

CHAPTER 2021-184

Committee Substitute for Committee Substitute for Senate Bill No. 1086

An act relating to operation and safety of motor vehicles and vessels; amending ss. 316.1932 and 316.1939, F.S.; revising conditions under which a person's driving privilege is suspended and under which the person commits a misdemeanor relating to tests for alcohol, chemical substances, or controlled substances; specifying that such misdemeanor is a misdemeanor of the first degree; amending s. 327.02, F.S.; defining the term "human-powered vessel"; revising the definition of the term "navigation rules"; amending s. 327.04, F.S.; providing additional rule-making authority to the Fish and Wildlife Conservation Commission; creating s. 327.462, F.S.; defining terms; authorizing heads of certain entities to establish temporary protection zones in certain water bodies for certain purposes; providing protection zone requirements; prohibiting the restriction of vessel movement within the Florida Intracoastal Waterway except under certain circumstances; requiring the heads of certain entities to report the establishment of such protection zones to the commission and to the appropriate United States Coast Guard Sector Command; providing requirements for the report; providing applicability; providing criminal penalties; amending s. 327.352, F.S.; revising conditions under which a person commits a misdemeanor of the first degree for refusing to submit to certain tests; amending s. 327.35215, F.S.; requiring the clerk of the court to notify the Department of Highway Safety and Motor Vehicles of certain final dispositions by electronic transmission; requiring the department to enter such disposition on a person's driving record; amending s. 327.359, F.S.; revising conditions under which a person commits a misdemeanor of the first degree for refusing to submit to certain tests; creating s. 327.371, F.S.; providing circumstances under which a person may operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway; providing a penalty; amending s. 327.391, F.S.; conforming cross-references; amending s. 327.395, F.S.; revising the types of documentation that a person may use to comply with certain boating safety requirements; removing the authority of the commission to appoint certain entities to administer a boating safety education course or temporary certificate examination and issue certain credentials; exempting certain persons from the requirement to possess certain documents aboard a vessel; removing the specified service fee amount that certain entities that issue boating safety identification cards and temporary certificates may charge and keep; amending s. 327.4107, F.S.; revising the conditions under which officers may determine a vessel is at risk of becoming derelict; authorizing certain officers to provide notice that a vessel is at risk of becoming derelict via body camera recordings; authorizing the commission or certain officers to relocate at-risk vessels to a certain distance from mangroves or vegetation; providing that the commission or officers are not liable for damages to such vessels; providing

an exception; authorizing the commission to establish a derelict vessel prevention program consisting of certain components; authorizing the commission to adopt rules; providing that such program is subject to appropriation by the Legislature; providing for funding; amending s. 327.4108, F.S.; designating Monroe County as an anchoring limitation area subject to certain requirements; requiring the commission to adopt rules; providing construction; requiring the commission to designate a specified area as a priority for the removal of derelict vessels until certain conditions are met; deleting obsolete language; amending s. 327.4109, F.S.; prohibiting the anchoring or mooring of a vessel or floating structure within a certain distance of certain facilities; providing exceptions; amending s. 327.45, F.S.; authorizing the commission to establish protection zones where certain activities are prohibited in or near springs; amending s. 327.46, F.S.; authorizing a county or municipality to establish a boating-restricted area within and around a public mooring field and within certain portions of the Florida Intracoastal Waterway; creating s. 327.463, F.S.; specifying conditions under which a vessel is and is not operating at slow speed, minimum wake; prohibiting a person from operating a vessel faster than slow speed, minimum wake within a certain distance from other specified vessels; providing requirements for construction vessel or barge flags; exempting a person from being cited for a violation under certain circumstances; providing civil penalties; providing applicability; amending s. 327.50, F.S.; authorizing the commission to exempt vessel owners and operators from certain safety equipment requirements; creating s. 327.521, F.S.; designating waters of this state within aquatic preserves as no-discharge zones upon approval by the United States Environmental Protection Agency; prohibiting discharge of sewage from a vessel or floating structure into such waters; providing civil penalties; providing increased penalties for each day the violation continues; requiring the owner or operator to remove such vessel or structure within a specified timeframe from the waters of this state upon a second conviction; defining the term “conviction”; providing requirements for removal and sale of such vessel or structure under certain circumstances; requiring the commission to maintain and make available to the public a list of marine sewage pumpout facilities; amending s. 327.53, F.S.; requiring the owner or operator of a live-aboard vessel or houseboat equipped with a marine sanitation device to maintain a record of the date and location of each pumpout of the device for a certain period; providing an exception; conforming a cross-reference; making technical changes; amending s. 327.54, F.S.; prohibiting a livery from leasing, hiring, or renting a vessel to a person required to complete a commission-approved boating safety education course unless such person presents certain documentation indicating compliance; amending s. 327.60, F.S.; authorizing a local government to enact and enforce regulations allowing the local law enforcement agency to remove an abandoned or lost vessel affixed to a public mooring; amending s. 327.73, F.S.; providing additional violations that qualify as noncriminal infractions; providing civil penalties; prohibiting conviction of a person cited for a violation relating to possessing proof of boating safety education under certain circumstances; increasing

certain civil penalties; providing that certain vessels shall be declared a public nuisance subject to certain statutory provisions; authorizing the commission or certain officers to relocate or remove public nuisance vessels from the waters of this state; providing that the commission or officers are not liable for damages to such vessels; providing an exception; amending s. 328.09, F.S.; prohibiting the Department of Highway Safety and Motor Vehicles from issuing a certificate of title to an applicant for a vessel that has been deemed derelict pursuant to certain provisions; authorizing the department, at a later date, to reject an application for a certificate of title for such a vessel; amending s. 376.15, F.S.; revising unlawful acts relating to derelict vessels; defining the term “leave”; prohibiting an owner or operator whose vessel becomes derelict due to specified accidents or events from being charged with a violation under certain circumstances; providing applicability; conforming provisions to changes made by the act; authorizing a governmental subdivision that has received authorization from a law enforcement officer or agency to direct a contractor to perform vessel storage, destruction, and disposal activities; authorizing the commission to provide local government grants for the storage, destruction, and disposal of derelict vessels; providing for funding; amending s. 705.103, F.S.; providing notice procedures for when a law enforcement officer ascertains that a derelict or public nuisance vessel is present on the waters of this state; requiring a mailed notice to the owner or party responsible for the vessel to inform him or her of the right to a hearing; providing hearing requirements; authorizing a law enforcement agency to take certain actions if a hearing is not requested or a vessel is determined to be derelict or otherwise in violation of law; revising provisions relating to liability for vessel removal costs and notification of the amount owed; providing criminal penalties for a person who is issued a registration for a vessel or motor vehicle before such costs are paid; requiring persons whose vessel registration and motor vehicle privileges have been revoked for failure to pay certain costs to be reported to the department; prohibiting issuance of a certificate of registration to such persons until such costs are paid; amending s. 823.11, F.S.; revising application of definitions; revising the definition of the term “derelict vessel”; specifying requirements for a vessel to be considered wrecked, junked, or substantially dismantled; providing construction; revising unlawful acts relating to derelict vessels; defining the term “leave”; prohibiting an owner or operator whose vessel becomes derelict due to specified accidents or events from being charged with a violation under certain circumstances; providing applicability; providing that relocation or removal costs incurred by a governmental subdivision are recoverable against the vessel owner or the party determined to be legally responsible for the vessel being derelict; providing criminal penalties for a person who is issued a registration for a vessel or motor vehicle before such costs are paid; authorizing a governmental subdivision that has received authorization from a law enforcement officer or agency to direct a contractor to perform vessel relocation or removal activities; providing effective dates.

