, at such party's or person's own expense and not later  
113 than the issuance of a notice of assumed ownership to such party or  
114 person by the Commissioner of Energy and Environmental Protection.  
115 If such party or person fails to seek such writ of attachment, such party  
116 or person shall be deemed to have discharged such lien or bona fide

117 security interest and the Secretary of the State shall record such  
118 discharge upon notification by the Commissioner of Energy and  
119 Environmental Protection that a notice of assumed ownership was  
120 issued to the party with standing.

121 (2) Any party with a lien or person with a bona fide security interest  
122 against an abandoned vessel as filed with an agency of the United  
123 States may seek a writ of attachment in accordance with the provisions  
124 of section 49-55d.

125 (3) Any lienholder or person with a bona fide security interest may  
126 request that the Commissioner of Energy and Environmental  
127 Protection suspend the abandoned vessel procedures pursuant to  
128 subsection (h) of this section for the purpose of arranging for the  
129 removal, transport or storage of an abandoned vessel.

130 (4) Any party with a lien against the vessel or person with a bona  
131 fide security interest in the vessel who takes an abandoned vessel into  
132 custody shall be liable to the applicable party with standing for any  
133 damage incurred to the vessel during the removal of such abandoned  
134 vessel.

135 (5) Any abandoned vessel, once in the custody of a lienholder or  
136 person with a bona fide security interest or an agent of a lienholder or  
137 such person, shall no longer be deemed to be an abandoned vessel and  
138 shall otherwise be processed pursuant to chapter 847.

139 (g) In the event an abandoned vessel is registered in another state,  
140 the Commissioner of Energy and Environmental Protection shall notify  
141 the registering agency and any agency of such state that is responsible  
142 for recording liens and security interests, by electronic mail, of such  
143 vessel's abandonment and shall allow such agencies fifteen business  
144 days to return information regarding the owner of record of such  
145 vessel and any person who registered or recorded a lien or security  
146 interest against such vessel or to otherwise intervene in the abandoned  
147 vessel procedures described in this section. If such agencies identify  
148 any lienholder or person with a bona fide security interest, the

149 commissioner shall make reasonable attempts to notify such lienholder  
150 or person. If such registering agency does not provide contact  
151 information or otherwise intervene in such procedures not later than  
152 fifteen business days after receipt of such notification, any further  
153 obligation to identify or contact the last owner of record, lienholder or  
154 person with a bona fide security interest shall be considered to be  
155 waived, unless the abandoned vessel is documented according to the  
156 maritime or admiralty laws of the United States, in which case the  
157 commissioner may use the information contained in such  
158 documentation to identify the last owner of record.

159 (h) The Commissioner of Energy and Environmental Protection  
160 shall establish the following online process for the disposition of  
161 abandoned vessels. Such process shall apply, in its entirety, only to  
162 those abandoned vessels that are not documented according to the  
163 maritime or admiralty laws of the United States or for which such  
164 documentation is expired or cancelled. The provisions of this  
165 subsection shall not apply to vessels that are documented according to  
166 the maritime or admiralty laws of the United States except the  
167 provisions of subdivisions (1) to (5), inclusive, of this subsection.

168 (1) The party with standing shall file a notarized notice of  
169 abandoned vessel with the Commissioner of Energy and  
170 Environmental Protection in person, by mail or by paid delivery  
171 service. Such filing shall be on forms as prescribed by the  
172 commissioner. The fee for filing such notice shall be twenty dollars.

173 (2) Upon receipt of any such filing, the commissioner shall  
174 determine whether such vessel is reported as stolen or missing. If the  
175 vessel was reported as stolen or missing, the police department with  
176 whom the report was filed, after notification by the commissioner,  
177 shall take such vessel into custody or arrange for the return of such  
178 vessel to the owner of such vessel at the expense of the person who  
179 abandoned such vessel.

