

SENATE BILL 219

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CF HB 143

By: **Senators Elfreth, Bailey, Beidle, Eckardt, Guzzone, Hershey, Jennings, Miller, Ready, Reilly, Salling, and Simonaire**

Introduced and read first time: January 17, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Boat Act – Abandoned or Sunken Vessels – Removal**

3 FOR the purpose of altering the definition of an “abandoned or sunken vessel” for purposes
4 of certain provisions of law; requiring the Department of Natural Resources to take
5 a certain abandoned or sunken vessel into custody without providing a certain notice
6 if the Department determines that the vessel poses a certain hazard; authorizing the
7 Department to take a certain abandoned or sunken vessel into custody without
8 providing a certain notice if the Governor declares a state of emergency due to a
9 natural disaster; requiring the Department to keep a certain record of a certain
10 determination; requiring the Department to send a certain notice to the last known
11 registered owner of an abandoned or sunken vessel taken into custody under certain
12 provisions of this Act in a certain manner and within a certain time frame; requiring
13 a certain notice to include certain information if a vessel was taken into custody in
14 accordance with certain provisions of this Act; requiring the Department or a certain
15 local jurisdiction to take reasonable measures to ensure that a vessel is not damaged
16 when it is taken into custody under certain provisions of this Act; providing for the
17 interpretation of certain provisions of this Act; prohibiting certain funds from being
18 used for certain purposes; and generally relating to the removal of abandoned or
19 sunken vessels.

20 BY repealing and reenacting, with amendments,
21 Article – Natural Resources
22 Section 8–721
23 Annotated Code of Maryland
24 (2012 Replacement Volume and 2019 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

27 **Article – Natural Resources**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



8–721.

(a) In this section, “abandoned or sunken vessel” means any vessel that:

(1) Is left illegally or has remained without permission for more than 30 days on public property, including public marinas, docks, or boatyards;

(2) Has remained at the following locations for more than **[90] 30** days without the consent of the owner or person in control of the property:

(i) A private marina or property operated by a private marina; or

(ii) A private boatyard or property operated by a private boatyard;

(3) Has remained at the following locations for more than 30 days without the consent of the owner or person in control of the property:

(i) A private dock; or

(ii) At or near waters’ edge on private property;

(4) Has remained on private property other than the private property described in items (2) and (3) of this subsection for more than 180 days without the consent of the owner or person in control of the property; or

(5) (i) Has been found adrift or unattended in or upon the waters of the State[,] and [is]:

1. IS found in a condition of disrepair [as to constitute];

2. PRESENTS a hazard or obstruction to the use of the waters of the State; or

3. PRESENTS a potential health or environmental hazard; and

(ii) Is not:

1. Historic property as defined in § 5A–301 of the State Finance and Procurement Article; or

2. Submerged archaeological historic property as defined in § 5A–333 of the State Finance and Procurement Article.

(b) (1) The Department may seize, remove, and take into custody any

1 abandoned or sunken vessel.

2 (2) For this purpose, the Department may use its own personnel,
3 equipment, and facilities or use other persons, equipment, and facilities for removing,
4 preserving, or storing abandoned or sunken vessels.

5 (3) The Department, or a person removing, preserving, or storing an
6 abandoned or sunken vessel on behalf of the Department, may not be held liable for any
7 damage to an abandoned or sunken vessel which may occur during removal, storage, or
8 custody of the vessel.

9 (c) (1) **[No] EXCEPT AS PROVIDED IN SUBSECTION (G)(2) AND (3) OF THIS**
10 **SECTION, NOT** later than 15 days before an abandoned or sunken vessel is seized, removed,
11 or taken into custody under subsection (b) of this section, the Department shall send a
12 notice, by certified mail, return receipt requested, bearing a postmark from the United
13 States Postal Service to the last known registered owner of the vessel, as shown on the
14 records of the Department.

15 (2) (I) **[As] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
16 **PARAGRAPH, AS** soon as reasonably possible but not later than 15 days after the
17 Department takes an abandoned or sunken vessel into custody, the Department shall send
18 a notice, by certified mail, return receipt requested, bearing a postmark from the United
19 States Postal Service to the last known registered owner of the vessel and to each secured
20 party, as shown on the records of the Department.

