

By Mr. Cabral of New Bedford, petition of Antonio F. D. Cabral, Robert M. Koczera, John F. Quinn, Joseph B. McIntyre and Mark C. Montigny for legislation to regulate abandoned vessels on the waterways of the Commonwealth. Natural Resources and Agriculture.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety-Four.

AN ACT RELATIVE TO ABANDONED VESSELS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section forty-nine of chapter ninety-one of the  
2 General Laws is hereby repealed.

1 SECTION 2. Said chapter ninety-one is hereby further  
2 amended by adding the following eleven sections: —

3 Section 64. For the purposes of section sixty-four to seventy-  
4 four, inclusive, the following terms shall have the following  
5 meanings:

6 (a) "Vessel." A boat or watercraft other than a seaplane on the  
7 water, used or capable of being used as a means of transportation  
8 on the water and shall include flat-bottomed boats, barges, scows  
9 and rafts;

10 (b) "Owner." A person other than a lienholder, having the  
11 property or title to a vessel. The term includes a person entitled  
12 to the use or possession of a vessel subject to an interest of another  
13 person, reserved or created by agreement and securing payment  
14 or performance of an obligation but shall exclude a lessee under  
15 a lease not intended as;

16 (c) "Lienholder." Any person holding a security interest;

17 (d) "Security interest." An interest which is reserved or created  
18 by an agreement which secures payment or performance of an  
19 obligation and is valid against third parties generally;

20 (e) "Department." The department of environmental manage-  
21 ment acting through the division of waterways;

22 (f) "Waters of the commonwealth." All waters within the  
23 jurisdiction of the commonwealth, both tidal and nontidal and  
24 the marginal sea adjacent to the commonwealth;

25 (g) "Removal costs." Any and all costs associated with the  
26 removal or destruction of any vessel from land and water and shall  
27 include the reimbursement of any or all cost incurred by the  
28 applicant in the course of acquiring title to an abandoned vessel.

29 Section 65. It shall be unlawful for any person to willfully  
30 abandon a vessel to or upon public lands or waters of the  
31 commonwealth or to or upon any private property or the water  
32 immediately adjacent thereto without the consent of the official  
33 designated by law to have jurisdiction over such public land or  
34 waterway or the owner or person in charge of the private property.  
35 A vessel which has remained moored, grounded or otherwise  
36 attached or fastened to or upon any public land or waterway or  
37 private property without such consent for a period of more than  
38 six months shall be prima facie evidence of such abandonment.

39 Section 66. A landowner, his lessee or agent, may, subject to  
40 the provisions of this chapter, acquire title to any vessel on his  
41 land or the water immediately adjacent to any vessel on his land  
42 or the water immediately adjacent thereto which has been  
43 abandoned according to the provisions of section sixty-five. The  
44 acquisition of title shall divest any other person of any interest  
45 in the vessel.

46 Section 67. If a vessel has a boat registration number or other  
47 means of identifying the owner thereof, the person desiring to  
48 acquire title, shall, if possible, secure the owner's last known  
49 address and the lienholder, if any, appearing on record. He shall  
50 notify the owner by registered mail at the address of record that  
51 if ownership is not claimed and the vessel removed within thirty  
52 days title to the vessel will be applied for in his name. If any vessel's  
53 owner cannot be identified or his address ascertained or no  
54 lienholder of record appears said letters need not be sent.

55 Section 68. The person desiring to acquire title shall place a  
56 notice in a newspaper of general circulation published in the  
57 county, or city or town where the vessel is located describing the  
58 vessel, its location, its apparent abandonment, any identifying  
59 number and shall state if the vessel is not claimed and removed  
60 within thirty days after publication of the notice he will apply for  
61 title to the vessel in his name.

62 Section 69. At the end of the thirty day period the person  
63 desiring to acquire title shall apply to the department for a title  
64 to the vessel in his name on approved forms accompanied by the  
65 following affidavits:

66 (a) A statement that the vessel has been apparently abandoned  
67 for at least six months.

68 (b) Proof of the mailing of the registered letter at least thirty  
69 days before the application or a detailed explanation of the  
70 unsuccessful steps taken to identify the owner and secure his  
71 address.

72 (c) Proof that a notice was published in a newspaper is  
73 required.

74 Section 70. Upon receipt of the material required in section  
75 sixty-nine and upon the payment of any fees or taxes due, the  
76 department shall issue the applicant a title to the vessel. All costs  
77 incurred in receiving title shall be borne by the applicant.

78 Section 71. After receiving title, the applicant may remove the  
79 vessel or destroy it. Removal costs shall be borne by the previous  
80 owner if he has been identified. If the owner destroys or otherwise  
81 disposes of the vessel he shall report same to the department within  
82 fifteen days supplying details.

83 Section 72. The department may receive title to any vessel  
84 abandoned on any waters of the commonwealth or on any land  
85 of the commonwealth or its political subdivisions in the same  
86 manner as a landowner, his lessee or agent.

87 Section 73. Any person who violates the provisions of section  
88 sixty-five shall be punished by a fine of not more than ten  
89 thousand dollars. Any person who obtains or attempts to obtain  
90 title to a vessel through fraudulent means shall be punished by  
91 a fine of not more than one thousand dollars.

92 Section 74. The department shall promulgate such rules and  
93 regulations as necessary to carry out the provisions of sections  
94 sixty-four to seventy-three, inclusive.

