



Wes Moore, Governor  
Aruna Miller, Lt. Governor  
Josh Kurtz, Secretary  
David Goshorn, Deputy Secretary

February 14, 2024

**BILL NUMBER: House Bill 293 - First Reader**

**SHORT TITLE: State Boat Act – Abandoned or Sunken Recreational Vessels – Identification and Removal**

**DEPARTMENT’S POSITION: OPPOSE**

**EXPLANATION OF DEPARTMENT’S POSITION**

The Department agrees with the concept of removing abandoned and sunken vessels from Maryland waters, as their presence can contribute to the degradation of the environment and present hazards to navigation. The Department believes that the criteria to address these concerns are sufficiently addressed in the current statute. The Department also has legal, constitutional, and practical concerns with the new criteria proposed in this bill. To seize, remove, or take into custody any vessel based upon these criteria would place the Department at risk of depriving a legitimate vessel owner of their legal and rightful property.

Specifically, these concerns are:

**Page 3, Lines 1 through 4** – While the Department and other government entities may issue permits to individuals, businesses, or associations to establish moorings or pilings, it has been determined that the permission to do so is not accompanied by any private ownership interest of the apparatus placed. Therefore, there is no true owner or person in control of the apparatus and permission to use the apparatus is not required. Single moorings do not require a permit. Vessels unlawfully tied to docks or piers connected to private property are sufficiently addressed in the current statute.

**Page 3, Lines 5 through 6** – The text in this bill does not establish whether 60 days means 60 consecutive days, 60 days per calendar year, or some other time frame. In any case, it would be impractical with current personnel, or any reasonable influx of new personnel, for the Department to monitor vessels anchored in Maryland waters to establish that the vessel has been unattended for the specified period of time. To successfully establish that the criteria had been met would require 24/7/365 surveillance of the vessel. Interpreted to be 60 consecutive days, any movement of the vessel, regardless of how slight, would restart the 60-day clock. Likewise, any visit to the vessel by the owner, regardless of how brief, would restart the 60-day clock. It would be neither practical or efficient for the Department to expend personnel hours in this manner. Interpreting the language to mean 60 days in some time period not specified in the bill would be unfair, as it is reasonable to say that most vessels are unattended for that time period during the course of a summer, and certainly during a year. There are also concerns that this specific criterion would infringe upon the right to freedom of navigation.

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**Page 5, Line 9** – It has long been the practice of the Department to enforce vessel registration requirements while vessels are underway. The Department does not require vessels tied to piers, docks, moorings, pilings, or at anchor, to have a current vessel registration or display a valid registration decal. That a vessel is not registered or displaying a valid registration decal is not an indicator that the vessel is abandoned by the owner. . This is a practical interpretation and application of § 8-712, COMAR 08.04.03.01 and 08.04.03.02.

**Page 5, Line 10** – Legal and constitutional concerns exist with this criterion, as Department personnel would be required, in many cases, to unlawfully enter and search an unoccupied vessel to determine if standing water is present. Practically, most vessels docked, anchored, or moored in the water have some level of standing water present in the bilge. Determining what level of standing water is acceptable would be subjective and lead to inconsistent determinations regarding the status of vessels.

**Page 5, Line 11** – There is no base level of condition that would lead to any conclusion based upon this criterion, other than obviously being sunken, which is already adequately addressed in statute. A vessel that may appear to be in poor condition above the waterline, while unpleasing to the eye, may be perfectly sound and able to maintain adequate buoyancy and be free from any environmental concern.

**Page 5, Lines 12 through 13** – This criterion could not be applied to all anchored vessels. By federal regulation, adopted by Maryland regulations, a vessel of less than 7 meters in length, when at anchor not in or near a narrow channel, fairway or where other vessels normally navigate, is not required to be equipped with or display an anchor light.

**Page 5, Lines 14 through 15** - There is no base level of condition that would lead to any conclusion based upon this criterion. Determining what level of mooring equipment condition is acceptable would be subjective, variable based upon vessel size, constantly changing sea and environmental conditions, and would lead to inconsistent determinations regarding the mooring equipment.

#### **BACKGROUND INFORMATION**

Natural Resources Article § 8-721 governs the criteria for determining whether a vessel is determined to have been abandoned, as well as the removal and disposal of abandoned and sunken vessels. This statute was last modified during the 2020 Regular Session of the Maryland General Assembly (HB0143/SB0219).

#### **BILL EXPLANATION**

This bill establishes new criteria for determining that a vessel has been abandoned on, or has sunken in, Maryland waters.