

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

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

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

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BILL: SB 900

INTRODUCER: Senator Garcia

SUBJECT: Boating Safety

DATE: January 16, 2026

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parker	Stokes	CJ	<b>Pre-meeting</b>
2.			ATD	
3.			FP	

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**I. Summary:**

SB 900 amends multiple statutes relating to boating safety. Specifically, the bill amends:

- Sections 322.051, and 322.14, F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV) to issue an original, renewal or replacement identification cards and driver licenses with a lifetime boating safety identification card symbol upon the applicant's identification or license if certain conditions are met. The bill requires the DHSMV to issue certain replacement identification cards or license without charging a specified fee.
- Section 322.08, F.S., to require that applications for original, renewal, or replacement driver licenses or identification cards indicate whether the applicant has obtained a boating safety identification card and, if so, that a copy of such card be submitted with the application.
- Section 327.30, F.S., to revise penalties for person operating a vessel involved in an accident resulting in property damage or death of another person who leave the scene of the accident under certain circumstances.
- Section 327.33, F.S., to provide increased criminal penalties for a person who violates a navigation rule while operating a vessel that results in an accident causing serious bodily injury or death but the violation does not constitute reckless operation of a vessel. The bill defines "Serious bodily injury."
- Section 327.35, F.S., to:
  - Specify that a person must be in physical control of a vessel to commit BUI.
  - Require a person convicted of boating under the influence (BUI) manslaughter must be sentenced to a mandatory term of imprisonment of 4 years.
  - Require the court to order the mandatory placement of ignition interlock devices upon certain vehicles by persons convicted of BUI, and permits the court to order ignition interlock in other circumstances.
  - Revise the substance abuse education, evaluation, and treatment requirements for certain persons, and provides for the revocation or suspension of driving privileges for failure to complete a required substance abuse education course.

- Require a person convicted of certain BUI violations and one or more additional criminal violation under ch. 327, to maintain an insurance policy to meet certain requirements.
- Amends s. 327.352, F.S., to suspend a person's privilege to operate a vessel if he or she fails to submit to a lawful test of his or her breath or urine for BUI.
- Amends s. 327.395, F.S., to provide that while operating a vessel powered by a motor of 10 horsepower or more a person must have in his or her possession aboard the vessel specified documentation, which includes boating safety ID.
  - Requires a Florida Fish and Wildlife Conservation Commission-approved (FWC) boating safety education course or temporary certificate examination be developed or approved by the FWC must include certain components, including the dangers of BUI and Human Trafficking.
- Amends s. 327.731, F.S., to revise the mandatory education requirements for a person convicted of certain violations.
- Amends s. 921.0022, F.S. to rank the third degree felony of Vessel accidents causing serious bodily injury or death but not reckless operation of a vessel on the offense severity ranking chart of Criminal Punishment Code.

The bill has an indeterminately positive fiscal impact. *See Section V. Fiscal Impact Statement.*

Sections 1, 2, 3, 6, 7 and 10 of this bill are effective October 1, 2027. Subsection (1) of Section 8 of this bill is effective July 1, 2028. Except as otherwise expressly provided in this act, this bill takes effect July 1, 2026.

## II. Present Situation:

### Fish and Wildlife Conservation Commission

The FWC is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.<sup>1</sup> Chapter 327, F.S., concerning 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.<sup>2</sup>

The Division of Law Enforcement manages the state's waterways to ensure boating safety for Florida residents and visitors.<sup>3</sup> 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.<sup>4</sup>

<sup>1</sup> 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.

<sup>2</sup> Section 327.70(1), F.S.

<sup>3</sup> Fish and Wildlife Conservation Commission (FWC), Boating, available at <https://myfwc.com/boating/> (last visited January 11, 2026).