180 (3) The commissioner shall post information regarding the report of  
181 the abandoned vessel online, on a publicly accessible abandoned vessel

182 Internet web site. Such information shall be sufficient to identify the  
183 abandoned vessel and shall contain, at a minimum and when such  
184 information is known, the registration number of such vessel, the make  
185 and model of such vessel, the length and color of such vessel, the town  
186 and water body nearest to the location of such vessel abandonment  
187 and instructions for contacting the commissioner.

188 (4) The commissioner shall send a certified letter to the person who  
189 abandoned such vessel, provided such person can be identified and, in  
190 such letter identify the abandoned vessel, notify the recipient of the  
191 consequences of abandonment under the law and provide instructions  
192 regarding retrieval of such vessel.

193 (5) The commissioner shall provide to the party with standing a  
194 water resistant adhesive label advising that the subject vessel is being  
195 processed pursuant to the provisions of this section and that contains  
196 instructions on how to contact the commissioner in order to acquire  
197 more information or intervene in such procedures. The party with  
198 standing shall immediately affix the label to the abandoned vessel in a  
199 prominent location in such a manner as to be visible to an approaching  
200 party.

201 (6) A forty-five-day abandoned vessel period shall commence  
202 beginning on the date of the first attempt to deliver the certified letter  
203 described in subdivision (4) of this subsection. In any case in which a  
204 vessel is not registered, such period shall begin when the  
205 commissioner posts information regarding the abandoned vessel on  
206 the Internet web site described in subdivision (3) of this subsection.  
207 The commissioner may suspend such abandoned vessel period for not  
208 more than six months for just cause, provided the commissioner shall  
209 state, in writing, for publication on such abandoned vessel Internet  
210 web site described in subdivision (3) of this subsection, the reason for  
211 such suspension and the elements necessary to resume the abandoned  
212 vessel period.

213 (7) On the day following the expiration of the abandoned vessel  
214 period, if the person who abandoned such vessel did not contact the

215 commissioner or otherwise failed to remove such abandoned vessel,  
216 the commissioner shall issue a notice of assumed ownership, by  
217 certified mail, to the party with standing and provide a copy of the  
218 notice to the Commissioner of Motor Vehicles by electronic mail. If  
219 such abandoned vessel is the subject of a commercial lien, as filed with  
220 the Secretary of the State, the Commissioner of Energy and  
221 Environmental Protection shall send a copy of such notice of assumed  
222 ownership, by electronic mail, to said Secretary. Said Secretary shall  
223 consider such notice of assumed ownership to be a termination of any  
224 and all liens and security interests against such vessel and to satisfy the  
225 notice of removal requirements of section 49-56a. Upon issuance of  
226 said notice of assumed ownership the party with standing shall be  
227 deemed to be the owner of the abandoned vessel, and the original of  
228 the notice of assumed ownership shall be prima facie evidence of such  
229 ownership. In the event such vessel is titled in this or another state,  
230 such notice of assumed ownership shall be prima facie evidence of a  
231 transfer, by operation of law, from a titleholder to the party with  
232 standing and shall be deemed sufficient documentation to establish the  
233 party with standing's ownership interest or right to acquire the  
234 ownership interest. The Commissioner of Motor Vehicles shall cancel  
235 the existing registration for such vessel and shall note the transfer of  
236 ownership to the party with standing in the vessel registration record,  
237 if such record exists and is accessible to the Commissioner of Motor  
238 Vehicles. If such vessel is registered by a registering agency other than  
239 the Department of Motor Vehicles, the Commissioner of Motor  
240 Vehicles shall notify such agency, by electronic mail, of the transfer of  
241 ownership.

