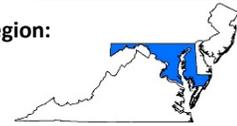


State of Maryland

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

NOAA Marine Debris Region:
Mid-Atlantic



Definition of a Vessel

State of Maryland statutes define a “vessel” under the State Boating Act in the following manner (Md. Code, Com. Law § 8-701(s)):

- Vessel:** 1) means every description of watercraft, including an ice boat but not including a seaplane, that is used or capable of being used as a means of transportation on water or ice.
- 2) “Vessel” includes the motor, spars, sails, and accessories of a vessel.

Definition of an Abandoned and/or Derelict Vessel

Maryland state statutes do not provide a definition of “derelict” vessels but do provide a comprehensive legal definition for “abandoned” vessels under Md. Code, Com. Law § 8-721(a):

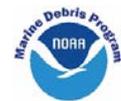
Abandoned Vessel means any vessel that:

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 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. Has been found adrift or unattended in or upon the waters of the State, and is found in a condition of disrepair as to constitute a hazard or obstruction to the use of the waters of the State or presents a potential health or environmental hazard.

Formal State Program for Abandoned Vessels

The State of Maryland does have a formal program to address abandoned vessels that is managed by the Department of Natural Resources. The statutes include rules governing the designation, notification, titling requirements, and removal authority of abandoned vessels on both private and public property. Funding for the program, and removal of abandoned vessels, comes from the Waterway Improvement Fund of the State of Maryland.

It is unlawful, pursuant to Md. Code, Com. Law § 8-725.1(a), for a person to abandon any vessel upon state waters. The last known registered owner on the certificate of title, issued under Md. Code, Com. Law § 8-715, is considered to be the prima facie owner at the time abandonment



and the person who abandoned the vessel (Md. Code, Com. Law § 8-721(b)). Any person who abandons a vessel in Maryland is guilty of a misdemeanor (Md. Code, Com. Law § 8-721(c)) with a penalty up to \$1000 or imprisonment not to exceed 6 months, or both (with fines and penalties increasing with a second offense). The owner is also liable to the State for the costs of the vessel's removal (Md. Code, Com. Law § 8-721(c)(3)). These provisions do not apply to an act of God or negligence of a third party (Md. Code, Com. Law § 8-721(b)(4)).

Designation of Abandoned and/or Derelict Vessels

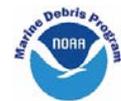
In Maryland, the designation of a vessel as abandoned is determined pursuant to Md. Code, Com. Law § 8-721 and any vessel that meets one of the five definitions (as shown above) can be designated as abandoned under state law. If a vessel is considered abandoned, the Department of Natural Resources may seize, remove, and take it into custody (Md. Code, Com. Law § 8-721(b)). No later than 15 days prior to seizing, removing or taking a vessel into custody, the Department is required to send a notice, by certified mail with return receipt requested, to the last known registered owner (Md. Code, Com. Law § 8-721(c)(1)).

If a vessel is taken into custody by the Department, they are also required to send a second notice by certified mail, no later than 15 days after taking custody, to the last known registered owner and to all secured parties (Md. Code, Com. Law § 8-721(c)(2)). Pursuant to Md. Code, Com. Law § 8-721(d), this notice shall:

1. Describe the vessel;
2. Give the location where the vessel is being held;
3. Inform the owner and secured party of a right to reclaim the vessel within 3 weeks of receipt of the notice required in subsection (c)(2) of this section upon payment to the Department of any expenses incurred during removal and custody of the vessel; and
4. 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.

If the last registered owner or secured parties cannot be determined, or if the certified mail notice (as described above) is returned as undeliverable, the Department is required to post the notice in at least 1 newspaper of general circulation in the area where the vessel was recovered within 30 days of seizure, or within 15 days of the return of the undeliverable certified letter (Md. Code, Com. Law § 8-721(e)). If the owner or secured party fails to claim the vessel within 3 weeks after notice is given, by mail or publication, the Department may sell the vessel at public auction, receive title pursuant to Md. Code, Com. Law § 8-722, or dispose of it (Md. Code, Com. Law § 8-721(f)). The Department can also dispose of any vessel without providing the required notices if that is in such a state of disrepair that it cannot be removed intact (Md. Code, Com. Law § 8-721(g)).

Abandoned vessels found on private land and the titling requirements are addressed under Md. Code, Com. Law § 8-722. Subject to this article a landowner, their lessee, or agent may acquire the title to any abandoned vessel found on the landowner's land or on the waters immediately adjacent to it (Md. Code, Com. Law § 8-722(b)). Acquiring title effectively divests all others of any interest in the vessel.



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Pursuant to Md. Code, Com. Law § 8-722(c), the person acquiring title must, if possible, use the boat number or other means to identify the owner and secure the owner's last known address, and any lienholder, from the Department's records. If a last known address is found the person must notify, by registered mail, the owner and the lienholder that if the vessel is not claimed and removed within 30 days, the application for title will be submitted. If the owner or lienholder cannot be identified from the Department records, then no notice is required. In addition, the person claiming title must also publish a notice in a newspaper of general circulation in the county where the vessel is located.

If the vessel is not claimed within the 30 day notice period, the person seeking title can apply for title with the Department (Md. Code, Com. Law § 8-722(c)(3)). In order to do so, they are required to provide affidavits that include:

- (i) A statement that the vessel is an abandoned vessel as defined in § 8721 of this subtitle;
- (ii) Proof the registered letter was mailed at least 30 days before application or a detailed explanation of the unsuccessful steps taken to identify the owner or lienholder and secure the owner's or lienholder's address;
- (iii) Proof a notice was printed in a newspaper as required of this subsection;
- (iv) A clear and accurate photograph of the vessel; and
- (v) A tracing or certification of the hull identification number.

