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LEGISLATIVE ACTION

Senate

House

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Floor: 1/AD/2R

04/24/2009 04:38 PM

Senator Constantine moved the following:

Senate Amendment (with title amendment)

Delete lines 328 - 949

and insert:

Section 3. Effective October 1, 2009, renumber subsections (4) through (7) of section 253.04, Florida Statutes, as (5) through (8) and create new subsection (4) of that section to read:

253.04 Duty of board to protect, etc., state lands; state may join in any action brought.—

(4) (a) The duty to conserve and improve state-owned lands and the products thereof shall include the preservation and



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13 regeneration of seagrass, which is deemed essential to the
14 oceans, gulfs, estuaries, and shorelines of the state. A person
15 operating a vessel outside a lawfully marked channel in a
16 careless manner that causes seagrass scarring within an aquatic
17 preserve established in ss. 258.39-258.399, with the exception
18 of the Lake Jackson, Oklawaha River, Wekiva River, and Rainbow
19 Springs aquatic preserves, commits a noncriminal infraction,
20 punishable as provided in s. 327.73. Each violation is a
21 separate offense. As used in this subsection, the term:

22 1. "Seagrass scarring" means destruction of seagrass roots,
23 shoots, or stems that results in tracks on the substrate, caused
24 by the operation of a motorized vessel in waters supporting
25 seagrasses, commonly referred to as prop scars or propeller
26 scars.

27 2. "Seagrass" means Cuban shoal grass (*Halodule wrightii*),
28 turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium*
29 *filiforme*), star grass (*Halophila engelmannii*), paddle grass
30 (*Halophila decipiens*), Johnsons seagrass (*Halophila johnsonii*),
31 or widgeon grass (*Ruppia maritima*).

32 (b) Any violation under paragraph (a) is a violation of the
33 vessel laws of this state and shall be charged on a uniform
34 boating citation as provided in s. 327.74. Any person who
35 refuses to post a bond or accept and sign a uniform boating
36 citation commits a misdemeanor of the second degree, as provided
37 in s. 327.73(3), punishable as provided in s. 775.082 or s.
38 775.083.

39 Section 4. Effective September 1, 2009, subsection (3) of
40 section 319.32, Florida Statutes, is amended to read:

41 319.32 Fees; service charges; disposition.-



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42 (3) The department shall charge a fee of \$10 ~~\$4~~ in addition
43 to that charged in subsection (1) for each original certificate
44 of title issued for a vehicle previously registered outside this
45 state.

46 Section 5. Effective September 1, 2009, paragraphs (a) and
47 (x) of subsection (4) of section 320.08056, Florida Statutes,
48 are amended to read:

49 320.08056 Specialty license plates.—

50 (4) The following license plate annual use fees shall be
51 collected for the appropriate specialty license plates:

52 (a) Manatee license plate, \$25 ~~\$20~~.

53 (x) Conserve Wildlife license plate, \$25 ~~\$15~~.

54 Section 6. Subsection (17) of section 327.02, Florida
55 Statutes, is amended to read:

56 327.02 Definitions of terms used in this chapter and in
57 chapter 328.—As used in this chapter and in chapter 328, unless
58 the context clearly requires a different meaning, the term:

59 (17) "Live-aboard vessel" means:

60 (a) Any vessel used solely as a residence and not for
61 navigation; ~~or~~

62 (b) Any vessel represented as a place of business, a
63 professional or other commercial enterprise; ~~or a legal~~
64 ~~residence.~~

65 (c) Any vessel for which a declaration of domicile has been
66 filed pursuant to s. 222.17.

67
68 A commercial fishing boat is expressly excluded from the
69 term "live-aboard vessel."

70 Section 7. Subsection (4) of section 327.35, Florida



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71 Statutes, is amended to read:

72 327.35 Boating under the influence; penalties; "designated
73 drivers".—

74 (1) A person is guilty of the offense of boating under the
75 influence and is subject to punishment as provided in subsection
76 (2) if the person is operating a vessel within this state and:

77 (a) The person is under the influence of alcoholic
78 beverages, any chemical substance set forth in s. 877.111, or
79 any substance controlled under chapter 893, when affected to the
80 extent that the person's normal faculties are impaired;

81 (b) The person has a blood-alcohol level of 0.08 or more
82 grams of alcohol per 100 milliliters of blood; or

83 (c) The person has a breath-alcohol level of 0.08 or more
84 grams of alcohol per 210 liters of breath.