21 (II) **AS SOON AS REASONABLY POSSIBLE BUT NOT LATER THAN**
22 **5 DAYS AFTER THE DEPARTMENT TAKES AN ABANDONED OR SUNKEN VESSEL INTO**
23 **CUSTODY IN ACCORDANCE WITH SUBSECTION (G)(2) OR (3) OF THIS SECTION, THE**
24 **DEPARTMENT SHALL SEND A NOTICE, BY CERTIFIED MAIL, RETURN RECEIPT**
25 **REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE**
26 **TO THE LAST KNOWN REGISTERED OWNER OF THE VESSEL AND TO EACH SECURED**
27 **PARTY, AS SHOWN ON THE RECORDS OF THE DEPARTMENT.**

28 (d) The notices required by subsection (c) of this section shall:

29 (1) Describe the vessel;

30 (2) **IF THE VESSEL WAS TAKEN INTO CUSTODY IN ACCORDANCE WITH**
31 **SUBSECTION (G)(2) OF THIS SECTION, DESCRIBE THE ACTUAL OR POTENTIAL**
32 **HAZARD MITIGATED BY REMOVAL OF THE VESSEL;**

33 (3) Give the location where the vessel is being held;

34 **[(3)] (4)** Inform the owner and secured party of a right to reclaim the
35 vessel within 3 weeks of receipt of the notice required in subsection (c)(2) of this section
36 upon payment to the Department of any expenses incurred during removal and custody of

the vessel; and

[(4)] (5) State that failure to claim the vessel will constitute:

(i) A waiver of all right, title, and interest in the vessel; and

(ii) A consent to the Department's disposition of the vessel.

(e) (1) If the Department is unable to determine the last registered owner or the identity of any secured party of the abandoned or sunken vessel, or if the certified mail notice required under subsection (c) of this section is returned as undeliverable, the Department shall give the required notice by publication in at least 1 newspaper of general circulation in the area where the abandoned or sunken vessel was found.

(2) The notice by publication shall contain the information required under subsection (d) of this section and shall be published within 30 days of the seizure of the abandoned or sunken vessel, or within 15 days of the return of the certified mail notice as undeliverable.

(f) If the owner or secured party fails to claim the abandoned or sunken vessel within 3 weeks after the certified mail notice or after the notice by publication is given, the Department may sell the vessel at public auction, proceed to receive title to the vessel pursuant to § 8-722 of this subtitle, or otherwise dispose of the vessel.

(g) **(1)** If the abandoned or sunken vessel is in such a condition of disrepair that the Department cannot remove the vessel intact, the Department may dispose of the vessel in whatever manner is reasonable without providing the notice required under subsections (c) through (e) of this section.

(2) (I) IF THE DEPARTMENT DETERMINES THAT AN ABANDONED OR SUNKEN VESSEL POSES AN IMMEDIATE HAZARD OR OBSTRUCTION TO NAVIGATION, A POTENTIAL HEALTH HAZARD, OR A POTENTIAL ENVIRONMENTAL HAZARD, THE DEPARTMENT SHALL TAKE THE VESSEL INTO CUSTODY WITHOUT PROVIDING THE NOTICE REQUIRED UNDER SUBSECTION (C)(1) OF THIS SECTION.

(II) THE DEPARTMENT SHALL KEEP A WRITTEN RECORD OF A DETERMINATION MADE UNDER THIS PARAGRAPH, INCLUDING THE ACTUAL OR POTENTIAL HAZARDS MITIGATED BY REMOVAL OF THE VESSEL.

(3) IF THE GOVERNOR DECLARES A STATE OF EMERGENCY DUE TO A NATURAL DISASTER, THE DEPARTMENT MAY TAKE INTO CUSTODY ANY ABANDONED OR SUNKEN VESSEL DAMAGED BY THE NATURAL DISASTER WITHOUT PROVIDING THE NOTICE REQUIRED UNDER SUBSECTION (C)(1) OF THIS SECTION.

(4) (I) IN TAKING A VESSEL INTO CUSTODY UNDER PARAGRAPHS

1 **(2) OR (3) OF THIS SUBSECTION, THE DEPARTMENT OR A LOCAL JURISDICTION**
2 **EXERCISING THE DEPARTMENT'S AUTHORITY UNDER SUBSECTION (H) OF THIS**
3 **SECTION SHALL TAKE REASONABLE MEASURES TO ENSURE THAT THE VESSEL IS NOT**
4 **DAMAGED.**

5 **(II) THIS PARAGRAPH MAY NOT BE INTERPRETED TO WAIVE THE**
6 **PROTECTION FROM LIABILITY PROVIDED BY SUBSECTION (B)(3) OF THIS SECTION.**

7 (h) The Department may delegate the Department's authority to remove and
8 dispose of abandoned or sunken vessels under this section to any local jurisdiction that
9 consents to the delegation.

10 (i) The Department, in consultation with the Director of the Maryland Historical
11 Trust, may adopt regulations to implement this section.

12 **(J) THE DEPARTMENT MAY NOT USE FUNDS BUDGETED FOR THE**
13 **ADMINISTRATIVE COSTS OF THE NATURAL RESOURCES POLICE FOR THE PURPOSE**
14 **OF REMOVING OR STORING ABANDONED OR SUNKEN VESSELS UNDER THIS SECTION.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
16 1, 2020.