

By the Committee on Transportation and Senator King

306-2050-00

1                                   A bill to be entitled  
2           An act relating to boating safety; amending s.  
3           327.02, F.S.; revising definitions; amending s.  
4           327.22, F.S., relating to the regulation of  
5           vessels by municipalities or counties; creating  
6           s. 327.302, F.S.; providing for boating  
7           accident report forms; amending s. 327.33,  
8           F.S.; revising provisions relating to reckless  
9           or careless operation of a vessel; providing  
10          penalties; renumbering and amending s. 861.065,  
11          F.S.; revising divers-down flag requirements;  
12          revising requirements for operation of vessels  
13          in the vicinity of a divers-down flag;  
14          providing penalties; amending s. 327.35, F.S.,  
15          relating to boating under the influence (BUI);  
16          revising blood and breath alcohol levels;  
17          revising penalties; revising circumstances for  
18          consideration of previous violations; providing  
19          exemptions; amending s. 327.355, F.S., relating  
20          to operation of vessels by persons under 21  
21          years of age who have consumed alcoholic  
22          beverages; amending s. 327.36, F.S., relating  
23          to mandatory adjudication of certain offenses;  
24          amending s. 327.37, F.S.; requiring persons  
25          engaging in water skiing, parasailing, or  
26          aquaplaning to wear a noninflatable flotation  
27          device; amending s. 327.39, F.S., relating to  
28          the regulation of personal watercraft;  
29          requiring the use of noninflatable flotation  
30          devices; prohibiting the lease, hiring, or  
31          rental of personal watercraft under certain

1           circumstances; providing a penalty; providing  
2           commission rulemaking authority; amending s.  
3           327.395, F.S., relating to boating safety  
4           identification cards; requiring that certain  
5           boater education or boater safety courses  
6           include a component relating to divers;  
7           amending s. 327.40, F.S.; clarifying  
8           requirements for uniform waterway markers for  
9           safety and navigation; providing permit  
10          exemptions; providing commission rulemaking  
11          authority; amending s. 327.41, F.S.; clarifying  
12          requirements for uniform waterway regulatory  
13          markers; amending s. 327.46, F.S.; clarifying  
14          rulemaking authority for the commission to  
15          establish restricted areas for public safety  
16          purposes; creating s. 327.49, F.S.; providing  
17          for the testing of vessels and vessel motors;  
18          amending s. 327.54, F.S., relating to liveries;  
19          revising requirements for preride or prerenal  
20          instruction; revising age requirements for the  
21          lease, hire, or rental of personal watercraft;  
22          requiring liveries to carry liability  
23          insurance; providing a penalty; amending s.  
24          327.60, F.S.; prohibiting local regulations  
25          from discriminating against personal  
26          watercraft; amending s. 327.72, F.S.;  
27          increasing time for payment of civil penalties;  
28          amending s. 327.73, F.S., relating to  
29          noncriminal infractions; reenacting s.  
30          327.73(1)(p) for the purpose of incorporating  
31          the amendment to s. 327.39, F.S.; providing

1 additional time for payment of civil penalties;  
2 providing additional penalties; providing for  
3 additional court costs in certain  
4 circumstances; authorizing public works or  
5 community service in certain circumstances;  
6 amending s. 327.731, F.S., relating to  
7 mandatory education for violators; correcting a  
8 cross reference; amending s. 327.803, F.S.;  
9 providing for an increase in membership of the  
10 Boating Advisory Council; modifying purpose;  
11 amending s. 328.48, F.S.; clarifying vessel  
12 registration requirements; amending s. 328.56,  
13 F.S.; clarifying vessel registration number  
14 requirements; amending s. 328.70, F.S.;  
15 providing requirements for classification of  
16 recreational vessels and livery vessels;  
17 amending s. 328.72, F.S.; providing  
18 requirements for display of antique vessel  
19 registration numbers and decals; amending s.  
20 328.76, F.S.; amending s. 316.193, F.S.,  
21 relating to driving under the influence;  
22 revising circumstances for consideration of  
23 previous violations; amending s. 316.635, F.S.;  
24 providing for jurisdiction over boating  
25 infractions committed by minors; amending ss.  
26 318.32 and 318.38, F.S.; providing for  
27 disposition of boating infractions by the court  
28 hearing traffic infractions; amending s.  
29 320.08, F.S.; correcting cross-references;  
30 amending s. 713.78, F.S.; defining "vessel" for  
31 purposes of provisions relating to liens for

1 recovering, towing, or storing vehicles and  
2 documented vessels; amending s. 715.07, F.S.;  
3 correcting a cross-reference; amending s.  
4 938.17, F.S., relating to county delinquency  
5 prevention; providing for the assessment of  
6 additional court costs for certain criminal  
7 boating offenses; amending s. 947.146, F.S.;  
8 providing authority for control release of  
9 certain BUI offenders; amending s. 985.05, F.S;  
10 providing for disposition of certain court  
11 records pertaining to boating offenses;  
12 amending s. 985.212, F.S.; providing that  
13 fingerprinting children for boating violations  
14 is not prohibited; revising provisions relating  
15 to the mooring of vessels at certain docks;  
16 providing effective dates.

17

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

19

20 Section 1. Section 327.02, Florida Statutes, is  
21 amended to read:

22 327.02 Definitions of terms used in this chapter and  
23 in chapter 328.--As used in this chapter and in chapter 328,  
24 unless the context clearly requires a different meaning, the  
25 term:

26 (1) "Alien" means a person who is not a citizen of the  
27 United States.

28 (2) "Boating accident" means a collision, accident, or  
29 casualty involving a vessel in or upon, or entering into or  
30 exiting from, the water, including capsizing, collision with  
31 another vessel or object, sinking, personal injury, death,

1 disappearance of any person from on board under circumstances  
2 which indicate the possibility of death or injury, or property  
3 damage to any vessel or dock.

4 (3) "Canoe" means a light, narrow vessel with curved  
5 sides and with both ends pointed. A canoe-like vessel with a  
6 transom may not be excluded from the definition of a canoe if  
7 the width of its transom is less than 45 percent of the width  
8 of its beam or it has been designated as a canoe by the United  
9 States Coast Guard.

10 (4) "Commercial vessel" means:

11 (a) Any vessel primarily engaged in the taking or  
12 landing of saltwater fish or saltwater products or freshwater  
13 fish or freshwater products, or any vessel licensed pursuant  
14 to s. 370.06 from which commercial quantities of saltwater  
15 products are harvested, from within and without the waters of  
16 this state for sale either to the consumer, retail dealer, or  
17 wholesale dealer.

18 (b) Any other vessel, except a recreational vessel as  
19 defined in this section ~~engaged in any activity wherein a fee~~  
20 ~~is paid by the user, either directly or indirectly, to the~~  
21 ~~owner, operator, or custodian of the vessel.~~

22 (5) "Commission" means the Fish and Wildlife  
23 Conservation Commission.

24 (6) "Dealer" means any person authorized by the  
25 Department of Revenue to buy, sell, resell, or otherwise  
26 distribute vessels. Such person shall have a valid sales tax  
27 certificate of registration issued by the Department of  
28 Revenue and a valid commercial or occupational license  
29 required by any county, municipality, or political subdivision  
30 of the state in which the person operates.

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1           (7) "Division" means the Division of Law Enforcement  
2 of the Fish and Wildlife Conservation Commission.

3           (8) "Documented vessel" means a vessel for which a  
4 valid certificate of documentation is outstanding pursuant to  
5 46 C.F.R. part 67.

6           (9) "Floating structure" means a floating entity, with  
7 or without accommodations built thereon, which is not  
8 primarily used as a means of transportation on water but which  
9 serves purposes or provides services typically associated with  
10 a structure or other improvement to real property. The term  
11 "floating structure" includes, but is not limited to, each  
12 entity used as a residence, place of business or office with  
13 public access, hotel or motel, restaurant or lounge,  
14 clubhouse, meeting facility, storage or parking facility,  
15 mining platform, dredge, dragline, or similar facility or  
16 entity represented as such. Floating structures are expressly  
17 excluded from the definition of the term "vessel" provided in  
18 this section. Incidental movement upon water or resting  
19 partially or entirely on the bottom shall not, in and of  
20 itself, preclude an entity from classification as a floating  
21 structure.

22           (10) "Florida Intracoastal Waterway" means the  
23 Atlantic Intracoastal Waterway, the Georgia state line north  
24 of Fernandina to Miami; the Port Canaveral lock and canal to  
25 the Atlantic Intracoastal Waterway; the Atlantic Intracoastal  
26 Waterway, Miami to Key West; the Okeechobee Waterway, Stuart  
27 to Fort Myers; the St. Johns River, Jacksonville to Sanford;  
28 the Gulf Intracoastal Waterway, Anclote to Fort Myers; the  
29 Gulf Intracoastal Waterway, Carrabelle to Tampa Bay;  
30 Carrabelle to Anclote open bay section (using Gulf of Mexico);  
31 the Gulf Intracoastal Waterway, Carrabelle to the Alabama

1 state line west of Pensacola; and the Apalachicola,  
2 Chattahoochee, and Flint Rivers in Florida.

3 (11) "Homemade vessel" means any vessel built after  
4 October 31, 1972, for which a federal hull identification  
5 number is not required to be assigned by the manufacturer  
6 pursuant to federal law, or any vessel constructed or  
7 assembled prior to November 1, 1972, by other than a licensed  
8 manufacturer for his or her own use or the use of a specific  
9 person. A vessel assembled from a manufacturer's kit or  
10 constructed from an unfinished manufactured hull shall be  
11 considered to be a homemade vessel if such a vessel is not  
12 required to have a hull identification number assigned by the  
13 United States Coast Guard. A rebuilt or reconstructed vessel  
14 shall in no event be construed to be a homemade vessel.

15 (12) "Houseboat" means any vessel which is used  
16 primarily as a residence for a minimum of 21 days during any  
17 30-day period, in a county of this state, and this residential  
18 use of the vessel is to the preclusion of the use of the  
19 vessel as a means of transportation.

20 (13) "Length" means the measurement from end to end  
21 over the deck parallel to the centerline excluding sheer.

22 (14) "Lien" means a security interest which is  
23 reserved or created by a written agreement recorded with the  
24 department which secures payment or performance of an  
25 obligation and is generally valid against third parties.

26 (15) "Lienholder" means a person holding a security  
27 interest in a vessel, which interest is recorded with the  
28 department.

29 (16) "Live-aboard vessel" means:

30 (a) Any vessel used solely as a residence; or

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1 (b) Any vessel represented as a place of business, a  
2 professional or other commercial enterprise, or a legal  
3 residence.

4  
5 A commercial fishing boat is expressly excluded from the term  
6 "live-aboard vessel."

7 (17) "Livery vessel" means any vessel leased, rented,  
8 or chartered to another for consideration.

9 (18)~~(17)~~ "Manufactured vessel" means any vessel built  
10 after October 31, 1972, for which a federal hull  
11 identification number is required pursuant to federal law, or  
12 any vessel constructed or assembled prior to November 1, 1972,  
13 by a duly licensed manufacturer.

14 (19)~~(18)~~ "Marina" means a licensed commercial facility  
15 which provides secured public moorings or dry storage for  
16 vessels on a leased basis. A commercial establishment  
17 authorized by a licensed vessel manufacturer as a dealership  
18 shall be considered a marina for nonjudicial sale purposes.

19 (20)~~(19)~~ "Marine sanitation device" means any  
20 equipment other than a toilet, for installation on board a  
21 vessel, which is designed to receive, retain, treat, or  
22 discharge sewage, and any process to treat such sewage. Marine  
23 sanitation device Types I, II, and III shall be defined as  
24 provided in 33 C.F.R. part 159.

25 (21) "Marker" means any channel mark or other aid to  
26 navigation, information or regulatory mark, isolated danger  
27 mark, safe water mark, special mark, inland waters obstruction  
28 mark, or mooring buoy in, on, or over the waters of the state  
29 or the shores thereof, and includes, but is not limited to, a  
30 sign, beacon, buoy, or light.

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1           ~~(22)~~(20) "Motorboat" means any vessel equipped with  
2 machinery for propulsion, irrespective of whether the  
3 propulsion machinery is in actual operation ~~which is propelled~~  
4 ~~or powered by machinery and which is used or capable of being~~  
5 ~~used as a means of transportation on water.~~

6           ~~(23)~~(21) "Navigation rules" means the International  
7 Navigational Rules Act of 1977, 33 U.S.C. appendix following  
8 s. 1602, as amended, including the annexes thereto ~~in effect~~  
9 ~~on June 1, 1983~~, for vessels on waters outside of established  
10 navigational lines of demarcation as specified in 33 C.F.R.  
11 part 80 or the Inland Navigational Rules Act of 1980, 33  
12 U.S.C. s. 2001 et seq., as amended, including the annexes  
13 thereto ~~in effect on December 24, 1981~~, for vessels on all  
14 waters not outside of such lines of demarcation.

15           ~~(22)~~ "Noncommercial vessel" ~~means any vessel other~~  
16 ~~than a commercial vessel as defined in this section.~~

17           ~~(24)~~(23) "Nonresident" means a citizen of the United  
18 States who has not established residence in this state and has  
19 not continuously resided in this state for 1 year and in one  
20 county for the 6 months immediately preceding the initiation  
21 of a vessel titling or registration action.

22           ~~(25)~~(24) "Operate" means to be in charge of or in  
23 command of or in actual physical control of a vessel upon the  
24 waters of this state, or to exercise control over or to have  
25 responsibility for a vessel's navigation or safety while the  
26 vessel is underway upon the waters of this state, or to  
27 control or steer a vessel being towed by another vessel upon  
28 the waters of the state; ~~provided, however, that this~~  
29 ~~definition shall not apply to a person on a vessel that is~~  
30 ~~docked or otherwise made fast to the shore and shall not apply~~  
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1 ~~to a vessel owner or operator who designates a driver pursuant~~  
2 ~~to s. 327.35.~~

3       (26)~~(25)~~ "Owner" means a person, other than a  
4 lienholder, having the property in or title to a vessel. The  
5 term includes a person entitled to the use or possession of a  
6 vessel subject to an interest in another person, reserved or  
7 created by agreement and securing payment of performance of an  
8 obligation, but the term excludes a lessee under a lease not  
9 intended as security.

10       (27)~~(26)~~ "Person" means an individual, partnership,  
11 firm, corporation, association, or other entity.

