

SENATE BILL NO. 248—SENATOR SETTELMAYER

MARCH 13, 2013

JOINT SPONSOR: ASSEMBLYMAN GRADY

Referred to Committee on Natural Resources

SUMMARY—Allows a person who discovers an abandoned vessel on private property to apply for a certificate of ownership to the abandoned vessel under certain circumstances. (BDR 43-997)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to vessels; allowing a person who discovers an abandoned vessel on private property to apply for a certificate of ownership to the abandoned vessel under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law prohibits the abandonment of a vessel upon a public waterway or on public or private property in certain circumstances. (NRS 488.291) **Section 1** of this bill allows an owner or occupant of private property upon which a vessel has been abandoned to apply to the Department of Wildlife for a certificate of ownership to the vessel. **Section 1** requires a person who wishes to acquire a certificate of ownership to an abandoned vessel to attempt, at least 60 days before applying for a certificate of ownership to the vessel, to notify any owner of the vessel, including any person who has a security interest in the vessel, of his or her intent to apply for a certificate of ownership to the vessel by: (1) mailing a registered or certified letter to any owner of the vessel who can be identified; and (2) publishing a notice in a newspaper of general circulation. **Section 1** also requires a person who wishes to acquire a certificate of ownership to an abandoned vessel to provide for the safe storage of the vessel until the vessel is claimed by an owner of the vessel or a certificate of ownership is issued to the person.

Existing law authorizes the owner of property upon which a vessel has been abandoned to cause the removal of the vessel under the direction of a peace officer. (NRS 488.293) **Section 5** of this bill provides that any property owner who causes the removal of an abandoned vessel waives the right to apply for a certificate of



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ownership to the vessel. **Section 5** also authorizes a peace officer to direct the removal of an abandoned vessel from a public waterway or public property upon the request of any person.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 488 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. If a vessel is abandoned on private property or in water adjacent to private property and is discovered by the owner or occupant of the property, the person who discovers the vessel may apply for a certificate of ownership to the abandoned vessel. The issuance of a certificate of ownership pursuant to this section divests any other person of any interest in the abandoned vessel.*

*2. An acquiring person shall:*

*(a) If an abandoned vessel has a hull number or other means of identifying any owner or legal owner of the abandoned vessel, obtain the last known address of the owner or legal owner and notify the owner or legal owner by registered or certified letter to the last known address of the owner or legal owner that, if ownership is not claimed and the abandoned vessel is not removed within 60 days, the acquiring person will apply for title to the abandoned vessel in the name of the acquiring person. The acquiring person is not required to send a registered or certified letter if an owner or legal owner cannot be located or if an address for an owner or legal owner cannot be ascertained.*

*(b) Place a notice in a newspaper of general circulation published in the county in which the abandoned vessel is located, describing the abandoned vessel and the location where the abandoned vessel was discovered and providing any hull number or other identifying number on the abandoned vessel. The acquiring person shall state in the notice that, if the abandoned vessel is not claimed and removed within 60 days after the publication date of the newspaper, the acquiring person will apply for a certificate of ownership to the abandoned vessel in the name of the acquiring person.*

*3. An acquiring person may apply to the Department for a certificate of ownership to an abandoned vessel in the name of the acquiring person upon the expiration of:*

*(a) Sixty days after the date on which the acquiring person mails the registered or certified letter pursuant to paragraph (a) of subsection 2, if such a letter is required; or*



1       (b) Sixty days after the date of publication of the notice  
2       required by paragraph (b) of subsection 2,  
3       ↳ whichever is later.

4       4. An application for a certificate of ownership to an  
5       abandoned vessel must contain:

6       (a) A completed application form prescribed by the  
7       Department;

8       (b) Proof that the letter required by paragraph (a) of  
9       subsection 2 was mailed at least 60 days before the submission of  
10      the application or a detailed explanation of the unsuccessful steps  
11      taken to identify all owners and legal owners of the abandoned  
12      vessel;

13      (c) Proof that a notice was printed in a newspaper as required  
14      by paragraph (b) of subsection 2 at least 60 days before the  
15      submission of the application;

16      (d) A clear and accurate photograph of the abandoned vessel;  
17      and

18      (e) A tracing or certification of the hull number, if any, of the  
19      abandoned vessel.

