



# State of Alabama

## Abandoned and Derelict Vessel (ADV) Legislative and Administrative Review - 2018

NOAA Marine Debris Region:  
Gulf of Mexico



### Definition of a Vessel

Alabama state statutes define a “vessel” in the following manner under Ala. Code § 33-5-3(1):

**Vessel:** Every description of watercraft, other than a seaplane, capable of being used as a means of transportation on the water, but such term shall not include vessels 12 feet in length or less when used solely on farm ponds of less than 50 acres in size.

### Definition of an Abandoned and/or Derelict Vessel

Alabama State Act No. 2018-179 defines “abandoned vessel” and “derelict vessel” as:

**Abandoned Vessel:** A vessel left unattended for two or more weeks after a hurricane, tropical storm, or other natural event resulting in a declaration of emergency by the Governor or, in the absence of a hurricane, tropical storm, or other natural event resulting in a declaration of emergency by the Governor, any of the following:

- a. A vessel left unattended that is moored, anchored, or otherwise in the waters of the state or on public property for a period of more than 72 hours.
- b. A vessel not left on private property for repairs that is moored, anchored, or otherwise on private property for a period of more than 72 hours without the consent of the owner or lessee of the property.
- c. A vessel left on private property for repairs that has not been reclaimed within 72 hours from the latter of either the date the repairs were completed or the agreed-upon redemption date.

**Derelict Vessel:** A vessel in the waters of this state that satisfies any of the following:

- a. Is sunk, in danger of sinking, or is otherwise taking on water without an effective means to dewater.
- b. Is obstructing a waterway.
- c. Is endangering life or property.
- d. Has broken loose or is in danger of breaking loose from its anchor.
- e. Is listing due to water intrusion.
- f. Does not have an effective means of propulsion for safe navigation or is otherwise not seaworthy.

### Formal State Program for Abandoned Vessels

In 2018 the State of Alabama passed Act 2018-179 (SB50) that addresses abandoned or derelict vessels.



### **Designation of Abandoned and/or Derelict Vessels**

Alabama State Act 2018-179 allows the Alabama State Law Enforcement Agency (ALEA) enforcement officers to authorize the removal of a vessel from public property under any of the following conditions,

- (1) The vessel is determined by the officer to be abandoned.
- (2) The vessel is left unattended because the operator of the vessel has been arrested.
- (3) The vessel is determined by the officer to pose a threat to public health or safety.
- (4) The vessel is determined by the officer to be a derelict vessel.

The State also requires the owner of a vessel to notify the Department of Conservation and Natural Resources within 15 days if they destroy or abandon a vessel, at which point the certificate will be terminated by the state (Ala. Code § 33-5-16(a)).

### **Responsibility for Removal of Abandoned or Derelict Vessels**

Alabama statutes do not address who is responsible for removing abandoned or derelict vessels but Act 2018-179 does give the ALEA authority to remove them. If a vessel is found adrift it can be removed and taken into custody by the person who found the vessel adrift (Ala. Code § 35-13-1). Under Alabama State Act 2018-179 it is unlawful for a person who is the owner of a derelict vessel to refuse or fail to remove the derelict vessel from the waters of the state within 24 hours after a verbal or written request from a law enforcement officer, a violation of this request is a misdemeanor as described Ala. Code § 33-5-17. Under Ala. Code § 33-1-33, the person or agency who places a derelict vessel, or one that is liable to pollute, in a harbor is responsible for removing the vessel after being served with a removal order by the port authority (see Specific Location Factors or Limitations section below).

### **Removal and Disposal Requirements/Guidelines**

Effective June 1, 2018 Act 2018-179 relating to derelict and abandoned vessels,

- (1) Authorizes the removal of a vessel from the waters of this state under certain conditions by a law enforcement officer and a private property owner;
- (2) Provides that a person who removes a vessel pursuant to the act must provide notice of the removal to the ALEA, perform a lien search on the vessel, and give written notice of the removal to the owner and lienholder of record. If the owner cannot be determined then an announcement must be placed in a newspaper from the county in which the vessel was found;
- (3) Provides that a person who removes, stores, or sells a vessel under the act has a lien on the vessel;
- (4) Provides for a right of redemption;
- (5) Authorizes ALEA, without a court order, to sell, donate, destroy, or otherwise dispose of an abandoned or derelict vessel that has a certain value;
- (6) Makes it unlawful for the owner of a derelict vessel to refuse or fail to remove the derelict vessel from the waters of this state within 24 hours after a verbal or written request from a law enforcement officer.

Vessels found adrift are covered under Alabama Code (§ 35-13-1) of the state's salvage laws, which state that any person may take up and secure "all property adrift". Any person that finds and takes property that was found adrift must, within two days of the taking, present the



property to the district court. If the district court determines that the property is worth over \$30.00, an order of appraisal must be issued to three independent freeholders or householders, who, after being duly sworn to provide fair estimates, must describe and appraise the property, then certify the value to the court. If the value of the property does not exceed \$30.00, the court is required to make the appraisal and provide a description of the property (Ala. Code § 35-13-2(a)). Once the property has been appraised the court must provide a copy of the appraisal and description to the taker (Ala. Code § 35-13-2(b)). If the appraised value of the property is over \$30, the taker is required to provide notice, within 10 days of the appraisal, once a week for three successive weeks in a newspaper published nearest to the place where the property was found. (Ala. Code § 35-13-3(a)). The notice must state:

- the name of the taker;
- the time and place of taking;
- a description of the property, with its marks, and;
- the name of the owner, if known;
- its appraised value;
- the location where the property is secured or deposited.

