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1 A bill to be entitled

2 An act relating to vessel safety; amending s. 316.217,
3 F.S.; providing exception for purposes of law enforcement
4 to provisions requiring the display of lighted lamps;
5 amending s. 327.301, F.S.; revising requirements for
6 reports to the Division of Law Enforcement of the Fish and
7 Wildlife Conservation Commission of certain accidents
8 involving vessels; providing that a person who offers a
9 vessel for lease, rental, or charter is responsible for
10 compliance; amending s. 327.35215, F.S.; revising
11 disposition of moneys collected for certain civil
12 penalties; amending s. 327.39, F.S.; revising provisions
13 prohibiting operation of personal watercraft during
14 certain hours; amending s. 327.395, F.S.; revising
15 requirements to possess photographic identification and a
16 boater safety identification card; requiring all persons
17 born after a certain date to possess such identification
18 when operating described vessels; amending s. 327.731,
19 F.S.; revising requirements to complete a boating safety
20 course for certain violations; reenacting s. 327.73(1)(p)
21 and (s) and (11)(a), F.S., relating to noncriminal
22 infractions, to incorporate changes made by the act;
23 creating s. 327.461, F.S.; providing legislative intent to
24 authorize state and local law enforcement agencies to
25 operate in federally designated safety zones, security
26 zones, regulated navigation areas, and naval vessel
27 protection zones; prohibiting the operation, or the
28 authorization for the operation, of a vessel in violation
29 of a safety zone, security zone, regulated navigation

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30 area, or naval vessel protection zone; providing
 31 penalties; prohibiting continuation of such operation, or
 32 authorization to operate, after a warning or an order to
 33 cease by law enforcement or military personnel; providing
 34 penalties; prohibiting entrance to such a zone by
 35 swimming, diving, wading, or similar means; providing
 36 penalties; prohibiting remaining in or reentering such a
 37 zone following a warning or order to leave by law
 38 enforcement or military personnel; providing penalties;
 39 providing that each incursion is a separate offense;
 40 providing that an entry authorized by the captain of the
 41 port or the captain's designee is not a violation;
 42 amending s. 901.15, F.S.; providing that a law enforcement
 43 officer may arrest a person without a warrant if there is
 44 probable cause to believe that the person has violated s.
 45 327.461, F.S.; providing an effective date.

46
 47 Be It Enacted by the Legislature of the State of Florida:

48
 49 Section 1. Subsection (4) of section 316.217, Florida
 50 Statutes, is renumbered as subsection (5), and a new subsection
 51 (4) is added to said section to read:

52 316.217 When lighted lamps are required.--

53 (4) Law enforcement vehicles may be operated without the
 54 display of lighted lamps required by this chapter under the
 55 following conditions:

56 (a) Operation without the display of lighted lamps is
 57 necessary to the performance of a law enforcement officer's
 58 duties.

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59 (b) The law enforcement agency has a written policy
 60 authorizing and providing guidelines for vehicle operation
 61 without the display of lighted lamps.

62 (c) The law enforcement vehicle is operated in compliance
 63 with agency policy.

64 (d) The operation without the display of lighted lamps may
 65 be safely accomplished.

66
 67 The provisions of this subsection shall not relieve the operator
 68 of such a vehicle from the duty to drive with due regard for the
 69 safety of all persons, nor shall such provisions protect the
 70 vehicle operator from the consequences of his or her reckless
 71 disregard for the safety of others.

72 (5)(4) A violation of this section is a noncriminal
 73 traffic infraction, punishable as a moving violation as provided
 74 in chapter 318.

75 Section 2. Section 327.301, Florida Statutes, is amended
 76 to read:

77 327.301 Written reports of accidents.--

78 (1) The operator of a vessel that is in any manner
 79 involved in an accident resulting in bodily injury, death, or
 80 disappearance of any person or damage to any vessel or other
 81 property in an apparent aggregate amount of at least \$2,000 ~~\$500~~
 82 shall, within the time limits specified in 33 C.F.R. s. 173.55,
 83 forward a written report of the accident to the division.

