

By Senator Negrón

28-00703-11

2011512

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

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

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

22 327.33 Reckless or careless operation of vessel.—

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

25 ~~(a) A person whose violation of the navigation rules~~
26 ~~results in a boating accident, but whose violation did not~~
27 ~~constitute reckless operation of a vessel, is guilty of a~~
28 ~~misdemeanor of the second degree, punishable as provided in s.~~
29 ~~775.082 or s. 775.083.~~

28-00703-11

2011512

30 (a)~~(b)~~ A person who violates ~~whose violation of~~ the
31 navigation rules and the violation ~~does not result in a boating~~
32 ~~accident and~~ does not constitute reckless operation of a vessel
33 commits ~~is guilty of~~ a noncriminal violation as defined in s.
34 775.08, punishable as provided in s. 327.73.

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

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

41 327.73 Noncriminal infractions.—

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

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

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

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

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

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

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

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

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

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

28-00703-11

2011512

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

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

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

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

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

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

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

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

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

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

74 3. For a third or subsequent offense, up to a maximum of
75 \$1,000.

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

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

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

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

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

85 (u) Section 327.331, relating to divers-down flags, except
86 for violations meeting the requirements of s. 327.33.

87 (v) Section 327.391(1), relating to the requirement for an

28-00703-11

2011512

88 adequate muffler on an airboat.

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

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

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

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

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

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

101
102 Any person cited for a violation of any such provision shall be
103 deemed to be charged with a noncriminal infraction, shall be
104 cited for such an infraction, and shall be cited to appear
105 before the county court. The civil penalty for any such
106 infraction is \$50, except as otherwise provided in this section.

107 Any person who fails to appear or otherwise properly respond to
108 a uniform boating citation shall, in addition to the charge
109 relating to the violation of the boating laws of this state, be
110 charged with the offense of failing to respond to such citation
111 and, upon conviction, be guilty of a misdemeanor of the second
112 degree, punishable as provided in s. 775.082 or s. 775.083. A
113 written warning to this effect shall be provided at the time
114 such uniform boating citation is issued.

115
116 ~~Any person cited for a violation of any such provision shall be~~

28-00703-11

2011512

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

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

139 327.70 Enforcement of this chapter and chapter 328.—

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

- 144 1. Section 327.33(3) ~~(b)~~, relating to navigation rules.
- 145 2. Section 327.44, relating to interference with

28-00703-11

2011512

146 navigation.

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

149 4. Section 327.53, relating to marine sanitation.

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

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

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

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

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

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

174 327.731 Mandatory education for violators.—

28-00703-11

2011512

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

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

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

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

194

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

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