

**By** the Committee on Environment and Natural Resources; and  
Senator Rouson

592-03422-20

20201378c1

1                   A bill to be entitled  
2       An act relating to vessels; creating s. 327.332, F.S.;  
3       specifying the conditions under which a vessel is and  
4       is not considered to be operating at slow speed,  
5       minimum wake; prohibiting the operation of vessels at  
6       speeds faster than slow speed, minimum wake in certain  
7       emergency and hazardous situations; providing  
8       requirements for flags displayed from vessels and  
9       barges actively engaged in construction operations;  
10      providing civil penalties; providing applicability;  
11      amending s. 327.4107, F.S.; prohibiting certain  
12      parties within certain waterbodies from anchoring or  
13      mooring a vessel within a specified distance of a  
14      mangrove or to upland vegetation upon public lands;  
15      providing civil penalties; authorizing certain  
16      individuals to relocate or cause to be relocated  
17      certain vessels; providing liability protection for  
18      the individuals under certain circumstances; providing  
19      that penalties are assessed in addition to other  
20      available penalties; amending s. 327.73, F.S.;  
21      revising civil penalties relating to certain at-risk  
22      vessels and prohibited anchoring or mooring; requiring  
23      a vessel to be declared a public nuisance and subject  
24      to certain provisions after a specified number of  
25      violations within a specified timeframe; providing  
26      civil penalties relating to vessels that fail to  
27      reduce speed for special hazards and the display of  
28      specified flags by construction vessels or barges not  
29      actively engaged in construction operations; providing

592-03422-20

20201378c1

30 civil penalties relating to vessels at risk of  
31 becoming derelict and anchored within a specified  
32 distance of a mangrove or to vegetation upon public  
33 grounds; amending s. 705.103, F.S.; providing  
34 procedures for abandoned or lost property relating to  
35 certain vessels; providing notice and hearing  
36 requirements; providing an effective date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Section 327.332, Florida Statutes, is created to  
41 read:

42 327.332 Special hazards.—

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

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

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

46 and

47 2. Proceeding without wake or with minimum wake.

48  
49 A vessel that is operating at slow speed, minimum wake may not  
50 proceed at a speed greater than a speed that is reasonable and  
51 prudent to avoid the creation of an excessive wake or other  
52 hazardous condition under the existing circumstances.

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

54 1. Operating on plane;

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

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

592-03422-20

20201378c1

59 (2) A person may not operate a vessel faster than slow  
60 speed, minimum wake upon approaching within 300 feet of any  
61 emergency vessel, including, but not limited to, a law  
62 enforcement vessel, United States Coast Guard vessel, or  
63 firefighting vessel, when such emergency vessel has its  
64 emergency lights activated.

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

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

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

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

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

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

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

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

592-03422-20

20201378c1

88 (4) (a) A person operating a vessel in violation of this  
89 section commits a noncriminal infraction, punishable as provided  
90 in s. 327.73.

91 (b) The owner of, or party who is responsible for, a  
92 construction vessel or barge who displays an orange flag on the  
93 vessel or barge when it is not actively engaged in construction  
94 operations commits a noncriminal infraction, punishable as  
95 provided in s. 327.73.

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

99 Section 2. Present subsections (4) and (5) of section  
100 327.4107, Florida Statutes, are redesignated as subsections (5)  
101 and (6), respectively, a new subsection (4) is added to that  
102 section, and present subsection (4) is amended, to read:

103 327.4107 Vessels at risk of becoming derelict on waters of  
104 this state.-

105 (4) (a) Any owner or responsible party who has been issued a  
106 citation for a second violation of this section for the same  
107 vessel may not anchor or moor such vessel or allow the vessel to  
108 remain anchored or moored within 20 feet of a mangrove or to  
109 upland vegetation upon public lands. This distance shall be  
110 measured in a straight line from the point of the vessel closest  
111 to the outermost branches of the mangrove or vegetation. An  
112 owner or responsible party who violates this subsection commits  
113 a noncriminal infraction, punishable as provided in s. 327.73.

