

CHAPTER 2022-142

Committee Substitute for Committee Substitute for Senate Bill No. 494

An act relating to the Fish and Wildlife Conservation Commission; amending s. 259.105, F.S.; providing legislative findings; requiring lead land managing agencies, in consultation with the Fish and Wildlife Conservation Commission, to consider the use of state lands as gopher tortoise recipient sites in certain management plans; requiring certain management plans to include feasibility assessments for managing gopher tortoise recipient sites; authorizing owners of certain lands to establish gopher tortoise recipient sites or conservation banks on the lands under certain conditions; requiring the commission to streamline and improve the review of gopher tortoise recipient site applications and approve or deny such applications within a specified timeframe; requiring the commission, subject to appropriation, to encourage the establishment of gopher tortoise recipient sites on private lands and to create an online dashboard for certain gopher tortoise recipient site information; requiring the commission to submit a report on gopher tortoise recipient sites to the Legislature by a specified date; providing report requirements; amending ss. 327.352 and 327.35215, F.S.; revising the notices a person must be given for failure to submit to certain tests for alcohol, chemical substances, or controlled substances; making technical changes; amending s. 327.371, F.S.; authorizing individuals, when participating in certain athletic team practices or competitions, to operate a human-powered vessel within the marked channel of the Florida Intracoastal Waterway under certain circumstances; requiring the commission to be notified of any such competition; providing notice requirements; amending s. 327.4107, F.S.; revising the vessel conditions that an officer of the commission or a law enforcement agency may use to determine that a vessel is at risk of becoming derelict; amending s. 327.46, F.S.; prohibiting municipalities and counties from designating certain waters adjacent to designated public bathing beaches or swim areas as vessel exclusion zones; repealing s. 376.15, F.S., relating to derelict vessels and the relocation and removal of such vessels from the waters of this state; amending s. 379.101, F.S.; revising the definitions of the terms “marine fish” and “saltwater fish”; amending s. 705.101, F.S.; revising the definition of the term “abandoned property” to include vessels declared to be a public nuisance; amending s. 705.103, F.S.; clarifying the notice requirements and procedures for vessels declared to be public nuisances; conforming a provision to changes made by the act; amending s. 823.11, F.S.; making technical changes; authorizing the commission to establish a program to provide grants to local governments for certain actions regarding derelict vessels and those declared to be a public nuisance; specifying sources for the funds to be used, subject to an appropriation; authorizing the commission to use funds not awarded as grants for certain purposes; requiring the commission to adopt rules for the grant applications and the criteria for allocating the

funds; conforming provisions to changes made by the act; amending s. 934.50, F.S.; providing that all employees of the commission or the Florida Forest Service may operate drones for specified purposes; amending ss. 327.04, 328.09, 328.72, and 376.11, F.S.; conforming provisions to changes made by the act; repealing s. 25, chapter 2021-184, Laws of Florida, relating to derelict vessels; reenacting s. 327.73(1)(dd), F.S., relating to noncriminal boating infractions, to incorporate the amendment made to s. 327.371, F.S., in a reference thereto; reenacting ss. 125.01(4) and 379.2412, F.S., relating to powers and duties of legislative and governing bodies of counties and state preemption of the regulating of taking or possessing saltwater fish, respectively, to incorporate the amendment made to s. 379.101, F.S., in references thereto; providing effective dates.

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

Section 1. Paragraphs (a) and (b) of subsection (2) of section 259.105, Florida Statutes, are amended to read:

259.105 The Florida Forever Act.—

(2)(a) The Legislature finds and declares that:

1. Land acquisition programs have provided tremendous financial resources for purchasing environmentally significant lands to protect those lands from imminent development or alteration, thereby ensuring present and future generations' access to important waterways, open spaces, and recreation and conservation lands.

2. The continued alteration and development of the state's natural and rural areas to accommodate the state's growing population have contributed to the degradation of water resources, the fragmentation and destruction of wildlife habitats, the loss of outdoor recreation space, and the diminishment of wetlands, forests, working landscapes, and coastal open space.

3. The potential development of the state's remaining natural areas and escalation of land values require government efforts to restore, bring under public protection, or acquire lands and water areas to preserve the state's essential ecological functions and invaluable quality of life.

4. It is essential to protect the state's ecosystems by promoting a more efficient use of land, to ensure opportunities for viable agricultural activities on working lands, and to promote vital rural and urban communities that support and produce development patterns consistent with natural resource protection.

