

CHAMBER ACTION

1 The Committee on Natural Resources recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to vessel safety; amending s. 316.217,
7 F.S.; providing exception for purposes of law enforcement
8 to provisions requiring the display of lighted lamps;
9 amending s. 327.301, F.S.; revising requirements for
10 reports to the Division of Law Enforcement of the Fish and
11 Wildlife Conservation Commission of certain accidents
12 involving vessels; providing that a person who offers a
13 vessel for lease, rental, or charter is responsible for
14 compliance; amending s. 327.35215, F.S.; revising
15 disposition of moneys collected for certain civil
16 penalties; creating s. 327.461, F.S.; providing
17 legislative intent to authorize state and local law
18 enforcement agencies to operate in federally designated
19 safety zones, security zones, regulated navigation areas,
20 and naval vessel protection zones; prohibiting the
21 operation, or the authorization for the operation, of a
22 vessel in violation of a safety zone, security zone,
23 regulated navigation area, or naval vessel protection

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24 zone; providing penalties; prohibiting continuation of
 25 such operation, or authorization to operate, after a
 26 warning or an order to cease by law enforcement or
 27 military personnel; providing penalties; prohibiting
 28 entrance to such a zone by swimming, diving, wading, or
 29 similar means; providing penalties; prohibiting remaining
 30 in or reentering such a zone following a warning or order
 31 to leave by law enforcement or military personnel;
 32 providing penalties; providing that each incursion is a
 33 separate offense; providing that an entry authorized by
 34 the captain of the port or the captain's designee is not a
 35 violation; amending s. 327.731, F.S.; revising
 36 requirements to complete a boating safety course for
 37 certain violations; reenacting s. 327.73(11)(a), F.S.,
 38 relating to noncriminal infractions, to incorporate
 39 changes made by the act; amending s. 901.15, F.S.;
 40 authorizing a law enforcement officer to make an arrest
 41 without warrant under certain conditions for violation of
 42 specified navigation area restrictions; providing an
 43 effective date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. Subsection (4) of section 316.217, Florida
 48 Statutes, is renumbered as subsection (5), and a new subsection
 49 (4) is added to said section to read:
 50 316.217 When lighted lamps are required.--

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

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

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

60 (c) The law enforcement vehicle is operated in compliance
 61 with agency policy.

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

64
 65 The provisions of this subsection shall not relieve the operator
 66 of such a vehicle from the duty to drive with due regard for the
 67 safety of all persons, nor shall such provisions protect the
 68 vehicle operator from the consequences of his or her reckless
 69 disregard for the safety of others.

70 (5)(4) A violation of this section is a noncriminal
 71 traffic infraction, punishable as a moving violation as provided
 72 in chapter 318.

73 Section 2. Section 327.301, Florida Statutes, is amended
 74 to read:

75 327.301 Written reports of accidents.--

76 (1) The operator of a vessel that is in any manner
 77 involved in an accident resulting in bodily injury, death, or
 78 disappearance of any person or damage to any vessel or other

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79 | property in an apparent aggregate amount of at least \$2,000 ~~\$500~~
80 | shall, within the time limits specified in 33 C.F.R. s. 173.55,
81 | forward a written report of the accident to the division.

82 | Whenever the operator of the vessel is ~~physically~~ incapable of
83 | making a written report, the owner of the vessel shall, within
84 | the time limits specified in 33 C.F.R. s. 173.55, make the
85 | report not made by the operator. However, when the investigating
86 | officer has made a written report of the accident pursuant to
87 | subsection (3), a written report need not be forwarded to the
88 | division by the operator.

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

95 | (3) Every law enforcement officer who in the regular
96 | course of duty investigates a boating accident that resulted in
97 | bodily injury, death, or disappearance of any person or damage
98 | to any vessel or other property in an apparent aggregate amount
99 | of at least \$2,000 ~~\$500~~ shall, within 24 hours after completing
100 | the investigation, forward a written report of the accident to
101 | the division. However, in every case in which an accident report
102 | is required by this section and a written report by a law
103 | enforcement officer is not prepared, the law enforcement officer
104 | shall provide each party involved in the accident a short-form
105 | report, prescribed by the division, to be completed by the
106 | party. The short-form report must include, but is not limited

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107 | to: the date, time, and location of the accident; a description
108 | of the vessels involved; the names and addresses of the parties
109 | involved; the names and addresses of witnesses; and the name,
110 | badge number, and law enforcement agency of the officer
111 | investigating the accident. Accident reports made by law
112 | enforcement officers may not be used for commercial solicitation
113 | purposes; however, use of an accident report for purposes of
114 | publication in a newspaper or other news periodical or a radio
115 | or television broadcast shall not be construed as a "commercial
116 | purpose."

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

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135 or a radio or television broadcast shall not be construed as a
136 "commercial purpose."