85 (4) Any person who is convicted of a violation of
86 subsection (1) and who has a blood-alcohol level or breath-
87 alcohol level of 0.15 ~~0.20~~ or higher, or any person who is
88 convicted of a violation of subsection (1) and who at the time
89 of the offense was accompanied in the vessel by a person under
90 the age of 18 years, shall be punished:

91 (a) By a fine of:

92 1. Not less than \$1,000 or more than \$2,000 for a first
93 conviction.

94 2. Not less than \$2,000 or more than \$4,000 for a second
95 conviction.

96 3. Not less than \$4,000 for a third or subsequent
97 conviction.

98 (b) By imprisonment for:

99 1. Not more than 9 months for a first conviction.



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100 2. Not more than 12 months for a second conviction.

101
102 For the purposes of this subsection, only the instant offense is
103 required to be a violation of subsection (1) by a person who has
104 a blood-alcohol level or breath-alcohol level of 0.15 ~~0.20~~ or
105 higher.

106 Section 8. Paragraph (a) of subsection (2) of section
107 327.36, Florida Statutes, is amended to read:

108 327.36 Mandatory adjudication; prohibition against
109 accepting plea to lesser included offense.-

110 (2) (a) No trial judge may accept a plea of guilty to a
111 lesser offense from a person who is charged with a violation of
112 s. 327.35, manslaughter resulting from the operation of a
113 vessel, or vessel homicide and who has been given a breath or
114 blood test to determine blood or breath alcohol content, the
115 results of which show a blood-alcohol level or breath-alcohol
116 level of 0.15 ~~0.16~~ or more.

117 Section 9. Effective January 1, 2010, section 327.395,
118 Florida Statutes, is amended to read:

119 327.395 Boating safety identification cards.-

120 (1) A person born on or after January 1, 1988, ~~21 years of~~
121 ~~age or younger~~ may not operate a vessel powered by a motor of 10
122 horsepower or greater unless such person has in his or her
123 possession aboard the vessel photographic identification and a
124 boater safety identification card issued by the commission which
125 shows that he or she has:

126 (a) Completed a commission-approved boater education course
127 that meets the minimum 8-hour instruction requirement
128 established by the National Association of State Boating Law



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129 Administrators;

130 (b) Passed a course equivalency examination approved by the
131 commission; or

132 (c) Passed a temporary certificate examination developed or
133 approved by the commission.

134 (2) Any person may obtain a boater safety identification
135 card by complying with the requirements of this section.

136 (3) Any commission-approved boater education or boater
137 safety course, course-equivalency examination developed or
138 approved by the commission, or temporary certificate examination
139 developed or approved by the commission must include a component
140 regarding diving vessels, awareness of divers in the water,
141 divers-down flags, and the requirements of s. 327.331.

142 (4) The commission may appoint liveries, marinas, or other
143 persons as its agents to administer the course, course
144 equivalency examination, or temporary certificate examination
145 and issue identification cards under guidelines established by
146 the commission. An agent must charge the \$2 examination fee,
147 which must be forwarded to the commission with proof of passage
148 of the examination and may charge and keep a \$1 service fee.

149 (5) An identification card issued to a person who has
150 completed a boating education course or a course equivalency
151 examination is valid for life. A card issued to a person who has
152 passed a temporary certification examination is valid for 12
153 months from the date of issuance.

154 (6) A person is exempt from subsection (1) if he or she:

155 (a) Is licensed by the United States Coast Guard to serve
156 as master of a vessel.

157 (b) Operates a vessel only on a private lake or pond.



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158 (c) Is accompanied in the vessel by a person who is exempt
159 from this section or who holds an identification card in
160 compliance with this section, is 18 years of age or older, and
161 is attendant to the operation of the vessel and responsible for
162 the safe operation of the vessel and for any violation that
163 occurs during the operation.

164 (d) Is a nonresident who has in his or her possession proof
165 that he or she has completed a boater education course or
166 equivalency examination in another state which meets or exceeds
167 the requirements of subsection (1).

168 (e) Is operating a vessel within 90 days after the purchase
169 of that vessel and has available for inspection aboard that
170 vessel a bill of sale meeting the requirements of s. 328.46(1).

171 (f)~~(e)~~ Is exempted by rule of the commission.

