

Amendment No. 2 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

The Committee on Water & Resource Management offered the following:

Amendment (with title amendment)

On page 2, between lines 30 and 31, of the bill

insert:

Section 2. Section 327.72, Florida Statutes, is reenacted to read:

327.72 Penalties.--Any person failing to comply with the provisions of this chapter or chapter 328 not specified in s. 327.73 or not paying the fine specified in said section within 10 days, except as otherwise provided in this chapter or chapter 328, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 3. Section 327.73, Florida Statutes, is amended to read:

327.73 Noncriminal infractions.--

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:

(a) Section 327.10, relating to operation of

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1 unregistered and unnumbered vessels.

2 (b) Section 327.11(4), relating to display of number
3 and possession of registration certificate.

4 (c) Section 327.11(5), relating to display of decal.

5 (d) Section 327.13(2), relating to display of number.

6 (e) Section 327.14, relating to spacing of digits and
7 letters of identification number.

8 (f) Section 327.17, relating to military personnel and
9 registration of vessels.

10 (g) Section 327.25(14), relating to operation with an
11 expired registration.

12 (h) Section 327.33(2), relating to careless operation.

13 (i) Section 327.37, relating to water skiing,
14 aquaplaning, parasailing, and similar activities.

15 (j) Section 327.44, relating to interference with
16 navigation.

17 (k) Violations relating to restricted areas and speed
18 limits:

19 1. Established by the department pursuant to s.
20 327.46.

21 2. Established by local governmental authorities
22 pursuant to s. 327.22 or s. 327.60.

23 3. Speed limits established pursuant to s. 370.12(2).

24 (l) Section 327.48, relating to regattas and races.

25 (m) Section 327.50(1) and (2), relating to required
26 safety equipment, lights, and shapes.

27 (n) Section 327.65, relating to muffling devices.

28 (o) Section 327.33(3)(b), relating to navigation
29 rules.

30 (p) Section 327.39(1), (2), (3), and (5), relating to
31 personal watercraft.

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1 (q) Section 327.53(1), (2), and (3), relating to
2 marine sanitation.

3 (r) Section 327.53(4), (5), and (7), relating to
4 marine sanitation, for which the civil penalty is \$250.

5 (s) Section 327.395, relating to boater safety
6 education.

7 (t) Section 327.52(3), relating to operation of
8 overloaded or overpowered vessels.

9
10 Any person cited for a violation of any such provision shall
11 be deemed to be charged with a noncriminal infraction, shall
12 be cited for such an infraction, and shall be cited to appear
13 before the county court. The civil penalty for any such
14 infraction is \$50, except as otherwise provided in this
15 section. Any person who fails to appear or otherwise properly
16 respond to a uniform boating citation shall, in addition to
17 the charge relating to the violation of the boating laws of
18 this state, be charged with the offense of failing to respond
19 to such citation and, upon conviction, be guilty of a
20 misdemeanor of the second degree, punishable as provided in s.
21 775.082 or s. 775.083. A written warning to this effect shall
22 be provided at the time such uniform boating citation is
23 issued.

24 (2) Any person cited for an infraction under this
25 section may:

26 (a) Post a bond, which shall be equal in amount to the
27 applicable civil penalty; or

28 (b) Sign and accept a citation indicating a promise to
29 appear.

30

31 The officer may indicate on the citation the time and location

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1 of the scheduled hearing and shall indicate the applicable
2 civil penalty.

3 (3) Any person who willfully refuses to post a bond or
4 accept and sign a summons is guilty of a misdemeanor of the
5 second degree.

6 (4) Any person charged with a noncriminal infraction
7 under this section may:

8 (a) Pay the civil penalty, either by mail or in
9 person, within 10 days of the date of receiving the citation;
10 or,

11 (b) If he or she has posted bond, forfeit bond by not
12 appearing at the designated time and location.

13

14 If the person cited follows either of the above procedures, he
15 or she shall be deemed to have admitted the infraction and to
16 have waived the right to a hearing on the issue of commission
17 of the infraction. Such admission shall not be used as
18 evidence in any other proceedings.

19 (5) Any person electing to appear before the county
20 court or who is required so to appear shall be deemed to have
21 waived the limitations on the civil penalty specified in
22 subsection (1). The court, after a hearing, shall make a
23 determination as to whether an infraction has been committed.
24 If the commission of an infraction has been proven, the court
25 may impose a civil penalty not to exceed \$500.

26 (6) At a hearing under this chapter the commission of
27 a charged infraction must be proved beyond a reasonable doubt.

28 (7) If a person is found by the hearing official to
29 have committed an infraction, he or she may appeal that
30 finding to the circuit court.

31 (8) All fees and civil penalties assessed and

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1 collected pursuant to this section shall be deposited into the
2 Marine Resources Conservation Trust Fund for boating safety
3 education purposes.

4 Section 4. Section 327.731, Florida Statutes 1998
5 Supplement, is reenacted to read:

6 327.731 Mandatory education for violators.--

7 (1) Every person convicted of a criminal violation of
8 this chapter, every person convicted of a noncriminal
9 infraction under this chapter if the infraction resulted in a
10 reportable boating accident, and every person convicted of two
11 noncriminal infractions as defined in s. 327.73(1)(h) through
12 (k), (m) through (p), (s), and (t), said infractions occurring
13 within a 12-month period, must:

14 (a) Enroll in, attend, and successfully complete, at
15 his or her own expense, a boating safety course that meets
16 minimum standards established by the department by rule;
17 however, the department may provide by rule for waivers of the
18 attendance requirement for violators residing in areas where
19 classroom presentation of the course is not available;

20 (b) File with the department within 90 days proof of
21 successful completion of the course;

22 (c) Refrain from operating a vessel until he or she
23 has filed the proof of successful completion of the course
24 with the department.

25
26 Any person who has successfully completed an approved boating
27 course shall be exempt from these provisions upon showing
28 proof to the department as specified in paragraph (b).

29 (2) For the purposes of this section, "conviction"
30 means a finding of guilt, or the acceptance of a plea of
31 guilty or nolo contendere, regardless of whether or not

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1 adjudication was withheld or whether imposition of sentence
2 was withheld, deferred, or suspended. Any person who operates
3 a vessel on the waters of this state in violation of the
4 provisions of this section is guilty of a misdemeanor of the
5 second degree, punishable as provided in s. 775.082 or s.
6 775.083.

7 (3) The department shall print on the reverse side of
8 the defendant's copy of the boating citation a notice of the
9 provisions of this section. Upon conviction, the clerk of the
10 court shall notify the defendant that it is unlawful for him
11 or her to operate any vessel until he or she has complied with
12 this section, but failure of the clerk of the court to provide
13 such a notice shall not be a defense to a charge of unlawful
14 operation of a vessel under subsection (2).

15
16 (Renumber subsequent section)

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18
19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 On page 1, line 9, after the semicolon,

22
23 insert:

24 reenacting s. 327.72, F.S.; providing
25 penalties; amending s. 327.73, F.S.; providing
26 for noncriminal violations; reenacting s.
27 327.731, F. S.; providing for mandatory
28 education for violators;

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