

CHAPTER 2011-152

Committee Substitute for Committee Substitute for Senate Bill No. 512

An act relating to vessels; amending s. 327.33, F.S.; revising penalty provisions for the violation of navigation rules; providing that a violation resulting in serious bodily injury or death is a second-degree misdemeanor; providing that a violation that does not constitute reckless operation of a vessel is a noncriminal violation; amending s. 327.395, F.S.; providing an additional exemption from the requirement that certain persons possess a boating safety identification card while operating a motor vessel of a specified horsepower; amending s. 327.54, F.S.; prohibiting a livery from leasing, hiring, or renting a motor vessel of certain horsepower to a person unless the person presents photographic identification and a valid boater safety identification card or provides proof that the person has successfully completed the boater education course; amending s. 327.73, F.S.; providing for increased penalties for certain noncriminal violations of navigation rules; deleting a duplicate provision; reenacting and amending s. 327.72, F.S., relating to penalties, to incorporate the amendment made to s. 327.73, in a reference thereto; correcting a cross-reference; reenacting s. 327.731(1), F.S., relating to mandatory education for violators, to incorporate the amendment made to s. 327.73, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsection (3) of section 327.33, Florida Statutes, is amended to read:

327.33 Reckless or careless operation of vessel.—

(3) Each person operating a vessel upon the waters of this state shall comply with the navigation rules.

(a) A person who violates whose violation of the navigation rules and the violation results in a boating accident causing serious bodily injury as defined in s. 327.353 or death, but ~~the whose violation does~~ did not constitute reckless operation of a vessel, commits is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person ~~who violates whose violation of the navigation rules and the violation~~ does not result in a boating accident and does not constitute reckless operation of a vessel ~~commits is guilty of a noncriminal violation as defined in s. 775.08, punishable as provided in s. 327.73.~~

(c) Law enforcement vessels may deviate from the navigational rules when such diversion is necessary to the performance of their duties and when such deviation may be safely accomplished.

Section 2. Subsection (6) of section 327.395, Florida Statutes, is amended to read:

327.395 Boating safety identification cards.—

(6) A person is exempt from subsection (1) if he or she:

(a) Is licensed by the United States Coast Guard to serve as master of a vessel.

(b) Operates a vessel only on a private lake or pond.

(c) Is accompanied in the vessel by a person who is exempt from this section or who holds an identification card in compliance with this section, is 18 years of age or older, and 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.

(d) Is a nonresident who has in his or her possession proof that he or she has completed a boater education course or equivalency examination in another state which meets or exceeds the requirements of subsection (1).

(e) 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) Is operating a vessel within 90 days after completing the requirements of paragraph (1)(a) or paragraph (1)(b) and has a photographic identification card and a boater education certificate available for inspection as proof of having completed a boater education course. The boater 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.

~~(g)~~(f) Is exempted by rule of the commission.

Section 3. Subsection (2) of section 327.54, Florida Statutes, is amended to read:

327.54 Liveries; safety regulations; penalty.—

(2) A livery may not knowingly lease, hire, or rent any vessel powered by a motor of 10 horsepower or greater to any person who is required to comply with s. 327.395, unless such person presents to the livery photographic identification and a valid boater safety identification card as required under s. 327.395(1), or meets the exemption provided under s. 327.395(6)(f) to the livery.

Section 4. Subsections (1) and (5) of section 327.73, Florida Statutes, are 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 328.46, relating to operation of unregistered and unnumbered vessels.

(b) Section 328.48(4), relating to display of number and possession of registration certificate.

(c) Section 328.48(5), relating to display of decal.

(d) Section 328.52(2), relating to display of number.

(e) Section 328.54, relating to spacing of digits and letters of identification number.

(f) Section 328.60, relating to military personnel and registration of vessels.

(g) Section 328.72(13), 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 boating-restricted areas and speed limits:

1. Established by the commission or by local governmental authorities pursuant to s. 327.46.

2. Speed limits established pursuant to s. 379.2431(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 a violation of navigation rules;

1. That does not result in an accident; or

2. That results in an accident not causing serious bodily injury or death, for which the penalty is:

a. For a first offense, up to a maximum of \$250.

b. For a second offense, up to a maximum of \$750.

- c. For a third or subsequent offense, up to a maximum of \$1,000.
- (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.
- (u) Section 327.331, relating to divers-down flags, except for violations meeting the requirements of s. 327.33.
- (v) Section 327.391(1), relating to the requirement for an adequate muffler on an airboat.
- (w) Section 327.391(3), relating to the display of a flag on an airboat.
- (x) Section 253.04(3)(a), relating to carelessly causing seagrass scarring, for which the civil penalty upon conviction is:
1. For a first offense, \$50.
 2. For a second offense occurring within 12 months after a prior conviction, \$250.
 3. For a third offense occurring within 36 months after a prior conviction, \$500.
 4. For a fourth or subsequent offense occurring within 72 months after a prior conviction, \$1,000.

Any person cited for a violation of any such provision of this subsection 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.

~~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.~~

(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 or a higher amount as specified in subsection (1).

Section 5. For the purpose of incorporating the amendment made by this act to section 327.73, Florida Statutes, in a reference thereto, section 327.72, Florida Statutes, is reenacted and amended 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 civil penalty specified in s. 327.73 ~~said section~~ within 30 days, except as otherwise provided in this chapter or chapter 328, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 6. For the purpose of incorporating the amendment made by this act to section 327.73, Florida Statutes, in a reference thereto, subsection (1) of section 327.731, Florida Statutes, 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)-(k), (m), (o), (p), and (s)-(x), 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 commission by rule; however, the commission may provide by rule pursuant to chapter 120 for waivers of the attendance requirement for violators residing in areas where classroom presentation of the course is not available;

(b) File with the commission 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 commission.

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

Section 7. This act shall take effect October 1, 2011.

Approved by the Governor June 17, 2011.

Filed in Office Secretary of State June 17, 2011.