5. The state's groundwater, surface waters, and springs are under tremendous pressure due to population growth and economic expansion and require special protection and restoration efforts, including the protection of uplands and springsheds that provide vital recharge to aquifer systems and are critical to the protection of water quality and water quantity

of the aquifers and springs. To ensure that sufficient quantities of water are available to meet the current and future needs of the natural systems and citizens of the state, and assist in achieving the planning goals of the department and the water management districts, water resource development projects on public lands, if compatible with the resource values of and management objectives for the lands, are appropriate.

6. The needs of urban, suburban, and small communities in the state for high-quality outdoor recreational opportunities, greenways, trails, and open space have not been fully met by previous acquisition programs. Through such programs as the Florida Communities Trust and the Florida Recreation Development Assistance Program, the state shall place additional emphasis on acquiring, protecting, preserving, and restoring open space, ecological greenways, and recreation properties within urban, suburban, and rural areas where pristine natural communities or water bodies no longer exist because of the proximity of developed property.

7. Many of the state's unique ecosystems, such as the Florida Everglades, are facing ecological collapse due to the state's burgeoning population growth and other economic activities. To preserve these valuable ecosystems for future generations, essential parcels of land must be acquired to facilitate ecosystem restoration.

8. Access to public lands to support a broad range of outdoor recreational opportunities and the development of necessary infrastructure, if compatible with the resource values of and management objectives for such lands, promotes an appreciation for the state's natural assets and improves the quality of life.

9. Acquisition of lands, in fee simple, less than fee interest, or other techniques shall be based on a comprehensive science-based assessment of the state's natural resources which targets essential conservation lands by prioritizing all current and future acquisitions based on a uniform set of data and planned so as to protect the integrity and function of ecological systems and working landscapes, and provide multiple benefits, including preservation of fish and wildlife habitat, recreation space for urban and rural areas, and the restoration of natural water storage, flow, and recharge.

10. The state has embraced performance-based program budgeting as a tool to evaluate the achievements of publicly funded agencies, build in accountability, and reward those agencies which are able to consistently achieve quantifiable goals. While previous and existing state environmental programs have achieved varying degrees of success, few of these programs can be evaluated as to the extent of their achievements, primarily because performance measures, standards, outcomes, and goals were not established at the outset. Therefore, the Florida Forever program shall be developed and implemented in the context of measurable state goals and objectives.

11.a. The state must play a major role in the recovery and management of its imperiled species through the acquisition, restoration, enhancement,

and management of ecosystems that can support the major life functions of such species. It is the intent of the Legislature to support local, state, and federal programs that result in net benefit to imperiled species habitat by providing public and private land owners meaningful incentives for acquiring, restoring, managing, and repopulating habitats for imperiled species. It is the further intent of the Legislature that public lands, both existing and to be acquired, identified by the lead land managing agency, in consultation with the Fish and Wildlife Conservation Commission for animals or the Department of Agriculture and Consumer Services for plants, as habitat or potentially restorable habitat for imperiled species, be restored, enhanced, managed, and repopulated as habitat for such species to advance the goals and objectives of imperiled species management for conservation, recreation, or both, consistent with the land management plan without restricting other uses identified in the management plan. It is also the intent of the Legislature that of the proceeds distributed pursuant to subsection (3), additional consideration be given to acquisitions that achieve a combination of conservation goals, including the restoration, enhancement, management, or repopulation of habitat for imperiled species. The council, in addition to the criteria in subsection (9), shall give weight to projects that include acquisition, restoration, management, or repopulation of habitat for imperiled species. The term "imperiled species" as used in this chapter and chapter 253, means plants and animals that are federally listed under the Endangered Species Act, or state-listed by the Fish and Wildlife Conservation Commission or the Department of Agriculture and Consumer Services. As part of the state's role, all state lands that have imperiled species habitat shall include as a consideration in management plan development the restoration, enhancement, management, and repopulation of such habitats. In addition, the lead land managing agency of such state lands may use fees received from public or private entities for projects to offset adverse impacts to imperiled species or their habitat in order to restore, enhance, manage, repopulate, or acquire land and to implement land management plans developed under s. 253.034 or a land management prospectus developed and implemented under this chapter. Such fees shall be deposited into a foundation or fund created by each land management agency under s. 379.223, s. 589.012, or s. 259.032(9)(c), to be used solely to restore, manage, enhance, repopulate, or acquire imperiled species habitat.

