

1                   A bill to be entitled  
 2           An act relating to vessels; amending s. 327.33, F.S.;  
 3           revising penalty provisions for violation of navigation  
 4           rules; providing that such violations that do not  
 5           constitute reckless operation of a vessel are noncriminal  
 6           violations; amending s. 327.73, F.S.; providing for  
 7           increased penalties for certain noncriminal violations;  
 8           deleting a duplicate provision; amending s. 327.70, F.S.;  
 9           conforming a cross-reference to changes made by the act;  
 10          reenacting and amending s. 327.72, F.S., relating to  
 11          penalties, to incorporate changes made by the act in  
 12          references thereto; reenacting s. 327.731(1), F.S.,  
 13          relating to mandatory education for violators, to  
 14          incorporate changes made by the act in references thereto;  
 15          providing an effective date.

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

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 19           Section 1. Subsection (3) of section 327.33, Florida  
 20   Statutes, is amended to read:

21           327.33 Reckless or careless operation of vessel.—

22           (3) Each person operating a vessel upon the waters of this  
 23   state shall comply with the navigation rules.

24           ~~(a) A person whose violation of the navigation rules~~  
 25   ~~results in a boating accident, but whose violation did not~~  
 26   ~~constitute reckless operation of a vessel, is guilty of a~~  
 27   ~~misdemeanor of the second degree, punishable as provided in s.~~  
 28   ~~775.082 or s. 775.083.~~

29            (a) ~~(b)~~ A person who violates ~~whose violation of the~~  
 30 navigation rules and the violation ~~does not result in a boating~~  
 31 ~~accident and~~ does not constitute reckless operation of a vessel  
 32 commits ~~is guilty of~~ a noncriminal violation as defined in s.  
 33 775.08, punishable as provided in s. 327.73.

34            (b) ~~(e)~~ Law enforcement vessels may deviate from the  
 35 navigational rules when such diversion is necessary to the  
 36 performance of their duties and when such deviation may be  
 37 safely accomplished.

38            Section 2. Subsections (1) and (5) of section 327.73,  
 39 Florida Statutes, are amended to read:

40            327.73 Noncriminal infractions.—

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

43            (a) Section 328.46, relating to operation of unregistered  
 44 and unnumbered vessels.

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

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

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

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

51            (f) Section 328.60, relating to military personnel and  
 52 registration of vessels.

53            (g) Section 328.72(13), relating to operation with an  
 54 expired registration.

55            (h) Section 327.33(2), relating to careless operation.

56            (i) Section 327.37, relating to water skiing, aquaplaning,

57 parasailing, and similar activities.

58 (j) Section 327.44, relating to interference with  
59 navigation.

60 (k) Violations relating to boating-restricted areas and  
61 speed limits:

62 1. Established by the commission or by local governmental  
63 authorities pursuant to s. 327.46.

64 2. Speed limits established pursuant to s. 379.2431(2).

65 (l) Section 327.48, relating to regattas and races.

66 (m) Section 327.50(1) and (2), relating to required safety  
67 equipment, lights, and shapes.

68 (n) Section 327.65, relating to muffling devices.

69 (o) Section 327.33(3) ~~(b)~~, relating to navigation rules,  
70 for which the penalty is:

71 1. For a first offense, up to a maximum of \$500.

72 2. For a second offense, up to a maximum of \$750.

73 3. For a third or subsequent offense, up to a maximum of  
74 \$1,000.

75 (p) Section 327.39(1), (2), (3), and (5), relating to  
76 personal watercraft.

77 (q) Section 327.53(1), (2), and (3), relating to marine  
78 sanitation.

79 (r) Section 327.53(4), (5), and (7), relating to marine  
80 sanitation, for which the civil penalty is \$250.

81 (s) Section 327.395, relating to boater safety education.

82 (t) Section 327.52(3), relating to operation of overloaded  
83 or overpowered vessels.

84 (u) Section 327.331, relating to divers-down flags, except

85 for violations meeting the requirements of s. 327.33.

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

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

90 (x) Section 253.04(3)(a), relating to carelessly causing  
91 seagrass scarring, for which the civil penalty upon conviction  
92 is:

- 93 1. For a first offense, \$50.
- 94 2. For a second offense occurring within 12 months after a  
95 prior conviction, \$250.
- 96 3. For a third offense occurring within 36 months after a  
97 prior conviction, \$500.
- 98 4. For a fourth or subsequent offense occurring within 72  
99 months after a prior conviction, \$1,000.