12       (28)~~(27)~~ "Personal watercraft" means a ~~small class A-1~~  
13 ~~or A-2~~ vessel less than 16 feet in length which uses an  
14 ~~outboard motor, or an~~ inboard motor powering a water jet pump,  
15 as its primary source of motive power and which is designed to  
16 be operated by a person sitting, standing, or kneeling on, ~~or~~  
17 ~~being towed behind~~ the vessel, rather than in the conventional  
18 manner of sitting or standing inside the vessel.

19       (29)~~(28)~~ "Portable toilet" means a device consisting  
20 of a lid, seat, containment vessel, and support structure that  
21 is specifically designed to receive, retain, and discharge  
22 human waste and that is capable of being removed from a vessel  
23 by hand.

24       (30)~~(29)~~ "Prohibited activity" means such activity as  
25 will impede or disturb navigation or creates a safety hazard  
26 on waterways of this state.

27       (31)~~(30)~~ "Racing shell," "rowing scull," or "racing  
28 kayak" means a manually propelled vessel which is recognized  
29 by national or international racing associations for use in  
30 competitive racing and in which all occupants, with the  
31 exception of a coxswain, if one is provided, row, scull, or

1 paddle and which is not designed to carry and does not carry  
2 any equipment not solely for competitive racing.

3 (32) "Recreational vessel" means any vessel:

4 (a) Manufactured and used primarily for noncommercial  
5 purposes; or

6 (b) Leased, rented, or chartered to a person for the  
7 person's noncommercial use.

8 (33)~~(31)~~ "Registration" means a state operating  
9 license on a vessel which is issued with an identifying  
10 number, an annual certificate of registration, and a decal  
11 designating the year for which a registration fee is paid.

12 ~~(32) "Regulatory marker" means any anchored or fixed~~  
13 ~~marker in, on, or over the water, or anchored platform on the~~  
14 ~~surface of the water, other than a marker provided in s.~~  
15 ~~327.40, and includes, but is not limited to, a bathing beach~~  
16 ~~marker, speed zone marker, information marker, restricted zone~~  
17 ~~marker, congested area marker, or warning marker.~~

18 (34)~~(33)~~ "Resident" means a citizen of the United  
19 States who has established residence in this state and has  
20 continuously resided in this state for 1 year and in one  
21 county for the 6 months immediately preceding the initiation  
22 of a vessel titling or registration action.

23 (35)~~(34)~~ "Sailboat" means any vessel whose sole source  
24 of propulsion is the wind ~~natural element (i.e., wind).~~

25 (36)~~(35)~~ "Unclaimed vessel" means any undocumented  
26 vessel, including its machinery, rigging, and accessories,  
27 which is in the physical possession of any marina, garage, or  
28 repair shop for repairs, improvements, or other work with the  
29 knowledge of the vessel owner and for which the costs of such  
30 services have been unpaid for a period in excess of 90 days

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1 from the date written notice of the completed work is given by  
2 the marina, garage, or repair shop to the vessel owner.

3 (37)~~(36)~~ "Vessel" is synonymous with boat as  
4 referenced in s. 1(b), Art. VII of the State Constitution and  
5 includes every description of watercraft, barge, and air boat,  
6 other than a seaplane on the water, used or capable of being  
7 used as a means of transportation on water.

8 (38)~~(37)~~ "Waters of this state" means any navigable  
9 waters of the United States within the territorial limits of  
10 this state, and the marginal sea adjacent to this state and  
11 the high seas when navigated as a part of a journey or ride to  
12 or from the shore of this state, and all the inland lakes,  
13 rivers, and canals under the jurisdiction of this state.

14 Section 2. Subsection (1) of section 327.22, Florida  
15 Statutes, is amended to read:

16 327.22 Regulation of vessels by municipalities or  
17 counties.--

18 (1) Nothing in this chapter shall be construed to  
19 prohibit any municipality or county that expends money for the  
20 patrol, regulation, and maintenance of any lakes, rivers, or  
21 waters, and for other boating-related activities in such  
22 municipality or county, from regulating vessels resident in  
23 such municipality or county. Any county or municipality may  
24 adopt ordinances which provide for enforcement of noncriminal  
25 violations of restricted areas s. ~~327.33 relating to the~~  
26 ~~careless operation of a vessel~~ which results in the  
27 endangering or damaging of property, by citation mailed to  
28 registered owner of the vessel. Any such ordinance shall apply  
29 only in legally established ~~designated~~ restricted areas which  
30 are properly marked as permitted pursuant to ss. 327.40 and  
31 327.41 and in need of shoreline protection. Any county and

1 the municipalities located within the county may jointly  
2 regulate vessels.

3 Section 3. Section 327.302, Florida Statutes, is  
4 created to read:

5 327.302 Accident report forms.--

6 (1) The commission shall prepare and, upon request,  
7 supply to police departments, sheriffs, and other appropriate  
8 agencies or individuals forms for accident reports as required  
9 in this chapter, suitable with respect to the persons required  
10 to make such reports and the purposes to be served. The forms  
11 must call for sufficiently detailed information to disclose,  
12 with reference to a boating accident, the cause and conditions  
13 existing at the time of the accident and the persons and  
14 vessels involved. Accident report forms may call for the  
15 policy numbers of liability insurance and the names of  
16 carriers covering any vessel involved in an accident required  
17 to be reported under this chapter.

18 (2) Every accident report required to be made in  
19 writing must be made on the appropriate form approved by the  
20 commission and must contain all the information required  
21 therein unless not available. Notwithstanding any other  
22 provisions of this section, an accident report produced  
23 electronically by a law enforcement officer must, at a  
24 minimum, contain the same information as is required on those  
25 forms approved by the commission.

26 Section 4. Subsections (1) and (2) of section 327.33,  
27 Florida Statutes, are amended to read:

28 327.33 Reckless or careless operation of vessel.--

29 (1) It is unlawful to operate a vessel in a reckless  
30 manner. A person is guilty of reckless operation of a vessel  
31 who operates any vessel, or manipulates any water skis,

1 aquaplane, or similar device, in willful or wanton disregard  
2 for the safety of persons or property at a speed or in a  
3 manner as to endanger, or likely to endanger, life or limb, or  
4 damage the property of, or injure any person. Reckless  
5 operation of a vessel includes, but is not limited to, a  
6 violation of s. 327.331(6). Any person who violates a  
7 provision of this subsection commits ~~is guilty of~~ a  
8 misdemeanor of the first degree, punishable as provided in s.  
9 775.082 or s. 775.083.

10 (2) Any person operating a vessel upon the waters of  
11 this state shall operate the vessel in a reasonable and  
12 prudent manner, having regard for other waterborne traffic,  
13 posted speed and wake restrictions, ~~the presence of a~~  
14 ~~divers-down flag as defined in s. 861.065,~~ and all other  
15 attendant circumstances so as not to endanger the life, limb,  
16 or property of any person. ~~Any person operating a vessel on a~~  
17 ~~river, inlet, or navigation channel shall make a reasonable~~  
18 ~~effort to maintain a distance of 100 feet from any divers-down~~  
19 ~~flag.~~ The failure to operate a vessel in a manner described  
20 in this subsection constitutes careless operation. However,  
21 vessel wake and shoreline wash resulting from the reasonable  
22 and prudent operation of a vessel shall, absent negligence,  
23 not constitute damage or endangerment to property. Any person  
24 who violates the provisions of this subsection commits ~~is~~  
25 ~~guilty of~~ a noncriminal violation as defined in s. 775.08.

26 Section 5. Section 861.065, Florida Statutes, is  
27 transferred, renumbered as section 327.331, Florida Statutes,  
28 and amended to read:

29 327.331 ~~861.065~~ Divers; definitions; divers-down flag  
30 required; obstruction to navigation of certain waters;  
31 penalty.--

1           (1) As used in this section, the term:

2           (a) "Diver" means any person who is wholly or  
3 partially submerged in the waters of the state and is equipped  
4 with a face mask and snorkel or underwater breathing  
5 apparatus.

6           **(b)(2)** "Underwater breathing apparatus" means shall  
7 ~~mean~~ any apparatus, whether self-contained or connected to a  
8 distant source of air or other gas, whereby a person wholly or  
9 partially submerged in water is enabled to obtain or reuse air  
10 or any other gas or gases for breathing without returning to  
11 the surface of the water.

12           **(c)(3)** "Divers-down flag" means shall mean a flag that  
13 meets the following specifications:is either square or  
14 ~~rectangular, to approximately 4 units high by 5 units long,~~  
15 ~~with a 1-unit diagonal stripe. The divers-down flag shall~~  
16 ~~have a white diagonal stripe on a red background. The stripe~~  
17 ~~shall begin at the top staff-side of the flag and extend~~  
18 ~~diagonally to the opposite lower corner. The flag shall be~~  
19 ~~free-flying and shall be lowered when all divers are aboard or~~  
20 ~~ashore. The minimum size shall be 12 by 12 inches.~~

21           1. The flag must be square or rectangular. If  
22 rectangular, the length must not be less than the height, or  
23 more than 25 percent longer than the height. The flag must  
24 have a wire or other stiffener to hold it fully unfurled and  
25 extended in the absence of a wind or breeze.

26           2. The flag must be red with a white diagonal stripe  
27 that begins at the top staff-side of the flag and extends  
28 diagonally to the lower opposite corner. The width of the  
29 stripe must be 25 percent of the height of the flag.

30           3. The minimum size for any divers-down flag displayed  
31 on a buoy or float towed by the diver is 12 inches by 12

1 inches. The minimum size for any divers-down flag displayed  
2 from a vessel or structure is 20 inches by 24 inches.

3 4. Any divers-down flag displayed from a vessel must  
4 be displayed from the highest point of the vessel or such  
5 other location which provides that the visibility of the  
6 divers-down flag is not obstructed in any direction.

7 (2)(4) All divers must ~~shall~~ prominently display a  
8 divers-down flag in the area in which the diving occurs, other  
9 than when diving in an area customarily used for swimming  
10 only.

11 (3)(5) No diver or group of divers shall display one  
12 or more divers-down flags on a river, inlet, or navigation  
13 channel, except in case of emergency, in a manner which shall  
14 unreasonably constitute a navigational hazard.

15 (4)(6) Divers shall make reasonable efforts to stay  
16 within 100 feet of the divers-down flag on rivers, inlets, and  
17 navigation channels. Any person operating a vessel on a river,  
18 inlet, or navigation channel must make a reasonable effort to  
19 maintain a distance of at least 100 feet from any divers-down  
20 flag.

21 (5) Divers must make reasonable efforts to stay within  
22 300 feet of the divers-down flag on all waters other than  
23 rivers, inlets, and navigation channels. Any person operating  
24 a vessel on waters other than a river, inlet, or navigation  
25 channel must make a reasonable effort to maintain a distance  
26 of at least 300 feet from any divers-down flag.

27 (6) Any vessel other than a law enforcement or rescue  
28 vessel that approaches within 100 feet of a divers-down flag  
29 on a river, inlet, or navigation channel, or within 300 feet  
30 of a divers-down flag on waters other than a river, inlet, or  
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1 navigation channel, must proceed no faster than is necessary  
2 to maintain headway and steerageway.

3 (7) The divers-down flag must be lowered once all  
4 divers are aboard or ashore. No person may operate any vessel  
5 displaying a divers-down flag unless the vessel has one or  
6 more divers in the water.

7 (8)(7) Any willful violation of this section shall be  
8 a misdemeanor of the second degree punishable as provided by  
9 s. 775.082 or s. 775.083.

10 Section 6. Effective October 1, 2001, subsection (8)  
11 of section 327.331, Florida Statutes, as amended by this act,  
12 is amended to read:

13 327.331 Divers; definitions; divers-down flag  
14 required; obstruction to navigation of certain waters;  
15 penalty.--

16 (8) Except as provided in s. 327.33, any willful  
17 violation of this section shall be a noncriminal infraction  
18 punishable as provided in s. 327.73 ~~misdemeanor of the second~~  
19 ~~degree punishable as provided by s. 775.082 or s. 775.083.~~

20 Section 7. Subsections (3), (4), (5), (6), and (10) of  
21 section 327.35, Florida Statutes, are amended to read:

22 327.35 Boating under the influence; penalties;  
23 "designated drivers".--

24 (3) Any person:

25 (a) Who is in violation of subsection (1);

26 (b) Who operates a vessel; and

27 (c) Who, by reason of such operation, causes:

28 1. Damage to the property or person of another commits  
29 a misdemeanor of the first degree, punishable as provided in  
30 s. 775.082 or s. 775.083.

31

1           2. Serious bodily injury to another, as defined in s.  
2 316.1933, commits a felony of the third degree, punishable as  
3 provided in s. 775.082, s. 775.083, or s. 775.084.

4           3. The death of any human being commits BUI  
5 manslaughter, and commits:

6           a. A felony of the second degree, punishable as  
7 provided in s. 775.082, s. 775.083, or s. 775.084.

8           b. A felony of the first degree, punishable as  
9 provided in s. 775.082, s. 775.083, or s. 775.084, if:

10           (I) At the time of the accident, the person knew, or  
11 should have known, that the accident occurred; and

12           (II) The person failed to give information and render  
13 aid as required by s. 327.30 ~~316.062~~.

14  
15 This sub-subparagraph does not require that the person knew  
16 that the accident resulted in injury or death.

17           (4) Any person who is convicted of a violation of  
18 subsection (1) and who has a blood-alcohol level or  
19 breath-alcohol level of 0.16 ~~0.20~~ or higher, or any person who  
20 is convicted of a violation of subsection (1) and who at the  
21 time of the offense was accompanied in the vessel by a person  
22 under the age of 18 years, shall be punished:

23           (a) By a fine of:

24           1. Not less than \$500 or more than \$1,000 for a first  
25 conviction.

26           2. Not less than \$1,000 or more than \$2,000 for a  
27 second conviction.

28           3. Not less than \$2,000 or more than \$5,000 for a  
29 third conviction.

30           (b) By imprisonment for:

31           1. Not more than 9 months for a first conviction.

1           2. Not more than 12 months for a second conviction.

2           3. Not more than 12 months for a third conviction.

3

4 For the purposes of this subsection, only the instant offense  
5 is required to be a violation of subsection (1) by a person  
6 who has a blood-alcohol level or breath-alcohol level of 0.16  
7 ~~0.20~~ or higher.