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

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

144 (7)~~(6)~~ Any person ~~operator~~ failing to file the written
145 report required under subsection (1) or a supplemental written
146 report when required by the division under subsection (2) is
147 guilty of a noncriminal infraction.

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

150 327.35215 Penalty for failure to submit to test.--

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

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

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

161 ~~(c) If the arresting officer was employed or appointed by~~
162 ~~the Fish and Wildlife Conservation Commission as a wildlife~~

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163 ~~enforcement officer or a freshwater fisheries enforcement~~
 164 ~~officer, the money shall be deposited into the State Game Trust~~
 165 ~~Fund.~~

166 Section 4. Section 327.461, Florida Statutes, is created
 167 to read:

168 327.461 Safety zones, security zones, regulated navigation
 169 areas, and naval vessel protection zones; prohibited entry;
 170 penalties.--

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

175 (b) The intent of this section is to provide for state and
 176 local law enforcement agencies to operate in federally
 177 designated exclusion zones specified in paragraph (a). State and
 178 local law enforcement personnel may enforce these zones at the
 179 request of a federal authority if necessary to augment federal
 180 law enforcement efforts and if there is a compelling need to
 181 protect the residents and infrastructure of this state. Requests
 182 for state and local law enforcement personnel to enforce these
 183 zones must be made to the Department of Law Enforcement through
 184 the Florida Mutual Aid Plan described in s. 23.1231.

185 (2) A person who operates a vessel, or authorizes the
 186 operation of a vessel, in violation of such a safety zone,
 187 security zone, regulated navigation area, or naval vessel
 188 protection zone commits a misdemeanor of the first degree,
 189 punishable as provided in s. 775.082 or s. 775.083.

190 (3) A person who continues to operate, or authorize the
 191 operation of, a vessel in violation of such a safety zone,
 192 security zone, regulated navigation area, or naval vessel
 193 protection zone after being warned against doing so, or who
 194 refuses to leave or otherwise cease violating such a safety
 195 zone, security zone, regulated navigation area, or naval vessel
 196 protection zone after having been ordered to do so by a law
 197 enforcement officer or by competent military authority, commits
 198 a felony of the third degree, punishable as provided in s.
 199 775.082, s. 775.083, or s. 775.084.

200 (4) A person who enters a safety zone, security zone,
 201 regulated navigation area, or naval vessel protection zone by
 202 swimming, diving, wading, or other similar means commits a
 203 misdemeanor of the first degree, punishable as provided in s.
 204 775.082 or s. 775.083.

205 (5) A person who remains within or reenters such a safety
 206 zone, security zone, regulated navigation area, or naval vessel
 207 protection zone after being warned not to do so, or who refuses
 208 to leave or otherwise cease violating such a safety zone,
 209 security zone, regulated navigation area, or naval vessel
 210 protection zone after having been ordered to do so by a law
 211 enforcement officer or by competent military authority, commits
 212 a felony of the third degree, punishable as provided in s.
 213 775.082, s. 775.083, or s. 775.084.

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

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

221 Section 5. Subsection (1) of section 327.731, Florida
 222 Statutes, is amended to read:

223 327.731 Mandatory education for violators.--

224 (1) Every person convicted of a criminal violation of this
 225 chapter, every person convicted of a noncriminal infraction
 226 under this chapter if the infraction resulted in a reportable
 227 boating accident, and every person convicted of two noncriminal
 228 infractions as defined in s. 327.73(1)(h)-(k), (m), (o), (p)
 229 ~~(m)-(p)~~, and (s)-(u), said infractions occurring within a 12-
 230 month period, must:

231 (a) Enroll in, attend, and successfully complete, at his
 232 or her own expense, a boating safety course that meets minimum
 233 standards established by the commission by rule; however, the
 234 commission may provide by rule pursuant to chapter 120 for
 235 waivers of the attendance requirement for violators residing in
 236 areas where classroom presentation of the course is not
 237 available;

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

240 (c) Refrain from operating a vessel until he or she has
 241 filed the proof of successful completion of the course with the
 242 commission.

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

247 Section 6. For the purpose of incorporating the amendment
248 made by this act to section 327.731, Florida Statutes, in a
249 reference thereto, paragraph (a) of subsection (11) of section
250 327.73, Florida Statutes, is reenacted to read:

251 327.73 Noncriminal infractions.--

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

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

258
259 Court costs imposed under this subsection may not exceed \$30. A
260 criminal justice selection center or both local criminal justice
261 access and assessment centers may be funded from these court
262 costs.

263 Section 7. Paragraph (c) is added to subsection (9) of
264 section 901.15, Florida Statutes, to read:

265 901.15 When arrest by officer without warrant is
266 lawful.--A law enforcement officer may arrest a person without a
267 warrant when:

- 268 (9) There is probable cause to believe that the person has
269 committed:

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

273 Section 8. This act shall take effect upon becoming a law.