20      5. If the abandoned vessel is a motorboat requiring  
21      numbering by this State, the applicant shall apply for a number in  
22      the manner prescribed by NRS 488.075 at the same time the  
23      applicant files an application for a certificate of ownership  
24      pursuant to this section.

25      6. Upon receipt of the material required in subsections 4 and  
26      5 and any fees required by NRS 488.075, the Department shall  
27      enter the application upon the records of its office and issue to the  
28      applicant a certificate of ownership to the abandoned vessel.

29      7. The acquiring person shall reasonably provide for the safe  
30      storage of the abandoned vessel until the abandoned vessel is  
31      released to the owner or legal owner or his or her authorized  
32      representative rightfully claiming the abandoned vessel or a  
33      certificate of ownership is issued to the acquiring person. The  
34      acquiring person may charge and collect the reasonable and  
35      actual costs of inventory, moving and storage before releasing the  
36      abandoned vessel to the owner or legal owner or his or her  
37      authorized representative rightfully claiming the abandoned vessel  
38      within that period. The acquiring person is liable to the owner or  
39      legal owner only for the acquiring person's negligent or wrongful  
40      acts in storing the abandoned vessel.

41      8. As used in this section, "acquiring person" means an  
42      owner or occupant of private property on which a vessel has been  
43      abandoned who wishes to acquire a certificate of ownership to the  
44      abandoned vessel pursuant to this section.



1     **Sec. 2.** NRS 488.035 is hereby amended to read as follows:  
2     488.035 As used in this chapter, unless the context otherwise  
3 requires:

4     1. *“Abandoned vessel” means a vessel that:*

5     (a) *Has been left unattended:*

6     (1) *On private property without the authorization of the*  
7 *owner or occupant of the property; or*

8     (2) *For at least 5 days, on public property without the*  
9 *consent of the agency having jurisdiction over that property if a*  
10 *peace officer reasonably determines that the person who left the*  
11 *vessel unattended does not intend to return and remove the vessel;*  
12 *or*

13     (b) *Is removed from a public waterway pursuant to subsection*  
14 *3 of NRS 488.291.*

15     2. “Aquatic invasive species” means an aquatic species which  
16 is exotic or not native to this State and which the Commission has  
17 determined to be detrimental to aquatic life, water resources or  
18 infrastructure for providing water in this State.

19     ~~12-1~~ 3. “Aquatic plant material” means aquatic plants or parts  
20 of plants that are dependent on an aquatic environment to survive.

21     ~~13-1~~ 4. “Commission” means the Board of Wildlife  
22 Commissioners.

23     ~~14-1~~ 5. “Conveyance” means a motor vehicle, trailer or any  
24 other equipment used to transport a vessel or containers or devices  
25 used to haul water on a vessel that may contain or carry an aquatic  
26 invasive species or aquatic plant material.

27     ~~15-1~~ 6. “Decontaminate” means eliminate any aquatic invasive  
28 species on a vessel or conveyance in a manner specified by the  
29 Commission which may include, without limitation, washing the  
30 vessel or conveyance, draining the water in the vessel or  
31 conveyance, drying the vessel or conveyance or chemically,  
32 thermally or otherwise treating the vessel or conveyance.

33     ~~16-1~~ 7. “Department” means the Department of Wildlife.

34     ~~17-1~~ 8. “Flat wake” means the condition of the water close  
35 astern a moving vessel that results in a flat wave disturbance.

36     ~~18-1~~ 9. “Interstate waters of this State” means waters forming  
37 the boundary between the State of Nevada and an adjoining state.