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

Section 1. Effective October 1, 2021, paragraphs (a) and (c) of subsection (1) of section 316.1932, Florida Statutes, are amended to read:

316.1932 Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal.—

(1)(a)1.a. A Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by so operating such vehicle, 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 driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages. The 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 driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her breath will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to such a test or tests required under this chapter or chapter 327, and shall also be told that if he or she refuses to submit to a lawful test of his or her breath and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law. The refusal to submit to a 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.

b. A Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by so operating such vehicle, deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances if the person is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of chemical substances or controlled substances. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of chemical substances or

controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such test in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of a urine test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her urine will result in the suspension of the person's privilege to operate a motor vehicle for a period of 1 year for the first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to such a test or tests required under this chapter or chapter 327, and shall also be told that if he or she refuses to submit to a lawful test of his or her urine and his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law. The refusal to submit to a urine test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

2. The Alcohol Testing Program within the Department of Law Enforcement is responsible for the regulation of the operation, inspection, and registration of breath test instruments utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is responsible for the regulation of the individuals who operate, inspect, and instruct on the breath test instruments utilized in the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program is further responsible for the regulation of blood analysts who conduct blood testing to be utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327. The program shall:

- a. Establish uniform criteria for the issuance of permits to breath test operators, agency inspectors, instructors, blood analysts, and instruments.
- b. Have the authority to permit breath test operators, agency inspectors, instructors, blood analysts, and instruments.
- c. Have the authority to discipline and suspend, revoke, or renew the permits of breath test operators, agency inspectors, instructors, blood analysts, and instruments.
- d. Establish uniform requirements for instruction and curricula for the operation and inspection of approved instruments.
- e. Have the authority to specify one approved curriculum for the operation and inspection of approved instruments.

f. Establish a procedure for the approval of breath test operator and agency inspector classes.

g. Have the authority to approve or disapprove breath test instruments and accompanying paraphernalia for use pursuant to the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

h. With the approval of the executive director of the Department of Law Enforcement, make and enter into contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies as are necessary, expedient, or incidental to the performance of duties.

i. Issue final orders which include findings of fact and conclusions of law and which constitute final agency action for the purpose of chapter 120.

j. Enforce compliance with ~~the provisions of this section~~ through civil or administrative proceedings.

k. Make recommendations concerning any matter within the purview of this section, this chapter, chapter 322, or chapter 327.

l. Promulgate rules for the administration and implementation of this section, including definitions of terms.

m. Consult and cooperate with other entities for the purpose of implementing the mandates of this section.

n. Have the authority to approve the type of blood test utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

o. Have the authority to specify techniques and methods for breath alcohol testing and blood testing utilized under the driving and boating under the influence provisions and related provisions located in this chapter and chapters 322 and 327.

p. Have the authority to approve repair facilities for the approved breath test instruments, including the authority to set criteria for approval.

Nothing in this section shall be construed to supersede provisions in this chapter and chapters 322 and 327. The specifications in this section are derived from the power and authority previously and currently possessed by the Department of Law Enforcement and are enumerated to conform with the mandates of chapter 99-379, Laws of Florida.

(c) A Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state is, by operating such vehicle, deemed to have given his or her consent to submit to an approved blood test for the purpose of determining the alcoholic content of the blood or

a blood test for the purpose of determining the presence of chemical substances or controlled substances as provided in this section if there is reasonable cause to believe the person was driving or in actual physical control of a motor vehicle while under the influence of alcoholic beverages or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or other medical facility and the administration of a breath or urine test is impractical or impossible. As used in this paragraph, the term “other medical facility” includes an ambulance or other medical emergency vehicle. The blood test shall be performed in a reasonable manner. A Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition is deemed not to have withdrawn his or her consent to such test. A blood test may be administered whether or not the person is told that his or her failure to submit to such a blood test will result in the suspension of the person’s privilege to operate a motor vehicle upon the public highways of this state and that a refusal to submit to a lawful test of his or her blood, if his or her driving privilege has been previously suspended for refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor. A Any person who is capable of refusal shall be told that his or her failure to submit to such a blood test will result in the suspension of the person’s privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of the person has been suspended previously or if he or she has previously been fined under s. 327.35215 as a result of a refusal to submit to such a test or tests required under this chapter or chapter 327, and that a refusal to submit to a lawful test of his or her blood, if his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, is a misdemeanor. The refusal to submit to a blood test upon the request of a law enforcement officer is admissible in evidence in any criminal proceeding.

Section 2. Effective October 1, 2021, subsection (1) of section 316.1939, Florida Statutes, is amended to read:

316.1939 Refusal to submit to testing; penalties.—

(1) A Any person who has refused to submit to a chemical or physical test of his or her breath, ~~blood~~, or urine, as described in s. 316.1932, and whose driving privilege was previously suspended or who was previously fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood required under this chapter or chapter 327, and:

(a) Who the arresting law enforcement officer had probable cause to believe was driving or in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances;

(b) Who was placed under lawful arrest for a violation of s. 316.193 unless such test was requested pursuant to s. 316.1932(1)(c);

(c) Who was informed that, if he or she refused to submit to such test, his or her privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second or subsequent refusal, for a period of 18 months;

(d) Who was informed that a refusal to submit to a lawful test of his or her breath ~~or~~, urine, ~~or blood~~, if his or her driving privilege has been previously suspended or if he or she has previously been fined under s. 327.35215 for a prior refusal to submit to a lawful test of his or her breath, urine, or blood as required under this chapter or chapter 327, is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law; and

(e) 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 misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.

Section 3. Present subsections (18) through (47) of section 327.02, Florida Statutes, are redesignated as subsections (19) through (48), respectively, a new subsection (18) is added to that section, and present subsection (31) of that section is amended, to read:

327.02 Definitions.—As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:

(18) “Human-powered vessel” means a vessel powered only by its occupant or occupants, including, but not limited to, a vessel powered only by the occupants’ hands or feet, oars, or paddles.

~~(32)(31)~~ “Navigation rules” means, for vessels on:

(a) Waters outside established navigational lines of demarcation as specified in 33 C.F.R. part 80, the International Navigational Rules Act of 1977, 33 U.S.C. s. 1602, as amended, including the appendix and annexes thereto, through December 31, 2020 ~~October 1, 2012~~.

(b) All waters not outside of such established lines of demarcation, the Inland Navigational Rules Act of 1980, 33 C.F.R. parts 83-90, as amended, through December 31, 2020 ~~October 1, 2012~~.

Section 4. Section 327.04, Florida Statutes, is amended to read:

327.04 Rules.—The commission may ~~has authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of this chapter, the provisions of chapter 705 relating to vessels, and ss. 376.15 and 823.11~~ conferring powers or duties upon it.

Section 5. Section 327.462, Florida Statutes, is created to read:

327.462 Temporary protection zones for spaceflight launches and recovery of spaceflight assets.—

(1) As used in this section, the term:

(a) “Launch services” means the conduct of a launch and activities involved in the preparation of a launch vehicle, payload, government astronaut, commercial astronaut, or spaceflight participant for such launch.

(b) “Reentry services” means the conduct of a reentry and activities involved in the preparation of a reentry vehicle, payload, government astronaut, commercial astronaut, or spaceflight participant for such reentry.

(c) “Spaceflight assets” means any item, or any part of an item, owned by a spaceflight entity which is used in launch services or reentry services, including crewed and uncrewed spacecraft, launch vehicles, parachutes and other landing aids, and any spacecraft or ancillary equipment that was attached to the launch vehicle during launch, orbit, or reentry.

(d) “Spaceflight entity” has the same meaning as provided in s. 331.501.

(2) The head of a law enforcement agency or entity identified in s. 327.70(1), or his or her designee, may, upon waters of this state within the law enforcement agency’s or entity’s jurisdiction, when necessary for preparations in advance of a launch service or reentry service or for the recovery of spaceflight assets before or after a launch service or reentry service, temporarily establish a protection zone requiring vessels to leave, or prohibiting vessels from entering, water bodies within:

(a) Five hundred yards of where launch services, reentry services, or spaceflight asset recovery operations are being conducted; or

(b) A distance greater than provided in paragraph (a) if the head of such law enforcement agency or entity, or his or her designee, determines such greater distance is in the best interest of public safety.

(3) A protection zone established under subsection (2) may remain in effect only as long as necessary to ensure security around the launch and recovery areas and to recover spaceflight assets and any personnel being transported within a spacecraft following the launch or reentry activity. Such protection zone may not be in place more than 72 hours before or 72 hours after the launch. The head of a law enforcement agency or entity identified in s. 327.70, or his or her designee:

(a) May also restrict vessels from operating within up to 500 yards of any vessel transporting recovered spaceflight assets following a spaceflight launch or reentry while such vessel is continuously underway transporting such assets to a location for removal from the waters of this state; and

(b) May not restrict vessel movement within the Florida Intracoastal Waterway, except as necessary during the transport of spaceflight assets to or from port or during exigent circumstances.

(4) The head of a law enforcement agency or entity establishing a protection zone under this section, or his or her designee, must report the establishment of such protection zone via e-mail to the commission's Division of Law Enforcement, Boating and Waterways Section, and to the appropriate United States Coast Guard Sector Command having responsibility over the water body, at least 72 hours before establishment of the protection zone. Such report must include the reasons for the protection zone, the portion of the water body or water bodies which will be included in the protection zone, and the duration of the protection zone. No later than 72 hours after the end of the protection zone period, the head of the law enforcement agency or entity, or his or her designee, must report via e-mail to the commission's Division of Law Enforcement, Boating and Waterways Section, the details of all citations issued for violating the protection zone.

(5) This section applies only to launch services, reentry services, or the recovery of spaceflight assets occurring or originating within spaceport territory, as defined in s. 331.304, and to federally licensed or federally authorized launches and reentries occurring or transiting to an end destination upon waters of this state.

