

## CHAPTER 2022-197

### Committee Substitute for Senate Bill No. 606

An act relating to boating safety; providing a short title; amending s. 327.30, F.S.; authorizing a court to impose a specified fine for certain boating collisions and accidents; requiring such fines to be deposited into the Marine Resources Conservation Trust Fund for specified purposes; defining terms; amending s. 327.395, F.S.; requiring certain boating safety education courses and temporary certificate examinations to include specified components; directing the Fish and Wildlife Conservation Commission to include such components in boating safety education campaigns and certain educational materials; amending s. 327.50, F.S.; requiring operators of vessels used in the instruction of water sports and activities to use engine cutoff switches and wear operative links to the switches under certain conditions; amending s. 327.54, F.S.; defining terms; prohibiting liveries from offering a vessel for lease or rent without a livery permit; specifying requirements and qualifications for the permit; authorizing the Fish and Wildlife Conservation Commission to adopt rules; providing penalties for permit violations; revising the conditions under which a livery may not knowingly lease or rent a vessel; requiring a person receiving safety instruction to provide the livery with a specified signed attestation; requiring a written agreement between a livery and a renter or lessee; providing requirements for such agreement; requiring a livery to notify law enforcement of overdue rentals or leases under certain circumstances; prohibiting a livery from knowingly leasing or renting a livery vessel to certain persons; providing an exception; revising livery insurance requirements; providing applicability; requiring specified boating safety education courses for certain instructors; requiring liveries to report certain accidents to the Division of Law Enforcement of the commission; requiring liveries to make facilities and records available to law enforcement upon notice; providing penalties for violations and additional penalties for subsequent violations; prohibiting certain violators from acting as a livery for a specified timeframe after such a violation; authorizing the commission, beginning on a specified date, to revoke or refuse to issue permits for repeated violations; amending s. 327.73, F.S.; increasing fines for violations of certain boating regulations; providing fines for improper transfers of title and failures to update vessel registration information; authorizing certain fees and penalties deposited into the Marine Resources Conservation Trust Fund to be used for law enforcement purposes; amending s. 327.731, F.S.; imposing a fine for persons convicted of certain criminal or noncriminal infractions; providing for the deposit of such fines into the Marine Resources Conservation Trust Fund; requiring the commission to maintain a program to ensure compliance with certain boating safety education requirements; specifying requirements for the program; amending s. 328.03, F.S.; providing that an improper transfer of vessel title is subject to a civil penalty; amending s. 328.48, F.S.; requiring that the address provided in a vessel registration

application and a certificate of registration be a physical residential or business address; authorizing the commission to accept post office box addresses in lieu of the physical residential or business address; providing that a person who fails to update his or her vessel registration information within a specified timeframe is subject to a civil penalty; providing effective dates.

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

Section 1. This act may be cited as the “Boating Safety Act of 2022.”

Section 2. Subsection (7) is added to section 327.30, Florida Statutes, to read:

327.30 Collisions, accidents, and casualties.—

(7) In addition to any other penalty provided by law, a court may order a person convicted of a violation of this section or of any rule adopted or order issued by the commission pursuant to this section to pay an additional fine of up to \$1,000 per violation. All fines assessed and collected pursuant to this subsection shall be remitted by the clerk of the court to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund to be used to enhance state and local law enforcement activities related to boating infractions. As used in this subsection, the terms “convicted” and “conviction” mean any judicial disposition other than acquittal or dismissal.

Section 3. Effective October 1, 2022, subsection (4) of section 327.395, Florida Statutes, is amended to read:

327.395 Boating safety education.—

(4) A commission-approved boating safety education course or temporary certificate examination developed or approved by the commission must include components ~~a component~~ regarding:

(a) Diving vessels, awareness of divers in the water, divers-down warning devices, and the requirements of s. 327.331.

(b) The danger associated with:

1. A passenger riding on a seat back, gunwale, transom, bow, motor cover, or any other vessel area not designed and designated by the manufacturer for seating.

2. A passenger falling overboard.

3. Operating a vessel with a person in the water near the vessel.

4. Starting a vessel with the engine in gear.

5. Leaving the vessel running when a passenger is boarding or disembarking.

(c) The proper use and lifesaving benefits of an engine cutoff switch for motorboats and personal watercraft.