38     ~~19-1~~ 10. “Legal owner” means a secured party under a security  
39 agreement relating to a vessel or a renter or lessor of a vessel to the  
40 State or any political subdivision of the State under a lease or an  
41 agreement to lease and sell or to rent and purchase which grants  
42 possession of the vessel to the lessee for a period of 30 consecutive  
43 days or more.



~~110~~ 11. "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

~~111~~ 12. "Operate" means to navigate or otherwise use a motorboat or a vessel.

~~112~~ 13. "Owner" means:

(a) A person having all the incidents of ownership, including the legal title of a vessel, whether or not he or she lends, rents or pledges the vessel; and

(b) A debtor under a security agreement relating to a vessel.

➔ "Owner" does not include a person defined as a "legal owner" under subsection ~~19~~ 10.

~~113~~ 14. "Prohibited substance" has the meaning ascribed to it in NRS 484C.080.

~~114~~ 15. "Registered owner" means the person registered by the Commission as the owner of a vessel.

~~115~~ 16. A vessel is "under way" if it is adrift, making way or being propelled, and is not aground, made fast to the shore, or tied or made fast to a dock or mooring.

~~116~~ 17. "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

~~117~~ 18. "Waters of this State" means any waters within the territorial limits of this State.

**Sec. 3.** NRS 488.075 is hereby amended to read as follows:

488.075 1. The owner of each motorboat requiring numbering by this State *or a person applying for a certificate of ownership to a motorboat that is an abandoned vessel* shall file an application for a number and for a certificate of ownership with the Department on forms approved by it. *The application forms must:*

*(a) If the applicant is applying for a certificate of ownership to a motorboat that is an abandoned vessel, include all materials required by section 1 of this act.*

*(b) If the applicant is the owner of the motorboat, be accompanied by:*

~~(a)~~ (1) Proof of payment of Nevada sales or use tax as evidenced by proof of sale by a Nevada dealer or by a certificate of use tax paid issued by the Department of Taxation, or by proof of exemption from those taxes as provided in NRS 372.320.

~~(b)~~ (2) Such evidence of ownership as the Department may require.

➔ The Department shall not issue a number, a certificate of number or a certificate of ownership until this evidence is presented to it.

2. The application must be signed by the ~~owner of the motorboat~~ applicant and must be accompanied by a fee of \$20 for



1 the certificate of ownership and a fee according to the following  
2 schedule as determined by the straight line length which is measured  
3 from the tip of the bow to the back of the transom of the motorboat:

|    |  |      |
|----|--|------|
| 4  |  |      |
| 5  | Less than 13 feet.....                     | \$20 |
| 6  | 13 feet or more but less than 18 feet..... | 25   |
| 7  | 18 feet or more but less than 22 feet..... | 40   |
| 8  | 22 feet or more but less than 26 feet..... | 55   |
| 9  | 26 feet or more but less than 31 feet..... | 75   |
| 10 | 31 feet or more .....                      | 100  |

11  
12 Except as otherwise provided in this subsection, all fees received by  
13 the Department under the provisions of this chapter must be  
14 deposited in the Wildlife Fund Account in the State General Fund  
15 and, except as otherwise provided in NRS 488.536, may be  
16 expended only for the administration and enforcement of the  
17 provisions of this chapter. On or before December 31 of each year,  
18 the Department shall deposit with the respective county school  
19 districts 50 percent of each fee collected according to the  
20 motorboat's length for every motorboat registered from their  
21 respective counties. Upon receipt of the application in approved  
22 form, the Department shall enter the application upon the records of  
23 its office and issue to the applicant a certificate of number stating  
24 the number awarded to the motorboat, a certificate of ownership  
25 stating the same information and the name and address of the  
26 registered owner and the legal owner.

27 3. A certificate of number may be renewed each year by the  
28 purchase of a validation decal. The fee for a validation decal is  
29 determined by the straight line length of the motorboat and is  
30 equivalent to the fee set forth in the schedule provided in subsection  
31 2. The amount of the fee for issuing a duplicate validation decal is  
32 \$20.