84 Whenever the operator of the vessel is ~~physically~~ incapable of
 85 making a written report, the owner of the vessel shall, within
 86 the time limits specified in 33 C.F.R. s. 173.55, make the
 87 report not made by the operator. However, when the investigating

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88 officer has made a written report of the accident pursuant to
 89 subsection (3), a written report need not be forwarded to the
 90 division by the operator.

91 (2) The division may require any operator of a vessel
 92 involved in an accident of which written report must be made as
 93 provided in this section to file supplemental written reports
 94 whenever the original report is insufficient in the opinion of
 95 the division, and may require any witness to the accident to
 96 render a report to the division.

97 (3) Every law enforcement officer who in the regular
 98 course of duty investigates a boating accident that resulted in
 99 bodily injury, death, or disappearance of any person or damage
 100 to any vessel or other property in an apparent aggregate amount
 101 of at least \$2,000 ~~\$500~~ shall, within 24 hours after completing
 102 the investigation, forward a written report of the accident to
 103 the division. However, in every case in which an accident report
 104 is required by this section and a written report by a law
 105 enforcement officer is not prepared, the law enforcement officer
 106 shall provide each party involved in the accident a short-form
 107 report, prescribed by the division, to be completed by the
 108 party. The short-form report must include, but is not limited
 109 to: the date, time, and location of the accident; a description
 110 of the vessels involved; the names and addresses of the parties
 111 involved; the names and addresses of witnesses; and the name,
 112 badge number, and law enforcement agency of the officer
 113 investigating the accident. Accident reports made by law
 114 enforcement officers may not be used for commercial solicitation
 115 purposes; however, use of an accident report for purposes of
 116 publication in a newspaper or other news periodical or a radio

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117 or television broadcast shall not be construed as a "commercial
118 purpose."

119 (4) Except as specified in this subsection, each accident
120 report made by a person involved in an accident and any
121 statement made by such person to a law enforcement officer for
122 the purpose of completing an accident report required by this
123 section is without prejudice to the individual reporting. Such
124 report or statement may not be used as evidence in any trial,
125 civil or criminal. However, subject to the applicable rules of
126 evidence, a law enforcement officer who is a witness in a
127 criminal trial may testify as to any statement made to the
128 officer by the person involved in the accident if that person's
129 privilege against self-incrimination is not violated. The
130 results of breath, urine, and blood tests administered as
131 provided in s. 327.352 or s. 327.353 are not confidential and
132 shall be admissible into evidence in accordance with the
133 provisions of s. 327.354. Accident reports made by persons
134 involved in accidents may not be used for commercial
135 solicitation purposes; however, use of an accident report for
136 purposes of publication in a newspaper or other news periodical
137 or a radio or television broadcast shall not be construed as a
138 "commercial purpose."

139 (5) For the purposes of this section, a written report
140 includes a report generated through the use of information
141 technology resources as defined in s. 282.0041.

142 (6) If the vessel is leased, rented, or chartered at the
143 time of the accident, the person who offered the vessel for
144 lease, rental, or charter shall be responsible for complying
145 with this section and s. 327.30.

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146 (7)~~(6)~~ Any person ~~operator~~ failing to file the written
 147 report required under subsection (1) or a supplemental written
 148 report when required by the division under subsection (2) is
 149 guilty of a noncriminal infraction.

150 Section 3. Subsection (5) of section 327.35215, Florida
 151 Statutes, is amended to read:

152 327.35215 Penalty for failure to submit to test.--

153 (5) Moneys collected by the clerk of the court pursuant to
 154 this section shall be disposed of in the following manner:

155 (a) If the arresting officer was employed or appointed by
 156 a state law enforcement agency ~~except as a wildlife enforcement~~
 157 ~~officer or a freshwater fisheries enforcement officer of the~~
 158 ~~Fish and Wildlife Conservation Commission~~, the moneys shall be
 159 deposited into the Marine Resources Conservation Trust Fund.

