



State of Michigan

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

NOAA Marine Debris Region:
Great Lakes



Definition of a Vessel

The State of Michigan provides a definition for “vessel” within the Natural Resources and Environmental Protection Act (Mich. Comp. Laws § 324.80104)

Vessel: means every description of watercraft used or capable of being used as a means of transportation on water.

Contained within the same Act, the State also provides an additional, more comprehensive definition for “watercraft” under Mich. Comp. Laws § 324.80301:

Watercraft: means a contrivance used or designed for navigation on water, including a vessel, boat, motor vessel, steam vessel, vessel operated by machinery either permanently or temporarily affixed, scow, tugboat, or any marine equipment that is capable of carrying passengers, except a ferry.

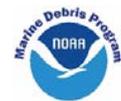
Definition of an Abandoned and/or Derelict Vessel

In 2014, the State of Michigan passed Act 549, which becomes effective as of April 16, 2015, that provides a comprehensive definition for an “abandoned” vessel under Mich. Comp. Laws § 324.80130(f)(2):

Abandoned Vessel: means any of the following:

- (a) A vessel that is on private property without the consent of the property owner.
- (b) A vessel that has remained on public property that is not a state trunk line highway as described in section 1 of 1951 PA 51, MCL 247.651, for a period of 48 hours or more without the permission of the governmental unit with custody of the property.
- (c) A vessel that meets all of the following requirements:
 - (i) Is stationary on a state trunk line highway as described in section 1 of 1951 PA 51, MCL 247.651.
 - (ii) Is not on a motor vehicle or trailer as described under subdivision (d)(i).
 - (iii) Is not under the immediate custody of the owner or owner's agent.
- (d) A vessel on a motor vehicle or trailer if the motor vehicle or trailer meets all of the following requirements:
 - (i) Displays a valid registration plate under the Michigan vehicle code.
 - (ii) Has remained parked on a state trunk line highway as described in section 1 of 1951 PA 51, MCL 247.651, for a period of 18 hours or more.
 - (iii) Is not under the immediate custody of the owner of the vessel, motor vehicle, or trailer or the owner's agent.

Michigan statutes also provide a definition of “abandoned property”, which includes watercraft, under the Aboriginal Records and Antiquities and Abandoned Property section of the Natural Resources and Environmental Protection Act (Mich. Comp. Laws § 324.76101):



Abandoned Property: means an aircraft; a watercraft, including a ship, boat, canoe, skiff, raft, or barge; the rigging, gear, fittings, trappings, and equipment of an aircraft or watercraft; the personal property of the officers, crew, and passengers of an aircraft or watercraft; and the cargo of an aircraft or watercraft, which have been deserted, relinquished, cast away, or left behind and for which attempts at reclamation have been abandoned by owners and insurers. Abandoned property also means materials resulting from activities of historic and prehistoric Native Americans.

Although Michigan does not expressly define ‘derelict’ vessels they have adopted legislation (under Act 549) that addresses “abandoned scrap vessels”. Under Mich. Comp. Laws § 324.80130(g) they provide two definitions:

Registered abandoned scrap vessel: means a vessel that meets all of the following requirements:

- (i) Is 7 or more years old.
- (ii) Is apparently inoperable or is damaged, to the extent that the cost of repairing the vessel to make it operational and safe would exceed the fair market value of that vessel.
- (iii) Is currently registered or titled in this state or displays a current year registration or current year registration decal from another state.

Unregistered abandoned scrap vessel: means a vessel that meets all of the following requirements:

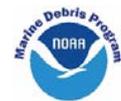
- (i) Is apparently inoperable or is damaged, to the extent that the cost of repairing the vessel to make it operational and safe would exceed the fair market value of that vessel.
- (ii) Is not currently registered or titled in this state and does not display a current year registration or current year registration decal from another state.

