

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

592-02358-16

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1 A bill to be entitled

2 An act relating to divers-down warning devices;  
3 amending s. 327.331, F.S.; revising the definitions of  
4 the terms "divers-down buoy," "divers-down flag," and  
5 "divers-down symbol"; defining the term "divers-down  
6 warning device"; expanding the types of indicators or  
7 devices allowed to be used to signal the presence of  
8 submerged divers; specifying requirements for divers-  
9 down warning devices; amending ss. 327.395 and 327.73,  
10 F.S.; conforming provisions to changes made by the  
11 act; reenacting s. 327.33(1), F.S., relating to  
12 reckless or careless operation of a vessel, to  
13 incorporate the amendment made to s. 327.331, F.S., in  
14 a reference thereto; providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Section 327.331, Florida Statutes, is amended to  
19 read:

20 327.331 Divers; definitions; divers-down warning device  
21 ~~flag or buoy~~ required; obstruction to navigation of certain  
22 waters; penalty.-

23 (1) As used in this section:

24 (a) "Diver" means a person who is wholly or partially  
25 submerged in the waters of the state and is equipped with a face  
26 mask and snorkel or underwater breathing apparatus.

27 (b) "Divers-down buoy" means a buoyant device, other than a  
28 vessel, which displays a divers-down symbol ~~of at least 12~~  
29 ~~inches by 12 inches~~ on three or four flat sides, ~~which is~~  
30 ~~prominently visible on the water's surface when in use.~~

31 (c) "Divers-down flag" means a flag that displays a divers-

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32 down symbol and ~~that meets the following specifications:~~

33 1. ~~Is~~ The flag must be square or rectangular. ~~If~~  
34 ~~rectangular, the length must not be less than the height, or~~  
35 ~~more than 25 percent longer than the height. The flag must have~~  
36 ~~a wire or other stiffener to hold it fully unfurled and extended~~  
37 ~~in the absence of a wind or breeze.~~

38 2. ~~The flag must consist of~~ and has a divers-down symbol on  
39 each face. ~~side~~

40 2. Has with a white diagonal stripes on each face which  
41 begin stripe that begins at the top, staff-side of the flag and  
42 extend extends diagonally to the lower opposite corner.

43 3. If rectangular, is of a length that is not less than the  
44 height or more than 25 percent longer than the height.

45 4. Has a wire, or other stiffener, or is otherwise  
46 constructed to ensure that it remains fully unfurled and  
47 extended in the absence of a wind or breeze.

48 3. ~~The minimum size for any divers down flag displayed on a~~  
49 ~~buoy or float towed by the diver is 12 inches by 12 inches. The~~  
50 ~~minimum size for any divers-down flag displayed from a vessel or~~  
51 ~~structure is 20 inches by 24 inches.~~

52 4. ~~Any divers-down flag displayed from a vessel must be~~  
53 ~~displayed from the highest point of the vessel or such other~~  
54 ~~location which provides that the visibility of the divers-down~~  
55 ~~flag is not obstructed in any direction.~~

56 (d) "Divers-down symbol" means a rectangular or square red  
57 symbol with a white diagonal stripe. If rectangular, the length  
58 may must not be less than the height or more than 25 percent  
59 longer than the height. The width of the stripe must be 25  
60 percent of the height of the symbol and the stripes must be

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61 oriented in the same direction if multiple stripes are  
62 displayed.

63 (e) "Divers-down warning device" means a divers-down flag,  
64 buoy, or other similar warning device that:

65 1. Contains a divers-down symbol that is at least 12 inches  
66 by 12 inches in dimension when displayed from the water or at  
67 least 20 by 24 inches in dimension when displayed from a vessel;

68 2. Is designed for, and used by, divers and dive vessels as  
69 a means to notify nearby boaters of the presence of a diver in  
70 the waters of the immediate area; and

71 3. Is prominently visible when in use.

72 (f) ~~(e)~~ "Underwater breathing apparatus" means any  
73 apparatus, whether self-contained or connected to a distant  
74 source of air or other gas, whereby a person wholly or partially  
75 submerged in water is enabled to obtain or reuse air or any  
76 other gas or gases for breathing without returning to the  
77 surface of the water.

78 (2) All divers must prominently display a divers-down  
79 warning device ~~flag or buoy~~ in the area in which the diving  
80 occurs, other than when diving in an area customarily used for  
81 swimming only. A divers-down buoy may not be used or displayed  
82 onboard a vessel.