(6) A person who violates this section or any directive given by a law enforcement officer relating to the establishment of a protection zone under this section after being advised of the establishment of the protection zone commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 6. Effective October 1, 2021, paragraphs (a) and (c) of subsection (1) of section 327.352, Florida Statutes, are amended to read:

327.352 Tests for alcohol, chemical substances, or controlled substances; implied consent; refusal.—

(1)(a)1. The Legislature declares that the operation of a vessel is a privilege that must be exercised in a reasonable manner. In order to protect the public health and safety, it is essential that a lawful and effective means of reducing the incidence of boating while impaired or intoxicated be established. Therefore, ~~a any~~ any person who accepts the privilege extended by the laws of this state of operating a vessel within this state is, by ~~so~~ 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. The 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 alcoholic beverages. The administration of a breath test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her breath under this chapter will result in a civil penalty of \$500, and shall also be told that if he or she refuses to submit to a lawful test of his or her breath and he or she has been previously fined under s. 327.35215 or has previously had his or her driver license suspended for refusal to submit to any lawful test of his or her breath, urine, or blood, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law. The refusal to submit to a 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.

2. A Any person who accepts the privilege extended by the laws of this state of operating a vessel within this state is, by so operating such vessel, deemed to have given his or her consent to submit to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 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. The urine test must be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was operating a vessel within this state while under the influence of chemical substances or controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such test in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of a urine test does not preclude the administration of another type of test. The person shall be told that his or her failure to submit to any lawful test of his or her urine under this chapter will result in a civil penalty of \$500, and shall also be told that if he or she refuses to submit to a lawful test of his or her urine and he or she has been previously fined under s. 327.35215 or has previously had his or her driver license suspended for refusal to submit to any lawful test of his or her breath, urine, or blood, he or she commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, in addition to any other penalties provided by law. The refusal to submit to a urine test upon the request of a law enforcement officer as provided in this section is admissible into evidence in any criminal proceeding.

(c) A Any 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 blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of chemical substances or

controlled substances as provided in this section if there is reasonable cause to believe the person was operating a vessel while under the influence of alcoholic beverages or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or other medical facility and the administration of a breath or urine test is impractical or impossible. As used in this paragraph, the term “other medical facility” includes an ambulance or other medical emergency vehicle. The blood test shall be performed in a reasonable manner. ~~A~~ Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition is deemed not to have withdrawn his or her consent to such test. ~~A~~ Any person who is capable of refusal shall be told that his or her failure to submit to such a blood test will result in a civil penalty of \$500 ~~and that a refusal to submit to a lawful test of his or her blood, if he or she has previously been fined for refusal to submit to any lawful test of his or her breath, urine, or blood, is a misdemeanor.~~ The refusal to submit to a blood test upon the request of a law enforcement officer shall be admissible in evidence in any criminal proceeding.

Section 7. Subsection (3) of section 327.35215, Florida Statutes, is amended to read:

327.35215 Penalty for failure to submit to test.—

(3) A person who has been advised of the penalties pursuant to subsection (2) may, within 30 days afterwards, request a hearing before a county court judge. A request for a hearing tolls the period for payment of the civil penalty, and, if assessment of the civil penalty is sustained by the hearing and any subsequent judicial review, the civil penalty must be paid within 30 days after final disposition. The clerk of the court shall notify the Department of Highway Safety and Motor Vehicles of the final disposition of all actions filed under this section by electronic transmission in a format prescribed by the department. When the department receives the final disposition, the department shall enter the disposition on the person's driving record.

Section 8. Effective October 1, 2021, section 327.359, Florida Statutes, is amended to read:

327.359 Refusal to submit to testing; penalties.—~~A~~ Any person who has refused to submit to a chemical or physical test of his or her breath, ~~blood,~~ or urine, as described in s. 327.352, and who has been previously fined under s. 327.35215 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:

(1) 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;

(2) Who was placed under lawful arrest for a violation of s. 327.35 unless such test was requested pursuant to s. 327.352(1)(c);

(3) Who was informed that if he or she refused to submit to such test, he or she is subject to a fine of \$500;

(4) Who was informed that a refusal to submit to a lawful test of his or her breath ~~or, urine, or blood~~, if he or she has been previously fined under s. 327.35215 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 misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083; and

(5) 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 misdemeanor of the first degree, punishable ~~and is subject to punishment~~ as provided in s. 775.082 or s. 775.083.

Section 9. Section 327.371, Florida Statutes, is created to read:

327.371 Human-powered vessels regulated.—

(1) A person may operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway as defined in s. 327.02:

(a) When the marked channel is the only navigable portion of the waterway available due to vessel congestion or obstructions on the water. The operator of the human-powered vessel shall proceed with diligence to a location where he or she may safely operate the vessel outside the marked channel of the Florida Intracoastal Waterway.

(b) When crossing the marked channel, provided that the crossing is done in the most direct, continuous, and expeditious manner possible and does not interfere with other vessel traffic in the channel.

(c) During an emergency endangering life or limb.

(2) A person may not operate a human-powered vessel in the marked channel of the Florida Intracoastal Waterway except as provided in subsection (1).

(3) A person who violates this section commits a noncriminal infraction, punishable as provided in s. 327.73.

Section 10. Subsection (1) and paragraphs (a) and (b) of subsection (5) of section 327.391, Florida Statutes, are amended to read:

327.391 Airboats regulated.—

(1) The exhaust of every internal combustion engine used on any airboat operated on the waters of this state shall be provided with an automotive-style factory muffler, underwater exhaust, or other manufactured device capable of adequately muffling the sound of the exhaust of the engine as

described in ~~s. 327.02(31)~~ ~~s. 327.02(30)~~. The use of cutouts or flex pipe as the sole source of muffling is prohibited, except as provided in subsection (4). A ~~Any~~ person who violates this subsection commits a noncriminal infraction, punishable as provided in s. 327.73(1).

(5)(a) ~~Beginning July 1, 2019,~~ A person may not operate an airboat to carry one or more passengers for hire on waters of this ~~the~~ state unless he or she has all of the following onboard the airboat:

1. A photographic identification card.
2. Proof of completion of a boater education course that complies with ~~s. 327.395(2)(a)~~ ~~s. 327.395(1)(a)~~. Except as provided in paragraph (b), no operator is exempt from this requirement, regardless of age or the exemptions provided under s. 327.395.
3. Proof of successful completion of a commission-approved airboat operator course that meets the minimum standards established by commission rule.
4. Proof of successful course completion in cardiopulmonary resuscitation and first aid.

(b) A person issued a captain's license by the United States Coast Guard is not required to complete a boating safety education course that complies with ~~s. 327.395(2)(a)~~ ~~s. 327.395(1)(a)~~. Proof of the captain's license must be onboard the airboat when carrying one or more passengers for hire on waters of this the state.

Section 11. Section 327.395, Florida Statutes, is amended to read:

327.395 Boating safety education.—

(1) 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 documents required by subsection (2).

(2) While operating a vessel, a person identified under subsection (1) must have in his or her possession aboard the vessel photographic identification and a Florida boating safety identification card issued by the commission; 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 commission, 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, which shows that he or she has:

(a) Completed a commission-approved boating safety education course that meets the minimum requirements established by the National Association of State Boating Law Administrators; ~~or~~

(b) Passed a temporary certificate examination developed or approved by the commission;

(c) A valid International Certificate of Competency; or

(d) Completed a boating safety education course or equivalency examination in another state, a United States territory, or Canada which meets or exceeds the minimum requirements established by the National Association of State Boating Law Administrators.

~~(3)(a)(2)(a)~~ A person may obtain a Florida boating safety identification card by successfully completing a boating safety education course that meets the requirements of this section and rules adopted by the commission pursuant to this section.

(b) 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 commission pursuant to this section.

~~(4)(3)~~ A ~~Any~~ commission-approved boating safety education course 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, and the requirements of s. 327.331.

~~(4)~~ ~~The commission may appoint liveries, marinas, or other persons as its agents to administer the course or temporary certificate examination and issue identification cards or temporary certificates in digital, electronic, or paper format under guidelines established by the commission. An agent must charge the \$2 examination fee, which must be forwarded to the commission with proof of passage of the examination and may charge and keep a \$1 service fee.~~

(5) 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 commission may issue either the boating safety identification card or the temporary certificate in a digital, electronic, or paper format.

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

(a)1. Is licensed by the United States Coast Guard to serve as master of a vessel; or

2. Has been previously licensed by the United States Coast Guard to serve as master of a vessel, provides proof of such licensure to the commission, and requests that a boating safety identification card be issued in his or her name.

(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 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.

(d) 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.

(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 a boating safety education course in accordance with paragraph (2)(a) the requirements of paragraph (1)(a) 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.