242 (8) If the person who abandoned such vessel contacts the  
243 Commissioner of Energy and Environmental Protection, such person  
244 shall have until the last day of the abandoned vessel period described  
245 in subdivision (6) of this subsection to remove such abandoned vessel  
246 from the property or possession of the party with standing, as  
247 applicable. If the person who abandoned such vessel fails to remove  
248 such vessel by said day, the Commissioner of Energy and  
249 Environmental Protection shall cause the registration of the abandoned

250 vessel to be cancelled and shall issue a notice of assumed ownership to  
251 the party with standing. The commissioner may suspend the  
252 abandoned vessel period, in accordance with subdivision (6) of this  
253 subsection, at the request of the person who abandoned the vessel and  
254 for just cause shown. The person who abandoned the vessel shall be  
255 liable for any property damage caused by the removal of the  
256 abandoned vessel that is undertaken pursuant to this subdivision.

257 (i) For a period of forty-five days following the end of a declared  
258 state of emergency that resulted in the widespread displacement of  
259 vessels and that was declared to be an emergency by the Governor  
260 pursuant to chapter 517, there shall be no fee for the filing of a notice of  
261 abandoned vessel, pursuant to subdivision (1) of subsection (h) of this  
262 section, and notarization of such notice shall not be required.  
263 Notwithstanding sections 1-217 and 14-10, the commissioner may  
264 publish the name of the owner of any such abandoned vessel and town  
265 of record, as such information appears on vessel registration records,  
266 during the declared emergency and until such time as such vessel is no  
267 longer deemed abandoned.

268 (j) A notice of abandoned vessel, as described in subdivision (1) of  
269 subsection (h) of this section, shall be prepared and submitted to the  
270 Commissioner of Energy and Environmental Protection for each  
271 abandoned vessel, including any vessel that is documented with the  
272 United States Coast Guard in accordance with the maritime or  
273 admiralty laws of the United States or that is relocated to an  
274 abandoned vessel holding area by persons or agents acting in a relief  
275 or emergency capacity.

276 (k) The Commissioner of Energy and Environmental Protection may  
277 waive the requirement to contact the person who abandoned such  
278 vessel by certified mail, as required by subdivision (4) of subsection (h)  
279 of this section, if contact with such person is otherwise established by  
280 electronic mail or another suitable means of communication, as  
281 determined by the commissioner.

282 (l) Notwithstanding any provisions of the general statutes, any

283 waste oil, fuel, antifreeze or other hazardous materials stored on an  
 284 abandoned vessel and incidental to the operation and maintenance of  
 285 such abandoned vessel shall be deemed household hazardous waste,  
 286 for the purpose of disposal of such materials, if removed from such  
 287 abandoned vessel in preparation for the storage, removal or  
 288 destruction of such abandoned vessel.

289 (m) Any person who abandons a vessel shall have committed a  
 290 violation and shall be fined not less than three hundred dollars nor  
 291 more than five hundred dollars, except if such abandonment occurred  
 292 during a declared emergency and as a result of the conditions that  
 293 caused such emergency to be declared.

294 (n) For purposes of this section, "person with a bona fide security  
 295 interest" means any person who filed or recorded a security interest  
 296 with the appropriate state or federal agency for such filing.

|   |                 |         |
|---|-----------------|---------|
| This act shall take effect as follows and shall amend the following sections: |                 |         |
| Section 1   | January 1, 2015 | 15-140c |

**ENV**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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## **OFA Fiscal Note**

### **State Impact:**

| <b>Agency Affected</b>                            | <b>Fund-Effect</b>          | <b>FY 15 \$</b>           | <b>FY 16 \$</b>           |
|---|-----------------------------|---------------------------|---------------------------|
| Department of Energy and Environmental Protection | GF - Potential Cost         | Approximately 300-375     | Approximately 575-750     |
| Department of Energy and Environmental Protection | GF - Potential Revenue Gain | Approximately 500-1,000   | Approximately 500-1,000   |
| Judicial Department                               | GF - Potential Revenue Gain | Approximately 1,500-7,500 | Approximately 1,500-7,500 |

### **Municipal Impact:**

| <b>Municipalities</b>  | <b>Effect</b>  | <b>FY 15 \$</b>         | <b>FY 16 \$</b>         |
|------------------------|----------------|-------------------------|-------------------------|
| Various Municipalities | Potential Cost | Approximately 500-1,000 | Approximately 500-1,000 |

### **Explanation**

The bill makes various changes to current law regarding abandoned vessels that may result in potential costs to state agencies and municipalities of less than \$1,000 annually and revenues to the state of up to \$8,000 annually.