Formal State Program for Abandoned Vessels

Currently the State of Michigan does not have a formal program to administer the designation or removal of abandoned or derelict vessels. In 2014, Michigan law makers passed Public Act 549 (effective April 16, 2015) which puts into place laws that specifically address abandoned vessels (Mich. Comp. Laws § 324.80130(f) - § 324.80130(o)). Prior to the passage of this legislation vessels that were abandoned were primarily addressed under the laws governing lost or unclaimed property (Mich. Comp. Laws § 434) and littering (Mich. Comp. Laws § 324.8901- § 324.8905(b)). Act 549 makes it unlawful to abandon a vessel and the included provisions address jurisdiction, civil penalties, ownership and titling, removal, disposal (sale) and sets guidelines on determining who has the responsibility for covering the costs associated with the abandonment.

The State also addressed abandoned vessels under litter laws. Vessels which have historical value or are located on Great Lakes Bottomlands are legislated through the Aboriginal Records and Antiquities section of the Natural Resources and Environmental Protection Act (Mich. Comp. Laws § 324.76101 - § 324.76118); which is managed by the Department of Natural Resources (Department).

Public Act 549 makes it unlawful to abandon a vessel and any person who does so is responsible for a state civil infraction. If the person who abandons the vessel does not redeem it before the



vessels is disposed of under Mich. Comp. Laws § 324.80130(k), they become subject to penalties pursuant to Mich. Comp. Laws § 324.8905(a). The penalties depend on the amount of “litter” (by volume) that is abandoned and can include a first time fine of up to \$2,500.

Designation of Abandoned and/or Derelict Vessels

Michigan, under Public Act 549, has provisions which address the designation process for identifying abandoned or derelict vessels. If a vessel meets on one of the definitional requirements under Mich. Comp. Laws § 324.80130(f) (see above definitions), it can be designated as abandoned following the procedures outlined under this section. If a vessel is located on public property and qualifies as an abandoned vessel (under Mich. Comp. Laws § 324.80130(f)(2)) the police agency with jurisdiction must first determine if the vessel was stolen. If the vessel has not been reported stolen the police agency can have it removed and taken into custody (Mich. Comp. Laws § 324.80130(f)(3)).

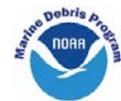
If the vessel is located on private property without the consent of the landowner it can be taken into custody as an abandoned vessel by contacting a local towing agency (one with a storage facility located within 15 miles of the local government’s jurisdictional border) pursuant to Mich. Comp. Laws § 324.80130(f)(9). Before removing the vessel the towing agency is required to provide reasonable notice by telephone, or otherwise, that the vessel will be towed to the police agency with jurisdiction who will then determine if the vessel has been reported stolen (Mich. Comp. Laws § 324.80130(f)(10)).

Once an abandoned vessel is taken into custody, by either the local police agency or by a private property owner who notifies the police, the police agency with jurisdiction is required, under Mich. Comp. Laws § 324.80130(f)(4)(a), to recheck to make sure the vessel was not reported as stolen. Pursuant to Mich. Comp. Laws § 324.80130(f)(4)(b), if the vessel has not been reported as stolen the police are required to enter the vessel into Michigan’s enforcement information network as an abandoned vessel within 24 hours after the vessel was taken into custody and notify the Secretary of State. The notification must contain the following:

- (i) The year, make, and vessel identification number of the vessel, if available.
- (ii) The address or approximate location from which the vessel was taken into custody.
- (iii) The date on which the vessel was taken into custody.
- (iv) The name and address of the police agency.
- (v) The name and business address of the custodian of the vessel.
- (vi) The name of the court that has jurisdiction over the case.

Once the Secretary of State receives notice that an abandoned vessel has been taken into custody they have 7 days to notify the last title owner and secured party (if known) or last registered owner by first-class mail, or personal service, that the vessel is considered abandoned. Pursuant to Mich. Comp. Laws § 324.80130(f)(5)(a), the notice must contain:

- (i) The year, make, and vessel identification number of the vessel, if available.
- (ii) The address or approximate location from which the vessel was taken into custody.
- (iii) The date on which the vessel was taken into custody.
- (iv) The name and address of the police agency that had the vessel taken into custody or received notice of a vessel taken into custody.