The commission must include the components under this subsection in boating safety education campaigns and in educational materials produced by the commission, as appropriate.

Section 4. Effective October 1, 2022, subsection (4) is added to section 327.50, Florida Statutes, to read:

327.50 Vessel safety regulations; equipment and lighting requirements.

(4) The operator of a vessel used in the instruction of a water sport or activity must use an engine cutoff switch and wear an operative link to the switch when a person participating in the water sport or activity is in the water.

Section 5. Effective January 1, 2023, section 327.54, Florida Statutes, is amended to read:

327.54 Liveries; safety regulations; penalty.—

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

(a) “Advertise” means to describe or draw attention to a vessel and its availability for lease or rental in any medium for the purpose of promoting the lease or rental of the vessel.

(b) “Conviction” means any judicial disposition other than acquittal or dismissal.

(c) “Livery” means a person who advertises and offers a livery vessel for use by another in exchange for any type of consideration when such person does not also provide the lessee or renter with a captain, a crew, or any type of staff or personnel to operate, oversee, maintain, or manage the vessel. The owner of a vessel who does not advertise his or her vessel for use by another for consideration and who loans or offers his or her vessel for use to another known to him or her either for consideration or without consideration is not a livery. A public or private school or postsecondary institution located within this state is not a livery. A vessel rented or leased by a livery is a livery vessel as defined in s. 327.02.

(d) “Seaworthy” means the vessel and all of its parts and equipment, including, but not limited to, engines, bilge pumps, and kill switches, are functional and reasonably fit for their intended purpose.

(2) A livery may not offer a vessel for lease or rent without first being issued a no-cost livery permit by the commission. The permit must be

renewed annually. To qualify for issuance or renewal of a livery permit, an applicant must provide the commission with a list of all vessels offered by the livery for lease or rent by another, have valid insurance pursuant to subsection (7), have an amount of United States Coast Guard-approved lawful personal floatation devices on site sufficient to accommodate the capacity of all vessels offered by the livery for rent or lease by another, have on site all safety equipment required by s. 327.50 and the Code of Federal Regulations sufficient to equip all vessels offered by the livery for rent or lease by another, and display the information required by paragraph (3)(f). If, before the annual renewal of the permit, the information required by this subsection changes, the livery must provide the commission with the updated information within 10 days after the change.

(a) The commission may adopt rules to implement this subsection.

(b) A person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A livery may not knowingly lease, hire, or rent a vessel to any person:

(a) When the number of persons intending to use the vessel exceeds the number considered to constitute a maximum safety load for the vessel as specified on the authorized persons capacity plate of the vessel.

(b) When the horsepower of the motor exceeds the capacity of the vessel.

(c) When the vessel does not contain the required safety equipment required under s. 327.50.

(d) When the vessel is not seaworthy, is a derelict vessel as defined in s. 823.11, or is at risk of becoming derelict as provided in s. 327.4107.

(e) When the vessel is equipped with a motor of 10 horsepower or greater, Unless the livery provides ~~pre-rental~~ prerental or ~~pre-ride~~ preride instruction in compliance with rules established by the commission.

1. The instruction must include that includes, but need not be limited to:

a.1. Operational characteristics of the vessel to be rented.

b.2. Safe vessel operation and vessel right-of-way.

c.3. The responsibility of the vessel operator for the safe and proper operation of the vessel.

d.4. Local characteristics of the waterway where the vessel will be operated, such as navigational hazards, the presence of boating-restricted areas, and water depths.

e. Emergency procedures, such as appropriate responses to capsizing, falls overboard, taking on water, and vessel accidents.

2. Any person receiving instruction in the safe handling of livery vessels pursuant to this paragraph must provide the livery with a written statement attesting to each component of the instruction.

a. The commission shall establish by rule the content of the statement form.

b. The statement form must be signed by the individual providing the instruction.

c. The livery shall maintain the statement form for no less than 90 days and, upon request, make the form available for inspection by law enforcement.