172 (7) A person who operates a vessel in violation of
173 subsection (1) commits ~~violates this section is guilty of a~~
174 noncriminal infraction, punishable as provided in s. 327.73.

175 (8) The commission shall design forms and adopt rules to
176 administer this section. Such rules shall include provision for
177 educational and other public and private entities to offer the
178 course and administer examinations.

179 (9) The commission shall institute and coordinate a
180 statewide program of boating safety instruction and
181 certification to ensure that boating courses and examinations
182 are available in each county of the state.

183 (10) The commission is authorized to establish and to
184 collect a \$2 examination fee to cover administrative costs.

185 (11) The commission is authorized to adopt rules pursuant
186 to chapter 120 to implement the provisions of this section.



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187 (12) This section may be cited as the "Osmany 'Ozzie'
188 Castellanos Boating Safety Education Act."

189 Section 10. Effective October 1, 2009, section 327.40,
190 Florida Statutes, is amended to read:

191 327.40 Uniform waterway markers ~~for safety and navigation,~~
192 ~~informational markers.-~~

193 (1) Waters of this state ~~Waterways in Florida which need~~
194 ~~marking for safety or navigation purposes~~ shall be marked only
195 in conformity with ~~under~~ the United States Aids to Navigation
196 System, 33 C.F.R. part 62. ~~Until December 31, 2003, channel~~
197 ~~markers and obstruction markers conforming to the Uniform State~~
198 ~~Waterway Marking System, 33 C.F.R. subpart 66.10, may continue~~
199 ~~to be used on waters of this state that are not navigable waters~~
200 ~~of the United States.-~~

201 (2) (a) Application for marking inland lakes and state
202 waters and any navigable waters under concurrent jurisdiction of
203 the Coast Guard and the division shall be made to the division,
204 accompanied by a map locating the approximate placement of
205 markers, a list of the markers to be placed, a statement of the
206 specification of the markers, a statement of the purpose of
207 marking, and the names of persons responsible for the placement
208 and upkeep of such markers. The division will assist the
209 applicant to secure the proper permission from the Coast Guard
210 where required, make such investigations as needed, and issue a
211 permit. The division shall furnish the applicant with the
212 information concerning the system adopted and the rules existing
213 for placing and maintaining the markers. The division shall keep
214 records of all approvals given and counsel with individuals,
215 counties, municipalities, motorboat clubs, or other groups



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216 desiring to mark waterways for safety and navigation purposes in
217 Florida.

218 (b)1. No person or municipality, county, or other
219 governmental entity shall place any uniform waterway marker
220 ~~safety or navigation markers~~ in, on, or over the waters or
221 shores of the state without a permit from the division.

222 2. The placement of information ~~informational~~ markers,
223 ~~including, but not limited to, markers indicating end of boat~~
224 ~~ramp, no swimming, swimming area, lake name, trash receptacle,~~
225 ~~public health notice, or underwater hazard and canal,~~
226 ~~regulatory, emergency, and special event markers,~~ by counties,
227 municipalities, or other governmental entities on inland lakes
228 and their associated canals are exempt from permitting under
229 this section. ~~Such markers, excluding swimming area and special~~
230 ~~event markers, may be no more than 50 feet from the normal~~
231 ~~shoreline.~~

232 (c) The commission is authorized to adopt rules pursuant to
233 chapter 120 to implement this section.

234 (3) The placement under this section or s. 327.41 of any
235 uniform waterway marker ~~safety or navigation marker or any~~
236 ~~informational marker under subparagraph (2)(b)2.~~ on state
237 submerged lands ~~under this section~~ does not subject such lands
238 to the lease requirements of chapter 253.

239 Section 11. Effective October 1, 2009, subsection (2) of
240 section 327.41, Florida Statutes, is amended to read:

241 327.41 Uniform waterway regulatory markers.—

242 (2) Any county or municipality which has been granted a
243 boating-restricted ~~restricted~~ area designation, by rule of the
244 commission pursuant to s. 327.46(1)(a), for a portion of the



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245 Florida Intracoastal Waterway within its jurisdiction or which
246 has adopted a boating-restricted ~~restricted~~ area by ordinance
247 pursuant to s. 327.46(1)(b) or (c) ~~s. 327.22, s. 327.60,~~ or s.
248 379.2431(2)(p), or any other governmental entity which has
249 legally established a boating-restricted ~~restricted~~ area, may
250 apply to the commission for permission to place regulatory
251 markers within the boating-restricted ~~restricted~~ area.

