

CHAMBER ACTION

1 The State Resources Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5
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 or flex pipe as the sole source of muffling;
13 requiring display of described flag; providing penalties;
14 providing exceptions; amending s. 327.60, F.S.;
15 prohibiting an ordinance or local law from discriminating
16 against airboats except under certain circumstances;
17 amending s. 327.73, F.S.; providing for penalties, court
18 costs, and procedures for disposition of citations for
19 specified violations; amending s. 327.731, F.S.; requiring
20 certain violators to complete a described boating safety
21 course and to file proof of completion with the Fish and
22 Wildlife Conservation Commission prior to operating a
23 vessel; providing for an exemption from the course;

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24 | amending ss. 320.08, 328.17, 342.07, 616.242, 713.78, and
 25 | 715.07, F.S.; revising cross-references and terminology to
 26 | conform to changes made by the act; providing effective
 27 | dates.

28

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

30

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

37 | 327.02 Definitions of terms used in this chapter and in
 38 | chapter 328.--As used in this chapter and in chapter 328, unless
 39 | the context clearly requires a different meaning, the term:

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

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

48 | (39)-(37) "Vessel" is synonymous with boat as referenced in
 49 | s. 1(b), Art. VII of the State Constitution and includes every
 50 | description of watercraft, barge, and airboat ~~air boat~~, other

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51 | than a seaplane on the water, used or capable of being used as a
52 | means of transportation on water.

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

55 | 327.391 Airboats regulated.--

56 | (1) The exhaust of every internal combustion engine used
57 | on any airboat operated on the waters of this state shall be
58 | provided with an automotive-style factory muffler, underwater
59 | exhaust, or other manufactured device capable of adequately
60 | muffling the sound of the exhaust of the engine as described in
61 | s. 327.02(24). The use of cutouts or flex pipe as the sole
62 | source of muffling is prohibited, except as provided in
63 | subsection (4). Any person who violates this subsection commits
64 | a noncriminal infraction punishable as provided in s. 327.73(1).
65 | A second violation of this subsection within 12 months shall be
66 | punishable by a fine of \$250, a third violation within 12 months
67 | shall be punishable by a fine of \$500, and any subsequent
68 | violation shall be punishable by a fine of \$500.

69 | (2) An airboat operator cited for an infraction of
70 | subsection (1) shall not operate the airboat until a muffler as
71 | defined in s. 327.02 is installed.

72 | (3) An airboat may not operate on the waters of the state
73 | unless it is equipped with a mast or flagpole bearing a flag at
74 | a height of at least 10 feet above the lowest portion of the
75 | vessel. The flag must be square or rectangular, at least 10
76 | inches by 12 inches in size, international orange in color, and
77 | displayed so that the visibility of the flag is not obscured in

78 | any direction. Any person who violates this subsection commits a
 79 | noncriminal infraction, punishable as provided in s. 327.73(1).

80 | (4) This section does not apply to a performer engaged in
 81 | a professional exhibition or a person preparing to participate
 82 | or participating in a regatta, race, marine parade, tournament,
 83 | or exhibition held in compliance with s. 327.48.

84 | Section 3. Effective July 1, 2006, subsection (1) of
 85 | section 327.60, Florida Statutes, is amended to read:

86 | 327.60 Local regulations; limitations.--

87 | (1) The provisions of ss. 327.01, 327.02, 327.30-327.40,
 88 | 327.44-327.50, 327.54, 327.56, 327.65, 328.40-328.48, 328.52-
 89 | 328.58, 328.62, and 328.64 shall govern the operation,
 90 | equipment, and all other matters relating thereto whenever any
 91 | vessel shall be operated upon the waterways or when any activity
 92 | regulated hereby shall take place thereon. Nothing in these
 93 | sections shall be construed to prevent the adoption of any
 94 | ordinance or local law relating to operation and equipment of
 95 | vessels, except that no such ordinance or local law may apply to
 96 | the Florida Intracoastal Waterway and except that such
 97 | ordinances or local laws shall be operative only when they are
 98 | not in conflict with this chapter or any amendments thereto or
 99 | regulations thereunder. Any ordinance or local law which has
 100 | been adopted pursuant to this section or to any other state law
 101 | may not discriminate against personal watercraft as defined in
 102 | s. 327.02. Effective July 1, 2006, any ordinance or local law
 103 | adopted pursuant to this section or any other state law may not
 104 | discriminate against airboats except by a super majority vote of
 105 | the governing body enacting such ordinance.

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106 Section 4. Paragraphs (v) and (w) are added to subsection
107 (1) of section 327.73, Florida Statutes, to read:

108 327.73 Noncriminal infractions.--

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

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

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

115

116 Any person cited for a violation of any such provision shall be
117 deemed to be charged with a noncriminal infraction, shall be
118 cited for such an infraction, and shall be cited to appear
119 before the county court. The civil penalty for any such
120 infraction is \$50, except as otherwise provided in this section.

121 Any person who fails to appear or otherwise properly respond to
122 a uniform boating citation shall, in addition to the charge
123 relating to the violation of the boating laws of this state, be
124 charged with the offense of failing to respond to such citation
125 and, upon conviction, be guilty of a misdemeanor of the second
126 degree, punishable as provided in s. 775.082 or s. 775.083. A
127 written warning to this effect shall be provided at the time
128 such uniform boating citation is issued.