8           (5) In addition to any sentence or fine, the court  
9 shall place all offenders ~~any offender~~ convicted of violating  
10 this section on monthly reporting probation and shall require  
11 completion of attendance at a substance abuse course specified  
12 by the court, which must include a psychosocial evaluation of  
13 the offender. If ~~and~~ the agency conducting the course refers  
14 ~~may refer~~ the offender to an authorized substance abuse  
15 treatment service provider for substance abuse ~~evaluation and~~  
16 treatment, in addition to any sentence or fine imposed under  
17 this section, completion of all such education, evaluation,  
18 and treatment is a condition of reporting probation. The  
19 offender shall assume reasonable costs for such education,  
20 evaluation, and treatment, ~~with completion of all such~~  
21 ~~education, evaluation, and treatment being a condition of~~  
22 ~~reporting probation.~~ The referral to treatment resulting from  
23 a psychosocial evaluation shall ~~may~~ not be waived without a  
24 supporting independent psychosocial evaluation conducted by an  
25 authorized substance abuse treatment provider ~~agency~~ appointed  
26 by the court, which shall have ~~and with~~ access to the original  
27 psychosocial evaluation before the independent psychosocial  
28 evaluation is completed. The court shall review the results  
29 and recommendations of both evaluations before determining the  
30 request for waiver. The offender shall bear the full cost of  
31 this procedure. The term "substance abuse" means the abuse of

1 alcohol or any substance named or described in Schedules I  
2 through V of s. 893.03. If an offender referred to treatment  
3 under this subsection fails to report for or complete such  
4 treatment or fails to complete the substance abuse education  
5 course and evaluation, the agency conducting the course shall  
6 notify the court and the offender's probation officer of the  
7 failure. Upon receipt of the notice, the court shall order  
8 the offender not to operate any vessel upon the waters of this  
9 state for the remainder of the period of probation.

10 (6) With respect to any person convicted of a  
11 violation of subsection (1), regardless of any other penalty  
12 imposed:

13 (a) For the first conviction, the court shall place  
14 the defendant on probation for a period not to exceed 1 year  
15 and, as a condition of such probation, shall order the  
16 defendant to participate in public service or a community work  
17 project for a minimum of 50 hours. The court must also, as a  
18 condition of probation, order the impoundment or  
19 immobilization of the vessel that was operated by or in the  
20 actual control of the defendant or any one vehicle registered  
21 in the defendant's name at the time of impoundment or  
22 immobilization, for a period of 10 days or for the unexpired  
23 term of any lease or rental agreement that expires within 10  
24 days. The impoundment or immobilization must not occur  
25 concurrently with the incarceration of the defendant. The  
26 impoundment or immobilization order may be dismissed in  
27 accordance with paragraph (e) or paragraph (f). The total  
28 period of probation and incarceration may not exceed 1 year.

29 (b) For the second conviction for an offense that  
30 occurs within a period of 5 years after the date of a prior  
31 conviction for violation of this section, the court shall

1 order imprisonment for not less than 10 days. The court must  
2 also, as a condition of probation, order the impoundment or  
3 immobilization of the vessel that was operated by or in the  
4 actual control of the defendant or any one vehicle registered  
5 in the defendant's name at the time of impoundment or  
6 immobilization, for a period of 30 days or for the unexpired  
7 term of any lease or rental agreement that expires within 30  
8 days. The impoundment or immobilization must not occur  
9 concurrently with the incarceration of the defendant. The  
10 impoundment or immobilization order may be dismissed in  
11 accordance with paragraph (e) or paragraph (f). At least 48  
12 hours of confinement must be consecutive.

13 (c) For the third or subsequent conviction for an  
14 offense that occurs within a period of 10 years after the date  
15 of a prior conviction for violation of this section, the court  
16 shall order imprisonment for not less than 30 days. The court  
17 must also, as a condition of probation, order the impoundment  
18 or immobilization of the vessel that was operated by or in the  
19 actual control of the defendant or any one vehicle registered  
20 in the defendant's name at the time of impoundment or  
21 immobilization, for a period of 90 days or for the unexpired  
22 term of any lease or rental agreement that expires within 90  
23 days. The impoundment or immobilization must not occur  
24 concurrently with the incarceration of the defendant. The  
25 impoundment or immobilization order may be dismissed in  
26 accordance with paragraph (e) or paragraph (f). At least 48  
27 hours of confinement must be consecutive.

28 (d) The court must at the time of sentencing the  
29 defendant issue an order for the impoundment or immobilization  
30 of a vessel. Within 7 business days after the date that the  
31 court issues the order of impoundment, ~~and once again 30~~

1 ~~business days before the actual impoundment or immobilization~~  
2 ~~of the vessel,~~the clerk of the court must send notice by  
3 certified mail, return receipt requested, to the registered  
4 owner of each vessel, if the registered owner is a person  
5 other than the defendant, and to each person of record  
6 claiming a lien against the vessel.

7 (e) A person who owns but was not operating the vessel  
8 when the offense occurred may submit to the court a police  
9 report indicating that the vessel was stolen at the time of  
10 the offense or documentation of having purchased the vessel  
11 after the offense was committed from an entity other than the  
12 defendant or the defendant's agent. If the court finds that  
13 the vessel was stolen or that the sale was not made to  
14 circumvent the order and allow the defendant continued access  
15 to the vessel, the order must be dismissed and the owner of  
16 the vessel will incur no costs. If the court denies the  
17 request to dismiss the order of impoundment or immobilization,  
18 the petitioner may request an evidentiary hearing.

19 (f) A person who owns but was not operating the vessel  
20 when the offense occurred, and whose vessel was stolen or who  
21 purchased the vessel after the offense was committed directly  
22 from the defendant or the defendant's agent, may request an  
23 evidentiary hearing to determine whether the impoundment or  
24 immobilization should occur. If the court finds that either  
25 the vessel was stolen or the purchase was made without  
26 knowledge of the offense, that the purchaser had no  
27 relationship to the defendant other than through the  
28 transaction, and that such purchase would not circumvent the  
29 order and allow the defendant continued access to the vessel,  
30 the order must be dismissed and the owner of the vessel will  
31 incur no costs.

1 (g) All costs and fees for the impoundment or  
2 immobilization, including the cost of notification, must be  
3 paid by the owner of the vessel or, if the vessel is leased or  
4 rented, by the person leasing or renting the vessel, unless  
5 the impoundment or immobilization order is dismissed.

6 (h) The person who owns a vessel that is impounded or  
7 immobilized under this paragraph, or a person who has a lien  
8 of record against such a vessel and who has not requested a  
9 review of the impoundment pursuant to paragraph (e) or  
10 paragraph (f), may, within 10 days after the date that person  
11 has knowledge of the location of the vessel, file a complaint  
12 in the county in which the owner resides to determine whether  
13 the vessel was wrongfully taken or withheld from the owner or  
14 lienholder. Upon the filing of a complaint, the owner or  
15 lienholder may have the vessel released by posting with the  
16 court a bond or other adequate security equal to the amount of  
17 the costs and fees for impoundment or immobilization,  
18 including towing or storage, to ensure the payment of the  
19 costs and fees if the owner or lienholder does not prevail.  
20 When the bond is posted and the fee is paid as set forth in s.  
21 28.24, the clerk of the court shall issue a certificate  
22 releasing the vessel. At the time of release, after reasonable  
23 inspection, the owner or lienholder must give a receipt to the  
24 towing or storage company indicating any loss or damage to the  
25 vessel or to the contents of the vessel.

26 (i) A defendant, in the court's discretion, may be  
27 required to serve all or any portion of a term of imprisonment  
28 to which the defendant has been sentenced pursuant to this  
29 section in a residential alcoholism treatment program or a  
30 residential drug abuse treatment program. Any time spent in  
31

1 such a program must be credited by the court toward the term  
2 of imprisonment.

3  
4 For the purposes of this section, any conviction for a  
5 violation of s. 316.193, a previous conviction for the  
6 violation of former s. 316.1931, former s. 327.351, former s.  
7 860.01, or former s. 316.028, or a previous conviction outside  
8 this state for driving or boating under the influence, driving  
9 or boating while intoxicated, driving or boating with an  
10 unlawful blood-alcohol level, driving or boating with an  
11 unlawful breath-alcohol level, or any other similar  
12 alcohol-related or drug-related traffic or boating offense, is  
13 also considered a previous conviction for violation of this  
14 section.

15 (10) It is the intent of the Legislature to encourage  
16 boaters to have a "designated driver." Therefore, this section  
17 shall not apply to a person on a vessel that is docked or  
18 otherwise made fast to the shore and shall not apply to a  
19 vessel owner or operator who is not in actual physical control  
20 of the vessel and who has designated a driver who does not  
21 consume any alcoholic beverages, any chemical substance set  
22 forth in s. 877.111, or any substance controlled under chapter  
23 893.

24 Section 8. Paragraph (a) of subsection (1) of section  
25 327.355, Florida Statutes, is amended to read:

26 327.355 Operation of vessels by persons under 21 years  
27 of age who have consumed alcoholic beverages.--

28 (1)(a) Notwithstanding s. 327.35, it is unlawful for a  
29 person under the age of 21 who has a breath-alcohol level of  
30 0.02 ~~percent~~ or higher to operate or be in actual physical  
31 control of a vessel.



1           Section 9. Paragraph (a) of subsection (2) of section  
2 327.36, Florida Statutes, is amended to read:

3           327.36 Mandatory adjudication; prohibition against  
4 accepting plea to lesser included offense.--

5           (2)(a) No trial judge may accept a plea of guilty to a  
6 lesser offense from a person who is charged with a violation  
7 of s. 327.35, manslaughter resulting from the operation of a  
8 vessel, or vessel homicide and who has been given a breath or  
9 blood test to determine blood or breath alcohol content, the  
10 results of which show a blood-alcohol level or breath-alcohol  
11 level ~~blood or breath alcohol content by weight~~ of 0.16  
12 ~~percent~~ or more.

13           Section 10. Paragraphs (a) and (b) of subsection (2)  
14 of section 327.37, Florida Statutes, are amended to read:

15           327.37 Water skis, parasails, and aquaplanes  
16 regulated.--

17           (2)(a) A person may not engage in water skiing,  
18 parasailing, aquaplaning, or any similar activity at any time  
19 between the hours from one-half hour after sunset to one-half  
20 hour before sunrise.

21           (b) A person may not engage in water skiing,  
22 parasailing, aquaplaning, or any similar activity unless such  
23 person is wearing a noninflatable type I, type II, type III,  
24 or ~~noninflatable~~ type V personal flotation device approved by  
25 the United States Coast Guard.

26           Section 11. Subsections (1), (4), (5), and (6) of  
27 section 327.39, Florida Statutes, are amended to read:

28           327.39 Personal watercraft regulated.--

29           (1) A person may not operate a personal watercraft  
30 unless each person riding on or being towed behind such vessel  
31 is wearing a type I, type II, type III, or type V personal

1 | flotation device, other than an inflatable device, approved by  
2 | the United States Coast Guard.

3 |       (4) A personal watercraft must at all times be  
4 | operated in a reasonable and prudent manner. Maneuvers which  
5 | unreasonably or unnecessarily endanger life, limb, or  
6 | property, including, but not limited to, weaving through  
7 | congested vessel traffic, jumping the wake of another vessel  
8 | unreasonably or unnecessarily close to such other vessel or  
9 | when visibility around such other vessel is obstructed, and  
10 | swerving at the last possible moment to avoid collision shall  
11 | constitute reckless operation of a vessel, as provided in s.  
12 | 327.33(1). Any person operating a personal watercraft must  
13 | comply with the provisions of s. 327.33.

14 |       (5) No person under the age of 14 shall operate any a  
15 | personal watercraft on the waters of this state.

16 |       (6)(a) It is unlawful for the owner of any personal  
17 | watercraft or any person having charge over or control of a  
18 | personal watercraft to authorize or knowingly permit the same  
19 | to be operated by a person under 14 years of age in violation  
20 | of this section.

21 |       (b)1. It is unlawful for the owner of any leased,  
22 | hired, or rented personal watercraft, or any person having  
23 | charge over or control of a leased, hired, or rented personal  
24 | watercraft, to authorize or knowingly permit the watercraft to  
25 | be operated by any person who has not received instruction in  
26 | the safe handling of personal watercraft, in compliance with  
27 | rules established by the commission.

28 |       2. Any person receiving instruction in the safe  
29 | handling of personal watercraft pursuant to a program  
30 | established by rule of the commission must provide the owner  
31 | of, or person having charge of or control over, a leased,

1 hired, or rented personal watercraft with a written statement  
2 attesting to the same.

3 3. The commission shall have the authority to  
4 establish rules pursuant to chapter 120 prescribing the  
5 instruction to be given, which shall take into account the  
6 nature and operational characteristics of personal watercraft  
7 and general principles and regulations pertaining to boating  
8 safety.

9 (c) Any person who violates this subsection commits  
10 ~~shall be guilty of~~ a misdemeanor of the second degree,  
11 punishable as provided in s. 775.082 or s. 775.083.

12 Section 12. Subsections (3) through (10) of section  
13 327.395, Florida Statutes, are renumbered as subsections (4)  
14 through (11), respectively, and a new subsection (3) is added  
15 to that section, to read:

16 327.395 Boating safety identification cards.--

17 (3) Any commission-approved boater education or boater  
18 safety course, course-equivalency examination developed or  
19 approved by the commission, or temporary certificate  
20 examination developed or approved by the commission must  
21 include a component regarding diving vessels, awareness of  
22 divers in the water, divers-down flags, and the requirements  
23 of s. 327.331.

24 Section 13. Subsections (1) and (2) of section 327.40,  
25 Florida Statutes, are amended to read:

26 327.40 Uniform waterway markers for safety and  
27 navigation.--

28 (1) Waterways in Florida, ~~unmarked by the Coast Guard,~~  
29 which need marking for safety or navigation purposes, shall be  
30 marked under the United States Aids to Navigation System, 33  
31 C.F.R. part 62. Until December 31, 2003, channel markers and

1 obstruction markers conforming to the Uniform State Waterway  
2 Marking System, 33 C.F.R. subpart 66.10, may continue to be  
3 used on waters of this state that are not navigable waters of  
4 the United States.~~Uniform Safety and Navigation System~~  
5 ~~adopted by the advisory panel of state officials to the~~  
6 ~~Merchant Marine Council of the United States Coast Guard.~~

7 (2)(a) Application for marking inland lakes and state  
8 waters and any navigable waters under concurrent jurisdiction  
9 of the Coast Guard and the division shall be made to the  
10 division, accompanied by a map locating the approximate  
11 placement of markers, a list of the markers to be place, a  
12 statement of the specification of the markers, a statement of  
13 ~~concerning~~ the purpose of marking, and the names of persons  
14 responsible for the placement and upkeep of such markers. The  
15 division will assist the applicant to secure the proper  
16 permission from the Coast Guard where required, make such  
17 investigations as needed, and issue a permit. The division  
18 shall furnish the applicant with the information concerning  
19 the system adopted and the rules ~~regulations~~ existing for  
20 placing and maintaining the ~~uniform safety and navigation~~  
21 markers. The division shall keep records of all approvals  
22 given and counsel with individuals, counties, municipalities,  
23 motorboat clubs, or other groups desiring to mark waterways  
24 for safety and navigation purposes in Florida.

