

CHAPTER 99-162

Committee Substitute for Senate Bill No. 728

An act relating to watersports; amending s. 327.37, F.S.; providing safety rules for towing parasails from vessels; prescribing safety regulations for persons engaged in waterskiing, parasailing, aquaplaning, or similar activities; prohibiting parasailing or operating a boat towing a parasail in specified waters; amending s. 327.73, F.S.; providing that certain violations with respect to parasailing constitute a noncriminal infraction; reenacting ss. 327.72, 327.731, F.S., relating to penalties and mandatory education for violators, to incorporate the amendment to s. 327.73, F.S., in references thereto; providing an effective date.

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

Section 1. Section 327.37, Florida Statutes, is amended to read:

327.37 Water skis, parasails, and aquaplanes regulated.—

(1)(a) ~~A No person may not shall~~ operate a vessel on any waters of this state towing a person on water skis, or an aquaplane, or similar device unless there is in such vessel a person, in addition to the operator, in a position to observe the progress of the person being towed, or the vessel is equipped with a wide-angle rear view mirror mounted in such manner as to permit the operator of the vessel to observe the progress of the person being towed. This subsection does not apply to class A motorboats operated by the person being towed and designed to be incapable of carrying the operator in the motorboat.

(b) A person may not operate a vessel on any waters of this state towing a person attached to a parasail or similar device unless there is a person in the vessel, in addition to the operator, in a position to observe the progress of the person being towed. A wide-angle rear view mirror is not acceptable for this purpose.

(2)(a) ~~A No person may not shall~~ engage in water skiing, parasailing, aquaplaning, or similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise.

(b) ~~A No person may not shall~~ engage in water skiing, parasailing, or aquaplaning, or any similar activity unless such person is wearing a type I, type II, ~~or type III, or noninflatable type V~~ personal flotation device approved by the United States Coast Guard.

(3) The provisions of subsections (1) and (2) do not apply to a performer engaged in a professional exhibition or a person preparing to participate or participating in an official regatta, boat race, marine parade, tournament, or exhibition held pursuant to s. 327.48.

(4) ~~A No person may not shall~~ operate or manipulate any vessel, tow rope, or other device by which the direction or location of water skis, parasail, aquaplane, innertube, sled, or similar device may be affected or controlled, in such a way as to cause the water skis, parasail, aquaplane, innertube, sled, or similar device or any person thereon to collide or strike against or be likely to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, piling, channel marker, or other object, except slalom buoys, ski jumps, or like objects used normally in competitive or recreational skiing.

(5) A person may not operate any vessel towing a parasail or engage in parasailing within 100 feet of the marked channel of the Florida Intracoastal Waterway.

Section 2. Section 327.73, Florida Statutes, is amended to read:

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of the vessel laws of this state are noncriminal infractions:

(a) Section 327.10, relating to operation of unregistered and unnumbered vessels.

(b) Section 327.11(4), relating to display of number and possession of registration certificate.

(c) Section 327.11(5), relating to display of decal.

(d) Section 327.13(2), relating to display of number.

(e) Section 327.14, relating to spacing of digits and letters of identification number.

(f) Section 327.17, relating to military personnel and registration of vessels.

(g) Section 327.25(14), relating to operation with an expired registration.

(h) Section 327.33(2), relating to careless operation.

(i) Section 327.37, relating to water skiing, aquaplaning, parasailing, and similar activities.

(j) Section 327.44, relating to interference with navigation.

(k) Violations relating to restricted areas and speed limits:

1. Established by the department pursuant to s. 327.46.
2. Established by local governmental authorities pursuant to s. 327.22 or s. 327.60.

3. Speed limits established pursuant to s. 370.12(2).

- (l) Section 327.48, relating to regattas and races.
- (m) Section 327.50(1) and (2), relating to required safety equipment, lights, and shapes.
- (n) Section 327.65, relating to muffling devices.
- (o) Section 327.33(3)(b), relating to navigation rules.
- (p) Section 327.39(1), (2), (3), and (5), relating to personal watercraft.
- (q) Section 327.53(1), (2), and (3), relating to marine sanitation.
- (r) Section 327.53(4), (5), and (7), relating to marine sanitation, for which the civil penalty is \$250.
- (s) Section 327.395, relating to boater safety education.
- (t) Section 327.52(3), relating to operation of overloaded or overpowered vessels.