~~Any person delivering the information specified in this paragraph must have successfully completed a boater safety course approved by the National Association of State Boating Law Administrators and this state.~~

~~(f) Unless the livery displays boating safety information in a place visible to the renting public. The commission shall prescribe by rule, pursuant to chapter 120, the contents and size of the boating safety information to be displayed.~~

(g) Unless the livery has a written agreement with the renter or lessee. The written agreement must include the name, address, and date of birth for the renter and the number of people aboard the vessel, as well as the time the vessel is required to be returned to the livery or another specified location and an emergency contact name, address, and telephone number. The livery shall maintain each agreement for no less than 1 year and, upon request, make each agreement available for inspection by law enforcement.

~~(4)(2) A livery may not knowingly lease, hire, or rent a vessel to a 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 or meets the exemption provided under s. 327.395(6)(f).~~

~~(5)(3) If a vessel rented or leased by a livery is unnecessarily overdue more than 4 hours after the contracted vessel rental time has expired, the livery must shall notify law enforcement the proper authorities.~~

~~(6)(4)(a) A livery may not knowingly lease, hire, or rent a livery vessel, other than a human-powered vessel, personal watercraft to any person who is under 18 years of age.~~

~~(b) A livery may not knowingly lease, hire, or rent a personal watercraft to any person who has not received instruction in the safe handling of personal watercraft, in compliance with rules established by the commission pursuant to chapter 120.~~

~~(e) Any person receiving instruction in the safe handling of personal watercraft pursuant to a program established by rule of the commission must provide the livery with a written statement attesting to the same.~~

~~(7)(5) A livery may not lease, hire, or rent any personal watercraft or offer to lease, hire, or rent any livery vessel personal watercraft unless the livery first obtains and carries in full force and effect a policy from a licensed insurance carrier in this state which insures the livery and the renter, insuring against any accident, loss, injury, property damage, or other casualty caused by or resulting from the operation of the livery vessel personal watercraft. The insurance policy must shall provide coverage of at least \$500,000 per person and \$1 million per event. The livery shall ~~must~~ have proof of such insurance available for inspection at the location where livery vessels personal watercraft are being leased, hired, or rented, or offered for lease, hire, or rent, and shall provide to each renter the insurance carrier's name and address and the insurance policy number. This subsection does not apply to human-powered vessels.~~

~~(8) Notwithstanding the person's age or any exemptions provided in s. 327.395, any person delivering instruction regarding the safe operation of vessels or pre-rental or pre-ride instruction in accordance with subsection (3) must have successfully completed a boating safety education course approved by the National Association of State Boating Law Administrators and this state.~~

~~(9) If a vessel rented or leased by a livery is involved in an accident, the livery must report the accident to the division.~~

~~(10) A livery shall make its facilities and records available for inspection upon request by law enforcement no later than 24 hours after receiving notice from law enforcement.~~

~~(11)(a)(6) Any person convicted of violating this section, other than subsection (2), who has not been convicted of a violation of this section within the past 3 years commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(b) Unless the stricter penalties in paragraph (c) apply, a person who violates this section, other than subsection (2), within 3 years after a previous conviction of a violation of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a minimum mandatory fine of \$500.~~

~~(c) A person who violates this section, other than subsection (2), within 5 years after two previous convictions for a violation of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, with a minimum mandatory fine of \$1,000.~~

~~(12) A person who commits more than one violation of this section, other than subsection (2), within a 3-year period may not act as a livery during a~~

90-day period immediately after being charged with that violation. The commission may revoke or refuse to issue a permit under subsection (2) based on repeated violations of this section.

Section 6. Subsections (1) and (8) of section 327.73, Florida Statutes, are amended to read:

327.73 Noncriminal infractions.—

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

(a) Section 328.46, relating to operation of unregistered and unnumbered vessels.

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

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

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

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

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

(g) Section 328.72(13), relating to operation with an expired registration, for which the penalty is:

1. For a first or subsequent offense of s. 328.72(13)(a), up to a maximum of \$100 ~~\$50~~.

2. For a first offense of s. 328.72(13)(b), up to a maximum of \$250.

3. For a second or subsequent offense of s. 328.72(13)(b), up to a maximum of \$500. Any person cited for a noncriminal infraction under this subparagraph may not have the provisions of paragraph (4)(a) available to him or her but must appear before the designated official at the time and location of the scheduled hearing.