33 4. The owner shall paint on or attach to each side of the bow of  
34 the motorboat the identification number in such manner as may be  
35 prescribed by regulations of the Commission in order that the  
36 number may be clearly visible. The number must be maintained in  
37 legible condition.

38 5. The certificate of number must be available at all times for  
39 inspection on the motorboat for which issued, whenever the  
40 motorboat is in operation.

41 6. The Commission shall provide by regulation for the issuance  
42 of numbers to manufacturers and dealers which may be used  
43 interchangeably upon motorboats operated by the manufacturers and  
44 dealers in connection with the demonstration, sale or exchange of



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1 those motorboats. The amount of the fee for each such a number is  
2 \$20.

3 **Sec. 4.** NRS 488.1797 is hereby amended to read as follows:

4 488.1797 1. ~~Before~~ *Except as otherwise provided in*  
5 *section 1 of this act, before* the issuance of any certificate of  
6 ownership, the Department shall obtain a statement in writing  
7 signed by the transferee or transferor, showing:

8 (a) The date of the sale or other transfer of ownership of the  
9 motorboat.

10 (b) The name and address of the seller or transferor.

11 (c) The name and address of the buyer or transferee.

12 2. Upon receipt of:

13 (a) The properly endorsed certificate of ownership;

14 (b) The certificate of number and the required fee;

15 (c) The statement of information; and

16 (d) Proof that the applicable taxes have been paid,

17 the Department shall issue a new certificate of ownership and a  
18 new certificate of number to the transferee. The previous number  
19 may be reassigned to the transferee.

20 **Sec. 5.** NRS 488.293 is hereby amended to read as follows:

21 488.293 1. A peace officer may attempt to identify the  
22 registered owner of a vessel abandoned on private property by  
23 inspection of the vessel and any trailer to which it is attached and  
24 may supply the information to the property owner. The property  
25 owner must declare by affidavit the reasons why he or she believes  
26 the property to be abandoned.

27 2. *Except as otherwise provided in NRS 488.291, a property*  
28 *owner who discovers an abandoned vessel on his or her property*  
29 *may apply for a certificate of ownership to the abandoned vessel*  
30 *pursuant to section 1 of this act or submit a request to a law*  
31 *enforcement agency to remove the abandoned vessel under the*  
32 *direction of a peace officer.* The property owner must give 5 days'  
33 notice to the last registered owner before causing the removal of the  
34 *abandoned* vessel. If the last registered owner is unknown or cannot  
35 be notified, the *abandoned* vessel may immediately be removed to a  
36 secure location designated by a peace officer.

37 ~~2-1~~ *If a peace officer directs the removal of an abandoned*  
38 *vessel upon the request of the property owner pursuant to this*  
39 *section, the property owner waives the right to apply for title to the*  
40 *abandoned vessel pursuant to section 1 of this act.*

41 3. *Except as otherwise provided in NRS 488.291, any person*  
42 *who finds an abandoned vessel on a public waterway or on public*  
43 *property may notify a law enforcement agency, and a peace officer*  
44 *may direct the removal of the abandoned vessel to a secure*  
45 *location designated by the peace officer.*



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1       4. A peace officer shall, within 48 hours after directing the  
2 removal of an abandoned vessel on a public waterway or public or  
3 private property, notify the Department of the status of the  
4 **abandoned** vessel.

5       ~~13~~ 5. A law enforcement agency that has custody of an  
6 abandoned vessel shall, if the agency knows or can reasonably  
7 discover the name and address of the owner of the **abandoned**  
8 vessel or any person who holds a security interest in the **abandoned**  
9 vessel, notify the owner or the holder of the security interest of the  
10 location of the **abandoned** vessel and the method by which the  
11 **abandoned** vessel may be claimed. The notice must be sent by  
12 certified or registered mail.