b. The Legislature recognizes that there have been geographical and capacity constraints on available gopher tortoise recipient sites that have coincided with increased demands for such sites. The Legislature also recognizes that the success of gopher tortoise conservation depends on participation by privately owned lands and the use of appropriate public lands for gopher tortoise and other imperiled species management and recovery. To encourage adequate capacity for relocating gopher tortoises, each lead land managing agency, in consultation with the Fish and Wildlife Conservation Commission, shall consider the feasibility of using a portion of state lands as a gopher tortoise recipient site in management plans for all state lands under the management of the agency that are greater than 40 contiguous acres. If the lead land managing agency, in consultation with the

Fish and Wildlife Conservation Commission, determines that gopher tortoise recipient site management does not conflict with the primary management objectives of the lands, the management plan must contain a component prepared by the agency or cooperatively with a Fish and Wildlife Conservation Commission wildlife biologist that assesses the feasibility of managing the lands as a recipient site for gopher tortoises consistent with rules of the Fish and Wildlife Conservation Commission. The feasibility assessment by the lead land managing agency must also evaluate the economic feasibility of establishing a gopher tortoise recipient site, including the initial cost and recurring management costs of operating the gopher tortoise recipient site consistent with the rules of the Fish and Wildlife Conservation Commission and the revenue projections necessary to ensure the initial and recurring costs of establishing and perpetually maintaining the gopher tortoise recipient site do not create an increased recurring expense for the agency.

12. There is a need to change the focus and direction of the state's major land acquisition programs and to extend funding and bonding capabilities, so that future generations may enjoy the natural resources of this state.

(b) The Legislature recognizes that acquisition of lands in fee simple is only one way to achieve the aforementioned goals and encourages the use of less-than-fee interests, other techniques, and the development of creative partnerships between governmental agencies and private landowners. Such partnerships may include those that advance the restoration, enhancement, management, or repopulation of imperiled species habitat on state lands as provided for in subparagraph (a)11. Easements acquired pursuant to s. 570.71(2)(a) and (b), land protection agreements, and nonstate funded tools such as rural land stewardship areas, sector planning, gopher tortoise recipient sites, and mitigation should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection at a lower financial cost to the public, and to provide private landowners with the opportunity to enjoy and benefit from their property. The owner of lands where a conservation easement or other less-than-fee interest has been acquired by the board or another state agency or a regional or local government may establish a recipient site or conservation bank on the lands to advance the restoration, enhancement, management, or repopulation of imperiled species habitat so long as the recipient site or operation and maintenance of the conservation bank does not interfere with the management plan for the conservation easement and the landowner complies with all state and federal permitting requirements for the recipient site or conservation bank.

Section 2. (1) By December 31, 2022, the Fish and Wildlife Conservation Commission shall streamline and improve the review of applications for public and private gopher tortoise recipient sites. Requests for additional information must be received by the applicant within 45 days after receipt of an application and the commission shall approve or deny a complete application within 45 days after receipt of such application.

(2) By October 31, 2023, subject to appropriation, the Fish and Wildlife Conservation Commission shall:

(a) Establish an ongoing effort to encourage the establishment of new gopher tortoise recipient sites on private lands throughout the state; and

(b) Update its permitting systems to create an online dashboard to show permitted and available capacity for reservations in permitted gopher tortoise recipient sites to assist with the efficient relocation of gopher tortoises.

(3) By February 1, 2023, the Fish and Wildlife Conservation Commission shall submit a report to the President of the Senate and the Speaker of the House of Representatives that includes the following information:

(a) The progress made in establishing new private and public gopher tortoise recipient sites;

(b) The average time it takes to approve or deny a recipient site application once a complete application is received;

(c) Any federal action taken to modify the listing of the gopher tortoise under the Endangered Species Act; and

(d) Any other information relevant to the gopher tortoise conservation program.

Section 3. 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 person who accepts the privilege extended by the laws of this state of operating a vessel within this state is, by operating such vessel, deemed to have given his or her consent to submit to an approved chemical test or physical test including, but not limited to, an infrared light test of his or her breath for the purpose of determining the alcoholic content of his or her blood or breath if the person is lawfully arrested for any offense allegedly committed while the person was operating a vessel while under the influence of alcoholic beverages. 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 driving privilege has been previously 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 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 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 ~~must~~ 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 driving privilege has been previously 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 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 ~~must~~ shall be performed in a reasonable manner. A 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 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. The refusal to submit to a blood test upon the request of a law enforcement officer ~~is~~ shall be admissible in evidence in any criminal proceeding.

