

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.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 628

INTRODUCER: Senator Martin

SUBJECT: Boating Safety

DATE: March 3, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>TR</u>	_____
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 628 amends several statutes related to boating safety and provides that this act may be cited as “Lucy’s Law.”

The bill amends s. 327.30, F.S., to provide penalties for leaving the scene of a vessel accident or injury. If a person leaves the scene and the accident results in:

- Property damage only, the person commits a first degree misdemeanor.¹
- Injury to a person other than serious bodily injury, the person commits a third degree felony.
- Serious bodily injury, the person commits a second degree felony.²
- The death of another person or an unborn child, the person commits a first degree felony.³
 - A person commits a third degree felony if he or she was operating a vessel involved in an accident that results in death of another person or an unborn child and provides a false statement to an investigating law enforcement officer.⁴

The bill amends s. 327.33, F.S., to provide criminal penalties for careless operation of a vessel. Current law provides that careless operation of a vessel is a noncriminal infraction. Under the bill, careless operation of a vessel that:

- Does not result in an accident, is a noncriminal infraction.
- Results in an accident that does not cause serious bodily injury, is a third degree felony.
- Results in an accident that causes serious bodily injury, is a second degree felony.

¹ A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a \$1,000 fine, as provided in ss. 775.082 and 775.083, F.S.

² A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine up to \$10,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

³ A first degree felony is punishable by a term of imprisonment not to exceed 30 years and a fine up to \$10,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

⁴ Section 327.30, F.S.

- Results in an accident that causes the death of another person or an unborn child, is a first-degree felony.

The bill creates s. 327.35105, F.S., to provide that the driver license of a person who is convicted of a violation of reckless or careless operation of a vessel,⁵ or boating under the influence (BUI)⁶ must be suspended until all orders of the court have been satisfied.

The bill amends s. 327.353, F.S., to remove the requirement that a law enforcement officer have probable cause to believe that a vessel operated by a person under the influence of alcohol, chemical substances, or any controlled substances, has caused the death or serious bodily injury of a human being, before requiring a vessel operator to submit to a blood test.

The bill reenacts and amends s. 327.395, F.S., to provide that a person must have specified identification and documentation in his or her possession while operating a vessel powered by 10 horsepower or greater. Current law provides that only persons born on or after January 1, 1988, must have such identification or documentation.

The bill amends ss. 357.02 and 327.54, F.S., to revise the definition of “livery vessel,” and “livery.”

The bill amends s. 782.072, F.S., to revise the definition of the term “vessel homicide” to include the death of an unborn child caused by injury to the mother.

The bill may have a positive indeterminate impact. *See Section V. Fiscal Impact Statement.*

The bill is effective on July 1, 2025.

II. Present Situation:

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state’s fish and wildlife resources.⁷ Chapter 327, F.S., concerning

⁵ Section 327.33, F.S., provides that it is unlawful to operate a vessel in a reckless manner. A person who operates any vessel, or manipulates any water skis, aquaplane, or similar device, in willful or wanton disregard for the safety of persons or property at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure a person is guilty of reckless operation of a vessel. Reckless operation of a vessel includes, but is not limited to, a violation of s. 327.331(6). A person who violates this subsection commits a first degree misdemeanor.

⁶ Section 327.35, F.S., provides that a person is guilty of boating under the influence and is subject to punishment if the person is operating a vessel within this state and the person is under the influence of alcoholic beverages, and any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that the person’s normal faculties are impaired. Such person commits a first degree misdemeanor.

⁷ FLA. CONST. art. IV, s. 9. There shall be a fish and wildlife conservation commission, composed of seven members appointed by the governor, subject to confirmation by the senate for staggered terms of five years. The FWC shall exercise the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, and shall also exercise regulatory and executive powers of the state with respect to marine life, except that all license fees for taking wild animal life, fresh water aquatic life, and marine life and penalties for violating regulations of the FWC shall be prescribed by general law.

vessel safety, is enforced by the FWC's Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.⁸

The Division of Law Enforcement manages the state's waterways to ensure boating safety for Florida residents and visitors.⁹ This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.¹⁰

Boating Safety Education and Identification Cards

A person born on or after January 1, 1988, may not operate a vessel powered by a motor of 10 horsepower or greater unless such person has in his or her possession aboard the vessel the following:

