



|      |                  |                |              |                 |                  |              |
|------|------------------|----------------|--------------|-----------------|------------------|--------------|
| Home | Bill Information | California Law | Publications | Other Resources | My Subscriptions | My Favorites |
|------|------------------|----------------|--------------|-----------------|------------------|--------------|

**SB-1065 California Abandoned and Derelict Commercial Vessel Program.** (2021-2022)

SHARE THIS:



Date Published: 09/01/2022 09:00 PM

ENROLLED SEPTEMBER 01, 2022  
PASSED IN SENATE AUGUST 30, 2022  
PASSED IN ASSEMBLY AUGUST 30, 2022  
AMENDED IN ASSEMBLY AUGUST 23, 2022  
AMENDED IN ASSEMBLY AUGUST 15, 2022  
AMENDED IN ASSEMBLY JUNE 22, 2022  
AMENDED IN ASSEMBLY JUNE 13, 2022  
AMENDED IN SENATE APRIL 28, 2022  
AMENDED IN SENATE MARCH 14, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

**SENATE BILL**

**NO. 1065**

**Introduced by Senator Eggman**  
**(Coauthors: Senators Dodd and Nielsen)**  
**(Coauthors: Assembly Members Cooper and Grayson)**

**February 15, 2022**

An act to add Section 528 to the Harbors and Navigation Code, and to add Sections 6112 and 6113 to the Public Resources Code, relating to vessels.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1065, Eggman. California Abandoned and Derelict Commercial Vessel Program.

Existing law establishes within the Natural Resources Agency, the State Lands Commission consisting of the Controller, the Lieutenant Governor, and the Director of Finance. Existing law vests in the commission exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the state, and of the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits, including tidelands and submerged lands. Existing law authorizes the commission to take immediate action to remove from areas under its jurisdiction a vessel that is left unattended and is moored, docked, beached, or made fast to land in a position as to obstruct the normal movement of traffic or in a condition as to create a hazard to navigation, other vessels using a

waterway, or the property of another. Existing law requires the commission, by July 1, 2019, and in consultation with other relevant state and local agencies directly involved in the removal of abandoned vessels, to develop a plan for the removal of abandoned commercial vessels.

This bill would establish the California Abandoned and Derelict Commercial Vessel Program within the Natural Resources Agency, to be administered by the commission, upon appropriation by the Legislature, to bring federal, state, and local agencies together to identify, prioritize, and fund the removal and proper disposal of abandoned and derelict commercial vessels and other debris from commercially navigable waters, as defined. The bill would require the commission, upon appropriation by the Legislature, on or before July 1, 2024, to create, and regularly update and maintain thereafter, an inventory of abandoned and derelict commercial vessels on or in commercially navigable waters, as provided, and, on or before July 1, 2025, to develop a plan to prevent or reduce abandoned and derelict commercial vessels on or in commercially navigable waters, as provided.

This bill would establish the California Abandoned and Derelict Commercial Vessel Program Task Force as an advisory body within the Natural Resources Agency, consisting of specified members. The bill would require the task force, in consultation with impacted local governments, to, among other things, provide policy guidance for the program and advise on the prevention, removal, destruction, and disposal of abandoned and derelict commercial vessels, as provided. The bill would require the task force to develop a system for prioritizing the removal of the abandoned and derelict commercial vessels identified by the commission, as provided.

This bill would require the commission, on or before December 1, 2023, to enter into a memorandum of agreement with specified state agencies, and other relevant federal, state, or local agencies, as provided, for the purposes of abandoned and derelict commercial vessel and other debris cleanup and removal from commercially navigable waters. The bill would require, upon execution of the memorandum of agreement and the availability of funds, the commission to immediately authorize and execute the removal of abandoned and derelict commercial vessels and other debris, as specified.

This bill would establish the California Abandoned and Derelict Commercial Vessel Program Trust Fund in the State Treasury and would require that, upon appropriation by the Legislature, moneys in the fund be used by the commission to fund the removal of abandoned and derelict commercial vessels and other debris pursuant to the program, as provided.