25 (b) No person or municipality, county, or other  
26 governmental entity shall place any safety or navigation  
27 markers in, on, or over the waters or shores of the state  
28 without a permit from the division.

29 (c) The commission is authorized to adopt rules  
30 pursuant to chapter 120 to implement this section.

31

1           Section 14. Section 327.41, Florida Statutes, is  
2 amended to read:

3           327.41 Uniform waterway regulatory markers.--

4           (1) ~~The Fish and Wildlife Conservation~~ commission  
5 shall adopt rules ~~and regulations~~ pursuant to chapter 120  
6 establishing a uniform system of regulatory markers for the  
7 waters of the state Florida Intracoastal Waterway, compatible  
8 with the system of regulatory markers prescribed by the United  
9 States Coast Guard in the United States Aids to Navigation  
10 System, 33 C.F.R. part 62, ~~and shall give due regard to the~~  
11 ~~System of Uniform Waterway Markers approved by the Advisory~~  
12 ~~Panel of State Officials to the Merchant Marine Council,~~  
13 ~~United States Coast Guard.~~

14           (2) Any county or municipality which has been granted  
15 a restricted area designation, pursuant to s. 327.46, for a  
16 portion of the Florida Intracoastal Waterway within its  
17 jurisdiction or which has adopted a restricted area by  
18 ordinance pursuant to s. 327.22, s. 327.60, or s.

19 370.12(2)(o), or any other governmental entity which has  
20 legally established a restricted area, may apply to the ~~Fish~~  
21 ~~and Wildlife Conservation~~ commission for permission to place  
22 regulatory markers within the restricted area.

23           (3) Application for placing regulatory markers in the  
24 waters of the state on the Florida Intracoastal Waterway shall  
25 be made to the division as provided in s. 327.40 of Marine  
26 ~~Resources, accompanied by a map locating the approximate~~  
27 ~~placement of the markers, a statement of the specification of~~  
28 ~~the markers, a statement of purpose of the markers, and a~~  
29 ~~statement of the city or county responsible for the placement~~  
30 ~~and upkeep of the markers.~~

31

1           (4) No person or municipality, county, or other  
2 governmental entity shall place any regulatory markers in, on,  
3 or over the waters of the state or the shores thereof ~~Florida~~  
4 ~~Intracoastal Waterway~~ without a permit from the division  
5 pursuant to s. 327.40 ~~of Marine Resources~~.

6           (5) Aquaculture leaseholds shall be marked as required  
7 by this section, and the commission may approve alternative  
8 marking requirements as a condition of the lease pursuant to  
9 s. 253.68. The provisions of this section notwithstanding, no  
10 permit shall be required for the placement of markers required  
11 by such a lease.

12           (6) The commission is authorized to adopt rules  
13 pursuant to chapter 120 to implement ~~the provisions of this~~  
14 section.

15           Section 15. Section 327.46, Florida Statutes, is  
16 amended to read:

17           327.46 Restricted areas.--

18           (1)(a) The commission has ~~shall have~~ the authority to  
19 establish ~~for establishing, by rule,~~ pursuant to chapter 120,  
20 restricted areas on the waters of the state for any purpose  
21 deemed necessary for the safety of the public, including, but  
22 not limited to, vessel ~~boat~~ speeds and vessel ~~boat~~ traffic,  
23 where such restrictions are deemed necessary based on boating  
24 accidents, visibility, hazardous currents or water levels  
25 ~~tides~~, vessel traffic congestion, or other navigational  
26 hazards. Each such restricted area shall be developed in  
27 consultation and coordination with the governing body of the  
28 county or municipality in which the restricted area is located  
29 and, where required, with the United States Coast Guard and  
30 the United States Army Corps of Engineers. ~~Restricted areas~~

31

1 ~~shall be established in accordance with procedures under~~  
2 ~~chapter 120.~~

3 (2) It is unlawful for any person to operate a vessel  
4 in a prohibited manner or to carry on any prohibited activity,  
5 as defined in this chapter, deemed a safety hazard or  
6 interference with navigation as provided above within a  
7 restricted water area which has been clearly marked by  
8 regulatory markers ~~buoys or some other distinguishing device~~  
9 ~~as a bathing or otherwise restricted area in accordance with~~  
10 ~~and marked as authorized under this chapter.~~ provided, that

11 (3) This section shall not apply in the case of an  
12 emergency or to a law enforcement, firefighting, patrol or  
13 rescue vessel owned or operated by a governmental entity  
14 craft.

15 Section 16. Section 327.49, Florida Statutes, is  
16 created to read:

17 327.49 Testing vessels and vessel motors.--Subject to  
18 reasonable rules adopted by the commission pursuant to chapter  
19 120, manufacturers of vessels and vessel motors that operate  
20 vessel and vessel motor test facilities shall be authorized to  
21 test such vessels, vessel motors, or combinations thereof on  
22 the waters of the state to ensure that they meet generally  
23 accepted boating safety standards.

24 Section 17. Section 327.54, Florida Statutes, is  
25 amended to read:

26 327.54 Liveries; safety regulations; penalty.--

27 (1) A livery may not knowingly lease, hire, or rent a  
28 vessel to any person:

29 (a) When the number of persons intending to use the  
30 vessel exceeds the number considered to constitute a maximum  
31

1 safety load for the vessel as specified on the authorized  
2 persons capacity plate of the vessel.

3 (b) When the horsepower of the motor exceeds the  
4 capacity of the vessel.

5 (c) When the vessel does not contain the required  
6 safety equipment required under s. 327.50.

7 (d) When the vessel is not seaworthy.

8 (e) When the vessel is equipped with a motor of 10  
9 horsepower or greater, unless the livery provides ~~there is a~~  
10 ~~prerental or preride instruction that includes, but need not~~  
11 ~~be limited to:in the safe operation of the vessel by the~~  
12 ~~livery.~~

13 1. Operational characteristics of the vessel to be  
14 rented.

15 2. Safe vessel operation and vessel right-of-way.

16 3. The responsibility of the vessel operator for the  
17 safe and proper operation of the vessel.

18 4. Local characteristics of the waterway where the  
19 vessel will be operated.

20  
21 Any person delivering the information specified in this  
22 paragraph must have successfully completed a boater safety  
23 course approved by the National Association of State Boating  
24 Law Administrators and this state.

25 (f) Unless the livery displays boating safety  
26 information in a place visible to the renting public. The  
27 commission shall prescribe by rule pursuant to chapter 120,  
28 the contents and size of the boating safety information to be  
29 displayed.

30 (2) A livery may not knowingly lease, hire, or rent  
31 any vessel powered by a motor of 10 horsepower or greater to



1 any person who is required to comply with s. 327.395, unless  
2 such person presents a valid boater safety identification card  
3 to the livery.

4 (3) If a vessel is unnecessarily overdue, the livery  
5 shall notify the proper authorities.

6 (4)(a) A livery may not knowingly lease, hire, or rent  
7 a personal watercraft to any person who is under 18 ~~16~~ years  
8 of age.

9 (b) A livery may not knowingly ~~nor may it~~ lease, hire,  
10 or rent a personal ~~such~~ watercraft to any person who has not  
11 received instruction in the safe handling of personal  
12 watercraft, in compliance with rules established by the  
13 commission pursuant to chapter 120 ~~or other vessel to any~~  
14 ~~other person, unless the livery displays boating safety~~  
15 ~~information about the safe and proper operation of vessels and~~  
16 ~~requires a signature by the lessee that he or she has received~~  
17 ~~instruction in the safe handling of the personal watercraft in~~  
18 ~~compliance with standards established by the department.~~

19 (c) Any person receiving instruction in the safe  
20 handling of personal watercraft pursuant to a program  
21 established by rule of the commission must provide the livery  
22 with a written statement attesting to the same.

23 (5) A livery may not lease, hire, or rent any personal  
24 watercraft or offer to lease, hire, or rent any personal  
25 watercraft unless the livery first obtains and carries in full  
26 force and effect a policy from a licensed insurance carrier in  
27 this state, insuring against any accident, loss, injury,  
28 property damage, or other casualty caused by or resulting from  
29 the operation of the personal watercraft. The insurance  
30 policy shall provide coverage of at least \$500,000 per person  
31 and \$1 million per event. The livery must have proof of such

1 insurance available for inspection at the location where  
2 personal watercraft are being leased, hired, or rented, or  
3 offered for lease, hire, or rent, and shall provide to each  
4 renter the insurance carrier's name and address and the  
5 insurance policy number.

6 (6)~~(5)~~ Any person convicted of violating this section  
7 commits ~~is guilty of~~ a misdemeanor of the second degree,  
8 punishable as provided in s. 775.082 or s. 775.083.

9 ~~(6) When the livery has complied with subsections (1),~~  
10 ~~(2), (3), and (4), its liability ceases and the person leasing~~  
11 ~~the vessel from the livery is liable for any violations of~~  
12 ~~this chapter and is personally liable for any accident or~~  
13 ~~injury occurring while in charge of such vessel.~~

14 Section 18. Subsection (1) of section 327.60, Florida  
15 Statutes, is amended to read:

16 327.60 Local regulations; limitations.--

17 (1) The provisions of ss. 327.01, 327.02,  
18 327.30-327.40, 327.44-327.50, 327.54, 327.56, 327.65,  
19 328.40-328.48, 328.52-328.58, 328.62, and 328.64 shall govern  
20 the operation, equipment, and all other matters relating  
21 thereto whenever any vessel shall be operated upon the  
22 waterways or when any activity regulated hereby shall take  
23 place thereon. Nothing in these sections shall be construed to  
24 prevent the adoption of any ordinance or local law relating to  
25 operation and equipment of vessels, except that no such  
26 ordinance or local law may apply to the Florida Intracoastal  
27 Waterway and except that such ordinances or local laws shall  
28 be operative only when they are not in conflict with this  
29 chapter or any amendments thereto or regulations thereunder.  
30 Any ordinance or local law adopted pursuant to this section

31

1 may not discriminate against personal watercraft as defined in  
2 s. 327.02.

3 Section 19. Section 327.72, Florida Statutes, is  
4 amended to read:

5 327.72 Penalties.--Any person failing to comply with  
6 the provisions of this chapter or chapter 328 not specified in  
7 s. 327.73 or not paying the civil penalty ~~fine~~ specified in  
8 said section within 30 ~~10~~ days, except as otherwise provided  
9 in this chapter or chapter 328, commits ~~is guilty of~~ a  
10 misdemeanor of the second degree, punishable as provided in s.  
11 775.082 or s. 775.083.

12 Section 20. Paragraph (k) of subsection (1) and  
13 subsection (4) of section 327.73, Florida Statutes, are  
14 amended, subsections, (9), (10), and (11) are added to that  
15 section, and paragraph (p) of subsection (1) of that section  
16 is reenacted for the purpose of incorporating the amendments  
17 to section 327.39, Florida Statutes, in a reference, to read:

18 327.73 Noncriminal infractions.--

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

21 (k) Violations relating to restricted areas and speed  
22 limits:

23 1. Established by the commission ~~department~~ pursuant  
24 to s. 327.46.

25 2. Established by local governmental authorities  
26 pursuant to s. 327.22 or s. 327.60.

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

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

30  
31

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

15 (4) Any person charged with a noncriminal infraction  
16 under this section may:

17 (a) Pay the civil penalty, either by mail or in  
18 person, within 30 ~~10~~ days of the date of receiving the  
19 citation; or,

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

22  
23 If the person cited follows either of the above procedures, he  
24 or she shall be deemed to have admitted the noncriminal  
25 infraction and to have waived the right to a hearing on the  
26 issue of commission of the infraction. Such admission shall  
27 not be used as evidence in any other proceedings.

28 (9)(a) Any person who fails to comply with the court's  
29 requirements or who fails to pay the civil penalties specified  
30 in this section within the 30-day period provided for in s.  
31 327.72 must pay an additional court cost of \$12, which shall

1 be used by the clerks of the courts to defray the costs of  
2 tracking unpaid uniform boating citations.

3 (b) Any person who fails to comply with the court's  
4 requirements as to civil penalties specified in this section  
5 due to demonstrated financial hardship shall be authorized to  
6 satisfy such civil penalties by public works or community  
7 service. Each hour of such service shall be applied, at the  
8 rate of the minimum wage, toward payment of the person's civil  
9 penalties; provided, however, that if the person has a trade  
10 or profession for which there is a community service need and  
11 application, the rate for each hour of such service shall be  
12 the average standard wage for such trade or profession. Any  
13 person who fails to comply with the court's requirements as to  
14 such civil penalties who does not demonstrate financial  
15 hardship may also, at the discretion of the court, be  
16 authorized to satisfy such civil penalties by public works or  
17 community service in the same manner.

18 (c) If the noncriminal infraction has caused or  
19 resulted in the death of another, the court may require the  
20 person who committed the infraction to perform 120 community  
21 service hours in addition to any other penalties.

22 (10) Any person cited for any noncriminal infraction  
23 which results in an accident that causes the death of another,  
24 or which results in an accident that causes "serious bodily  
25 injury" of another as defined in s. 327.353(1), shall not have  
26 the provisions of subsection (4) available to him or her but  
27 must appear before the designated official at the time and  
28 location of the scheduled hearing.

29 (11)(a) Court costs that are to be in addition to the  
30 stated civil penalty shall be imposed by the court in an  
31 amount not less than the following:

- 1           1. For swimming or diving infractions, \$3.  
2           2. For nonmoving boating infractions, \$6  
3           3. For boating infractions listed in s. 327.731(1),  
4 \$10.

