

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; providing for use of moneys collected; creating
13 s. 327.461, F.S.; providing legislative intent to
14 authorize state and local law enforcement agencies to
15 operate in federally designated safety zones, security
16 zones, regulated navigation areas, and naval vessel
17 protection zones; prohibiting the operation, or the
18 authorization for the operation, of a vessel in violation
19 of a safety zone, security zone, regulated navigation
20 area, or naval vessel protection zone; providing
21 penalties; prohibiting continuation of such operation, or
22 authorization to operate, after a warning or an order to
23 cease by law enforcement or military personnel; providing
24 penalties; prohibiting entrance to such a zone by
25 swimming, diving, wading, or similar means; providing
26 penalties; prohibiting remaining in or reentering such a
27 zone following a warning or order to leave by law
28 enforcement or military personnel; providing penalties;

29 providing that each incursion is a separate offense;
30 providing that an entry authorized by the captain of the
31 port or the captain's designee is not a violation;
32 amending s. 327.731, F.S.; revising requirements to
33 complete a boating safety course for certain violations;
34 reenacting s. 327.73(11)(a), F.S., relating to noncriminal
35 infractions, to incorporate changes made by the act;
36 amending s. 901.15, F.S.; authorizing a law enforcement
37 officer to make an arrest without warrant under certain
38 conditions for violation of specified navigation area
39 restrictions; providing an effective date.

40
41 Be It Enacted by the Legislature of the State of Florida:

42
43 Section 1. Subsection (4) of section 316.217, Florida
44 Statutes, is renumbered as subsection (5), and a new subsection
45 (4) is added to said section to read:

46 316.217 When lighted lamps are required.--

47 (4) Law enforcement vehicles may be operated without the
48 display of lighted lamps required by this chapter under the
49 following conditions:

50 (a) Operation without the display of lighted lamps is
51 necessary to the performance of a law enforcement officer's
52 duties.

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

56 (c) The law enforcement vehicle is operated in compliance
 57 with agency policy.

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

60
 61 The provisions of this subsection shall not relieve the operator
 62 of such a vehicle from the duty to drive with due regard for the
 63 safety of all persons, nor shall such provisions protect the
 64 vehicle operator from the consequences of his or her reckless
 65 disregard for the safety of others.

66 ~~(5)(4)~~ A violation of this section is a noncriminal
 67 traffic infraction, punishable as a moving violation as provided
 68 in chapter 318.

69 Section 2. Section 327.301, Florida Statutes, is amended
 70 to read:

71 327.301 Written reports of accidents.--

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

78 Whenever the operator of the vessel is ~~physically~~ incapable of
 79 making a written report, the owner of the vessel shall, within
 80 the time limits specified in 33 C.F.R. s. 173.55, make the
 81 report not made by the operator. However, when the investigating
 82 officer has made a written report of the accident pursuant to

83 subsection (3), a written report need not be forwarded to the
84 division by the operator.

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

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

111 or television broadcast shall not be construed as a "commercial
112 purpose."

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

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

136 (6) If the vessel is leased, rented, or chartered at the
137 time of the accident, the person who offered the vessel for

138 lease, rental, or charter shall be responsible for complying
 139 with this section and s. 327.30.

140 ~~(7)(6)~~ Any person ~~operator~~ failing to file the written
 141 report required under subsection (1) or a supplemental written
 142 report when required by the division under subsection (2) is
 143 guilty of a noncriminal infraction.

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

146 327.35215 Penalty for failure to submit to test.--

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

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

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

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

164 Section 4. Section 327.461, Florida Statutes, is created
 165 to read:

166 327.461 Safety zones, security zones, regulated navigation
167 areas, and naval vessel protection zones; prohibited entry;
168 penalties.--

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

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

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

190 (3) A person who continues to operate, or authorize the
191 operation of, a vessel in violation of the restrictions of such
192 a safety zone, security zone, regulated navigation area, or
193 naval vessel protection zone after being warned against doing

194 so, or who refuses to leave or otherwise cease violating the
195 restrictions of such a safety zone, security zone, regulated
196 navigation area, or naval vessel protection zone after having
197 been ordered to do so by a law enforcement officer or by
198 competent military authority, commits a felony of the third
199 degree, punishable as provided in s. 775.082, s. 775.083, or s.
200 775.084.

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

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

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

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

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

224 327.731 Mandatory education for violators.--

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

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

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

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

244

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

248 Section 6. For the purpose of incorporating the amendment
249 made by this act to section 327.731, Florida Statutes, in a

250 reference thereto, paragraph (a) of subsection (11) of section
 251 327.73, Florida Statutes, is reenacted to read:

252 327.73 Noncriminal infractions.--

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

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

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

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

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

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

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

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