The bill requires the Department of Energy and Environmental Protection (DEEP) to provide water resistant adhesive labels for abandoned vessels, costing \$200 in FY 15 and \$400 in FY 16.<sup>1</sup>

The bill also establishes a \$20 filing fee payable to DEEP to start the administrative process for abandoned vessels. Various state agencies or municipalities may start this process with DEEP. As DEEP manages

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<sup>1</sup> Statutory violations are subject to Infractions Bureau procedures which allow the accused to pay the fine by mail without making a court appearance.

the administration of approximately 50-100 abandoned vessels annually, there may be a revenue gain to DEEP of approximately \$500 to \$1,000 in FY 15 and \$1,000 to \$2,000 in FY 16 from receipt of these fees.<sup>2</sup> To the extent municipalities or various state agencies initiate the abandonment process they may incur minimal costs.

In addition, the bill requires DEEP to send abandonment notices to the presumed owner via certified mail. There could be costs of approximately \$100 to \$175 in FY 15 and \$175 to \$350 in FY 16 to DEEP for the increased volume of certified mail, at a cost of \$3.30 each.<sup>3</sup> It is expected that between five and fifteen additional certified letters would be mailed annually.

Lastly, the bill makes abandoning a vessel a violation, under certain conditions, and subjects violators to a fine of between \$300 to \$500. There are anticipated to be approximately five to fifteen violations annually, which could result in a revenue gain to the state of approximately \$1,500 - \$7,500.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to (1) inflation, (2) the number of filing fees submitted to DEEP, (3) the amount of certified mail sent, (4), and the number of violations that occur.

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<sup>2, 3, and 4</sup> The cost in FY 15 adjusts anticipated annual costs for one-half of the year, as the effective date of the bill is January 1, 2015.

**OLR Bill Analysis**

**sHB 5309**

***AN ACT CONCERNING ABANDONED VESSELS.***

**SUMMARY:**

This bill replaces existing procedures for seizing and disposing of abandoned vessels and establishes a new administrative process for doing so.

The bill replaces current law, which (1) allows an officer to seize an abandoned vessel and deliver it to a person for storage; (2) permits that person to sell it if it is unclaimed after 60 days; and (3) specifies that sale proceeds cover storage costs and are then paid to the owner, or the state if unclaimed. The bill instead generally allows certain public or private parties to begin a process to take ownership of an abandoned vessel after 45 days if it is not claimed by the owner, a party with a lien, or a person with an appropriately filed or recorded security interest.

The bill makes abandoning a vessel a violation punishable by a fine of between \$300 and \$500, unless the abandonment occurs during, and because of conditions that caused, a declared emergency.

It also deems waste oil, fuel, antifreeze, or other hazardous materials stored on an abandoned vessel to be household hazardous waste for disposal purposes if the materials are (1) incidental to the vessel's operation and maintenance and (2) removed to prepare for the vessel's storage, removal, or destruction. This treats the materials in the same way as waste generated during routine household activities and exempts them from the law's hazardous waste requirements.

EFFECTIVE DATE: January 1, 2015

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**PRESUMPTION OF VESSEL ABANDONMENT*****Abandoned Vessel***

The bill generally expands the circumstances under which a vessel is considered abandoned.

The law prohibits abandoning a vessel on state waters or on someone's property without consent. Under current law, a vessel is presumed abandoned if it is left on (1) state waters not moored, anchored, or fastened to the shore and unattended for more than 24 hours or (2) someone else's property without consent for more than 24 hours.