5           (b) In addition to the court cost assessed under  
6 paragraph (a), the court shall impose a \$3 court cost for each  
7 noncriminal infraction, to be distributed as provided in s.  
8 938.01, and a \$2 court cost as provided in s. 938.15 when  
9 assessed by a municipality or county.

10  
11 Court costs imposed under this subsection may not exceed \$30.  
12 A criminal justice selection center or both local criminal  
13 justice access and assessment centers may be funded from these  
14 court costs.

15           Section 21. Effective October 1, 2001, paragraph (u)  
16 is added to subsection (1) of section 327.73, Florida  
17 Statutes, to read:

18           327.73 Noncriminal infractions.--

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

21           (u) Section 327.331, relating to divers-down flags,  
22 except for violations meeting the requirements of s. 327.33.

23  
24 Any person cited for a violation of any such provision shall  
25 be deemed to be charged with a noncriminal infraction, shall  
26 be cited for such an infraction, and shall be cited to appear  
27 before the county court. The civil penalty for any such  
28 infraction is \$50, except as otherwise provided in this  
29 section. Any person who fails to appear or otherwise properly  
30 respond to a uniform boating citation shall, in addition to  
31 the charge relating to the violation of the boating laws of

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

7 Section 22. Effective October 1, 2001, subsection (1)  
8 of section 327.731, Florida Statutes, is amended to read:

9 327.731 Mandatory education for violators.--

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

17 (a) Enroll in, attend, and successfully complete, at  
18 his or her own expense, a boating safety course that meets  
19 minimum standards established by the commission by rule;  
20 however, the commission may provide by rule pursuant to  
21 chapter 120 for waivers of the attendance requirement for  
22 violators residing in areas where classroom presentation of  
23 the course is not available;

24 (b) File with the commission within 90 days proof of  
25 successful completion of the course;

26 (c) Refrain from operating a vessel until he or she  
27 has filed the proof of successful completion of the course  
28 with the commission.

29  
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1 Any person who has successfully completed an approved boating  
2 course shall be exempt from these provisions upon showing  
3 proof to the commission as specified in paragraph (b).

4 Section 23. Subsections (1) and (3) of section  
5 327.803, Florida Statutes, are amended to read:

6 327.803 Boating Advisory Council.--

7 (1) The Boating Advisory Council is created within the  
8 Fish and Wildlife Conservation Commission and shall be  
9 composed of 17 ~~16~~ members. The members include:

10 (a) One representative from the Fish and Wildlife  
11 Conservation Commission, who shall serve as the chair of the  
12 council.

13 (b) One representative each from the Department of  
14 Environmental Protection, the United States Coast Guard  
15 Auxiliary, the United States Power Squadron, and the inland  
16 navigation districts.

17 (c) One representative of manatee protection  
18 interests, one representative of the marine industries, two  
19 representatives of water-related environmental groups, one  
20 representative of marine manufacturers, one representative of  
21 commercial vessel owners or operators, one representative of  
22 sport boat racing, one representative actively involved and  
23 working full-time in the scuba diving industry who has  
24 experience in recreational boating, and two representatives of  
25 the boating public, each of whom shall be nominated by the  
26 executive director of the Fish and Wildlife Conservation  
27 Commission and appointed by the Governor to serve staggered  
28 2-year terms.

29 (d) One member of the House of Representatives, who  
30 shall be appointed by the Speaker of the House of  
31 Representatives.



1 (e) One member of the Senate, who shall be appointed  
2 by the President of the Senate.

3 (3) The purpose of the council is to make  
4 recommendations to the Fish and Wildlife Conservation  
5 Commission and the Department of Community Affairs regarding  
6 issues affecting the boating community, including, but not  
7 limited to, issues related to:

8 (a) Boating and diving safety education.

9 (b) Boating-related facilities, including marinas and  
10 boat testing facilities.

11 (c) Boat usage.

12 Section 24. Subsection (2) of section 328.48, Florida  
13 Statutes, is amended to read:

14 328.48 Vessel registration, application, certificate,  
15 number, decal, duplicate certificate.--

16 (2) All vessels used ~~operated~~ on the waters of the  
17 state must be registered, either commercial or recreational  
18 ~~noncommercial~~ as defined in this chapter ~~herein~~, except as  
19 follows:

20 (a) A vessel used exclusively on private lakes and  
21 ponds.

22 (b) A vessel owned by the United States Government.

23 (c) A vessel used exclusively as a ship's lifeboat.

24 (d) A non-motor-powered vessel.

25 Section 25. Section 328.56, Florida Statutes, is  
26 amended to read:

27 328.56 Vessel registration number.--Each vessel that  
28 is used ~~operated~~ on the waters of the state must display a  
29 commercial or recreational ~~noncommercial~~ Florida registration  
30 number, unless it is:

31

- 1           (1) A vessel used exclusively on private lakes and  
2 ponds.
- 3           (2) A vessel owned by the United States Government.
- 4           (3) A vessel used exclusively as a ship's lifeboat.
- 5           (4) A non-motor-powered vessel.
- 6           (5) A federally documented vessel.
- 7           (6) A vessel already covered by a registration number  
8 in full force and effect which has been awarded to it pursuant  
9 to a federally approved numbering system of another state or  
10 by the United States Coast Guard in a state without a  
11 federally approved numbering system, if the vessel has not  
12 been within this state for a period in excess of 90  
13 consecutive days.
- 14          (7) A vessel operating under a valid temporary  
15 certificate of number.
- 16          (8) A vessel from a country other than the United  
17 States temporarily using the waters of this state.
- 18          (9) An undocumented vessel used exclusively for  
19 racing.
- 20          Section 26. Section 328.70, Florida Statutes, is  
21 amended to read:
- 22            328.70 Legislative intent with respect to uniform  
23 registration fee, classification of vessels.--
- 24            (a) It is declared to be the intent of the Legislature  
25 that all vessels in the state be subject to a uniform  
26 registration fee at a rate based on the length of the vessels.  
27 It is also declared to be the intent of the Legislature that  
28 all vessels be classified as either "commercial" or  
29 "recreational ~~noncommercial~~" and that all such vessels be  
30 registered according to the provisions of s. 328.72.  
31

1           **(b)** Any vessel which is required to be registered and  
2 meets the definition of a commercial vessel shall be  
3 classified and registered as a "commercial vessel."

4           **(c)** Any vessel which is required to be registered and  
5 is not used ~~operated~~ for commercial purposes shall be  
6 classified and registered as a "recreational noncommercial  
7 vessel."

8           **(d)** Livery vessels shall be classified as "commercial"  
9 or "recreational" based on the manner in which they are used.

10           Section 27. Subsections (2) and (6) of section 328.72,  
11 Florida Statutes, are amended to read:

12           328.72 Classification; registration; fees and charges;  
13 surcharge; disposition of fees; fines; marine turtle  
14 stickers.--

15           (2) ANTIQUE VESSEL REGISTRATION FEE.--

16           (a) A vessel that is at least 30 years old, used only  
17 for recreational noncommercial purposes, and powered by the  
18 vessel's original-type power plant may be registered as an  
19 antique vessel. When applying for registration as an antique  
20 vessel, the owner of such a vessel shall submit certification,  
21 as prescribed by the Department of Highway Safety and Motor  
22 Vehicles or from a marine surveyor that the vessel meets the  
23 requirements of this paragraph.

24           (b) The registration number for an antique vessel  
25 shall be permanently attached to each side of the forward half  
26 of the vessel ~~displayed~~ as provided in ss. 328.48 and 328.54.

27           (c) The Department of Highway Safety and Motor  
28 Vehicles may issue a decal identifying the vessel as an  
29 antique vessel. The decal shall be displayed as provided in  
30 ss. 328.48 ~~327.11~~ and 328.54 ~~327.14~~.

31

1           (6) CHANGE OF CLASSIFICATION.--If the classification  
2 of a vessel changes from recreational ~~noncommercial~~ to  
3 commercial, or from commercial to recreational ~~noncommercial~~,  
4 and a current registration certificate has been issued to the  
5 owner, the owner shall within 30 days forward his or her  
6 certificate to the county tax collector with a fee of \$2.25  
7 and a new certificate shall be issued.

8           Section 28. Paragraph (c) of subsection (1) of section  
9 328.76, Florida Statutes, is amended to read:

10           328.76 Marine Resources Conservation Trust Fund;  
11 vessel registration funds; appropriation and distribution.--

12           (1) Except as otherwise specified and less any  
13 administrative costs, all funds collected from the  
14 registration of vessels through the Department of Highway  
15 Safety and Motor Vehicles and the tax collectors of the state  
16 shall be deposited in the Marine Resources Conservation Trust  
17 Fund for recreational channel marking; public launching  
18 facilities; law enforcement and quality control programs;  
19 aquatic weed control; manatee protection, recovery, rescue,  
20 rehabilitation, and release; and marine mammal protection and  
21 recovery. The funds collected pursuant to s. 328.72(1) shall  
22 be transferred as follows:

23           (c) Two dollars from each recreational ~~noncommercial~~  
24 vessel registration fee, except that for class A-1 vessels,  
25 shall be transferred to the Invasive Plant Control Trust Fund  
26 for aquatic weed research and control.

27           Section 29. Subsection (6) of section 316.193, Florida  
28 Statutes, is amended to read:

29           316.193 Driving under the influence; penalties.--  
30  
31

1           (6) With respect to any person convicted of a  
2 violation of subsection (1), regardless of any penalty imposed  
3 pursuant to subsection (2), subsection (3), or subsection (4):

4           (a) For the first conviction, the court shall place  
5 the defendant on probation for a period not to exceed 1 year  
6 and, as a condition of such probation, shall order the  
7 defendant to participate in public service or a community work  
8 project for a minimum of 50 hours; or the court may order  
9 instead, that any defendant pay an additional fine of \$10 for  
10 each hour of public service or community work otherwise  
11 required, if, after consideration of the residence or location  
12 of the defendant at the time public service or community work  
13 is required, payment of the fine is in the best interests of  
14 the state. However, the total period of probation and  
15 incarceration may not exceed 1 year. The court must also, as a  
16 condition of probation, order the impoundment or  
17 immobilization of the vehicle that was operated by or in the  
18 actual control of the defendant or any one vehicle registered  
19 in the defendant's name at the time of impoundment or  
20 immobilization, for a period of 10 days or for the unexpired  
21 term of any lease or rental agreement that expires within 10  
22 days. The impoundment or immobilization must not occur  
23 concurrently with the incarceration of the defendant. The  
24 impoundment or immobilization order may be dismissed in  
25 accordance with paragraph (e), paragraph (f), or paragraph  
26 (g).

27           (b) For the second conviction for an offense that  
28 occurs within a period of 5 years after the date of a prior  
29 conviction for violation of this section, the court shall  
30 order imprisonment for not less than 10 days. The court must  
31 also, as a condition of probation, order the impoundment or

1 immobilization of the vehicle that was operated by or in the  
2 actual control of the defendant or any one vehicle registered  
3 in the defendant's name at the time of impoundment or  
4 immobilization, for a period of 30 days or for the unexpired  
5 term of any lease or rental agreement that expires within 30  
6 days. The impoundment or immobilization must not occur  
7 concurrently with the incarceration of the defendant. The  
8 impoundment or immobilization order may be dismissed in  
9 accordance with paragraph (e), paragraph (f), or paragraph  
10 (g). At least 48 hours of confinement must be consecutive.

11 (c) For the third or subsequent conviction for an  
12 offense that occurs within a period of 10 years after the date  
13 of a prior conviction for violation of this section, the court  
14 shall order imprisonment for not less than 30 days. The court  
15 must also, as a condition of probation, order the impoundment  
16 or immobilization of the vehicle that was operated by or in  
17 the actual control of the defendant or any one vehicle  
18 registered in the defendant's name at the time of impoundment  
19 or immobilization, for a period of 90 days or for the  
20 unexpired term of any lease or rental agreement that expires  
21 within 90 days. The impoundment or immobilization must not  
22 occur concurrently with the incarceration of the defendant.  
23 The impoundment or immobilization order may be dismissed in  
24 accordance with paragraph (e), paragraph (f), or paragraph  
25 (g). At least 48 hours of confinement must be consecutive.

26 (d) The court must at the time of sentencing the  
27 defendant issue an order for the impoundment or immobilization  
28 of a vehicle. Within 7 business days after the date that the  
29 court issues the order of impoundment or immobilization, the  
30 clerk of the court must send notice by certified mail, return  
31 receipt requested, to the registered owner of each vehicle, if

1 the registered owner is a person other than the defendant, and  
2 to each person of record claiming a lien against the vehicle.

3 (e) A person who owns but was not operating the  
4 vehicle when the offense occurred may submit to the court a  
5 police report indicating that the vehicle was stolen at the  
6 time of the offense or documentation of having purchased the  
7 vehicle after the offense was committed from an entity other  
8 than the defendant or the defendant's agent. If the court  
9 finds that the vehicle was stolen or that the sale was not  
10 made to circumvent the order and allow the defendant continued  
11 access to the vehicle, the order must be dismissed and the  
12 owner of the vehicle will incur no costs. If the court denies  
13 the request to dismiss the order of impoundment or  
14 immobilization, the petitioner may request an evidentiary  
15 hearing.

16 (f) A person who owns but was not operating the  
17 vehicle when the offense occurred, and whose vehicle was  
18 stolen or who purchased the vehicle after the offense was  
19 committed directly from the defendant or the defendant's  
20 agent, may request an evidentiary hearing to determine whether  
21 the impoundment or immobilization should occur. If the court  
22 finds that either the vehicle was stolen or the purchase was  
23 made without knowledge of the offense, that the purchaser had  
24 no relationship to the defendant other than through the  
25 transaction, and that such purchase would not circumvent the  
26 order and allow the defendant continued access to the vehicle,  
27 the order must be dismissed and the owner of the vehicle will  
28 incur no costs.

29 (g) The court shall also dismiss the order of  
30 impoundment or immobilization of the vehicle if the court  
31

1 finds that the family of the owner of the vehicle has no other  
2 private means of transportation.

3 (h) All costs and fees for the impoundment or  
4 immobilization, including the cost of notification, must be  
5 paid by the owner of the vehicle or, if the vehicle is leased  
6 or rented, by the person leasing or renting the vehicle,  
7 unless the impoundment or immobilization order is dismissed.  
8 All provisions of s. 713.78 shall apply.

