

# State of Georgia



## Abandoned and Derelict Vessel (ADV) Legislative and Administrative Review - 2015

NOAA Marine Debris Region:  
Southeast



### Definition of a Vessel

The State of Georgia defines a “vessel” under Ga. Code Ann. § 52-7-70(3) as follows:

**Vessel:** Every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water and specifically includes, but is not limited to, inflatable rafts.

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

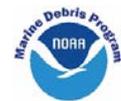
Georgia law also provides a legal definition for abandoned vessels under Ga. Code Ann. § 52-7-70(1):

**Abandoned Vessel:** means a vessel

- A) Which has been left by the owner or some person acting for the owner with a vessel dealer, repairman, or wrecker service for repair or for some other reason and has not been called for by such owner or other person within a period of 30 days after the time agreed upon; or within 30 days after such vessel is turned over to such dealer, repairman, or wrecker service when no time is agreed upon; or within 30 days after the completion of necessary repairs;
- B) Which is left unattended upon or in any public water or at any port in this state without the consent of the agency having jurisdiction or docked at any private property without the consent of the owner of such property for a period of at least five days and when it reasonably appears to a law enforcement officer that the individual who left such vessel unattended does not intend to return and remove such vessel;
- C) Which has been lawfully towed onto the property of another at the request of a law enforcement officer and left there for a period of not less than 30 days without anyone's having made claim thereto;
- D) Which has been lawfully towed onto the property of another at the request of a property owner on whose property the vessel was abandoned and left there for a period of not less than 30 days without the owner's having made claim thereto; or
- E) Which has been left unattended on private property for a period of not less than 30 days without anyone's having made claim thereto.

### Formal State Program for Abandoned Vessels

The State of Georgia has a formal process in place for the determination of ownership, removal and disposal of abandoned vessels found on both public and private property. Any vessel found on public or private property that meets the aforementioned definitions for an abandoned vessel can be declared abandoned under Title 52, Chapter 7, and Article 3 of Georgia Annotated Code.



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The State of Georgia's abandoned vessel program, managed under Ga. Code Ann. § 52-7-70 through § 52-7-77, defines when a vessel can be assumed to be abandoned and administers the taking, notification process and disposal of abandoned vessels. The program also addresses vessel liens, which can be placed on vessels by the party in charge of removal in order to cover the expenses incurred during removal, storage, notification and disposal. However, under Georgia law derelict vessels are not addressed specifically and the procedures for determination and removal of any derelict vessels follow those as outline here for abandoned vessels. Vessel owners that receive an order to remove the vessel from private or public lands/waters and do not comply may be refused by the State to have their vessel certificate or fishing licenses renewed (§ 52-7-72.1(b)(1)(a)).

In addition to the laws on record for abandoned vessels, the Georgia Department of Natural Resources has developed the Abandoned and Sunken Vessels Project; a program that focuses on identifying, mapping and prioritizing abandoned and derelict vessels in an effort to alert boaters to the potential hazards these vessel pose within the state.

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

In Georgia vessels that are presumed to be abandoned under Ga. Code Ann. § 52-7-70(1) can be removed if located on private property or public property (including state waters) by any person at the request of the property owner or a law enforcement officer, respectively. There is no formal process under Georgia law for designating a vessel as abandoned which must be undertaken prior to removal or storage of the vessel. The vessel can be removed and/or stored without any prior notice given to the vessel owner following a request by either law enforcement (Ga. Code Ann. § 52-7-71(b)) or the private property owner (Ga. Code Ann. § 52-7-71(b)) as long as it meets the definitions of an abandoned vessel under Ga. Code Ann. § 52-7-70(1).

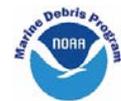
The process of notification and the determination of ownership comes once the vessel has been removed or stored following the formal request by the property owner or law enforcement agency.

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

Georgia law does not indicate who is responsible for the removal of the vessel once determined that it meets the requirements of being abandoned under Ga. Code Ann. § 52-7-70(1). The law states that "any person" who receives a request from law enforcement or a private property owner to remove an abandoned vessel can remove and store it but nothing under the provisions of Title 52, Chapter 7, Article 3 of Georgia Annotated Code places the responsibility of removal onto any party. It can be assumed that the person receiving the request can willfully choose not to remove the vessel; however, this is not explicitly stated.

