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2004 Legislature

A bill to be entitled

An act relating to vessel safety; amending s. 316.217, F.S.; providing exception for purposes of law enforcement to provisions requiring the display of lighted lamps; amending s. 327.301, F.S.; revising requirements for reports to the Division of Law Enforcement of the Fish and Wildlife Conservation Commission of certain accidents involving vessels; providing that a person who offers a vessel for lease, rental, or charter is responsible for compliance; amending s. 327.35215, F.S.; revising disposition of moneys collected for certain civil penalties; providing for use of moneys collected; creating s. 327.461, F.S.; providing legislative intent to authorize state and local law enforcement agencies to operate in federally designated safety zones, security zones, regulated navigation areas, and naval vessel protection zones; prohibiting the operation, or the authorization for the operation, of a vessel in violation of a safety zone, security zone, regulated navigation area, or naval vessel protection zone; providing penalties; prohibiting continuation of such operation, or authorization to operate, after a warning or an order to cease by law enforcement or military personnel; providing penalties; prohibiting entrance to such a zone by swimming, diving, wading, or similar means; providing penalties; prohibiting remaining in or reentering such a zone following a warning or order to leave by law enforcement or military personnel; providing penalties;

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

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

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

316.217 When lighted lamps are required.--

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

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

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

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

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

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

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

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

327.301 Written reports of accidents.--

(1) The operator of a vessel that is in any manner involved in an accident resulting in bodily injury, death, or disappearance of any person or damage to any vessel or other property in an apparent aggregate amount of at least \$2,000 ~~\$500~~ shall, within the time limits specified in 33 C.F.R. s. 173.55, forward a written report of the accident to the division. Whenever the operator of the vessel is ~~physically~~ incapable of making a written report, the owner of the vessel shall, within the time limits specified in 33 C.F.R. s. 173.55, make the report not made by the operator. However, when the investigating officer has made a written report of the accident pursuant to

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

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

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

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

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

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

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

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

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

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

327.35215 Penalty for failure to submit to test.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

327.731 Mandatory education for violators.--

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

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

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

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

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

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

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

327.73 Noncriminal infractions.--

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

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

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

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

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

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

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

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