13       ~~14~~ 6. If the abandoned vessel is held by a law enforcement  
14 agency as evidence in the investigation or prosecution of a criminal  
15 offense, the notice required by subsection ~~13~~ 5 must be sent:

16       (a) Upon the decision of the law enforcement agency or district  
17 attorney not to pursue or prosecute the case;

18       (b) Upon the conviction of the person who committed the  
19 offense; or

20       (c) If the case is otherwise terminated.

21       ~~15~~ 7. Failure to reclaim the **abandoned** vessel within 180  
22 days after the date the notice is mailed constitutes a waiver of  
23 interest in the **abandoned** vessel by any person having an interest in  
24 the **abandoned** vessel and the vessel shall be deemed abandoned for  
25 all purposes.

26       ~~16~~ 8. If all recorded interests in ~~14~~ **an abandoned** vessel are  
27 waived, as provided in subsection ~~15~~ 7 or by written disclaimer, the  
28 Department may issue a certificate of ownership to the law  
29 enforcement agency that has custody of the **abandoned** vessel. If  
30 necessary, the Department may assign a hull number to the  
31 **abandoned** vessel. This subsection does not preclude the subsequent  
32 return of ~~14~~ **an abandoned** vessel, or any component part thereof,  
33 by a law enforcement agency to the registered owner of the  
34 **abandoned** vessel upon presentation by the registered owner of  
35 satisfactory proof of ownership.

36       ~~17~~ 9. A law enforcement agency to which a certificate of  
37 ownership is issued pursuant to subsection ~~16~~ 8 may use, sell or  
38 destroy the **abandoned** vessel, and shall keep a record of the  
39 disposition of the **abandoned** vessel. If the law enforcement agency:

40       (a) Sells the **abandoned** vessel, all proceeds from the sale of the  
41 **abandoned** vessel become the property of the law enforcement  
42 agency.

43       (b) Destroys the **abandoned** vessel, the law enforcement agency  
44 shall, within 10 days, give notice of the destruction of the  
45 **abandoned** vessel to the Department.





**Sec. 6.** NRS 118A.460 is hereby amended to read as follows:

118A.460 1. The landlord may dispose of personal property abandoned on the premises by a former tenant or left on the premises after eviction of the tenant without incurring civil or criminal liability in the following manner:

(a) The landlord shall reasonably provide for the safe storage of the property for 30 days after the abandonment or eviction or the end of the rental period and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the property to the tenant or his or her authorized representative rightfully claiming the property within that period. The landlord is liable to the tenant only for the landlord's negligent or wrongful acts in storing the property.

(b) After the expiration of the 30-day period, the landlord may dispose of the property and recover his or her reasonable costs out of the property or the value thereof if the landlord has made reasonable efforts to locate the tenant, has notified the tenant in writing of his or her intention to dispose of the property and 14 days have elapsed since the notice was given to the tenant. The notice must be mailed to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

*(d) Vessels must be disposed of in the manner provided in chapter 488 of NRS for abandoned vessels.*

2. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (a) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

**Sec. 7.** NRS 118C.230 is hereby amended to read as follows:

118C.230 1. Except as otherwise provided in subsection 3, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.



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(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

*(d) Vessels must be disposed of in the manner provided in chapter 488 of NRS for abandoned vessels.*

2. A tenant of commercial premises is presumed to have abandoned the premises if:

(a) Goods, equipment or other property, in an amount substantial enough to indicate a probable intent to abandon the commercial premises, is being or has been removed from the commercial premises; and

(b) The removal is not within the normal course of business of the tenant.

3. If a written agreement between a landlord and a person who has an ownership interest in any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the person with respect to the removal and disposal of the abandoned personal property.

4. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

**Sec. 8.** This act becomes effective:

1. Upon passage and approval for the purpose of prescribing an application form for a certificate of ownership to an abandoned vessel and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On July 1, 2013, for all other purposes.