The bill retains these presumptions but gives former tenants who leave a vessel on property they rented, leased, or occupied up to 90 days before it is considered abandoned. It also adds that a vessel is presumed abandoned if it is:

1. left at a mooring for more than 60 days since the last full payment was received;
2. left at a storage, repair, or other commercial facility for more than one year since the facility received the last full payment;
3. found during a declared emergency either in a (a) public right-of-way hindering access to the right-of-way or public utilities or (b) location or condition creating an imminent danger to public safety or the environment; or
4. left on state waters for more than 24 hours and not properly registered, whether or not it is attached.

***Vessel Owner***

Current law presumes that the last owner of record when the vessel was abandoned is the person who abandoned it or caused its abandonment. The bill retains this presumption, but specifies that the owner is the person recorded with the government agency that registered the vessel, unless the owner provides the DEEP

commissioner with sufficient evidence showing a transfer of vessel ownership occurred before the abandonment. Vessels documented with the United States Coast Guard under maritime or admiralty law are considered registered with the Coast Guard.

## **ABANDONED VESSEL PROCEDURE**

### ***Current Law – Provisions Eliminated***

The bill eliminates existing procedures regarding abandoned vessels and establishes new ones. It eliminates current law that:

1. allows any officer authorized to enforce the state's boating laws to take an abandoned vessel into custody and store it;
2. protects an officer from liability for damage to a vessel when in his or her custody;
3. provides a lien for (a) charges incurred by the officer to take custody of the vessel and (b) storage charges of the owner or keeper of a marina or other location where the vessel is stored;
4. allows the owner or keeper to sell the vessel to recoup the storage charges if it is stored for at least 60 days;
5. requires notice of the sale to be (a) provided to the vessel owner and the DEEP, motor vehicles, and transportation commissioners five days before the sale or (b) published in the newspaper at least three times starting at least five days before the sale if the owner is unknown; and
6. requires (a) paying the sale proceeds, minus the amounts due to the marina owner or keeper and the officer who took the vessel for storage, to the vessel owner if claimed within one year of the sale and (b) unclaimed funds to escheat to the state.

### ***Who Can Begin the Process***

Under the bill, only a party with standing, or its designated agent identified in writing on the notification of abandoned vessel (see below), may begin the abandoned vessel process. The bill establishes

the following parties as those with standing:

1. the owner of property where the abandoned vessel came to rest or was fastened, unless the vessel is removed from the property and turned over to a lienholder, person with an appropriately filed or recorded security interest, harbormaster, police department, municipality, or agent of the state;
2. a harbormaster, police department, municipality, or agent of the state that agrees to accept or process an abandoned vessel;
3. an emergency responder, including a responding utility or person or firm (a) contracted by the government to provide emergency services and (b) responding to a bona fide emergency during or after an emergency declared by the President or governor; and
4. a licensed motor vehicle dealer who is authorized by law to tow or transport vehicles or a professional marine salvager, when the dealer or salvager is employed by any of the above parties.

The bill allows these parties to recover from the person who abandoned the vessel the expenses they incur because of the vessel's abandonment. It generally relieves any person from civil liability for damage to an abandoned vessel if the person acts in good faith and without malice when processing, storing, or moving the vessel according to the bill's provisions. (But the bill makes lienholders and persons with appropriately filed or recorded security interests liable for damage when removing abandoned vessels, see below).

#### ***Determining Interested Parties of Abandoned Vessels***

***Vessels Registered in Connecticut.*** The bill requires the DEEP commissioner to notify the secretary of the state by electronic mail when he receives a notice of an abandoned vessel (see below) that is or was registered in Connecticut. He must (1) describe the vessel and (2) identify the owner's name, if known, as recorded with the Department of Motor Vehicles (DMV).

The secretary of the state must (1) inform the commissioner, within 10 business days of receiving the notice, of any security interest or commercial lien against the vessel and (2) notify all lienholders and people with appropriately filed or recorded security interests that the vessel is deemed abandoned.