160 (b) If the arresting officer was employed or appointed by
 161 a county or municipal law enforcement agency, the moneys shall
 162 be deposited into the law enforcement trust fund of that agency.

163 ~~(c) If the arresting officer was employed or appointed by~~
 164 ~~the Fish and Wildlife Conservation Commission as a wildlife~~
 165 ~~enforcement officer or a freshwater fisheries enforcement~~
 166 ~~officer, the money shall be deposited into the State Game Trust~~
 167 ~~Fund.~~

168 Section 4. Subsection (3) of section 327.39, Florida
 169 Statutes, is amended to read:

170 327.39 Personal watercraft regulated.--

171 (3) A person may not operate a personal watercraft at any
 172 time between the hours from ~~one-half hour after~~ sunset to ~~one-~~
 173 ~~half hour before~~ sunrise. However, an agent or employee of a

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174 fire or emergency rescue service is exempt from this subsection
 175 while performing his or her official duties.

176 Section 5. Subsection (1) of section 327.395, Florida
 177 Statutes, is amended, and subsection (7) of said section is
 178 reenacted, to read:

179 327.395 Boating safety identification cards.--

180 (1) ~~Until October 1, 2001,~~ A person born after September
 181 30, 1980, ~~and on or after October 1, 2001, a person 21 years of~~
 182 ~~age or younger~~ may not operate a vessel powered by a motor of 10
 183 horsepower or greater unless such person has in his or her
 184 possession aboard the vessel photographic identification and a
 185 boater safety identification card issued by the commission which
 186 shows that he or she has:

187 (a) Completed a commission-approved boater education
 188 course that meets the minimum 8-hour instruction requirement
 189 established by the National Association of State Boating Law
 190 Administrators;

191 (b) Passed a course equivalency examination approved by
 192 the commission; or

193 (c) Passed a temporary certificate examination developed
 194 or approved by the commission.

195 (7) A person who violates this section is guilty of a
 196 noncriminal infraction, punishable as provided in s. 327.73.

197 Section 6. Subsection (1) of section 327.731, Florida
 198 Statutes, is amended to read:

199 327.731 Mandatory education for violators.--

200 (1) Every person convicted of a criminal violation of this
 201 chapter, every person convicted of a noncriminal infraction
 202 under this chapter if the infraction resulted in a reportable

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203 boating accident, and every person convicted of two noncriminal
 204 infractions as defined in s. 327.73(1)(h)-(k), (m), (o), (p)
 205 ~~(m)-(p)~~, and (s)-(u), said infractions occurring within a 12-
 206 month period, must:

207 (a) Enroll in, attend, and successfully complete, at his
 208 or her own expense, a boating safety course that meets minimum
 209 standards established by the commission by rule; however, the
 210 commission may provide by rule pursuant to chapter 120 for
 211 waivers of the attendance requirement for violators residing in
 212 areas where classroom presentation of the course is not
 213 available;

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

216 (c) Refrain from operating a vessel until he or she has
 217 filed the proof of successful completion of the course with the
 218 commission.

219
 220 Any person who has successfully completed an approved boating
 221 course shall be exempt from these provisions upon showing proof
 222 to the commission as specified in paragraph (b).

223 Section 7. For the purpose of incorporating the amendments
 224 made by this act to sections 327.39, 327.395, and 327.731,
 225 Florida Statutes, in references thereto, paragraphs (p) and (s)
 226 of subsection (1) and paragraph (a) of subsection (11) of
 227 section 327.73, Florida Statutes, are reenacted to read:

228 327.73 Noncriminal infractions.--

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

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

233 (s) Section 327.395, relating to boater safety education.
 234

235 Any person cited for a violation of any such provision shall be
 236 deemed to be charged with a noncriminal infraction, shall be
 237 cited for such an infraction, and shall be cited to appear
 238 before the county court. The civil penalty for any such
 239 infraction is \$50, except as otherwise provided in this section.
 240 Any person who fails to appear or otherwise properly respond to
 241 a uniform boating citation shall, in addition to the charge
 242 relating to the violation of the boating laws of this state, be
 243 charged with the offense of failing to respond to such citation
 244 and, upon conviction, be guilty of a misdemeanor of the second
 245 degree, punishable as provided in s. 775.082 or s. 775.083. A
 246 written warning to this effect shall be provided at the time
 247 such uniform boating citation is issued.