This bill would prohibit, except as specified, a commercial vessel, as defined, that is at risk of becoming derelict from occupying, or anchoring, mooring, or otherwise being secured in or on, the waters of the state. The bill would provide that a commercial vessel is at risk of becoming derelict if certain conditions exist, including that the commercial vessel is taking on or has taken on water without an effective means to dewater. The bill would authorize a peace officer, as defined, to find that a commercial vessel is at risk of becoming derelict if these conditions exist. The bill would subject a person who violates this prohibition to a civil penalty of not less than \$1,000 and not more than \$5,000 per day of violation, and would prescribe other requirements related to a civil action, including the assessment of a civil penalty and the recovery of other specified costs, brought for a violation of this prohibition. The bill would also authorize a peace officer to seize or order the removal of a commercial vessel that is at risk of becoming derelict, as provided. The bill would require 75% of civil penalties and other costs collected be deposited into the California Abandoned and Derelict Commercial Vessel Program Trust Fund and, upon appropriation by the Legislature, 25% distributed to the Attorney General, district attorney, or city attorney prosecuting the action, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

---

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** The Legislature finds and declares all of the following:

(a) California's coastline, ports, and other waterways are polluted with abandoned and derelict commercial vessels and marine debris, which contain high levels of hazardous materials from both their construction and use, including solvents, asbestos-containing materials, polychlorinated biphenyls or PCBs, lead paint, batteries, and petroleum products, such as fuel, oil, oily waste, hydraulic fluid, and grease.

(b) Abandoned and derelict commercial vessels create navigation, environmental, and public health and safety hazards.

(c) Abandoned and derelict commercial vessels usually consist of, but are not limited to, ferries, tugs, barges, cranes, dredges, work boats and work platforms that were designed and utilized for commercial work, military craft, and other vessels, but at end of life are often sold at auction to any willing buyer. These vessels evolve into a dilapidated condition and eventually end up in an unusable state, leading the vessel to be sunk, partially sunk, or a sinking hazard.

(d) The Sacramento-San Joaquin Delta is California's most crucial water and ecologic resource. It is the largest freshwater tidal estuary of its kind on the West Coast, providing important bird and marine habitat, among other ecological and recreational benefits.

(e) The Sacramento-San Joaquin Delta is also home to the State Water Project and the Central Valley Water Project, which provide a portion of the drinking water for 29,000,000 Californians and irrigation water for much of the state's \$50 billion agricultural industry.

(f) While this is a statewide problem, the unique makeup of the Sacramento-San Joaquin Delta, consisting of more than 700 miles of sloughs and waterways surrounding many leveed tracts and islands, makes it a magnet for abandoned and derelict commercial vessels.

(g) Other coastal states have similarly identified abandoned and derelict commercial vessels as a problem and have created statewide programs and provided necessary authorities to identify and remove these vessels.

**SEC. 2.** Section 528 is added to the Harbors and Navigation Code, to read:

**528.** (a) For purposes of this section, the following terms have the following meanings:

(1) "Commercial vessel" has the meaning set forth in Section 6112 of the Public Resources Code.

(2) "Peace officer" means a peace officer, as described in Section 830.1 or 830.2 of the Penal Code.

(3) "Waters of the state" means any surface water, including saline waters, marine waters, and freshwaters, within the boundaries of the state, but does not include groundwater.

(b) Except as provided in subdivision (f), a commercial vessel that is at risk of becoming derelict shall not occupy, or anchor, moor, or otherwise be secured in or on, the waters of the state. A commercial vessel is "at risk of becoming derelict" when any of the following conditions exist:

(1) The commercial vessel is taking on or has taken on water without an effective means to dewater.

(2) Spaces on the commercial vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time.

(3) The commercial vessel has broken loose or is in danger of breaking loose from its anchor, mooring, spuds, or ground tackle, including blocks, chains, pulleys, cables, and anchor rode.

(4) The commercial vessel is left aground or is otherwise abandoned for a period of over 30 days in a state that would prevent the vessel from getting underway.

(5) The commercial vessel is unable to maintain buoyancy.

(6) The commercial vessel is powered by a propulsion system, is unable to maneuver under that system, and is unable to be repaired and underway within 30 days of initial failure.

(7) The commercial vessel is deteriorated and could become awash and create a pollution or navigational hazard.

(8) The commercial vessel poses a significant threat to public health or safety or to sensitive habitat, wildlife, or water quality, or constitutes a public nuisance.

(9) The commercial vessel is in a position to obstruct the normal movement of traffic or in a condition to create a hazard to navigation or other vessels using a waterway.

(10) The commercial vessel is marine debris, as defined in Section 550.

(c) A peace officer may find that a commercial vessel is "at risk of becoming derelict" if the peace officer determines that any of the conditions described in subdivision (b) exist.