- Photographic identification and a Florida boating safety identification card issued by the FWC;
- A state-issued identification card or driver license indicating possession of the Florida boating safety identification card; or
- Photographic identification and a temporary certificate issued or approved by the FWC, an International Certificate of Competency, a boating safety card or certificate from another state or United States territory, or a Canadian Pleasure Craft Operator Card.¹¹

A person is exempt from the requirement to have the specified identification and documentation described above if he or she:

- Is licensed by the United States Coast Guard to serve as master of a vessel;¹² or
- Has been previously licensed by the United States Coast Guard to serve as master of a vessel, provides proof of such licensure to the FWC, and requests that a boating safety identification card be issued in his or her name.¹³
- Operates a vessel on a private lake or pond.¹⁴
- Is accompanied in the vessel by a person who is exempt from this section or who holds a boating safety identification card in compliance with this section, who is 18 years of age or

⁸ Section 327.70(1), F.S.

⁹ Fish and Wildlife Conservation Commission (FWC), *Boating*, available at <https://myfwc.com/boating/> (last visited February 27, 2025).

¹⁰ Fish and Wildlife Conservation Commission (FWC), *Law Enforcement*, available at <https://myfwc.com/about/inside-fwc/le/> (last visited February 27, 2025). The FWC's Division of Law Enforcement is responsible for protecting Florida's natural resources, including fish, wildlife and the environment, while providing a safe atmosphere for residents and visitors to recreate. Fish and Wildlife Conservation Commission (FWC) officers have full police powers and statewide jurisdiction. They patrol rural, wilderness and inshore and offshore areas and are often the sole law enforcement presence in many remote parts of the state. The Division of Law Enforcement has cooperative agreements with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service. Officers are also cross-deputized to enforce federal marine fisheries and wildlife laws, thus ensuring state and federal consistency in resource-protection efforts.

¹¹ Section 327.395(2), F.S.

¹² Section 327.395(6)(a)1., F.S.

¹³ Section 327.395(6)(a)2., F.S.

¹⁴ Section 327.395(6)(b), F.S.

older, and who is attendant to the operation of the vessel and responsible for the safe operation of the vessel and for any violation that occurs during the operation of the vessel.¹⁵

- Is a nonresident who has in his or her possession photographic identification and proof that he or she has completed a boating safety education course or equivalency examination in another state or a United States territory which meets or exceeds the minimum requirements established by the National Association of State Boating Law Administrators.¹⁶
- Is operating a vessel within 90 days after the purchase of that vessel and has available for inspection aboard that vessel a bill of sale meeting certain requirements.¹⁷
- Is operating a vessel within 90 days after completing a boating safety education course and has a photographic identification card and a boating safety education certificate available for inspection as proof of having completed a boating safety education course. The boating safety education certificate must provide, at a minimum, the student's first and last name, the student's date of birth, and the date that he or she passed the course examination.¹⁸
- Is exempted by rule of the FWC.¹⁹

A person may obtain a Florida boating safety identification card by successfully completing a boating safety education course that meets the requirements and rules adopted by the FWC.²⁰ A person may obtain a temporary certificate by passing a temporary certificate examination that meets the requirements of this section and rules adopted by the FWC pursuant to this section.²¹

An FWC-approved boating safety education course or temporary certificate examination developed or approved by the FWC must include components regarding:

- Driving vessels, awareness of divers in the water, divers-down warning devices, and certain requirements.²²
- The danger associated with:
 - A passenger riding on a seat back, gunwale, transom, bow, motor cover, or any other vessel area not designed and designated by the manufacturer for seating.
 - A passenger falling overboard.
 - Operating a vessel with a person in the water near the vessel.
 - Starting a vessel with the engine in gear.
 - Leaving the vessel running when a passenger is boarding or disembarking.²³
- The proper use and lifesaving benefits of an engine cutoff switch for motorboats and personal watercraft.²⁴

A Florida boating safety identification card issued to a person who has completed a boating safety education course is valid for life. A temporary certificate issued to a person who has passed a temporary certification examination is valid for 90 days after the date of issuance. The

¹⁵ Section 327.395(6)(c), F.S.

¹⁶ Section 327.395(6)(d), F.S.

¹⁷ Section 327.395(6)(e), F.S., such requirements are found in s. 328.46(1), F.S.