252 Section 12. Effective October 1, 2009, section 327.42,
253 Florida Statutes, is amended to read:

254 327.42 Mooring to or damaging of uniform waterway markers
255 or buoys prohibited.-

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

261 (2) No person shall willfully damage, alter, or move a
262 lawfully placed uniform waterway ~~aid-to-navigation~~ marker ~~or~~
263 ~~buoy, regulatory marker or buoy, or area boundary marker or~~
264 ~~buoy.~~

265 Section 13. Effective October 1, 2009, section 327.46,
266 Florida Statutes, is amended to read:

267 327.46 Boating-restricted ~~Restricted~~ areas.-

268 (1) Boating-restricted ~~The commission has the authority to~~
269 ~~establish by rule, pursuant to chapter 120, restricted areas,~~
270 including, but not limited to, restrictions of vessel speeds and
271 vessel traffic, may be established on the waters of this ~~the~~
272 state for any purpose ~~deemed~~ necessary to protect ~~for~~ the safety
273 of the public, ~~including, but not limited to, vessel speeds and~~



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274 ~~vessel traffic~~, where such restrictions are ~~deemed~~ necessary
275 based on boating accidents, visibility, hazardous currents or
276 water levels, vessel traffic congestion, or other navigational
277 hazards.

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

280 (b) Municipalities and counties have the authority to
281 establish the following boating-restricted areas by ordinance:

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

284 a. Within 500 feet of any boat ramp, hoist, marine railway,
285 or other launching or landing facility available for use by the
286 general boating public on waterways more than 300 feet in width
287 or within 300 feet of any boat ramp, hoist, marine railway, or
288 other launching or landing facility available for use by the
289 general boating public on waterways not exceeding 300 feet in
290 width.

291 b. Within 500 feet of fuel pumps or dispensers at any
292 marine fueling facility that sells motor fuel to the general
293 boating public on waterways more than 300 feet in width or
294 within 300 feet of the fuel pumps or dispensers at any licensed
295 terminal facility that sells motor fuel to the general boating
296 public on waterways not exceeding 300 feet in width.

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

298 2. An ordinance establishing a Slow Speed Minimum Wake
299 boating-restricted area if the area is:

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

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



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303 than 100 feet.

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

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

309 3. An ordinance establishing a vessel exclusion zone if the
310 area is:

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

312 b. Within 300 feet of a dam, spillway, or flood-control
313 structure.

314 (c) Municipalities and counties have the authority to
315 establish by ordinance the following other boating-restricted
316 areas:

317 1. An ordinance establishing an Idle Speed-No Wake boating-
318 restricted area, if the area is within 300 feet of a confluence
319 of water bodies presenting a blind corner, a bend in a narrow
320 channel or fairway, or such other area where an intervening
321 obstruction to visibility may obscure other vessels or other
322 users of the waterway.

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

325 a. Within 300 feet of a confluence of water bodies
326 presenting a blind corner, a bend in a narrow channel or
327 fairway, or such other area where an intervening obstruction to
328 visibility may obscure other vessels or other users of the
329 waterway.

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

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



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332 containing other navigational hazards.

333 d. An area that accident reports, uniform boating
334 citations, vessel traffic studies, or other creditable data
335 demonstrate to present a significant risk of collision or a
336 significant threat to boating safety.

337 3. An ordinance establishing a vessel-exclusion zone if the
338 area is reserved exclusively:

339 a. As a canoe trail or otherwise limited to vessels under
340 oars or under sail.

341 b. For a particular activity and user group, separation
342 must be imposed to protect the safety of those participating in
343 such activity.

344
345 Any of the ordinances adopted pursuant to this paragraph
346 shall not take effect until the commission has reviewed the
347 ordinance and determined by substantial competent evidence that
348 the ordinance is necessary to protect public safety pursuant to
349 this paragraph. Any application for approval of an ordinance
350 shall be reviewed and acted upon within 90 days after receipt of
351 a completed application. Within 30 days after a municipality or
352 county submits an application for approval to the commission,
353 the commission shall advise the municipality or county as to
354 what information, if any, is needed to deem the application
355 properly completed. An application shall be considered complete
356 upon receipt of all requested information and correction of any
357 error or omission for which the applicant was timely notified or
358 when the time for such notification has expired. The
359 commission's action on the application is subject to review
360 under chapter 120. The commission shall initiate rulemaking



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361 within 180 days after the effective date of this act to provide
362 criteria and procedures for reviewing applications submitted
363 under this part and procedures for providing for public notice
364 and participation.