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

Under Georgia law there are currently no provisions that govern how abandoned or derelict vessels should be removed; however, there are a variety of notification provisions that must be followed after the vessel has been removed. These provisions are addressed separately under



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the law for private citizens (Ga. Code Ann. § 52-7-71) and law enforcement (Ga. Code Ann. § 52-7-72) who remove abandoned vessels.

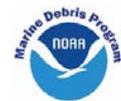
When any person, other than law enforcement, removes a vessel from public property or waters at the request of a law enforcement officer they are required to seek the identity and address, if unknown, of the last known registered owner of the vessel from the law enforcement officer or agency who requested the removal within 72 hours (Ga. Code Ann. § 52-7-71(a)). If the vessel is removed or stored from private property/waters at the request of the property owner the person in charge of the removal must, if the owner of the vessel is unknown, notify local law enforcement in writing within 72 hours of the removal or storage and seek the last known registered owner from the law enforcement agency and, in addition, seek information from them to determine if the vessel has been stolen (Ga. Code Ann. § 52-7-71(b)). The written notice to law enforcement must include the following information, if known, about the vessel:

- Current location
- Vessel certificate and hull identification number
- Model, year and make of the vessel

If the vessel is found to be stolen the local law enforcement officer or agency is required to notify the Georgia Crime Information Center and the vessel owner, if known, of the location of the vessel within 72 hours after receiving notice that the vessel was stolen (Ga. Code Ann. § 52-7-71(c)).

Once the abandoned vessel is removed and it has been determined not to be stolen, at a repair facility for repair, or being stored by an insurance company the person in charge of removal or storage of the vessel is required to notify the owner, if known, by certified, registered or statutory overnight mail within seven calendar days of the removal (Ga. Code Ann. § 52-7-71(d)). The information provided in the letter must include the location of the vessel, the fees incurred during the removal and storage, and the fact that the vessel will be deemed abandoned under state law unless the owner redeems the vessel within 30 days after the vessel was removed.

Liens can be placed on the vessel by any person who removes or stores the vessel for any reasonable fees connected with the removal, storage and advertisement (Ga. Code Ann. § 52-7-73 (1-9)). If the person in charge of removing/storing the vessel has a lien placed on the vessel, then they have one year from the time the lien was recorded to foreclose on the lien. In order to do so they must make a demand on the owner, if known, by certified or registered mail, or by statutory overnight delivery that includes an itemized statements of all charges incurred. If, within ten days of the demand, the owner of the vessel does not respond, or the owner is not known, then the person removing or storing the vessel may foreclose on the lien by making an affidavit to the court which includes all the facts necessary to constitute such lien and the amount to be claimed, following the procedures as outlined in Ga. Code Ann. § 52-7-71(4-9). If the foreclosure is accepted by the courts the person holding the lien will be authorized to sell the vessel as public sale in order to recuperate their costs, with any additional proceeds being handed over to the court (Ga. Code Ann. § 52-7-75) and dealt with in a manner as outlined under Ga. Code Ann. § 52-7-77.



If the owner of the vessel, as identified, fails to redeem the vessel after being notified or the vessel is abandoned by the repair facility or the insurance company who was storing the vessel, the person who removed the vessel is required, within seven days, to notify the Department of Natural Resources and the Georgia Bureau of Investigation by a sworn written statement under Ga. Code Ann. § 52-7-71(e) that the vessel has been abandoned. The sworn statement must indicate that the vessel is abandoned and include the same information as the initial written notice as required under Ga. Code Ann. § 52-7-71(b) (see above) as well as the following additional information:

- The date the vessel became abandoned and date it was removed
- A request for the name and address of all owners, lessors, lessees, security interest holders and any lien holders

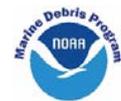
If the vessel is thought to be registered or titled out of state by the person who removed the vessel, they are required to check for records within that state in order to ascertain the identity of the owner.