¹⁸ Section 327.395(6)(f), F.S.

¹⁹ Section 327.395(6)(g), F.S.

²⁰ Section 327.395(3)(a), F.S.

²¹ Section 327.395(3)(b), F.S.

²² Section 327.395(4)(a), F.S., such requirements are found in s. 327.331, F.S.

²³ Section 327.395(4)(b)1-5, F.S.

²⁴ Section 327.395(4)(c), F.S.

FWC may issue either the boating safety identification card or the temporary certificate in a digital, electronic, or paper format.²⁵ The FWC may establish and collect a \$2 fee for each card and temporary certificate issued.²⁶

A boating safety education course is mandatory for persons convicted of certain boating safety violations. A person convicted of a criminal boating safety violation, of a noncriminal boating safety infraction if it resulted in a reportable boating accident, or of two noncriminal infractions²⁷ occurring within a 12-month period must:

- Enroll in, attend, and successfully complete, at his or her own expense, an FWC-approved classroom or online boating safety course;
- File with FWC within 90 days proof of successful completion of the course;
- Refrain from operating a vessel until he or she has filed proof of successful completion of the course with FWC; and
- Pay a \$500 fine.²⁸

Boating Crimes

Vessel Homicide

Vessel homicide is the killing of a human being by the operation of a vessel by another in a reckless manner likely to cause the death of, or great bodily harm to, another.²⁹ Vessel homicide is generally a second degree felony;³⁰ however, it is a first degree felony if:

- At the time of the accident, the person knew or should have known, that the accident occurred;³¹ and
- The person failed to give information and render aid as required.³²

Careless and Reckless Boating

Generally, a person may not operate a vessel in a reckless or careless manner. A person who operates any vessel, or manipulates any water skis, aquaplane, or similar device, in willful or wanton disregard for the safety of persons or property at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure a person, commits the first degree misdemeanor offense of reckless operation of a vessel.³³

²⁵ Section 327.395(5), F.S.

²⁶ Section 327.395(9), F.S.

²⁷ The noncriminal boating safety infractions included relate to careless operation; water skiing, aquaplaning, parasailing, and similar activities; interference with navigation; boating-restricted areas and speed limits; required safety equipment, lights, and shapes; navigation rules; personal watercraft; boater safety education; operation of overloaded or overpowered vessels; divers-down warning devices; adequate mufflers on an airboat; display of a flag on an airboat; carelessly causing seagrass scarring; and protection zones for springs. Sections 327.731(1) and 327.73(1), F.S.

²⁸ Section 327.731(1), F.S.

²⁹ Section 782.072, F.S.

³⁰ Section 782.072(1), F.S.

³¹ Section 782.072(2)(a), F.S.

³² Section 782.072(2)(b), F.S.

³³ Section 327.33(1), F.S.

A person must operate a vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of another person outside the vessel or to endanger the life, limb, or property of another person due to vessel overloading or excessive speed. Failing to operate a vessel in this manner is the noncriminal infraction of careless operation.³⁴

Leaving the Scene

It is the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he or she can do so without serious danger to the operator's own vessel, crew, and passengers, to render assistance to other persons. Additionally, he or she must give his or her name, address, and identification of his or her vessel in writing to any person injured and to the owner of any property damaged. The operator must also take all reasonable steps to locate and notify the owner or person in charge of an unattended vessel involved in an accident.³⁵

A person commits a second degree misdemeanor for leaving the scene of a vessel involved in an accident, if such accident results in property damage only.

A person commits a third degree felony for leaving the scene of a vessel involved in an accident, if such accident results in personal injury.³⁶

Boating Under the Influence

A person is guilty of BUI if the person is operating a vessel in this state and the person:

- Is under the influence of an alcoholic beverage, any chemical substance set forth in s. 877.111, F.S., or any substance controlled under ch. 893, F.S., when affected to the extent that the person's normal faculties are impaired;³⁷
- Has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood;³⁸ or
- Has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.³⁹

The criminal penalties for BUI vary depending on numerous factors such as the number of prior convictions, the length of time between convictions, and the defendant's blood alcohol level.⁴⁰

The penalties for a first or second BUI offense includes:

- A fine of not less than \$500 or more than \$1,000 for a first conviction.⁴¹
- A fine of not less than \$1,000 or more than \$2,000 for a second conviction.⁴²
- Imprisonment for not more than 6 months for a first conviction.⁴³
- Imprisonment for not more than 9 months for a second conviction.⁴⁴

³⁴ Section 327.33(2), F.S.

