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CHAMBER ACTION

1 The Water & Natural Resources Committee recommends the
2 following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to airboats; amending s. 327.02, F.S.;
8 defining the terms "airboat" and "muffler"; conforming
9 terminology; creating s. 327.391, F.S.; providing for
10 regulation of airboat operation and equipment; requiring
11 described sound-muffling device; prohibiting the use of
12 cutouts and flex pipe; requiring display of described
13 flag; providing penalties; providing exceptions; amending
14 s. 327.73, F.S.; providing for penalties, court costs, and
15 procedures for disposition of citations for specified
16 violations; amending s. 327.731, F.S.; requiring certain
17 violators to complete a described boating safety course
18 and to file proof of completion with the Fish and Wildlife
19 Conservation Commission prior to operating a vessel;
20 providing for an exemption from the course; amending ss.
21 320.08, 328.17, 342.07, 616.242, 713.78, and 715.07, F.S.;
22 revising cross-references and terminology to conform to
23 changes made by the act; providing an effective date.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

Section 1. Present subsection (37) of section 327.02, Florida Statutes, is amended, subsections (1) through (22) are renumbered as subsections (2) through (23), respectively, subsections (23) through (38) are renumbered as subsections (25) through (40), respectively, and new subsections (1) and (24) are added to that section, to read:

327.02 Definitions of terms used in this chapter and in chapter 328.--As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:

(1) "Airboat" means a vessel, designed for use in shallow waters, powered by an internal combustion engine with an airplane-type propeller mounted above the stern used to push air across a set of rudders.

(24) "Muffler" means an automotive-style sound-suppression device or system designed to effectively abate the sound of exhaust gases emitted from an internal combustion engine and prevent excessive sound when installed on such engine.

(39)-(37) "Vessel" is synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat ~~air-boat~~, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Section 2. Section 327.391, Florida Statutes, is created to read:

327.391 Airboats regulated.--

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52 (1) The exhaust of every internal combustion engine used
53 on any airboat operated on the waters of this state shall be
54 provided with an automotive-style factory muffler, underwater
55 exhaust, or other manufactured device capable of adequately
56 muffling the sound of the exhaust of the engine as described in
57 s. 327.02(24). The use of cutouts or flex pipe is prohibited,
58 except as provided in subsection (4). Any person who violates
59 this subsection commits a noncriminal infraction, punishable as
60 provided in s. 327.73(1).

61 (2) An airboat operator cited for an infraction of this
62 section shall not operate the airboat until a muffler as defined
63 in s. 327.02 is installed. A second or any subsequent violation
64 of this section is a second degree misdemeanor, punishable as
65 provided in s. 775.083.

66 (3) An airboat may not operate on the waters of the state
67 unless it is equipped with a mast or flagpole bearing a flag at
68 a height of at least 10 feet above the deck. The flag must be
69 square or rectangular, at least 10 inches by 12 inches in size,
70 international orange in color, and displayed so that the
71 visibility of the flag is not obscured in any direction. Any
72 person who violates this subsection commits a noncriminal
73 infraction, punishable as provided in s. 327.73(1).

74 (4) This section does not apply to a performer engaged in
75 a professional exhibition or a person preparing to participate
76 or participating in a regatta, race, marine parade, tournament,
77 or exhibition held in compliance with s. 327.48.

78 Section 3. Paragraphs (v) and (w) are added to subsection
79 (1) of section 327.73, Florida Statutes, to read:

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80 327.73 Noncriminal infractions.--

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

83 (v) Section 327.391(1), relating to requirement for an
84 adequate muffler on an airboat.

85 (w) Section 327.391(3), relating to display of a flag on
86 an airboat.

87
88 Any person cited for a violation of any such provision shall be
89 deemed to be charged with a noncriminal infraction, shall be
90 cited for such an infraction, and shall be cited to appear
91 before the county court. The civil penalty for any such
92 infraction is \$50, except as otherwise provided in this section.

93 Any person who fails to appear or otherwise properly respond to
94 a uniform boating citation shall, in addition to the charge
95 relating to the violation of the boating laws of this state, be
96 charged with the offense of failing to respond to such citation
97 and, upon conviction, be guilty of a misdemeanor of the second
98 degree, punishable as provided in s. 775.082 or s. 775.083. A
99 written warning to this effect shall be provided at the time
100 such uniform boating citation is issued.