83 (3) A diver or group of divers may not display one or more  
84 divers-down warning devices ~~flags or buoys~~ on a river, inlet, or  
85 navigation channel, except in case of emergency, in a manner  
86 that ~~which shall~~ unreasonably constitutes ~~constitute~~ a  
87 navigational hazard.

88 (4) Divers shall make reasonable efforts to stay within 100  
89 feet of a divers-down warning device ~~flag or buoy~~ on rivers,

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90 inlets, and navigation channels. A person operating a vessel on  
91 a river, inlet, or navigation channel must make a reasonable  
92 effort to maintain a distance of at least 100 feet from any  
93 divers-down warning device ~~flag or buoy~~.

94 (5) Divers must make reasonable efforts to stay within 300  
95 feet of a divers-down warning device ~~flag or buoy~~ on all waters  
96 other than rivers, inlets, and navigation channels. A person  
97 operating a vessel on waters other than a river, inlet, or  
98 navigation channel must make a reasonable effort to maintain a  
99 distance of at least 300 feet from any divers-down warning  
100 device ~~flag or buoy~~.

101 (6) A vessel other than a law-enforcement ~~law-enforcement~~  
102 or rescue vessel that approaches within 100 feet of a divers-  
103 down warning device ~~flag or buoy~~ on a river, inlet, or  
104 navigation channel, or within 300 feet of a divers-down warning  
105 device ~~flag or buoy~~ on waters other than a river, inlet, or  
106 navigation channel, must proceed no faster than is necessary to  
107 maintain headway and steerageway.

108 (7) A divers-down warning device ~~flag or buoy~~ may not be  
109 displayed once all divers are aboard or ashore. A person may not  
110 operate any vessel displaying a divers-down warning device ~~flag~~  
111 unless the vessel has one or more divers in the water.

112 (8) A divers-down warning device displayed from a vessel  
113 must be displayed from the highest point of the vessel or  
114 another location that ensures that the visibility of the divers-  
115 down warning device is not obstructed from any direction.

116 (9) ~~(8)~~ Except as provided in s. 327.33, a violation of this  
117 section is a noncriminal infraction punishable as provided in s.  
118 327.73.

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119 Section 2. Subsection (3) of section 327.395, Florida  
120 Statutes, is amended to read:

121 327.395 Boating safety identification cards.—

122 (3) Any commission-approved boater education or boater  
123 safety course, course-equivalency examination developed or  
124 approved by the commission, or temporary certificate examination  
125 developed or approved by the commission must include a component  
126 regarding diving vessels, awareness of divers in the water,  
127 divers-down warning devices ~~flags and buoys~~, and the  
128 requirements of s. 327.331.

129 Section 3. Paragraph (u) of subsection (1) of section  
130 327.73, Florida Statutes, is amended to read:

131 327.73 Noncriminal infractions.—

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

134 (u) Section 327.331, relating to divers-down warning  
135 devices ~~flags and buoys~~, except for violations meeting the  
136 requirements of s. 327.33.

137

138 Any person cited for a violation of any provision of this  
139 subsection shall be deemed to be charged with a noncriminal  
140 infraction, shall be cited for such an infraction, and shall be  
141 cited to appear before the county court. The civil penalty for  
142 any such infraction is \$50, except as otherwise provided in this  
143 section. Any person who fails to appear or otherwise properly  
144 respond to a uniform boating citation shall, in addition to the  
145 charge relating to the violation of the boating laws of this  
146 state, be charged with the offense of failing to respond to such  
147 citation and, upon conviction, be guilty of a misdemeanor of the

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148 second degree, punishable as provided in s. 775.082 or s.  
149 775.083. A written warning to this effect shall be provided at  
150 the time such uniform boating citation is issued.

151 Section 4. For the purpose of incorporating the amendment  
152 made by this act to section 327.331, Florida Statutes, in a  
153 reference thereto, subsection (1) of section 327.33, Florida  
154 Statutes, is reenacted to read:

155 327.33 Reckless or careless operation of vessel.—

156 (1) It is unlawful to operate a vessel in a reckless  
157 manner. A person is guilty of reckless operation of a vessel who  
158 operates any vessel, or manipulates any water skis, aquaplane,  
159 or similar device, in willful or wanton disregard for the safety  
160 of persons or property at a speed or in a manner as to endanger,  
161 or likely to endanger, life or limb, or damage the property of,  
162 or injure any person. Reckless operation of a vessel includes,  
163 but is not limited to, a violation of s. 327.331(6). Any person  
164 who violates a provision of this subsection commits a  
165 misdemeanor of the first degree, punishable as provided in s.  
166 775.082 or s. 775.083.

167 Section 5. This act shall take effect July 1, 2016.