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

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

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

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

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

2. Speed limits established pursuant to s. 379.2431(2).

(l) Section 327.48, relating to regattas and races.

(m) Section 327.50(1) and (2), relating to required safety equipment, lights, and shapes.

(n) Section 327.65, relating to muffling devices.

(o) Section 327.33(3)(b), relating to a violation of navigation rules:

1. That does not result in an accident; or

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

a. For a first offense, up to a maximum of \$500 ~~\$250~~.

b. For a second offense, up to a maximum of \$1,000 ~~\$750~~.

c. For a third or subsequent offense, up to a maximum of \$1,500 ~~\$1,000~~.

(p) Section 327.39(1), (2), (3), and (5), relating to personal watercraft.

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

(r) Section 327.53(4), (5), and (7), relating to marine sanitation, and s. 327.60, relating to no-discharge zones, for which the civil penalty is \$250.

(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.

(t) Section 327.52(3), relating to operation of overloaded or overpowered vessels.

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

(v) Section 327.391(1), relating to the requirement for an adequate muffler on an airboat.

(w) Section 327.391(3), relating to the display of a flag on an airboat.

(x) Section 253.04(3)(a), relating to carelessly causing seagrass scarring, for which the civil penalty upon conviction is:

1. For a first offense, \$100 ~~\$50~~.
2. For a second offense occurring within 12 months after a prior conviction, \$250.
3. For a third offense occurring within 36 months after a prior conviction, \$500.
4. For a fourth or subsequent offense occurring within 72 months after a prior conviction, \$1,000.

(y) Section 327.45, relating to protection zones for springs, for which the penalty is:

1. For a first offense, \$100 ~~\$50~~.
2. For a second offense occurring within 12 months after a prior conviction, \$250.
3. For a third offense occurring within 36 months after a prior conviction, \$500.
4. For a fourth or subsequent offense occurring within 72 months after a prior conviction, \$1,000.

(z) Section 327.4108, relating to the anchoring of vessels in anchoring limitation areas, for which the penalty is:

1. For a first offense, up to a maximum of \$100 ~~\$50~~.
2. For a second offense, up to a maximum of \$250 ~~\$100~~.
3. For a third or subsequent offense, up to a maximum of \$500 ~~\$250~~.

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

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.

(bb) Section 327.4109, relating to anchoring or mooring in a prohibited area, for which the penalty is:

1. For a first offense, up to a maximum of ~~\$100~~ \$50.
2. For a second offense, up to a maximum of ~~\$250~~ \$100.
3. For a third or subsequent offense, up to a maximum of ~~\$500~~ \$250.

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

1. For a first offense, ~~\$100~~ \$50.
2. For a second offense occurring within 12 months after a prior offense, ~~\$250~~ \$100.
3. For a third offense occurring within 36 months after a prior offense, ~~\$500~~ \$250.

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

(ee) Section 328.03, relating to an improper transfer of title, for which the penalty is up to a maximum of \$500.

(ff) Section 328.48(9), relating to the failure to update vessel registration information, for which the penalty is up to a maximum of \$500.

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 ~~\$100~~ \$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, must 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.

(8) All fees and civil penalties assessed and collected pursuant to this section shall be remitted by the clerk of the court to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund for boating safety education or law enforcement purposes.

Section 7. Subsection (1) of section 327.731, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

327.731 Mandatory education for violators.—

(1) A person convicted of a criminal violation under this chapter, convicted of a noncriminal infraction under this chapter if the infraction resulted in a reportable boating accident, or convicted of two noncriminal infractions as specified in s. 327.73(1)(h)-(k), (m), (o), (p), and (s)-(y), ~~the said~~ infractions occurring within a 12-month period, must:

(a) Enroll in, attend, and successfully complete, at his or her own expense, a classroom or online boating safety course that is approved by and meets the minimum standards established by commission rule;

(b) File with the commission within 90 days proof of successful completion of the course; ~~and~~

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

(d) Pay a fine of \$500. The clerk of the court shall remit all fines assessed and collected under this paragraph to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund to support law enforcement activities.