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

103 327.731 Mandatory education for violators.--

104 (1) Every person convicted of a criminal violation of this
105 chapter, every person convicted of a noncriminal infraction
106 under this chapter if the infraction resulted in a reportable
107 boating accident, and every person convicted of two noncriminal

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108 | infractions as defined in s. 327.73(1)(h)-(k), (m), (o), (p),
109 | and (s)-(w) ~~(s)-(u)~~, said infractions occurring within a 12-
110 | month period, must:

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

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

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

123 |
124 | Any person who has successfully completed an approved boating
125 | course shall be exempt from these provisions upon showing proof
126 | to the commission as specified in paragraph (b).

127 | Section 5. Paragraphs (d) and (e) of subsection (5) of
128 | section 320.08, Florida Statutes, are amended to read:

129 | 320.08 License taxes.--Except as otherwise provided
130 | herein, there are hereby levied and imposed annual license taxes
131 | for the operation of motor vehicles, mopeds, motorized bicycles
132 | as defined in s. 316.003(2), and mobile homes, as defined in s.
133 | 320.01, which shall be paid to and collected by the department
134 | or its agent upon the registration or renewal of registration of
135 | the following:

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136 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
137 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.--

138 (d) A wrecker, as defined in s. 320.01(40), which is used
139 to tow a vessel as defined in s. 327.02(39)~~(36)~~, a disabled,
140 abandoned, stolen-recovered, or impounded motor vehicle as
141 defined in s. 320.01(38), or a replacement motor vehicle as
142 defined in s. 320.01(39): \$30 flat.

143 (e) A wrecker, as defined in s. 320.01(40), which is used
144 to tow any motor vehicle, regardless of whether or not such
145 motor vehicle is a disabled motor vehicle as defined in s.
146 320.01(38), a replacement motor vehicle as defined in s.
147 320.01(39), a vessel as defined in s. 327.02(39)~~(36)~~, or any
148 other cargo, as follows:

149 1. Gross vehicle weight of 10,000 pounds or more, but less
150 than 15,000 pounds: \$87 flat.

151 2. Gross vehicle weight of 15,000 pounds or more, but less
152 than 20,000 pounds: \$131 flat.

153 3. Gross vehicle weight of 20,000 pounds or more, but less
154 than 26,000 pounds: \$186 flat.

155 4. Gross vehicle weight of 26,000 pounds or more, but less
156 than 35,000 pounds: \$240 flat.

157 5. Gross vehicle weight of 35,000 pounds or more, but less
158 than 44,000 pounds: \$300 flat.

159 6. Gross vehicle weight of 44,000 pounds or more, but less
160 than 55,000 pounds: \$572 flat.

161 7. Gross vehicle weight of 55,000 pounds or more, but less
162 than 62,000 pounds: \$678 flat.

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163 8. Gross vehicle weight of 62,000 pounds or more, but less
164 than 72,000 pounds: \$800 flat.

165 9. Gross vehicle weight of 72,000 pounds or more: \$979
166 flat.

167 Section 6. Subsection (4) of section 328.17, Florida
168 Statutes, is amended to read:

169 328.17 Nonjudicial sale of vessels.--

170 (4) A marina, as defined in s. 327.02(20)-~~(19)~~, shall have
171 a possessory lien upon any vessel for storage fees, dockage
172 fees, repairs, improvements, or other work-related storage
173 charges, and for expenses necessary for preservation of the
174 vessel or expenses reasonably incurred in the sale or other
175 disposition of the vessel. The possessory lien shall attach as
176 of the date the vessel is brought to the marina, or as of the
177 date the vessel first occupies rental space at the marina
178 facility. However, in the event of default, the marina must give
179 notice to persons who hold perfected security interests against
180 the vessel under the Uniform Commercial Code in which the owner
181 is named as the debtor.

