

CHAPTER 2016-171

Committee Substitute for Senate Bill No. 846

An act relating to divers-down warning devices; amending s. 327.331, F.S.; revising the definitions of the terms “divers-down buoy,” “divers-down flag,” and “divers-down symbol”; defining the term “divers-down warning device”; expanding the types of indicators or devices allowed to be used to signal the presence of submerged divers; specifying requirements for divers-down warning devices; amending ss. 327.395 and 327.73, F.S.; conforming provisions to changes made by the act; reenacting s. 327.33(1), F.S., relating to reckless or careless operation of a vessel, to incorporate the amendment made to s. 327.331, F.S., in a reference thereto; providing an effective date.

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

Section 1. Section 327.331, Florida Statutes, is amended to read:

327.331 Divers; definitions; divers-down warning device ~~flag or buoy~~ required; obstruction to navigation of certain waters; penalty.—

(1) As used in this section:

(a) “Diver” means a person who is wholly or partially submerged in the waters of the state and is equipped with a face mask and snorkel or underwater breathing apparatus.

(b) “Divers-down buoy” means a buoyant device, other than a vessel, which displays a divers-down symbol ~~of at least 12 inches by 12 inches~~ on three or four flat sides, ~~which is prominently visible on the water’s surface when in use.~~

(c) “Divers-down flag” means a flag that displays a divers-down symbol ~~and that meets the following specifications:~~

1. ~~Is The flag must be square or rectangular. If rectangular, the length must not be less than the height, or more than 25 percent longer than the height. The flag must have a wire or other stiffener to hold it fully unfurled and extended in the absence of a wind or breeze.~~

~~2. The flag must consist of and has a divers-down symbol on each face.~~
side

~~2. Has with a white diagonal stripes on each face which begin stripe that begins at the top, staff-side of the flag and extend extends diagonally to the lower opposite corner.~~

~~3. If rectangular, is of a length that is not less than the height or more than 25 percent longer than the height.~~

4. Has a wire, or other stiffener, or is otherwise constructed to ensure that it remains fully unfurled and extended in the absence of a wind or breeze.

~~3. The minimum size for any divers-down flag displayed on a buoy or float towed by the diver is 12 inches by 12 inches. The minimum size for any divers-down flag displayed from a vessel or structure is 20 inches by 24 inches.~~

~~4. Any divers-down flag displayed from a vessel must be displayed from the highest point of the vessel or such other location which provides that the visibility of the divers-down flag is not obstructed in any direction.~~

(d) “Divers-down symbol” means a rectangular or square red symbol with a white diagonal stripe. If rectangular, the length may ~~must~~ not be less than the height or more than 25 percent longer than the height. The width of the stripe must be 25 percent of the height of the symbol and the stripes must be oriented in the same direction if multiple stripes are displayed.

(e) “Divers-down warning device” means a divers-down flag, buoy, or other similar warning device that:

1. Contains a divers-down symbol that is at least 12 inches by 12 inches in dimension when displayed from the water or at least 20 by 24 inches in dimension when displayed from a vessel;

2. Is designed for, and used by, divers and dive vessels as a means to notify nearby boaters of the presence of a diver in the waters of the immediate area; and

3. Is prominently visible when in use.

(f)(e) “Underwater breathing apparatus” means any apparatus, whether self-contained or connected to a distant source of air or other gas, whereby a person wholly or partially submerged in water is enabled to obtain or reuse air or any other gas or gases for breathing without returning to the surface of the water.

(2) All divers must prominently display a divers-down warning device flag or buoy in the area in which the diving occurs, other than when diving in an area customarily used for swimming only. A divers-down buoy may not be used or displayed onboard a vessel.

(3) A diver or group of divers may not display one or more divers-down warning devices flags or buoys on a river, inlet, or navigation channel, except in case of emergency, in a manner that which shall unreasonably constitutes constitute a navigational hazard.

(4) Divers shall make reasonable efforts to stay within 100 feet of a divers-down warning device flag or buoy on rivers, inlets, and navigation channels. A person operating a vessel on a river, inlet, or navigation channel

must make a reasonable effort to maintain a distance of at least 100 feet from any divers-down warning device flag or buoy.

(5) Divers must make reasonable efforts to stay within 300 feet of a divers-down warning device flag or buoy on all waters other than rivers, inlets, and navigation channels. A person operating a vessel on waters other than a river, inlet, or navigation channel must make a reasonable effort to maintain a distance of at least 300 feet from any divers-down warning device flag or buoy.

(6) A vessel other than a law-enforcement law-enforcement or rescue vessel that approaches within 100 feet of a divers-down warning device flag or buoy on a river, inlet, or navigation channel, or within 300 feet of a divers-down warning device flag or buoy on waters other than a river, inlet, or navigation channel, must proceed no faster than is necessary to maintain headway and steerageway.

(7) A divers-down warning device flag or buoy may not be displayed once all divers are aboard or ashore. A person may not operate any vessel displaying a divers-down warning device flag unless the vessel has one or more divers in the water.

(8) A divers-down warning device displayed from a vessel must be displayed from the highest point of the vessel or another location that ensures that the visibility of the divers-down warning device is not obstructed from any direction.

(9)(8) Except as provided in s. 327.33, a violation of this section is a noncriminal infraction punishable as provided in s. 327.73.

Section 2. Subsection (3) of section 327.395, Florida Statutes, is amended to read:

327.395 Boating safety identification cards.—

(3) Any commission-approved boater education or boater safety course, course-equivalency examination developed or approved by the commission, or temporary certificate examination developed or approved by the commission must include a component regarding diving vessels, awareness of divers in the water, divers-down warning devices flags and buoys, and the requirements of s. 327.331.

Section 3. Paragraph (u) of subsection (1) of 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:

(u) Section 327.331, relating to divers-down warning devices ~~flags and buoys~~, except for violations meeting the requirements of s. 327.33.

Any person cited for a violation of any 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.

Section 4. For the purpose of incorporating the amendment made by this act to section 327.331, Florida Statutes, in a reference thereto, subsection (1) of section 327.33, Florida Statutes, is reenacted to read:

327.33 Reckless or careless operation of vessel.—

(1) It is unlawful to operate a vessel in a reckless manner. A person is guilty of reckless operation of a vessel 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 any person. Reckless operation of a vessel includes, but is not limited to, a violation of s. 327.331(6). Any person who violates a provision of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 5. This act shall take effect July 1, 2016.

Approved by the Governor April 1, 2016.

Filed in Office Secretary of State April 1, 2016.