(g) Is exempted by rule of the commission.

(7) A person who operates a vessel in violation of this section ~~subsection (1)~~ commits a noncriminal infraction, punishable as provided in s. 327.73.

(8) The commission shall institute and coordinate a statewide program of boating safety instruction and certification to ensure that boating safety courses and examinations are available in each county of this ~~the~~ state. The commission may appoint agents to administer the boating safety education course or temporary certificate examination and may authorize the agents to issue temporary certificates in digital, electronic, or paper format. An agent ~~The agents~~ shall charge and collect the \$2 fee required in subsection (9) for each temporary certificate requested of the commission by that agent, which must be forwarded to the commission. The agent may charge and keep a \$1 service fee.

(9) The commission ~~may is authorized to~~ establish and to collect a \$2 fee for each card and temporary certificate issued pursuant to this section.

(10) The commission shall design forms and adopt rules pursuant to chapter 120 to implement ~~the provisions of~~ this section.

(11) This section may be cited as the "Osmany 'Ozzie' Castellanos Boating Safety Education Act."

Section 12. Present subsection (5) of section 327.4107, Florida Statutes, is redesignated as subsection (6), a new subsection (5) and subsection (7) are added to that section, and paragraphs (d) and (e) of subsection (2) of that section are amended, to read:

327.4107 Vessels at risk of becoming derelict on waters of this state.—

(2) An officer of the commission or of a law enforcement agency specified in s. 327.70 may determine that a vessel is at risk of becoming derelict if any of the following conditions exist:

~~(d) The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, is listing due to water intrusion, or is sunk or partially sunk.~~

(e) The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic notice, in-person notice recorded on an agency-approved body camera, or written notice, which may be provided by facsimile, electronic mail, or other electronic means, stating such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair. The commission may adopt rules to implement this paragraph.

(5) The commission, an officer of the commission, or a law enforcement agency or officer specified in s. 327.70 may relocate or cause to be relocated an at-risk vessel found to be in violation of this section to a distance greater than 20 feet from a mangrove or upland vegetation. The commission, an officer of the commission, or a law enforcement agency or officer acting pursuant to this subsection upon waters of this state shall be held harmless for all damages to the at-risk vessel resulting from such relocation unless the damage results from gross negligence or willful misconduct as these terms are defined in s. 823.11.

(7) The commission may establish a derelict vessel prevention program to address vessels at risk of becoming derelict. Such program may, but is not required to, include:

(a) Removal, relocation, and destruction of vessels declared a public nuisance, derelict or at risk of becoming derelict, or lost or abandoned in accordance with s. 327.53(7), s. 327.73(1)(aa), s. 705.103(2) and (4), or s. 823.11(3).

(b) Creation of a vessel turn-in program allowing the owner of a vessel determined by law enforcement to be at risk of becoming derelict in accordance with this section to turn his or her vessel and vessel title over to the commission to be destroyed without penalty.

(c) Providing for removal and destruction of an abandoned vessel for which an owner cannot be identified or the owner of which is deceased and no heir is interested in acquiring the vessel.

(d) Purchase of anchor line, anchors, and other equipment necessary for securing vessels at risk of becoming derelict.

(e) Creating or acquiring moorings designated for securing vessels at risk of becoming derelict.

The commission may adopt rules to implement this subsection. Implementation of the derelict vessel prevention program shall be subject to appropriation by the Legislature and shall be funded by the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund.

Section 13. Section 327.4108, Florida Statutes, is amended to read:

327.4108 Anchoring of vessels in anchoring limitation areas.—

(1) The following densely populated urban areas, which have narrow state waterways, residential docking facilities, and significant recreational boating traffic, are designated as anchoring limitation areas, within which a person may not anchor a vessel at any time during the period between one-half hour after sunset and one-half hour before sunrise, except as provided in subsections (3) and (4):

(a) The section of Middle River lying between Northeast 21st Court and the Intracoastal Waterway in Broward County.

(b) Sunset Lake in Miami-Dade County.

(c) The sections of Biscayne Bay in Miami-Dade County lying between:

1. Rivo Alto Island and Di Lido Island.
2. San Marino Island and San Marco Island.
3. San Marco Island and Biscayne Island.

(2)(a) Monroe County is designated as an anchoring limitation area within which a vessel on waters of the state may only be anchored in the same location for a maximum of 90 days. The commission shall adopt rules to implement this subsection.

(b) The anchoring limitations in this subsection do not apply to approved and permitted moorings or mooring fields.

(c) Notwithstanding the commission rules adopted pursuant to this section, this section is not effective for Monroe County until the county approves, permits, and opens new moorings for public use, including at least 250 moorings within 1 mile of the Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field. Until such time, the commission shall designate the area within 1 mile of the Key West Bight City Dock as a priority for the investigation and removal of derelict vessels.

~~(2) To promote the public's use and enjoyment of the designated waterway, except as provided in subsections (3) and (4), a person may not anchor a vessel at any time during the period between one-half hour after sunset and one-half hour before sunrise in an anchoring limitation area.~~

(3) Notwithstanding subsections (1) and ~~subsection (2)~~, a person may anchor a vessel in an anchoring limitation area during a time that would otherwise be unlawful:

(a) If the vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors. The vessel may anchor for 3 business days or until the vessel is repaired, whichever occurs first.

(b) If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors. The vessel may anchor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.

(c) During events described in s. 327.48 or other special events, including, but not limited to, public music performances, local government waterfront activities, or fireworks displays. A vessel may anchor for the lesser of the duration of the special event or 3 days.

(4) This section does not apply to:

(a) Vessels owned or operated by a governmental entity for law enforcement, firefighting, military, or rescue purposes.

(b) Construction or dredging vessels on an active job site.

(c) Vessels actively engaged in commercial fishing.

(d) Vessels engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.

(5)(a) As used in this subsection, the term "law enforcement officer or agency" means an officer or agency authorized to enforce this section pursuant to s. 327.70.

(b) A law enforcement officer or agency may remove a vessel from an anchoring limitation area and impound the vessel for up to 48 hours, or cause such removal and impoundment, if the vessel operator, after being issued a citation for a violation of this section:

1. Anchors the vessel in violation of this section within 12 hours after being issued the citation; or

2. Refuses to leave the anchoring limitation area after being directed to do so by a law enforcement officer or agency.

(c) A law enforcement officer or agency acting under this subsection to remove or impound a vessel, or to cause such removal or impoundment, shall be held harmless for any damage to the vessel resulting from such removal or impoundment unless the damage results from gross negligence or willful misconduct.

(d) A contractor performing removal or impoundment services at the direction of a law enforcement officer or agency pursuant to this subsection must:

1. Be licensed in accordance with United States Coast Guard regulations, as applicable.

2. Obtain and carry a current policy issued by a licensed insurance carrier in this state to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions.

3. Be properly equipped to perform such services.

(e) In addition to the civil penalty imposed under s. 327.73(1)(z), the operator of a vessel that is removed and impounded pursuant to paragraph (b) must pay all removal and storage fees before the vessel is released. A vessel removed pursuant to paragraph (b) may not be impounded for longer than 48 hours.

(6) A violation of this section is punishable as provided in s. 327.73(1)(z).

~~(7) This section shall remain in effect notwithstanding the Legislature's adoption of the commission's recommendations for the regulation of mooring vessels outside of public mooring fields pursuant to s. 327.4105.~~

Section 14. Paragraph (a) of subsection (1) and subsection (2) of section 327.4109, Florida Statutes, are amended to read:

327.4109 Anchoring or mooring prohibited; exceptions; penalties.—

(1)(a) The owner or operator of a vessel or floating structure may not anchor or moor such that the nearest approach of the anchored or moored vessel or floating structure is:

1. Within 150 feet of any public or private marina, boat ramp, boatyard, or other public vessel launching or loading facility;

2. Within ~~500~~ 300 feet of a superyacht repair facility. For purposes of this subparagraph, the term "superyacht repair facility" means a facility that services or repairs a yacht with a water line of 120 feet or more in length; or

3. Within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by the commission upon request of a local government within which the mooring field is located. The commission may adopt rules to implement this subparagraph.

(2) Notwithstanding subsection (1), an owner or operator of a vessel may anchor or moor within 150 feet of any public or private marina, boat ramp, boatyard, or other public vessel launching or loading facility; within ~~500~~ 300 feet of a superyacht repair facility; or within 100 feet outward from the marked boundary of a public mooring field if:

(a) The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor for 5 business days or until the vessel is repaired, whichever occurs first.

(b) Imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard such vessel. The owner or operator of the vessel may anchor or moor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.