114 (b) The commission, officers of the commission, and any law  
115 enforcement agency or officer specified in s. 327.70 are  
116 authorized and empowered to relocate or cause to be relocated an

592-03422-20

20201378c1

117 at-risk vessel found to be in violation of this subsection to a  
118 distance greater than 20 feet from any mangrove or upland  
119 vegetation. The commission, officers of the commission, or any  
120 other law enforcement agency or officer acting under this  
121 subsection to relocate or cause to be relocated an at-risk  
122 vessel, upon state waters, away from mangroves or upland  
123 vegetation shall be held harmless for all damages to the at-risk  
124 vessel resulting from such relocation unless the damage results  
125 from gross negligence or willful misconduct.

126 (5)-(4) The penalties ~~penalty~~ under this section are ~~is~~ in  
127 addition to other penalties provided by law.

128 Section 3. Paragraphs (aa) and (bb) of subsection (1) of  
129 section 327.73, Florida Statutes, are amended, and paragraphs  
130 (cc), (dd), and (ee) are added to that subsection, 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 (aa) Section 327.4107, relating to vessels at risk of  
135 becoming derelict on waters of this state, for which the civil  
136 penalty is:

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

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

140 3. For a third or subsequent offense occurring 30 days or  
141 more after a previous offense, \$500 ~~\$250~~. A vessel that is the  
142 subject of three or more violations issued pursuant to the same  
143 paragraph of s. 327.4107(2) within a 12-month period which  
144 resulted in dispositions other than acquittal or dismissal shall  
145 be declared to be a public nuisance and subject to the abandoned

592-03422-20

20201378c1

146 property provisions specific to derelict vessels in s. 705.103  
147 and the derelict vessel removal and relocation provisions in s.  
148 823.11.

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

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

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

153 3. For a third or subsequent offense, up to a maximum of  
154 \$500 ~~\$250~~. A vessel that is the subject of three or more  
155 violations of the same subparagraph of s. 327.4109(1) (a) within  
156 a 12-month timeframe which resulted in dispositions other than  
157 acquittal or dismissal shall be declared to be a public nuisance  
158 and subject to the abandoned property provisions specific to  
159 derelict vessels in s. 705.103 and the derelict vessel removal  
160 and relocation provisions in s. 823.11.

161 (cc) Section 327.332, relating to vessels creating special  
162 hazards, for which the penalty is:

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

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

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

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

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

592-03422-20

20201378c1

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176 Any person cited for a violation of any provision of this  
177 subsection shall be deemed to be charged with a noncriminal  
178 infraction, shall be cited for such an infraction, and shall be  
179 cited to appear before the county court. The civil penalty for  
180 any such infraction is \$50, except as otherwise provided in this  
181 section. Any person who fails to appear or otherwise properly  
182 respond to a uniform boating citation shall, in addition to the  
183 charge relating to the violation of the boating laws of this  
184 state, be charged with the offense of failing to respond to such  
185 citation and, upon conviction, be guilty of a misdemeanor of the  
186 second degree, punishable as provided in s. 775.082 or s.  
187 775.083. A written warning to this effect shall be provided at  
188 the time such uniform boating citation is issued.

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

191 705.103 Procedure for abandoned or lost property.—

192 (2) (a)1. Whenever a law enforcement officer ascertains  
193 that:

194 a. An article of lost or abandoned property other than a  
195 derelict vessel or vessel declared a public nuisance pursuant to  
196 s. 327.73(1) (aa)3. or s. 327.73(1) (bb)3. is present on public  
197 property and is of such nature that it cannot be easily removed,  
198 the officer shall cause a notice to be placed upon such article  
199 in substantially the following form:

200

201 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED  
202 PROPERTY. This property, to wit: ... (setting forth brief  
203 description)... is unlawfully upon public property known as

592-03422-20

20201378c1

204 ... (setting forth brief description of location)... and must be  
205 removed within 5 days; otherwise, it will be removed and  
206 disposed of pursuant to chapter 705, Florida Statutes. The owner  
207 will be liable for the costs of removal, storage, and  
208 publication of notice. Dated this: ... (setting forth the date of  
209 posting of notice)..., signed: ... (setting forth name, title,  
210 address, and telephone number of law enforcement officer)....  
211

