

By the Committees on Budget; and Environmental Preservation and Conservation; and Senator Negron

576-04541-11

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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. 327.395, F.S.;  
9           providing an additional exemption from the requirement  
10          that certain persons possess a boating safety  
11          identification card while operating a motor vessel of  
12          a specified horsepower; amending s. 327.54, F.S.;  
13          prohibiting a livery from leasing, hiring, or renting  
14          a motor vessel of certain horsepower to a person  
15          unless the person presents photographic identification  
16          and a valid boater safety identification card or  
17          provides proof that the person has successfully  
18          completed the boater education course; amending s.  
19          327.73, F.S.; providing for increased penalties for  
20          certain noncriminal violations of navigation rules;  
21          deleting a duplicate provision; reenacting and  
22          amending s. 327.72, F.S., relating to penalties, to  
23          incorporate the amendment made to s. 327.73, in a  
24          reference thereto; correcting a cross-reference;  
25          reenacting s. 327.731(1), F.S., relating to mandatory  
26          education for violators, to incorporate the amendment  
27          made to s. 327.73, F.S., in a reference thereto;  
28          providing an effective date.

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576-04541-11

2011512c2

30 Be It Enacted by the Legislature of the State of Florida:

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

34 327.33 Reckless or careless operation of vessel.—

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

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

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

48 (c) Law enforcement vessels may deviate from the  
49 navigational rules when such diversion is necessary to the  
50 performance of their duties and when such deviation may be  
51 safely accomplished.

52 Section 2. Subsection (6) of section 327.395, Florida  
53 Statutes, is amended to read:

54 327.395 Boating safety identification cards.—

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

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

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

576-04541-11

2011512c2

59 (c) Is accompanied in the vessel by a person who is exempt  
60 from this section or who holds an identification card in  
61 compliance with this section, is 18 years of age or older, and  
62 is attendant to the operation of the vessel and responsible for  
63 the safe operation of the vessel and for any violation that  
64 occurs during the operation of the vessel.

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

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

72 (f) Is operating a vessel within 90 days after completing  
73 the requirements of paragraph (1) (a) or paragraph (1) (b) and has  
74 a photographic identification card and a boater education  
75 certificate available for inspection as proof of having  
76 completed a boater education course. The boater education  
77 certificate must provide, at a minimum, the student's first and  
78 last name, the student's date of birth, and the date that he or  
79 she passed the course examination.

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

81 Section 3. Subsection (2) of section 327.54, Florida  
82 Statutes, is amended to read:

83 327.54 Liveries; safety regulations; penalty.—

84 (2) A livery may not knowingly lease, hire, or rent any  
85 vessel powered by a motor of 10 horsepower or greater to any  
86 person who is required to comply with s. 327.395, unless such  
87 person presents to the livery photographic identification and a

576-04541-11

2011512c2

88 valid boater safety identification card as required under s.  
89 327.395(1), or meets the exemption provided under s.  
90 327.395(6)(f) ~~to the livery.~~

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

93 327.73 Noncriminal infractions.—

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

96 (a) Section 328.46, relating to operation of unregistered  
97 and unnumbered vessels.

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

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

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

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

104 (f) Section 328.60, relating to military personnel and  
105 registration of vessels.

106 (g) Section 328.72(13), relating to operation with an  
107 expired registration.

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

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

111 (j) Section 327.44, relating to interference with  
112 navigation.

113 (k) Violations relating to boating-restricted areas and  
114 speed limits:

115 1. Established by the commission or by local governmental  
116 authorities pursuant to s. 327.46.

576-04541-11

2011512c2

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

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

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

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

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

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

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

127 a. For a first offense, up to a maximum of \$250.

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

129 c. For a third or subsequent offense, up to a maximum of  
130 \$1,000.

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

133 (q) Section 327.53(1), (2), and (3), relating to marine  
134 sanitation.

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

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

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

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

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

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

576-04541-11

2011512c2

146 (x) Section 253.04(3)(a), relating to carelessly causing  
147 seagrass scarring, for which the civil penalty upon conviction  
148 is:

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

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

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

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

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157 Any person cited for a violation of any ~~such~~ provision of this  
158 subsection shall be deemed to be charged with a noncriminal  
159 infraction, shall be cited for such an infraction, and shall be  
160 cited to appear before the county court. The civil penalty for  
161 any such infraction is \$50, except as otherwise provided in this  
162 section. Any person who fails to appear or otherwise properly  
163 respond to a uniform boating citation shall, in addition to the  
164 charge relating to the violation of the boating laws of this  
165 state, be charged with the offense of failing to respond to such  
166 citation and, upon conviction, be guilty of a misdemeanor of the  
167 second degree, punishable as provided in s. 775.082 or s.  
168 775.083. A written warning to this effect shall be provided at  
169 the time such uniform boating citation is issued.

170

171 ~~Any person cited for a violation of any such provision shall be~~  
172 ~~deemed to be charged with a noncriminal infraction, shall be~~  
173 ~~cited for such an infraction, and shall be cited to appear~~  
174 ~~before the county court. The civil penalty for any such~~

576-04541-11

2011512c2

175 ~~infraction is \$50, except as otherwise provided in this section.~~  
176 ~~Any person who fails to appear or otherwise properly respond to~~  
177 ~~a uniform boating citation shall, in addition to the charge~~  
178 ~~relating to the violation of the boating laws of this state, be~~  
179 ~~charged with the offense of failing to respond to such citation~~  
180 ~~and, upon conviction, be guilty of a misdemeanor of the second~~  
181 ~~degree, punishable as provided in s. 775.082 or s. 775.083. A~~  
182 ~~written warning to this effect shall be provided at the time~~  
183 ~~such uniform boating citation is issued.~~

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

192 Section 5. For the purpose of incorporating the amendment  
193 made by this act to section 327.73, Florida Statutes, in a  
194 reference thereto, section 327.72, Florida Statutes, is  
195 reenacted and amended to read:

196 327.72 Penalties.—Any person failing to comply with the  
197 provisions of this chapter or chapter 328 not specified in s.  
198 327.73 or not paying the civil penalty specified in s. 327.73  
199 ~~said section~~ within 30 days, except as otherwise provided in  
200 this chapter or chapter 328, commits a misdemeanor of the second  
201 degree, punishable as provided in s. 775.082 or s. 775.083.

202 Section 6. For the purpose of incorporating the amendment  
203 made by this act to section 327.73, Florida Statutes, in a

576-04541-11

2011512c2

204 reference thereto, subsection (1) of section 327.731, Florida  
205 Statutes, is reenacted to read:

206 327.731 Mandatory education for violators.—

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

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

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

223 (c) Refrain from operating a vessel until he or she has  
224 filed the proof of successful completion of the course with the  
225 commission.

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

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