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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2009	.	
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The Committee on Judiciary (Constantine) recommended the following:

Senate Amendment (with title amendment)

Delete lines 551 - 677

and insert:

Section 10. Effective October 1, 2009, subsection (2) of section 327.41, Florida Statutes, is amended to read:

327.41 Uniform waterway regulatory markers.—

(2) Any county or municipality which has been granted a boating-restricted ~~restricted~~ area designation, by rule of the commission pursuant to s. 327.46(1)(a), for a portion of the Florida Intracoastal Waterway within its jurisdiction or which



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12 has adopted a boating-restricted ~~restricted~~ area by ordinance
13 pursuant to s. 327.46(1)(b) or (c) ~~s. 327.22, s. 327.60~~, or s.
14 379.2431(2)(p), or any other governmental entity which has
15 legally established a boating-restricted ~~restricted~~ area, may
16 apply to the commission for permission to place regulatory
17 markers within the boating-restricted ~~restricted~~ area.
18

19 Section 11. Effective October 1, 2009, section 327.42,
20 Florida Statutes, is amended to read:

21 327.42 Mooring to or damaging of markers or buoys
22 prohibited.-

23 (1) No person shall moor or fasten a vessel to a lawfully
24 placed uniform waterway ~~aid-to-navigation~~ marker ~~or buoy~~,
25 ~~regulatory marker or buoy, or area boundary marker or buoy,~~
26 ~~placed or erected by any governmental agency, except in case of~~
27 ~~emergency~~ or with the written consent of the marker's owner.

28 (2) No person shall willfully damage, alter, or move a
29 lawfully placed uniform waterway ~~aid-to-navigation~~ marker ~~or~~
30 ~~buoy, regulatory marker or buoy, or area boundary marker or~~
31 ~~buoy.~~

32 Section 12. Effective October 1, 2009, section 327.46,
33 Florida Statutes, is amended to read:

34 327.46 Boating-restricted ~~Restricted~~ areas.-

35 (1) Boating-restricted ~~The commission has the authority to~~
36 ~~establish by rule, pursuant to chapter 120, restricted areas,~~
37 including, but not limited to, restrictions of vessel speeds and
38 vessel traffic, may be established on the waters of this ~~the~~
39 state for any purpose ~~deemed necessary to protect~~ for the safety
40 of the public, ~~including, but not limited to, vessel speeds and~~



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41 ~~vessel traffic~~, where such restrictions are ~~deemed~~ necessary
42 based on boating accidents, visibility, hazardous currents or
43 water levels, vessel traffic congestion, or other navigational
44 hazards.

45 (a) The commission may establish boating-restricted areas
46 by rule, pursuant to chapter 120.

47 (b) Municipalities and counties have the authority to
48 establish the following boating restricted areas by ordinance:

49 1. An ordinance establishing an Idle Speed-No Wake boating
50 restricted area, if the area is:

51 a. Within 500 feet of any boat ramp, hoist, marine railway,
52 or other launching or landing facility available for use by the
53 general boating public on waterways more than 300 feet in width
54 or within 300 feet of any boat ramp, hoist, marine railway, or
55 other launching or landing facility available for use by the
56 general boating public on waterways not exceeding 300 feet in
57 width.

58 b. Within 500 feet of fuel pumps or dispensers at any
59 marine fueling facility which sells motor fuel to the general
60 boating public on waterways more than 300 feet in width or
61 within 300 feet of the fuel pumps or dispensers at any licensed
62 terminal facility which sells motor fuel to the general boating
63 public on waterways not exceeding 300 feet in width.

64 c. Inside or within 300 feet of any lock structure.

65 2. An ordinance establishing a Slow Speed Minimum Wake
66 boating restricted area if the area is:

67 a. Within 300 feet of any bridge fender system.

68 b. Within 300 feet of any bridge span presenting a vertical
69 clearance of less than 25 feet or a horizontal clearance of less



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70 than 100 feet.

