

CHAMBER ACTION

1 The Committee on Public Safety & Crime Prevention recommends the
2 following:

3
4 **Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

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

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

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

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

51 316.217 When lighted lamps are required.--

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

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

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

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

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

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

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

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

76 327.301 Written reports of accidents.--

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

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

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

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

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

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

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

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

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

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

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

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

151 327.35215 Penalty for failure to submit to test.--

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

154 (a) If the arresting officer was employed or appointed by
155 a state law enforcement agency ~~except as a wildlife enforcement~~
156 ~~officer or a freshwater fisheries enforcement officer of the~~
157 ~~Fish and Wildlife Conservation Commission~~, the moneys shall be
158 deposited into the Marine Resources Conservation Trust Fund and
159 used to directly enhance the ability of law enforcement officers
160 to perform law enforcement functions on state waters.

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

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

169 Section 4. Section 327.461, Florida Statutes, is created
 170 to read:

171 327.461 Safety zones, security zones, regulated navigation
 172 areas, and naval vessel protection zones; prohibited entry;
 173 penalties.--

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

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

188 (2) A person who operates a vessel, or authorizes the
 189 operation of a vessel, in violation of such a safety zone,
 190 security zone, regulated navigation area, or naval vessel

191 protection zone commits a misdemeanor of the first degree,
 192 punishable as provided in s. 775.082 or s. 775.083.

193 (3) A person who continues to operate, or authorize the
 194 operation of, a vessel in violation of such a safety zone,
 195 security zone, regulated navigation area, or naval vessel
 196 protection zone after being warned against doing so, or who
 197 refuses to leave or otherwise cease violating such a safety
 198 zone, security zone, regulated navigation area, or naval vessel
 199 protection zone after having been ordered to do so by a law
 200 enforcement officer or by competent military authority, commits
 201 a felony of the third degree, punishable as provided in s.
 202 775.082, s. 775.083, or s. 775.084.

203 (4) A person who enters a safety zone, security zone,
 204 regulated navigation area, or naval vessel protection zone by
 205 swimming, diving, wading, or other similar means commits a
 206 misdemeanor of the first degree, punishable as provided in s.
 207 775.082 or s. 775.083.

208 (5) A person who remains within or reenters such a safety
 209 zone, security zone, regulated navigation area, or naval vessel
 210 protection zone after being warned not to do so, or who refuses
 211 to leave or otherwise cease violating such a safety zone,
 212 security zone, regulated navigation area, or naval vessel
 213 protection zone after having been ordered to do so by a law
 214 enforcement officer or by competent military authority, commits
 215 a felony of the third degree, punishable as provided in s.
 216 775.082, s. 775.083, or s. 775.084.

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

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

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

226 327.731 Mandatory education for violators.--

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

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

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

243 (c) Refrain from operating a vessel until he or she has
 244 filed the proof of successful completion of the course with the
 245 commission.

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

250 Section 6. For the purpose of incorporating the amendment
 251 made by this act to section 327.731, Florida Statutes, in a
 252 reference thereto, paragraph (a) of subsection (11) of section
 253 327.73, Florida Statutes, is reenacted to read:

254 327.73 Noncriminal infractions.--

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

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

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

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

268 901.15 When arrest by officer without warrant is
 269 lawful.--A law enforcement officer may arrest a person without a
 270 warrant when:

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271 (9) There is probable cause to believe that the person has
272 committed:

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

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