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

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

254
 255 Court costs imposed under this subsection may not exceed \$30. A
 256 criminal justice selection center or both local criminal justice
 257 access and assessment centers may be funded from these court
 258 costs.

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259 Section 8. Section 327.461, Florida Statutes, is created
 260 to read:

261 327.461 Safety zones, security zones, regulated navigation
 262 areas, and naval vessel protection zones; prohibited entry;
 263 penalties.--

264 (1)(a) A person may not operate a vessel, or authorize the
 265 operation of a vessel, in violation of a safety zone, security
 266 zone, regulated navigation area, or naval vessel protection zone
 267 as defined in and established pursuant to 33 C.F.R. part 165.

268 (b) The intent of this section is to provide for state and
 269 local law enforcement agencies to operate in federally
 270 designated exclusion zones specified in paragraph (a). State and
 271 local law enforcement personnel may enforce these zones at the
 272 request of a federal authority if necessary to augment federal
 273 law enforcement efforts and if there is a compelling need to
 274 protect the residents and infrastructure of this state. Requests
 275 for state and local law enforcement personnel to enforce these
 276 zones must be made to the Department of Law Enforcement through
 277 the Florida Mutual Aid Plan described in s. 23.1231.

278 (2) A person who operates a vessel, or authorizes the
 279 operation of a vessel, in violation of such a safety zone,
 280 security zone, regulated navigation area, or naval vessel
 281 protection zone commits a misdemeanor of the first degree,
 282 punishable as provided in s. 775.082 or s. 775.083.

283 (3) A person who continues to operate, or authorize the
 284 operation of, a vessel in violation of such a safety zone,
 285 security zone, regulated navigation area, or naval vessel
 286 protection zone after being warned against doing so, or who
 287 refuses to leave or otherwise cease violating such a safety

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288 zone, security zone, regulated navigation area, or naval vessel
 289 protection zone after having been ordered to do so by a law
 290 enforcement officer or by competent military authority, commits
 291 a felony of the third degree, punishable as provided in s.
 292 775.082, s. 775.083, or s. 775.084.

293 (4) A person who enters a safety zone, security zone,
 294 regulated navigation area, or naval vessel protection zone by
 295 swimming, diving, wading, or other similar means commits a
 296 misdemeanor of the first degree, punishable as provided in s.
 297 775.082 or s. 775.083.

298 (5) A person who remains within or reenters such a safety
 299 zone, security zone, regulated navigation area, or naval vessel
 300 protection zone after being warned not to do so, or who refuses
 301 to leave or otherwise cease violating such a safety zone,
 302 security zone, regulated navigation area, or naval vessel
 303 protection zone after having been ordered to do so by a law
 304 enforcement officer or by competent military authority, commits
 305 a felony of the third degree, punishable as provided in s.
 306 775.082, s. 775.083, or s. 775.084.

307 (6) Each incursion into such a safety zone, security zone,
 308 regulated navigation area, or naval vessel protection zone is
 309 considered a separate offense.

310 (7) An entry into such a safety zone, security zone,
 311 regulated navigation area, or naval vessel protection zone that
 312 has been authorized by the captain of the port or the captain's
 313 designee is not a violation of this section.

314 Section 9. Paragraph (c) is added to subsection (9) of
 315 section 901.15, Florida Statutes, to read:

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316 901.15 When arrest by officer without warrant is
317 lawful.--A law enforcement officer may arrest a person without a
318 warrant when:

319 (9) There is probable cause to believe that the person has
320 committed:

321 (c) A violation of a safety zone, security zone, regulated
322 navigation area, or naval vessel protection zone as described in
323 s. 327.461.

324 Section 10. This act shall take effect upon becoming a
325 law.