(d) (1) A peace officer may seize or order the removal of a commercial vessel that is at risk of becoming derelict after providing notice pursuant to Section 526.

(2) In seizing or ordering the removal of a commercial vessel pursuant to this subdivision, a peace officer shall comply with Section 551.

(3) All provisions in this article relating to the storage, custody, possession, sale, claims, and disbursement of wrecked property after seizure or removal shall also apply to a commercial vessel that is at risk of becoming derelict that is seized or removed by a peace officer pursuant to this subdivision.

(e) (1) A person who anchors, moors, or otherwise secures a commercial vessel that is at risk of becoming derelict in or on the waters of the state, or allows a commercial vessel that is at risk of becoming derelict to occupy the waters of the state, may be

liable for a civil penalty of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) per violation. Each day that a violation continues shall be a separate violation of this section.

(2) Each civil penalty imposed for a separate violation pursuant to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or to any other civil or criminal penalty imposed pursuant to any other law.

(3) (A) A civil action brought under this section may be brought by the Attorney General upon complaint by the California Abandoned and Derelict Commercial Vessel Program Task Force established pursuant to Section 6112 of the Public Resources Code, or by a district attorney or city attorney in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

(B) Nothing in this section limits or restricts the Attorney General's authority to bring a suit to enforce state law in an independent capacity.

(4) In determining the amount of a civil penalty imposed pursuant to this section, a court shall take into consideration all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation. In making this determination, a court shall consider the extent of harm caused by the violation, whether the effects of the violation may be reversed or mitigated, and, with respect to a defendant, the ability to pay, the effect of a civil penalty on the ability to continue in business, all voluntary cleanup efforts undertaken, the prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and all other matters the court determines justice may require.

(5) (A) In a civil action brought pursuant to this section in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding that irreparable damage will occur if the temporary restraining order, preliminary injunction, or permanent injunction is not issued, or that the remedy at law is inadequate.

(B) After a party seeking the injunction has met its burden of proof, a court shall determine whether to issue a temporary restraining order, preliminary injunction, or permanent injunction without requiring a defendant to prove that the defendant will suffer grave or irreparable harm. A court shall make the determination whether to issue a temporary restraining order, preliminary injunction, or permanent injunction by taking into consideration, among other things, the nature, circumstance, extent, and gravity of the violation, the extent of environmental harm caused by the violation, and measures taken by the defendant to remedy the violation.

(C) A court, to the maximum extent possible, shall tailor a temporary restraining order, preliminary injunction, or permanent injunction narrowly to address the violation in a manner that will otherwise allow a defendant to continue business operations in a lawful manner.

(6) All civil penalties collected pursuant to this section shall be apportioned in the following manner:

(A) Seventy-five percent shall be deposited into the California Abandoned and Derelict Commercial Vessel Program Trust Fund established pursuant to Section 6113 of the Public Resources Code.

(B) Upon appropriation by the Legislature, 25 percent shall be distributed to the Attorney General, district attorney, or city attorney prosecuting the action.

(7) (A) The costs of removing or destroying a commercial vessel that is at risk of becoming derelict shall be borne by the owner or operator of the vessel or the occupant or person in possession of the vessel at the time of the violation. These costs shall be ordered by a court upon a finding of civil liability pursuant to this section.

(B) The costs of removal or destruction collected pursuant to subparagraph (A) shall be deposited into the California Abandoned and Derelict Commercial Vessel Program Trust Fund established pursuant to Section 6113 of the Public Resources Code.

(f) This section does not apply to a commercial vessel that is moored to a private dock with the consent of an owner of a licensed commercial vessel repair facility or yard for the purpose of being repaired.

**SEC. 3.** Section 6112 is added to the Public Resources Code, to read:

**6112.** (a) For purposes of this section, the following terms have the following definitions:

(1) "Commercial vessel" means a vessel designed or utilized for commercial work and includes, but is not limited to, a ferry, tug, barge, crane, dredge, work boat or work platform, fishing vessel used for commercial fishing, such as a fishing trawler, and military craft. "Commercial vessel" includes "marine debris," as defined in Section 550 of the Harbors and Navigation Code.

(2) "Commercially navigable waters" means any surface water used or historically or presently capable of being used for navigation by commercial vessels within the boundaries of the state. Any surface water that contains an abandoned or derelict commercial vessel is considered commercially navigable if the surface water is a tributary or is otherwise adjacent to commercially navigable waters.