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- (v) The name and business address of the custodian of the vessel.
- (vi) The procedure to redeem the vessel.
- (vii) The procedure to contest the fact that the vessel is considered abandoned or the reasonableness of the towing fees and daily storage fees.
- (viii) A form petition that the owner may file in person or by mail with the specified court having jurisdiction to request a hearing on the validity of the grounds for taking custody of the vessel.
- (ix) A warning that if the vessel is not redeemed or a hearing requested within 20 days after the date of the notice, the vessel may be sold and all rights of the owner and the secured party to the vessel or to the proceeds of the sale terminated.

The Secretary of State is also required to enter the information required by the notice into a publically accessible website (maintained by the Secretary of State) for a period of one year or until the vessel is disposed of (Mich. Comp. Laws § 324.80130(f)(5)(b)).

The owner of a vessel designated as abandoned by the State has the right to contest the designation and the associated fees (towing and storage) by requesting a hearing within 20 days of receiving the abandonment notice (Mich. Comp. Laws § 324.80130(f)(6)). They can also redeem the vessel by posting a bond to cover the towing/storage costs and court fees. Pursuant to Mich. Comp. Laws § 324.80130(f)(7), if the owner does not request a hearing they have the option of reclaiming the vessel by paying a \$40 fee and the accrued towing/storage costs to the custodian of the vessel. The custodian, in turn, has to send \$25 of the fee to the state within 30 days for deposit into the abandoned vessel, ORV, and snowmobile fund (see funding section). If the vessel owner does not respond to the notice within 20 days the secured party can then claim the vessel by paying the custodian the fee and towing/storage costs (Mich. Comp. Laws § 324.80130(f)(8)).

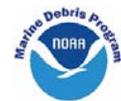
Derelict vessels that meet the definition of either a “registered abandoned scrap vessel” or that of an “unregistered abandoned scrap vessel” pursuant to Mich. Comp. Laws § 324.80130(g), can be disposed of following the procedures outlined in Mich. Comp. Laws § 324.80130(g)(2) thru § 324.80130(g)(12). These provisions are similar in scope to those outlined above for abandoned vessels including taking custody, checking to see if the vessel was reported stolen, sending a notice to the Secretary of State (with 2 photographs and a damage assessment as additional requirements), and entering the data into the law enforcement information network.

Michigan also requires a vessel owner to notify the secretary of state within 15 days if a vessel is destroyed, abandoned or sold in which case the certificate of number will be canceled or, if sold, transferred to the new owner (Mich. Comp. Laws § 324.80125(1)).

In addition, under Michigan Administrative code a certificate of title can be applied for by a person claiming an abandoned watercraft by submitting an application that includes a certified or true copy of the court order indicating the applicant as the legal owner (Mich. Admin. Code r. 281.2204(1)). Pursuant to Mich. Admin. Code r. 281.2204(2), once the secretary of state receives the completed application a certificate of title will be issued.

Responsibility for Removal of Abandoned or Derelict Vessels

Under Michigan law if a vessel is designated as abandoned the police or private property owner in possession must contact a local towing agency who will take the vessel into custody for



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removal and storage (Mich. Comp. Laws § 324.80130(f)). This is also required under Mich. Comp. Laws § 324.80130(g) for abandoned scrap (derelict) vessels with custody of the vessel being transferred to the towing agency by the state for removal and disposal.

Michigan Comp. Laws § 324.80130(f) states that “a person shall not abandon a vessel in this state”. If a vessel is found abandoned in Michigan the state presumes that the last titled owner (if there is one) or the last registered owner is the party responsible for the abandonment. Any fees and costs (towing, storage and disposal) are the liability of the last known titled or registered owner under both Mich. Comp. Laws § 324.80130(f) and § 324.80130(g). If the last known titled or registered owner is unknown then the responsibility belongs to the police agency or private property owner to cover the costs of removal and/or disposal.

