

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

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BILL: CS/SB 1530

INTRODUCER: Environment and Natural Resources Committee and Senator Rouson

SUBJECT: Vessels

DATE: April 2, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Anderson</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1530 requires vessel operators to reduce speed to a slow speed with minimum wake upon approaching certain hazardous conditions. A vessel operator that violates this requirement is guilty of a noncriminal infraction.

The bill increases the civil penalties for a vessel deemed at risk of becoming derelict and increases the maximum penalties for anchoring or mooring in a prohibited area. The bill creates penalties for vessels that do not reduce speed in the hazardous conditions specified under the bill.

**II. Present Situation:**

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.<sup>1</sup> Mooring is accomplished through the utilization of moorings permanently affixed to the bottom of the water body. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.<sup>2</sup>

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<sup>1</sup> Section 327.02, F.S., defines the term "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

<sup>2</sup> Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012), available at <https://www.law.ufl.edu/pdf/academics/centers-clinics/clinics/conservation/resources/anchaway.pdf> (last visited Mar. 21, 2019).

## **Derelict Vessels**

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property.<sup>3</sup>

It is unlawful to store, leave, or abandon a derelict vessel in Florida.<sup>4</sup> A person found in violation of this law commits a first degree misdemeanor.<sup>5</sup> State law further provides that a violation of derelict vessel laws may also subject a person to a civil penalty of up to \$50,000 per day.<sup>6</sup> Each day during any portion of which the violation occurs constitutes a separate offense.<sup>7</sup>

### *At-risk vessels*

In 2016, the Legislature prohibited neglected vessels or those in deteriorating conditions from anchoring, mooring, or occupying the waters of the state.<sup>8</sup> A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, or is listing due to water intrusion, or is sunk or partially sunk; or
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice stating such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair.<sup>9</sup>

## **Penalties for Boating Infractions**

Section 327.73, F.S., provides for non-criminal violations relating to vessel laws. An owner or operator of a vessel at risk of becoming derelict on waters of the state is subject to a uniform boating citation and penalties.<sup>10</sup> The penalties are:

- For a first offense, \$50;
- For a second offense occurring 30 days or more after a first offense, \$100; and
- For a third offense occurring 30 days or more after a previous offense, \$250.

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<sup>3</sup> Section 823.11(1)(b), F.S.

<sup>4</sup> Section 823.11(2), F.S.

<sup>5</sup> A first degree misdemeanor is punishable by a term of imprisonment of no more than one year and a fine of up to \$1,000.

<sup>6</sup> Section 376.16(1), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

<sup>9</sup> Section 327.4107, F.S.

<sup>10</sup> Section 327.73(aa), F.S.

An owner or operator who violates the law by anchoring or mooring in a prohibited area is subject to a uniform boating citation and penalties.<sup>11</sup> The penalties are:

- For a first offense, up to a maximum of \$50;
- For a second offense, up to a maximum of \$100; and
- For a third offense, up to a maximum of \$250.

In addition to civil penalties, the section provides that a person who fails to appear or otherwise properly respond to a uniform boating citation will be charged with a second-degree misdemeanor, which is punishable by a maximum fine of \$500 and no more than 60 days imprisonment.<sup>12</sup>

### **III. Effect of Proposed Changes:**

The bill requires vessel operators to reduce speed to a slow speed with minimum wake upon approaching certain hazardous conditions and provides that a vessel operator that violates this requirement is guilty of a noncriminal infraction. The hazardous conditions are:

- Approaching within 300 feet of any emergency vessel, including but not limited to, a law enforcement vessel, a United States Coast Guard vessel or auxiliary vessel, fire vessel, or tow vessel, with its emergency lights activated; and
- Approaching within 300 feet of any construction vessel or barge actively engaged in operations and displaying an orange flag or yellow flashing light from the tallest portion of the vessel or barge.

The bill increases the civil penalties for a vessel deemed at risk of becoming derelict for a second offense from \$100 to \$250, and for a third offense from \$250 to \$500. The bill also increases the maximum penalties for anchoring or mooring in a prohibited area for a second offense from \$100 to \$250, and for a third offense from \$250 to \$500.

The bill creates penalties for vessels that do not reduce speed in specified hazardous conditions: \$50 for a first offense, \$250 for a second offense occurring within 12 months after a prior conviction, \$500 for a third offense occurring within 36 months after a prior conviction, and \$1000 for a fourth or subsequent offense occurring within 72 months after a prior conviction.

The bill takes effect on July 1, 2019.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

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<sup>11</sup> Section 327.73(bb), F.S.

<sup>12</sup> Sections 775.082 and 775.083, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be a positive fiscal impact on FWC due to the new and increased penalties imposed under the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 327.73 of the Florida Statutes.

This bill creates section 327.332 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Environment and Natural Resources Committee on April 2, 2019:**

- Removes a provision relating to slowing speeds upon seeing a vessel or person in a hazardous or vulnerable position.
- Removes certain provisions relating to derelict vessels.

- Removes a provision relating to transfer of ownership of a vessel.
- Removes the authority to impound derelict vessels after three violations.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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