<sup>4</sup> Fish and Wildlife Conservation Commission (FWC), Law Enforcement, available at <https://myfwc.com/about/inside-fwc/le/> (last visited January 11, 2026). The FWC's Division of Law Enforcement is responsible for protecting Florida's natural

### **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.<sup>5</sup>

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;<sup>6</sup> 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.<sup>7</sup>
- Operates a vessel on a private lake or pond.<sup>8</sup>
- 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 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.<sup>9</sup>
- 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.<sup>10</sup>
- 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 the requirements of s. 328.46(1), F.S.<sup>11</sup>
- 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

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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.

<sup>5</sup> Section 327.395(2), F.S.

<sup>6</sup> Section 327.395(6)(a)1., F.S.

<sup>7</sup> Section 327.395(6)(a)2., F.S.

<sup>8</sup> Section 327.395(6)(b), F.S.

<sup>9</sup> Section 327.395(6)(c), F.S.

<sup>10</sup> Section 327.395(6)(d), F.S.

<sup>11</sup> Section 327.395(6)(e), F.S.

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.<sup>12</sup>

- Is exempted by rule of the FWC.<sup>13</sup>

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.<sup>14</sup> 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.<sup>15</sup>

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 the requirements of s. 327.331, F.S.<sup>16</sup>
- 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.<sup>17</sup>
  - The proper use and lifesaving benefits of an engine cutoff switch for motorboats and personal watercraft.<sup>18</sup>

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 FWC may issue either the boating safety identification card or the temporary certificate in a digital, electronic, or paper format.<sup>19</sup> The FWC may establish and collect a \$2 fee for each card and temporary certificate issued.<sup>20</sup>

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 infractions<sup>21</sup> occurring within a 12-month period must:

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<sup>12</sup> Section 327.395(6)(f), F.S.

<sup>13</sup> Section 327.395(6)(g), F.S.

<sup>14</sup> Section 327.395(3)(a), F.S.

<sup>15</sup> Section 327.395(3)(b), F.S.

<sup>16</sup> Section 327.395(4)(a), F.S.

<sup>17</sup> Section 327.395(4)(b)1-5, F.S.

<sup>18</sup> Section 327.395(4)(c), F.S.

<sup>19</sup> Section 327.395(5), F.S.

<sup>20</sup> Section 327.395(9), F.S.

<sup>21</sup> 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(2), F.S.

- 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.<sup>22</sup>

## **Boating Crimes**

### ***Vessel Homicide***

Vessel homicide is the killing of a human being including the death of an unborn child by the operation of a vessel by another in a reckless manner likely to cause the death of, or great bodily harm to, another.<sup>23</sup> Vessel homicide is generally a second degree felony;<sup>24</sup> 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;<sup>25</sup> and
- The person failed to give information and render aid as required.<sup>26</sup>
- The person has a prior conviction of vessel homicide.<sup>27</sup>

### ***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 second degree misdemeanor offense of reckless operation of a vessel.<sup>28</sup>

A person who operates any vessel upon the waters of this state must operate the 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. The failure to operate a vessel in a manner described constitutes careless operation. Failing to operate a vessel in this manner is the noncriminal infraction of careless operation.<sup>29</sup>

### ***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, if any, to render assistance to other persons affected. Additionally, he or she must give his or her

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<sup>22</sup> Section 327.731(2), F.S.

<sup>23</sup> Section 782.072, F.S.

<sup>24</sup> Section 782.072(2)(a), F.S.

<sup>25</sup> Section 782.072(2)(b)1., F.S.

<sup>26</sup> Section 782.072(2)(b)2., F.S.

<sup>27</sup> Section 782.072(3), F.S.

<sup>28</sup> Section 327.33(1), F.S.