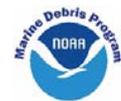
Removal and Disposal Requirements/Guidelines

Under Public Act 549, the State of Michigan outlines requirements that must be met before a vessel is removed and either sold or disposed. As mentioned in the responsibility section (above) the State requires the police or private property owner to contact and transfer custody to a towing agency in order to have a vessel removed, stored and/or disposed of. If the vessel was found on private property the landowner or lessee must post a notice prior to authorizing the towing or removal of the vessel pursuant to Mich. Comp. Laws § 324.80130(o)). The notice must be prominently displayed on the property, have 2 inch letters with a contrasting background, provide the name and telephone number of the towing service to be used, and be permanently installed and maintained for not less than 24 hours before removing the vessel.

Prior to removing the vessel the towing company is required to notify the police agency, by telephone, or otherwise, that the vessel is being moved (Mich. Comp. Laws § 324.80130(f)(10)). Under Mich. Comp. Laws § 324.80130(f)(11), if the abandoned vessel is not claimed within 20 days (of the notice receipt or hearing determination), or the owner cannot be determined pursuant to Mich. Comp. Laws § 324.80130(f)(12), it can be sold at public sale by either the police agency, if it was found on public property, or by the custodian of the vessel, if found on private property. If ownership of an abandoned vessel cannot be determined the police agency with jurisdiction can sell the vessel at public sale after 30 days of posting the sale notice.

The provisions for selling an abandoned vessel at public sale are addressed in Mich. Comp. Laws § 324.80130(k)(1). The vessel must be in control of the police or the custodian (the police can designate a third party as custodian) and the public bid sale must take place within 5 days of publishing the sale notice. The sale notice must be published at least once in a general circulation newspaper (in the county where it was found) or on a public accessible state website and include a description of the vessel and the date, time and location of the sale. Pursuant to Mich. Comp. Laws § 324.80130(k)(2), monies received from the sale are applied, in order, to:

- (a) Accrued towing and storage charges.
- (b) Expenses incurred by the police agency or custodian of the vessel.
- (c) Payment of the \$40 abandoned vessel fee.
- (d) Sent to the Department of Treasury’s unclaimed property division to be disbursed to:
 - (i) To the secured party, if any, in the amount of the debt outstanding,
 - (ii) Remainder to the owner and if the owner cannot be found then the remaining money become the property of the local government whose police



department entered the vessel into the law enforcements information network.

If there are no bids the police agency or custodian can either turn the vessel over to the towing firm or custodian to satisfy the charges (towing, storage and disposal) against the vessel, obtain title to the vessel or conduct another sale. If the vessel's value does not satisfy the charges incurred the custodian may collect the additional balance from the last titled or registered owner (Mich. Comp. Laws § 324.80130(k)(3)).

The police agency can have an unregistered scrap vessel certified and released to a towing agency for disposal within 24 hours, once it has been determined that a vessel was not reported stolen. Disposing of registered scrap vessels requires, in addition, that within 7 days after taking custody the Secretary of State must send the abandonment notice (the same as required under Mich. Comp. Laws § 324.80130(f)(5)(a)) to the last titled or registered owner and secured party (Mich. Comp. Laws § 324.80130(g)(8)). The owner or secured party can then request a hearing to contest the designation pursuant to Mich. Comp. Laws § 324.80130(g)(9) or redeem the vessel under Mich. Comp. Laws § 324.80130(g)(10) or § 324.80130(g)(11).

For unregistered abandoned scrap vessels the towing service is required to complete the certificate of scrapping (found on the back of the release form) then transfer the form and vessel to a scrap metal processor or landfill operator. Once the vessel is disposed of the scrap metal processor or landfill operator must transfer the form to the secretary of state (Mich. Comp. Laws § 324.80130(g)(5)). For registered abandoned scrap vessels the police agency or their designee can have the vessel disposed of following the same procedures as an unregistered scrap vessel (Mich. Comp. Laws § 324.80130(g)(12)).