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

(2) Any person cited for an infraction under this section may:

- (a) Post a bond, which shall be equal in amount to the applicable civil penalty; or
- (b) Sign and accept a citation indicating a promise to appear.

The officer may indicate on the citation the time and location of the scheduled hearing and shall indicate the applicable civil penalty.

(3) Any person who willfully refuses to post a bond or accept and sign a summons is guilty of a misdemeanor of the second degree.

(4) Any person charged with a noncriminal infraction under this section may:

(a) Pay the civil penalty, either by mail or in person, within 10 days of the date of receiving the citation; or,

(b) If he or she has posted bond, forfeit bond by not appearing at the designated time and location.

If the person cited follows either of the above procedures, he or she shall be deemed to have admitted the infraction and to have waived the right to a hearing on the issue of commission of the infraction. Such admission shall not be used as evidence in any other proceedings.

(5) Any person electing to appear before the county court or who is required so to appear shall be deemed to have waived the limitations on the civil penalty specified in subsection (1). The court, after a hearing, shall make a determination as to whether an infraction has been committed. If the commission of an infraction has been proven, the court may impose a civil penalty not to exceed \$500.

(6) At a hearing under this chapter the commission of a charged infraction must be proved beyond a reasonable doubt.

(7) If a person is found by the hearing official to have committed an infraction, he or she may appeal that finding to the circuit court.

(8) All fees and civil penalties assessed and collected pursuant to this section shall be deposited into the Marine Resources Conservation Trust Fund for boating safety education purposes.

Section 3. For the purpose of incorporating the amendment made by this act to section 327.73, Florida Statutes, in references thereto, section 327.72, Florida Statutes, is reenacted to read:

327.72 Penalties.—Any person failing to comply with the provisions of this chapter or chapter 328 not specified in s. 327.73 or not paying the fine specified in said section within 10 days, except as otherwise provided in this chapter or chapter 328, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. For the purpose of incorporating the amendment made by this act to section 327.73, Florida Statutes, in references thereto, section 327.731, Florida Statutes, 1998 Supplement, is reenacted to read:

327.731 Mandatory education for violators.—

(1) Every person convicted of a criminal violation of this chapter, every person convicted of a noncriminal infraction under this chapter if the infraction resulted in a reportable boating accident, and every person convicted of two noncriminal infractions as defined in s. 327.73(1)(h) through (k), (m) through (p), (s), and (t), said infractions occurring within a 12-month period, must:

(a) Enroll in, attend, and successfully complete, at his or her own expense, a boating safety course that meets minimum standards established by the department by rule; however, the department may provide by rule for waivers of the attendance requirement for violators residing in areas where classroom presentation of the course is not available;

(b) File with the department within 90 days proof of successful completion of the course;

(c) Refrain from operating a vessel until he or she has filed the proof of successful completion of the course with the department.

Any person who has successfully completed an approved boating course shall be exempt from these provisions upon showing proof to the department as specified in paragraph (b).

(2) For the purposes of this section, "conviction" means a finding of guilt, or the acceptance of a plea of guilty or nolo contendere, regardless of whether or not adjudication was withheld or whether imposition of sentence was withheld, deferred, or suspended. Any person who operates a vessel on the waters of this state in violation of the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) The department shall print on the reverse side of the defendant's copy of the boating citation a notice of the provisions of this section. Upon conviction, the clerk of the court shall notify the defendant that it is unlawful for him or her to operate any vessel until he or she has complied with this section, but failure of the clerk of the court to provide such a notice shall not be a defense to a charge of unlawful operation of a vessel under subsection (2).

Section 5. This act shall take effect July 1, 1999.

Approved by the Governor May 13, 1999.

Filed in Office Secretary of State May 13, 1999.