

By Senator Garcia

36-00399B-23

2023728\_\_

1                   A bill to be entitled  
2       An act relating to liveries; amending s. 327.54, F.S.;  
3       revising safety requirements for liveries and  
4       requiring hands-on instruction that meets specified  
5       requirements; providing an exemption from certain  
6       safety requirements when a renter hires a professional  
7       captain; revising insurance requirements for liveries  
8       and renters; authorizing the Fish and Wildlife  
9       Conservation Commission to enter into agreements with  
10      qualified contractors to perform compliance  
11      inspections of liveries; providing requirements for  
12      such contracted inspections; requiring liveries to  
13      make facilities and records available for inspection  
14      by the qualified contractors within a specified  
15      timeframe; providing an effective date.

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

18  
19       Section 1. Section 327.54, Florida Statutes, is amended to  
20 read:

21       327.54 Liveries; safety regulations; penalty.—

22       (1) As used in this section, the term:

23       (a) "Advertise" means to describe or draw attention to a  
24 vessel and its availability for lease or rental in any medium  
25 for the purpose of promoting the lease or rental of the vessel.

26       (b) "Conviction" means any judicial disposition other than  
27 acquittal or dismissal.

28       (c) "Livery" means a person who advertises and offers a  
29 livery vessel for use by another in exchange for any type of

36-00399B-23

2023728\_\_

30 consideration when such person does not also provide the lessee  
31 or renter with a captain, a crew, or any type of staff or  
32 personnel to operate, oversee, maintain, or manage the vessel.  
33 The owner of a vessel who does not advertise his or her vessel  
34 for use by another for consideration and who loans or offers his  
35 or her vessel for use to another known to him or her either for  
36 consideration or without consideration is not a livery. A public  
37 or private school or postsecondary institution located within  
38 this state is not a livery. A vessel rented or leased by a  
39 livery is a livery vessel as defined in s. 327.02.

40 (d) "Seaworthy" means the vessel and all of its parts and  
41 equipment, including, but not limited to, engines, bilge pumps,  
42 and kill switches, are functional and reasonably fit for their  
43 intended purpose.

44 (2) A livery may not offer a vessel for lease or rent  
45 without first being issued a no-cost livery permit by the  
46 commission. The permit must be renewed annually. To qualify for  
47 issuance or renewal of a livery permit, an applicant must  
48 provide the commission with a list of all vessels offered by the  
49 livery for lease or rent by another, have valid insurance  
50 pursuant to subsection (8) ~~(7)~~, have an amount of United States  
51 Coast Guard-approved lawful personal floatation devices on site  
52 sufficient to accommodate the capacity of all vessels offered by  
53 the livery for rent or lease by another, have on site all safety  
54 equipment required by s. 327.50 and the Code of Federal  
55 Regulations sufficient to equip all vessels offered by the  
56 livery for rent or lease by another, and display the information  
57 required by paragraph (3) (f). If, before the annual renewal of  
58 the permit, the information required by this subsection changes,

36-00399B-23

2023728\_\_

59 the livery must provide the commission with the updated  
60 information within 10 days after the change.

61 (a) The commission may adopt rules to implement this  
62 subsection.

63 (b) A person who violates this subsection commits a  
64 misdemeanor of the first degree, punishable as provided in s.  
65 775.082 or s. 775.083.

66 (3) A livery may not knowingly lease or rent a vessel to  
67 any person:

68 (a) When the number of persons intending to use the vessel  
69 exceeds the number considered to constitute a maximum safety  
70 load for the vessel as specified on the authorized persons  
71 capacity plate of the vessel.

72 (b) When the horsepower of the motor exceeds the capacity  
73 of the vessel.

74 (c) When the vessel does not contain the safety equipment  
75 required under s. 327.50.

76 (d) When the vessel is not seaworthy, is a derelict vessel  
77 as defined in s. 823.11, or is at risk of becoming derelict as  
78 provided in s. 327.4107.

79 (e) Unless the livery provides hands-on pre-rental or pre-  
80 ride instruction in compliance with rules established by the  
81 commission.

82 1. The instruction must include, but need not be limited  
83 to:

84 a. Operational characteristics of the vessel to be rented.

85 b. Safe vessel operation and vessel right-of-way.

86 c. The responsibility of the vessel operator for the safe  
87 and proper operation of the vessel.

36-00399B-23

2023728\_\_

88 d. Local characteristics of the waterway where the vessel  
89 will be operated, such as navigational hazards, the presence of  
90 boating-restricted areas, ~~and~~ water depths, and education on any  
91 safety, regulatory, informational, or navigation markers in the  
92 geographic vicinity.

93 e. Emergency procedures, such as appropriate responses to  
94 capsizing, falls overboard, taking on water, and vessel  
95 accidents.

96 f. A notice of the prohibition against boating under the  
97 influence pursuant to s. 327.35.

98 2. Any person receiving instruction in the safe handling of  
99 livery vessels pursuant to this paragraph must provide the  
100 livery with a written statement attesting to each component of  
101 the instruction.

102 a. The commission shall establish by rule the content of  
103 the statement form.

104 b. The statement form must be signed by the individual  
105 providing the instruction.

106 c. The livery shall maintain the statement form for no less  
107 than 90 days and, upon request, make the form available for  
108 inspection by law enforcement or an authorized agent of the  
109 commission pursuant to subsection (10).