9 (i) The person who owns a vehicle that is impounded or  
10 immobilized under this paragraph, or a person who has a lien  
11 of record against such a vehicle and who has not requested a  
12 review of the impoundment pursuant to paragraph (e), paragraph  
13 (f), or paragraph (g), may, within 10 days after the date that  
14 person has knowledge of the location of the vehicle, file a  
15 complaint in the county in which the owner resides to  
16 determine whether the vehicle was wrongfully taken or withheld  
17 from the owner or lienholder. Upon the filing of a complaint,  
18 the owner or lienholder may have the vehicle released by  
19 posting with the court a bond or other adequate security equal  
20 to the amount of the costs and fees for impoundment or  
21 immobilization, including towing or storage, to ensure the  
22 payment of such costs and fees if the owner or lienholder does  
23 not prevail. When the bond is posted and the fee is paid as  
24 set forth in s. 28.24, the clerk of the court shall issue a  
25 certificate releasing the vehicle. At the time of release,  
26 after reasonable inspection, the owner or lienholder must give  
27 a receipt to the towing or storage company indicating any loss  
28 or damage to the vehicle or to the contents of the vehicle.

29 (j) A defendant, in the court's discretion, may be  
30 required to serve all or any portion of a term of imprisonment  
31 to which the defendant has been sentenced pursuant to this



1 section in a residential alcoholism treatment program or a  
2 residential drug abuse treatment program. Any time spent in  
3 such a program must be credited by the court toward the term  
4 of imprisonment.

5  
6 For the purposes of this section, any conviction for a  
7 violation of s. 327.35; a previous conviction for the  
8 violation of former s. 316.1931, former s. 327.351, former s.  
9 860.01, or former s. 316.028; or a previous conviction outside  
10 this state for driving or boating under the influence, driving  
11 or boating while intoxicated, driving or boating with an  
12 unlawful blood-alcohol level, driving or boating with an  
13 unlawful breath-alcohol level, or any other similar  
14 alcohol-related or drug-related traffic or boating offense, is  
15 also considered a previous conviction for violation of this  
16 section. However, in satisfaction of the fine imposed pursuant  
17 to this section, the court may, upon a finding that the  
18 defendant is financially unable to pay either all or part of  
19 the fine, order that the defendant participate for a specified  
20 additional period of time in public service or a community  
21 work project in lieu of payment of that portion of the fine  
22 which the court determines the defendant is unable to pay. In  
23 determining such additional sentence, the court shall consider  
24 the amount of the unpaid portion of the fine and the  
25 reasonable value of the services to be ordered; however, the  
26 court may not compute the reasonable value of services at a  
27 rate less than the federal minimum wage at the time of  
28 sentencing.

29 Section 30. Section 316.635, Florida Statutes, is  
30 amended to read:

31

1           316.635 Courts having jurisdiction over traffic and  
2 boating violations; powers relating to custody and detention  
3 of minors.--

4           (1) A court which has jurisdiction over traffic and  
5 boating violations shall have original jurisdiction in the  
6 case of any minor who is alleged to have committed a violation  
7 of law or of a county or municipal ordinance pertaining to the  
8 operation of a motor vehicle or vessel; however, any traffic  
9 or boating offense that is punishable by law as a felony shall  
10 be under the jurisdiction of the circuit court.

11           (2) If a minor is arrested for the commission of a  
12 criminal traffic or boating offense and transportation is  
13 necessary, the minor shall not be placed in any police car or  
14 other vehicle which at the same time contains an adult under  
15 arrest, except upon special order of the circuit court.  
16 However, if the minor is alleged to have participated with an  
17 adult in the same offense or transaction, the minor may be  
18 transported in the same vehicle with the adult.

19           (3) If a minor is taken into custody for a criminal  
20 traffic or boating offense or a violation of chapter 322 and  
21 the minor does not demand to be taken before a magistrate, the  
22 arresting officer or booking officer shall immediately notify,  
23 or cause to be notified, the minor's parents, guardian, or  
24 responsible adult relative of the action taken. After making  
25 every reasonable effort to give notice, the arresting officer  
26 or booking officer may:

27           (a) Issue a notice to appear pursuant to chapter 901  
28 and release the minor to a parent, guardian, responsible adult  
29 relative, or other responsible adult;

30           (b) Issue a notice to appear pursuant to chapter 901  
31 and release the minor pursuant to s. 903.06;

1           (c) Issue a notice to appear pursuant to chapter 901  
2 and deliver the minor to an appropriate substance abuse  
3 treatment or rehabilitation facility or refer the minor to an  
4 appropriate medical facility as provided in s. 901.29. If the  
5 minor cannot be delivered to an appropriate substance abuse  
6 treatment or rehabilitation facility or medical facility, the  
7 arresting officer may deliver the minor to an appropriate  
8 intake office of the Department of Juvenile Justice, which  
9 shall take custody of the minor and make any appropriate  
10 referrals; or

11           (d) If the violation constitutes a felony and the  
12 minor cannot be released pursuant to s. 903.03, transport and  
13 deliver the minor to an appropriate Department of Juvenile  
14 Justice intake office. Upon delivery of the minor to the  
15 intake office, the department shall assume custody and proceed  
16 pursuant to chapter 984 or chapter 985.

17  
18 If action is not taken pursuant to paragraphs (a)-(d), the  
19 minor shall be delivered to the Department of Juvenile  
20 Justice, and the department shall make every reasonable effort  
21 to contact the parents, guardian, or responsible adult  
22 relative to take custody of the minor. If there is no parent,  
23 guardian, or responsible adult relative available, the  
24 department may retain custody of the minor for up to 24 hours.

25           (4) A minor who willfully fails to appear before any  
26 court or judicial officer as required by written notice to  
27 appear is guilty of contempt of court. Upon a finding by a  
28 court, after notice and a hearing, that a minor is in contempt  
29 of court for willful failure to appear pursuant to a valid  
30 notice to appear, the court may:

31

1 (a) For a first offense, order the minor to serve up  
2 to 5 days in a staff-secure shelter as defined in chapter 984  
3 or chapter 985 or, if space in a staff-secure shelter is  
4 unavailable, in a secure juvenile detention center.

5 (b) For a second or subsequent offense, the court may  
6 order a minor to serve up to 15 days in a staff-secure shelter  
7 or, if space in a staff-secure shelter is unavailable, in a  
8 secure juvenile detention center.

9 Section 31. Subsection (1) of section 318.32, Florida  
10 Statutes, is amended to read:

11 318.32 Jurisdiction; limitations.--

12 (1) Hearing officers shall be empowered to accept  
13 pleas from and decide the guilt or innocence of any person,  
14 adult or juvenile, charged with any civil traffic or boating  
15 infraction and shall be empowered to adjudicate or withhold  
16 adjudication of guilt in the same manner as a county court  
17 judge under the statutes, rules, and procedures presently  
18 existing or as subsequently amended, except that hearing  
19 officers shall not:

20 (a) Have the power to hold a defendant in contempt of  
21 court, but shall be permitted to file a motion for order of  
22 contempt with the appropriate state trial court judge;

23 (b) Hear a case involving a traffic crash or boating  
24 accident resulting in injury or death; or

25 (c) Hear a criminal traffic or boating offense case or  
26 a case involving a civil traffic or boating infraction issued  
27 in conjunction with a criminal traffic or boating offense.

28 Section 32. Section 318.38, Florida Statutes, is  
29 amended to read:

30 318.38 Nonseverability.--If the provisions of s.  
31 318.32 authorizing hearing officers to impose the same

1 sanctions as county court judges for civil traffic or boating  
2 infractions are found to be unconstitutional by the Florida  
3 Supreme Court, then the hearing officers shall have no further  
4 jurisdiction over any civil traffic or boating infractions.

5 Section 33. Paragraphs (d) and (e) of subsection (5)  
6 of section 320.08, Florida Statutes, are amended to read:

7 320.08 License taxes.--Except as otherwise provided  
8 herein, there are hereby levied and imposed annual license  
9 taxes for the operation of motor vehicles, mopeds, motorized  
10 bicycles as defined in s. 316.003(2), and mobile homes, as  
11 defined in s. 320.01, which shall be paid to and collected by  
12 the department or its agent upon the registration or renewal  
13 of registration of the following:

14 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE  
15 WEIGHT; SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.--

16 (d) A wrecker, as defined in s. 320.01(40), which is  
17 used to tow a vessel as defined in s. 327.02~~(37)~~(36), a  
18 disabled, abandoned, stolen-recovered, or impounded motor  
19 vehicle as defined in s. 320.01(38), or a replacement motor  
20 vehicle as defined in s. 320.01(39): \$30 flat.

21 (e) A wrecker, as defined in s. 320.01(40), which is  
22 used to tow any motor vehicle, regardless of whether or not  
23 such motor vehicle is a disabled motor vehicle as defined in  
24 s. 320.01(38), a replacement motor vehicle as defined in s.  
25 320.01(39), a vessel as defined in s. 327.02~~(37)~~(36), or any  
26 other cargo, as follows:

27 1. Gross vehicle weight of 10,000 pounds or more, but  
28 less than 15,000 pounds: \$87 flat.

29 2. Gross vehicle weight of 15,000 pounds or more, but  
30 less than 20,000 pounds: \$131 flat.

31

1           3. Gross vehicle weight of 20,000 pounds or more, but  
2 less than 26,000 pounds: \$186 flat.

3           4. Gross vehicle weight of 26,000 pounds or more, but  
4 less than 35,000 pounds: \$240 flat.

5           5. Gross vehicle weight of 35,000 pounds or more, but  
6 less than 44,000 pounds: \$300 flat.

7           6. Gross vehicle weight of 44,000 pounds or more, but  
8 less than 55,000 pounds: \$572 flat.

9           7. Gross vehicle weight of 55,000 pounds or more, but  
10 less than 62,000 pounds: \$678 flat.

11           8. Gross vehicle weight of 62,000 pounds or more, but  
12 less than 72,000 pounds: \$800 flat.

13           9. Gross vehicle weight of 72,000 pounds or more:  
14 \$979 flat.

15           Section 34. Section 713.78, Florida Statutes, is  
16 amended to read:

17           713.78 Liens for recovering, towing, or storing  
18 vehicles and documented ~~undocumented~~ vessels.--

19           (1) For the purposes of this section, the term:

20           (a) "Vehicle" means any mobile item, whether motorized  
21 or not, which is mounted on wheels.

22           (b) "Vessel" means every description of watercraft,  
23 barge, and air boat used or capable of being used as a means  
24 of transportation on water, other than a seaplane or a

25 "documented" has the same meaning as the term "undocumented  
26 vessel" as defined in s. 327.02(8)(36).

27           (c) "Wrecker" means any truck or other vehicle which  
28 is used to tow, carry, or otherwise transport motor vehicles  
29 or vessels upon the streets and highways of this state and  
30 which is equipped for that purpose with a boom, winch, car  
31 carrier, or other similar equipment.

1           (2) Whenever a person regularly engaged in the  
2 business of transporting vehicles or vessels by wrecker, tow  
3 truck, or car carrier recovers, removes, or stores a vehicle,  
4 vessel, or mobile home upon instructions from:

5           (a) The owner thereof; or

6           (b) The owner or lessor, or a person authorized by the  
7 owner or lessor, of property on which such vehicle is  
8 wrongfully parked, and such removal is done in compliance with  
9 s. 715.07; or

10          (c) Any law enforcement agency; or

11          (d) A mobile home park owner as defined in s. 723.003  
12 who has a current writ of possession for a mobile home lot  
13 pursuant to s. 723.061,

14  
15 she or he shall have a lien on such vehicle or vessel for a  
16 reasonable towing fee and for a reasonable storage fee; except  
17 that no storage fee shall be charged if such vehicle is stored  
18 for less than 6 hours.

19           (3) This section does not authorize any person to  
20 claim a lien on a vehicle for fees or charges connected with  
21 the immobilization of such vehicle using a vehicle boot or  
22 other similar device pursuant to s. 715.07.

23           (4)(a) Any person regularly engaged in the business of  
24 recovering, towing, or storing vehicles or vessels who comes  
25 into possession of a vehicle or vessel pursuant to subsection  
26 (2), and who claims a lien for recovery, towing, or storage  
27 services, shall give notice to the registered owner and to all  
28 persons claiming a lien thereon, as disclosed by the records  
29 in the Department of Highway Safety and Motor Vehicles or of a  
30 corresponding agency in any other state.

31

1           (b) Notice by certified mail, return receipt  
2 requested, shall be sent within 7 business days after the date  
3 of storage of the vehicle or vessel to the registered owner  
4 and to all persons of record claiming a lien against the  
5 vehicle or vessel. It shall state the fact of possession of  
6 the vehicle or vessel, that a lien as provided in subsection  
7 (2) is claimed, that charges have accrued and the amount  
8 thereof, that the lien is subject to enforcement pursuant to  
9 law, and that the owner or lienholder, if any, has the right  
10 to a hearing as set forth in subsection (5), and that any  
11 vehicle or vessel which remains unclaimed, or for which the  
12 charges for recovery, towing, or storage services remain  
13 unpaid, may be sold after 35 days free of all prior liens.

14           (c) If attempts to locate the owner or lienholder  
15 prove unsuccessful, the towing-storage operator shall, after 7  
16 working days, excluding Saturday and Sunday, of the initial  
17 tow or storage, notify the public agency of jurisdiction in  
18 writing by certified mail or acknowledged hand delivery that  
19 the towing-storage company has been unable to locate the owner  
20 or lienholder and a physical search of the vehicle or vessel  
21 has disclosed no ownership information and a good faith effort  
22 has been made. For purposes of this paragraph, subsection  
23 (9), and s. 715.05, "good faith effort" means that the  
24 following checks have been performed by the company to  
25 establish prior state of registration and for title:

26           1. Check of vehicle or vessel for any type of tag, tag  
27 record, temporary tag, or regular tag.

28           2. Check of law enforcement report for tag number or  
29 other information identifying the vehicle or vessel, if the  
30 vehicle or vessel was towed at the request of a law  
31 enforcement officer.



1           3. Check of trip sheet or tow ticket of tow truck  
2 operator to see if a tag was on vehicle at beginning of tow,  
3 if private tow.

4           4. If there is no address of the owner on the impound  
5 report, check of law enforcement report to see if an  
6 out-of-state address is indicated from driver license  
7 information.

8           5. Check of vehicle or vessel for inspection sticker  
9 or other stickers and decals that may indicate a state of  
10 possible registration.

