

# State of North Carolina



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

NOAA Marine Debris Region:  
Southeast



### Definition of a Vessel

The State of North Carolina defines a “vessel” in Chapter 75A, Boating and Water Safety, in the following manner (N.C. Gen. Stat. § 75A-2(5)):

**Vessel:** means every description of watercraft or structure, other than a seaplane on the water, used or capable of being used as a means of transportation or habitation on the water.

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

North Carolina law does not define “derelict” vessels but does provide a definition for an “abandoned” vessel under N.C. Gen. Stat. § 75A-2(1):

**Abandoned:** means a vessel that has been relinquished, left, or given up by the lawful owner without the intention to later resume any right or interest in the vessel.

This definition does not include vessels that are left by an owner or their agent with any person or business for the purpose of storage, maintenance, or repair and that is not subsequently reclaimed. North Carolina Administrative Code addressing abandoned vessels uses the same definition as provided above (15A N.C. Admin. Code 10F.0110).

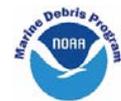
North Carolina courts, in *State v. Flying “W” Enterprises, Inc.* (160 S.E.2d 482 (1968), 273 N.C. 399) ruled that one-time owners of sunken or derelict vessels or their contents may abandon them so effectively that they divest themselves of title and ownership. This decision was, in part, based on the following definition found in American Jurisprudence:

"A vessel, cargo, or other property is derelict in the maritime sense of the word when it is abandoned without hope of recovery or without intention of returning." (48 Am. Jur., Shipping § 647 at p. 451):

### Formal State Program for Abandoned Vessels

North Carolina does not have a formal program to address abandoned or derelict vessels. They do have laws that allow for a person to obtain ownership over abandoned vehicles, including vessels, if they can provide proof to the state’s Wildlife Resources Commission that the vessel is actually abandoned pursuant to N.C. Gen. Stat. § 75A-5(i)(2) and 15A N.C. Admin. Code 10F.0110.

North Carolina littering laws, which are enforced by the Department of Environment and Natural Resources, make it unlawful for any person, firm or corporation to place, deposit or leave, either temporarily or permanently, any scrapped vehicle or equipment in or upon and navigable waters of the state (N.C. Gen. Stat. § 76-40(a)). The Violations of this statute can result in a class 2 misdemeanor that comes with up to a \$1000 fine and/or up to 60 days of active, intermediate or community punishment. It also illegal under N.C. Gen. Stat. § 75A-10, to litter on the waters of the State or into inland lake waters any liquid or solid materials that can be detrimental to the public health, welfare, enjoyment or safety of the water for recreational



## North Carolina ADV Legislative and Administrative Review 2015

purposes. In addition, N.C. Gen. Stat. § 14-399 also makes it unlawful to intentionally or recklessly litter upon any public or private property.

Note: North Carolina had a pilot program in place from 2000-2003 for removing abandoned vessels in the Neuse River Basin. However, the program was not reinstated after it expired (Session law 2000-74, House Bill 1625).

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

In North Carolina, pursuant to N.C. Gen. Stat. § 75A-5(i)(2), a person may obtain ownership of an abandoned vessel if they can provide the North Carolina Wildlife Resources Commission with proof that the lawful owner has actually abandoned the vessel. This law requires the Commission to adopt rules by which a person seeking to acquire ownership of an abandoned vessel may demonstrate that it was actually abandoned.

The Wildlife Resources Commission's procedures were published as 15A N.C. Admin. Code 10F.0110 Abandoned Vessels, and allow a person who finds an abandoned vessel to become the registered and titled owner, provided the previous owner(s) cannot be located and have not reported the vessel missing or stolen. The person seeking ownership is required comply with the following procedures:

- 1) The Finder shall send a Certified Letter, return receipt requested, to the last registered owner(s). The Finder shall demonstrate to Wildlife Resources Commission that this letter was not deliverable or that the last registered owner(s) failed to acknowledge or respond.
- 2) The Finder shall provide to the Wildlife Resources Commission a written police report stating that the abandoned vessel has not been reported missing or stolen in the area where it is listed as being moored.
- 3) The Finder shall complete and submit an application for a certificate of number and certificate of title, along with a notarized statement summarizing when and where the vessel was found, the evidenced attempts to locate the owner(s), any available evidence that the vessel is abandoned, statements from any other persons knowledgeable about the history of the vessel and applicable fees to the Wildlife Resources Commission.

If the Commission finds that the evidence and documentation provided is adequate they can designate the vessel as abandoned and transfer ownership to the applicant (15A N.C. Admin. Code 10F.0110(c)).