³⁵ Section 327.30(1), F.S.

³⁶ Section 327.30(5), F.S.

³⁷ Section 327.35(1)(a), F.S.

³⁸ Section 327.35(1)(b), F.S.

³⁹ Section 327.35(1)(c), F.S.

⁴⁰ Section 327.35, F.S.

⁴¹ Section 327.35(2)(a)1., F.S.

⁴² Section 327.35(2)(a), F.S.

⁴³ Section 327.35(2)(a)2.a., F.S.

⁴⁴ Section 327.35(2)(a)2.b., F.S.

- A period of probation not exceeding one year for a first conviction.⁴⁵
- A mandatory 50 hours of community service,⁴⁶ and a mandatory 10-day vessel impoundment or immobilization for a first conviction.⁴⁷
- A mandatory term of imprisonment of at least 10 days and a mandatory 30-day vessel impoundment or immobilization for a second conviction that occurs within a period of 5 years after the date of a prior conviction.⁴⁸

Any person who is convicted of a third BUI for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a third degree felony.⁴⁹ Additionally, the court must order imprisonment of at least 30 days, and order the impoundment or immobilization of the vessel for 90 days.⁵⁰

Any person who is convicted of a third BUI for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section shall be punished by a fine of not less than \$2,000 or more than \$5,000 and by imprisonment for not more than 12 months.⁵¹

Any person who is convicted of a fourth or subsequent BUI, regardless of when any prior conviction for a violation of this section occurred commits a third degree felony. The fine imposed for a fourth or subsequent violation may not be less than \$2,000.⁵²

Any person who commits BUI, who operates a vessel, and who by reason of such operation causes or contributes to causing:

- Damage to the property or person of another commits a first degree misdemeanor.⁵³
- Serious bodily injury to another commits a third degree felony.⁵⁴
- The death of any human being commits BUI manslaughter and commits a second degree felony.⁵⁵
- If at the time of the accident the person knew, or should have known, that the accident occurred and failed to give information and render aid, such person commits a first degree felony.⁵⁶

Any person who is convicted of a BUI and who has a blood-alcohol level or breath-alcohol level of 0.15 or higher, or any person who is convicted of a BUI and who at the time of the offense was accompanied in the vessel by a person under the age of 18 years, must be punished:⁵⁷

- By a fine of:

⁴⁵ Section 327.35(6)(a), F.S.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Section 327.35(6)(b), F.S.

⁴⁹ Section 327.35(2)(b)1., F.S.

⁵⁰ Section 327.35(6)(c), F.S.

⁵¹ Section 327.35(2)(b)2., F.S.

⁵² Section 327.35(2)(b)3., F.S.

⁵³ Section 327.35(3)(c)1., F.S.

⁵⁴ Section 327.35(3)(c)2., F.S.

⁵⁵ Section 327.35(3)(c)3.a., F.S.

⁵⁶ Section 327.35(3)(c)b., F.S., penalties for this subsection does not require that the person know that the accident resulted in injury or death.

⁵⁷ Section 327.35(4), F.S.

- Not less than \$1,000 or more than \$2,000 for a first conviction.⁵⁸
- Not less than \$2,000 or more than \$4,000 for a second conviction.⁵⁹
- Not less than \$4,000 or a third or subsequent conviction.⁶⁰
- By imprisonment for:
 - Not more than 9 months for a first conviction.⁶¹
 - Not more than 12 months for a second conviction.⁶²

Additionally, the court must place any person convicted of BUI to monthly reporting probation and must require attendance at a substance abuse course specified by the court. The agency conducting the course may refer the offender to an authorized service provider for a substance abuse evaluation and treatment.⁶³

Implied Consent

A person who accepts the privilege extended by the laws of this state of operating a vessel within this state is, by operating such vessel, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was operating a vessel while under the influence of alcoholic beverages.⁶⁴ Additionally, a person is deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances or controlled substances, if the person is lawfully arrested for any offense allegedly committed while the person was operating a vessel while under the influence of chemical substances or controlled substances.⁶⁵

The urine, or chemical or physical breath test must be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was operating the vessel within this state while under the influence of alcohol, chemical substances, or controlled substances. The administration of a breath test does not preclude the administration of another type of test.⁶⁶

The person shall be told that his or her failure to submit to any lawful test of his or her urine or breath under this chapter will result in a civil penalty of \$500, and that if he or she refuses to submit to a lawful test of his or her urine or breath and he or she has been previously fined under s. 327.35215 or his or her driving privilege has been previously suspended for refusal to submit to any lawful test of his or her breath, urine, or blood, he or she commits a first degree misdemeanor.⁶⁷

⁵⁸ Section 327.35(4)(a)1., F.S.