Section 15. Subsection (2) of section 327.45, Florida Statutes, is amended to read:

327.45 Protection zones for springs.—

(2) The commission may establish by rule protection zones that restrict the speed and operation of vessels, or that prohibit the anchoring, mooring, beaching, or grounding of vessels, to protect and prevent harm to first, second, and third magnitude springs and springs groups, including their associated spring runs, as determined by the commission using the most recent Florida Geological Survey springs bulletin. This harm includes negative impacts to water quality, water quantity, hydrology, wetlands, and aquatic and wetland-dependent species.

Section 16. Paragraph (b) of subsection (1) of section 327.46, Florida Statutes, is amended to read:

327.46 Boating-restricted areas.—

(1) Boating-restricted areas, including, but not limited to, restrictions of vessel speeds and vessel traffic, may be established on the waters of this state for any purpose necessary to protect the safety of the public if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards or to protect seagrasses on privately owned submerged lands.

(b) Municipalities and counties ~~may have the authority to~~ establish the following boating-restricted areas by ordinance, including, notwithstanding the prohibition in s. 327.60(2)(c), within the portion of the Florida Intracoastal Waterway within their jurisdiction:

1. An ordinance establishing an idle speed, no wake boating-restricted area, if the area is:

a. Within 500 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways more than 300 feet in width or within 300 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways not exceeding 300 feet in width.

b. Within 500 feet of fuel pumps or dispensers at any marine fueling facility that sells motor fuel to the general boating public on waterways more than 300 feet in width or within 300 feet of the fuel pumps or dispensers at any licensed terminal facility that sells motor fuel to the general boating public on waterways not exceeding 300 feet in width.

c. Inside or within 300 feet of any lock structure.

2. An ordinance establishing a slow speed, minimum wake boating-restricted area if the area is:

a. Within 300 feet of any bridge fender system.

b. Within 300 feet of any bridge span presenting a vertical clearance of less than 25 feet or a horizontal clearance of less than 100 feet.

c. On a creek, stream, canal, or similar linear waterway if the waterway is less than 75 feet in width from shoreline to shoreline.

d. On a lake or pond of less than 10 acres in total surface area.

e. Within the boundaries of a permitted public mooring field and a buffer around the mooring field of up to 100 feet.

3. An ordinance establishing a vessel-exclusion zone if the area is:

a. Designated as a public bathing beach or swim area.

b. Within 300 feet of a dam, spillway, or flood control structure.

Vessel exclusion zones created pursuant to this subparagraph must be marked with uniform waterway markers permitted by the commission in accordance with this chapter. Such zones may not be marked by ropes.

Section 17. Section 327.463, Florida Statutes, is created to read:

327.463 Special hazards.—

(1) For purposes of this section, a vessel:

(a) Is operating at slow speed, minimum wake only if it is:

- 1. Fully off plane and completely settled into the water; and
- 2. Proceeding without wake or with minimum wake.

A vessel that is required to operate at slow speed, minimum wake may not proceed at a speed greater than a speed that is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under the existing circumstances.

(b) Is not proceeding at slow speed, minimum wake if it is:

- 1. Operating on plane;
- 2. In the process of coming off plane and settling into the water or getting on plane; or
- 3. Operating at a speed that creates a wake that unreasonably or unnecessarily endangers other vessels.

(2) A person may not operate a vessel faster than slow speed, minimum wake within 300 feet of any emergency vessel, including, but not limited to, a law enforcement vessel, United States Coast Guard vessel, or firefighting vessel, when such emergency vessel's emergency lights are activated.

(3)(a) A person may not operate a vessel faster than slow speed, minimum wake within 300 feet of any construction vessel or barge when the vessel or barge is displaying an orange flag from a pole extending:

- 1. At least 10 feet above the tallest portion of the vessel or barge, indicating that the vessel or barge is actively engaged in construction operations; or
- 2. At least 5 feet above any superstructure permanently installed upon the vessel or barge, indicating that the vessel or barge is actively engaged in construction operations.

(b) A flag displayed on a construction vessel or barge pursuant to this subsection must:

- 1. Be at least 2 feet by 3 feet in size.
- 2. Have a wire or other stiffener or be otherwise constructed to ensure that the flag remains fully unfurled and extended in the absence of a wind or breeze.
- 3. Be displayed so that the visibility of the flag is not obscured in any direction.

(c) In periods of low visibility, including any time between 30 minutes after sunset and 30 minutes before sunrise, a person may not be cited for a violation of this subsection unless the orange flag is illuminated and visible from a distance of at least 2 nautical miles. Such illumination does not relieve the construction vessel or barge from complying with all navigation rules.

(4)(a) A person operating a vessel in violation of this section commits a noncriminal infraction, punishable as provided in s. 327.73.

(b) The owner of, or party who is responsible for, a construction vessel or barge who displays an orange flag on the vessel or barge when it is not actively engaged in construction operations commits a noncriminal infraction, punishable as provided in s. 327.73.

(5) The speed and penalty provisions of this section do not apply to a law enforcement, firefighting, or rescue vessel that is owned or operated by a governmental entity.

Section 18. Paragraph (a) of subsection (1) of section 327.50, Florida Statutes, is amended to read:

327.50 Vessel safety regulations; equipment and lighting requirements.

(1)(a) The owner and operator of every vessel on the waters of this state shall carry, store, maintain, and use safety equipment in accordance with current United States Coast Guard safety equipment requirements as specified in the Code of Federal Regulations, unless expressly exempted by the commission department.

Section 19. Section 327.521, Florida Statutes, is created to read:

327.521 No-discharge zones.—

(1) Effective immediately upon approval by the United States Environmental Protection Agency of a no-discharge zone determination for the waters of the United States within the boundaries of aquatic preserves identified in s. 258.39, all waters of this state within such areas are designated no-discharge zones within which a person may not discharge sewage of any type, whether treated or untreated, from any vessel or floating structure.

(2) A person who violates this section commits a noncriminal infraction, punishable by a civil penalty of up to \$250. If any discharge prohibited by this section is ongoing or continuous, the person may be assessed a penalty of up to \$250 for each day the violation continues.

(3)(a) The owner or operator of a vessel or floating structure convicted a second time for violating this section shall, within 30 days after the conviction, remove the vessel or floating structure from the waters of this

state. For purposes of this paragraph, the term “conviction” means a disposition other than acquittal or dismissal.

(b) If the vessel or floating structure remains on the waters of this state in violation of this subsection, law enforcement officers charged with the enforcement of this chapter under s. 327.70 shall apply to the appropriate court in the county in which the vessel or floating structure is located to order or otherwise cause the removal of such vessel or floating structure from the waters of this state at the owner’s expense.

(c) If the owner cannot be found or otherwise fails to pay the removal costs, s. 328.17 shall apply. If the proceeds under s. 328.17 are not sufficient to pay all removal costs, funds appropriated from the Marine Resources Conservation Trust Fund pursuant to s. 327.53(6)(b) or s. 328.72(15)(c) may be used.

(4) The commission shall maintain a list of marine sewage pumpout facilities throughout this state, make the list available on its website, and provide the list with information about the Department of Environmental Protection’s Clean Marina Program to all counties for distribution to public and private marinas.

Section 20. Paragraph (a) of subsection (6) and subsection (7) of section 327.53, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

327.53 Marine sanitation.—

(6)(a) A violation of this section is a noncriminal infraction, punishable as provided in s. 327.73. Each violation shall be a separate offense. The owner and operator of any vessel shall be jointly and severally liable for the civil penalty imposed pursuant to this section.

(7) A ~~Any~~ vessel or floating structure operated or occupied on the waters of ~~this~~ the state in violation of this section is declared a nuisance and a hazard to public safety and health. The owner or operator of a ~~any~~ vessel or floating structure cited for violating this section shall, within 30 days following the issuance of the citation, correct the violation for which the citation was issued or remove the vessel or floating structure from the waters of this the state. If the violation is not corrected within the 30 days and the vessel or floating structure remains on the waters of this the state in violation of this section, law enforcement officers charged with the enforcement of this chapter under s. 327.70 shall apply to the appropriate court in the county in which the vessel or floating structure is located, to order or otherwise cause the removal of such vessel or floating structure from the waters of this the state at the owner’s expense. If the owner cannot be found or otherwise fails to pay the removal costs, the provisions of s. 328.17 shall apply. If the proceeds under s. 328.17 are not sufficient to pay all removal costs, funds appropriated from the Marine Resources Conservation

Trust Fund pursuant to paragraph (6)(b) or s. 328.72(15)(c) ~~s. 328.72(16)~~ may be used.

(8) The owner or operator of a live-aboard vessel as defined in s. 327.02(23), or a houseboat as defined in s. 327.02(17), that is equipped with a marine sanitation device must maintain a record of the date of each pumpout of the marine sanitation device and the location of the pumpout station or waste reception facility. Each record must be maintained for 1 year after the date of the pumpout. This subsection does not apply to marine compost toilets that process and manage human waste using marine compost toilet technologies that comply with United States Coast Guard requirements.