Section 4. Subsections (1) and (2) of section 327.35215, Florida Statutes, are amended to read:

327.35215 Penalty for failure to submit to test.—

(1) A person ~~who is~~ lawfully arrested for an alleged violation of s. 327.35 and who refuses to submit to a blood test, breath test, or urine test pursuant to s. 327.352 is subject to a civil penalty of \$500.

(2) When a person refuses to submit to a blood test, breath test, or urine test pursuant to s. 327.352, a law enforcement officer ~~who is~~ authorized to make arrests for violations of this chapter shall file with the clerk of the court, on a form provided by the commission department, a certified statement that probable cause existed to arrest the person for a violation of s. 327.35 and that the person refused to submit to a test as required by s. 327.352. Along with the statement, the officer ~~shall~~ ~~must~~ also submit a sworn statement on a form provided by the commission department that the person has been advised of both the penalties for failure to submit to the blood, breath, or urine test and the procedure for requesting a hearing.

Section 5. Present paragraph (c) of subsection (1) of section 327.371, Florida Statutes, is redesignated as paragraph (d), and a new paragraph (c) is added to that subsection, 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:

(c) When participating in practices or competitions for interscholastic, intercollegiate, intramural, or club rowing teams affiliated with an educational institution identified in s. 1000.21, s. 1002.01(2), s. 1003.01(2), s. 1005.02(4), or s. 1005.03(1)(d), if the adjacent area outside of the marked channel is not suitable for such practice or competition. The teams must use their best efforts to make use of the adjacent area outside of the marked channel. The commission must be notified in writing of the details of any such competition, and the notification must include, but need not be limited to, the date, time, and location of the competition.

Section 6. Paragraph (f) is added to subsection (2) of section 327.4107, Florida Statutes, 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:

(f) The vessel is tied to an unlawful or unpermitted structure or mooring.

Section 7. 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 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, except that such areas may not be created on waters that include any portion of the Florida Intracoastal Waterway or that are within 100 feet of the marked channel of the Florida Intracoastal Waterway.

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 8. Section 376.15, Florida Statutes, is repealed.

Section 9. Subsections (22) and (34) of section 379.101, Florida Statutes, are amended to read:

379.101 Definitions.—In construing these statutes, where the context does not clearly indicate otherwise, the word, phrase, or term:

(22) “Marine fish” means any saltwater species of finfish of the classes Agnatha, Chondrichthyes, and Osteichthyes, and marine invertebrates ~~of in~~ the classes Gastropoda and, Bivalvia, the subphylum ~~and~~ Crustacea, or the phylum Echinodermata; however, the term ~~but~~ does not include nonliving shells or echinoderms.

(34) “Saltwater fish” means:

(a) Any saltwater species of finfish of the classes Agnatha, Chondrichthyes, or Osteichthyes and marine invertebrates of the classes Gastropoda and, Bivalvia, the subphylum ~~or~~ Crustacea, or ~~of~~ the phylum Echinodermata; however, the term ~~but~~ does not include nonliving shells or echinoderms; and

(b) All classes of pisces, shellfish, sponges, and crustaceans ~~crustacea~~ native to salt water.

Section 10. Subsection (3) of section 705.101, Florida Statutes, is amended to read:

705.101 Definitions.—As used in this chapter:

(3) “Abandoned property” means all tangible personal property that does not have an identifiable owner and that has been disposed on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the rightful owner. The term includes derelict vessels as defined in s. 823.11 and vessels declared a public nuisance pursuant to s. 327.73(1)(aa).

Section 11. Paragraph (a) of subsection (2) and subsection (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 or as a public nuisance 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 not be less than 8 inches by 10 inches and must 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. 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.

(4) The owner of any abandoned or lost property, or in the case of a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the owner or other party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition or as a public nuisance, who, after notice as provided in this section, does not remove such property within the specified period is 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, and disposal 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 or in the case of a derelict vessel or vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the owner or other party determined to be legally responsible, 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 motor vehicle privileges have been revoked under this subsection. The department or a person acting as an agent of the department may not issue a certificate of registration to a person whose vessel and motor vehicle registration privileges have been revoked, as provided by this subsection, until such costs have been paid.