Once the Department receives these materials, and any associated fees incurred in receiving the title, they shall issue title of the vessel to the applicant. If the person destroys or disposes of the vessel after receiving title, they are required to file a detailed report with the Department within 15 days (Md. Code, Com. Law § 8-722(c)(6)). According to Md. Code, Com. Law § 8-722(c)(7), if the Department seeks title for an abandoned vessel found on public land or waters, they must follow the same procedures as outlined for private property owners. In Maryland, it is unlawful for a person to obtain or attempt to obtain title to a vessel through fraudulent means using Md. Code, Com. Law § 8-722.

Online forms are available from the State of Maryland for claiming an abandoned vessel (<http://www.dnr.state.md.us/download/B117.pdf>) and for applying for title (<http://www.dnr.state.md.us/download/DNRB-240.pdf>).

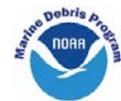
Responsibility for Removal of Abandoned or Derelict Vessels

Pursuant to Md. Code, Com. Law § 8-721(b), the Department may use its own resources or use other persons for removing, preserving, or storing abandoned vessels and may not be held liable for any damage that may occur during removal, storage, or custody. The Department may also delegate their authority, upon consent, to local jurisdictions in order to remove and dispose of abandoned vessels (Md. Code, Com. Law § 8-721(h)).

Under Md. Code, Com. Law § 8-721(c)(3), the owner is liable to the State for the costs of the vessel's removal.

Removal and Disposal Requirements/Guidelines

The laws of Maryland do not provide guidelines concerning the actual removal of an abandoned vessel, nor do they outline any disposal requirements once title has been determined. Under Md. Code, Com. Law § 8-721(g), the Department can dispose of an abandoned vessel, in any reasonable manner, that cannot be removed intact without providing prior notice.



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Differences between Commercial and Recreational Vessel Treatment

Maryland abandoned vessel law does not distinguish between commercial or recreational vessels.

Vessel Size Requirements or Limits

The State of Maryland does not set any size requirements or limits on abandoned vessel designation.

Funding Sources

The state program for abandoned vessels is funded by the State Boating Act through the Waterway Improvement Fund (Md. Code, Com. Law § 8-707), which funds a variety of projects including channel marking, clearing debris, dredging, erosion control and construction. The Waterway Improvement Fund is funded through the collection of state excise taxes from the sale and registration of vessels. The Department of Natural Resources has budgeted as much as \$500,000 annually for the removal of debris and abandoned vessels.

Lead State Agency

The Maryland Department of Natural Resources is the lead agency for abandoned vessels within the state.

Email: through website

Telephone: 410-260-8888

Website: <http://dnr2.maryland.gov/Boating/Pages/abandonedboats.aspx>

Insurance Requirements for Vessels

Maryland does not require boat/vessel insurance. They do require the registration of all vessels equipped with propulsion machinery pursuant Md. Code, Com. Law § 8-712.

Specific Location Factors, Limitations or Additional Information

Pursuant to Md. Code, Com. Law § 8-721.1(a), if a vessel is left in a marina without permission for more than 48 hours, the owner or operator of the marina, or their agents, can remove the vessel provided they have placed signs in conspicuous locations that state:

1. That vessels left at the marina without permission for more than 48 hours are subject to removal at the vessel owner's expense;
2. The location to which the vessel will be removed;
3. That the vessel owner will be responsible for all costs associated with the removal and storage of the vessel; and
4. Provide the telephone number of a person who can be contacted to arrange for the reclaiming of the vessel by its owner or the owner's agent.

The vessel cannot be removed to a place more than 30 miles away from the marina (Md. Code, Com. Law § 8-721.1(b)) and the owner or operator, or their agents, shall make a reasonable attempt to notify the vessel owners or the owner's agents that the vessel will be removed (Md. Code, Com. Law § 8-721.1(c)).

If the vessel is removed, the person removing the vessel is required to notify the owner or the owner's agents at the earliest time after the removal. Pursuant to Md. Code, Com. Law § 8-721.1(d)(1) the notice must include:

- (i) A description of the vessel including the vessel's certificate of boat number;



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- (ii) The date and time the vessel was removed;
- (iii) The reason the vessel was removed; and
- (iv) The locations from which and to which the vessel was moved.

The person removing the vessel must have authorization prior to the removal from the marina owner (Md. Code, Com. Law § 8-721.1(d)(2)) and they are not allowed pay remuneration to the marina owner (Md. Code, Com. Law § 8-721.1(d)(3)). Under Md. Code, Com. Law § 8-721.1(e)(2), the person who exercises control over the vessel at the location where it was delivered shall provide the owner or the owner's agent with the opportunity to reclaim possession of the vessel. If a vessel is removed from a marina illegally, the person removing the vessel is liable for damages to the owner or the owner's agent under Md. Code, Com. Law § 8-721.1(f).

Prioritization Scheme

There is not a specific prioritization scheme for removing abandoned or derelict vessels in Maryland. Abandoned vessels that are a hazard to navigation or the environment may receive priority from the Department.

Legislation and Administrative Codes

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

Maryland Statutes (2015):

<http://mgaleg.maryland.gov/webmga/frmStatutes.aspx?pid=statpage&tab=subject5>

Code of Maryland (2015):

<http://www.dsd.state.md.us/COMAR/ComarHome.html>

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.