Section 21. 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 ~~a any vessel powered by a motor of 10 horsepower or greater to a any person who is required to comply with s. 327.395, unless such person presents to the livery the~~ documentation required by s. 327.395(2) for the operation of a vessel 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).

Section 22. Subsection (5) of section 327.60, Florida Statutes, is amended to read:

327.60 Local regulations; limitations.—

(5) A local government may enact and enforce regulations to implement the procedures for abandoned or lost property that allow the local law enforcement agency to remove a vessel affixed to a public dock or mooring within its jurisdiction that is abandoned or lost property pursuant to s. 705.103(1). Such regulation must require the local law enforcement agency to post a written notice at least 24 hours before removing the vessel.

Section 23. Paragraphs (q), (s), and (aa) of subsection (1) of section 327.73, Florida Statutes, are amended, and paragraphs (cc) and (dd) are added to that subsection, to read:

327.73 Noncriminal infractions.—

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

(q) Section 327.53(1), (2), ~~and (3),~~ and (8), relating to marine sanitation.

(s) Section 327.395, relating to boater safety education. However, a person cited for violating the requirements of s. 327.395 relating to failure to

have required proof of boating safety education in his or her possession may not be convicted if, before or at the time of a county court hearing, the person produces proof of the boating safety education identification card or temporary certificate for verification by the hearing officer or the court clerk and the identification card or temporary certificate was valid at the time the person was cited.

(aa) Section 327.4107, relating to vessels at risk of becoming derelict on waters of this state, for which the civil penalty is:

1. For a first offense, \$100 ~~\$50~~.
2. For a second offense occurring 30 days or more after a first offense, \$250 ~~\$100~~.
3. For a third or subsequent offense occurring 30 days or more after a previous offense, \$500 ~~\$250~~.

A vessel that is the subject of three or more violations issued pursuant to the same paragraph of s. 327.4107(2) within an 18-month period which result in dispositions other than acquittal or dismissal shall be declared to be a public nuisance and subject to ss. 705.103(2) and (4) and 823.11(3). The commission, an officer of the commission, or a law enforcement agency or officer specified in s. 327.70 may relocate, remove, or cause to be relocated or removed such public nuisance vessels from waters of this state. The commission, an officer of the commission, or a law enforcement agency or officer acting pursuant to this paragraph upon waters of this state shall be held harmless for all damages to the vessel resulting from such relocation or removal unless the damage results from gross negligence or willful misconduct as these terms are defined in s. 823.11.

(cc) Section 327.463(4)(a) and (b), relating to vessels creating special hazards, for which the penalty is:

1. For a first offense, \$50.
2. For a second offense occurring within 12 months after a prior offense, \$100.
3. For a third offense occurring within 36 months after a prior offense, \$250.

(dd) Section 327.371, relating to the regulation of human-powered vessels.

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 24. Subsection (4) of section 328.09, Florida Statutes, is amended to read:

328.09 Refusal to issue and authority to cancel a certificate of title or registration.—

(4) The department may not issue a certificate of title to ~~an~~ any applicant for ~~a~~ any vessel that has been deemed derelict by a law enforcement officer under s. 376.15 or s. 823.11. A law enforcement officer must inform the department in writing, which may be provided by facsimile, electronic mail, or other electronic means, of the vessel's derelict status and supply the department with the vessel title number or vessel identification number. The department may issue a certificate of title once a law enforcement officer has verified in writing, which may be provided by facsimile, electronic mail, or other electronic means, that the vessel is no longer a derelict vessel.

Section 25. Effective July 1, 2023, paragraph (e) of subsection (3) of section 328.09, Florida Statutes, as amended by section 12 of chapter 2019-76, Laws of Florida, is amended to read:

328.09 Refusal to issue and authority to cancel a certificate of title or registration.—

(3) Except as otherwise provided in subsection (4), the department may reject an application for a certificate of title only if:

(e) The application is for a vessel that has been deemed derelict by a law enforcement officer under s. 376.15 or s. 823.11. In such case, a law enforcement officer must inform the department in writing, which may be provided by facsimile, e-mail, or other electronic means, of the vessel's derelict status and supply the department with the vessel title number or vessel identification number. The department may issue a certificate of title once a law enforcement officer has verified in writing, which may be provided by facsimile, e-mail, or other electronic means, that the vessel is no longer a derelict vessel.

Section 26. Section 376.15, Florida Statutes, is amended to read:

376.15 Derelict vessels; relocation or removal from ~~public~~ public waters of this state.—

(1) As used in this section, the term:

(a) "Commission" means the Fish and Wildlife Conservation Commission.

(b) “Gross negligence” means conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the safety of the property exposed to such conduct.

(c) “Willful misconduct” means conduct evidencing carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the interests of the vessel owner.

(2)(a) ~~It is unlawful for any person, firm, or corporation to store, leave, or abandon any derelict vessel as defined in s. 823.11 upon the waters of in this state. For purposes of this paragraph, the term “leave” means to allow a vessel to remain occupied or unoccupied on the waters of this state for more than 24 hours.~~

(b) Notwithstanding paragraph (a), a person who owns or operates a vessel that becomes derelict upon the waters of this state solely as a result of a boating accident that is reported to law enforcement in accordance with s. 327.301 or otherwise reported to law enforcement; a hurricane; or another sudden event outside of his or her control may not be charged with a violation if:

1. The individual documents for law enforcement the specific event that led to the vessel being derelict upon the waters of this state; and

2. The vessel has been removed from the waters of this state or has been repaired or addressed such that it is no longer derelict upon the waters of this state:

a. For a vessel that has become derelict as a result of a boating accident or other sudden event outside of his or her control, within 7 days after such accident or event; or

b. Within 45 days after the hurricane has passed over this state.

(c) This subsection does not apply to a vessel that was derelict upon the waters of this state before the stated accident or event.

(3)(a) The commission, an officer ~~officers~~ of the commission, or a ~~and any~~ law enforcement agency or officer specified in s. 327.70 may ~~are authorized and empowered to~~ relocate, remove, store, destroy, or dispose of ~~or cause to be relocated, or removed, stored, destroyed, or disposed of~~ a any derelict vessel as defined in s. 823.11 from public waters of this state as defined in s. 327.02. All costs, including costs owed to a third party, incurred by the commission or other law enforcement agency in the relocation, ~~or removal,~~ storage, destruction, or disposal of any abandoned or derelict vessel are recoverable against the owner of the vessel or the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition. The Department of Legal Affairs shall represent the commission in actions to recover such costs.

(b) The commission, an officer ~~officers~~ of the commission, or a ~~and any other~~ law enforcement agency or officer specified in s. 327.70 acting pursuant to ~~under~~ this section to relocate, remove, store, destroy, or dispose of ~~or cause to be relocated, or removed, stored, destroyed, or disposed of~~ a derelict vessel from ~~public waters of this state as defined in s. 327.02~~ shall be held harmless for all damages to the derelict vessel resulting from such action ~~relocation or removal~~ unless the damage results from gross negligence or willful misconduct as these terms are defined in s. 823.11.

(c) A contractor performing relocation or removal activities at the direction of the commission, an officer ~~officers~~ of the commission, or a ~~or a~~ law enforcement agency or officer, or a governmental subdivision, when the governmental subdivision has received authorization for the relocation or removal from a law enforcement officer or agency pursuant to this section, must be licensed in accordance with applicable United States Coast Guard regulations where required; obtain and carry in full force and effect a policy from a licensed insurance carrier in this state to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions; and be properly equipped to perform the services to be provided.

(d) The commission may establish a program to provide grants to local governments for the removal, storage, destruction, and disposal of derelict vessels from the ~~public waters of this the state~~ as defined in s. 327.02. The program shall be funded from the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund. Notwithstanding the ~~provisions in s. 216.181(11),~~ funds available for grants may only be authorized by appropriations acts of the Legislature. In a given fiscal year, if all funds appropriated pursuant to this paragraph are not requested by and granted to local governments for the removal, storage, destruction, and disposal of derelict vessels by the end of the third quarter, the Fish and Wildlife Conservation Commission may use the remainder of the funds to remove, store, destroy, and dispose of, or to pay private contractors to remove, store, destroy, and dispose of, derelict vessels.

(e) The commission shall adopt by rule procedures for submitting a grant application and criteria for allocating available funds. Such criteria shall include, but not be limited to, the following:

1. The number of derelict vessels within the jurisdiction of the applicant.
2. The threat posed by such vessels to public health or safety, the environment, navigation, or the aesthetic condition of the general vicinity.
3. The degree of commitment of the local government to maintain waters free of abandoned and derelict vessels and to seek legal action against those who abandon vessels in the waters of ~~this the state~~ as defined in s. 327.02.