<sup>29</sup> Section 327.33(2), F.S.

name, address, and identification of his or her vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty. The operator of a vessel involved in an accident with an unattended vessel must take all reasonable steps to locate and notify the owner or person in charge of such vessel of the accident, and give to the owner his or her name, address, and registration number and reporting.<sup>30</sup>

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.<sup>31</sup>
- Third degree felony for leaving the scene of a vessel involved in an accident if such accident results in injury to a person other than serious bodily injury.<sup>32</sup>
- Second degree felony for leaving the scene of a vessel involved in an accident, if such accident results in serious bodily injury.<sup>33</sup>
- First degree felony for leaving the scene of a vessel involved in an accident, if such accident results in the death of another person or an unborn child.<sup>34</sup>

### ***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;<sup>35</sup>
- Has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood;<sup>36</sup> or
- Has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.<sup>37</sup>

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.<sup>38</sup>

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.<sup>39</sup>
- A fine of not less than \$1,000 or more than \$2,000 for a second conviction.<sup>40</sup>
- Imprisonment for not more than 6 months for a first conviction.<sup>41</sup>
- Imprisonment for not more than 9 months for a second conviction.<sup>42</sup>
- A period of probation not exceeding one year for a first conviction.<sup>43</sup>

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<sup>30</sup> Section 327.30(1), F.S.

<sup>31</sup> Section 327.30(5)(a)1., F.S.

<sup>32</sup> Section 327.30(5)(a)2., F.S.

<sup>33</sup> Section 327.30(5)(a)3, F.S.

<sup>34</sup> Section 327.30(5)(a)4., F.S.

<sup>35</sup> Section 327.35(1)(a), F.S.

<sup>36</sup> Section 327.35(1)(b), F.S.

<sup>37</sup> Section 327.35(1)(c), F.S.

<sup>38</sup> Section 327.35, F.S.

<sup>39</sup> Section 327.35(2)(a)1.a., F.S.

<sup>40</sup> Section 327.35(2)(a)1.b., F.S.

<sup>41</sup> Section 327.35(2)(a)2.a., F.S.

<sup>42</sup> Section 327.35(2)(a)2.b., F.S.

<sup>43</sup> Section 327.35(6)(a), F.S.

- A mandatory 50 hours of community service,<sup>44</sup> and a mandatory 10-day vessel impoundment or immobilization for a first conviction.<sup>45</sup>
- A mandatory term of imprisonment of a 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.<sup>46</sup>

Any person who is convicted of a third BUI for an offense that occurs within 10 years after a prior conviction for a BUI commits a third degree felony.<sup>47</sup> Additionally, the court must order imprisonment of at least 30 days, and order the impoundment or immobilization of the vessel for 90 days.<sup>48</sup>

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.<sup>49</sup>

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.<sup>50</sup>

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.<sup>51</sup>
- Serious bodily injury to another commits a third degree felony.<sup>52</sup>
- The death of any human being or unborn child commits BUI manslaughter and commits a second degree felony.<sup>53</sup>
  - 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.<sup>54</sup>
  - A person who is convicted of BUI manslaughter shall be sentenced to a mandatory minimum term of imprisonment of 4 years.<sup>55</sup>

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.<sup>56</sup>

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<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Section 327.35(6)(b), F.S.

<sup>47</sup> Section 327.35(2)(b)1., F.S.

<sup>48</sup> Section 327.35(6)(c), F.S.

<sup>49</sup> Section 327.35(2)(b)2., F.S.

<sup>50</sup> Section 327.35(2)(b)3., F.S.

<sup>51</sup> Section 327.35(3)(a)3.a., F.S.

<sup>52</sup> Section 327.35(3)(a)3.b., F.S.

<sup>53</sup> Section 327.35(3)(a)3.c.(I), F.S.

<sup>54</sup> Section 327.35(3)(a)3.c.(II)(A)-(B), F.S., penalties for this subsection does not require that the person know that the accident resulted in injury or death.

<sup>55</sup> Section 327.35(3)(a)3.c.(III)(b), F.S.

<sup>56</sup> Section 327.35(4), F.S.

- By a fine of:
  - Not less than \$1,000 or more than \$2,000 for a first conviction.<sup>57</sup>
  - Not less than \$2,000 or more than \$4,000 for a second conviction.<sup>58</sup>
  - Not less than \$4,000 or a third or subsequent conviction.<sup>59</sup>
- By imprisonment for:
  - Not more than 9 months for a first conviction.<sup>60</sup>
  - Not more than 12 months for a second conviction.<sup>61</sup>

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.<sup>62</sup>

### **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.<sup>63</sup> 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.<sup>64</sup>

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.<sup>65</sup>

The person must 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 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.<sup>66</sup>

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<sup>57</sup> Section 327.35(4)(a)1., F.S.