Under the bill, if an abandoned vessel is documented according to federal marine or admiralty law, the commissioner must reasonably try to (1) determine if liens or appropriately filed or recorded security interests exist against the vessel and (2) notify the lienholders and people with appropriately filed or recorded security interests of the vessel's status and location.

**Vessels Registered in Other States.** If an abandoned vessel is registered in another state, the bill requires the DEEP commissioner to notify by electronic mail the other state's registering agency and agencies responsible for recording liens and security interests of the abandoned vessel. Under the bill, the commissioner must provide the agencies 15 business days to (1) return information on the vessel's owner and anyone who registered or recorded a lien or security interest or (2) intervene in the abandoned vessel process. If these agencies identify lienholders or people with appropriately filed or recorded security interests, the commissioner must make reasonable attempts to notify them.

The bill relieves the commissioner of any further obligation to identify or contact the last owner of record, lienholders, or people with appropriately filed or recorded security interests if the other state's registering agency fails to provide the contact information or intervene in the process within 15 business days of receiving the notice.

For vessels documented under federal maritime or admiralty law, the commissioner may use information from the documentation to identify the last owner of record.

### ***Process for Disposing of Abandoned Vessels***

The bill establishes a new procedure to dispose of abandoned

vessels. Abandoned vessels with current documentation under federal maritime or admiralty law are subject to the initial notice and labeling procedures, but not the 45-day abandoned vessel period or transfer of ownership provisions. Federal law generally governs these vessels.

**Notice of Abandoned Vessel.** The bill requires a party with standing to file a “notice of abandoned vessel” with the DEEP commissioner to start the abandonment process. The notice must be notarized and filed on forms the commissioner prescribes. It may be filed in person, by mail, or by paid delivery service, and the filing fee is \$20. But for filings occurring within 45 days after the end of an emergency declared by the governor that results in widespread vessel displacement, no filing fee or notarization is necessary.

The bill requires that a notice of abandoned vessel be prepared and submitted to the commissioner for each abandoned vessel. It includes vessels (1) documented with the U.S. Coast Guard under federal maritime or admiralty law or (2) relocated to an abandoned vessel holding area by people or agents acting in a relief or emergency capacity.

**Stolen or Missing Vessels.** Under the bill, when the DEEP commissioner receives the filing, he must determine if the vessel is reported as stolen or missing. If so, the police department with which the report was filed must (1) take the vessel into custody or (2) arrange for the return of the vessel to its owner at the expense of the person who abandoned it.

**Internet Notice.** The bill requires the DEEP commissioner to post information about the report of the abandoned vessel (presumably the notice) online on a publicly accessible abandoned vessel website. The information must be sufficient to identify the vessel and include, if known, (1) the vessel’s registration number, make, model, length, and color; (2) the town and water body nearest to where the vessel was abandoned; and (3) instructions for contacting the commissioner.

The law generally prohibits public agencies from disclosing the

residential addresses of certain public employees (e.g., judges, firefighters, law enforcement officers). But during a declared emergency and until a vessel abandoned during the emergency is no longer abandoned, the bill allows the commissioner to publish any abandoned vessel owner's name and town of record as obtained from vessel registration records.

**Certified Letter.** The DEEP commissioner must send a certified letter to the person who abandoned the vessel, who is presumed to be the owner, if the person can be identified. In the letter, he must (1) identify the vessel, (2) explain the consequences of abandonment, and (3) provide instructions for retrieving the vessel.

The bill allows the commissioner to waive this certified mail requirement if he establishes contact with the person by electronic mail or some other communication method he determines suitable.

**Label.** The bill requires the DEEP commissioner to provide the party with standing with a water resistant adhesive label to be immediately affixed to the abandoned vessel. The label must (1) advise that the vessel is being processed according to the abandoned vessel procedure and (2) provide instructions for contacting the commissioner to get more information or intervene. It must be placed in a prominent location and in a way that is visible to an approaching party. The bill requires placing this label also on abandoned federally documented vessels, although these vessels are exempt from the transfer of ownership provisions of the abandonment process.