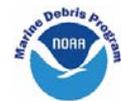
North Carolina's does have an Unclaimed Property Act that addresses abandoned property; however, vessels or other real property are not covered under the definitions provided under N.C. Gen. Stat. § 16B-52.

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

North Carolina laws do not assign responsibility for removing abandoned or derelict vessels. If a person finds an abandoned vessel and they apply for and receive ownership of it pursuant to N.C. Gen. Stat. § 75A-5(i)(2), they become responsible for the vessel.

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

In North Carolina there is no mechanism to require an individual to remove a vessel through statute, but there are criminal charges that can be filed for abandoning a vessel. The only reference to removal requirements for abandoned vessels in North Carolina in under N.C. Gen.



## North Carolina ADV Legislative and Administrative Review 2015

Stat. § 143-355(b)(5). It states that the Department of Environment and Natural Resources (now known as the Department of Environmental Quality) is required to cooperate with the U.S. Army Corps of Engineers in removing “any wrecked, sunken or abandoned vessel or unauthorized obstructions and encroachments in public harbors, channels, waterways, and tidewaters of the State.”

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

North Carolina laws make no distinction between abandoned commercial or recreational vessels.

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

State statutes or administrative codes do not set forth any size requirements or limitations on abandoned or derelict vessels.

### **Funding Sources**

North Carolina does not have a dedicated funding source for addressing abandoned or derelict vessels.

### **Lead State Agency**

North Carolina’s Wildlife Resources Commission is the agency that administers the state’s Boating and Water Safety provisions for abandoned vessels.

Email: [vessels@ncwildlife.org](mailto:vessels@ncwildlife.org)

Phone: 919-707-0010

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

### **Insurance Requirements for Vessels**

North Carolina does not require owners to have insurance coverage on their vessels.

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

North Carolina does have additional laws addressing abandoned vessels for some counties in the state.

Both Brunswick and Dare Counties can prohibit the abandonment of motor vehicles on public grounds and private property within the county's jurisdiction and on county-owned property (N.C. Gen. Stat. § 153A-132(a)). Vessels are included under the following definition, as provided in this section:

**Motor Vehicle:** includes any machine designed or intended to travel over land or water by self-propulsion or while attached to self-propelled vehicle.

The provisions under N.C. Gen. Stat. § 153A-132(1) also define an “abandoned motor vehicle” as one that:

- a) Is left on public grounds or county-owned property in violation of a law or ordinance prohibiting parking; or
- b) Is left for longer than 24 hours on property owned or operated by the county; or
- c) Is left for longer than two hours on private property without the consent of the owner, occupant, or lessee of the property; or
- d) Is left for longer than seven days on public grounds.

In addition, they also have a definition for “junked motor vehicle” under N.C. Gen. Stat. § 153A-132(2), which is an abandoned motor vehicle that is also:



## North Carolina ADV Legislative and Administrative Review 2015

- a) Is partially dismantled or wrecked; or
- b) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- c) Is more than five years old and appears to be worth less than one hundred dollars (\$100.00); or
- d) Does not display a current license plate.

Both counties can remove and store abandoned or junked vessels if they violate the provision of this section (N.C. Gen. Stat. § 153A-132(c)). They cannot be removed from private property without the permission of the owner, lessee or occupant unless the vessel is declared a safety of health hazard. When an abandoned or junked motor vehicle is removed, the county must give notice to the owner as required by N.C. Gen. Stat. § 20-219.11(a) and (b).

The Town of Wrightsville Beach also has similar laws that were passed in 2011 that allow them to prohibit the abandonment of vehicles, and remove and dispose of them if necessary (N.C. Gen. Stat. § 160A-303). These provisions allow the town to remove and store any vehicles in violation, and use almost the same definitions for “vehicle” and “junked vehicle” as found in N.C. Gen. Stat. § 153A-132(b)(above). However, the definition provided under N.C. Gen. Stat. § 160A-303(b)(1) for “abandoned motor vehicle”, as it relates to vessels, is one that:

- 2) Is left on property owned or operated by the city for longer than 24 hours; or
- 3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or
- 5) Is moored, anchored, or otherwise located for more than 30 consecutive days in any 180-consecutive-day period in any waters or marshes waterward of the pierhead line as established by the Town of Wrightsville Beach.
- 6) If designed to float, is in danger of sinking, has sunk, is resting on the bottom, or is located such that it is a hazard to navigation or is an immediate danger to other vessels. Shipwrecks, vessels, cargoes, tackle, and other underwater archeological remains that have been in place for more than 10 years shall not be considered abandoned motor vehicles

### **Prioritization Scheme**

North Carolina does not have a 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:

North Carolina Statutes (2014):

<http://www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl>

North Carolina Administrative Code (2014):

<http://reports.oah.state.nc.us/ncac.asp>

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.