⁵⁹ Section 327.35(4)(a)2., F.S.

⁶⁰ Section 327.35(4)(a)3., F.S.

⁶¹ Section 327.35(4)(b)1., F.S.

⁶² Section 327.35(4)(b)2., F.S.

⁶³ Section 327.35(5), F.S.

⁶⁴ Section 327.352(1)(a)1., F.S.

⁶⁵ Section 327.352(1)(a)2., F.S.

⁶⁶ Section 319.1932, F.S.

⁶⁷ Section 327.352(1)(a)1.-2., F.S.

The refusal to submit to a urine, or chemical or physical breath test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.⁶⁸

Refusal

A person who has refused to submit to a chemical or physical test of his or her breath or urine and who has been previously fined under s. 327.35215, F.S.,⁶⁹ or has previously had his or her driver license suspended for refusal to submit to a lawful test of his or her breath, urine, or blood, and:

- Who the arresting law enforcement officer had probable cause to believe was operating or in actual physical control of a vessel in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances;⁷⁰
- Who was placed under lawful arrest for a BUI unless such test was requested pursuant to s. 327.352(1)(c), F.S.;⁷¹
- Who was informed that if he or she refused to submit to such test, he or she is subject to a fine of \$500;⁷²
- Who was informed that a refusal to submit to a lawful test of his or her breath or urine, if he or she has been previously fined for a prior refusal or has previously had his or her driver license suspended for refusal to submit to a lawful test of his or her breath, urine, or blood, is a first degree misdemeanor.⁷³
- Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer commits a first degree misdemeanor.⁷⁴

Blood Test for Impairment

While there is implied consent for a urine or breath test, a blood draw to determine whether a person is under the influence of alcohol, a chemical substance or a controlled substance generally requires a warrant. A blood draw is considered a search and individuals cannot be lawfully compelled to submit to a blood draw by statute.⁷⁵

However, s. 327.353, F.S., provides that a law enforcement officer who has probable cause to believe a vessel operated by a person under the influence of alcoholic beverages, any chemical substance, or any controlled substance has caused the death or serious bodily injury of a human being, must require the person operating the vessel to submit to a blood draw. The officer may

⁶⁸ Section 327.352(1)(a)1.-2., F.S.

⁶⁹ Section 327.35215, F.S., provides that a person arrested for an alleged violation of boating under the influence who refuses to submit to a blood test, breath test, or urine test is subject to a \$500 civil penalty.

⁷⁰ Section 327.359(1), F.S.

⁷¹ Section 327.359(2), F.S.

⁷² Section 327.359(3), F.S.

⁷³ Section 327.359(4), F.S.

⁷⁴ Section 327.359(5), F.S.

⁷⁵ *State v. Hamilton*, 350 So. 3d 839 (1st DCA 2022) (citing *Missouri v. McNeely*, 569 U.S. 141, 148 (2013) and *Birchfield v. North Dakota*, 579 U.S. 438, 477 (2016)).

use reasonable force if necessary to require the person to submit to the administration of such blood draw.⁷⁶

Courts have upheld a similar statute allowing a forcible blood draw after a traffic accident with serious bodily injury where there is probable cause to believe that the driver was under the influence of alcohol.⁷⁷

Boarding a vessel (Search)

