

By the Committee on Natural Resources and Senator Sullivan

312-1794A-99

1                                   A bill to be entitled  
 2           An act relating to watersports; amending s.  
 3           327.37, F.S.; providing safety rules for towing  
 4           parasails from vessels; prescribing safety  
 5           regulations for persons engaged in waterskiing,  
 6           parasailing, aquaplaning, or similar  
 7           activities; prohibiting parasailing or  
 8           operating a boat towing a parasail in specified  
 9           waters; amending s. 327.73, F.S.; providing  
 10          that certain violations with respect to  
 11          parasailing constitute a noncriminal  
 12          infraction; reenacting ss. 327.72, 327.731,  
 13          F.S., relating to penalties and mandatory  
 14          education for violators, to incorporate the  
 15          amendment to s. 327.73, F.S., in references  
 16          thereto; providing an effective date.

17

18 Be It Enacted by the Legislature of the State of Florida:

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20           Section 1. Section 327.37, Florida Statutes, is  
 21 amended to read:

22           327.37 Water skis, parasails, and aquaplanes  
 23 regulated.--

24           (1)(a) A ~~No~~ person may not ~~shall~~ operate a vessel on  
 25 any waters of this state towing a person on water skis, or an  
 26 aquaplane, or similar device unless there is in such vessel a  
 27 person, in addition to the operator, in a position to observe  
 28 the progress of the person being towed, or the vessel is  
 29 equipped with a wide-angle rear view mirror mounted in such  
 30 manner as to permit the operator of the vessel to observe the  
 31 progress of the person being towed. This subsection does not

1 apply to class A motorboats operated by the person being towed  
2 and designed to be incapable of carrying the operator in the  
3 motorboat.

4 (b) A person may not operate a vessel on any waters of  
5 this state towing a person attached to a parasail or similar  
6 device unless there is a person in the vessel, in addition to  
7 the operator, in a position to observe the progress of the  
8 person being towed. A wide-angle rear view mirror is not  
9 acceptable for this purpose.

10 (2)(a) A ~~No~~ person may not ~~shall~~ engage in water  
11 skiing, parasailing, aquaplaning, or similar activity at any  
12 time between the hours from one-half hour after sunset to  
13 one-half hour before sunrise.

14 (b) A ~~No~~ person may not ~~shall~~ engage in water skiing,  
15 parasailing, or aquaplaning, or any similar activity unless  
16 such person is wearing a type I, type II, ~~or type III,~~ or  
17 noninflatable type V personal flotation device approved by the  
18 United States Coast Guard.

19 (3) The provisions of subsections (1) and (2) do not  
20 apply to a performer engaged in a professional exhibition or a  
21 person preparing to participate or participating in an  
22 official regatta, boat race, marine parade, tournament, or  
23 exhibition held pursuant to s. 327.48.

24 (4) A ~~No~~ person may not ~~shall~~ operate or manipulate  
25 any vessel, tow rope, or other device by which the direction  
26 or location of water skis, parasail, aquaplane, innertube,  
27 sled, or similar device may be affected or controlled, in such  
28 a way as to cause the water skis, parasail, aquaplane,  
29 innertube, sled, or similar device or any person thereon to  
30 collide or strike against or be likely to collide or strike  
31 against any vessel, bridge, wharf, pier, dock, buoy, platform,

1 piling, channel marker, or other object, except slalom buoys,  
2 ski jumps, or like objects used normally in competitive or  
3 recreational skiing.

4 (5) A person may not operate any vessel towing a  
5 parasail or engage in parasailing within 100 feet of the  
6 marked channel of the Florida Intracoastal Waterway.

7 Section 2. Section 327.73, Florida Statutes, is  
8 amended to read:

9 327.73 Noncriminal infractions.--

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

12 (a) Section 327.10, relating to operation of  
13 unregistered and unnumbered vessels.

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

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

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

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

20 (f) Section 327.17, relating to military personnel and  
21 registration of vessels.

22 (g) Section 327.25(14), relating to operation with an  
23 expired registration.

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

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

27 (j) Section 327.44, relating to interference with  
28 navigation.