11           6. Check of the interior of the vehicle or vessel for  
12 any papers that may be in the glove box, trunk, or other areas  
13 for a state of registration.

14           7. Check of vehicle for vehicle identification number.

15           8. Check of vessel for vessel registration number.

16           9. Check of vessel hull for a hull identification  
17 number which should be carved, burned, stamped, embossed, or  
18 otherwise permanently affixed to the outboard side of the  
19 transom or, if there is no transom, to the outmost seaboard  
20 side at the end of the hull that bears the rudder or other  
21 steering mechanism.

22           (5)(a) The owner of a vehicle or vessel removed  
23 pursuant to the provisions of subsection (2), or any person  
24 claiming a lien, other than the towing-storage operator,  
25 within 10 days after the time she or he has knowledge of the  
26 location of the vehicle or vessel, may file a complaint in the  
27 county court of the county in which the vehicle or vessel is  
28 stored or in which the owner resides to determine if her or  
29 his property was wrongfully taken or withheld from her or him.

30           (b) Upon filing of a complaint, an owner or lienholder  
31 may have her or his vehicle or vessel released upon posting

1 with the court a cash or surety bond or other adequate  
2 security equal to the amount of the charges for towing or  
3 storage and lot rental amount to ensure the payment of such  
4 charges in the event she or he does not prevail. Upon the  
5 posting of the bond and the payment of the applicable fee set  
6 forth in s. 28.24, the clerk of the court shall issue a  
7 certificate notifying the lienor of the posting of the bond  
8 and directing the lienor to release the vehicle or vessel. At  
9 the time of such release, after reasonable inspection, she or  
10 he shall give a receipt to the towing-storage company reciting  
11 any claims she or he has for loss or damage to the vehicle or  
12 vessel or the contents thereof.

13 (c) Upon determining the respective rights of the  
14 parties, the court may award damages and costs in favor of the  
15 prevailing party. In any event, the final order shall provide  
16 for immediate payment in full of recovery, towing, and storage  
17 fees by the vehicle or vessel owner or lienholder; or the  
18 agency ordering the tow; or the owner, lessee, or agent  
19 thereof of the property from which the vehicle or vessel was  
20 removed.

21 (6) Any vehicle or vessel which is stored pursuant to  
22 subsection (2) and which remains unclaimed, or for which  
23 reasonable charges for recovery, towing, or storing remain  
24 unpaid or for which a lot rental amount is due and owing to  
25 the mobile home park owner, as evidenced by a judgment for  
26 unpaid rent, and any contents not released pursuant to  
27 subsection (10), may be sold by the owner or operator of the  
28 storage space for such towing or storage charge or unpaid lot  
29 rental amount after 35 days from the time the vehicle or  
30 vessel is stored therein. The sale shall be at public auction  
31 for cash. If the date of the sale was not included in the

1 notice required in subsection (4), notice of the sale shall be  
2 given to the person in whose name the vehicle, vessel, or  
3 mobile home is registered, to the mobile home park owner, and  
4 to all persons claiming a lien on the vehicle or vessel as  
5 shown on the records of the Department of Highway Safety and  
6 Motor Vehicles or of the corresponding agency in any other  
7 state. Notice shall be sent by certified mail, return receipt  
8 requested, to the owner of the vehicle or vessel and the  
9 person having the recorded lien on the vehicle or vessel at  
10 the address shown on the records of the registering agency and  
11 shall be mailed not less than 15 days before the date of the  
12 sale. After diligent search and inquiry, if the name and  
13 address of the registered owner or the owner of the recorded  
14 lien cannot be ascertained, the requirements of notice by mail  
15 may be dispensed with. In addition to the notice by mail,  
16 public notice of the time and place of sale shall be made by  
17 publishing a notice thereof one time, at least 10 days prior  
18 to the date of the sale, in a newspaper of general circulation  
19 in the county in which the sale is to be held. The proceeds  
20 of the sale, after payment of reasonable towing and storage  
21 charges, costs of the sale, and the unpaid lot rental amount,  
22 in that order of priority, shall be deposited with the clerk  
23 of the circuit court for the county if the owner is absent,  
24 and the clerk shall hold such proceeds subject to the claim of  
25 the person legally entitled thereto. The clerk shall be  
26 entitled to receive 5 percent of such proceeds for the care  
27 and disbursement thereof. The certificate of title issued  
28 under this law shall be discharged of all liens unless  
29 otherwise provided by court order.

30 (7)(a) A wrecker operator recovering, towing, or  
31 storing vehicles or vessels is not liable for damages

1 connected with such services, theft of such vehicles or  
2 vessels, or theft of personal property contained in such  
3 vehicles or vessels, provided that such services have been  
4 performed with reasonable care and provided, further, that, in  
5 the case of removal of a vehicle or vessel upon the request of  
6 a person purporting, and reasonably appearing, to be the owner  
7 or lessee, or a person authorized by the owner or lessee, of  
8 the property from which such vehicle or vessel is removed,  
9 such removal has been done in compliance with s. 715.07.  
10 Further, a wrecker operator is not liable for damage connected  
11 with such services when complying with the lawful directions  
12 of a law enforcement officer to remove a vehicle stopped,  
13 standing, or parked upon a street or highway in such a  
14 position as to obstruct the normal movement of traffic or in  
15 such a condition as to create a hazard to other traffic upon  
16 the street or highway.

17 (b) For the purposes of this subsection, a wrecker  
18 operator is presumed to use reasonable care to prevent the  
19 theft of a vehicle or vessel or of any personal property  
20 contained in such vehicle stored in the wrecker operator's  
21 storage facility if all of the following apply:

22 1. The wrecker operator surrounds the storage facility  
23 with a chain-link or solid-wall type fence at least 6 feet in  
24 height;

25 2. The wrecker operator has illuminated the storage  
26 facility with lighting of sufficient intensity to reveal  
27 persons and vehicles at a distance of at least 150 feet during  
28 nighttime; and

29 3. The wrecker operator uses one or more of the  
30 following security methods to discourage theft of vehicles or  
31

1 vessels or of any personal property contained in such vehicles  
2 or vessels stored in the wrecker operator's storage facility:

3 a. A night dispatcher or watchman remains on duty at  
4 the storage facility from sunset to sunrise;

5 b. A security dog remains at the storage facility from  
6 sunset to sunrise;

7 c. Security cameras or other similar surveillance  
8 devices monitor the storage facility; or

9 d. A security guard service examines the storage  
10 facility at least once each hour from sunset to sunrise.

11 (c) Any law enforcement agency requesting that a motor  
12 vehicle be removed from an accident scene, street, or highway  
13 must conduct an inventory and prepare a written record of all  
14 personal property found in the vehicle before the vehicle is  
15 removed by a wrecker operator. However, if the owner or driver  
16 of the motor vehicle is present and accompanies the vehicle,  
17 no inventory by law enforcement is required. A wrecker  
18 operator is not liable for the loss of personal property  
19 alleged to be contained in such a vehicle when such personal  
20 property was not identified on the inventory record prepared  
21 by the law enforcement agency requesting the removal of the  
22 vehicle.

23 (8) A person regularly engaged in the business of  
24 recovering, towing, or storing vehicles or vessels, except a  
25 person licensed under chapter 493 while engaged in  
26 "repossession" activities as defined in s. 493.6101, may not  
27 operate a wrecker, tow truck, or car carrier unless the name,  
28 address, and telephone number of the company performing the  
29 service is clearly printed in contrasting colors on the driver  
30 and passenger sides of its vehicle. The name must be in at  
31 least 3-inch permanently affixed letters, and the address and

1 telephone number must be in at least 1-inch permanently  
2 affixed letters.

3 (9) Failure to make good faith best efforts to comply  
4 with the notice requirements of this section shall preclude  
5 the imposition of any storage charges against such vehicle or  
6 vessel.

7 (10) Persons who provide services pursuant to this  
8 section shall permit vehicle or vessel owners or their agents,  
9 which agency is evidenced by a writing acknowledged by the  
10 owner before a notary public or other person empowered by law  
11 to administer oaths, to inspect the towed vehicle or vessel  
12 and shall release to the owner or agent all personal property  
13 not affixed to the vehicle or vessel which was in the vehicle  
14 or vessel at the time the vehicle or vessel came into the  
15 custody of the person providing such services.

16 (11)(a) Any person regularly engaged in the business  
17 of recovering, towing, or storing vehicles or vessels who  
18 comes into possession of a vehicle or vessel pursuant to  
19 subsection (2) and who has complied with the provisions of  
20 subsections (3) and (6), when such vehicle or vessel is to be  
21 sold for purposes of being dismantled, destroyed, or changed  
22 in such manner that it is not the motor vehicle, vessel, or  
23 mobile home described in the certificate of title, shall apply  
24 to the county tax collector for a certificate of destruction.  
25 A certificate of destruction, which authorizes the dismantling  
26 or destruction of the vehicle or vessel described therein,  
27 shall be reassignable and shall accompany the vehicle or  
28 vessel for which it is issued, when such vehicle or vessel is  
29 sold for such purposes, in lieu of a certificate of title.  
30 The application for a certificate of destruction must include  
31 an affidavit from the applicant that it has complied with all

1 applicable requirements of this section and, if the vehicle or  
2 vessel is not registered in this state, by a statement from a  
3 law enforcement officer that the vehicle or vessel is not  
4 reported stolen, and shall be accompanied by such  
5 documentation as may be required by the department.

6 (b) The Department of Highway Safety and Motor  
7 Vehicles shall charge a fee of \$3 for each certificate of  
8 destruction. A service charge of \$4.25 shall be collected and  
9 retained by the tax collector who processes the application.

10 (c) The Department of Highway Safety and Motor  
11 Vehicles may adopt such rules as it deems necessary or proper  
12 for the administration of this subsection.

13 (12)(a) Any person who violates any provision of  
14 subsection (1), subsection (2), subsection (4), subsection  
15 (5), subsection (6), or subsection (7) is guilty of a  
16 misdemeanor of the first degree, punishable as provided in s.  
17 775.082 or s. 775.083.

18 (b) Any person who violates the provisions of  
19 subsections (8) through (11) is guilty of a felony of the  
20 third degree, punishable as provided in s. 775.082, s.  
21 775.083, or s. 775.084.

22 (c) Any person who uses a false or fictitious name,  
23 gives a false or fictitious address, or makes any false  
24 statement in any application or affidavit required under the  
25 provisions of this section is guilty of a felony of the third  
26 degree, punishable as provided in s. 775.082, s. 775.083, or  
27 s. 775.084.

28 Section 35. Paragraph (a) of subsection (2) of section  
29 715.07, Florida Statutes, is amended to read:

30 715.07 Vehicles parked on private property; towing.--  
31

1           (2) The owner or lessee of real property, or any  
2 person authorized by the owner or lessee, which person may be  
3 the designated representative of the condominium association  
4 if the real property is a condominium, may cause any vehicle  
5 parked on such property without her or his permission to be  
6 removed by a person regularly engaged in the business of  
7 towing vehicles, without liability for the costs of removal,  
8 transportation, or storage or damages caused by such removal,  
9 transportation, or storage, under any of the following  
10 circumstances:

11           (a) The towing or removal of any vehicle from private  
12 property without the consent of the registered owner or other  
13 legally authorized person in control of that vehicle is  
14 subject to strict compliance with the following conditions and  
15 restrictions:

16           1.a. Any towed or removed vehicle must be stored at a  
17 site within 10 miles of the point of removal in any county of  
18 500,000 population or more, and within 15 miles of the point  
19 of removal in any county of less than 500,000 population. That  
20 site must be open for the purpose of redemption of vehicles on  
21 any day that the person or firm towing such vehicle is open  
22 for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when  
23 closed, shall have prominently posted a sign indicating a  
24 telephone number where the operator of the site can be reached  
25 at all times. Upon receipt of a telephoned request to open  
26 the site to redeem a vehicle, the operator shall return to the  
27 site within 1 hour or she or he will be in violation of this  
28 section.

29           b. If no towing business providing such service is  
30 located within the area of towing limitations set forth in  
31 sub-subparagraph a., the following limitations apply: any



1 towed or removed vehicle must be stored at a site within 20  
2 miles of the point of removal in any county of 500,000  
3 population or more, and within 30 miles of the point of  
4 removal in any county of less than 500,000 population.

5         2. The person or firm towing or removing the vehicle  
6 shall, within 30 minutes of completion of such towing or  
7 removal, notify the municipal police department or, in an  
8 unincorporated area, the sheriff of such towing or removal,  
9 the storage site, the time the vehicle was towed or removed,  
10 and the make, model, color, and license plate number of the  
11 vehicle and shall obtain the name of the person at that  
12 department to whom such information was reported and note that  
13 name on the trip record.

14         3. If the registered owner or other legally authorized  
15 person in control of the vehicle arrives at the scene prior to  
16 removal or towing of the vehicle, the vehicle shall be  
17 disconnected from the towing or removal apparatus, and that  
18 person shall be allowed to remove the vehicle without  
19 interference upon the payment of a reasonable service fee of  
20 not more than one-half of the posted rate for such towing  
21 service as provided in subparagraph 6., for which a receipt  
22 shall be given, unless that person refuses to remove the  
23 vehicle which is otherwise unlawfully parked.

24         4. The rebate or payment of money or any other  
25 valuable consideration from the individual or firm towing or  
26 removing vehicles to the owners or operators of the premises  
27 from which the vehicles are towed or removed, for the  
28 privilege of removing or towing those vehicles, is prohibited.

29         5. Except for property appurtenant to and obviously a  
30 part of a single-family residence, and except for instances  
31 when notice is personally given to the owner or other legally

1 authorized person in control of the vehicle that the area in  
2 which that vehicle is parked is reserved or otherwise  
3 unavailable for unauthorized vehicles and subject to being  
4 removed at the owner's or operator's expense, any property  
5 owner or lessee, or person authorized by the property owner or  
6 lessee, prior to towing or removing any vehicle from private  
7 property without the consent of the owner or other legally  
8 authorized person in control of that vehicle, must post a  
9 notice meeting the following requirements:

10 a. The notice must be prominently placed at each  
11 driveway access or curb cut allowing vehicular access to the  
12 property, within 5 feet from the public right-of-way line. If  
13 there are no curbs or access barriers, the signs must be  
14 posted not less than one sign for each 25 feet of lot  
15 frontage.