(f) This section constitutes the authority for such removal but is not intended to be in contravention of any applicable federal act.

Section 27. Subsections (2) and (4) of section 705.103, Florida Statutes, are amended to read:

705.103 Procedure for abandoned or lost property.—

(2)(a)1. Whenever a law enforcement officer ascertains that:

a. An article of lost or abandoned property other than a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa) is present on public property and is of such nature that it cannot be easily removed, the officer shall cause a notice to be placed upon such article in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to wit: ...(setting forth brief description)... is unlawfully upon public property known as ...(setting forth brief description of location)... and must be removed within 5 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage, and publication of notice. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer)....

b. A derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa) is present on the waters of this state, the officer shall cause a notice to be placed upon such vessel in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED VESSEL. This vessel, to wit: ...(setting forth brief description) ... has been determined to be (derelict or a public nuisance) and is unlawfully upon waters of this state ...(setting forth brief description of location)... and must be removed within 21 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner and other interested parties have the right to a hearing to challenge the determination that this vessel is derelict or otherwise in violation of the law. Please contact ... (contact information for person who can arrange for a hearing in accordance with this section).... The owner or the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition will be liable for the costs of removal, destruction, and disposal if this vessel is not removed by the owner. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer)....

2. The notices required under subparagraph 1. may ~~Such notice shall be~~ not be less than 8 inches by 10 inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the law enforcement officer shall make a reasonable effort to ascertain the name

and address of the owner. If such is reasonably available to the officer, she or he shall mail a copy of such notice to the owner on or before the date of posting. If the property is a motor vehicle as defined in s. 320.01(1) or a vessel as defined in s. 327.02, the law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles in order to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel as provided in s. 319.27(2) or (3) or s. 328.15(1). On receipt of this information, the law enforcement agency shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to the lienholder, if any, except that a law enforcement officer who has issued a citation for a violation of s. 376.15 or s. 823.11 to the owner of a derelict vessel is not required to mail a copy of the notice by certified mail, return receipt requested, to the owner. For a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the mailed notice must inform the owner or responsible party that he or she has a right to a hearing to dispute the determination that the vessel is derelict or otherwise in violation of the law. If a request for a hearing is made, a state agency shall follow the processes set forth in s. 120.569. Local governmental entities shall follow the processes set forth in s. 120.569, except that a local judge, magistrate, or code enforcement officer may be designated to conduct such a hearing. If, at the end of 5 days after posting the notice in sub-subparagraph 1.a., or at the end of 21 days after posting the notice in sub-subparagraph 1.b., and mailing such notice, if required, the owner or any person interested in the lost or abandoned article or articles described has not removed the article or articles from public property or shown reasonable cause for failure to do so, and, in the case of a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), has not requested a hearing in accordance with this section, the following shall apply:

a.(a) For abandoned property other than a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the law enforcement agency may retain any or all of the property for its own use or for use by the state or unit of local government, trade such property to another unit of local government or state agency, donate the property to a charitable organization, sell the property, or notify the appropriate refuse removal service.

b. For a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the law enforcement agency or its designee may:

(I) Remove the vessel from the waters of this state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so; or

(II) Authorize the vessel's use as an artificial reef in accordance with s. 379.249 if all necessary federal, state, and local authorizations are received.

A law enforcement agency or its designee may also take action as described in this sub-subparagraph if, following a hearing pursuant to this section, the judge, magistrate, administrative law judge, or hearing officer has determined the vessel to be derelict as provided in s. 823.11 or otherwise in

violation of the law in accordance with s. 327.73(1)(aa) and a final order has been entered or the case is otherwise closed.

(b) For lost property, the officer shall take custody and the agency shall retain custody of the property for 90 days. The agency shall publish notice of the intended disposition of the property, as provided in this section, during the first 45 days of this time period.

1. If the agency elects to retain the property for use by the unit of government, donate the property to a charitable organization, surrender such property to the finder, sell the property, or trade the property to another unit of local government or state agency, notice of such election shall be given by an advertisement published once a week for 2 consecutive weeks in a newspaper of general circulation in the county where the property was found if the value of the property is more than \$100. If the value of the property is \$100 or less, notice shall be given by posting a description of the property at the law enforcement agency where the property was turned in. The notice must be posted for not less than 2 consecutive weeks in a public place designated by the law enforcement agency. The notice must describe the property in a manner reasonably adequate to permit the rightful owner of the property to claim it.

2. If the agency elects to sell the property, it must do so at public sale by competitive bidding. Notice of the time and place of the sale shall be given by an advertisement of the sale published once a week for 2 consecutive weeks in a newspaper of general circulation in the county where the sale is to be held. The notice shall include a statement that the sale shall be subject to any and all liens. The sale must be held at the nearest suitable place to that where the lost or abandoned property is held or stored. The advertisement must include a description of the goods and the time and place of the sale. The sale may take place no earlier than 10 days after the final publication. If there is no newspaper of general circulation in the county where the sale is to be held, the advertisement shall be posted at the door of the courthouse and at three other public places in the county at least 10 days prior to sale. Notice of the agency's intended disposition shall describe the property in a manner reasonably adequate to permit the rightful owner of the property to identify it.

(4) The owner of any abandoned or lost property, or in the case of a derelict vessel, the owner or other party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition, who, after notice as provided in this section, does not remove such property within the specified period shall be liable to the law enforcement agency, other governmental entity, or the agency's or entity's designee for all costs of removal, storage, and destruction of such property, less any salvage value obtained by disposal of the property. Upon final disposition of the property, the law enforcement officer or representative of the law enforcement agency or other governmental entity shall notify the owner, if known, of the amount owed. In the case of an abandoned vessel or motor vehicle, any person who neglects or refuses to pay such amount is not entitled to be issued a

certificate of registration for such vessel or motor vehicle, or any other vessel or motor vehicle, until such costs have been paid. A person who has neglected or refused to pay all costs of removal, storage, disposal, and destruction of a vessel or motor vehicle as provided in this section, after having been provided written notice via certified mail that such costs are owed, and who applies for and is issued a registration for a vessel or motor vehicle before such costs have been paid in full commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The law enforcement officer or representative of the law enforcement agency or other governmental entity shall supply the Department of Highway Safety and Motor Vehicles with a list of persons whose vessel registration privileges and ~~or~~ whose motor vehicle privileges have been revoked under this subsection. ~~Neither The department or a nor any other person acting as an agent of the department may not thereof shall~~ issue a certificate of registration to a person whose vessel and ~~or~~ motor vehicle registration privileges have been revoked, as provided by this subsection, until such costs have been paid.

Section 28. Effective July 1, 2023, subsection (2) of section 705.103, Florida Statutes, as amended by section 29 of chapter 2019-76, Laws of Florida, is amended to read:

705.103 Procedure for abandoned or lost property.—

(2)(a)1. Whenever a law enforcement officer ascertains that:

a. An article of lost or abandoned property other than a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa) is present on public property and is of such nature that it cannot be easily removed, the officer shall cause a notice to be placed upon such article in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY. This property, to wit: ...(setting forth brief description)... is unlawfully upon public property known as ...(setting forth brief description of location)... and must be removed within 5 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage, and publication of notice. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer)....

b. A derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa) is present on the waters of this state, the officer shall cause a notice to be placed upon such vessel in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED VESSEL. This vessel, to wit: ...(setting forth brief description of location)... has been determined to be (derelict or a public nuisance) and is

unlawfully upon the waters of this state ... (setting forth brief description of location)... and must be removed within 21 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner and other interested parties have the right to a hearing to challenge the determination that this vessel is derelict or otherwise in violation of the law. Please contact ... (contact information for person who can arrange for a hearing in accordance with this section)... The owner or the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition will be liable for the costs of removal, destruction, and disposal if this vessel is not removed by the owner. Dated this: ... (setting forth the date of posting of notice)..., signed: ... (setting forth name, title, address, and telephone number of law enforcement officer)....

