

By Senator Smith

14-1536A-04

See HB 1613

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

1 safety zones, security zones, regulated
2 navigation areas, and naval vessel protection
3 zones; prohibiting the operation, or the
4 authorization for the operation, of a vessel in
5 violation of a safety zone, security zone,
6 regulated navigation area, or naval vessel
7 protection zone; providing penalties;
8 prohibiting continuation of such operation, or
9 authorization to operate, after a warning or an
10 order to cease by law enforcement or military
11 personnel; providing penalties; prohibiting
12 entrance to such a zone by swimming, diving,
13 wading, or similar means; providing penalties;
14 prohibiting remaining in or reentering such a
15 zone following a warning or order to leave by
16 law enforcement or military personnel;
17 providing penalties; providing that each
18 incursion is a separate offense; providing that
19 an entry authorized by the captain of the port
20 or the captain's designee is not a violation;
21 amending s. 901.15, F.S.; providing that a law
22 enforcement officer may arrest a person without
23 a warrant if there is probable cause to believe
24 that the person has violated s. 327.461, F.S.;

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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 that section to read:

1 316.217 When lighted lamps are required.--

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

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

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

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

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

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

21 ~~(5)~~(4) A violation of this section is a noncriminal
22 traffic infraction, punishable as a moving violation as
23 provided in chapter 318.

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

26 327.301 Written reports of accidents.--

27 (1) The operator of a vessel that is in any manner
28 involved in an accident resulting in bodily injury, death, or
29 disappearance of any person or damage to any vessel or other
30 property in an apparent aggregate amount of at least \$2,000
31 ~~\$500~~ shall, within the time limits specified in 33 C.F.R. s.

1 173.55, forward a written report of the accident to the
2 division. Whenever the operator of the vessel is ~~physically~~
3 incapable of making a written report, the owner of the vessel
4 shall, within the time limits specified in 33 C.F.R. s.
5 173.55, make the report not made by the operator. However,
6 when the investigating officer has made a written report of
7 the accident pursuant to subsection (3), a written report need
8 not be forwarded to the division by the operator.

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

15 (3) Every law enforcement officer who in the regular
16 course of duty investigates a boating accident that resulted
17 in bodily injury, death, or disappearance of any person or
18 damage to any vessel or other property in an apparent
19 aggregate amount of at least ~~\$2,000~~\$500 shall, within 24
20 hours after completing the investigation, forward a written
21 report of the accident to the division. However, in every case
22 in which an accident report is required by this section and a
23 written report by a law enforcement officer is not prepared,
24 the law enforcement officer shall provide each party involved
25 in the accident a short-form report, prescribed by the
26 division, to be completed by the party. The short-form report
27 must include, but is not limited to: the date, time, and
28 location of the accident; a description of the vessels
29 involved; the names and addresses of the parties involved; the
30 names and addresses of witnesses; and the name, badge number,
31 and law enforcement agency of the officer investigating the

1 accident. Accident reports made by law enforcement officers
2 may not be used for commercial solicitation purposes; however,
3 use of an accident report for purposes of publication in a
4 newspaper or other news periodical or a radio or television
5 broadcast shall not be construed as a "commercial purpose."

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

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

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

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

3 ~~(7)(6)~~ Any person operator failing to file the written
4 report required under subsection (1) or a supplemental written
5 report when required by the division under subsection (2) is
6 guilty of a noncriminal infraction.

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

9 327.35215 Penalty for failure to submit to test.--

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

13 (a) If the arresting officer was employed or appointed
14 by a state law enforcement agency ~~except as a wildlife~~
15 ~~enforcement officer or a freshwater fisheries enforcement~~
16 ~~officer of the Fish and Wildlife Conservation Commission~~, the
17 moneys shall be deposited into the Marine Resources
18 Conservation Trust Fund.

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

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

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

30 327.39 Personal watercraft regulated.--

1 (3) A person may not operate a personal watercraft at
2 any time between the hours from ~~one-half hour after~~ sunset to
3 ~~one-half hour before~~ sunrise. However, an agent or employee of
4 a fire or emergency rescue service is exempt from this
5 subsection while performing his or her official duties.

6 Section 5. Subsection (1) of section 327.395, Florida
7 Statutes, is amended, and subsection (7) of that section is
8 reenacted, to read:

9 327.395 Boating safety identification cards.--

10 (1) ~~Until October 1, 2001,~~A person born after
11 September 30, 1980, ~~and on or after October 1, 2001,~~ a person
12 ~~21 years of age or younger~~ may not operate a vessel powered by
13 a motor of 10 horsepower or greater unless such person has in
14 his or her possession aboard the vessel photographic
15 identification and a boater safety identification card issued
16 by the commission which shows that he or she has:

17 (a) Completed a commission-approved boater education
18 course that meets the minimum 8-hour instruction requirement
19 established by the National Association of State Boating Law
20 Administrators;

21 (b) Passed a course equivalency examination approved
22 by the commission; or

23 (c) Passed a temporary certificate examination
24 developed or approved by the commission.

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

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

29 327.731 Mandatory education for violators.--

30 (1) Every person convicted of a criminal violation of
31 this chapter, every person convicted of a noncriminal

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

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

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

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

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

22 Section 7. For the purpose of incorporating the
23 amendments made by this act to sections 327.39, 327.395, and
24 327.731, Florida Statutes, in references thereto, paragraphs
25 (p) and (s) of subsection (1) and paragraph (a) of subsection
26 (11) of section 327.73, Florida Statutes, are reenacted to
27 read:

28 327.73 Noncriminal infractions.--

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

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

3 (s) Section 327.395, relating to boater safety
4 education.

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6 Any person cited for a violation of any such provision shall
7 be deemed to be charged with a noncriminal infraction, shall
8 be cited for such an infraction, and shall be cited to appear
9 before the county court. The civil penalty for any such
10 infraction is \$50, except as otherwise provided in this
11 section. Any person who fails to appear or otherwise properly
12 respond to a uniform boating citation shall, in addition to
13 the charge relating to the violation of the boating laws of
14 this state, be charged with the offense of failing to respond
15 to such citation and, upon conviction, be guilty of a
16 misdemeanor of the second degree, punishable as provided in s.
17 775.082 or s. 775.083. A written warning to this effect shall
18 be provided at the time such uniform boating citation is
19 issued.

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

- 23 1. For swimming or diving infractions, \$3.
24 2. For nonmoving boating infractions, \$6.
25 3. For boating infractions listed in s. 327.731(1),
26 \$10.

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

1 Section 8. Section 327.461, Florida Statutes, is
2 created to read:

3 327.461 Safety zones, security zones, regulated
4 navigation areas, and naval vessel protection zones;
5 prohibited entry; penalties.--

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

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

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

27 (3) A person who continues to operate, or authorize
28 the operation of, a vessel in violation of such a safety zone,
29 security zone, regulated navigation area, or naval vessel
30 protection zone after being warned against doing so, or who
31 refuses to leave or otherwise cease violating such a safety

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

6 (4) A person who enters a safety zone, security zone,
7 regulated navigation area, or naval vessel protection zone by
8 swimming, diving, wading, or other similar means commits a
9 misdemeanor of the first degree, punishable as provided in s.
10 775.082 or s. 775.083.

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

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

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

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

29 901.15 When arrest by officer without warrant is
30 lawful.--A law enforcement officer may arrest a person without
31 a warrant when:

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

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

6 Section 10. This act shall take effect upon becoming a
7 law.

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