**45-Day Abandoned Vessel Period.** Under the bill, a 45-day abandoned vessel period starts when the first attempt to deliver the certified letter to the person who abandoned the vessel occurs. For unregistered vessels, the period begins when the DEEP commissioner posts information about the vessel on the publicly accessible abandoned vessel website.

The bill allows the commissioner to suspend the period for up to six months for just cause if he states in writing on the website the (1)

reason for the suspension and (2) elements needed to resume the 45-day period.

**Owners Reclaiming Vessels.** The bill gives a person who abandoned a vessel until the last day of the abandoned vessel period to remove the vessel from the property or possession of the party with standing, if he or she contacts the DEEP commissioner. But it allows the person to ask for the abandoned vessel period to be suspended if there is just cause. The bill makes the person liable for any property damage caused by removing the abandoned vessel.

If the person who abandoned the vessel fails to remove it, the commissioner must (1) cause the vessel's registration to be cancelled and (2) issue a notice of assumed ownership to the party with standing (see below).

**Liens and Security Interests.** The bill requires any party with a lien or a person with an appropriately filed or recorded security interest against an abandoned vessel that is filed with the secretary of the state to seek a writ of attachment from the Superior Court or else their lien or security interest is discharged. This must be done (1) at the party's or person's expense and (2) before the issuance of a notice of assumed ownership to the party or person from DEEP (but the DEEP commissioner issues the notice to the party with standing, as defined above, and a lienholder or person with a security interest is not a party with standing). Under the bill, the secretary must record the discharge when the commissioner notifies her that a notice of assumed ownership was issued to the party with standing.

Similarly, the bill allows lienholders and people with appropriately filed or recorded security interests on abandoned vessels filed with a federal agency to also seek a writ.

Under the bill, lienholders or people with security interests that do not file or record their lien or interest and those that file or record them in another state are unable to seek the writ. But the bill allows lienholders and people with appropriately filed or recorded security

interests, whether or not they have the writ, to request a suspension of the procedures for the removal, transport, or storage of an abandoned vessel. It makes lienholders and people with appropriately filed or recorded security interests who take custody of abandoned vessels liable to the parties with standing for damage to the vessels incurred during the vessels' removal.

Under the bill, an abandoned vessel in the custody of a lienholder, person with an appropriately filed or recorded security interest, or an agent of the lienholder or person, is no longer abandoned and must be sold according to existing law regarding liens, presumably the portions of this chapter on vessel liens.

**Notice of Assumed Ownership.** The bill requires the DEEP commissioner to issue a "notice of assumed ownership" to the party with standing on the day after the abandoned vessel period ends if the person who abandoned the vessel fails to (1) contact him or (2) remove the vessel. (Lienholders or people with security interests may also obtain custody before the period ends, see above). The notice must be sent by certified mail with a copy sent by electronic mail to the DMV commissioner.

For abandoned vessels subject to commercial liens filed with the secretary of the state, the DEEP commissioner must electronically send a copy of the notice of assumed ownership to the secretary. The bill requires her to consider the notice of assumed ownership to (1) terminate all liens and security interests against the vessel and (2) satisfy the law's requirements for lien removal.

Once the notice of assumed ownership is issued, the party with standing is considered the abandoned vessel's owner and the original document is prima facie evidence of ownership. The bill makes the notice prima facie evidence of a transfer of ownership, by law, from a titleholder to the party with standing. The notice is deemed sufficient documentation to establish the ownership interest or right to acquire the interest. The bill requires the DMV commissioner to then cancel the vessel's existing registration and note the ownership transfer to the

party with standing in the vessel's registration record, if it exists and is accessible. For vessels registered by some other agency, the DMV commissioner must electronically notify the agency of the ownership transfer.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 0 (03/07/2014)