71 c. On a creek, stream, canal, or similar linear waterway
72 where the waterway is less than 75 feet in width from shoreline
73 to shoreline.

74 d. On a lake or pond of less than 10 acres in total surface
75 area.

76 3. An ordinance establishing a vessel exclusion zone if the
77 area is:

78 a. Designated as a public bathing beach or swim area.

79 b. Within 300 feet of a dam, spillway, or flood control
80 structure.

81 (c) Municipalities and counties have the authority to
82 establish by ordinance the following other boating restricted
83 areas:

84 1. An ordinance establishing an Idle Speed-No Wake boating
85 restricted area, if the area is within 300 feet of a confluence
86 of water bodies presenting a blind corner, a bend in a narrow
87 channel or fairway, or such other area where an intervening
88 obstruction to visibility may obscure other vessels or other
89 users of the waterway.

90 2. An ordinance establishing a Slow Speed Minimum Wake or a
91 numerical speed limit boating restricted area if the area is:

92 a. Within 300 feet of a confluence of water bodies
93 presenting a blind corner, a bend in a narrow channel or
94 fairway, or such other area where an intervening obstruction to
95 visibility may obscure other vessels or other users of the
96 waterway.

97 b. Subject to unsafe levels of vessel traffic congestion.

98 c. Subject to hazardous water levels or currents, or



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99 containing other navigational hazards.

100 d. An area that accident reports, uniform boating
101 citations, vessel traffic studies, or other creditable data
102 demonstrate to present a significant risk of collision or a
103 significant threat to boating safety.

104 3. An ordinance establishing a vessel exclusion zone if the
105 area is reserved exclusively:

106 a. As a canoe trail or otherwise limited to vessels under
107 oars or under sail.

108 b. For a particular activity and user group, separation
109 must be imposed to protect the safety of those participating in
110 such activity.

111
112 Any of the ordinances adopted pursuant to this paragraph
113 shall not take effect until the commission has reviewed the
114 ordinance and determined by substantial competent evidence that
115 the ordinance is necessary to protect public safety pursuant to
116 this paragraph. Any application for approval of an ordinance
117 shall be reviewed and acted upon within 90 days after receipt of
118 a completed application. Within 30 days of a municipality or
119 county submitting an application for approval to the commission,
120 the commission shall advise the municipality or county as to
121 what information, if any, is needed to deem the application
122 properly completed. An application shall be considered complete
123 upon receipt of all requested information and correction of any
124 error or omission for which the applicant was timely notified or
125 when the time for such notification has expired. The
126 commission's action on the application shall be subject to
127 review under Chapter 120. The commission shall initiate



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128 rulemaking within 180 days of the effective date of this act to
129 provide criteria and procedures for reviewing applications
130 submitted under this part and procedures for providing for
131 public notice and participation.

132 (2) Each such boating-restricted ~~restricted~~ area shall be
133 developed in consultation and coordination with the governing
134 body of the county or municipality in which the boating-
135 restricted ~~restricted~~ area is located and, when the boating-
136 restricted area is to be on the navigable waters of the United
137 States ~~where required~~, with the United States Coast Guard and
138 the United States Army Corps of Engineers.

139 (3)~~(2)~~ It is unlawful for any person to operate a vessel in
140 a prohibited manner or to carry on any prohibited activity, as
141 defined in this chapter, ~~deemed a safety hazard or interference~~
142 ~~with navigation as provided above~~ within a boating-restricted
143 ~~restricted water~~ area which has been clearly marked by
144 regulatory markers as authorized under this chapter.

145 (4)~~(3)~~ Restrictions in a boating-restricted area
146 established pursuant to this section shall not apply in the case
147 of an emergency or to a law enforcement, firefighting, or rescue
148 vessel owned or operated by a governmental entity.

149
150
151 ===== T I T L E A M E N D M E N T =====

152 And the title is amended as follows:

153 Delete lines 47 - 50

154 and insert:

155 Manner in a boating-restricted area;