



520256

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2020	.	
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	.	
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The Committee on Environment and Natural Resources (Rouson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 327.332, Florida Statutes, is created to read:

327.332 Special hazards.—

(1) For purposes of this section, a vessel:

(a) Is operating at slow speed, minimum wake only if it is:

1. Fully off plane and completely settled into the water;



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11 and

12 2. Proceeding without wake or with minimum wake.

13

14 A vessel that is operating at slow speed, minimum wake may not
15 proceed at a speed greater than a speed that is reasonable and
16 prudent to avoid the creation of an excessive wake or other
17 hazardous condition under the existing circumstances.

18 (b) Is not proceeding at slow speed, minimum wake if it is:

19 1. Operating on plane;

20 2. In the process of coming off plane and settling into the
21 water or getting on plane; or

22 3. Operating at a speed that creates a wake which
23 unreasonably or unnecessarily endangers other vessels.

24 (2) A person may not operate a vessel faster than slow
25 speed, minimum wake upon approaching within 300 feet of any
26 emergency vessel, including, but not limited to, a law
27 enforcement vessel, United States Coast Guard vessel, or
28 firefighting vessel, when such emergency vessel has its
29 emergency lights activated.

30 (3) (a) A person may not operate a vessel faster than slow
31 speed, minimum wake upon approaching within 300 feet of any
32 construction vessel or barge when the vessel or barge is
33 displaying an orange flag from a pole extending:

34 1. At least 10 feet above the tallest portion of the vessel
35 or barge, indicating that the vessel or barge is actively
36 engaged in construction operations; or

37 2. At least 5 feet above any superstructure permanently
38 installed upon the vessel or barge, indicating that the vessel
39 or barge is actively engaged in construction operations.



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40 (b) A flag displayed on a vessel or barge pursuant to this
41 subsection must:

42 1. Be at least 2 feet by 3 feet in size;

43 2. Have a wire or other stiffener or be otherwise
44 constructed to ensure that the flag remains fully unfurled and
45 extended in the absence of a wind or breeze; and

46 3. Be displayed so that the visibility of the flag is not
47 obscured in any direction.

48 (c) In periods of low visibility, including any time
49 between the hours from 30 minutes after sunset and 30 minutes
50 before sunrise, a person may not be cited for a violation of
51 this subsection unless the orange flag is illuminated and
52 visible from a distance of at least 2 nautical miles.

53 (4) (a) A person operating a vessel in violation of this
54 section commits a noncriminal infraction, punishable as provided
55 in s. 327.73.

56 (b) The owner of, or party who is responsible for, a
57 construction vessel or barge who displays an orange flag on the
58 vessel or barge when it is not actively engaged in construction
59 operations commits a noncriminal infraction, punishable as
60 provided in s. 327.73.

61 (5) The speed and penalty provisions of this section do not
62 apply to a law enforcement, firefighting, or rescue vessel that
63 is owned or operated by a governmental entity.

64 Section 2. Present subsections (4) and (5) of section
65 327.4107, Florida Statutes, are redesignated as subsections (5)
66 and (6), respectively, a new subsection (4) is added to that
67 section, and present subsection (4) is amended, to read:

68 327.4107 Vessels at risk of becoming derelict on waters of



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69 this state.-

70 (4) (a) Any owner or responsible party who has been issued a
71 citation for a second violation of this section for the same
72 vessel may not anchor or moor such vessel or allow the vessel to
73 remain anchored or moored within 20 feet of a mangrove or to
74 upland vegetation upon public lands. This distance shall be
75 measured in a straight line from the point of the vessel closest
76 to the outermost branches of the mangrove or vegetation. An
77 owner or responsible party who violates this subsection commits
78 a noncriminal infraction, punishable as provided in s. 327.73.

79 (b) The commission, officers of the commission, and any law
80 enforcement agency or officer specified in s. 327.70 are
81 authorized and empowered to relocate or cause to be relocated an
82 at-risk vessel found to be in violation of this subsection to a
83 distance greater than 20 feet from any mangrove or upland
84 vegetation. The commission, officers of the commission, or any
85 other law enforcement agency or officer acting under this
86 subsection to relocate or cause to be relocated an at-risk
87 vessel, upon state waters, away from mangroves or upland
88 vegetation shall be held harmless for all damages to the at-risk
89 vessel resulting from such relocation unless the damage results
90 from gross negligence or willful misconduct.

91 (5) ~~(4)~~ The penalties ~~penalty~~ under this section are ~~is~~ in
92 addition to other penalties provided by law.