365 (2) Each such boating-restricted ~~restricted~~ area shall be
366 developed in consultation and coordination with the governing
367 body of the county or municipality in which the boating-
368 restricted ~~restricted~~ area is located and, when the boating-
369 restricted area is to be on the navigable waters of the United
370 States ~~where required~~, with the United States Coast Guard and
371 the United States Army Corps of Engineers.

372 (3) ~~(2)~~ It is unlawful for any person to operate a vessel in
373 a prohibited manner or to carry on any prohibited activity, as
374 defined in this chapter, ~~deemed a safety hazard or interference~~
375 ~~with navigation as provided above~~ within a boating-restricted
376 ~~restricted water~~ area that ~~which~~ has been clearly marked by
377 regulatory markers as authorized under this chapter.

378 (4) ~~(3)~~ Restrictions in a boating-restricted area
379 established pursuant to this section shall not apply in the case
380 of an emergency or to a law enforcement, firefighting, or rescue
381 vessel owned or operated by a governmental entity.

382 Section 14. Effective October 1, 2009, section 327.60,
383 Florida Statutes, is amended to read:

384 327.60 Local regulations; limitations.—

385 (1) The provisions of this chapter and chapter 328 ~~ss.~~
386 ~~327.01, 327.02, 327.30-327.40, 327.44-327.50, 327.54, 327.56,~~
387 ~~327.65, 328.40-328.48, 328.52-328.58, 328.62, and 328.64~~ shall
388 govern the operation, equipment, and all other matters relating
389 thereto whenever any vessel shall be operated upon the waters of



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390 this state waterways or when any activity regulated hereby shall
391 take place thereon.

392 (2) Nothing in this chapter or chapter 328 these sections
393 shall be construed to prevent the adoption of any ordinance or
394 local regulation law relating to operation and equipment of
395 vessels, except that no county or municipality shall enact,
396 continue in effect, or enforce any ordinance or local
397 regulation:

398 (a) Establishing a vessel or associated equipment
399 performance or other safety standard, imposing a requirement for
400 associated equipment, or regulating the carrying or use of
401 marine safety articles;

402 (b) With respect to the design, manufacture, installation,
403 or use of any marine sanitation device on any vessel;

404 (c) Regulating any vessel upon the Florida Intracoastal
405 Waterway;

406 (d) Discriminating against personal watercraft;

407 (e) Discriminating against airboats, for ordinances adopted
408 after July 1, 2006, unless adopted by a two-thirds vote of the
409 governing body enacting such ordinance;

410 (f) Regulating the anchoring of vessels other than live-
411 aboard vessels outside the marked boundaries of mooring fields
412 permitted as provided in s. 327.40;

413 (g) Regulating engine or exhaust noise, except as provided
414 in s. 327.65; or

415 (h) That is in conflict with this chapter or any amendments
416 thereto or rules thereunder. no such ordinance or local law may
417 apply to the Florida Intracoastal Waterway and except that such
418 ordinances or local laws shall be operative only when they are



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419 ~~not in conflict with this chapter or any amendments thereto or~~
420 ~~regulations thereunder. Any ordinance or local law which has~~
421 ~~been adopted pursuant to this section or to any other state law~~
422 ~~may not discriminate against personal watercraft as defined in~~
423 ~~s. 327.02. Effective July 1, 2006, any ordinance or local law~~
424 ~~adopted pursuant to this section or any other state law may not~~
425 ~~discriminate against airboats except by a two-thirds vote of the~~
426 ~~governing body enacting such ordinance.~~

427 ~~(3)(2)~~ Nothing contained in the provisions of this section
428 shall be construed to prohibit local governmental authorities
429 from the enactment or enforcement of regulations which prohibit
430 or restrict the mooring or anchoring of floating structures or
431 live-aboard vessels within their jurisdictions or of any vessels
432 within the marked boundaries of mooring fields permitted as
433 provided in s. 327.40. However, local governmental authorities
434 are prohibited from regulating the anchoring outside of such
435 mooring fields of vessels other than live-aboard vessels as
436 defined in s. 327.02 ~~non-live-aboard vessels in navigation.~~

437 Section 15. Paragraph (1) of subsection (2) of section
438 327.65, Florida Statutes, is amended to read

439 327.65 Muffling devices.—

440 (2) (a) Any county wishing to impose additional noise
441 pollution and exhaust regulations on vessels may, pursuant to s.
442 327.60 ~~(2)(1)~~, adopt by county ordinance the following
443 regulations:

444 1. No person shall operate or give permission for the
445 operation of any vessel on the waters of any county or on a
446 specified portion of the waters of any county, including the
447 Florida Intracoastal Waterway, which has adopted the provisions



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448 of this section in such a manner as to exceed the following
449 sound levels at a distance of 50 feet from the vessel: for all
450 vessels, a maximum sound level of 90 dB A.