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

131 327.731 Mandatory education for violators.--

132 (1) Every person convicted of a criminal violation of this
133 chapter, every person convicted of a noncriminal infraction

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

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

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

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

151 |
152 | Any person who has successfully completed an approved boating
153 | course shall be exempt from these provisions upon showing proof
154 | to the commission as specified in paragraph (b).

155 | Section 6. Paragraphs (d) and (e) of subsection (5) of
156 | section 320.08, Florida Statutes, are amended to read:

157 | 320.08 License taxes.--Except as otherwise provided
158 | herein, there are hereby levied and imposed annual license taxes
159 | for the operation of motor vehicles, mopeds, motorized bicycles
160 | as defined in s. 316.003(2), and mobile homes, as defined in s.
161 | 320.01, which shall be paid to and collected by the department

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162 or its agent upon the registration or renewal of registration of
163 the following:

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

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

171 (e) A wrecker, as defined in s. 320.01(40), which is used
172 to tow any motor vehicle, regardless of whether or not such
173 motor vehicle is a disabled motor vehicle as defined in s.
174 320.01(38), a replacement motor vehicle as defined in s.
175 320.01(39), a vessel as defined in s. 327.02(39)~~(36)~~, or any
176 other cargo, as follows:

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

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

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

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

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

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

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

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

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

195 Section 7. Subsection (4) of section 328.17, Florida
196 Statutes, is amended to read:

197 328.17 Nonjudicial sale of vessels.--

198 (4) A marina, as defined in s. 327.02 (20) ~~(19)~~, shall have
199 a possessory lien upon any vessel for storage fees, dockage
200 fees, repairs, improvements, or other work-related storage
201 charges, and for expenses necessary for preservation of the
202 vessel or expenses reasonably incurred in the sale or other
203 disposition of the vessel. The possessory lien shall attach as
204 of the date the vessel is brought to the marina, or as of the
205 date the vessel first occupies rental space at the marina
206 facility. However, in the event of default, the marina must give
207 notice to persons who hold perfected security interests against
208 the vessel under the Uniform Commercial Code in which the owner
209 is named as the debtor.

210 Section 8. Subsection (2) of section 342.07, Florida
211 Statutes, is amended to read:

212 342.07 Recreational and commercial working waterfronts;
213 legislative findings; definitions.--

214 (2) As used in this section, the term "recreational and
215 commercial working waterfront" means a parcel or parcels of real
216 property that provide access for water-dependent commercial

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217 activities or provide access for the public to the navigable
218 waters of the state. Recreational and commercial working
219 waterfronts require direct access to or a location on, over, or
220 adjacent to a navigable body of water. The term includes water-
221 dependent facilities that are open to the public and offer
222 public access by vessels to the waters of the state or that are
223 support facilities for recreational, commercial, research, or
224 governmental vessels. These facilities include docks, wharfs,
225 lifts, wet and dry marinas, boat ramps, boat hauling and repair
226 facilities, commercial fishing facilities, boat construction
227 facilities, and other support structures over the water. As used
228 in this section, the term "vessel" has the same meaning as in s.
229 327.02 (39) ~~(37)~~. Seaports are excluded from the definition.

230 Section 9. Paragraph (a) of subsection (10) of section
231 616.242, Florida Statutes, is amended to read:

232 616.242 Safety standards for amusement rides.--

233 (10) EXEMPTIONS.--

234 (a) This section does not apply to:

235 1. Permanent facilities that employ at least 1,000 full-
236 time employees and that maintain full-time, in-house safety
237 inspectors. Furthermore, the permanent facilities must file an
238 affidavit of the annual inspection with the department, on a
239 form prescribed by rule of the department. Additionally, the
240 Department of Agriculture and Consumer Services may consult
241 annually with the permanent facilities regarding industry safety
242 programs.

243 2. Any playground operated by a school, local government,
244 or business licensed under chapter 509, if the playground is an

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245 incidental amenity and the operating entity is not primarily
246 engaged in providing amusement, pleasure, thrills, or
247 excitement.

248 3. Museums or other institutions principally devoted to
249 the exhibition of products of agriculture, industry, education,
250 science, religion, or the arts.

251 4. Conventions or trade shows for the sale or exhibit of
252 amusement rides if there are a minimum of 15 amusement rides on
253 display or exhibition, and if any operation of such amusement
254 rides is limited to the registered attendees of the convention
255 or trade show.

256 5. Skating rinks, arcades, lazer or paint ball war games,
257 bowling alleys, miniature golf courses, mechanical bulls,
258 inflatable rides, trampolines, ball crawls, exercise equipment,
259 jet skis, paddle boats, airboats ~~air boats~~, helicopters,
260 airplanes, parasails, hot air or helium balloons whether
261 tethered or untethered, theatres, batting cages, stationary
262 spring-mounted fixtures, rider-propelled merry-go-rounds, games,
263 side shows, live animal rides, or live animal shows.

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

266 7. Nonmotorized playground equipment that is not required
267 to have a manager.

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

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

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

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

281 Section 10. Paragraph (b) of subsection (1) of section
282 713.78, Florida Statutes, is amended to read:

283 713.78 Liens for recovering, towing, or storing vehicles
284 and vessels.--

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

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

290 Section 11. Paragraph (b) of subsection (1) of section
291 715.07, Florida Statutes, is amended to read:

292 715.07 Vehicles or vessels parked on private property;
293 towing.--

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

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

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299 Section 12. Except as otherwise expressly provided in this
300 act and except for this section, which shall take effect upon
301 becoming a law, this act shall take effect October 1, 2006.