212 b. A derelict vessel or a vessel designated in ss.  
213 327.73(1)(aa)3. and (bb)3. is present on the waters of the  
214 state, the officer shall cause a notice to be placed upon the  
215 vessel in substantially the following form:  
216

217 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED  
218 VESSEL. This vessel, to wit: ... (setting forth brief  
219 description)... is unlawfully upon waters of the state  
220 ... (setting forth brief description of location)... and must be  
221 removed within 21 days; otherwise, it will be removed and  
222 disposed of pursuant to chapter 705, Florida Statutes. The owner  
223 and other interested parties may have the right to a hearing to  
224 challenge the determination that this vessel is derelict or  
225 otherwise in violation of the law. Please contact ... (contact  
226 information for person who can arrange for a hearing in  
227 accordance with this section) .... The owner will be liable for  
228 the costs of removal, storage, and publication of notice if this  
229 vessel is not removed by the owner. Dated this: ... (setting  
230 forth the date of posting of notice) ..., signed: ... (setting  
231 forth name, title, address, and telephone number of law  
232 enforcement officer) ....



592-03422-20

20201378c1

233        2. The notices required under subparagraph 1. may ~~Such~~  
234 ~~notice shall be not~~ be less than 8 inches by 10 inches and must  
235 ~~shall~~ be sufficiently weatherproof to withstand normal exposure  
236 to the elements. In addition to posting, the law enforcement  
237 officer shall make a reasonable effort to ascertain the name and  
238 address of the owner. If such is reasonably available to the  
239 officer, she or he shall mail a copy of such notice to the owner  
240 on or before the date of posting. If the property is a motor  
241 vehicle as defined in s. 320.01(1) or a vessel as defined in s.  
242 327.02, the law enforcement agency shall contact the Department  
243 of Highway Safety and Motor Vehicles in order to determine the  
244 name and address of the owner and any person who has filed a  
245 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)  
246 or s. 328.15(1). On receipt of this information, the law  
247 enforcement agency shall mail a copy of the notice by certified  
248 mail, return receipt requested, to the owner and to the  
249 lienholder, if any, except that a law enforcement officer who  
250 has issued a citation for a violation of s. 823.11 to the owner  
251 of a derelict vessel is not required to mail a copy of the  
252 notice by certified mail, return receipt requested, to the  
253 owner. For a derelict vessel or a vessel designated in ss.  
254 327.73(1)(aa)3. and (bb)3., the mailed notice shall inform the  
255 owner or responsible party that he or she has a right to a  
256 hearing to dispute the determination that the vessel is derelict  
257 or otherwise in violation of the law. If a request for a hearing  
258 is made, a state agency shall follow the processes set forth in  
259 s. 120.569. Local government entities shall follow the processes  
260 set forth in s. 120.569, with the exception that a local judge,  
261 magistrate, or code enforcement officer may be designated to

592-03422-20

20201378c1

262 conduct such hearings. If, at the end of 5 days, or 21 days for  
263 a derelict vessel or a vessel designated in ss. 327.73(1)(aa)3.  
264 and (bb)3., after posting the notice and mailing such notice, if  
265 required, the owner or any person interested in the lost or  
266 abandoned article or articles described has not removed the  
267 article or articles from public property or shown reasonable  
268 cause for failure to do so, and, in the case of a derelict  
269 vessel or a vessel designated in ss. 327.73(1)(aa)3. and (bb)3.,  
270 has not requested a hearing in accordance with this section, the  
271 following shall apply:

272 a.~~(a)~~ For abandoned property other than a derelict vessel  
273 or a vessel designated in ss. 327.73(1)(aa)3. and (bb)3., the  
274 law enforcement agency may retain any or all of the property for  
275 its own use or for use by the state or unit of local government,  
276 trade such property to another unit of local government or state  
277 agency, donate the property to a charitable organization, sell  
278 the property, or notify the appropriate refuse removal service.