451 2. Any person who refuses to submit to a sound level test
452 when requested to do so by a law enforcement officer is guilty
453 of a misdemeanor of the second degree, punishable as provided in
454 s. 775.082 or s. 775.083.

455 (b) The following words and phrases, when used in this
456 section, shall have the meanings respectively assigned to them
457 in this subsection.

458 1. "dB A" means the composite abbreviation for the A-
459 weighted sound level and the unit of sound level, the decibel.

460 2. "Sound level" means the A-weighted sound pressure level
461 measured with fast response using an instrument complying with
462 the specification for sound level meters of the American
463 National Standards Institute, Inc., or its successor bodies,
464 except that only a weighting and fast dynamic response need be
465 provided.

466 Section 16. Section 327.66, Florida Statutes, is created to
467 read:

468 327.66 Carriage of gasoline on vessels.-

469 (1) (a) A person shall not:

470 1. Possess or operate any vessel that has been equipped
471 with tanks, bladders, drums, or other containers designed or
472 intended to hold gasoline, or install or maintain such
473 containers in a vessel, if such containers do not conform to
474 federal regulations or have not been approved by the United
475 States Coast Guard by inspection or special permit.

476 2. Transport any gasoline in an approved portable container



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477 when the container is in a compartment that is not ventilated in
478 strict compliance with United States Coast Guard regulations
479 pertaining to ventilation of compartments containing gasoline
480 tanks.

481 (b) A person who violates paragraph (a) commits a
482 misdemeanor of the second degree, punishable as provided in s.
483 775.082 or s. 775.083.

484 (2) (a) Gasoline possessed or transported in violation of
485 this section and all containers holding such gasoline are
486 declared to be a public nuisance. A law enforcement agency
487 discovering gasoline possessed or transported in violation of
488 paragraph (1) (a) shall abate the nuisance by removing the
489 gasoline and containers from the vessel and from the waters of
490 this state. A law enforcement agency that removes gasoline or
491 containers pursuant to this subsection may elect to:

- 492 1. Retain the property for the agency's own use;
493 2. Transfer the property to another unit of state or local
494 government;
495 3. Donate the property to a charitable organization; or
496 4. Sell the property at public sale pursuant to s. 705.103.

497 (b) A law enforcement agency that seizes gasoline or
498 containers pursuant to this subsection shall remove and reclaim,
499 recycle, or otherwise dispose of the gasoline as soon as
500 practicable in a safe and proper manner.

501 (3) All conveyances, vessels, vehicles, and other equipment
502 described in paragraph (1) (a) or used in the commission of a
503 violation of paragraph (1) (a), other than gasoline or containers
504 removed as provided in subsection (2), are declared to be
505 contraband.



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506 (a) Upon conviction of a person arrested for a violation of
507 paragraph (1) (a), the judge shall issue an order adjudging and
508 ordering that all conveyances, vessels, vehicles, and other
509 equipment used in the violation shall be forfeited to the
510 arresting agency. The requirement for a conviction before
511 forfeiture of property establishes to the exclusion of any
512 reasonable doubt that the property was used in connection with
513 the violation resulting in the conviction, and the procedures of
514 chapter 932 do not apply to any forfeiture of property under
515 this subsection following a conviction.

516 (b) In the absence of an arrest or conviction, any such
517 conveyance, vessel, vehicle, or other equipment used in
518 violation of paragraph (1) (a) shall be subject to seizure and
519 forfeiture as provided by the Florida Contraband Forfeiture Act.

520 (c) As used in this subsection, the term "conviction" means
521 a finding of guilt or the acceptance of a plea of guilty or nolo
522 contendere, regardless of whether adjudication is withheld or
523 whether imposition of sentence is withheld, deferred, or
524 suspended.