<sup>58</sup> Section 327.35(4)(a)2., F.S.

<sup>59</sup> Section 327.35(4)(a)3., F.S.

<sup>60</sup> Section 327.35(4)(b)1., F.S.

<sup>61</sup> Section 327.35(4)(b)2., F.S.

<sup>62</sup> Section 327.35(5), F.S.

<sup>63</sup> Section 327.352(1)(a)1., F.S.

<sup>64</sup> Section 327.352(1)(a)2., F.S.

<sup>65</sup> Section 316.1932(1)(a)1.a., F.S.

<sup>66</sup> 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.<sup>67</sup>

### **Refusal**

A second or subsequent refusal to submit to a breath or urine test is a first degree misdemeanor.<sup>68</sup>

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.,<sup>69</sup> 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:

- 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;<sup>70</sup>
- Who was placed under lawful arrest for a BUI unless such test was requested pursuant to s. 327.352(1)(c), F.S.;<sup>71</sup>
- Who was informed that if he or she refused to submit to such test, he or she is subject to a fine of \$500;<sup>72</sup>
- 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;<sup>73</sup> and
- 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.<sup>74</sup>

### **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.<sup>75</sup>

However, 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

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<sup>67</sup> Section 327.352(1)(a)1.-2., F.S.

<sup>68</sup> Section 316.1939(1)(d), F.S.

<sup>69</sup> Section 327.35215, F.S., provides that a person arrested for an alleged violation of BUI who refuses to submit to a blood test, breath test, or urine test is subject to a \$500 civil penalty.

<sup>70</sup> Section 327.359(1), F.S.

<sup>71</sup> Section 327.359(2), F.S.

<sup>72</sup> Section 327.359(3), F.S.

<sup>73</sup> Section 327.359(4), F.S.

<sup>74</sup> Section 327.359(5), F.S.

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

person operating the vessel to submit to a blood draw. The officer may use reasonable force if necessary to require the person to submit to the administration of such blood draw.<sup>76</sup>

Courts have upheld a similar statute allowing 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.<sup>77</sup>

### **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.<sup>78</sup> No officer shall board any vessel to make a safety or marine sanitation equipment inspection if the owner or operator is not aboard. An officer may board a vessel:

- When the owner or operator is aboard 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.<sup>79</sup>

An officer may not board any vessel or perform a vessel stop in this state unless the officer has probable cause to believe that a vessel safety violation has occurred or is occurring.<sup>80</sup> An officer may not perform a vessel stop or board a vessel for the sole purpose of performing a safety or marine sanitation equipment inspection. A violation of safety or marine sanitation equipment requirements is a secondary offense, rather than a primary offense.<sup>81</sup>

However, law enforcement officers may enter upon any land or waters of the state for performance of their lawful duties and may take with them any necessary equipment, and such entry will not constitute a trespass. It is lawful for any boat, motor vehicle, or aircraft owned or chartered by the commission or its agents or employees to land on and depart from any of the beaches or waters of the state. Such law enforcement officers 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.<sup>82</sup>

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 at any time seize or take possession of any saltwater products or contraband which have been unlawfully caught, taken, or processed or which are unlawfully possessed or transported in violation of any of the laws of this state or any

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<sup>76</sup> Section 327.353(1)(a), F.S.

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

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

<sup>79</sup> Section 327.56(1), F.S.

<sup>80</sup> *Id.*

<sup>81</sup> Section 327.56(2), F.S.