279 b. For a derelict vessel or a vessel designated in ss.  
280 327.73(1)(aa)3. and (bb)3., the law enforcement agency or its  
281 designee shall remove the vessel from the waters of the state  
282 and destroy and dispose of the vessel or authorize another  
283 governmental entity or its designee to do so. A law enforcement  
284 agency or its designee shall remove a vessel from the waters of  
285 the state and destroy and dispose of the vessel or authorize  
286 another governmental entity or its designee to do so if,  
287 following a hearing pursuant to this section, the judge,  
288 magistrate, administrative law judge, or hearing officer has  
289 determined the vessel to be derelict as provided in s. 823.11 or  
290 otherwise in violation of the law in accordance with s.

592-03422-20

20201378c1

291 327.73(1)(aa)3. or s. 327.73(1)(bb)3.

292 (b) For lost property, the officer shall take custody and  
293 the agency shall retain custody of the property for 90 days. The  
294 agency shall publish notice of the intended disposition of the  
295 property, as provided in this section, during the first 45 days  
296 of this time period.

297 1. If the agency elects to retain the property for use by  
298 the unit of government, donate the property to a charitable  
299 organization, surrender such property to the finder, sell the  
300 property, or trade the property to another unit of local  
301 government or state agency, notice of such election shall be  
302 given by an advertisement published once a week for 2  
303 consecutive weeks in a newspaper of general circulation in the  
304 county where the property was found if the value of the property  
305 is more than \$100. If the value of the property is \$100 or less,  
306 notice shall be given by posting a description of the property  
307 at the law enforcement agency where the property was turned in.  
308 The notice must be posted for not less than 2 consecutive weeks  
309 in a public place designated by the law enforcement agency. The  
310 notice must describe the property in a manner reasonably  
311 adequate to permit the rightful owner of the property to claim  
312 it.

313 2. If the agency elects to sell the property, it must do so  
314 at public sale by competitive bidding. Notice of the time and  
315 place of the sale shall be given by an advertisement of the sale  
316 published once a week for 2 consecutive weeks in a newspaper of  
317 general circulation in the county where the sale is to be held.  
318 The notice shall include a statement that the sale shall be  
319 subject to any and all liens. The sale must be held at the

592-03422-20

20201378c1

320 nearest suitable place to that where the lost or abandoned  
321 property is held or stored. The advertisement must include a  
322 description of the goods and the time and place of the sale. The  
323 sale may take place no earlier than 10 days after the final  
324 publication. If there is no newspaper of general circulation in  
325 the county where the sale is to be held, the advertisement shall  
326 be posted at the door of the courthouse and at three other  
327 public places in the county at least 10 days prior to sale.  
328 Notice of the agency's intended disposition shall describe the  
329 property in a manner reasonably adequate to permit the rightful  
330 owner of the property to identify it.

331 (4) The owner of any abandoned or lost property who, after  
332 notice as provided in this section, does not remove such  
333 property within the specified period shall be liable to the law  
334 enforcement agency, other governmental entity, or their designee  
335 for all costs of removal, storage, and destruction of such  
336 property, less any salvage value obtained by disposal of the  
337 property. Upon final disposition of the property, the law  
338 enforcement officer or representative of the law enforcement  
339 agency or other governmental entity shall notify the owner, if  
340 known, of the amount owed. In the case of an abandoned vessel or  
341 motor vehicle, any person who neglects or refuses to pay such  
342 amount is not entitled to be issued a certificate of  
343 registration for such vessel or motor vehicle, or any other  
344 vessel or motor vehicle, until such costs have been paid. The  
345 law enforcement officer shall supply the Department of Highway  
346 Safety and Motor Vehicles with a list of persons whose vessel  
347 registration privileges or whose motor vehicle privileges have  
348 been revoked under this subsection. Neither the department nor

592-03422-20

20201378c1

349 any other person acting as agent thereof shall issue a  
350 certificate of registration to a person whose vessel or motor  
351 vehicle registration privileges have been revoked, as provided  
352 by this subsection, until such costs have been paid.

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