The secretary of state is required to retain the records relating to an abandoned scrap vessel for not less than 2 years and the police agency or the agency's designee must retain the photographs of the vessel for the same period (Mich. Comp. Laws § 324.80130(g)(6)).

Differences between Commercial and Recreational Vessel Treatment

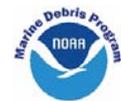
The only difference in treatment that is addressed under Michigan law is under the provisions regulating towing and storage fees (Mich. Comp. Laws § 324.80130(m)). A towing service, custodian of the vessel, or both can recover towing and storage fees from the last titled or registered owner up to a limit of \$1,000; however the limits set under Mich. Comp. Laws § 324.80130(m)(2) do not apply to commercial vessels or to vessels owned or leased by an entity (and not an individual).

Vessel Size Requirements or Limits

Michigan statutes do not include provisions that set size requirements or limits on the designation or removal/disposal of abandoned or derelict scrap vessels.

Funding Sources

Under Public Act 549 (Mich. Comp. Laws § 324.80130(l)) the State of Michigan created an Abandoned Vessel, ORV and Snowmobile Fund within the state treasury to fund, by appropriation, the administration of sections §80130(f) to §80130(p) of Chapter 324, which address abandoned vessels and abandoned scrap vessels (and §81151 and §82161 for off-road vehicles and snowmobiles, respectively). The state treasurer may deposit money or assets from any source into the fund and a portion of the fees assessed on abandoned vessels (\$25) must be applied towards the fund.



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In addition, Michigan has an Underwater Preserve Fund which can be used to fund maritime archaeology, promote the Great Lakes bottomland preserves and for enforcement purposes (Mich. Comp. Laws § 324.76118).

Lead State Agency

Michigan's Secretary of State is responsible for matters relating to abandoned property.

Email: through website

Telephone: 888-767-6424

Website: http://www.michigan.gov/sos/0,1607,7-127-1640_14837-123588--,00.html
and <http://services.sos.state.mi.us/autolostandfound/>

The Department of Environmental Quality (top) and the Department of History, Arts and Libraries (bottom) are the lead agencies regarding historical wrecks and abandoned property found on the state managed bottomlands of the Great lakes.

Department of Environmental Quality

Email: through website

Phone: 800-662-9278

Website: <http://www.michigan.gov/deq/>

Department of History, Arts and Libraries

Email: through website

Phone: 517-335-4747

Website: http://www.michigan.gov/mdcs/0,4614,7-147-6879_9324_25457-128760--,00.html

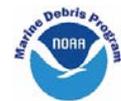
Insurance Requirements for Vessels

Watercraft insurance is only required for commercial vessels carrying passengers.

Specific Location Factors, Limitations and Additional Information

Pursuant to Mich. Comp. Laws § 324.80130(h), a vessel can be removed immediately from public or private lands to a place of safekeeping at the expense of the last titled owner (if known) or registered owner under certain circumstances (see Mich. Comp. Laws § 324.80130(h)(1)(a) thru § 324.80130(h)(1)(l)). Prior to removal the police must perform a check to see if the vessel was stolen, if the vessel was not stolen then the vessel can be removed. Some of the circumstances which may pertain to abandoned or derelict vessels are listed below (see the full statute for a complete list and additional legal requirements):

- (a) The vessel is in such a condition that the operation of the vessel would constitute an immediate hazard to the public.
- (b) The vessel is parked or standing upon a highway, road, or street in a manner that creates an immediate public hazard or an obstruction of traffic.
- (f) Removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or man-made disaster, or other emergency.
- (g) The vessel is interfering with the owner's or owner's agent's use of private property or is parked in a manner that impedes the movement of another vessel or vehicle.
- (l) The vessel is submerged in, partially submerged in, or floating unanchored or untethered upon a public waterway.



