

1 SB391
2 129943-3
3 By Senator Pittman
4 RFD: Commerce, Transportation, and Utilities
5 First Read: 14-APR-11

1 SB391

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to vessels, to make it unlawful for a
12 person to leave a derelict vessel in the waters of this state
13 in the counties bordering on the Gulf of Mexico under certain
14 conditions; to provide penalties; to provide procedures for
15 exercising authority over and selling at public auction
16 derelict vessels under certain conditions; and in connection
17 therewith would have as its purpose or effect the requirement
18 of a new or increased expenditure of local funds within the
19 meaning of Amendment 621 of the Constitution of Alabama of
20 1901, now appearing as Section 111.05 of the Official
21 Recompilation of the Constitution of Alabama of 1901, as
22 amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. This act shall apply only to those
25 counties bordering on the Gulf of Mexico.

26 Section 2. For the purposes of this act, the
27 following terms shall have the following meanings:

1 (1) COUNTY. Any county bordering on the Gulf of
2 Mexico.

3 (2) DEPARTMENT. The Department of Conservation and
4 Natural Resources.

5 (3) DERELICT VESSEL. Any of the following:

6 a. A vessel in a wrecked, junked, or substantially
7 dismantled condition.

8 b. A sunken vessel or a vessel in immediate danger
9 of sinking, a vessel that is obstructing a waterway, or a
10 vessel that is endangering life or property.

11 c. A vessel that has been moored or otherwise left
12 in the waters of this state along with any of the following
13 circumstances:

14 1. The certificate of registration or marine
15 document of the vessel has expired and the registered owner no
16 longer resides at the address listed in the vessel
17 registration of the department, the marine document records of
18 the United States Coast Guard, or other reasonably known
19 public records.

20 2. The last registered owner of record disclaims
21 ownership and the name and address of the current owner cannot
22 be determined.

23 3. The vessel identification numbers and other means
24 of identification have been obliterated or removed in a manner
25 that nullifies or precludes efforts to locate or identify the
26 owner.

1 4. The vessel registration records of the
2 department, the marine document records of the United States
3 Coast Guard, or other reasonably known public records contain
4 no record that the vessel was ever registered or documented
5 and the name and address of the current owner cannot be
6 determined.

7 d. A vessel that is an "unattended vessel," as
8 defined herein.

9 (4) UNATTENDED VESSEL. A vessel which has been
10 stickered by the county or an agent of the county as
11 "unattended" at least once a week for a period of four weeks,
12 and upon which no requested response has been received by the
13 county.

14 (5) VESSEL. A vessel as defined in Section 33-5-3 of
15 the Code of Alabama 1975, that is located on the waters of
16 this state.

17 (6) WATERS OF THIS STATE. Waters of this state as
18 defined in Section 33-5-3 of the Code of Alabama 1975.

19 Section 3. (a) (1) A person who owns a vessel that is
20 a derelict vessel who refuses or fails to remove the derelict
21 vessel from the waters of this state within 30 days after a
22 verbal or written request from an officer or agent of the
23 county shall be guilty of a Class C misdemeanor.

24 (2) In addition, the sentencing official shall order
25 the person to reimburse the county for all expenses incurred
26 by the county in the enforcement of this act, including, but
27 not limited to, seizure, removal, transportation,

1 preservation, storage, and disposal expenses of the derelict
2 vessel.

3 (b) This section may not be construed to contravene
4 any applicable federal laws or regulations.

5 Section 4. The county, for the purposes of this act,
6 may exercise authority over a derelict vessel and may dispose
7 of the vessel pursuant to this act. The county may allow the
8 vessel to remain at its present location or may contract to
9 have the vessel removed and stored and the contract may allow
10 the contractor to receive the vessel as payment for services
11 rendered on behalf of the county if the vessel is not claimed
12 and awarded to any other person pursuant to this act.

13 Section 5. Upon the exercise of the authority
14 conferred herein over a derelict vessel, a written notice
15 shall immediately be posted by the county on the vessel and a
16 duplicate of that notice sent by registered or certified mail,
17 with a return receipt, to the registered owner of the vessel
18 at the last known address of the registered owner and to all
19 lienholders shown on the records of the department, the United
20 States Coast Guard, or other reasonably known public records.
21 The notice shall contain a brief description of the vessel,
22 the location of the vessel, and the intended disposition of
23 the vessel if not repossessed within 20 days after the mailing
24 of the notice. A notice need not be sent to the purported
25 owner or any other person whose interest in the vessel is not
26 recorded with the department, the United States Coast Guard,
27 or other reasonably known public records.

1 Section 6. A person having an ownership or
2 lienholder interest in a derelict vessel may take possession
3 of the vessel before the date of the public auction upon
4 payment to the county of all port or harbor use fees, towing,
5 handling, storage, appraisal, advertising, and any other
6 expenses incurred by the county in connection with the vessel.
7 If the person taking possession of the vessel is not the
8 registered owner, the person, before taking possession of the
9 vessel, shall pay the expenses incurred by the county and post
10 adequate security which may not exceed the appraised value of
11 the vessel. The security, if not forfeited, shall be returned
12 to the person one year after receipt.

13 Section 7. (a) If a vessel over which authority is
14 exercised under Section 4 is not repossessed within 20 days
15 after the mailing of the notice, the vessel shall be disposed
16 of by the county, by public auction, through oral tenders or
17 by sealed bids, after public advertisement has been made once
18 in a newspaper of general circulation. The public auction may
19 not be held less than five days after the publication of the
20 advertisement. If no bid is received, the vessel may be sold
21 by the county by negotiation, disposed of by the county as
22 junk, donated to the county, or destroyed by the county.

23 (b) Public auction is not required when the
24 appraised value of a derelict vessel, as determined by an
25 independent appraiser, is less than one hundred dollars
26 (\$100). The appraiser may be a boat seller or a licensed
27 marine surveyor and must have at least one year of experience

1 in the sale, purchase, or appraisal of vessels. Upon that
2 determination and after public advertisement has been made
3 once in a newspaper of general circulation, the county may
4 sell the vessel by negotiation, dispose of it as junk, donate
5 the vessel to the county, or destroy the derelict vessel.

6 Section 8. The transfer of interest by sale under
7 Section 6 or 7 shall be evidenced by a bill of sale from the
8 county, considered a transfer by operation of law, and
9 governed by applicable provisions of law.

10 Section 9. Nothing in this act shall confer upon the
11 county, or its agents or employees, any duty or obligation of
12 care, protection, or safekeeping of any derelict vessel.

13 Section 10. The county, the department, any of
14 either of its agents, and any of either of its employees shall
15 be immune from any liability for any actions taken or
16 enforced, or any rules adopted or enforced, to carry out this
17 act.

18 Section 11. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompile of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime.

1 Section 12. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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3 Senate

4 Read for the first time and referred to the Senate
5 committee on Commerce, Transportation, and Utili-
6 ties..... 14-APR-11
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8 Read for the second time and placed on the calen-
9 dar with 1 substitute and..... 26-APR-11
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11 Read for the third time and passed as amended 25-MAY-11

12 Yeas 30
13 Nays 0

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16 Patrick Harris
17 Secretary
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