

By the Committee on Environmental Preservation and Conservation;
and Senator Negron

592-03427-11

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1 A bill to be entitled

2 An act relating to vessels; amending s. 327.33, F.S.;
3 revising penalty provisions for the violation of
4 navigation rules; providing that a violation resulting
5 in serious bodily injury or death is a second-degree
6 misdemeanor; providing that a violation that does not
7 constitute reckless operation of a vessel is a
8 noncriminal violation; amending s. 327.73, F.S.;
9 providing for increased penalties for certain
10 noncriminal violations of navigation rules; deleting a
11 duplicate provision; reenacting and amending s.
12 327.72, F.S., relating to penalties, to incorporate
13 the amendment made to s. 327.73, in a reference
14 thereto; correcting a cross-reference; reenacting s.
15 327.731(1), F.S., relating to mandatory education for
16 violators, to incorporate the amendment made to s.
17 327.73, F.S., in a reference thereto; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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

24 327.33 Reckless or careless operation of vessel.—

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

27 (a) A person who violates ~~whose violation of~~ the navigation
28 rules and the violation results in a boating accident causing
29 serious bodily injury as defined in s. 327.353 or death, but the

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30 ~~whose~~ violation does ~~did~~ not constitute reckless operation of a
31 vessel, commits ~~is guilty of~~ a misdemeanor of the second degree,
32 punishable as provided in s. 775.082 or s. 775.083.

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

38 (c) Law enforcement vessels may deviate from the
39 navigational rules when such diversion is necessary to the
40 performance of their duties and when such deviation may be
41 safely accomplished.

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

44 327.73 Noncriminal infractions.—

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

47 (a) Section 328.46, relating to operation of unregistered
48 and unnumbered vessels.

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

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

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

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

55 (f) Section 328.60, relating to military personnel and
56 registration of vessels.

57 (g) Section 328.72(13), relating to operation with an
58 expired registration.

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

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

62 (j) Section 327.44, relating to interference with
63 navigation.

64 (k) Violations relating to boating-restricted areas and
65 speed limits:

66 1. Established by the commission or by local governmental
67 authorities pursuant to s. 327.46.

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

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

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

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

73 (o) Section 327.33(3)(b), relating to a violation of
74 navigation rules:-

75 1. That does not result in an accident; or

76 2. That results in an accident not causing serious bodily
77 injury or death, for which the penalty is:

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

79 b. For a second offense, up to a maximum of \$750.

80 c. For a third or subsequent offense, up to a maximum of
81 \$1,000.

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

84 (q) Section 327.53(1), (2), and (3), relating to marine
85 sanitation.

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

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

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

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

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

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

97 (x) Section 253.04(3)(a), relating to carelessly causing
98 seagrass scarring, for which the civil penalty upon conviction
99 is:

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

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

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

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

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108 Any person cited for a violation of any ~~such~~ provision of this
109 subsection shall be deemed to be charged with a noncriminal
110 infraction, shall be cited for such an infraction, and shall be
111 cited to appear before the county court. The civil penalty for
112 any such infraction is \$50, except as otherwise provided in this
113 section. Any person who fails to appear or otherwise properly
114 respond to a uniform boating citation shall, in addition to the
115 charge relating to the violation of the boating laws of this
116 state, be charged with the offense of failing to respond to such

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117 citation and, upon conviction, be guilty of a misdemeanor of the
118 second degree, punishable as provided in s. 775.082 or s.
119 775.083. A written warning to this effect shall be provided at
120 the time such uniform boating citation is issued.

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

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

143 Section 3. For the purpose of incorporating the amendment
144 made by this act to section 327.73, Florida Statutes, in a
145 reference thereto, section 327.72, Florida Statutes, is

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146 reenacted and amended to read:

147 327.72 Penalties.—Any person failing to comply with the
148 provisions of this chapter or chapter 328 not specified in s.
149 327.73 or not paying the civil penalty specified in s. 327.73
150 ~~said section~~ within 30 days, except as otherwise provided in
151 this chapter or chapter 328, commits a misdemeanor of the second
152 degree, punishable as provided in s. 775.082 or s. 775.083.

153 Section 4. For the purpose of incorporating the amendment
154 made by this act to section 327.73, Florida Statutes, in a
155 reference thereto, subsection (1) of section 327.731, Florida
156 Statutes, is reenacted to read:

157 327.731 Mandatory education for violators.—

158 (1) Every person convicted of a criminal violation of this
159 chapter, every person convicted of a noncriminal infraction
160 under this chapter if the infraction resulted in a reportable
161 boating accident, and every person convicted of two noncriminal
162 infractions as defined in s. 327.73(1)(h)-(k), (m), (o), (p),
163 and (s)-(x), said infractions occurring within a 12-month
164 period, must:

165 (a) Enroll in, attend, and successfully complete, at his or
166 her own expense, a boating safety course that meets minimum
167 standards established by the commission by rule; however, the
168 commission may provide by rule pursuant to chapter 120 for
169 waivers of the attendance requirement for violators residing in
170 areas where classroom presentation of the course is not
171 available;

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

174 (c) Refrain from operating a vessel until he or she has

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175 filed the proof of successful completion of the course with the
176 commission.

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

181 Section 5. This act shall take effect October 1, 2011.