182 Section 7. Subsection (2) of section 342.07, Florida
183 Statutes, is amended to read:

184 342.07 Recreational and commercial working waterfronts;
185 legislative findings; definitions.--

186 (2) As used in this section, the term "recreational and
187 commercial working waterfront" means a parcel or parcels of real
188 property that provide access for water-dependent commercial
189 activities or provide access for the public to the navigable
190 waters of the state. Recreational and commercial working

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191 waterfronts require direct access to or a location on, over, or
 192 adjacent to a navigable body of water. The term includes water-
 193 dependent facilities that are open to the public and offer
 194 public access by vessels to the waters of the state or that are
 195 support facilities for recreational, commercial, research, or
 196 governmental vessels. These facilities include docks, wharfs,
 197 lifts, wet and dry marinas, boat ramps, boat hauling and repair
 198 facilities, commercial fishing facilities, boat construction
 199 facilities, and other support structures over the water. As used
 200 in this section, the term "vessel" has the same meaning as in s.
 201 327.02(39) ~~(37)~~. Seaports are excluded from the definition.

202 Section 8. Paragraph (a) of subsection (10) of section
 203 616.242, Florida Statutes, is amended to read:

204 616.242 Safety standards for amusement rides.--

205 (10) EXEMPTIONS.--

206 (a) This section does not apply to:

207 1. Permanent facilities that employ at least 1,000 full-
 208 time employees and that maintain full-time, in-house safety
 209 inspectors. Furthermore, the permanent facilities must file an
 210 affidavit of the annual inspection with the department, on a
 211 form prescribed by rule of the department. Additionally, the
 212 Department of Agriculture and Consumer Services may consult
 213 annually with the permanent facilities regarding industry safety
 214 programs.

215 2. Any playground operated by a school, local government,
 216 or business licensed under chapter 509, if the playground is an
 217 incidental amenity and the operating entity is not primarily

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218 engaged in providing amusement, pleasure, thrills, or
219 excitement.

220 3. Museums or other institutions principally devoted to
221 the exhibition of products of agriculture, industry, education,
222 science, religion, or the arts.

223 4. Conventions or trade shows for the sale or exhibit of
224 amusement rides if there are a minimum of 15 amusement rides on
225 display or exhibition, and if any operation of such amusement
226 rides is limited to the registered attendees of the convention
227 or trade show.

228 5. Skating rinks, arcades, lazer or paint ball war games,
229 bowling alleys, miniature golf courses, mechanical bulls,
230 inflatable rides, trampolines, ball crawls, exercise equipment,
231 jet skis, paddle boats, airboats ~~air-boats~~, helicopters,
232 airplanes, parasails, hot air or helium balloons whether
233 tethered or untethered, theatres, batting cages, stationary
234 spring-mounted fixtures, rider-propelled merry-go-rounds, games,
235 side shows, live animal rides, or live animal shows.

236 6. Go-karts operated in competitive sporting events if
237 participation is not open to the public.

238 7. Nonmotorized playground equipment that is not required
239 to have a manager.

240 8. Coin-actuated amusement rides designed to be operated
241 by depositing coins, tokens, credit cards, debit cards, bills,
242 or other cash money and which are not required to have a
243 manager, and which have a capacity of six persons or less.

244 9. Facilities described in s. 549.09(1)(a) when such
245 facilities are operating cars, trucks, or motorcycles only.

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246 10. Battery-powered cars or other vehicles that are
247 designed to be operated by children 7 years of age or under and
248 that cannot exceed a speed of 4 miles per hour.

249 11. Mechanically driven vehicles that pull train cars,
250 carts, wagons, or other similar vehicles, that are not confined
251 to a metal track or confined to an area but are steered by an
252 operator and do not exceed a speed of 4 miles per hour.

253 Section 9. Paragraph (b) of subsection (1) of section
254 713.78, Florida Statutes, is amended to read:

255 713.78 Liens for recovering, towing, or storing vehicles
256 and vessels.--

257 (1) For the purposes of this section, the term:

258 (b) "Vessel" means every description of watercraft, barge,
259 and airboat ~~air boat~~ used or capable of being used as a means of
260 transportation on water, other than a seaplane or a "documented
261 vessel" as defined in s. 327.02 (9) ~~(8)~~.

262 Section 10. Paragraph (b) of subsection (1) of section
263 715.07, Florida Statutes, is amended to read:

264 715.07 Vehicles or vessels parked on private property;
265 towing.--

266 (1) As used in this section, the term:

267 (b) "Vessel" means every description of watercraft, barge,
268 and airboat used or capable of being used as a means of
269 transportation on water, other than a seaplane or a "documented
270 vessel" as defined in s. 327.02 (9) ~~(8)~~.

271 Section 11. This act shall take effect October 1, 2006.