Pursuant to Ala. Code § 35-13-3(b), if the property taken is worth less than \$30.00 then a notice must be posted at the next steamboat landing within 5 days of the taking if the property was taken on a navigable stream; otherwise, the notice must be posted at the nearest public place. The owner of the property may, upon notifying the taker or person in possession and proving their ownership claim to the court, obtain an order from the court that will allow them to reclaim the property providing they pay any legal costs and other charges that were incurred (Ala. Code § 35-13-4).

The owners must file their claim within specific time limits as provided for in Ala. Code § 35-13-7, which are dependent on the value of the property. If the property is appraised at \$30.00 or less they must file within three months of the appraisal, within six months if the value is between \$30.00 and \$100, and if the value is over \$100.00 they have one year. If they fail to file a claim within the time allotted, the right to the property becomes vested in the taker.

Under Ala. Code § 35-13-5a, the taker is entitled to compensation from the owner for the property, which is based on a percentage of the appraised value as follows: 25 percent on property appraised at under \$30; 20 percent for property valued between \$30 - \$100; 15 percent for values between \$100 - \$500; 10 percent between \$500 - \$1,000; and 5 percent for property valued over \$1,000. The taker is also entitled to reimbursement for costs incurred by them for applicable court fees, advertisements (if published in a newspaper), and reasonable compensation for the keeping, if it was necessary to preserve the property from loss or injury (Ala. Code § 35-13-5(b)).

If the taker or the person in possession of the property fails to deliver the property to the owner after receiving the court order and reimbursement for any associated expenses, the owner has the right to recover the property. If the taker does not release the property they forfeit, to any person bringing an action for the same, double the appraised value of the property (Ala. Code § 35-13-8). If the taker or any person conceals, destroys, injures, obliterates or defaces any mark, or disposes of, or carries beyond the state any property taken up adrift, before the expiration of the time allowed for the owner to prove his property, they will be liable to the owner for the extent of the injury sustained (Ala. Code § 35-13-9).



### **Differences between Commercial and Recreational Vessel Treatment**

Alabama statutes do not distinguish between commercial and recreational vessels under state salvage laws.

### **Vessel Size Requirements or Limits**

No vessel size requirements or limits are addressed in Alabama Code.

### **Funding Sources**

The State of Alabama established a special fund within the State Treasury known as the *Alabama Abandoned and Derelict Vessel Fund* which is managed by the Secretary of the Alabama State Law Enforcement Agency for payment of the cost of the seizure, removal, transportation, preservation, storage, advertisement, appraisal, and disposal of a derelict vessel.

### **Lead State Agency**

The Alabama State Law Enforcement Agency has authority to take possession of and dispose of an abandoned or derelict vessel.

Email: [marinepatrol@alea.gov](mailto:marinepatrol@alea.gov)

Phone: 334-517-2950 or 1-800-272-7930

Website: <http://www.alea.gov>

The Alabama State Port Authority has jurisdiction over the state's ports and administers the laws under Title 33 Navigation.

Email: [epm@asdd.com](mailto:epm@asdd.com)

Phone: 251-441-7085

Website: <http://www.asdd.com/>

The Department of Conservation and Natural Resources has authority to enforce mooring restrictions on state-owned bottomlands, through the Marine Patrol.

Email: through website

Phone: 334-517-2950

Website: <http://www.outdooralabama.com/>

### **Insurance Requirements for Vessels**

Boat insurance is not required in the State of Alabama.

### **Specific Location Factors, Limitations and Additional Information**

In Alabama it is unlawful to place a "dangerous vessel" in a harbor. Under Ala. Code § 33-1-33, any owner or agency in control of a vessel that is anchored, moored, or made fast to the shore illegally, in a bad state of repair, liable to sink, liable to pollute, or deemed to be derelict shall be guilty of a Class A misdemeanor if they fail to remove it from the harbor to a designated place when directed to do so by the port authority. A Class A misdemeanor can result in a fine of up to \$5,000 and a jail sentence of up to one year. Each 48-hour period that elapses after the order to remove the vessel was served may result in an additional misdemeanor charge being assessed. All resulting fines are paid into the operating fund of the port authority.



In addition, it is unlawful for vessel operators, without riparian access rights, to moor their vessel on state-owned submerged water bottoms adjacent to corresponding upland locations for any period beyond immediate water transit needs that require a temporary stop (Ala. Admin. Code r. 220-4-.08).

**Prioritization Scheme**

Alabama does not have a statutory prioritization scheme for removing abandoned or derelict vessels.

**Legislation and Administrative Codes**

The laws and administrative codes referenced in this document can be accessed from:

Alabama State Act 2018-179 (2018):

<http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2018RS/PrintFiles/SB50-int.pdf>

Code of Alabama (2014):

<http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/coatoc.htm>

Alabama Administrative Code (2014):

<http://www.alabamaadministrativecode.state.al.us/alabama.html>

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