(3) "Other debris" means any persistent solid material that is manufactured or processed and directly or indirectly, intentionally or unintentionally, disposed of or abandoned in or on commercially navigable waters and that can be removed concurrently with the removal pursuant to this section of an abandoned and derelict commercial vessel.

(4) "Task force" means the California Abandoned and Derelict Commercial Vessel Program Task Force established pursuant to subdivision (c).

(b) The California Abandoned and Derelict Commercial Vessel Program is hereby established within the Natural Resources Agency. The program, upon appropriation by the Legislature, shall be administered by the commission to bring federal, state, and local agencies together to identify, prioritize, and fund the removal and proper disposal of abandoned and derelict commercial vessels and other debris from commercially navigable waters and, at a minimum, do both of the following:

(1) On or before July 1, 2024, create, and regularly update and maintain thereafter, an inventory of all abandoned and derelict commercial vessels on or in commercially navigable waters. The inventory may be conducted by means of an aerial survey, from currently available data from federal, state, and local agencies, or from other data available to the commission.

(2) (A) On or before July 1, 2025, develop, in coordination with the task force, an Abandoned and Derelict Commercial Vessel Plan to provide a strategic framework to facilitate and track actions in support of strategies that prevent or reduce abandoned and derelict commercial vessels on or in commercially navigable waters, including the Sacramento-San Joaquin Delta. The commission shall update the plan periodically as needed to include, among other things, the commission's progress on implementing the plan. The commission shall provide a copy of the plan, and each plan update, to the relevant policy and fiscal committees of the Legislature.

(B) The Abandoned and Derelict Commercial Vessel Plan shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) (1) The California Abandoned and Derelict Commercial Vessel Program Task Force is hereby established as an advisory body within the Natural Resources Agency to do all of the following:

(A) Provide policy guidance for the California Abandoned and Derelict Commercial Vessel Program established pursuant to this section.

(B) Advise on the prevention, removal, destruction, and disposal of abandoned and derelict commercial vessels and other debris, including the recovery of state-incurred costs for the prevention, removal, destruction, and disposal of these vessels and debris, and methods to sustainably fund the California Abandoned and Derelict Commercial Vessel Program.

(C) On or before July 1, 2025, with the support of the commission, research and evaluate the efficacy of abandoned and derelict commercial vessel prevention measures, including, but not limited to, dual registration and insurance requirements and guidelines for government public auctions and make recommendations to the Legislature to implement viable measures.

(2) The task force shall consist of the following members:

(A) The executive officer of the commission, or their designee.

(B) The Director of Fish and Wildlife, or their designee.

(C) The Director of Toxic Substances Control, or their designee.

(D) The Director for the California Department of Parks and Recreation, or their designee.

(E) The Executive Officer of the State Water Resources Control Board, or their designee.

(F) Two local members, one appointed by the Delta Protection Commission, who shall be a representative from a county that encompasses a portion of the Sacramento-San Joaquin Delta, and one appointed by the executive officer of the commission.

(3) The task force shall also consist of the following members if the specified federal agencies agree:

(A) A representative appointed by the United States Coast Guard.

(B) A representative appointed by the United States Environmental Protection Agency.

(C) A representative appointed by the United States Army Corp of Engineers.

(D) A representative appointed by the National Oceanic and Atmospheric Administration.

(4) The executive officer of the commission may, in consultation with the task force, appoint additional members to the task force, including individuals that represent relevant federal, state, or local agencies or departments, or that have relevant industry expertise.

(5) The task force shall cease to exist on December 31, 2030, unless otherwise extended by the Legislature.

(e) (1) The task force shall, in consultation with impacted local governments, develop a system for prioritizing the removal of the abandoned and derelict commercial vessels identified by the commission pursuant to paragraph (1) of subdivision (b).

(2) In developing the prioritization system required pursuant to paragraph (1), the task force shall consider the severity of the potential threats posed by an abandoned and derelict commercial vessel to human health and safety and the environment, and evaluate the severity of the threats based on factors that shall include, but are not limited to, all of the following:

(A) The condition of the commercial vessel, including the costs to remove and dispose of the commercial vessel and, if available, the costs to remove and dispose of other debris in the vicinity of the commercial vessel.

(B) The condition of the commercial vessel's anchoring or mooring system.

(C) The size of the commercial vessel.

(D) The proximity of the commercial vessel to navigation channels.