The Florida Supreme Court has held that the state's interest in random stopping and brief detention of motorboats for limited purposes outweighs a person's interest in being completely free from such limited intrusion.⁷⁸ No officer shall board any vessel to make a safety or marine sanitation equipment inspection if the owner or operator is not aboard. When the owner or operator is aboard, an officer may board a vessel with consent or when the officer has probable cause or knowledge to believe that a violation of a provision of this chapter has occurred or is occurring. An officer may board a vessel when the operator refuses or is unable to display the safety or marine sanitation equipment required by law, if requested to do so by a law enforcement officer, or when the safety or marine sanitation equipment to be inspected is permanently installed and is not visible for inspection unless the officer boards the vessel.⁷⁹ However, law enforcement officers of the FWC have the authority, without warrant, to board, inspect, and search any boat, fishing appliance, storage or processing plant, fishhouse, spongehouse, oysterhouse, or other warehouse, building, or vehicle engaged in transporting or storing any fish or fishery products.⁸⁰

Such authority to search and inspect without a search warrant is limited to those cases in which such law enforcement officers have reason to believe that fish or any saltwater products are taken or kept for sale, barter, transportation, or other purposes in violation of laws or rules adopted under this law. Such law enforcement officers may arrest any person in the act of violating this law, the rules of the FWC, or any of the laws of this state. It is unlawful for a person to resist such arrest or in any manner interfere, either by abetting or assisting such resistance or otherwise interfering, with any such law enforcement officer while engaged in the performance of the duties imposed upon him or her by law or rule of the FWC.⁸¹

Driving Under the Influence

A person is guilty of the offense of driving under the influence (DUI) if the person is driving or in actual physical control of a vehicle within this state and:

- The person is under the influence of alcoholic beverages, any chemical substance, or any controlled substance, when affected to the extent that the person's normal faculties are impaired;⁸²

⁷⁶ Section 327.353(1)(a), F.S.

⁷⁷ See *State v. Quintanilla*, 276 So. 3d 941 (3rd DCA 2019).

⁷⁸ *State v. Casal*, 410 So. 2d 152 (Fla. 1982).

⁷⁹ Section 327.56 (1), F.S.

⁸⁰ Section 379.3313, F.S.

⁸¹ Section 379.3313(1), F.S.

⁸² Section 316.193(1)(a), F.S.

- The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood;⁸³ or
- The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.⁸⁴

Any person who is convicted of a first or second DUI must be punished by:

- A fine of:
 - Not less than \$500 or more than \$1,000 for a first conviction.
 - Not less than \$1,000 or more than \$2,000 for a second conviction;⁸⁵ and
- By imprisonment for:
 - Not more than 6 months for a first conviction.
 - Not more than 9 months for a second conviction, with a mandatory term of 10 days imprisonment if the second conviction occurred within 5 years after the date of a prior conviction.⁸⁶

Any person who is convicted of a third DUI for an offense that occurs within 10 years after a prior conviction for a violation of this section commits a third degree felony.⁸⁷

Any person who is convicted of a third DUI for an offense that occurs more than 10 years after the date of a prior conviction for a violation of this section must be punished by a fine of not less than \$2,000 or more than \$5,000 and by imprisonment for not more than 12 months.⁸⁸

Any person who is convicted of a fourth or subsequent DUI, regardless of when any prior conviction for a DUI occurred, commits a third degree felony. However, the fine imposed for such fourth or subsequent violation may be not less than \$2,000.⁸⁹

Additionally, the court may, or in some circumstances must, order the placement of an ignition interlock device upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when such person qualifies for a permanent or restricted license.

- The court may order such placement, for at least 6 continuous months, if the person had a blood-alcohol level or breath-alcohol level of .08 or higher.⁹⁰
- The court must order such placement, for a period of 1 year, upon a second conviction.⁹¹
- The court must order such placement, for a period of at least 2 years, upon a third conviction.⁹²

⁸³ Section 316.193(1)(b), F.S.

⁸⁴ Section 316.193(1)(c), F.S.

⁸⁵ Section 316.193(2)(a)1., F.S.

⁸⁶ Section 316.193(2)(a)2., F.S.

⁸⁷ Section 316.193(2)(b)1., F.S.

⁸⁸ Section 316.193(2)(b)2., F.S.

⁸⁹ Section 316.193(2)(b)3., F.S.

⁹⁰ Section 316.193(2)(c), F.S.

⁹¹ Section 316.193(2)(a)3., F.S.

⁹² Section 316.193(2)(b), F.S.