2. The notices required under subparagraph 1. may ~~Such notice shall be~~ not be less than 8 inches by 10 inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the law enforcement officer shall make a reasonable effort to ascertain the name and address of the owner. If such is reasonably available to the officer, she or he shall mail a copy of such notice to the owner on or before the date of posting. If the property is a motor vehicle as defined in s. 320.01(1) or a vessel as defined in s. 327.02, the law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles in order to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel as provided in s. 319.27(2) or (3) or s. 328.15. On receipt of this information, the law enforcement agency shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to the lienholder, if any, except that a law enforcement officer who has issued a citation for a violation of s. 376.15 or s. 823.11 to the owner of a derelict vessel is not required to mail a copy of the notice by certified mail, return receipt requested, to the owner. For a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the mailed notice must inform the owner or responsible party that he or she has a right to a hearing to dispute the determination that the vessel is derelict or otherwise in violation of the law. If a request for a hearing is made, a state agency shall follow the processes as set forth in s. 120.569. Local governmental entities shall follow the processes set forth in s. 120.569, except that a local judge, magistrate, or code enforcement officer may be designated to conduct such a hearing. If, at the end of 5 days after posting the notice in sub-subparagraph 1.a., or at the end of 21 days after posting the notice in sub-subparagraph 1.b., and mailing such notice, if required, the owner or any person interested in the lost or abandoned article or articles described has not removed the article or articles from public property or shown reasonable cause for failure to do so, and, in the case of a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), has not requested a hearing in accordance with this section, the following shall apply:

a.(a) ~~For abandoned property other than a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa),~~ the law enforcement agency may retain any or all of the property for its own use or for use by the

state or unit of local government, trade such property to another unit of local government or state agency, donate the property to a charitable organization, sell the property, or notify the appropriate refuse removal service.

b. For a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the law enforcement agency or its designee may:

(I) Remove the vessel from the waters of this state and destroy and dispose of the vessel or authorize another governmental entity or its designee to do so; or

(II) Authorize the vessel's use as an artificial reef in accordance with s. 379.249 if all necessary federal, state, and local authorizations are received.

A law enforcement agency or its designee may also take action as described in this sub-subparagraph if, following a hearing pursuant to this section, the judge, magistrate, administrative law judge, or hearing officer has determined the vessel to be derelict as provided in s. 823.11 or otherwise in violation of the law in accordance with s. 327.73(1)(aa) and a final order has been entered or the case is otherwise closed.

(b) For lost property, the officer shall take custody and the agency shall retain custody of the property for 90 days. The agency shall publish notice of the intended disposition of the property, as provided in this section, during the first 45 days of this time period.

1. If the agency elects to retain the property for use by the unit of government, donate the property to a charitable organization, surrender such property to the finder, sell the property, or trade the property to another unit of local government or state agency, notice of such election shall be given by an advertisement published once a week for 2 consecutive weeks in a newspaper of general circulation in the county where the property was found if the value of the property is more than \$100. If the value of the property is \$100 or less, notice shall be given by posting a description of the property at the law enforcement agency where the property was turned in. The notice must be posted for not less than 2 consecutive weeks in a public place designated by the law enforcement agency. The notice must describe the property in a manner reasonably adequate to permit the rightful owner of the property to claim it.

2. If the agency elects to sell the property, it must do so at public sale by competitive bidding. Notice of the time and place of the sale shall be given by an advertisement of the sale published once a week for 2 consecutive weeks in a newspaper of general circulation in the county where the sale is to be held. The notice shall include a statement that the sale shall be subject to any and all liens. The sale must be held at the nearest suitable place to that where the lost or abandoned property is held or stored. The advertisement must include a description of the goods and the time and place of the sale. The sale may take place no earlier than 10 days after the final publication. If there is no newspaper of general circulation in the county where the sale is to

be held, the advertisement shall be posted at the door of the courthouse and at three other public places in the county at least 10 days prior to sale. Notice of the agency’s intended disposition shall describe the property in a manner reasonably adequate to permit the rightful owner of the property to identify it.

Section 29. Subsections (1), (2), and (3) of section 823.11, Florida Statutes, are amended to read:

823.11 Derelict vessels; relocation or removal; penalty.—

(1) As used in this section and s. 376.15, the term:

(a) “Commission” means the Fish and Wildlife Conservation Commission.

(b) “Derelict vessel” means a vessel, as defined in s. 327.02, that is ~~left, stored, or abandoned~~:

1. In a wrecked, junked, or substantially dismantled condition upon any public waters of this state.

a. A vessel is wrecked if it is sunken or sinking; aground without the ability to extricate itself absent mechanical assistance; or remaining after a marine casualty, including, but not limited to, a boating accident, extreme weather, or a fire.

b. A vessel is junked if it has been substantially stripped of vessel components, if vessel components have substantially degraded or been destroyed, or if the vessel has been discarded by the owner or operator. Attaching an outboard motor to a vessel that is otherwise junked will not cause the vessel to no longer be junked if such motor is not an effective means of propulsion as required by s. 327.4107(2)(e) and associated rules.

c. A vessel is substantially dismantled if at least two of the three following vessel systems or components are missing, compromised, incomplete, inoperable, or broken:

- (I) The steering system;
- (II) The propulsion system; or
- (III) The exterior hull integrity.

Attaching an outboard motor to a vessel that is otherwise substantially dismantled will not cause the vessel to no longer be substantially dismantled if such motor is not an effective means of propulsion as required by s. 327.4107(2)(e) and associated rules.

2. At a port in this state without the consent of the agency having jurisdiction thereof.

3. Docked, grounded, or beached upon the property of another without the consent of the owner of the property.

(c) “Gross negligence” means conduct so reckless or wanting in care that it constitutes a conscious disregard or indifference to the safety of the property exposed to such conduct.

(d) “Willful misconduct” means conduct evidencing carelessness or negligence of such a degree or recurrence as to manifest culpability, wrongful intent, or evil design or to show an intentional and substantial disregard of the interests of the vessel owner.

(2)(a) It is unlawful for A person, firm, or corporation ~~may not to store, leave, or abandon~~ any derelict vessel upon waters of in this state. For purposes of this paragraph, the term “leave” means to allow a vessel to remain occupied or unoccupied on the waters of this state for more than 24 hours.

(b) Notwithstanding paragraph (a), a person who owns or operates a vessel that becomes derelict upon the waters of this state solely as a result of a boating accident that is reported to law enforcement in accordance with s. 327.301 or otherwise reported to law enforcement; a hurricane; or another sudden event outside of his or her control may not be charged with a violation if:

1. The individual documents for law enforcement the specific event that led to the vessel being derelict upon the waters of this state; and

2. The vessel has been removed from the waters of this state or has been repaired or addressed such that it is no longer derelict upon the waters of this state:

a. For a vessel that has become derelict as a result of a boating accident or other sudden event outside of his or her control, within 7 days after such accident or event; or

b. Within 45 days after the hurricane has passed over the state.

(c) This subsection does not apply to a vessel that was derelict upon the waters of this state before the stated accident or event.

(3) The commission, an officer ~~officers~~ of the commission, or a ~~and any~~ law enforcement agency or officer specified in s. 327.70 may ~~are authorized and empowered to~~ relocate, remove, store, destroy, or dispose of or cause to be relocated, ~~or removed, stored, destroyed, or disposed of~~ a derelict vessel from public waters of this state as defined in s. 327.02 if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons. The commission, an officer ~~officers~~ of the commission, or any other law enforcement agency or officer acting pursuant to under this subsection to relocate, remove, store, destroy, dispose of or cause to be relocated, ~~or removed, stored, destroyed, or disposed~~

of a derelict vessel from public waters of this state shall be held harmless for all damages to the derelict vessel resulting from such action relocation or removal unless the damage results from gross negligence or willful misconduct.

(a) Removal of derelict vessels under this subsection may be funded by grants provided in ss. 206.606 and 376.15. The commission shall implement a plan for the procurement of any available federal disaster funds and use such funds for the removal of derelict vessels.

(b) All costs, including costs owed to a third party, incurred by the commission, ~~another or other~~ law enforcement agency, or a governmental subdivision, when the governmental subdivision has received authorization from a law enforcement officer or agency, in the relocation, ~~or removal,~~ storage, destruction, or disposal of a derelict vessel are recoverable against the vessel owner or the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition. The Department of Legal Affairs shall represent the commission in actions to recover such costs. As provided in s. 705.103(4), a person who neglects or refuses to pay such costs may not be issued a certificate of registration for such vessel or for any other vessel or motor vehicle until such costs have been paid. A person who has neglected or refused to pay all costs of removal, storage, destruction, or disposal of a derelict vessel as provided in this section, after having been provided written notice via certified mail that such costs are owed, and who applies for and is issued a registration for a vessel or motor vehicle before such costs have been paid in full commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A contractor performing such relocation or removal activities at the direction of the commission, ~~an officer~~ officers of the commission, ~~or a law enforcement agency or officer,~~ or a governmental subdivision, when the governmental subdivision has received authorization for the relocation or removal from a law enforcement officer or agency, pursuant to this section must be licensed in accordance with applicable United States Coast Guard regulations where required; obtain and carry in full force and effect a policy from a licensed insurance carrier in this state to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions; and be properly equipped to perform the services to be provided.

Section 30. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2021.

Approved by the Governor June 29, 2021.

Filed in Office Secretary of State June 29, 2021.