93 Section 3. Paragraphs (aa) and (bb) of subsection (1) of
94 section 327.73, Florida Statutes, are amended, and paragraphs
95 (cc), (dd), and (ee) are added to that subsection, to read:

96 327.73 Noncriminal infractions.-

97 (1) Violations of the following provisions of the vessel



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98 laws of this state are noncriminal infractions:

99 (aa) Section 327.4107, relating to vessels at risk of
100 becoming derelict on waters of this state, for which the civil
101 penalty is:

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

103 2. For a second offense occurring 30 days or more after a
104 first offense, \$250 ~~\$100~~.

105 3. For a third or subsequent offense occurring 30 days or
106 more after a previous offense, \$500 ~~\$250~~. A vessel that is the
107 subject of three or more violations issued pursuant to the same
108 paragraph of s. 327.4107(2) within a 12-month period which
109 resulted in dispositions other than acquittal or dismissal shall
110 be declared to be a public nuisance and subject to the abandoned
111 property provisions specific to derelict vessels in s. 705.103
112 and the derelict vessel removal and relocation provisions in s.
113 823.11.

114 (bb) Section 327.4109, relating to anchoring or mooring in
115 a prohibited area, for which the penalty is:

116 1. For a first offense, up to a maximum of \$100 ~~\$50~~.

117 2. For a second offense, up to a maximum of \$250 ~~\$100~~.

118 3. For a third or subsequent offense, up to a maximum of
119 \$500 ~~\$250~~. A vessel that is the subject of three or more
120 violations of the same subparagraph of s. 327.4109(1)(a) within
121 a 12-month timeframe which resulted in dispositions other than
122 acquittal or dismissal shall be declared to be a public nuisance
123 and subject to the abandoned property provisions specific to
124 derelict vessels in s. 705.103 and the derelict vessel removal
125 and relocation provisions in s. 823.11.

126 (cc) Section 327.332, relating to vessels creating special



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127 hazards, for which the penalty is:

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

129 2. For a second offense occurring within 12 months after a
130 prior offense, \$250.

131 3. For a third offense occurring within 36 months after a
132 prior offense, \$500.

133 (dd) Section 327.332, relating to the display of an orange
134 flag on a vessel or barge when the vessel or barge is not
135 actively engaged in construction operations.

136 (ee) Section 327.4107(4), relating to vessels at risk of
137 becoming derelict found to be anchored within 20 feet of a
138 mangrove or upland vegetation upon public lands, for which the
139 civil penalty is \$250.

140

141 Any person cited for a violation of any provision of this
142 subsection shall be deemed to be charged with a noncriminal
143 infraction, shall be cited for such an infraction, and shall be
144 cited to appear before the county court. The civil penalty for
145 any such infraction is \$50, except as otherwise provided in this
146 section. Any person who fails to appear or otherwise properly
147 respond to a uniform boating citation shall, in addition to the
148 charge relating to the violation of the boating laws of this
149 state, be charged with the offense of failing to respond to such
150 citation and, upon conviction, be guilty of a misdemeanor of the
151 second degree, punishable as provided in s. 775.082 or s.
152 775.083. A written warning to this effect shall be provided at
153 the time such uniform boating citation is issued.

154 Section 4. Subsections (2) and (4) of section 705.103,
155 Florida Statutes, are amended to read:



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156 705.103 Procedure for abandoned or lost property.—
157 (2) (a)1. Whenever a law enforcement officer ascertains
158 that:
159 a. An article of lost or abandoned property other than a
160 derelict vessel or vessel declared a public nuisance pursuant to
161 s. 327.73(1)(aa)3. or s. 327.73(1)(bb)3. is present on public
162 property and is of such nature that it cannot be easily removed,
163 the officer shall cause a notice to be placed upon such article
164 in substantially the following form:

165
166 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
167 PROPERTY. This property, to wit: ...(setting forth brief
168 description)... is unlawfully upon public property known as
169 ...(setting forth brief description of location)... and must be
170 removed within 5 days; otherwise, it will be removed and
171 disposed of pursuant to chapter 705, Florida Statutes. The owner
172 will be liable for the costs of removal, storage, and
173 publication of notice. Dated this: ...(setting forth the date of
174 posting of notice)..., signed: ...(setting forth name, title,
175 address, and telephone number of law enforcement officer)....