A person who commits a DUI, who operates a vehicle and who by reason of such operation, causes or contributes to causing:

- Damage to property or person of another commits a first degree misdemeanor.
- Serious bodily injury to another commits a third degree felony.
- The death of a human being or unborn child⁹³ commits DUI manslaughter and commits a second degree felony.
- If at the time of the crash, the person knew or should have known, that the crash occurred, and that person failed to give information or render aid as required by s. 316.062, F.S., commits a first degree felony.⁹⁴

A person who is convicted of DUI manslaughter must be sentenced to a mandatory minimum term of imprisonment of 4 years.

Any person who is convicted of a DUI and who has a blood-alcohol level or breath-alcohol level of 0.15 or higher, or any person who is convicted of a DUI and who at the time of the offense was accompanied by a person under the age of 18 years, must be punished:

- By a fine of:
 - Not less than \$1,000 or more than \$2,000 for a first conviction.⁹⁵
 - Not less than \$2,000 or more than \$4,000 for a second conviction.⁹⁶
 - Not less than \$4,000 for a third or subsequent conviction.⁹⁷
- By imprisonment for:
 - Not more than 9 months for a first conviction.⁹⁸
 - Not more than 12 months for a second conviction.⁹⁹

Additionally, the court must place any offender convicted of DUI on monthly reporting probation and must require completion of a substance abuse course, which must include a psychosocial evaluation of the offender. If the DUI program refers the offender to an authorized substance abuse treatment provider from substance abuse treatment, completion of such evaluation and treatment is a condition of probation.¹⁰⁰ The court must also order, as a condition of probation, a specified mandatory term of impoundment or immobilization of the vehicle that was operated by the defendant or owned by the defendant.¹⁰¹

Livery

Section 327.54, F.S., provides safety regulations for liveries and livery vessels. A vessel that is leased, rented or chartered to another for consideration is a livery vessel.

⁹³ Section 775.021(5)(e), F.S. The term unborn child means a member of the species *Homo sapiens*, at any stage of development, who is carried in the womb.

⁹⁴ Section 316.193(3), F.S.

⁹⁵ Section 316.193(4)(a)1., F.S.

⁹⁶ Section 316.193(4)(a)2., F.S.

⁹⁷ Section 316.193(4)(a)3., F.S.

⁹⁸ Section 316.193(4)(b)1., F.S.

⁹⁹ Section 316.193(4)(b)2., F.S.

¹⁰⁰ Section 316.193(5), F.S.

¹⁰¹ Section 316.193(6), F.S.

A livery is a person who advertises and offers a livery vessel for the use by another in exchange for any type of consideration when such person does not also provide the lessee or renter with a captain, a crew, or any type of staff or personnel to operate, oversee, maintain, or manage the vessel. The following are not a livery.

- The owner of a vessel who does not advertise his or her vessel for use by another for consideration and who loans or offers his or her vessel for use to another known to him or her either for consideration or without consideration.
- A public or private school or postsecondary institution.¹⁰²

III. Effect of Proposed Changes:

The bill amends several statutes relating to boating safety, and provides that the act may be cited as “Lucy’s Law.”

The bill amends s. 327.30, F.S., to provide penalties for leaving the scene of a vessel accident or injury. If a person leaves the scene and the accident results in:

- Property damage only, the person commits a first degree misdemeanor.¹⁰³
- Injury to a person other than serious bodily injury, the person commits a third degree felony.
- Serious bodily injury, the person commits a second degree felony.¹⁰⁴
- The death of another person or an unborn child, the person commits a first degree felony.¹⁰⁵
 - A person commits a third degree felony if he or she was operating a vessel involved in an accident that results in death of another person or an unborn child and provides a false statement to an investigating law enforcement officer.¹⁰⁶

The bill amends s. 327.33, F.S., to provide penalties for careless operation of a vessel. Current law provides that careless operation of a vessel is a noncriminal infraction. Under the bill, careless operation of a vessel that:

- Does not result in an accident, is a noncriminal violation.
- Results in an accident that does not cause serious bodily injury, is a third degree felony.
- Results in an accident that causes serious bodily injury, is a second degree felony.
- Results in an accident that causes the death of another person or an unborn child, is a first degree felony.

¹⁰² Section 327.54(1)(c), F.S.

¹⁰³ A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a \$1,000 fine, as provided in ss. 775.082 and 775.083, F.S.