Once the sworn statement is received by the Department of Natural Resources, as described in Ga. Code Ann. § 52-7-71(e), the commissioner may revoke, suspend, deny, or refuse to renew any vessel certificate of number or commercial fishing boat license held by or applied for by the person (owner), as required by the state under this title or Title 27, until all fees and liens related to the removal/storage of the vessel have been paid and/or satisfied (Ga. Code Ann. § 52-7-71(e.1)(1A)). A notification of the proposed order for revocation, suspension, denial, or nonrenewal must be sent by certified mail or statutory overnight delivery to the address of the person, as indicated on the certificate of number and/or license application materials. The proposed order becomes final after 30 days if not appealed. Any person who receives a notification, as outline above, from the commissioner has a right to appeal in the superior court as outlined in Ga. Code Ann. § 52-7-71(e.1)(1B).

The penalties for failing to remove an unattended vessel are also detailed in Ga. Code Ann. § 52-7-71.1, which includes the same procedures and requirements as those outlined under Ga. Code Ann. § 52-7-71(e.1). However, it requires the owner to restore and resume operation of the vessel in order to remove it from public waters and property and does not address the payments of fees and satisfaction of liens associated with the removal of the vessel by another party.

After notice is given to the Department of Natural Resources under Ga. Code Ann. § 52-7-71(e) and a copy of the notice is received by the state revenue commissioner, the state revenue commissioner may revoke, suspend, deny or refuse to renew any motor vehicle registration required by Title 40 which is held by the person, until all fees connected to the removal/storage of the vessel and all liens acquired under Ga. Code Ann. § 52-7-73 have been satisfied (Ga. Code Ann. § 52-7-71(e.1)(2A)). A notice of the proposed order by the state revenue commissioner must be delivered personally to the person or sent via certified mail or statutory overnight delivery to the name and address supplied on the application for registration. If after 30 days of issuance the notice is not appealed as specified under Ga. Code Ann. § 52-7-71(e.1)(2B) the notice becomes final.

If the owner of the abandoned vessel is identified, the person who removed or stored the vessel is required to notify the owner, lessors, lessees, security interest holders and lienholders



by certified or registered mail or statutory overnight delivery within five calendar days as to the vessels location and the fact that the vessel has been deemed abandoned and will be disposed of if not redeemed (Ga. Code Ann. § 52-7-71(f)).

If the owner has not been identified then an advertisement must be posted in a newspaper of general circulation in the county where the vessel was obtained or posted at the county courthouse (Ga. Code Ann. § 52-7-71(g)). The advertisement must run at least once a week for two consecutive weeks or remain posted at the courthouse for a two week period and must state that the vessel is deemed abandoned and will be disposed of if not redeemed. The advertisement must also include:

- A complete description of the vessel
- The location from which the vessel was removed and its current location
- Certificate of number and hull identification number of the vessel

The person responsible for the removal/storage of the vessel under the provisions outline in Ga. Code Ann. § 52-7-71 must notify the Department of Natural Resources and the Georgia Bureau of Investigations within seven calendar days if the vessel is recovered or claimed by the owner, is determined to be stolen, or the vessel is no longer considered abandoned (Ga. Code Ann. § 52-7-71(i)).

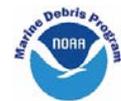
If the proper notices are not provided by the person removing or storing the vessel they will not be entitled to any storage fees (Ga. Code Ann. § 52-7-71(k)) and if they provide false or misleading information they shall be guilty of a misdemeanor under Ga. Code Ann. § 52-7-71(l)).

In addition to providing procedures required by a private citizen when removing and/or storing an abandoned vessel from private or public property (Ga. Code Ann. § 52-7-71), Georgia law also includes sections for the removal of these vessels by peace officers under Ga. Code Ann. § 52-7-72.

Any peace officer who finds a vessel left unattended in or upon public waters or property for at least five days may remove the vessel, after notifying the Department of Natural Resources, to a garage or other place of safety if they believe the person who left the vessel does not intend to remove it (Ga. Code Ann. § 52-7-72(a)). If the vessel poses a threat to public health or safety they may remove it immediately after the Department is notified under Ga. Code Ann. § 52-7-72(b)). Any peace officers who causes the removal of a vessel under these provisions can be held liable for gross negligence only (Ga. Code Ann. § 52-7-72(c)).