525 (4) All costs incurred by the law enforcement agency in the
526 removal of any gasoline, gasoline container, other equipment, or
527 vessel as provided in this section shall be recoverable against
528 the owner thereof. Any person who neglects or refuses to pay
529 such amount shall not be issued a certificate of registration
530 for such vessel or for any other vessel or motor vehicle until
531 the costs have been paid.

532 (5) Foreign flagged vessels entering United States waters
533 and Florida state waters in compliance with 19 USC 1433 are
534 exempt from this section.



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535 Section 17. Effective October 1, 2009, section 327.70,
536 Florida Statutes, is amended to read:

537 327.70 Enforcement of this chapter and chapter 328.—

538 (1) This chapter and chapter 328 shall be enforced by the
539 Division of Law Enforcement of the Fish and Wildlife
540 Conservation Commission and its officers, the sheriffs of the
541 various counties and their deputies, municipal police officers,
542 and any other ~~authorized~~ law enforcement officer as defined in
543 s. 943.10, all of whom may order the removal of vessels deemed
544 to be an interference or a hazard to public safety, enforce the
545 provisions of this chapter and chapter 328, or cause any
546 inspections to be made of all vessels in accordance with this
547 chapter and chapter 328.

548 (2) (a) Noncriminal violations of the following statutes may
549 be enforced by a uniform boating citation mailed to the
550 registered owner of an unattended vessel anchored, aground, or
551 moored on the waters of this state:

552 1. Section 327.33(3)(b), relating to navigation rules.

553 2. Section 327.44, relating to interference with
554 navigation.

555 3. Section 327.50(2), relating to required lights and
556 shapes.

557 4. Section 327.53, relating to marine sanitation.

558 5. Section 328.48(5), relating to display of decal.

559 6. Section 328.52(2), relating to display of number.

560 (b) Citations issued to livery vessels under this
561 subsection shall be the responsibility of the lessee of the
562 vessel if the livery has included a warning of this
563 responsibility as a part of the rental agreement and has



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564 provided to the agency issuing the citation the name, address,
565 and date of birth of the lessee when requested by that agency.
566 The livery is not responsible for the payment of citations if
567 the livery provides the required warning and lessee information

568 (3) Such officers shall have the power and duty to issue
569 such orders and to make such investigations, reports, and
570 arrests in connection with any violation of the provisions of
571 this chapter and chapter 328 as are necessary to effectuate the
572 intent and purpose of this chapter and chapter 328.

573 ~~(4)~~(3) The Fish and Wildlife Conservation Commission or any
574 other law enforcement agency may make any investigation
575 necessary to secure information required to carry out and
576 enforce the provisions of this chapter and chapter 328.

577 Section 18. Effective October 1, 2009, subsection (1) of
578 section 327.73, Florida Statutes, is amended to read:

579 327.73 Noncriminal infractions.—

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

582 (a) Section 328.46, relating to operation of unregistered
583 and unnumbered vessels.

584 (b) Section 328.48(4), relating to display of number and
585 possession of registration certificate.

586 (c) Section 328.48(5), relating to display of decal.

587 (d) Section 328.52(2), relating to display of number.

588 (e) Section 328.54, relating to spacing of digits and
589 letters of identification number.

590 (f) Section 328.60, relating to military personnel and
591 registration of vessels.

592 (g) Section 328.72(13), relating to operation with an



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593 expired registration.
594 (h) Section 327.33(2), relating to careless operation.
595 (i) Section 327.37, relating to water skiing, aquaplaning,
596 parasailing, and similar activities.
597 (j) Section 327.44, relating to interference with
598 navigation.
599 (k) Violations relating to boating-restricted ~~restricted~~
600 areas and speed limits:
601 1. Established by the commission or by local governmental
602 authorities pursuant to s. 327.46.
603 ~~2. Established by local governmental authorities pursuant~~
604 ~~to s. 327.22 or s. 327.60.~~
605 ~~2.3.~~ Speed limits established pursuant to s. 379.2431(2).
606 (l) Section 327.48, relating to regattas and races.
607 (m) Section 327.50(1) and (2), relating to required safety
608 equipment, lights, and shapes.
609 (n) Section 327.65, relating to muffling devices.
610 (o) Section 327.33(3)(b), relating to navigation rules.
611 (p) Section 327.39(1), (2), (3), and (5), relating to
612 personal watercraft.
613 (q) Section 327.53(1), (2), and (3), relating to marine
614 sanitation.
615 (r) Section 327.53(4), (5), and (7), relating to marine
616 sanitation, for which the civil penalty is \$250.
617 (s) Section 327.395, relating to boater safety education.
618 (t) Section 327.52(3), relating to operation of overloaded
619 or overpowered vessels.
620 (u) Section 327.331, relating to divers-down flags, except
621 for violations meeting the requirements of s. 327.33.