100  
101 Any person cited for a violation of any such provision shall be  
102 deemed to be charged with a noncriminal infraction, shall be  
103 cited for such an infraction, and shall be cited to appear  
104 before the county court. The civil penalty for any such  
105 infraction is \$50, except as otherwise provided in this section.  
106 Any person who fails to appear or otherwise properly respond to  
107 a uniform boating citation shall, in addition to the charge  
108 relating to the violation of the boating laws of this state, be  
109 charged with the offense of failing to respond to such citation  
110 and, upon conviction, be guilty of a misdemeanor of the second  
111 degree, punishable as provided in s. 775.082 or s. 775.083. A  
112 written warning to this effect shall be provided at the time

113 such uniform boating citation is issued.

114  
 115 ~~Any person cited for a violation of any such provision shall be~~  
 116 ~~deemed to be charged with a noncriminal infraction, shall be~~  
 117 ~~cited for such an infraction, and shall be cited to appear~~  
 118 ~~before the county court. The civil penalty for any such~~  
 119 ~~infraction is \$50, except as otherwise provided in this section.~~  
 120 ~~Any person who fails to appear or otherwise properly respond to~~  
 121 ~~a uniform boating citation shall, in addition to the charge~~  
 122 ~~relating to the violation of the boating laws of this state, be~~  
 123 ~~charged with the offense of failing to respond to such citation~~  
 124 ~~and, upon conviction, be guilty of a misdemeanor of the second~~  
 125 ~~degree, punishable as provided in s. 775.082 or s. 775.083. A~~  
 126 ~~written warning to this effect shall be provided at the time~~  
 127 ~~such uniform boating citation is issued.~~

128 (5) Any person electing to appear before the county court  
 129 or who is required so to appear shall be deemed to have waived  
 130 the limitations on the civil penalty specified in subsection  
 131 (1). The court, after a hearing, shall make a determination as  
 132 to whether an infraction has been committed. If the commission  
 133 of an infraction has been proven, the court may impose a civil  
 134 penalty not to exceed \$500 or a higher amount specified in  
 135 subsection (1).

136 Section 3. Subsection (2) of section 327.70, Florida  
 137 Statutes, is amended to read:

138 327.70 Enforcement of this chapter and chapter 328.—

139 (2) (a) Noncriminal violations of the following statutes  
 140 may be enforced by a uniform boating citation mailed to the

141 registered owner of an unattended vessel anchored, aground, or  
 142 moored on the waters of this state:

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

144 2. Section 327.44, relating to interference with  
 145 navigation.

146 3. Section 327.50(2), relating to required lights and  
 147 shapes.

148 4. Section 327.53, relating to marine sanitation.

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

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

151 (b) Citations issued to livery vessels under this  
 152 subsection shall be the responsibility of the lessee of the  
 153 vessel if the livery has included a warning of this  
 154 responsibility as a part of the rental agreement and has  
 155 provided to the agency issuing the citation the name, address,  
 156 and date of birth of the lessee when requested by that agency.  
 157 The livery is not responsible for the payment of citations if  
 158 the livery provides the required warning and lessee information.

159 Section 4. For the purpose of incorporating the amendment  
 160 made by this act to section 327.73, Florida Statutes, in a  
 161 reference thereto, section 327.72, Florida Statutes, is  
 162 reenacted and amended to read:

163 327.72 Penalties.—Any person failing to comply with the  
 164 provisions of this chapter or chapter 328 not specified in s.  
 165 327.73 or not paying the civil penalty specified in s. 327.73  
 166 ~~said section~~ within 30 days, except as otherwise provided in  
 167 this chapter or chapter 328, commits a misdemeanor of the second  
 168 degree, punishable as provided in s. 775.082 or s. 775.083.

169 Section 5. For the purpose of incorporating the amendment  
170 made by this act to section 327.73, Florida Statutes, in a  
171 reference thereto, subsection (1) of section 327.731, Florida  
172 Statutes, is reenacted to read:

173 327.731 Mandatory education for violators.—

174 (1) Every person convicted of a criminal violation of this  
175 chapter, every person convicted of a noncriminal infraction  
176 under this chapter if the infraction resulted in a reportable  
177 boating accident, and every person convicted of two noncriminal  
178 infractions as defined in s. 327.73(1)(h)-(k), (m), (o), (p),  
179 and (s)-(x), said infractions occurring within a 12-month  
180 period, must:

181 (a) Enroll in, attend, and successfully complete, at his  
182 or her own expense, a boating safety course that meets minimum  
183 standards established by the commission by rule; however, the  
184 commission may provide by rule pursuant to chapter 120 for  
185 waivers of the attendance requirement for violators residing in  
186 areas where classroom presentation of the course is not  
187 available;

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

190 (c) Refrain from operating a vessel until he or she has  
191 filed the proof of successful completion of the course with the  
192 commission.

193

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

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Section 6. This act shall take effect October 1, 2011.