<sup>82</sup> Section 379.3313(1), F.S.

rule of the commission. Such law enforcement officers may arrest any person in the act of violating this law, the rules of the commission, or any of the laws of this state.<sup>83</sup>

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.<sup>84</sup>

### **Offense Severity Ranking Chart (OSRC)**

Felony offenses which are subject to the Criminal Punishment Code<sup>85</sup> are listed in a single OSRC, which uses 10 offense levels to rank felonies from least severe to most severe. Each felony offense listed in the OSRC is assigned a level according to the severity of the offense.<sup>86,87</sup> A person's primary offense, any other current offenses, and prior convictions are scored using the points designated for the offense severity level of each offense. The final score calculation, following the scoresheet formula, determines the lowest permissible sentence that a trial court may impose, absent a valid reason for departure.<sup>88</sup>

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

The bill amends multiple statutes relating to boating safety.

#### ***Section I, II, III: Identification Cards, Driver License, and Applications***

The bill amends ss. 322.051, F.S. and 322.14, F.S., to require the DHSMV to issue an original, renewal or replacement identification cards or driver license with a lifetime boating safety identification card symbol upon the applicant's presentation of his or her Florida boating safety identification card or a receipt of confirmation by the FWC that the applicant was issued a Florida boating safety identification card.

The department must include the lifetime boating safety identification card symbol on an original, renewal, or replacement identification card with no additional fee to the applicant for the designation. If the sole purpose of a replacement identification card is the inclusion of the applicant's status as a lifetime boating safety cardholder, the replacement identification card or driver license must be issued without payment of the fee required by s. 322.21(1)(f), F.S.<sup>89</sup>

The bill amends s. 322.08, F.S., to require that applications for original, renewal, or replacement driver licenses or identification cards indicate whether the applicant has obtained a boating safety identification card and, if so, that a copy of such card be submitted with the application.

<sup>83</sup> *Id.*

<sup>84</sup> Section 379.3313(1), F.S.

<sup>85</sup> All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code.

<sup>86</sup> Section 921.0022, F.S.

<sup>87</sup> Section 921.0022(2), F.S.

<sup>88</sup> Section 921.0024(2), F.S., provides that if a person scores more than 44 points, the lowest permissible sentence is a specified term of months in state prison, determined by a formula. If a person scores 44 points or fewer, the court may impose a nonprison sanction, such as a county jail sentence, probation, or community control.

<sup>89</sup> Section 322.21(1)(f), F.S., provides that an original, renewal, or replacement identification card issued is \$25.

The FWC may provide to the DHSMV any record documenting the applicant's completion of a boating safety education course meeting the requirements of s. 327.395, F.S., or issuance of a Florida boating safety identification card.

#### ***Section IV: Leaving the Scene of Vessel Accident***

The bill amends s. 327.30, F.S., to revise 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.<sup>90</sup>
- The death of another person the person commits a first degree felony. The bill removes the death of an unborn child from this offense.<sup>91</sup>
  - A person who willfully commits a violation of the above law while operating a vessel under the influence must be sentenced to a mandatory minimum term of imprisonment of 4 years.

#### ***Section V: Reckless or Careless operation of a vessel***

The bill amends s. 327.33, F.S., to define the term "serious bodily injury" means an injury to a person which consists of a physical condition that creates a serious personal disfigurement or protracted loss or impairment of the function of a bodily member or organ.

A person who violates a navigation rule while operating a vessel that results in an accident causing serious bodily injury or death but the violation does not constitute reckless operation of a vessel, commits a third degree felony. This bill increases the penalty for such a violation from a misdemeanor to a third degree felony.

#### ***Section VI: Boating Under the Influence***

The bill amends s. 327.35, F.S., to specify that a person commits the offense of boating under the influence and is subject to punishment if the person is in physical control of a vessel within this state and commits certain acts.

A person convicted of BUI manslaughter must be sentenced to a mandatory term of imprisonment of 4 years.

#### **Ignition Interlock**

The bill provides for the mandatory placement of an ignition interlock device as ordered by the court and approved by the DHSMV in accordance with s. 316.1938, F.S., upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person, when the convicted person qualifies for a permanent or restricted license. The ignition interlock device must be installed, at the convicted person's sole expense, for not:

- Less than two continuous years for a 3rd violation that occurs within 10 years after a prior conviction.