(4) The commission shall maintain a program to ensure compliance with the mandatory boating safety education requirements under this section. This program must:

(a) Track any citations resulting in a conviction under this section and the disposition of such citations.

(b) Send specific notices to each person subject to the requirement for mandatory boating safety education.

Section 8. Subsection (3) of section 328.03, Florida Statutes, is amended to read:

328.03 Certificate of title required.—

(3) A person ~~may shall~~ not sell, assign, or transfer a vessel titled by the state without delivering to the purchaser or transferee a valid certificate of title with an assignment on it showing the transfer of title to the purchaser or transferee. A person ~~may shall~~ not purchase or otherwise acquire a vessel required to be titled by the state without obtaining a certificate of title for the

vessel in his or her name. The purchaser or transferee shall, within 30 days after a change in vessel ownership, file an application for a title transfer with the county tax collector. An additional \$10 fee must ~~shall~~ be charged against the purchaser or transferee if he or she files a title transfer application after the 30-day period. The county tax collector ~~may~~ shall be entitled to retain \$5 of the additional amount. Any person who does not properly transfer title of a vessel pursuant to this chapter is subject to the penalties provided in s. 327.73(1)(ee).

Section 9. Effective July 1, 2023, subsection (4) of section 328.03, Florida Statutes, as amended by chapter 2019-76, Laws of Florida, is amended to read:

328.03 Certificate of title required.—

(4) An additional \$10 fee shall be charged against the purchaser or transferee if he or she files a title transfer application after the 30-day period. The county tax collector ~~may~~ shall be entitled to retain \$5 of the additional amount. Any person who does not properly transfer title of a vessel pursuant to this chapter is subject to the penalties provided in s. 327.73(1)(ee).

Section 10. Paragraph (a) of subsection (1) and subsection (4) of section 328.48, Florida Statutes, are amended, and subsection (9) is added to that section, to read:

328.48 Vessel registration, application, certificate, number, decal, duplicate certificate.—

(1)(a) The owner of each vessel required by this law to pay a registration fee and secure an identification number shall file an application with the county tax collector. The application must ~~shall~~ provide the owner's name and physical residential or business address; residency status; personal or business identification; and a complete description of the vessel, and must ~~shall~~ be accompanied by payment of the applicable fee required in s. 328.72. An individual applicant must provide a valid driver license or identification card issued by this state or another state or a valid passport. A business applicant must provide a federal employer identification number, if applicable, verification that the business is authorized to conduct business in this ~~the~~ state, or a Florida city or county business license or number. Registration is not required for any vessel that is not used on the waters of this state. Upon receipt of an application from a live-aboard vessel owner whose primary residence is the vessel, the commission may authorize such owner to provide a post office box address in lieu of a physical residential or business address.

(4) Each certificate of registration issued must ~~shall~~ state among other items the numbers awarded to the vessel, the hull identification number, the name and physical residential or business address of the owner, and a description of the vessel, except that certificates of registration for vessels

constructed or assembled by the owner registered for the first time must ~~shall~~ state all the foregoing information except the hull identification number. The numbers must ~~shall~~ be placed on each side of the forward half of the vessel in such position as to provide clear legibility for identification, except, if the vessel is an airboat, the numbers may be placed on each side of the rudder. The numbers awarded to the vessel must ~~shall~~ read from left to right and must ~~shall~~ be in block characters of good proportion not less than 3 inches in height. The numbers must ~~shall~~ be of a solid color that which will contrast with the color of the background and must ~~shall~~ be so maintained as to be clearly visible and legible; i.e., dark numbers on a light background or light numbers on a dark background. The certificate of registration must ~~shall~~ be pocket-sized and must ~~shall~~ be available for inspection on the vessel for which issued whenever such vessel is in operation. Upon receipt of an application from a live-aboard vessel owner whose primary residence is the vessel, the commission may authorize such owner to provide a post office box address in lieu of a physical residential address.

(9) A person who does not update his or her vessel registration information with the county tax collector within 6 months after a change to the information is subject to the penalties provided in s. 327.73(1)(ff).

Section 11. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022.

Approved by the Governor June 20, 2022.

Filed in Office Secretary of State June 20, 2022.