(E) The anticipated weather conditions in the area of the commercial vessel.

(F) The general potential for harmful encounters between people or property and the commercial vessel.

(G) The toxicity or hazard potential of any hazardous waste and pollution on the commercial vessel.

(H) The location of the commercial vessel, including, in particular, its proximity to sensitive areas of populations.

(I) The potential of the commercial vessel as an attractive nuisance.

(J) The commercial vessel's owner's involvement in the commercial vessel, including, but not limited to, the owner's ability to care for the vessel.

(3) In developing the prioritization system required pursuant to this subdivision, the task force may consider the commission's Risk-Based Priority Matrix included in the commission's Abandoned Commercial Vessel Removal Plan developed pursuant to Section 6302.2.

(f) (1) On or before December 1, 2023, the commission shall enter into a memorandum of agreement with the Department of Fish and Wildlife, the Department of Toxic Substances Control, and, as determined by the executive officer of the commission in consultation with the task force, other relevant federal, state, or local agencies for the purposes of abandoned and derelict commercial vessel and other debris cleanup and removal from commercially navigable waters.

(2) The memorandum of agreement may address, but is not limited to, the expertise and abilities of the respective parties to prevent the impacts associated with abandoned or derelict vessels, respond to related hazardous materials releases and pollution cleanup, and remove and dispose of abandoned and derelict commercial vessels.

(3) Upon execution of the memorandum of agreement, and pursuant to available funds in the California Abandoned and Derelict Commercial Vessel Program Trust Fund established pursuant to Section 6113, or a determination by the parties to the agreement of the availability of existing funds eligible for use for purposes of this section, the commission shall immediately authorize and execute the removal of abandoned and derelict commercial vessels and other debris as follows:

(A) Before the commission completes the inventory of all abandoned and derelict commercial vessels on or in commercially navigable waters pursuant to paragraph (1) of subdivision (b) and the task force develops a system for prioritizing the removal of these vessels pursuant to subdivision (e), the commission shall authorize and execute the removal of abandoned and derelict commercial vessels and other debris using the Risk-Based Priority Matrix included in commission's Abandoned Commercial Vessel Removal Plan developed pursuant to Section 6302.2.

(B) After the commission completes the inventory of all abandoned and derelict commercial vessels on or in commercially navigable waters pursuant to paragraph (1) of subdivision (b) and the council develops a system for prioritizing the removal of these vessels pursuant to subdivision (e), the task force shall authorize and execute the removal of abandoned and derelict commercial vessels and other debris using the inventory and prioritization system and consistent with the Abandoned and Derelict Commercial Vessel Plan developed by the commission pursuant to paragraph (2) of subdivision (b).

(g) Nothing in this section limits or restricts the commission's authority to identify, remove, or otherwise address vessels pursuant to state law.

(h) Nothing in this section limits or restricts a state agency's or local agency's authority to identify, remove, or otherwise address abandoned or derelict commercial vessels pursuant to state or local law.

(i) The California Abandoned and Derelict Commercial Vessel Program shall not be funded by the Abandoned Watercraft Abatement Fund established pursuant to Section 525 of the Harbors and Navigation Code.

(j) Nothing in this section shall be construed to require any single federal, state, or local agency or department to conduct all aspects of cleanup, removal, destruction, and disposal of abandoned and derelict commercial vessels or other debris, unless agreed to by an agency or department through the memorandum of agreement pursuant to paragraph (1) of subdivision (f).

**SEC. 4.** Section 6113 is added to the Public Resources Code, to read:

**6113.** (a) The California Abandoned and Derelict Commercial Vessel Program Trust Fund is hereby established in the State Treasury.

(b) The following moneys shall be deposited into the California Abandoned and Derelict Commercial Vessel Program Trust Fund:

(1) Any moneys appropriated by the Legislature for purposes of the California Abandoned and Derelict Commercial Vessel Program established pursuant to Section 6112.

(2) Civil penalties or costs collected pursuant to Section 528 of the Harbors and Navigation Code.

(3) Moneys received as a result of a grant award to implement or further the goals of the California Abandoned and Derelict Commercial Vessel Program.

(c) Upon appropriation by the Legislature, moneys in the California Abandoned and Derelict Commercial Vessel Program Trust Fund shall be used by the commission to fund the removal of abandoned and derelict commercial vessels and other debris pursuant to the California Abandoned and Derelict Commercial Vessel Program established pursuant to Section 6112.