29 (k) Violations relating to restricted areas and speed  
30 limits:

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1           1. Established by the department pursuant to s.  
2 327.46.  
3           2. Established by local governmental authorities  
4 pursuant to s. 327.22 or s. 327.60.  
5           3. Speed limits established pursuant to s. 370.12(2).  
6           (1) Section 327.48, relating to regattas and races.  
7           (m) Section 327.50(1) and (2), relating to required  
8 safety equipment, lights, and shapes.  
9           (n) Section 327.65, relating to muffling devices.  
10           (o) Section 327.33(3)(b), relating to navigation  
11 rules.  
12           (p) Section 327.39(1), (2), (3), and (5), relating to  
13 personal watercraft.  
14           (q) Section 327.53(1), (2), and (3), relating to  
15 marine sanitation.  
16           (r) Section 327.53(4), (5), and (7), relating to  
17 marine sanitation, for which the civil penalty is \$250.  
18           (s) Section 327.395, relating to boater safety  
19 education.  
20           (t) Section 327.52(3), relating to operation of  
21 overloaded or overpowered vessels.  
22  
23 Any person cited for a violation of any such provision shall  
24 be deemed to be charged with a noncriminal infraction, shall  
25 be cited for such an infraction, and shall be cited to appear  
26 before the county court. The civil penalty for any such  
27 infraction is \$50, except as otherwise provided in this  
28 section. Any person who fails to appear or otherwise properly  
29 respond to a uniform boating citation shall, in addition to  
30 the charge relating to the violation of the boating laws of  
31 this state, be charged with the offense of failing to respond

1 to such citation and, upon conviction, be guilty of a  
2 misdemeanor of the second degree, punishable as provided in s.  
3 775.082 or s. 775.083. A written warning to this effect shall  
4 be provided at the time such uniform boating citation is  
5 issued.

6 (2) Any person cited for an infraction under this  
7 section may:

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

10 (b) Sign and accept a citation indicating a promise to  
11 appear.

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13 The officer may indicate on the citation the time and location  
14 of the scheduled hearing and shall indicate the applicable  
15 civil penalty.

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

19 (4) Any person charged with a noncriminal infraction  
20 under this section may:

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

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

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27 If the person cited follows either of the above procedures, he  
28 or she shall be deemed to have admitted the infraction and to  
29 have waived the right to a hearing on the issue of commission  
30 of the infraction. Such admission shall not be used as  
31 evidence in any other proceedings.

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

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

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

13           (8) All fees and civil penalties assessed and  
14 collected pursuant to this section shall be deposited into the  
15 Marine Resources Conservation Trust Fund for boating safety  
16 education purposes.

17           Section 3. For the purpose of incorporating the  
18 amendment made by this act to section 327.73, Florida  
19 Statutes, in references thereto, section 327.72, Florida  
20 Statutes, is reenacted to read:

21           327.72 Penalties.--Any person failing to comply with  
22 the provisions of this chapter or chapter 328 not specified in  
23 s. 327.73 or not paying the fine specified in said section  
24 within 10 days, except as otherwise provided in this chapter  
25 or chapter 328, is guilty of a misdemeanor of the second  
26 degree, punishable as provided in s. 775.082 or s. 775.083.

27           Section 4. For the purpose of incorporating the  
28 amendment made by this act to section 327.73, Florida  
29 Statutes, in references thereto, section 327.731, Florida  
30 Statutes, 1998 Supplement, is reenacted to read:

31           327.731 Mandatory education for violators.--

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

8           (a) Enroll in, attend, and successfully complete, at  
9 his or her own expense, a boating safety course that meets  
10 minimum standards established by the department by rule;  
11 however, the department may provide by rule for waivers of the  
12 attendance requirement for violators residing in areas where  
13 classroom presentation of the course is not available;

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

16           (c) Refrain from operating a vessel until he or she  
17 has filed the proof of successful completion of the course  
18 with the department.

19  
20 Any person who has successfully completed an approved boating  
21 course shall be exempt from these provisions upon showing  
22 proof to the department as specified in paragraph (b).

23           (2) For the purposes of this section, "conviction"  
24 means a finding of guilt, or the acceptance of a plea of  
25 guilty or nolo contendere, regardless of whether or not  
26 adjudication was withheld or whether imposition of sentence  
27 was withheld, deferred, or suspended. Any person who operates  
28 a vessel on the waters of this state in violation of the  
29 provisions of this section is guilty of a misdemeanor of the  
30 second degree, punishable as provided in s. 775.082 or s.  
31 775.083.

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

9           Section 5. This act shall take effect July 1, 1999.

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11                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
12                                   COMMITTEE SUBSTITUTE FOR  
13   SB 728

14 The committee substitute specifies that certain violations  
15 relating to parasailing are noncriminal infractions.

16 The committee substitute reenacts ss. 327.72, F.S., and  
17 372.731, F.S., 1998 Supplement, relating to penalties for  
18 persons failing to comply with the provisions of chapters 327  
19 or 328 and mandatory education for violators.  
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