

By Mr. Cabral of New Bedford, petition of Antonio F. D. Cabral, Mark C. Montigny, Joseph B. McIntyre and Robert M. Koczera relative to the abandonment of vessels in the water-ways of the Commonwealth. Natural Resources and Agriculture.

**The Commonwealth of Massachusetts**

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

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 92 of the General  
2 Laws is hereby repealed.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 prop-  
11 erty or title to a vessel. The term includes a person entitled to the  
12 use or possession of a vessel subject to an interest of another  
13 person, reserved or created by agreement and securing payment or  
14 performance of an obligation but shall exclude a lessee under a  
15 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 juris-  
23 diction of the commonwealth, both tidal and nontidal and the mar-  
24 ginal 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  
27 shall 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 com-  
31 monwealth or to or upon any private property or the water imme-  
32 diately 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, has lessee or agent, may, subject to the  
40 provisions of this chapter, acquire title to any vessel on his land or  
41 the water immediately adjacent to any vessel on his land or the water  
42 immediately adjacent thereto which has been abandoned according  
43 to the provisions of section sixty-five. The acquisition of title shall  
44 divest any other person of any interest in the vessel.

45 Section 67. If a vessel has a Massachusetts identification  
46 number in accordance with chapter ninety-B or other means of  
47 identifying the owner thereof, the person desiring to acquire title,  
48 shall, if possible, secure the owner's last known address and the  
49 lienholder, if any, appearing on record. He shall notify the owner  
50 by registered mail at the address of record that if ownership is not  
51 claimed and the vessel removed within thirty days title to the  
52 vessel will be applied for in his name. If any vessel's owner can  
53 not be identified or his address ascertained or no lienholder of  
54 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 show to the department, on approved  
64 forms, proof of establishing said title in his name, and accompa-  
65 nied by the 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 unsuc-  
70 cessful steps taken to identify the owner and secure his address.

71 (c) Proof that a notice was published in a newspaper as  
72 required.

73 The department shall certify that the requirements of this  
74 section have been met.

75 Section 70. Upon receipt of the documentation and department  
76 certification required in section sixty-nine, and upon the payment  
77 of any fees or taxes due, the division of law enforcement within  
78 the department of fisheries, wildlife and environmental law  
79 enforcement, shall issue to the applicant title to the vessel. All  
80 costs incurred in receiving title shall be borne by the applicant.  
81 Should such person wish to operate such vessel, he shall, if  
82 required by law, register said vessel with the division of law  
83 enforcement in accordance with chapter ninety-B.

84 Section 71. After receiving title, the applicant may remove the  
85 vessel or destroy it. Removal costs shall be borne by the previous  
86 owner if he has been identified. If the owner destroys or otherwise  
87 disposes of the vessel he shall report same to the department  
88 within fifteen days supplying details. The department shall imme-  
89 diately notify the division of law enforcement of the disposal or  
90 destruction of any vessel.

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

95 Section 73. Any person who violates the provisions of section  
96 sixty-five shall be punished by a fine of not more than ten thou-  
97 sand dollars. Any person who obtains or attempts to obtain title to

98 a vessel through fraudulent means shall be punished by a fine of  
99 not more than one thousand dollars.

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