

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 misdemeanor penalties for a violation
5 that results in a boating accident causing serious bodily
6 injury or death; providing that under certain
7 circumstances a violation of navigation rules is a
8 noncriminal violation; amending s. 327.395, F.S.;
9 providing an exemption from the requirement that certain
10 persons must possess a boating safety identification card
11 while operating a motor vessel of a specified horsepower
12 or greater; amending s. 327.54, F.S.; requiring liveries
13 to require that a person present a valid boater safety
14 identification card or provide proof that the person
15 passed the boating education safety course or examination;
16 amending s. 327.73, F.S.; providing for increased
17 penalties for certain noncriminal violations; deleting a
18 duplicate provision; reenacting and amending s. 327.72,
19 F.S., relating to penalties, to incorporate changes made
20 by the act in references thereto; reenacting s.
21 327.731(1), F.S., relating to mandatory education for
22 violators, to incorporate changes made by the act in
23 references thereto; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsection (3) of section 327.33, Florida
28 Statutes, is amended to read:

29 | 327.33 Reckless or careless operation of vessel.—

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

32 | (a) A person who violates ~~whose violation of the~~
33 | navigation rules and the violation results in a boating accident
34 | causing serious bodily injury as defined in s. 327.353 or death,
35 | but the ~~whose~~ violation does ~~did~~ not constitute reckless
36 | operation of a vessel, commits ~~is guilty of~~ a misdemeanor of the
37 | second degree, punishable as provided in s. 775.082 or s.
38 | 775.083.

39 | (b) A person who violates ~~whose violation of the~~
40 | navigation rules and the violation ~~does not result in a boating~~
41 | ~~accident and~~ does not constitute reckless operation of a vessel
42 | commits ~~is guilty of~~ a noncriminal violation as defined in s.
43 | 775.08, punishable as provided in s. 327.73.

44 | (c) Law enforcement vessels may deviate from the
45 | navigational rules when such diversion is necessary to the
46 | performance of their duties and when such deviation may be
47 | safely accomplished.

48 | Section 2. Subsection (6) of section 327.395, Florida
49 | Statutes, is amended to read:

50 | 327.395 Boating safety identification cards.—

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

52 | (a) Is licensed by the United States Coast Guard to serve
53 | as master of a vessel.

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

55 | (c) Is accompanied in the vessel by a person who is exempt
56 | from this section or who holds an identification card in

57 | compliance with this section, is 18 years of age or older, and
 58 | is attendant to the operation of the vessel and responsible for
 59 | the safe operation of the vessel and for any violation that
 60 | occurs during the operation.

61 | (d) Is a nonresident who has in his or her possession
 62 | proof that he or she has completed a boater education course or
 63 | equivalency examination in another state which meets or exceeds
 64 | the requirements of subsection (1).

65 | (e) Is operating a vessel within 90 days after the
 66 | purchase of that vessel and has available for inspection aboard
 67 | that vessel a bill of sale meeting the requirements of s.
 68 | 328.46(1).

69 | (f) Is operating a vessel within 90 days after completing
 70 | the requirements of paragraph (1)(a) or paragraph (1)(b) and has
 71 | available for inspection photographic identification and his or
 72 | her boater education certificate as proof that the course was
 73 | successfully completed. The boater education certificate must
 74 | provide, at a minimum, the student's first and last name, the
 75 | student's date of birth, and the date the student passed the
 76 | course examination.

77 | (g) ~~(f)~~ Is exempted by rule of the commission.

78 | Section 3. Subsection (2) of section 327.54, Florida
 79 | Statutes, is amended to read:

80 | 327.54 Liveries; safety regulations; penalty.—

81 | (2) A livery may not knowingly lease, hire, or rent any
 82 | vessel powered by a motor of 10 horsepower or greater to any
 83 | person who is required to comply with s. 327.395, unless such
 84 | person presents to the livery a valid boater safety

85 identification card or proof of meeting the temporary exemption
86 provided by s. 327.395(6)(f) to the livery.

87 Section 4. Subsections (1) and (5) of section 327.73,
88 Florida Statutes, are amended to read:

89 327.73 Noncriminal infractions.—

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

92 (a) Section 328.46, relating to operation of unregistered
93 and unnumbered vessels.

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

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

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

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

100 (f) Section 328.60, relating to military personnel and
101 registration of vessels.

102 (g) Section 328.72(13), relating to operation with an
103 expired registration.

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

105 (i) Section 327.37, relating to water skiing, aquaplaning,
106 parasailing, and similar activities.

107 (j) Section 327.44, relating to interference with
108 navigation.

109 (k) Violations relating to boating-restricted areas and
110 speed limits:

111 1. Established by the commission or by local governmental
112 authorities pursuant to s. 327.46.