16 b. The notice must clearly indicate, in not less than  
17 2-inch high, light-reflective letters on a contrasting  
18 background, that unauthorized vehicles will be towed away at  
19 the owner's expense. The words "tow-away zone" must be  
20 included on the sign in not less than 4-inch high letters.

21 c. The notice must also provide the name and current  
22 telephone number of the person or firm towing or removing the  
23 vehicles, if the property owner, lessee, or person in control  
24 of the property has a written contract with the towing  
25 company.

26 d. The sign structure containing the required notices  
27 must be permanently installed with the words "tow-away zone"  
28 not less than 3 feet and not more than 6 feet above ground  
29 level and must be continuously maintained on the property for  
30 not less than 24 hours prior to the towing or removal of any  
31 vehicles.

1 e. The local government may require permitting and  
2 inspection of these signs prior to any towing or removal of  
3 vehicles being authorized.

4 f. A business with 20 or fewer parking spaces  
5 satisfies the notice requirements of this subparagraph by  
6 prominently displaying a sign stating "Reserved Parking for  
7 Customers Only Unauthorized Vehicles Will be Towed Away At the  
8 Owner's Expense" in not less than 4-inch high,  
9 light-reflective letters on a contrasting background.

10  
11 A business owner or lessee may authorize the removal of a  
12 vehicle by a towing company when the vehicle is parked in such  
13 a manner that restricts the normal operation of business; and  
14 if a vehicle parked on a public right-of-way obstructs access  
15 to a private driveway the owner, lessee, or agent may have the  
16 vehicle removed by a towing company upon signing an order that  
17 the vehicle be removed without a posted tow-away zone sign.

18 6. Any person or firm that tows or removes vehicles  
19 and proposes to require an owner, operator, or person in  
20 control of a vehicle to pay the costs of towing and storage  
21 prior to redemption of the vehicle must file and keep on  
22 record with the local law enforcement agency a complete copy  
23 of the current rates to be charged for such services and post  
24 at the storage site an identical rate schedule and any written  
25 contracts with property owners, lessees, or persons in control  
26 of property which authorize such person or firm to remove  
27 vehicles as provided in this section.

28 7. Any person or firm towing or removing any vehicles  
29 from private property without the consent of the owner or  
30 other legally authorized person in control of the vehicles  
31 shall, on any trucks, wreckers as defined in s.

1 713.78(1)(c)~~(b)~~, or other vehicles used in the towing or  
2 removal, have the name, address, and telephone number of the  
3 company performing such service clearly printed in contrasting  
4 colors on the driver and passenger sides of the vehicle. The  
5 name shall be in at least 3-inch permanently affixed letters,  
6 and the address and telephone number shall be in at least  
7 1-inch permanently affixed letters.

8 8. Vehicle entry for the purpose of removing the  
9 vehicle shall be allowed with reasonable care on the part of  
10 the person or firm towing the vehicle. Such person or firm  
11 shall be liable for any damage occasioned to the vehicle if  
12 such entry is not in accordance with the standard of  
13 reasonable care.

14 9. When a vehicle has been towed or removed pursuant  
15 to this section, it must be released to its owner or custodian  
16 within one hour after requested. Any vehicle owner,  
17 custodian, or agent shall have the right to inspect the  
18 vehicle before accepting its return, and no release or waiver  
19 of any kind which would release the person or firm towing the  
20 vehicle from liability for damages noted by the owner or other  
21 legally authorized person at the time of the redemption may be  
22 required from any vehicle owner, custodian, or agent as a  
23 condition of release of the vehicle to its owner. A detailed,  
24 signed receipt showing the legal name of the company or person  
25 towing or removing the vehicle must be given to the person  
26 paying towing or storage charges at the time of payment,  
27 whether requested or not.

28 (b) These requirements shall be the minimum standards  
29 and shall not preclude enactment of additional regulations by  
30 any municipality or county including the right to regulate  
31 rates when vehicles are towed from private property.

1           Section 36. Subsection (2) of section 938.17, Florida  
2 Statutes, is amended to read:

3           938.17 County delinquency prevention.--

4           (2) In counties in which the sheriff's office is a  
5 partner in a juvenile assessment center pursuant to s.  
6 985.209, or a partner in a suspension program developed in  
7 conjunction with the district school board in the county of  
8 the sheriff's jurisdiction, the court shall assess court costs  
9 of \$3 per case, in addition to any other authorized cost or  
10 fine, on every person who, with respect to a charge,  
11 indictment, prosecution commenced, or petition of delinquency  
12 filed in that county or circuit, pleads guilty, nolo  
13 contendere to, or is convicted of, or adjudicated delinquent  
14 for, or has an adjudication withheld for, a felony or  
15 misdemeanor, or a criminal traffic or boating offense, or a  
16 handicapped parking violation under state law, or a violation  
17 of any municipal or county ordinance, if the violation  
18 constitutes a misdemeanor under state law.

19           Section 37. Subsection (3) of section 947.146, Florida  
20 Statutes, is amended to read:

21           947.146 Control Release Authority.--

22           (3) Within 120 days prior to the date the state  
23 correctional system is projected pursuant to s. 216.136 to  
24 exceed 99 percent of total capacity, the authority shall  
25 determine eligibility for and establish a control release date  
26 for an appropriate number of parole ineligible inmates  
27 committed to the department and incarcerated within the state  
28 who have been determined by the authority to be eligible for  
29 discretionary early release pursuant to this section. In  
30 establishing control release dates, it is the intent of the  
31 Legislature that the authority prioritize consideration of

1 eligible inmates closest to their tentative release date. The  
2 authority shall rely upon commitment data on the offender  
3 information system maintained by the department to initially  
4 identify inmates who are to be reviewed for control release  
5 consideration. The authority may use a method of objective  
6 risk assessment in determining if an eligible inmate should be  
7 released. Such assessment shall be a part of the department's  
8 management information system. However, the authority shall  
9 have sole responsibility for determining control release  
10 eligibility, establishing a control release date, and  
11 effectuating the release of a sufficient number of inmates to  
12 maintain the inmate population between 99 percent and 100  
13 percent of total capacity. Inmates who are ineligible for  
14 control release are inmates who are parole eligible or inmates  
15 who:

16 (a) Are serving a sentence that includes a mandatory  
17 minimum provision for a capital offense or drug trafficking  
18 offense and have not served the number of days equal to the  
19 mandatory minimum term less any jail-time credit awarded by  
20 the court;

21 (b) Are serving the mandatory minimum portion of a  
22 sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

23 (c) Are convicted, or have been previously convicted,  
24 of committing or attempting to commit sexual battery, incest,  
25 or any of the following lewd or indecent assaults or acts:  
26 masturbating in public; exposing the sexual organs in a  
27 perverted manner; or nonconsensual handling or fondling of the  
28 sexual organs of another person;

29 (d) Are convicted, or have been previously convicted,  
30 of committing or attempting to commit assault, aggravated

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1 assault, battery, or aggravated battery, and a sex act was  
2 attempted or completed during commission of such offense;

3 (e) Are convicted, or have been previously convicted,  
4 of committing or attempting to commit kidnapping, burglary, or  
5 murder, and the offense was committed with the intent to  
6 commit sexual battery or a sex act was attempted or completed  
7 during commission of the offense;

8 (f) Are convicted, or have been previously convicted,  
9 of committing or attempting to commit false imprisonment upon  
10 a child under the age of 13 and, in the course of committing  
11 the offense, the inmate committed aggravated child abuse,  
12 sexual battery against the child, or a lewd or lascivious  
13 offense committed upon or in the presence of a person less  
14 than 16 years of age;

15 (g) Are sentenced, have previously been sentenced, or  
16 have been sentenced at any time under s. 775.084, or have been  
17 sentenced at any time in another jurisdiction as a habitual  
18 offender;

19 (h) Are convicted, or have been previously convicted,  
20 of committing or attempting to commit assault, aggravated  
21 assault, battery, aggravated battery, kidnapping,  
22 manslaughter, or murder against an officer as defined in s.  
23 943.10(1), (2), (3), (6), (7), (8), or (9); against a state  
24 attorney or assistant state attorney; or against a justice or  
25 judge of a court described in Art. V of the State  
26 Constitution; or against an officer, judge, or state attorney  
27 employed in a comparable position by any other jurisdiction;  
28 or

29 (i) Are convicted, or have been previously convicted,  
30 of committing or attempting to commit murder in the first,  
31 second, or third degree under s. 782.04(1), (2), (3), or (4),

1 or have ever been convicted of any degree of murder or  
2 attempted murder in another jurisdiction;

3 (j) Are convicted, or have been previously convicted,  
4 of DUI manslaughter under s. 316.193(3)(c)3. or BUI  
5 manslaughter under s. 327.35(3)(c)3., and are sentenced, or  
6 have been sentenced at any time, as a habitual offender for  
7 such offense, or have been sentenced at any time in another  
8 jurisdiction as a habitual offender for such offense;

9 (k)1. Are serving a sentence for an offense committed  
10 on or after January 1, 1994, for a violation of the Law  
11 Enforcement Protection Act under s. 775.0823(2), (3), (4), or  
12 (5), and the subtotal of the offender's sentence points is  
13 multiplied pursuant to former s. 921.0014 or s. 921.0024;

14 2. Are serving a sentence for an offense committed on  
15 or after October 1, 1995, for a violation of the Law  
16 Enforcement Protection Act under s. 775.0823(2), (3), (4),  
17 (5), (6), (7), or (8), and the subtotal of the offender's  
18 sentence points is multiplied pursuant to former s. 921.0014  
19 or s. 921.0024;

20 (l) Are serving a sentence for an offense committed on  
21 or after January 1, 1994, for possession of a firearm,  
22 semiautomatic firearm, or machine gun in which additional  
23 points are added to the subtotal of the offender's sentence  
24 points pursuant to former s. 921.0014 or s. 921.0024; or

25 (m) Are convicted, or have been previously convicted,  
26 of committing or attempting to commit manslaughter,  
27 kidnapping, robbery, carjacking, home-invasion robbery, or a  
28 burglary under s. 810.02(2).

29

30 In making control release eligibility determinations under  
31 this subsection, the authority may rely on any document



1 leading to or generated during the course of the criminal  
2 proceedings, including, but not limited to, any presentence or  
3 postsentence investigation or any information contained in  
4 arrest reports relating to circumstances of the offense.

5 Section 38. Subsections (1) and (2) of section 985.05,  
6 Florida Statutes, are amended to read:

7 985.05 Court records.--

8 (1) The clerk of the court shall make and keep records  
9 of all cases brought before it pursuant to this part. The  
10 court shall preserve the records pertaining to a child charged  
11 with committing a delinquent act or violation of law until the  
12 child reaches 24 years of age or reaches 26 years of age if he  
13 or she is a serious or habitual delinquent child, until 5  
14 years after the last entry was made, or until 3 years after  
15 the death of the child, whichever is earlier, and may then  
16 destroy them, except that records made of traffic or boating  
17 offenses in which there is no allegation of delinquency may be  
18 destroyed as soon as this can be reasonably accomplished. The  
19 court shall make official records of all petitions and orders  
20 filed in a case arising pursuant to this part and of any other  
21 pleadings, certificates, proofs of publication, summonses,  
22 warrants, and writs that are filed pursuant to the case.

23 (2) The clerk shall keep all official records required  
24 by this section separate from other records of the circuit  
25 court, except those records pertaining to motor vehicle  
26 violations, which shall be forwarded to the Department of  
27 Highway Safety and Motor Vehicles, and except those records  
28 pertaining to boating violations, which shall be forwarded to  
29 the Fish and Wildlife Conservation Commission. Except as  
30 provided in ss. 943.053 and 985.04(4), official records  
31 required by this part are not open to inspection by the

1 public, but may be inspected only upon order of the court by  
2 persons deemed by the court to have a proper interest therein,  
3 except that a child and the parents, guardians, or legal  
4 custodians of the child and their attorneys, law enforcement  
5 agencies, the Department of Juvenile Justice and its  
6 designees, the Parole Commission, and the Department of  
7 Corrections shall always have the right to inspect and copy  
8 any official record pertaining to the child. The court may  
9 permit authorized representatives of recognized organizations  
10 compiling statistics for proper purposes to inspect, and make  
11 abstracts from, official records under whatever conditions  
12 upon the use and disposition of such records the court may  
13 deem proper and may punish by contempt proceedings any  
14 violation of those conditions.

15 Section 39. Subsection (3) of section 985.212, Florida  
16 Statutes, is amended to read:

17 985.212 Fingerprinting and photographing.--

18 (3) This section does not prohibit the fingerprinting  
19 or photographing of child traffic or boating violators. All  
20 records of such traffic or boating violations shall be kept in  
21 the full name of the violator and shall be open to inspection  
22 and publication in the same manner as adult traffic or boating  
23 violations. This section does not apply to the photographing  
24 of children by the Department of Juvenile Justice or the  
25 Department of Children and Family Services.

26 Section 40. With the exception of existing regulations  
27 governing dock structures in aquatic preserves or associated  
28 with undeveloped barrier islands or condominiums, neither the  
29 department nor the Board of Trustees of the Internal  
30 Improvement Trust Fund shall restrict the number of vessels

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1 moored at private, single-family docks exempted under the  
2 provisions of section 403.813, Florida Statutes.

3 Section 41. Except as otherwise provided in this act,  
4 this act shall take effect October 1, 2000.

5  
6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
7 COMMITTEE SUBSTITUTE FOR  
8 SB 2554

9 The CS deletes a prohibition on the rental of personal  
10 watercraft to persons under the age of 18 unless accompanied  
11 by a person over the age of 18.

11 The CS deletes a provision increasing the minimum age for  
12 operation of a personal watercraft from 14 to 15 effective  
13 July 1, 2001.

13 The CS deletes a provision raising the age requirement for  
14 certain boating safety education from 21 to 26 years of age.

14 The CS deletes provisions relating to liability for the  
15 negligent operation of a vessel.

15 The CS deletes a provision establishing sanctions for  
16 infractions by minors.

16 The CS deletes a provision providing restrictions on the  
17 transfer of funds from the Marine Resources Conservation Trust  
18 Fund.

18 The CS provides for the addition of a scuba diving  
19 representative on the Boating Advisory Council.

19 The CS provides that with certain exceptions, state agencies  
20 may not restrict the number of vessels moored at private,  
21 single-family docks.

21 The CS authorizes the Commission to adopt certain rules.

22 The CS implements numerous conforming and technical revisions.  
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