¹⁰⁴ A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine up to \$10,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

¹⁰⁵ A first degree felony is punishable by a term of imprisonment not to exceed 30 years and a fine up to \$10,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

¹⁰⁶ A felony of the third degree is punishable by a term of imprisonment of 5 years, as provided in ss. 775.082, 775.083, and 775.083, F.S.

The bill creates s. 327.35105, F.S., to provide that the driver license of a person who is convicted of a violation of a violation of reckless or careless operation of a vessel¹⁰⁷ or BUI¹⁰⁸ must be suspended until all orders of the court have been satisfied.

The bill amends s. 327.353, F.S., to remove the requirement that a law enforcement officer have probable cause to believe that a vessel operated by a person under the influence of alcohol, chemical substances, or any controlled substances, has caused the death or serious bodily injury of a human being, before requiring a vessel operator to submit to a blood test.

The bill reenacts and amends s. 327.395, F.S., to provide that a person must have specified identification and documentation in his or her possession while operating a vessel powered by 10 horsepower or greater. Current law provides that only persons born on or after January 1, 1988, must have such identification or documentation.

The bill amends s. 327.02, F.S., to revise the definition of the term “livery vessel” to mean a vessel leased or rented.

The bill amends s. 327.54, F.S., to revise the definition of the term “livery” to mean a person who advertises and offers a livery vessel for use by another in exchange for any type of consideration when such person does not also provide *or does not require* the lessee or renter to provide as a condition of the rental or lease agreement a person licensed by the United States Coast Guard to serve as master of the vessel or to captain or manage the vessel. The owner of a vessel who does not advertise his or her vessel for use by another for consideration and who loans or offers his or her vessel for use to another known to him or her either for consideration or without consideration is not a livery. A public or private school or postsecondary institution located within this state is not a livery.

The bill amends s. 782.072, F.S., to revise the definition of the term “vessel homicide” to mean the killing of a human being *including the death of an unborn child*¹⁰⁹ caused by injury to the mother, by operation of a vessel¹¹⁰ by another in a reckless manner likely to cause the death of, or great bodily harm to, another.

The bill takes effect on July 1, 2025.

¹⁰⁷ Section 327.33, F.S., provides that it is unlawful to operate a vessel in a reckless manner. A person who operates any vessel, or manipulates any water skis, aquaplane, or similar device, in willful or wanton disregard for the safety of persons or property at a speed or in a manner as to endanger, or likely to endanger, life or limb, or damage the property of, or injure a person is guilty of reckless operation of a vessel. Reckless operation of a vessel includes, but is not limited to, a violation of s. 327.331(6). A person who violates this subsection commits a first degree misdemeanor.

¹⁰⁸ Section 327.35, F.S., provides that a person is guilty of boating under the influence and is subject to punishment if the person is operating a vessel within this state and the person is under the influence of alcoholic beverages, and any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893, when affected to the extent that the person’s normal faculties are impaired. Such person commits a first degree misdemeanor.

¹⁰⁹ Section 775.021(5)(e), F.S., defines an “unborn child” as a member of the species *Homo sapiens*, at any stage of development, who is carried in the womb.

¹¹⁰ Section 327.02(34), F.S., defines “operate” to mean to be in charge of, in command of, or in actual physical control of a vessel upon the waters of this state, to exercise control over or to have responsibility for a vessel’s navigation or safety while the vessel is underway upon the waters of this state, or to control or steer a vessel being towed by another vessel upon the waters of the state.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The bill removes the requirement that a law enforcement officer have probable cause that a person has committed a BUI that resulted in death or serious bodily injury before the law enforcement officer conducts a blood draw without consent.

A blood draw is considered a search and individuals cannot be lawfully compelled to submit to a blood draw by statute.¹¹¹ The bill may be subject to constitutional challenges due to the removal of the probable cause requirement.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive indeterminate impact on the Department of Corrections due to the increase in penalties which may result in an increase in beds.

¹¹¹ *State v. Hamilton*, 350 So. 3d 839 (1st DCA 2022) (citing *Missouri v. McNeely*, 569 U.S. 141, 148 (2013) and *Birchfield v. North Dakota*, 579 U.S. 438, 477 (2016)).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 327.02, 327.30, 327.33, 327.353, 327.395, 327.54, and 782.072.

This bill creates section 327.35105 of the Florida Statutes.

This bill re-enacts section 327.395 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.