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<sup>90</sup> 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.

<sup>91</sup> 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, 775.084, F.S.

- Less than two continuous years for a 3rd violation that occurred more than 10 years after the date of a prior conviction.
- Less than six continuous months for the first offense and for not less than two continuous years for a second offense for any person who is convicted of a BUI who has a blood-alcohol level or breath-alcohol level of 0.15 or higher.

The court may order ignition interlock for not less than six continuous months for a 4th or subsequent violation if the person had a blood-alcohol level or breath-alcohol level of 0.08 or higher.

#### Substance Abuse Treatment Referral

The bill revises language relating to substance abuse education, evaluation, and treatment. The agency conducting court ordered substance abuse course may refer the offender to an authorized service provider for a substance abuse evaluation and treatment which must include a psychosocial evaluation. If the substance abuse program makes such a referral, the completion of all such education, evaluation and treatment is a condition of reporting probation.

A referral to treatment resulting from a psychosocial evaluation may not be waived without a supporting independent psychosocial evaluation conducted by an authorized substance abuse treatment provider appointed by the court. The provider must be provided access to the substance abuse program's psychosocial evaluation before the independent psychosocial evaluation is conducted. The court must review the results and recommendations of both evaluations before determining the request for a waiver.

This bill provides that upon notification of the offender's failure to complete the substance abuse education course and treatment, the court may order the suspension or revocation of the offender's driving privileges. The DHSMV may temporarily reinstate the driving privilege on a restricted basis upon verification from the substance abuse program that the offender is currently participating in treatment and that both the substance abuse education course and evaluation requirement have been completed.

An organization that conducts an offender's substance abuse education and evaluation may not provide required substance abuse treatment unless a waiver has been granted to that organization by the DHSMV. A waiver may be granted only if the DHSMV, in accordance with the DHSMV rule, determines that the service provider conducting the substance abuse education and evaluation is the most appropriate service provider and is licensed under ch. 397, F.S., or is exempt from such licensure. Organizations authorized to provide services under this section shall submit quarterly statistical referral reports to the department.

#### Other BUI Penalties and Requirements

For the second conviction for an offense that occurs within a period of five years after the date of a prior conviction, the court may order a defendant to pay a fine of \$10 for each hour of public service or community work otherwise required only if the court finds that the residence or location of the defendant at the time public service or community work is required or the defendant's employment obligations would create an undue hardship for the defendant.

However, the total period of probation and incarceration may not exceed one year. The bill decreases from 30 to 10 the number of days that a vessel must be impounded.

A person convicted of BUI whether arising from the same incident or incidents occurring within the preceding 12 months, must maintain an insurance policy insuring against loss from liability for bodily injury, death, and property damage arising out of the ownership, maintenance, or use of a vessel. Such insurance policy must contain limits of not less than \$100,000 for bodily injury liability or death and \$50,000 for property damage. A person who operates a vessel without such insurance policy commits a second degree misdemeanor.

### ***Section VII: Implied Consent***

The bill amends s. 327.352, F.S., to provide that a person must be told that his or her failure to submit to a lawful test of his or her breath or urine will result in a suspension of the person's privilege to operate a vessel for a period of one year for a first refusal or for a period of 18 months if his or her privilege to operate a vessel has been previously suspended or if he or she has been fined for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required.

### ***Section VIII: Boating Safety Education***

The bill amends s. 327.395, F.S., to provide that while operating a vessel powered by a motor of 10 horsepower or more a person must have in his or her possession aboard the vessel specified documentation. Current law provides that only persons born on or after a specified date must carry such documentation.