176
177 b. A derelict vessel or a vessel designated in ss.
178 327.73(1)(aa)3. and (bb)3. is present on the waters of the
179 state, the officer shall cause a notice to be placed upon the
180 vessel in substantially the following form:

181
182 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
183 VESSEL. This vessel, to wit: ...(setting forth brief
184 description)... is unlawfully upon waters of the state



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185 ...(setting forth brief description of location)... and must be
186 removed within 21 days; otherwise, it will be removed and
187 disposed of pursuant to chapter 705, Florida Statutes. The owner
188 and other interested parties may have the right to a hearing to
189 challenge the determination that this vessel is derelict or
190 otherwise in violation of the law. Please contact ... (contact
191 information for person who can arrange for a hearing in
192 accordance with this section) The owner will be liable for
193 the costs of removal, storage, and publication of notice if this
194 vessel is not removed by the owner. Dated this: ... (setting
195 forth the date of posting of notice) ..., signed: ... (setting
196 forth name, title, address, and telephone number of law
197 enforcement officer)

198 2. The notices required under subparagraph 1. may ~~Such~~
199 ~~notice shall be~~ not be less than 8 inches by 10 inches and must
200 ~~shall~~ be sufficiently weatherproof to withstand normal exposure
201 to the elements. In addition to posting, the law enforcement
202 officer shall make a reasonable effort to ascertain the name and
203 address of the owner. If such is reasonably available to the
204 officer, she or he shall mail a copy of such notice to the owner
205 on or before the date of posting. If the property is a motor
206 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
207 327.02, the law enforcement agency shall contact the Department
208 of Highway Safety and Motor Vehicles in order to determine the
209 name and address of the owner and any person who has filed a
210 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
211 or s. 328.15(1). On receipt of this information, the law
212 enforcement agency shall mail a copy of the notice by certified
213 mail, return receipt requested, to the owner and to the



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214 lienholder, if any, except that a law enforcement officer who
215 has issued a citation for a violation of s. 823.11 to the owner
216 of a derelict vessel is not required to mail a copy of the
217 notice by certified mail, return receipt requested, to the
218 owner. For a derelict vessel or a vessel designated in ss.
219 327.73(1)(aa)3. and (bb)3., the mailed notice shall inform the
220 owner or responsible party that he or she has a right to a
221 hearing to dispute the determination that the vessel is derelict
222 or otherwise in violation of the law. If a request for a hearing
223 is made, a state agency shall follow the processes set forth in
224 s. 120.569. Local government entities shall follow the processes
225 set forth in s. 120.569, with the exception that a local judge,
226 magistrate, or code enforcement officer may be designated to
227 conduct such hearings. If, at the end of 5 days, or 21 days for
228 a derelict vessel or a vessel designated in ss. 327.73(1)(aa)3.
229 and (bb)3., after posting the notice and mailing such notice, if
230 required, the owner or any person interested in the lost or
231 abandoned article or articles described has not removed the
232 article or articles from public property or shown reasonable
233 cause for failure to do so, and, in the case of a derelict
234 vessel or a vessel designated in ss. 327.73(1)(aa)3. and (bb)3.,
235 has not requested a hearing in accordance with this section, the
236 following shall apply:

237 ~~a.~~ (a) For abandoned property other than a derelict vessel
238 or a vessel designated in ss. 327.73(1)(aa)3. and (bb)3., the
239 law enforcement agency may retain any or all of the property for
240 its own use or for use by the state or unit of local government,
241 trade such property to another unit of local government or state
242 agency, donate the property to a charitable organization, sell



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243 the property, or notify the appropriate refuse removal service.

244 b. For a derelict vessel or a vessel designated in ss.
245 327.73(1)(aa)3. and (bb)3., the law enforcement agency or its
246 designee shall remove the vessel from the waters of the state
247 and destroy and dispose of the vessel or authorize another
248 governmental entity or its designee to do so. A law enforcement
249 agency or its designee shall remove a vessel from the waters of
250 the state and destroy and dispose of the vessel or authorize
251 another governmental entity or its designee to do so if,
252 following a hearing pursuant to this section, the judge,
253 magistrate, administrative law judge, or hearing officer has
254 determined the vessel to be derelict as provided in s. 823.11 or
255 otherwise in violation of the law in accordance with s.
256 327.73(1)(aa)3. or s. 327.73(1)(bb)3.

257 (b) For lost property, the officer shall take custody and
258 the agency shall retain custody of the property for 90 days. The
259 agency shall publish notice of the intended disposition of the
260 property, as provided in this section, during the first 45 days
261 of this time period.