- 113 2. Speed limits established pursuant to s. 379.2431(2).
- 114 (l) Section 327.48, relating to regattas and races.
- 115 (m) Section 327.50(1) and (2), relating to required safety
- 116 equipment, lights, and shapes.
- 117 (n) Section 327.65, relating to muffling devices.
- 118 (o)1. Section 327.33(3)(b), relating to a violation of
- 119 navigation rules not resulting in an accident.
- 120 2. Section 327.33(3)(b), relating to a violation of
- 121 navigation rules resulting in an accident not causing serious
- 122 bodily injury or death, for which the penalty is:
- 123 a. For a first offense, up to a maximum of \$250.
- 124 b. For a second offense, up to a maximum of \$750.
- 125 c. For a third or subsequent offense, up to a maximum of
- 126 \$1,000.
- 127 (p) Section 327.39(1), (2), (3), and (5), relating to
- 128 personal watercraft.
- 129 (q) Section 327.53(1), (2), and (3), relating to marine
- 130 sanitation.
- 131 (r) Section 327.53(4), (5), and (7), relating to marine
- 132 sanitation, for which the civil penalty is \$250.
- 133 (s) Section 327.395, relating to boater safety education.
- 134 (t) Section 327.52(3), relating to operation of overloaded
- 135 or overpowered vessels.
- 136 (u) Section 327.331, relating to divers-down flags, except
- 137 for violations meeting the requirements of s. 327.33.
- 138 (v) Section 327.391(1), relating to the requirement for an
- 139 adequate muffler on an airboat.
- 140 (w) Section 327.391(3), relating to the display of a flag

141 on an airboat.

142 (x) Section 253.04(3)(a), relating to carelessly causing
 143 seagrass scarring, for which the civil penalty upon conviction
 144 is:

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

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

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

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

152

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

158 Any person who fails to appear or otherwise properly respond to
 159 a uniform boating citation shall, in addition to the charge
 160 relating to the violation of the boating laws of this state, be
 161 charged with the offense of failing to respond to such citation
 162 and, upon conviction, be guilty of a misdemeanor of the second
 163 degree, punishable as provided in s. 775.082 or s. 775.083. A
 164 written warning to this effect shall be provided at the time
 165 such uniform boating citation is issued.

166

167 ~~Any person cited for a violation of any such provision shall be~~
 168 ~~deemed to be charged with a noncriminal infraction, shall be~~

169 ~~eited for such an infraction, and shall be cited to appear~~
170 ~~before the county court. The civil penalty for any such~~
171 ~~infraction is \$50, except as otherwise provided in this section.~~
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174 ~~relating to the violation of the boating laws of this state, be~~
175 ~~charged with the offense of failing to respond to such citation~~
176 ~~and, upon conviction, be guilty of a misdemeanor of the second~~
177 ~~degree, punishable as provided in s. 775.082 or s. 775.083. A~~
178 ~~written warning to this effect shall be provided at the time~~
179 ~~such uniform boating citation is issued.~~

180 (5) Any person electing to appear before the county court
181 or who is required so to appear shall be deemed to have waived
182 the limitations on the civil penalty specified in subsection
183 (1). The court, after a hearing, shall make a determination as
184 to whether an infraction has been committed. If the commission
185 of an infraction has been proven, the court may impose a civil
186 penalty not to exceed \$500 or a higher amount specified in
187 subsection (1).

188 Section 5. For the purpose of incorporating the amendment
189 made by this act to section 327.73, Florida Statutes, in a
190 reference thereto, section 327.72, Florida Statutes, is
191 reenacted and amended to read:

192 327.72 Penalties.—Any person failing to comply with the
193 provisions of this chapter or chapter 328 not specified in s.
194 327.73 or not paying the civil penalty specified in s. 327.73
195 ~~said section~~ within 30 days, except as otherwise provided in
196 this chapter or chapter 328, commits a misdemeanor of the second

197 degree, punishable as provided in s. 775.082 or s. 775.083.

198 Section 6. For the purpose of incorporating the amendment
 199 made by this act to section 327.73, Florida Statutes, in a
 200 reference thereto, subsection (1) of section 327.731, Florida
 201 Statutes, is reenacted to read:

202 327.731 Mandatory education for violators.—

203 (1) Every person convicted of a criminal violation of this
 204 chapter, every person convicted of a noncriminal infraction
 205 under this chapter if the infraction resulted in a reportable
 206 boating accident, and every person convicted of two noncriminal
 207 infractions as defined in s. 327.73(1)(h)-(k), (m), (o), (p),
 208 and (s)-(x), said infractions occurring within a 12-month
 209 period, must:

210 (a) Enroll in, attend, and successfully complete, at his
 211 or her own expense, a boating safety course that meets minimum
 212 standards established by the commission by rule; however, the
 213 commission may provide by rule pursuant to chapter 120 for
 214 waivers of the attendance requirement for violators residing in
 215 areas where classroom presentation of the course is not
 216 available;

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

219 (c) Refrain from operating a vessel until he or she has
 220 filed the proof of successful completion of the course with the
 221 commission.

222

223 Any person who has successfully completed an approved boating
 224 course shall be exempt from these provisions upon showing proof

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225 | to the commission as specified in paragraph (b).

226 | Section 7. This act shall take effect October 1, 2011.