Under Ga. Code Ann. § 52-7-72(d)(1) if a peace officer finds a vessel that meets the criteria, as described under Ga. Code Ann. § 52-7-72(a) or (b), they have 72 hours from the time of finding to notify the Department of Natural Resources and the Georgia Crime Information Center, in order to determine the last known registered owner. Notification must include a description of the vessel, the owner (if available), and indicate if the vessel has been removed, and if so, where the vessel is currently located. If the vessel is determined to be a stolen vessel, the local law enforcement officer or agency shall notify the Georgia Crime Information Center and the owner, if known, of the location of the vessel within 72 hours after this determination.

If the vessel is removed by order of the peace officer and the name and address of the last known registered owner is available, the peace officer is required to provide the owner information to the person removing such vessel within three calendar days of removal. If



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information about the vessel owner is not available, the peace officer shall notify the removing party of that fact within the three calendar days.

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

Georgia statutes do not distinguish between commercial and recreational boats for the purpose of designating a vessel as abandoned or derelict.

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

Georgia does not impose size requirements or limits on the designation of abandoned or derelict vessels.

### **Funding Sources**

In 2006, the Georgia Legislature appropriated two years of funding for their abandoned vessel removal program. However, in 2008 due to a decrease in state revenues the appropriation for the program did not occur and has not yet been reinstated. Removal efforts can also be funded from proceeds obtained through liens, foreclosures, and sales of abandoned vessels.

### **Lead State Agency**

The [Georgia Department of Natural Resources](#) manages the abandoned vessel program and Sunken Vessel Project in Georgia.

Email: [buck.benett@gadnr.org](mailto:buck.benett@gadnr.org)

Telephone: 912-264-7218

Website: <http://www.gadnr.org/>

<http://coastalgadnr.org/msp/comp/sv>

The Georgia Bureau of Investigation is involved with determining ownership or if the vessel has been stolen.

Email: through website

Telephone: 404-244-2600

Website: <http://gbi.georgia.gov/>

### **Insurance Requirements for Vessels**

The State of Georgia does not have insurance requirements on vessels.

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

Within Georgia state parks and historic sites, abandoned vessels shall be disposed of in accordance with the above provisions of Title 52 of the Georgia Code. (GA. COMP. R. & REGS. 391-5-1-.05(16)(d)(1)).

### **Prioritization Scheme**



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Under Georgia law the Abandoned Vessel Act does not specifically set forth a prioritization scheme for abandoned vessel removals. Peace officers do have the authority, under Ga. Code Ann. § 52-7-72(b), to immediately remove any abandoned vessels from public waters and property if they pose a threat to public health or safety.

The Department of Natural Resources has developed a comprehensive set of criteria to guide their removal efforts. Although they do not have dedicated funding set aside to inventory abandoned and derelict vessels on a regular basis they have received funding to complete a state wide inventory in 2015. Their prioritization scheme consists of the following 5 tiers:

1. **Emergencies:** Vessels that are in danger of sinking, breaking up or blocking navigation channels or that present environmental risks such as leaking fuel or other hazardous substances.
2. **Non-Emergency Existing Threats to Human Health, Safety, and Environment:** Vessels, floating or sunken, which pose an existing or probable future—but not immediate—threat to human health, safety and the environment.
3. **Vessels Impacting Habitat and Not Already Covered in Prior Category:** Any vessel, floating or sunken, that doesn't meet one of the previous categories but still poses a direct threat to elements of the natural environment.
4. **Minor Navigation or Economic Impact:** Vessels, floating or sunken, that don't meet one of the previous categories but pose an economic impact such as blocking a marina slip, public boat ramp, public beach, etc.
5. **Other Abandoned Vessels or Derelict Vessels:** Vessels that meet the definition of abandoned or derelict, but do not satisfy any of the criteria listed above. These vessels may be sunk at depth; floating but well-kept and floating or sunk within the bounds of a marina or water-bottoms lease area, etc.

### **Legislation and Administrative Codes**

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

Georgia State Statutes:

<http://www.lexisnexis.com/hottopics/gacode/Default.asp>

Rules and Regulations of the State of Georgia:

<http://rules.sos.state.ga.us/>

These Legislative and Administrative Reviews are intended for informational purposes only. They are summaries and not meant to be legal references, and should not be used as such. See the official state statutes and administrative codes for current state laws and rules and regulations for any legal references.