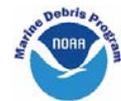
Under Aboriginal Records and Antiquities and legislation if abandoned property of historical or recreational value is found on the state owned bottomlands of the Great Lakes the state has the right to claim the property (Mich. Comp. Laws § 324.76102). If a person wants to recover, alter or destroy abandoned property within the states jurisdiction over the bottomlands they must be issued a permit authorized by the Department of Environmental Quality and the Department of History, Arts and Libraries (Mich. Comp. Laws § 324.76107). Violations of this law are a crime under Mich. Comp. Laws § 324.76107(4). The actual charge and level of punishment depends on the value of the property.

A person may recover abandoned property outside of state bottomland preserves without a permit; however, they may not remove property if it is associated in any way with a sunken vessel or aircraft (Mich. Comp. Laws § 324.76108(1)). In order to do so they must first obtain a permit (as mentioned above) by filing an application with the Department of Environmental Quality pursuant to Mich. Comp. Laws § 324.76109(2). The application must contain:

- (a) The name and address of the applicant.
- (b) The name, if known, of the watercraft or aircraft on or around which recovery operations are to occur and a current photograph or drawing of the watercraft or aircraft, if available.
- (c) The location of the abandoned property to be recovered and the depth of water in which it may be found.
- (d) A description of each item to be recovered.
- (e) The method to be used in recovery operations.
- (f) The proposed disposition of the abandoned property recovered, including the location at which it will be available for inspection by the department and the department of history, arts, and libraries.
- (g) Other information which the department or the department of history, arts, and libraries considers necessary in evaluating the request for a permit.

If a permit is granted it can come with reasonable and necessary conditions attached concerning the recovery and removal of the abandoned property that are intended to protect the public trust and general interests of Michigan (Mich. Comp. Laws § 324.76109(4)). These include conditions that must accomplish at least one of the following:

- (a) Protect and preserve the abandoned property to be recovered, and the recreational value of the area in which recovery is being accomplished.
- (b) Assure reasonable public access to the abandoned property after recovery.
- (c) Conform with rules applying to activities within a Great Lakes bottomlands preserve.
- (d) Prohibit injury, harm, and damage to a bottomlands site or abandoned property not authorized for removal during and after salvage operations by the permit holder.
- (e) Prohibit or limit the amount of discharge of possible pollutants, such as floating timbers, planking, and other debris, which may emanate from the shipwreck, plane wreck, or salvage equipment.
- (f) Require the permit holder to submit a specific removal plan prior to commencing any salvaging activities. Among other matters considered appropriate by either the department or the department of history, arts, and libraries, or both, the removal plan may be required to ensure the safety of those removing or assisting in the removal of the abandoned property and to address how the permit holder proposes to prevent,



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minimize, or mitigate potential adverse effects upon the abandoned property to be removed, that portion of the abandoned property which is not to be removed, and the surrounding geographic features.

Pursuant to Mich. Comp. Laws § 324.76110 the permit holder must notify the Department of Environmental Quality within 10 days of recovering/removing the abandoned property and allow up to 90 days for representatives of the State to inspect the property. If it is then determined that the recovered property has no historical value it shall be released to the permit holder through a written instrument. If abandoned property, which requires a permit to recover, is recovered without a permit it must be turned over to the State (Mich. Comp. Laws § 324.76107(2)).

Prioritization Scheme

Michigan does not have a prioritization scheme in place for removing abandoned or derelict vessels. Unlike many states Michigan does have statutes that address abandoned/derelict vessels which may pose a public safety or navigational hazard.

Legislation and Administrative Codes

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

Michigan Compiled Laws (2014):

[http://www.legislature.mi.gov/\(S\(s3gb0kblkimbtesfxfw25zpp\)\)/mileg.aspx?page=chapterindex](http://www.legislature.mi.gov/(S(s3gb0kblkimbtesfxfw25zpp))/mileg.aspx?page=chapterindex)

Michigan Administrative Code (2014):

http://www.michigan.gov/lara/0,4601,7-154-35738_5698---,00.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.