An FWC-approved boating safety education course or temporary certificate examination developed or approved by the commission must include specified components. The bill adds to the list of specified components:

- BUI
- Human trafficking

### ***Section IX: Mandatory Education***

The bill amends s. 327.731, F.S., to revise the mandatory education requirements for a person convicted of a criminal violation, convicted of a noncriminal infraction if the infraction resulted in a reportable boating accident, or convicted of a specified noncriminal infraction. A person convicted of specified noncriminal infractions must do all of the following:

- Enroll in, attend, and successfully complete, at his or her own expense, one of the following courses, as applicable:
  - For a person convicted of any two noncriminal infractions within a 24-month period, the boating safety education course provided for in s. 327.395, F.S.
  - For a person convicted of a criminal violation, of a noncriminal infraction under this chapter if the infraction resulted in a reportable boating accident, or of three or more noncriminal infractions within a 36-month period, the boating safety education course provided for in s. 327.395, F.S. and a 4-hour course that includes information regarding all of the following:
    - The boating laws of this state.

- Causes and prevention of boating accidents.
- The importance of wearing personal floatation devices.
- The use of common sense and common courtesy while operating a vessel.
- How to operate a vessel defensively.

***Section X: Offense Severity Ranking Chart***

The bill amends s. 921.0022, F.S., to add the offense of vessel accidents causing serious bodily injury or death but not reckless operation of a vessel. The offense is a third degree felony, ranked as a Level 6 in the offense severity ranking chart.

**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:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Pursuant to s. 327.395(9), F.S., the FWC is authorized to collect a fee of \$2.00 for each card and temporary certificate associated with boating safety education courses. The bill would result in an increase in the volume of boaters required to obtain a boating safety

education card or certificate, which would result in an increase in the amount of revenue collected from associated fees. Any such impact would be indeterminately positive.<sup>92</sup>

The bill would increase the number of boating safety education cards and certificates issued by the FWC. Currently about 45 percent of the cards issued are printed on plastic and accompanied by a letter mailed to the card holder. When plastic cards are issued, there is a cost associated with staff time, cost of the card/letter/envelope, printing, and the cost of mailing each card.<sup>93</sup>

Additionally, provisions in the bill related to records communicated to the DHSMV may require a mechanism by which to disseminate information. As such, the bill would have an indeterminate negative fiscal impact on expenditures proportionate to the relative increase in card and certificate issuance.<sup>94</sup>

The FWC would need to develop a process to share/provide to the DHSMV the data containing names of individuals who have completed a boating safety education course. We do not anticipate any fiscal impact, as such processes could likely be provided for using existing resources.<sup>95</sup>

The DHSMV collected \$1,453 in the Highway Safety Operating Trust Fund in FY 2022-2023 from customers who requested just the Lifetime Boater Safety designation. Although the DHSMV cannot predict how many individuals would add the Lifetime Boater Safety designation, if the same number of customers of FY 2022-2023 requested the Lifetime Boater Safety designation, then the fiscal year revenue loss would be \$1,453.<sup>96</sup>

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

None.

#### **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 322.051, 322.08, 322.14, 327.30, 327.33, 327.35, 327.352, 327.395, 327.731, 119.0712, 921.0022, 327.54.

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<sup>92</sup> Florida Fish and Wildlife Conservation, 2024 Agency Legislative Bill Analysis, on SB 30, pg. 4 (on file with the Senate Committee on Criminal Justice).

<sup>93</sup> Florida Fish and Wildlife Conservation, 2024 Agency Legislative Bill Analysis, on SB 30, pg. 5 (on file with the Senate Committee on Criminal Justice).

<sup>94</sup> Florida Fish and Wildlife Conservation, 2024 Agency Legislative Bill Analysis, on SB 30, pg. 5 (on file with the Senate Committee on Criminal Justice).

<sup>95</sup> Florida Fish and Wildlife Conservation, 2024 Agency Legislative Bill Analysis, on SB 30, pg. 5 (on file with the Senate Committee on Criminal Justice).

<sup>96</sup> Highway Safety and Motor Vehicles, 2024 Agency Legislative Bill Analysis on SB 30 at pg. 4 (on file with the Senate Committee on Criminal Justice).



The bill reenacts 327.54, F.S., relating to liveries, to incorporate the amendment made to s. 327.395.

**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.

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

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