Section 12. Effective July 1, 2023, paragraph (a) of subsection (2) of section 705.103, Florida Statutes, as amended by chapters 2019-76 and 2021-184, 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 or as a public nuisance 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 not be less than 8 inches by 10 inches and must ~~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. 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.

Section 13. Present subsections (4), (5), and (6) of section 823.11, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, a new subsection (4) is added to that section, and subsection (1), paragraph (c) of subsection (2), subsection (3), and present subsections (5) and (6) of that section 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:

1. In a wrecked, junked, or substantially dismantled condition upon any 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)

(c) The additional time provided in subparagraph (b)2. for an owner or responsible party to remove a derelict vessel from the waters of this state or to repair and remedy the vessel’s derelict condition 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 of the commission, or a law enforcement agency or officer specified in s. 327.70 may relocate, remove, and store, ~~destroy, or dispose of~~ or cause to be relocated, removed, and stored, ~~destroyed, or disposed of~~ a derelict vessel from 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 of the commission, or any other law enforcement agency or officer acting pursuant to this subsection to relocate, remove, and store, ~~destroy, dispose of~~ or cause to be relocated, removed, and stored, ~~destroyed, or disposed of~~ a derelict vessel from waters of this state shall be held harmless for all damages to the derelict vessel resulting from such action 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 law enforcement agency, or a governmental subdivision, when the governmental subdivision has received authorization from a law enforcement officer or agency, in the relocation, 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.

(b)(e) A contractor performing such activities at the direction of the commission, an officer of the commission, 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.

(4)(a) Removal of derelict vessels under this subsection may be funded by grants provided in s. 206.606.

(b) The commission may implement a plan for the procurement of any available federal disaster funds and use such funds for the removal of derelict vessels.

(c) The commission may establish a program to provide grants to local governments for the removal, storage, destruction, and disposal of derelict vessels from the waters of this state. This grant funding may also be used for the removal, storage, destruction, and disposal of vessels declared a public nuisance pursuant to s. 327.73(1)(aa). The program must be funded from the Marine Resources Conservation Trust Fund or the Florida Coastal Protection Trust Fund. Notwithstanding s. 216.181(11), funds available for these 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 or vessels declared a public nuisance pursuant to s. 327.73(1)(aa) 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 or vessels declared a public nuisance pursuant to s. 327.73(1)(aa). The commission shall adopt by rule procedures for local governments to submit a grant application and criteria for allocating available funds. Such criteria must include, at a minimum, 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 state as defined in s. 327.02.

~~(6)(5)~~ A person, firm, or corporation violating this section commits a misdemeanor of the first degree and shall be punished as provided by law. A conviction under this section does not bar the assessment and collection of a the civil penalty provided in ~~s. 376.16~~ for violation of ~~s. 376.15~~. The court having jurisdiction over the criminal offense, notwithstanding any jurisdictional limitations on the amount in controversy, may order the imposition of such civil penalty in addition to any sentence imposed for the first criminal offense.

~~(7)(6)~~ If an owner or a responsible party of a vessel determined to be derelict through an administrative or criminal proceeding has been charged by an officer of the commission or any law enforcement agency or officer as specified in s. 327.70 under subsection ~~(6)~~ ~~(5)~~ for a violation of subsection (2) or a violation of ~~s. 376.15(2)~~, a person may not reside or dwell on such vessel until the vessel is removed from the waters of the state permanently or returned to the waters of the state in a condition that is no longer derelict.

Section 14. Paragraph (p) of subsection (4) of section 934.50, Florida Statutes, is amended to read:

934.50 Searches and seizure using a drone.—

(4) EXCEPTIONS.—This section does not prohibit the use of a drone:

(p) By an ~~a non-law enforcement~~ employee of the Fish and Wildlife Conservation Commission or of the Florida Forest Service for the purposes of managing and eradicating invasive exotic plants or animals on public lands and suppressing and mitigating wildfire threats.

Section 15. Section 327.04, Florida Statutes, is amended to read:

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

Section 16. 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 applicant for a vessel that has been deemed derelict or a public nuisance by a law enforcement officer under s. 327.73(1)(aa) or ~~s. 376.15~~ or s. 823.11. A law enforcement officer must inform the department in writing, which may be provided by facsimile, e-mail ~~electronic mail~~, or other electronic means, of

the vessel's derelict or public nuisance 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 electronic mail, or other electronic means, that the vessel is no longer a derelict or public nuisance vessel.

