

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

HOUSE BILL 1625
RATIFIED BILL

AN ACT TO ESTABLISH A PILOT PROGRAM FOR THE REMOVAL OF
ABANDONED VESSELS IN THE NEUSE RIVER BASIN.

The General Assembly of North Carolina enacts:

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

- (1) "Abandoned vessel" means a vessel that, for more than 90 consecutive days, is left either unattended or in a wrecked, junked, or substantially dismantled condition in coastal fishing waters, as defined in G.S. 113-129, or upon submerged lands, as defined in G.S. 146-64.
- (2) " Department" means the Department of Environment and Natural Resources.
- (3) " Vessel" means any watercraft or structure, including seaplanes, used or capable of being used as a means of transportation or habitation on or under the water. "Vessel" does not include any shipwreck, vessel, cargo, tackle, or underwater archaeological artifact that is within the exclusive dominion and control of the State pursuant to G.S. 121-22 or to artificial reefs managed by the Department.

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

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

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

Section 1.(e) The owner of an abandoned vessel is liable for all costs incurred by or on behalf of the State to remove, store, and dispose of the abandoned vessel and to restore the affected area. The Department may request the Attorney

General to institute a civil action in the superior court of the county where the vessel is located, where the owner of the vessel resides, or where the owner has his or her principal place of business to recover the amount of these costs.

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

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

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

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

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

In the General Assembly read three times and ratified this the 30th day of June, 2000.

Marc Basnight
President Pro Tempore of the Senate

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____ .m. this _____ day of _____ , 2000