110 (f) Unless the livery displays boating safety information  
111 in a place visible to the renting public. The commission shall  
112 prescribe by rule, pursuant to chapter 120, the contents and  
113 size of the boating safety information to be displayed.

114 (g) Unless the livery has a written agreement with the  
115 renter or lessee. The written agreement must include the name,  
116 address, and date of birth for the renter and the number of

36-00399B-23

2023728\_\_

117 people aboard the vessel, as well as the time the vessel is  
118 required to be returned to the livery or another specified  
119 location and an emergency contact name, address, and telephone  
120 number. The livery shall maintain each agreement for no less  
121 than 1 year and, upon request, make each agreement available for  
122 inspection by law enforcement or an authorized agent of the  
123 commission pursuant to subsection (10).

124 (4) If a renter or lessee retains a professional captain  
125 who holds an active license issued by the United States Coast  
126 Guard to command the vessel as required by an agreement between  
127 the livery and the renter or lessee, and the livery confirms  
128 that a professional captain has been retained, the renter or  
129 lessee and the livery are not subject to paragraph (3)(e).

130 (5) A livery may not knowingly lease or rent a vessel to a  
131 person who is required to comply with s. 327.395 unless such  
132 person presents to the livery the documentation required by s.  
133 327.395(2) for the operation of a vessel or meets the exemption  
134 provided under s. 327.395(6)(f).

135 (6)~~(5)~~ If a vessel rented or leased by a livery is  
136 unnecessarily overdue more than 4 hours after the contracted  
137 vessel rental time has expired, the livery must notify law  
138 enforcement.

139 (7)~~(6)~~ A livery may not knowingly lease or rent a livery  
140 vessel, other than a human-powered vessel, to any person who is  
141 under 18 years of age.

142 (8)~~(7)~~ A livery may not lease or rent or offer to lease or  
143 rent any livery vessel unless the livery first obtains and  
144 carries in full force and effect a policy from a licensed  
145 insurance carrier in this state which insures the livery and the

36-00399B-23

2023728\_\_

146 renter against any accident, loss, injury, property damage, or  
147 other casualty caused by or resulting from the operation of the  
148 livery vessel. The insurance policy must provide coverage of at  
149 least \$500,000 per person and \$1 million per event. The livery  
150 shall have proof of such insurance available for inspection at  
151 the location where livery vessels are being leased or rented, or  
152 offered for lease or rent, and shall provide to each renter the  
153 insurance carrier's name and address and the insurance policy  
154 number. A livery may choose to limit insurance covering the  
155 renter if the renter or lessee meets one of the following  
156 requirements:

157 (a) Has a Florida boating safety identification card issued  
158 by the commission, a temporary certificate, or another form of  
159 boating certification authorized pursuant to s. 327.395.

160 (b) Hires a professional captain who holds an active  
161 license issued by the United States Coast Guard.

162  
163 This subsection does not apply to human-powered vessels.

164 (9) ~~(8)~~ Notwithstanding the person's age or any exemptions  
165 provided in s. 327.395, any person delivering instruction  
166 regarding the safe operation of vessels or hands-on pre-rental  
167 or pre-ride instruction in accordance with subsection (3) must  
168 have successfully completed a boating safety education course  
169 approved by the National Association of State Boating Law  
170 Administrators and this state.

171 (10) To enhance enforcement efforts, the commission may  
172 enter into agreements with qualified contractors to perform  
173 inspections of liveries to ensure compliance with this section.  
174 Inspections may be performed by an authorized agent working

36-00399B-23

2023728\_\_

175 under the supervision of a qualified contractor. The qualified  
176 contractor shall provide a copy of a written, signed inspection  
177 report to the livery upon completion of the inspection and to  
178 the commission within 30 days after the inspection. The  
179 commission may develop the contents of the inspection report.

180 ~~(11)(9)~~ If a vessel rented or leased by a livery is  
181 involved in an accident, the livery must report the accident to  
182 the division.

183 ~~(12)(10)~~ A livery shall make its facilities and records  
184 available for inspection upon request by law enforcement or an  
185 authorized agent of the commission pursuant to subsection (10)  
186 no later than 24 hours after receiving notice from law  
187 enforcement or an authorized agent of the commission.

188 ~~(13)(a)(11)(a)~~ Any person convicted of violating this  
189 section, other than subsection (2), who has not been convicted  
190 of a violation of this section within the past 3 years commits a  
191 misdemeanor of the second degree, punishable as provided in s.  
192 775.082 or s. 775.083.

193 (b) Unless the stricter penalties in paragraph (c) apply, a  
194 person who violates this section, other than subsection (2),  
195 within 3 years after a previous conviction of a violation of  
196 this section commits a misdemeanor of the first degree,  
197 punishable as provided in s. 775.082 or s. 775.083, with a  
198 minimum mandatory fine of \$500.

199 (c) A person who violates this section, other than  
200 subsection (2), within 5 years after two previous convictions  
201 for a violation of this section commits a misdemeanor of the  
202 first degree, punishable as provided in s. 775.082 or s.  
203 775.083, with a minimum mandatory fine of \$1,000.

36-00399B-23

2023728\_\_

204        (14)~~(12)~~ A person who commits more than one violation of  
205 this section, other than subsection (2), within a 3-year period  
206 may not act as a livery during a 90-day period immediately after  
207 being charged with that violation. The commission may revoke or  
208 refuse to issue a permit under subsection (2) based on repeated  
209 violations of this section.

210        Section 2. This act shall take effect July 1, 2023.