Section 17. Section 25 of chapter 2021-184, Laws of Florida, is repealed.

Section 18. Paragraph (c) of subsection (15) of section 328.72, Florida Statutes, is amended to read:

328.72 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(15) DISTRIBUTION OF FEES.—Except as provided in this subsection, moneys designated for the use of the counties, as specified in subsection (1), shall be distributed by the tax collector to the board of county commissioners for use only as provided in this section. Such moneys to be returned to the counties are for the sole purposes of providing, maintaining, or operating recreational channel marking and other uniform waterway markers, public boat ramps, lifts, and hoists, marine railways, boat piers, docks, mooring buoys, and other public launching facilities; and removing derelict vessels, debris that specifically impedes boat access, not including the dredging of channels, and vessels and floating structures deemed a hazard to public safety and health for failure to comply with s. 327.53. Counties shall demonstrate through an annual detailed accounting report of vessel registration revenues that the registration fees were spent as provided in this subsection. This report shall be provided to the Fish and Wildlife Conservation Commission no later than November 1 of each year. If, before January 1 of each calendar year, the accounting report meeting the prescribed criteria has still not been provided to the commission, the tax collector of that county may not distribute the moneys designated for the use of counties, as specified in subsection (1), to the board of county commissioners but shall, for the next calendar year, remit such moneys to the state for deposit into the Marine Resources Conservation Trust Fund. The commission shall return those moneys to the county if the county fully complies with this section within that calendar year. If the county does not fully comply with this section within that calendar year, the moneys shall remain within the Marine Resources Trust Fund and may be appropriated for the purposes specified in this subsection.

(c) From the vessel registration fees designated for use by the counties in subsection (1), the following amounts shall be remitted to the state for deposit into the Marine Resources Conservation Trust Fund to fund derelict vessel removal grants, as appropriated by the Legislature pursuant to s. 823.11(4)(c) s. 376.15:

1. Class A-2: \$0.25 for each 12-month period registered.

2. Class 1: \$2.06 for each 12-month period registered.
3. Class 2: \$9.26 for each 12-month period registered.
4. Class 3: \$16.45 for each 12-month period registered.
5. Class 4: \$20.06 for each 12-month period registered.
6. Class 5: \$25.46 for each 12-month period registered.

Section 19. Paragraph (h) of subsection (6) of section 376.11, Florida Statutes, is amended to read:

376.11 Florida Coastal Protection Trust Fund.—

(6) Moneys in the Florida Coastal Protection Trust Fund may be used for the following purposes:

(h) The funding of a grant program to local governments, pursuant to s. ~~823.11(4)(c)~~ s. ~~376.15(3)(d)~~ and ~~(e)~~, for the removal of derelict and public nuisance vessels from the public waters of the state.

Section 20. For the purpose of incorporating the amendment made by this act to section 327.371, Florida Statutes, in a reference thereto, paragraph (dd) of subsection (1) of section 327.73, Florida Statutes, is reenacted to read:

327.73 Noncriminal infractions.—

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

(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 21. For the purpose of incorporating the amendment made by this act to section 379.101, Florida Statutes, in a reference thereto, subsection (4) of section 125.01, Florida Statutes, is reenacted to read:

125.01 Powers and duties.—

(4) The legislative and governing body of a county shall not have the power to regulate the taking or possession of saltwater fish, as defined in s. 379.101, with respect to the method of taking, size, number, season, or species. However, this subsection does not prohibit a county from prohibiting, for reasons of protecting the public health, safety, or welfare, saltwater fishing from real property owned by that county, nor does it prohibit the imposition of excise taxes by county ordinance.

Section 22. For the purpose of incorporating the amendment made by this act to section 379.101, Florida Statutes, in a reference thereto, section 379.2412, Florida Statutes, is reenacted to read:

379.2412 State preemption of power to regulate.—The power to regulate the taking or possession of saltwater fish, as defined in s. 379.101, is expressly reserved to the state. This section does not prohibit a local government from prohibiting, for reasons of protecting the public health, safety, or welfare, saltwater fishing from real property owned by that local government.

Section 23. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022.

Approved by the Governor May 26, 2022.

Filed in Office Secretary of State May 26, 2022.