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622 (v) Section 327.391(1), relating to the requirement for an
623 adequate muffler on an airboat.

624 (w) Section 327.391(3), relating to the display of a flag
625 on an airboat.

626 (x) Section 253.04(4)(a), relating to carelessly causing
627 seagrass scarring, for which the civil penalty upon conviction
628 is:

629 1. For a first offense, \$50.

630 2. For a second offense occurring within 12 months after a
631 prior conviction, \$250.

632 3. For a third offense occurring within 36 months after a
633 prior conviction, \$500.

634 4. For a fourth or subsequent offense occurring within 72
635 months after a prior conviction, \$1,000.

636

637 Any person cited for a violation of any such provision shall be
638 deemed to be charged with a noncriminal infraction, shall be
639 cited for such an infraction, and shall be cited to appear
640 before the county court. The civil penalty for any such
641 infraction is \$50, except as otherwise provided in this section.
642 Any person who fails to appear or otherwise properly respond to
643 a uniform boating citation shall, in addition to the charge
644 relating to the violation of the boating laws of this state, be
645 charged with the offense of failing to respond to such citation
646 and, upon conviction, be guilty of a misdemeanor of the second
647 degree, punishable as provided in s. 775.082 or s. 775.083. A
648 written warning to this effect shall be provided at the time
649 such uniform boating citation is issued.

650 Section 19. Effective October 1, 2009, subsection (1) of



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651 section 327.731, Florida Statutes, is amended to read:

652 327.731 Mandatory education for violators.—

653 (1) Every person convicted of a criminal violation of this
654 chapter, every person convicted of a noncriminal infraction
655 under this chapter if the infraction resulted in a reportable
656 boating accident, and every person convicted of two noncriminal
657 infractions as defined in s. 327.73(1)(h)-(k), (m), (o), (p),
658 and ~~(s)-(x)~~~~(s)-(w)~~, said infractions occurring within a 12-month
659 period, must:

660 (a) Enroll in, attend, and successfully complete, at his or
661 her own expense, a boating safety course that meets minimum
662 standards established by the commission by rule; however, the
663 commission may provide by rule pursuant to chapter 120 for
664 waivers of the attendance requirement for violators residing in
665 areas where classroom presentation of the course is not
666 available;

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

669 (c) Refrain from operating a vessel until he or she has
670 filed the proof of successful completion of the course with the
671 commission.

672

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

676

677 Renumber subsequent sections.

678

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680 ===== T I T L E A M E N D M E N T =====

681 And the title is amended as follows:

682 Delete lines 27 - 54

683 and insert:

684 10-horsepower motor or greater; providing a short title;
685 amending s. 327.40, F.S.; revising provisions for placement of
686 navigation, safety, and informational markers of waterways;
687 providing for uniform waterway markers; removing an exemption
688 from permit requirements for certain markers placed by county,
689 municipal, or other government entities; amending s. 327.41,
690 F.S.; relating to placement of markers by a county or
691 municipality; revising terminology; providing for a county or
692 municipality that has adopted a boating-restricted area by
693 ordinance under specified provisions to apply for permission to
694 place regulatory markers; amending s. 327.42, F.S.; revising
695 provisions prohibiting mooring to or damaging markers or buoys;
696 amending s. 327.46, F.S.; revising provisions for establishment
697 by the Fish and Wildlife Conservation Commission of boating-
698 restricted areas; providing for counties and municipalities to
699 establish boating-restricted areas with approval of the
700 commission; directing the commission to adopt rules for the
701 approval; revising a prohibition against operating a vessel in a
702 prohibited manner in a boating-restricted area; amending s.
703 327.60, F.S.; revising provisions limiting regulation by a
704 county or municipality of the operation, equipment, and other
705 matters relating to vessels operated upon the waters of this
706 state; prohibiting certain county or municipality ordinances or
707 regulations; amending s. 327.65; F.S.; correcting a cross
708 reference; creating s. 327.66, F.S.; prohibiting