262 1. If the agency elects to retain the property for use by
263 the unit of government, donate the property to a charitable
264 organization, surrender such property to the finder, sell the
265 property, or trade the property to another unit of local
266 government or state agency, notice of such election shall be
267 given by an advertisement published once a week for 2
268 consecutive weeks in a newspaper of general circulation in the
269 county where the property was found if the value of the property
270 is more than \$100. If the value of the property is \$100 or less,
271 notice shall be given by posting a description of the property



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272 at the law enforcement agency where the property was turned in.
273 The notice must be posted for not less than 2 consecutive weeks
274 in a public place designated by the law enforcement agency. The
275 notice must describe the property in a manner reasonably
276 adequate to permit the rightful owner of the property to claim
277 it.

278 2. If the agency elects to sell the property, it must do so
279 at public sale by competitive bidding. Notice of the time and
280 place of the sale shall be given by an advertisement of the sale
281 published once a week for 2 consecutive weeks in a newspaper of
282 general circulation in the county where the sale is to be held.
283 The notice shall include a statement that the sale shall be
284 subject to any and all liens. The sale must be held at the
285 nearest suitable place to that where the lost or abandoned
286 property is held or stored. The advertisement must include a
287 description of the goods and the time and place of the sale. The
288 sale may take place no earlier than 10 days after the final
289 publication. If there is no newspaper of general circulation in
290 the county where the sale is to be held, the advertisement shall
291 be posted at the door of the courthouse and at three other
292 public places in the county at least 10 days prior to sale.
293 Notice of the agency's intended disposition shall describe the
294 property in a manner reasonably adequate to permit the rightful
295 owner of the property to identify it.

296 (4) The owner of any abandoned or lost property who, after
297 notice as provided in this section, does not remove such
298 property within the specified period shall be liable to the law
299 enforcement agency, other governmental entity, or their designee
300 for all costs of removal, storage, and destruction of such



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301 property, less any salvage value obtained by disposal of the
302 property. Upon final disposition of the property, the law
303 enforcement officer or representative of the law enforcement
304 agency or other governmental entity shall notify the owner, if
305 known, of the amount owed. In the case of an abandoned vessel or
306 motor vehicle, any person who neglects or refuses to pay such
307 amount is not entitled to be issued a certificate of
308 registration for such vessel or motor vehicle, or any other
309 vessel or motor vehicle, until such costs have been paid. The
310 law enforcement officer shall supply the Department of Highway
311 Safety and Motor Vehicles with a list of persons whose vessel
312 registration privileges or whose motor vehicle privileges have
313 been revoked under this subsection. Neither the department nor
314 any other person acting as agent thereof shall issue a
315 certificate of registration to a person whose vessel or motor
316 vehicle registration privileges have been revoked, as provided
317 by this subsection, until such costs have been paid.

318 Section 5. This act shall take effect July 1, 2020.

319
320 ===== T I T L E A M E N D M E N T =====

321 And the title is amended as follows:

322 Delete everything before the enacting clause
323 and insert:

324 A bill to be entitled
325 An act relating to vessels; creating s. 327.332, F.S.;
326 specifying the conditions under which a vessel is and
327 is not considered to be operating at slow speed,
328 minimum wake; prohibiting the operation of vessels at
329 speeds faster than slow speed, minimum wake in certain



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330 emergency and hazardous situations; providing
331 requirements for flags displayed from vessels and
332 barges actively engaged in construction operations;
333 providing civil penalties; providing applicability;
334 amending s. 327.4107, F.S.; prohibiting certain
335 parties within certain waterbodies from anchoring or
336 mooring a vessel within a specified distance of a
337 mangrove or to upland vegetation upon public lands;
338 providing civil penalties; authorizing certain
339 individuals to relocate or cause to be relocated
340 certain vessels; providing liability protection for
341 the individuals under certain circumstances; providing
342 that penalties are assessed in addition to other
343 available penalties; amending s. 327.73, F.S.;
344 revising civil penalties relating to certain at-risk
345 vessels and prohibited anchoring or mooring; requiring
346 a vessel to be declared a public nuisance and subject
347 to certain provisions after a specified number of
348 violations within a specified timeframe; providing
349 civil penalties relating to vessels that fail to
350 reduce speed for special hazards and the display of
351 specified flags by construction vessels or barges not
352 actively engaged in construction operations; providing
353 civil penalties relating to vessels at risk of
354 becoming derelict and anchored within a specified
355 distance of a mangrove or to vegetation upon public
356 grounds; amending s. 705.103, F.S.; providing
357 procedures for abandoned or lost property relating to
358 certain vessels; providing notice and hearing



359

requirements; providing an effective date.