

By the Committee on Natural Resources; and Senator Smith

312-2269-04

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. 327.731, F.S.;
15 revising requirements to complete a boating
16 safety course for certain violations; creating
17 s. 327.461, F.S.; providing legislative intent
18 to authorize state and local law enforcement
19 agencies to operate in federally designated
20 safety zones, security zones, regulated
21 navigation areas, and naval vessel protection
22 zones; prohibiting the operation, or the
23 authorization for the operation, of a vessel in
24 violation of a safety zone, security zone,
25 regulated navigation area, or naval vessel
26 protection zone; providing penalties;
27 prohibiting continuation of such operation, or
28 authorization to operate, after a warning or an
29 order to cease by law enforcement or military
30 personnel; providing penalties; prohibiting
31 entrance to such a zone by swimming, diving,

1 wading, or similar means; providing penalties;
2 prohibiting remaining in or reentering such a
3 zone following a warning or order to leave by
4 law enforcement or military personnel;
5 providing penalties; providing that each
6 incursion is a separate offense; providing that
7 an entry authorized by the captain of the port
8 or the captain's designee is not a violation;
9 amending s. 901.15, F.S.; providing that a law
10 enforcement officer may arrest a person without
11 a warrant if there is probable cause to believe
12 that the person has violated s. 327.461, F.S.;
13 providing an effective date.
14

15 Be It Enacted by the Legislature of the State of Florida:
16

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

20 316.217 When lighted lamps are required.--

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

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

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

30 (c) The law enforcement vehicle is operated in
31 compliance with agency policy; and

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

3
4 The provisions of this subsection shall not relieve the
5 operator of such a vehicle from the duty to drive with due
6 regard for the safety of all persons, nor shall such
7 provisions protect the vehicle operator from the consequences
8 of his or her reckless disregard for the safety of others.

9 ~~(5)(4)~~ A violation of this section is a noncriminal
10 traffic infraction, punishable as a moving violation as
11 provided in chapter 318.

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

14 327.301 Written reports of accidents.--

15 (1) The operator of a vessel that is in any manner
16 involved in an accident resulting in bodily injury, death, or
17 disappearance of any person or damage to any vessel or other
18 property in an apparent aggregate amount of at least \$2,000
19 ~~\$500~~ shall, within the time limits specified in 33 C.F.R. s.
20 173.55, forward a written report of the accident to the
21 division. Whenever the operator of the vessel is ~~physically~~
22 incapable of making a written report, the owner of the vessel
23 shall, within the time limits specified in 33 C.F.R. s.
24 173.55, make the report not made by the operator. However,
25 when the investigating officer has made a written report of
26 the accident pursuant to subsection (3), a written report need
27 not be forwarded to the division by the operator.

28 (2) The division may require any operator of a vessel
29 involved in an accident of which written report must be made
30 as provided in this section to file supplemental written
31 reports whenever the original report is insufficient in the

1 opinion of the division, and may require any witness to the
2 accident to render a report to the division.

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

25 (4) Except as specified in this subsection, each
26 accident report made by a person involved in an accident and
27 any statement made by such person to a law enforcement officer
28 for the purpose of completing an accident report required by
29 this section is without prejudice to the individual reporting.
30 Such report or statement may not be used as evidence in any
31 trial, civil or criminal. However, subject to the applicable

1 rules of evidence, a law enforcement officer who is a witness
2 in a criminal trial may testify as to any statement made to
3 the officer by the person involved in the accident if that
4 person's privilege against self-incrimination is not violated.
5 The results of breath, urine, and blood tests administered as
6 provided in s. 327.352 or s. 327.353 are not confidential and
7 shall be admissible into evidence in accordance with the
8 provisions of s. 327.354. Accident reports made by persons
9 involved in accidents may not be used for commercial
10 solicitation purposes; however, use of an accident report for
11 purposes of publication in a newspaper or other news
12 periodical or a radio or television broadcast shall not be
13 construed as a "commercial purpose."

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

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

21 ~~(7)(6)~~ Any person ~~operator~~ failing to file the written
22 report required under subsection (1) or a supplemental written
23 report when required by the division under subsection (2) is
24 guilty of a noncriminal infraction.

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

27 327.35215 Penalty for failure to submit to test.--

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

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1 (a) If the arresting officer was employed or appointed
2 by a state law enforcement agency ~~except as a wildlife~~
3 ~~enforcement officer or a freshwater fisheries enforcement~~
4 ~~officer of the Fish and Wildlife Conservation Commission~~, the
5 moneys shall be deposited into the Marine Resources
6 Conservation Trust Fund.

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

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

16 Section 4. Subsection (1) of section 327.731, Florida
17 Statutes, is amended to read:

18 327.731 Mandatory education for violators.--

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

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

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

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

8
9 Any person who has successfully completed an approved boating
10 course shall be exempt from these provisions upon showing
11 proof to the commission as specified in paragraph (b).

12 Section 5. Section 327.461, Florida Statutes, is
13 created to read:

14 327.461 Safety zones, security zones, regulated
15 navigation areas, and naval vessel protection zones;
16 prohibited entry; penalties.--

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

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

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

8 (3) A person who continues to operate, or authorize
9 the operation of, a vessel in violation of such a safety zone,
10 security zone, regulated navigation area, or naval vessel
11 protection zone after being warned against doing so, or who
12 refuses to leave or otherwise cease violating such a safety
13 zone, security zone, regulated navigation area, or naval
14 vessel protection zone after having been ordered to do so by a
15 law enforcement officer or by competent military authority,
16 commits a felony of the third degree, punishable as provided
17 in s. 775.082, s. 775.083, or s. 775.084.

18 (4) A person who enters a safety zone, security zone,
19 regulated navigation area, or naval vessel protection zone by
20 swimming, diving, wading, or other similar means commits a
21 misdemeanor of the first degree, punishable as provided in s.
22 775.082 or s. 775.083.

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

